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Covering Dates 18th May, 1936 to 17th June, 1936.

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COLONY AND PROTECTORATE OF KENYA



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ACCESSION No.

LOCATION No.

LEGISLATIVE COUNCIL
DEBATES, 1936

VOLUME I

NAIROBI
PRINTED BY THE GOVERNMENT PRINTER
1936

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List of Members of the Legislative Council

President :

HIS EXCELLENCY THE GOVERNOR, BRIGADIER-GENERAL SIR JOSEPH ALOYSIUS BYRNE, G.C.M.G., K.B.E., C.B.

Ex-officio Members :

COLONIAL SECRETARY (HON. A. DE V. WADE, C.M.G., O.B.E.)
 ATTORNEY GENERAL (HON. W. HARRAGIN, K.C.)
 TREASURER (HON. G. WALSH, C.B.E.)
 CHIEF NATIVE COMMISSIONER (HON. H. R. MONTGOMERY, C.M.G.)
 COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT (HON. W. M. LOGAN, O.B.E.) (1)
 DIRECTOR OF MEDICAL SERVICES (DR. HON. A. R. PATERSON)
 DIRECTOR OF AGRICULTURE (HON. H. B. WATERS)
 DIRECTOR OF EDUCATION (HON. E. G. MORRIS, O.B.E.)
 GENERAL MANAGER, KENYA AND UGANDA RAILWAYS AND HARBOURS BRIG.-GEN. THE HON. SIR GODFREY D. RHODES, C.B.E., D.S.O.)
 DIRECTOR OF PUBLIC WORKS (HON. H. L. SIKES, C.B.E.)
 COMMISSIONER OF CUSTOMS (HON. E. G. BALZ)

Nominated Official Members :

HON. H. G. PILLINO, C.M.G. (Deputy Colonial Secretary)
 HON. G. C. BOULDERSON (Prov. Commissioner, Coast)
 HON. T. D. H. BRUCE (Solicitor General)
 HON. E. B. HOSKING, O.B.E. (Commissioner of Mines) (2)
 HON. H. M. GARDNER (Conservator of Forests)
 HON. S. H. LA FONTAINE, D.S.O., O.B.E., M.C. (Prov. Commissioner, Central Province)
 HON. S. H. FAZAN, C.B.E. (Temporary) (Ag. Prov. Commissioner, Nyanza Province) (3)
 HON. M. R. R. VIDAL (Temporary) (Officer-in-Charge, Masai District) (4)
 HON. G. P. WILLOUGHBY (Temporary) (Acting Postmaster General) (5)
 HON. R. DAUBNEY (Temporary) (Ag. Deputy Director [Animal Industry]) (6)
 HON. G. B. HEDDEN (Postmaster General) (7)

European Elected Members :

HON. F. A. BEMISTER .. .. .	.. Mombasa
MAJOR THE HON. F. W. CAVENDISH-BENTINCK .. .. .	.. Nairobi North
HON. CONWAY HARVEY .. .. .	.. Nyanza
HON. A. C. HOEY .. .. .	.. Uasin Gishu
LT.-COL. THE HON. J. G. KIRKWOOD, C.M.G., D.S.O. .. .. .	.. Trans Nzoia
MAJOR THE HON. G. H. RIDDELL, M.V.O. .. .. .	.. Kiambu
CAPT. THE HON. H. E. SCHWARTZ .. .. .	.. Nairobi South
MAJOR THE HON. SIR ROBERT SHAW, BT., M.C. .. .. .	.. Ukamba
MAJOR THE HON. E. S. GROGAN, D.S.O. .. .. .	.. Coast
MAJOR THE HON. C. LUXFORD (Acting Member) (8) .. .. .	.. Aberdare
HON. E. CASWELL LONG (Acting Member) (9) .. .. .	.. Rift Valley

- (1) On leave from 10th June, 1936.
- (2) Appointed Acting Commissioner of Local Government 10th June.
- (3) Vice Mr. H. R. E. E. Welby, retired.
- (4) Vice Mr. G. C. Boulderson; re-appointed vice Mr. Hosking.
- (5) Vice Mr. T. Fitzgerald, C.M.G., O.B.E., retired.
- (6) Vice Major the Hon. H. H. Brassey-Edwards, Deputy Director of Agriculture (Animal Industry).
- (7) Vice Mr. Willoughby on appointment as Postmaster General.
- (8) Vice Mr. E. H. Wright, on leave.
- (9) Vice Lt.-Col. the Hon. Lord Francis Scott, D.S.O., on leave.



COLONY AND PROTECTORATE OF KENYA

LEGISLATIVE COUNCIL DEBATES

1936

FIRST SESSION

MONDAY, 18th MAY, 1936

Council assembled at the Memorial Hall, Nairobi, at 11 a.m. on Monday, the 18th May, 1936, His Excellency THE GOVERNOR (BRIGADIER-GENERAL SIR JOSEPH ALOYSIUS BYRNE, G.C.M.G., K.B.E., C.B.) presiding.

His Excellency opened the Council with prayer.

The Proclamation summoning the Council was read.

OATH OF ALLEGIANCE.

The Oath was administered to:—

Nominated Official Members :

SIDNEY HERBERT FAZAN, Acting Provincial Commissioner,
Nyanza Province.

MONTAGUR RICHARD REYNOLDS VIDAL, Officer in Charge,
Masai District.

GODFREY POUNTNEY WILLOUGHBY, Acting Postmaster
General.

ROBERT DAUBNEY, Acting Deputy Director (Animal Indus-
try).

European Elected Member for the Coast Area :

EWART SCOTT GREGAN, D.S.O.

Acting European Elected Members :

CYRIL LUXFORD, Aberdare.

ERNEST CASWELL LONG, Rift Valley.

INVESTITURE.

By Command of His Majesty the King, His Excellency invested with the Insignia of a Commander of the Most Excellent Order of the British Empire:

THE HON. H. L. SIKES, Director of Public Works.

COMMUNICATION FROM THE CHAIR.

His Excellency made the following Communication from the Chair.

HONOURABLE MEMBERS OF COUNCIL.

Since last we met, the Empire to which we are so proud to belong, has passed through a period of deep sorrow in the loss of a great and well beloved King. The spontaneous grief which was shown by every race and class within this Colony is still fresh in our memory and to-day, no less than on the day on which he was, under the mercy of Almighty God, so peacefully taken from us, the sense of loss remains with us. For the majority of those of us whose manhood has been spent under his guidance, that sense of loss will always remain.

I would now ask that all present in this Council Chamber do remain standing for a space of one minute in respectful memory of one whom we mourn as a perfect example of kingship and as a ruler whose unwearied devotion to the welfare of his subjects has won the admiration of the world.

(One minute's silence.)

Before we turn to the business of the Council, I am sure that it will be the wish of hon. members that we, as a Council, should offer our loyal service and humble duty to His Majesty King Edward VIII.

While Prince of Wales, as he was when we had the privilege of welcoming him in Kenya, he enriched a great office with those sympathies and ideals of service which are specially his, and we pray that, as our King, under God's providence, his reign may be one of prosperity and peace and happiness.

I will now briefly review the financial and trade position.

As regards the financial position at the close of 1935, the gross revenue for the year amounted to £3,304,026, and the gross expenditure to £3,252,784. These figures include extraordinary expenditure not covered by the Estimates, such as the writing off of bad debts in connection with the Agricultural Advances Scheme, depreciation of investments, the layout of the new Law Courts site, and also cross entries in connection with the Colonial Development Fund, the Parliamentary Grant and the Stamp Duty Reserve Fund.

Revenue exceeded the estimate by £50,500, the outstanding feature in the Revenue position being a decided improvement in Customs and Post Office receipts, both reflecting a measure of recovery in the economic conditions of the Colony as a whole. On the other hand, receipts from Native Hut and Poll Tax and Trade Licences were seriously below the Estimates, the shortfall on the former being approximately £60,000 and on the latter £17,000. The native taxation position is being investigated and, so far as Trades Licences are concerned, it will be recalled that the estimate of £50,000 was necessarily purely tentative as it was based on revised Schedules which became operative at the beginning of the year. Practical application of the new Ordinance resulted in a yield approximately equal to that which accrued under the Ordinance previously in force.

A saving of nearly £60,000 on approved recurrent expenditure indicates quite clearly that the programme of strict economy was maintained throughout the year. Twenty-eight recurrent heads showed savings amounting to £65,000, while there were excesses on only five heads amounting to £5,000.

The surplus balance at the end of the year was £253,851 compared with £207,639 at the close of 1934.

The actual Customs and Excise Revenue receipts for Kenya during 1935 exceeded the Approved Estimates by £62,700, the Revised Estimates by £25,200, and collections for 1933 and 1934 by £112,700 and £83,700 respectively and, as the highest record since 1930, afford an important barometric reading of the position in regard to internal, external and inter-territorial trade.

Speaking in terms of the Customs unit of Kenya and Uganda, I am happy to state that the improvement reflected in the trade statistics for the year 1934 has been maintained during 1935. The value of total imports during the year was £6,549,000 as against £5,000,000 in 1934 or an increase of 16.7 per cent, and the allocation thereof to Kenya was £4,850,000 as against £3,950,000 in 1934 and £3,382,000 in 1933.

Exports of the domestic produce of Kenya were valued at £2,930,000—an increase in value of £1,039,000 or 56 per cent over the value of the previous year.

Examining the position in relation to Kenya domestic exports, I find that coffee shipments increased by 171,313 cwts. in quantity and £438,000 in value, maize by 758,450 cwts. in quantity and £80,200 in value, tea by 23,000 cwts. in quantity and £104,500 in value; I would here remark that these two last commodities have doubled in quantity as compared with 1934. Sisal has advanced by 8,700 tons in quantity and

£120,500 in value, and cotton of Kenya growth has increased by 16,700 cwtals in quantity and £47,000 in value. Gold mining has continued to consolidate its position as an influential factor in the commercial life of the Colony; shipments of gold bullion during the year showed an increase of £79,287 in value and 13,239 oz. troy in quantity. The successful flotation of the Kavirondo Gold Mines, Limited, in February by Messrs. John Taylor and Sons, when the capital required was subscribed within a few minutes, shows that, in spite of the financial difficulties caused by the international situation, interest and confidence in the Kenya goldfields is still maintained.

The entrepôt trade of Mombasa has appreciated to the benefit of port revenues and trading activities generally, it being of interest to note that exports, re-exports and trans-shipment consignments to Italian Somaliland have risen from last year's figure of £81,000 to £432,700.

In the case of internal and inter-territorial trade, Kenya local industries have retained their holding in the market provided by the fiscal zone of Kenya, Uganda and Tanganyika Territory.

The general conclusion which can be drawn is that the Colony's production and trade made an appreciable recovery in the course of 1935 and that the position was definitely more satisfactory at the end of the year than at its beginning.

A major factor which has contributed to this desirable state of affairs is the success of the Colony's producers in adapting themselves after the advent of the depression to changed economic circumstances and in reducing their costs of production so that they were able to take immediate advantage of the tonic effect of commodity price improvements which, in regard to Colonial products generally, were in evidence in 1934, prominent in January, 1935, and in Kenya, with the unfortunate exception of coffee, reasonably well maintained during the year with some increases as, for example, sisal. This factor, therefore, materially influenced the much desired advance towards prosperity which I am encouraged to hope will continue for, despite unusually heavy transfers to Uganda of imported goods from open stocks during the first four months of this year to meet requirements of the cotton buying season, the Customs and Excise Revenue position of Kenya for actual and estimated collections as at 30th April stands at £245,000 or some £115,000 in excess of the proportion of the approved Estimates. I am further informed that during the first two months of the year, exports of Kenya produce were valued at £788,800 as against £570,600 for the corresponding period in 1935, and I understand from the authorities at Mombasa that this expansion has not ceased.

In my speech before this Council in November last, I made reference to certain favourable developments in the market situation of some of this Colony's most important agricultural products. The upward movement had been so rapid and spectacular in certain directions that one naturally viewed it with a certain amount of misgiving. I am happy to say, however, that on the whole the movement has been maintained. The low prices for coffee have no doubt been due in part to the effect of unfavourable weather conditions on the quality of our coffee sent to the London market. Incidentally, it appears that the exports during the year July, 1935, to June, 1936, are likely to create a record for this period. This may go some way towards compensating for low prices. It is encouraging to observe that a firm footing has been obtained in the markets of the United States of America and Canada for direct shipments.

Information has just been received that a grant of £1,400 from the Colonial Development Fund has been obtained for the purpose of sending an Entomologist of the Department of Agriculture to Malaya, Java, Southern India and the Philippine Islands to search for parasites of the Kenya coffee mealy bug. The officer chosen, Dr. Le Pelley, who is at present in America on a Commonwealth Fund Scholarship, will, it is expected, commence his journeys within a month.

The prospects for maize I regard with some misgiving. There is no present improvement in export prices and, though I say it with reluctance, future indications are the reverse of encouraging. It is, I fear, necessary to face the fact that maize is a pioneer crop, and I hope that the measures recently enacted and those under consideration will serve to alleviate the distress during the transition period from this to some more economic form of farming.

In November last I was able to point out one or two directions in which substantial progress has been achieved during the last few years of depression. I mentioned the case of the tea industry, and I am now able to add that the production during 1935 was 6,300,000 lb. as compared with 3,600,000 lb. in 1934 and the value of exports exceeded £217,000. Exports of sisal set up a record of some 32,800 tons, compared with the previous record of 24,000 tons. The export of wattle extract exceeded 100,000 cwts. in 1935 (as compared with about 50,000 cwts. in 1934 and only 6,000 cwts. in 1931), and the export of bark has been maintained at the level of recent years except the record year 1934. The export of butter reached a record total of over 16,000 cwts. in 1935, which with an improvement in overseas prices brought the declared value up to £60,000 from £40,000 in the preceding year.

The production of cotton continues to increase at a gratifying rate. The 1934-35 ginning season closed with a total out-turn of 8,774 bales as compared with 6,750 bales in the 1933-34 season and 4,277 bales in 1932-33. It is expected that the 1935-36 out-turn will exceed 15,000 bales.

Export to Italian Territory has mainly accounted for an increase in exports of cattle from 344 in 1934 to 3,486 in 1935, though the trade from Lamu to Zanzibar has also increased.

The combined effect of these and other factors is reflected in the increase of the total value of the Colony's exports to which I have already alluded.

Some sixty-nine head of pure-bred cattle were imported into the Colony last year, as compared with twenty-nine in the previous year. This is the highest since 1931.

Inspection services for exportable native produce now cover Central and Nyanza Provinces. The service is welcomed by purchasers. By ensuring more dependable quality and by widening the field of purchasers, it is putting the native in a position to receive a higher price for his produce.

Special mention might be made of the progress in the preparation of hides for export. Statistics are now compiled of shade-dried and sun-dried hides separately. About one-third of the hides exported during 1935 were classified as shade-dried. This indicates a very gratifying rate of progress when one takes into account the short time during which the campaign has been pursued, the remoteness of some of the areas and the primitive stage of some of the peoples concerned. A measure of the value of this work is provided by the fact that the exports of hides during 1935 were valued at £143,000 and that the value of shade-dried hides was given at Sh. 43/50 per cwt. as against Sh. 31/60 for sun-dried.

These examples will show beyond doubt that the Colony's agriculture is in a progressive condition and we can, I think, look forward to the future with some confidence, provided always that the present improved conditions in the world markets remain unaltered.

The live stock and meat industry has also been receiving attention. A representative Committee was appointed last October to inquire into the various aspects of the industry and to make recommendations to Government. The inquiry is proceeding and it is expected that a valuable report will shortly be presented.

As regards the Dairy Control Bill, you are aware that numerous objections to it were received and these were referred to the Committee for examination. I understand that their

Report, in which they deal with these objections and other matters, is practically ready. As soon as it is received it will be made public without delay.

Satisfactory progress is being made with the local negotiations in regard to actual land acquisition or exchanges which are a necessary preliminary to bringing into effect the Land Commission's recommendations. Where modifications in detail have appeared desirable they have been discussed with the local interests concerned and, where necessary, with the European Elected Members of Council as the accredited representatives of the Highlands. There are still a few of these negotiations outstanding which it is hoped will be brought to a conclusion in the near future. It is, of course, necessary for all such matters to be concluded finally before new legislation can be enacted.

A considerable amount of survey work in this connection has also been completed.

The General Manager's Annual Report on the working of the Railway and ancillary services during 1935 has been made public and reveals a very satisfactory and sound position. The latest returns this year also show that progress is being fully maintained, and in fact, is well above the estimates.

The possibility of further rates reductions is receiving the close attention of the management and of the Railway Council, but the problem, as hon. members are aware, is by no means a simple one. Changes in rates have a permanent effect while increases in revenue, such as are now being recorded, may be abnormal and temporary and therefore not available for rates reduction. With the complete re-establishment of the finances of the Transport Services, however, it is the aim of the Administration to pass on to the public of these two territories such permanent increases in revenue as may safely be agreed to, always bearing in mind that stability is frequently of more importance than lower rates.

Hon. members will remember that on 2nd July last year, a motion was passed providing for certain re-allocations under the sub-head Public Buildings of the Loan, so as to provide £78,500 for the Group Hospital, Nairobi, £2,400 for Mathari Mental Hospital, £1,800 for the Girls Secondary School, Nairobi, boarding accommodation, and £3,500 for the reconstruction of the Kisumu market. The Government Architect and a Medical Officer have been examining in South Africa designs of hospitals for mixed races in that territory and as a result of their investigations it is hoped that the designs of the new hospital will be thoroughly up-to-date. Work on the extension of the Mathari Mental Hospital has been started by apprentices from the Native Industrial Training Depot. The

working drawings and quantities for the boarding block of the Girls Secondary School, Nairobi, are practically finished, and it is expected that tenders will be invited for construction by contract before the close of this month. The preparation of these drawings and estimates was delayed owing to the urgent work connected with the Coast defences at Mombasa requiring the attention of the very limited staff. The construction of the new Kisumu market should be finished within the next few weeks.

The deplorable state of some of the public buildings in the Colony has been the source of anxiety to the Government for some years past.

I have just referred to the action that is being taken in regard to the Nairobi Hospital, the boarding accommodation for the European Girls School and the Mathari Mental Hospital, but prompt action is no less necessary in regard, at least, to the Mombasa Hospital, the Police Lines in Nairobi, the King's African Rifles Lines, and the Indian Elementary School, Nairobi, which are now all in conditions of so grave disrepair as to amount to public scandals. They do not, however, by any means exhaust the list of urgent requirements and I do not see myself how these requirements are to be met except by the raising of a fresh loan. In the meantime, plans and estimates for a Grouped Hospital at Mombasa, as visualized in 1925 by the Select Committee on Loan Proposals, will be prepared for consideration.

Coming now to the financial position under the Colonial Development Fund Loans for road construction, the plans and specifications for the Jambwa-Kericho Road were approved by the Central Roads and Traffic Board on 31st January, 1930. The pegging out of the alignment has been proceeding, the earth work has been started, and plant and material are being collected; a contract has also been let for the supply of stone. The completion of the Molara Bay-Lolgorien Road, which is 55 miles in length and has 17 bridges of an aggregate span of 354 ft., as well as many concrete drifts on it, is in progress. Other roads to mining areas, provided for by the re-allocation of the sum of £50,000 which was approved by the Colonial Development Fund Committee, are still the subject of survey.

The annual storms which occurred during the last three months over much of the country played havoc with many of the earth roads and some became quite impassable at times. Damage was done to bridges in several localities and wash-ways were not infrequent on account of the concentrated storms. The Central Roads and Traffic Board has recommended the provision of £4,000 by Special Warrant to enable the most important damage to be dealt with. The difficulty

in connection with the main roads of the Colony is that it has never been possible to provide capital funds enabling the roads to be properly built. On this account, they are liable to suffer severely during heavy rains although adequate to carry traffic satisfactorily during dry weather.

The completion of the low level bridge across the Athi River out of the Parliamentary Grant of £50,000 was delayed by the frequent floods on the river, but was finally finished within the estimated cost early in March. Surveys and designs have been in the course of preparation for the proposed bridge across the Tana River between Embu and Kitui which was recommended for construction out of the Parliamentary Grant by the Standing Finance Committee in their report on the Provisional Draft Estimates for this year.

By far the most important legislation for your consideration during this sitting is that based on the Interim Report of the Agricultural Indebtedness Committee. It consists of three Bills: "The Specific Loan Ordinance", "The Farmers Assistance Ordinance", and "The Land and Agricultural Bank (Amendment) Ordinance".

I venture to state that the measures included in this legislation may be reckoned among the most practical means of financially assisting sound farmers that have ever been laid before this Council.

I have used the words "sound farmers" advisedly, as it was clearly the intention of the Committee to restrict the assistance they recommended to such men. The following extract from the Report confirms this:

"The bad farmer, the good farmer with bad land, the possibly good farmer with good land who is so heavily involved that no arrangement with his creditors can be made, are beyond our help."

I believe all will agree with the justice and wisdom of these views, which are now incorporated in clause 20 of "The Farmers Assistance Ordinance".

Whatever may be the fate of a more ambitious and long-range scheme known as the Bond Issue Scheme now being examined by experts at home, we have here at least something definite and, above all, we have the necessary money and good will to distribute it equitably and with as little delay as possible.

Added to the benefits to come from the operation of "The Farmers Assistance Ordinance" the Land Bank has been provided with additional funds and with the power to raise the present maxima to individuals from £3,000 to £5,000. An

interesting innovation is contained in clause 26A of the Bill, which permits of an advance up to £200 for the purpose of obtaining assistance in preventing soil erosion.

Our gratitude is due to the Hon. Mr. Harragin and his colleagues on the Agricultural Indebtedness Committee for the outstanding work they have performed.

It must be rare to find a case where a Committee has recommended a complicated scheme involving the disbursement of a large sum of money and where its recommendations have been accepted, practically without a single alteration, by the Colonial Office and by H.M. Treasury; an indication of the meticulous care and thought bestowed by the Committee on their difficult task. (Hear, hear.)

I should like to refer briefly to one other Bill—a Bill relating to Ferries—which will be laid before you. You will recollect that in August last legislation was passed conferring on the Mombasa Municipal Board power to acquire ferries and either to run them or to enter into an agreement with some other person or company to run them, in either case with the power of forbidding competition, with the ferries so run.

To me it is a matter of regret that the Mombasa Board declined to exercise either of these powers. Questions of restricting competition or of arranging contracts of so considerable an importance to the Coast and Mombasa can, in my judgment, be more satisfactorily dealt with by a local body representative of the various interests concerned.

Now what is the result of this refusal on the part of the Board? It leaves the Government but two alternatives, one being to continue to operate the ferries through the Public Works Department and the other, if this Bill be passed, to let them out to a contractor, the public interests being adequately safeguarded by the terms of the agreement entered into. In my judgment, the second alternative is the better one, for I believe that work of this nature is likely to be more satisfactorily performed by a carefully selected contractor possessed of the requisite means and qualifications than by the Public Works Department; already overburdened by multifarious duties throughout the Colony. Moreover, the procedure contemplated is in conformity with the persistent demand that as much as possible of the work of the Public Works Department should be let out to contract.

I would urge most strongly that the question of free ferries, which I notice is now being strenuously advocated in certain quarters, be not allowed to influence or delay a decision as to the method of operating ferries.

The question of the freedom of the ferries is an entirely separate issue and is in no way concerned with the Bill which hon. members will be considering at this sitting. Whether the ferries are to be free or not they must be operated, and the Bill to which I am referring is directed solely to securing the most efficient means of operation.

I had hoped at this session that it would have been possible to give some indication to hon. members of the date of publication of the Report on the Finances of the Colony and Protectorate, which the Special Financial Commissioner, Sir Alan Pim, was engaged in preparing when we last met. After completing his work in Kenya, however, Sir Alan was so unfortunate in the course of his journey home by air as to break his arm in a fall in Egypt. I am sure all hon. members will sympathize with him in this unfortunate accident which has delayed him in his work.

I feel that I should make some reference to the Report of Major Cawthorne who, partially as a result of personal correspondence between myself and Field-Marshal Sir Philip Chetwode in November and December, 1934, was invited by the Government of Kenya to come to this Colony at this Colony's expense and see for himself to what extent Kenya is suitable for settlement by retired officers of the Indian Army. Although the invitation, on the face of it, could have had no other object than the furtherance of White Settlement, Major Cawthorne has recorded the impression that "basically the official attitude towards further white settlement is not one of definite encouragement."

I do not know from what source Major Cawthorne derived this impression; I do not think that it could have been from officers of this Government. I was away from Kenya at the time, but I have seen that the Acting Governor directed that every facility was to be given to Major Cawthorne in the prosecution of his investigation, and I know that the hon. the Commissioner for Local Government, Lands and Settlement and the Kenya Association did their best to help him. I myself, on the eve of his departure, appeared to be satisfied with what this Government had done for him, for he wrote as follows to the Acting Colonial Secretary on the 26th August

"I would like to thank you personally for the interest and trouble taken in connection with my tour and I am sure the officers of the Indian Army affected by the White Settlement Scheme will be very grateful indeed for the help and attitude taken by Kenya in the matter of their possible settlement."

I have ascertained that while he was in Kenya he made no mention of his impression to the Acting Governor, the Acting Colonial Secretary or the Commissioner for Local Government, Lands and Settlement, or to anyone in authority. Had he done so, he would have been referred to the definite statement made on behalf of the Government by the hon. the Commissioner for Local Government, Lands and Settlement in this Council on the 1st August last, which contained the following passages:

"Your Excellency, this Government has given substantial pledges of its belief in white settlement. It has built branch railways to various hitherto remote parts of the settled areas; it has created a network of excellent road communications throughout the Colony; and it has provided less visible but equally effective and expensive services in other directions, and it yields to none its desire to see the empty spaces filled by happy, smiling, prosperous new settlers."

And again, at the end of the same speech:

"It is therefore perhaps fitting that I, as the officer of Government entrusted specially with the care of local government, lands and settlement, should state quite categorically . . . that the dual policy is a policy initiated by this Government twelve years ago, it is a policy which during the intervening time this Government has faithfully pursued, and it is a policy to which for the future this Government is irrevocably committed."

I feel that I should not conclude my address without a reference to the hon. Mr. Sikes who is shortly leaving us to retire on pension. A more courteous, obliging and painstaking official it would be hard to find. (Applause). He has been Director of Public Works during a period when, owing to the large sums made available from loans, heavy work and heavy responsibility have been thrown on him and on his Department. The interesting history of the Loan Works for the period 1925-34 which will be laid on the Table, is a record of which Mr. Sikes may justly be proud. I wish Mr. Sikes and his family all happiness and good luck in the future. (Applause).

Hon. members, may I hope that with the help of Almighty God, your deliberations during this sitting may further the peace, prosperity and welfare of the Colony of Kenya. (Applause.)

MINUTES.

The minutes of the meeting of the 10th January, 1936, were confirmed.

PAPERS LAID.

By THE HON. THE COLONIAL SECRETARY:

Schedule of Additional Provision No. 4 of 1935.

Schedule of Additional Provision No. 1 of 1936.

Statement required under Section 150, Electric Power Ordinance, for year ended 31st December, 1935.

By THE HON. THE TREASURER:

Report of the Board of the Land and Agricultural Bank of Kenya, 1935.

By THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT:

Return of Land Grants:—

1st October to 31st December, 1935.

1st January to 31st March, 1936.

By THE HON. THE DIRECTOR OF MEDICAL SERVICES:

Medical Department Annual Report, 1934, including the Medical Research Laboratory Annual Report, 1934.

By THE HON. THE DIRECTOR OF AGRICULTURE:

Department of Agriculture Annual Report, 1934, Vol. I.

Report of the Dairy Industry Enquiry Committee.

Naivasha Live Stock Research Station Report for the period 1st January, 1934, to the 31st March, 1935.

Amani, 7th Annual Report, 1934-35.

By THE HON. THE GENERAL MANAGER, KENYA AND UGANDA RAILWAYS AND HARBOURS:

Report of the Administration of the Railways and Harbours for the year ended 31st December, 1935.

By THE HON. THE DIRECTOR OF PUBLIC WORKS:

Report entitled Colonial Loans—Expenditure on Buildings, Water Supplies and Roads during the Period 1925-34.

By THE HON. THE ACTING COMMISSIONER OF CUSTOMS:

Annual Trade Report, Kenya and Uganda, 1935.

BILLS.**FIRST READINGS.**

On the motion of the hon. the Attorney General, seconded by the hon. T. D. H. Bruce, the following Bills were read a first time :—

Prisons (Amendment) Bill.
 Special Districts (Administration) (Amendment) Bill.
 Native Liquor (Amendment) Bill.
 Dangerous Drugs (Amendment) Bill.
 British and Colonial Probates (Amendment) Bill.
 Farmers Assistance Bill.
 Land and Agricultural Bank (Amendment) Bill.
 Specific Loan Bill.

Notice was given to move the second readings at a later stage of the session.

Council adjourned till 10 a.m. on Tuesday,
 19th May, 1936.

TUESDAY, 19th MAY, 1936

Council assembled at the Memorial Hall, Nairobi, at 10 a.m. on Tuesday, the 19th May, 1936, His Excellency THE GOVERNOR (BRIGADIER-GENERAL SIR JOSEPH ALOYSIUS BYRNE, G.C.M.G., K.B.E., C.B.) presiding.

His Excellency opened the Council with prayer.

MINUTES.

The Minutes of the meeting of the 18th May, 1936, were confirmed.

PAPERS LAID ON THE TABLE.

The following Paper was laid on the Table :—

By THE HON. THE ATTORNEY GENERAL :

Report of the Select Committee appointed to consider and report upon the provisions of a Bill to amend the Local Government (Rating) Ordinance, 1928, in substitution for the Report laid on the Table on the 7th January, 1936.

NOTICE OF MOTION.

Notice of the following motion was given :

By THE HON. MEMBER FOR NAIROBI NORTH :

"That this Council having listened to His Excellency's communication from the Chair regrets that no mention was made of the Maize Control Bill, 1936, and that no more definite announcement was made with regard to the date of introduction of the Dairy Control Bill, and trusts that measures on these lines will be introduced without further delay as forming an integral part of the Colony's urgently needed programme of agricultural reconstruction."

ORAL ANSWERS TO QUESTIONS.

MR. W. G. LILLYWHITE, REMISSION OF DISQUALIFICATIONS.
 No. 9—THE HON. MEMBER FOR NAIROBI SOUTH asked :

"Under what authority or authorities did His Excellency the Governor purport to act in remitting the disqualifications imposed upon Mr. Lillywhite as a result of his conviction under the provisions of the Legislative Council Ordinance?"

THE HON. THE ATTORNEY GENERAL: I would refer the hon. and learned member to the provisions of Article XVII of the Kenya Protectorate Order in Council, 1920.

SETTLEMENT OF ABYSSINIANS ON KENYA BORDER.

No. 17.—**THE HON. ISHER DASS** asked:

"Will Government be pleased to lay on the table, for the information of the House, any communication received from the Imperial Government to settle a larger number of Abyssinians on the Kenya border?"

THE HON. THE COLONIAL SECRETARY: This Government has received no communication from the Imperial Government referring to any proposal to settle Abyssinians on the Kenya Border.

MOTIONS.

SCHEDULES OF ADDITIONAL PROVISIONS NOS. 4 OF 1935 AND 1 OF 1936.

THE HON. THE COLONIAL SECRETARY: Your Excellency, I beg to move the motion standing in my name:—

"That Schedules of Additional Provisions Nos. 4 of 1935 and 1 of 1936 be referred to the Standing Finance Committee for examination and report."

The former Schedule, that is to say, the Schedule No. 4 of 1935, makes provision for additional expenditure of £44,523. Of this sum £10,072 is covered by revenue from the Colonial Development Fund, and £10,946 from the Parliamentary Grant. The balance of gross additional expenditure borne by this Government, therefore, is £23,505. Of this sum £13,742 is covered by savings which have been specifically earmarked for the purpose, leaving net additional expenditure of £9,963.

The gross total of Schedule No. 1 of 1936 is £68,986. Of this sum, however, £54,442 is recoverable from the Colonial Development Fund and the Parliamentary Grant. A further sum of £1,927 is covered by specific savings. Various other sums are recoverable in reimbursements and special grants and, as shown in the memorandum, the total net additional expenditure amounts to approximately £4,660 only.

In both cases the main items are explained in the printed memoranda and the smaller amounts are covered by brief notes in the 12th column of the Schedules.

THE HON. THE ATTORNEY GENERAL seconded.

The question was put and carried.

AGRICULTURAL ADVANCES ORDINANCE, 1930.

WRITE-OFF OF EXPENDITURE.

THE HON. THE TREASURER: Your Excellency, I beg to move the first motion standing in my name on the order paper for to-day:—

"That this Council approves of the write-off as final expenditure of a sum of £5,128-15-15, advanced under the provisions of the Agricultural Advances Ordinance, 1930, this write-off operating in further reduction of the authorised appropriation of £113,201 approved by this Council as follows:—

£100,000	by motion dated 30th May, 1930.
7,000	.. .. 8th May, 1933.
6,000	.. .. 20th December, 1933.
201	.. .. 26th November, 1934."

This write-off of £5,128-15-15 is in respect of two advances which are considered by the Land Bank Board, acting as agents to Government in the administration of the Agricultural Advances Scheme, as being irrecoverable. I may say that the authority of the Secretary of State for this write-off has already been obtained.

Details of the operation of the Agricultural Advances Scheme will be found in Appendix 4 of the Land Bank Report for 1935 which was laid on the table of this Council yesterday, but it may be convenient if I take this opportunity of giving some additional particulars in order to afford Council the opportunity of judging as to the progress which has been made in liquidation of this Scheme.

There were originally 105 participants. By the end of 1935 that number had been reduced to 60. 31 advances have been repaid in full, 11 have been written off and one farm property has been taken over. The amount of interest paid since the inception of the Scheme is approximately £24,000. The amount paid to the Land Bank for administration expenses is approximately £8,650. The amount written off as irrecoverable, apart from the amount covered by the present motion, is £12,143-14-77 and the principal outstanding at the end of 1935 is £97,108.

With these particulars it will be realised that material progress towards liquidation of the Scheme has been made. The circumstances attending the original advances were unusual and as, in general, the security is not of the same standard as that required by the Land Bank, which as hon.

members know is first mortgage; on that account careful nursing of these various items is essential. In this connection, Sir, I should like, if I may, to pay a sincere tribute to the members of the Land Bank Board for the manner in which they conduct the affairs of the Agricultural Advances Scheme. I am the only Government representative on that Board but I can say without hesitation that, although no additional emoluments whatever are involved, the other members of the Board devote the same strict attention to the affairs of the Scheme as they do to the business of the Land Bank proper. That, Sir, to me, is a sufficient indication that the Farmers Assistance Scheme will be equally well administered if placed under the care of the Land Bank Board, and I submit it should be a sufficient indication to this Council that the Agricultural Advances Scheme is in competent hands.

I can hold out no hope whatever that this will conclude the series of motions for the writing off of advances. Further losses are unfortunately inevitable, but at the same time I know that if the participators in the Scheme do their share, the Land Bank Board will do everything possible to bring the Scheme to the best conclusion possible in the circumstances.

THE HON. THE ATTORNEY GENERAL seconded.

The question was put and carried.

ROAD CONSTRUCTION IN TEA AREAS.

THE HON. THE TREASURER: Your Excellency, I beg to move the second motion standing in my name on the order paper:—

"Be it resolved that this Council approves the expenditure during the year 1936 of a sum of £16,000 upon the purpose specified in the Schedule hereto as a charge against the loan of £35,000 granted by the Colonial Development Advisory Committee for road construction in the Tea areas of the Colony.

SCHEDULE.

COLONIAL DEVELOPMENT FUND—

Lumbwa-Kericho Road £16,000."

This motion, Sir, seeks the covering approval of Council to the expenditure of £16,000 during the present year on the construction of the Lumbwa-Kericho road. Funds for this purpose are being provided by means of a loan of £35,000 from the Colonial Development Fund, this being the estimated total cost of the scheme. The loan is free of interest and repayment

for the first five years; thereafter it bears interest at the rate of 3½ per cent and is repayable in regard to that interest and principal in 20 annuity payments.

As Your Excellency has already stated, in view of the desirability of proceeding with this work without delay the matter was referred to the Central Roads and Traffic Board and to the Standing Finance Committee of this Council, both of which bodies approved that a Special Warrant should be issued and the work is in fact in hand. The formal sanction of the whole Council is necessary as a formal matter.

THE HON. THE ATTORNEY GENERAL seconded.

THE HON. CONWAY HARVEY: Your Excellency, in supporting the motion I should like to express my personal gratification and that of those whose interests are so vitally affected that this much-needed road is at last to be constructed. £35,000 does seem a very large sum of money relatively for 23 miles of road, but I suggest it is barely sufficient when we take into consideration the nature of the traffic and the soil and the climatic conditions which prevail in that area.

There is one matter in this connection on which I should very much like an assurance from Government. Undoubtedly a very large number of native labourers will be employed in the construction of this road and local employers of labour—and, as Your Excellency knows, the Tea Companies employ no less than 10,000 native labourers—are very apprehensive that unduly generous terms, especially in regard to rations, will have the effect of permanently putting up beyond an economic maximum the wages of these very important and large employers of native labour. I should welcome an assurance that every possible effort will be made to keep the scale of pay and rations at least parallel with those which have been approved and have the complete acceptance of the employers and employees in that area. Only last night I received a letter from a member of the South Lumbwa Road Board in this connection. I am not airing an imaginary grievance—this is a real grievance from the manager of one of the Tea Companies in that area. The extracts that I wish to read are in these terms:—

"At a meeting of the South Lumbwa Road Board, the P.W.D. Engineer in charge of the construction of the new Kericho-Lumbwa road stated that the Medical Department wanted all boys employed to be supplied with, in addition to posho, salt and cheroko" (which is the normal ration and has proved quite satisfactory in that area). "two blankets, 2 lb. meat, oranges, 2 lb. beans and

2 lb. of potatoes per week, also that each boy should have an allowance of 200 cubic feet of air space. The South Lumbwa Road Board considered that these should not be agreed to unless absolutely necessary as it would have the effect of compelling all labour on roads to have similar conditions and would raise the cost of labour a great deal. It was pointed out that the Tea Companies did not give blankets or meat or several of the other items."

In this connection perhaps I may be allowed to refer to what Your Excellency yourself said at Kericho only a few weeks ago. You were kind enough to congratulate the Tea Industry on their method of handling labour and the conditions under which the labourers worked and you described the natives as happy and contented. Why not leave well alone and not interfere with that Utopian state of affairs? A further extract from the letter is in these terms:—

"I give posho, salt and ground to grow vegetables. My sick rate is well under 1 per cent and I have a healthy contented labour force. If the P.W.D. do as they suggest I shall have to do the same, which will mean that I shall have to reduce my labour force, and so plant less tea. I am a retired Indian Medical Service Officer with over 30 years experience of natives both Indian, African, Cingalee, Burmese, Chinese, and I can definitely state that the recommendations of the Medical Department will not improve the health or efficiency of the P.W.D. boys. I have run a tea estate here for 5 years so know the local conditions here well. My boys buy their own blankets, meat, etc., which means that they have not got so much money for women and alcohol as they will have if the P.W.D. give them everything. The result of giving them these things will be a definite increase in venereal disease and drunkenness."

Now, Sir, I sincerely trust Government will take this quite seriously. The representations are from a responsible source and I suggest the dangers of the innovation are not unduly exaggerated. In the natives' own interests which is better? To employ 100 natives with oranges and of course fair rates of pay, or 200 natives with fair rates of pay and rations and no oranges?

VEN. ARCHDEACON THE HON. G. BURNS: Your Excellency, there is only one thing I want to say. The comparison is hardly a just one—that is, the conditions under which the natives will be employed on the making of that road and the natives who are employed on the tea estates. The condition of their lives is hardly comparable and then when you come to think of the houses they have to live in, I think it is only

fair that they should at least—I have been on some of those estates and admired very much indeed the splendid accommodation provided—the P.W.D. cannot be expected—or whoever is going to take this road contract—to build such permanent and comfortable houses for the natives who are to work on that road, and as the tea companies have done for their labour. And whatever he meant about their women and tembo that my hon. friend did look round at me. I think that certainly with regard to the supply of blankets in my opinion this would be a necessity for boys working under those conditions at that time.

THE HON. THE CHIEF NATIVE COMMISSIONER: Your Excellency, perhaps I can give some information to the hon. Member for Nyanza. I have seen the original letter from which he quoted and I can give him an assurance straight away that we are going to enquire into everything mentioned in that letter. One thing I can say. Only this morning I got a report from the Labour Section to say that these conditions have been agreed upon at a meeting at which the representatives of the P.W.D., the Medical Department and the Tea Growers Association were present.

The question was put and carried.

PENSION—MR. L. T. P. MACHIN.

THE HON. THE TREASURER: Your Excellency, I beg to move the third motion standing in my name:—

"This Council approves the payment of a reduced pension of £113-11-10 a year together with a gratuity of £387-12-6 to Mr. L. T. P. Machin who was retrenched from the service of this Colony with effect from the 1st April, 1936, inclusive, in lieu of an unreduced pension of £151-0-1 a year."

The Officer concerned, Mr. Machin, was a clerk in the Education Department and had completed rather more than 11 years at the time of his retrenchment. He did not opt to receive a gratuity and reduced pension within the statutory period, but in view of his altered circumstances consequent upon his retrenchment he now wishes to do so. It seems only reasonable that this degree of latitude should be allowed in the circumstances I have mentioned, and therefore, I beg to move this motion.

THE HON. THE ATTORNEY GENERAL seconded.

The question was put and carried.

SPECIAL GRATUITY—MR. H. O. WELLER.

THE HON. THE TREASURER: Your Excellency, I beg to move the fourth and last motion standing in my name:—

"This Council approves the payment of a special gratuity of £190-0-4 to Mr. H. O. Weller, who is retiring from Government service consequent upon the abolition of his office after nine years' service as Supervisor of Technical Education.

This is the amount of gratuity which would have been payable to Mr. Weller had the post he occupied not been pensionable."

In this case, Sir, Mr. Weller held the post of Supervisor of Technical Education and at the time of his retirement on abolition of office had completed 9½ years service in this Colony. He was engaged on non-pensionable terms and occupied a post which was started in the Estimates as being pensionable. Under the Pensions Regulations an officer occupying a non-pensionable overseas post is entitled to a gratuity on retirement, whereas an officer occupying a pensionable post who has not been confirmed in his appointment as a pensionable officer is not. The post of Supervisor of Technical Education has now been abolished and it is extremely doubtful whether it should ever have been treated as a pensionable post as there was never any intention of making the one occupier of the post pensionable. This being the case it would be manifestly unfair to deprive the officer in question of the gratuity to which he would have been entitled without reference to this Council had the post been shown as non-pensionable in the Estimates as it should have been. In the present circumstances it is however necessary to submit this motion as regards the gratuity in such circumstances which is technically outside the scope of the Regulations. I may say, Sir, that the Secretary of State has approved the granting of this gratuity.

THE HON. THE ATTORNEY GENERAL seconded.

The question was put and carried.

MINING IN PROCLAIMED AREAS ORDINANCE, 1933.

THE HON. THE COMMISSIONER OF MINES: Your Excellency, I beg to move the motion standing in my name:—

"Whereas it is provided, *inter alia*, by section 6 of the Mining in Proclaimed Areas Ordinance, 1933, that the said Ordinance shall continue in force for three years from the date of coming into operation of the said Ordinance:

And whereas it is further provided in the said section 6 of the said Ordinance that the Governor may, by proclamation, with the approval of the Legislative Council, declare that the said Ordinance shall remain in force until a date to be fixed in such proclamation:

And whereas by Government Notice No. 442 of the 1st day of July, 1933, the Governor appointed the 1st day of July, 1933, as the date upon which the said Ordinance shall come into operation:

Now, therefore, it is hereby resolved that this Council approves the issue of a proclamation declaring the said Ordinance shall remain in force until the 30th day of June, 1938."

It is in effect to provide for the continuance for a further period of two years of the provisions of the Mining in Proclaimed Areas Ordinance.

It is entirely a revenue measure and is bringing in at the present time about £1,500 a year, enough to keep one geologist active in the field, and it is I think entirely justified. There have been no objections voiced as to this Ordinance. I do not think there can be any objections to its continuance. The Ordinance is only applied to the five areas of the Kitson Report and the fees are on a sliding scale. For the first 8 square miles they are £3 per square mile per annum, £3 for the next 92 square miles and diminishing until for the portion of land over 600 square miles the fee is only Sh. 10 per square mile. It also provides for a fee up to £50 a mile of river frontage for consent to alluvial mining within a proclaimed area.

Our neighbours in Tanganyika and Uganda make a charge for an ordinary exclusive prospecting licence of £5 per square mile. I can anticipate a question as to why we are so generous, and it is always difficult to answer such a charge. We look rather to royalties than to fees for the revenue for the Mines Department and I must admit that besides these fees we do require some service from the concessionaire of a large area. We require a geological and a topographical or an aerial survey map from them. These services are an immediate asset to the concessionaires and a permanent asset to Government. By means of these aerial surveys the Surveyor General is enabled to bring our rather obsolete maps up to date showing the roads as they are to-day, and not as they were many years ago, showing the swamps that the Director of Medical Services wants to control by anti-malarial and fly control measures, and

showing features as they actually exist to-day. A geological survey prepared by competent men shortens the work of the Government Geologists to about one-tenth.

THE HON. THE TREASURER seconded.

The question was put and carried.

BILLS.

FIRST READINGS.

On the motion of the hon. the Attorney General, seconded by the hon. T. D. H. Bruce, the following Bills were read a first time:—

Education (Amendment) Bill.

Sisal Industry (Amendment) Bill.

Coffee Industry (Amendment) Bill.

Ferries Bill.

Control of Fugitive Belligerents Bill.

*Notice was given to move the second readings at a later stage of the session.

SECOND READINGS.

THE PRISONS (AMENDMENT) BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that the Prisons (Amendment) Bill be read a second time.

This Bill, at first sight, is not one which would appeal to all of us. Naturally, I feel every lawyer present will agree that it contains a principle which we do not wish to see enlarged, namely, that there should be any particular class of persons who should be saved from the attachment of their salaries. But those of us who have had the opportunity of hearing the Commissioner of Prisons on this subject are all convinced that in this particular instance an amendment to the law is entirely necessary.

As you know, we already have the Police protected in this way, and the Commissioner of Prisons rightly points out that it is just as important to have a disciplined prisons force as it is to have a disciplined police force, and there can be no possible difference whatever as regards the necessity of discipline between the police and prisons; with that I must agree with him. He also thinks an amendment of this sort an absolute necessity in his case in that it is essential that his warders should not be able to be "got at", and for that reason he asks

that the same provision be made for prison officers. Of course, they are only subordinate officers as in the case of the police force.

THE HON. T. D. H. BRUCE seconded.

CAPT. THE HON. H. E. SCHWARTZ: Your Excellency, I only rise to ask whether in the principal ordinance, which I have not had an opportunity of perusing, there is any definition of "subordinate officers"?

THE HON. THE ATTORNEY GENERAL: The answer to the hon. and learned member is in the affirmative.

The question was put and carried.

THE SPECIAL DISTRICTS (ADMINISTRATION) (AMENDMENT) BILL.

THE HON. THE CHIEF NATIVE COMMISSIONER: Your Excellency, I beg to move that the Special Districts (Administration) (Amendment) Bill be read a second time.

There are three minor amendments in this measure.

Clause 2 amends section 4 of the Principal Ordinance by a re-definition of the word "tribesman" to bring it into conformity with that used in the Northern Frontier Poll Tax Ordinance. It is advisable to have the same definition in the two ordinances.

Clause 3 amends section 18 of the Principal Ordinance, wherein I think a mistake was made. In that section it is stated that every person must get a passport before leaving the Northern Frontier; the intention was that it should apply only to tribesmen, and an amendment is therefore now proposed.

Clause 4 is merely a redraft of section 22 and puts in more comprehensive form the penalty section without in any way altering the principle.

THE HON. THE ATTORNEY GENERAL seconded.

The question was put and carried.

THE NATIVE LIQUOR (AMENDMENT) BILL.

THE HON. THE CHIEF NATIVE COMMISSIONER: Your Excellency, I move that the Native Liquor (Amendment) Bill be read a second time.

The amendments which the Bill contains are not of a very serious character.

In clause 2, which amends section 4 of the principal Ordinance, it is proposed, in the case of the licensing authority (which is the District Commissioner alone and not a board), to

do away with certain formalities and make it much more convenient than it is now to issue licences when on tour instead of having to issue notices, hold a court, and bring people in to a certain place. This will not, of course, apply to any big centres like Mombasa but to outside places where the District Commissioner alone is the licensing authority.

In clause 3 there are two amendments to section 7. The first one is to the proviso of section 7 (2), where it is laid down that there shall be no fee payable in respect of the tapping of palm wine for the consumption of the owner himself or his family; that is, when not for sale. In practice it is found to be too wide, and it is desirable to give the District Commissioner discretion to, in certain instances, issue licences free if he considers there is not likely to be any evasion of the law. The second amendment is a new one. Under the present ordinance a person in possession of a tapper's licence cannot sell palm wine unless he is in possession of a wholesale or retail licence. A wholesale or retail licence costs Sh. 50 respectively, and a tapper's licence Sh. 20. In the case of a small owner with a small number of trees, it is obviously difficult for him to pay Sh. 110 if he wants to augment his income by disposing of that part of his palm wine which he does not use himself, so it is proposed to give the District Commissioner power, in his discretion, and in certain circumstances, laid out in the Bill, to give permission to the holder of a tapper's licence to sell palm wine to the holder of a wholesale or retail licence. It seems only fair that those men who may have something over after fulfilling their own wants should be able to sell it without having to pay the large licence fee of Sh. 100.

THE HON. THE ATTORNEY GENERAL seconded.

VEN. ARCHDEACON THE HON. G. BURNS: Your Excellency, while agreeing with part of this Bill, especially with regard to the District Commissioner having authority to give licences to certain people for tapping their own trees, the last clause of the Bill goes a very long way and is, in my opinion, in danger of being very injurious to those who are living at the coast.

It is a well known fact, and I am sure that every District Commissioner at the coast and those connected with the administration of natives will agree, that drunkenness is on the increase. (A member: No.) We have heard also that the young men are not as loyal and obedient to their elders as they used to be in the old days. I wish to state my conviction that the reason for that is that the use of tembo at the present time and the planting of coconut trees on land where heretofore they planted for food purposes for consumption by

their people, is going to mean a very real danger to the whole of the coast people. To make it possible for a native to be given a licence to sell to wholesale buyers is, in my mind, very dangerous indeed.

I saw in some report that no less than £6,000 worth of tembo was sold in Mombasa during the year 1935. If this permission is given, as I suppose it will be, to sell to wholesale buyers, the consumption of tembo will go up, and the difficulties connected with the administration of the districts will be very much increased. I am speaking, Sir, from what I know with regard to drunkenness, which is on the increase; the insubordination of the youths is also on the increase in the coast area, and I am convinced that one of the chief reasons is these drinking bouts which these young men engage in because of the liberty they have in the tapping of palm trees and the selling of palm wine.

I hope, Sir, that the last section of the Bill will not be retained or brought into law.

THE HON. THE CHIEF NATIVE COMMISSIONER: Perhaps I did not make myself clear to the hon. and reverend member.

This section is not going to increase drunkenness in any way, but it is possibly perhaps going to help to alleviate that evil. A man has a certain number of trees. He cannot afford to take out a wholesale dealer's licence, and you can take it for granted that he sells without a licence. Now he will be put in a position to do it legally. A man who has a great number of trees will obviously not get permission from the District Commissioner but will have to pay for a licence.

In order to see that these regulations are carried out, we hope in the near future to have a certain number of inspectors to see that the regulations are not contravened.

The hon. and reverend member referred to the enormous amount of palm wine which is consumed in Mombasa. Of course he must have meant the municipal brewery. Nowhere else in the island can palm wine be consumed except in that beer shop. I do not know whether he has been there—I have, and it is a well run show indeed. The amount of palm wine consumed may be considered large. The day I was there I think 600 gallons, or 3,600 bottles, were sold in one night, but you must remember there is a very large native population there. I could not say how much each one had, but on the authority of the police I can say that since that beer shop was started there has been practically no drunkenness on the island, so that if this palm wine is sold under proper supervision obviously we are doing some good. (Hear, hear.)

The question was put and carried.

THE DANGEROUS DRUGS (AMENDMENT) BILL.

THE HON. THE DIRECTOR OF MEDICAL SERVICES : Your Excellency, I move that the Dangerous Drugs (Amendment) Bill be read a second time.

The principal Ordinance, as Your Excellency is aware, exists for the control of the traffic in dangerous habit-forming drugs such as morphia, cocaine, Indian hemp, and some others. The general principle followed in this legislation is that it should be uniform not only throughout the Empire but internationally as well. This Bill makes some minor modifications with regard to the sale of Indian hemp. It is introduced at the request of the Secretary of State, and brings our legislation into uniformity with other legislation. The alterations are of a comparatively minor character, and are explained in the "objects and reasons" attached to the Bill.

THE HON. THE ATTORNEY GENERAL seconded.

MAJOR THE HON. F. W. CAVENDISH-BENTINCK : Your Excellency, with regard to this Bill, I gathered that the only object of it as just explained is to deal with Indian hemp, but the hon. member in charge stated that it was also to bring the Dangerous Drugs Ordinance into uniformity with the legislation of other countries. I venture to suggest that our legislation with regard to this matter is very much behind that of other countries. I am told that a great number of poisonous and habit-forming drugs can be sold here and, what is more, sold by people who are not chemists, whereas in England and other countries such drugs can only be had on a doctor's certificate.

Furthermore, to show that our legislation is out of date, attached to this Bill is a further amendment to the ordinance which has not been brought forward to-day, and it does show how necessary it is to review the whole of our ordinance with regard to these matters.

In a recent case, I believe, before the High Court, a conviction had to be quashed because although cocaine cannot be sold there is nothing in our ordinance to prevent novocaine, which is practically the same thing, being sold.

I ask that Government should give early consideration to the desirability of bringing our legislation up to date regarding this matter. (Hear, hear.)

THE HON. THE ATTORNEY GENERAL : Your Excellency, I am in complete agreement with the hon. Member for Nairobi North, and can assure him that at the moment this matter is

under close review. The amendment which the hon. member referred to was circulated by me as the result of a communication which I had from the Government Analyst. Since then, the medical authorities have had an opportunity of investigating it and they think it does not quite meet the case in this Colony; the only reason we are not going on with that amendment is because we wish particularly to get our legislation into conformity with that of England, and although it is the belief of the Government Analyst that that amendment would serve the same purpose as the law in England there is some doubt about it, and the matter will be referred home at the first opportunity for a ruling by those who know and happen to deal with this particular thing. That is the only reason for not going on with the amendment, and I can assure the hon. member that the revision of the whole ordinance is under contemplation.

THE HON. THE DIRECTOR OF MEDICAL SERVICES : I have nothing to add to what the hon. and learned Attorney General has just said.

The question was put and carried.

THE BRITISH AND COLONIAL PROBATES (AMENDMENT) BILL.

THE HON. THE ATTORNEY GENERAL : Your Excellency, I beg to move that the British and Colonial Probates (Amendment) Bill be read a second time.

This is entirely a legal matter, and very dull matter, so that I will not waste the time of the House for very long.

In a nutshell, all the Bill does is to remove what I call the "reciprocity clause" which exists in the principal Ordinance, whereby we can only register the probates taken out in those colonies with which we have reciprocity. It has been pointed out to us by the Secretary of State that we are not doing ourselves any good by keeping that clause, and that we only make it uncomfortable for those people in this Colony who wish to re-seal their probates. For that reason I suggest that we should make it as easy as possible for the inhabitants of this country to register wills, whether they come from a reciprocating country or not.

THE HON. T. D. H. BRUCE seconded.

The question was put and carried.

THE SPECIFIC LOAN BILL.

THE HON. THE TREASURER : Your Excellency, I beg to move that the Specific Loan Bill be read a second time.

This Bill is an enabling measure authorising Government to borrow a sum of £625,000 for the purposes specified in the schedule. As originally printed, the Bill was in the form approved in respect of previous Loan Ordinances, but it was subsequently notified by the Crown Agents that they desired rather wider discretion in regard to the particular method of raising the loan, and the Bill was therefore redrafted by them in the form now before Council. The only important difference between the original and the amended Bill appears in clause 6, which provides that—

“notwithstanding anything contained in the General Loan and Inscribed Stock Ordinance the Loan may be raised independently of that Ordinance as the Governor or the Crown Agents acting on his behalf may decide”.

It is hoped that this greater latitude may be of benefit to the Colony by enabling the Crown Agents to raise the loan on the most favourable terms possible and to reduce the expenses of the issue. In this connection I may perhaps read an extract from a Colonial Office circular despatch on the subject:—

“It would be possible to issue loans placed as ‘domestic loans’ (that is, within the administration of the Crown Agents who have large sums available for investments) in the manner suggested as stock or bonds under the General Loan and Inscribed Stock Ordinance of the borrowing Colony, but since much of the ordinary routine of management would be unnecessary in the special circumstances, it would be simpler and better to issue them independently of the General Loan and Inscribed Stock Ordinance and to insert the whole of the conditions in the Specific Ordinance.”

These conditions appear in clause 8 of this Bill.

As I have said, Sir, this is an enabling ordinance authorising Government to borrow up to a total of £625,000 plus expenses of issue, but it is not intended that the whole of this sum shall be raised forthwith. The Lords Commissioners of H.M. Treasury in England have approved the raising of £375,000 in the first instance, and have stipulated that any proposal to raise the balance must receive their prior approval. The Secretary of State on his part has instructed the Crown Agents to place at the disposal of this Government such funds as may be required pending the issue of the first instalment of the loan. From the point of view of Government this is a very convenient arrangement, as the total capital sum will not be required immediately and interest charges will be reduced by obtaining the money in instalments.

I am not able to say at what rate of interest it will be possible to borrow the money but, judging from the present conditions of the money market, it should not exceed $3\frac{1}{2}$ per cent. This, however, is a matter of arrangement by the Crown Agents, as also is the question of offering a portion of the loan for subscription locally. I may say that Government is strongly in favour of affording facilities for local subscription and is in active correspondence with the Secretary of State on this matter.

Clause 5 of the Bill provides that the money to be borrowed under the authority of the Ordinance shall be appropriated and applied to the purposes specified in the schedule.

Item 1 of the schedule provides for an addition to the capital of the Land Bank of £500,000, bringing the total capital to a million sterling. Of this sum of £500,000, however, a maximum sum of £200,000 may be placed at the disposal of the Farmers Conciliation Board and, so far as the first loan, a maximum sum of £250,000 will be made available for Land Bank purposes of which £100,000 may be earmarked for the operations of the Farmers Conciliation Board. The manner in which the funds placed at the disposal of the Farmers Conciliation Board are to be dealt with is indicated in the Farmers Assistance Bill, which I hope will become law during the present session of Council.

As regards the Land Bank, in order to take the earliest possible advantage of the benefits conferred upon the farming community by authorisation of this Loan and by the proposed extensions of the provisions of the Lands Bank Ordinance, the Land Bank Board have recently worked on the assumption that this Bill, the Farmers Assistance Bill and the Land Bank Amendment Bill will be passed without major amendment during the present session, and have provisionally approved loans aggregating rather more than £20,000 under the provisions governing the increased maxima. Immediately legal authority is given by this Council these loans will be dealt with and, of course, other applications will be considered as they are received. For this purpose it is probable that the Land Bank Board will require to meet at frequent intervals for a very considerable time.

As regards the interest charged to the Land Bank, hon. members are aware that Government is reimbursed by the Land Bank to the extent of the actual cost of borrowing specifically for Land Bank purposes. £240,000 was borrowed under the 1930 Loan Ordinance at $4\frac{1}{2}$ per cent floated at £98.10 and £260,000 was borrowed under the 1933 Loan Ordinance at $3\frac{1}{2}$ per cent also floated at £98.10, the reimbursement by the Land Bank for these two loans being at the rate

of approximately 4.18 per cent. As I have already stated, it is impossible for me to say at this stage what the terms of issue of the new loan will be, but if they are taken as being the same as in 1933 the reimbursement to Government so far as the new loan is concerned would be at the rate of approximately 3.7 per cent. But I should explain that hitherto the Land Bank has previously only paid interest on the money actually drawn. In respect of the new loan, the Board will continue to pay interest on the amount actually drawn but to this interest charge there will be added $\frac{1}{2}$ of 1 per cent to cover any additional expense in respect of unused capital. This procedure is in conformity with the recommendations of the Economic Development Committee and has the support of the Land Bank Board but it will not, of course, operate so long as we are able to draw on the Crown Agents in anticipation of the loan. It is therefore of some importance to the Land Bank Board that an immediate flotation should not be made and furthermore, that applications for loans should be submitted and examined without unnecessary delay.

There remains the question of the rate of interest properly chargeable by the Land Bank to its clients. Apart from amortisation, the present rate is 6 $\frac{1}{2}$ per cent which covers reimbursement of interest charges to Government at the rate of approximately 4.18 per cent plus administration charges and a certain provision for the building up of a Reserve Fund. At the end of 1935 the Reserve Fund stood at a figure of £14,514, but as against this £7,410 is represented by farm properties taken over by the Board and therefore frozen assets until sales are effected, and the remainder is more than counterbalanced by overdue interest unpaid at the close of the year. At the moment, therefore, the Reserve Fund is in the nature of a book entry, and until the position is greatly improved by payment of outstandings by mortgagors and sales of farm properties the existence of what is in effect only a paper entry cannot carry much weight when considering a possible reduction of interest charges. The increase in the amount of capital operated by the Land Bank will naturally tend towards a reduction of administrative charges to individual borrowers, and the probability that the new loan will be obtainable at a lower rate of interest than the aggregate of 4.18 per cent now charged will have a similar tendency. If, therefore, the Reserve Fund were in a more satisfactory position the prospects of a general reduction in interest charges to all Land Bank clients under Clause 6 of the amending Bill would be greatly improved. The Land Bank Board will naturally keep this important aspect under constant review, and will in due course make such representations to Government as are compatible with prudent finance, coupled with an earnest desire to assist the farming community to the utmost of their ability.

At the same time I feel compelled to invite attention to the fact that failure on the part of a minority to meet their obligations may prejudice the prospects of amelioration of financial conditions of Land Bank clients as a body, and quite possibly of the farming community generally. It is, of course, well understood that drought, locusts and a decline in prices have rendered the payment of instalments unusually difficult but, as stated in paragraph 28 of the Land Bank Board Report for 1935, there are some who are inclined to leave the claims of the Land Bank last in the allocation of what moneys they have available for distribution to creditors. This is a bad policy and, as I have pointed out, it may have detrimental effects on other Land Bank mortgagors. The creation of a true and adequate Reserve Fund is an essential part of Land Bank finance and is an obligation under the principal Ordinance. It is therefore necessary to take this factor into full account when considering the interest rate properly chargeable to borrowers.

Item 2 of the schedule authorizes the issue of a loan to the Nairobi Municipality of £112,000 to improve the present water supply. In this case also a reimbursement of loan charges is made and also provision for redemption of the loan over a period by the Municipality. I understand that arrangements for completion of this work are well in hand.

The remaining Item 3 is in the nature of a nest egg, the sum of £13,000 remaining unallocated until expenditure under this item is approved by resolution of this Council and by the Secretary of State. I have no doubt that in due course suitable objects upon which to spend this money will be found.

I must apologise for this somewhat detailed statement, but it seemed to me that members of this Council and the public generally might wish to be made acquainted with the position, more particularly so far as Land Bank finance is concerned. If any hon. member requires further information I will do my best to supply it in the course of my reply.

In conclusion, Sir, I should like to say how much the approval of this loan by the Secretary of State and the Lords Commissioners of the Treasury for the purposes I have mentioned is appreciated by Government and by the Colony generally.

THE HON. THE ATTORNEY GENERAL seconded.

THE HON. J. B. PANDYA: Your Excellency, this Bill is quite a small and simple one but it raises a very important issue of raising loans on the security of public revenue and assets of his country. According to section 4 it is quite clear,

Sir, It says that "the principal moneys and interest represented by the loan issued under the provisions of this Ordinance are hereby charged upon and shall be payable out of the general revenue and assets of the Colony." It appears, Sir, that there has been some change after the first circulation of the Bill and as has been explained by the hon. mover I hope it will be to the benefit of the Colony as a whole as to whether this loan should be raised under the General Loan and Inscribed Stock Ordinance or independently of that Ordinance. But even if the loan is raised independently of that Ordinance, according to section 8 it will be raised on the security of the public revenue and assets of this Colony.

Now, Sir, as representative of the Indian taxpayers who are contributing large amounts towards the general revenue of this country, I should like to register my opposition to the floating of this loan. I am not against the advance of the loan to the Municipality of Nairobi but I am generally talking in regard to the funds to be provided for the Land Bank and the Farmers Conciliation Board.

It might be argued that the responsibility of the general taxpayer on which I am laying stress is rather far-fetched, negligible and remote, and that in all probability no one would be asked to bear the loss ultimately. But, Sir, in the first place, the lending of money on the security of agricultural land in this country must be risky in its very nature because of the changing of values under the present circumstances. The hon. mover in his speech gave certain information in regard to the working of the Land Bank funds and I should certainly say that as far as the funds of the Land Bank are concerned, they are administered very carefully, but at the same time it would be quite correct to say that the position is not so satisfactory as we would have wished. Now, Sir, certain figures which the hon. mover quoted lead me to believe that the position requires a little more emphasis on the point which he raised. The position of the Land Bank in regard to reserves which he quoted is not satisfactory at all. The funds to-day to the credit of the reserve are already earmarked for the possible loss which is already in view and there is outstanding a loan to the extent of half a million pounds against which there is no reserve.

Now, Sir, this is the point, that in view of the very low rate of interest which is charged by the Land Bank it is quite reasonable to assume that they could not have satisfactory reserves. In this connection, Sir, the Bank is not being treated as a business which should safeguard against the possible losses by accumulation of sufficient reserves by charging a higher rate of interest. In connection with the new loan which is to be raised by this Bill it is possible, as

the hon. mover has suggested, that the rate of interest would be a lower one, but in that case I should like to emphasise that at least the present rate of interest charged by the Land Bank should be continued and should not be reduced because it is very necessary that a certain amount of reserve should be built up against possible bad debts in an undertaking of this nature.

Finally, I should like to say that when recently so much is talked about the White Highlands and its exclusive reservation that it would be a good thing when funds are required for the purpose of development of those areas and for the benefit of the occupiers of those areas, I say it would be a good thing if in future the loan should be raised on the security of those Highlands. If it is found as a result of investigation that such a loan could not be raised on the security which I have just mentioned and the public revenue and assets of this Colony as a whole should be pledged towards that loan, then I suggest, Sir, that we should come into the picture at that time. When our co-operation is desired in this matter our sentiments and view-points should also be taken into consideration.

Council adjourned for the usual interval.

On resuming.

THE HON. SHAMSUD-DIEN: Your Excellency, all I wish to say is that this Bill does not surprise me in the least because it is quite in keeping with the majority of the official transactions of this Colony which really amounts to this. First of all we borrow at the very last minute by pledging the credit of the whole Colony. When that is finished, I can only just give an explanation of my own mind as to this Bill, then we come to the ordinary tactics of pledging our movable property or in other words this amounts to a bill of sale, and the third and last step is naturally bankruptcy, which I think appears to be inevitable if we do not put a stop to these borrowing tactics. I understand that our total indebtedness equals the total indebtedness of all the Crown Colonies put together according to a statement I read the other day. To my mind the majority of this loan is being raised for the benefit of one section of the community only and will go the same way as the £5,000 we have written off this morning.

As a representative of the community which is completely debarred from deriving any benefit from the scheme for which this particular sum is a subsidy, I think it is my duty to lodge my protest in as forcible a manner as I can. I wish to say that when the time comes for the appointment of a board

deal with this money that my community, who as ratepayers will normally be called upon to pay the burden, should also have a say in the manner in which this money is to be disposed of.

THE HON. THE TREASURER: Your Excellency, there are not many points on which to reply. As the hon. Mr. Pandya says the interest charges are payable out of the general revenue and assets of the Colony. Land Bank finance is almost world-wide and this is the way in which funds are provided for purposes such as these. He said I think that the Land Bank finances were not so satisfactory as we should have wished. That is true also to a certain extent but I think, having regard to the most unfortunate experiences of the last two or three years, that the Land Bank finances are in a very satisfactory position indeed, if one takes those factors into account, and after a year or two of normal conditions I, personally, have no doubt that this reserve fund will be in a very much more fortunate position. I only really mentioned it in order that false hopes should not be raised. Merely because this loan is being raised at 3½ per cent some people run away with the idea that if money is raised at 3½ per cent it will be lent out at 3½ per cent which of course is obviously not the case.

He also said that the Land Bank was not treated as a business proposition. I cannot understand why he said that because my experience of it is that it is treated essentially as a business.

The hon. Mr. Shamsud-Deen said that his information was that the total indebtedness of this Colony was equal to the total indebtedness of all the other Crown Colonies put together. I cannot understand where he got that information from because apart from the loans for which the Railway is responsible, only about 4 million pounds is for the Colony alone and the total loans of the Colonies must represent well over 100 million pounds.

He also suggested that an Indian should be a member of the Land Bank Board. This Board of course is composed of business men and it seems to me that as in fact it is a Land Bank and very few applications are received from non-Europeans that very little purpose would be served by appointing an Indian merely because he is an Indian. There seems to be no point whatever in that because, as I say, it is a business board.

On the question being put the hon. J. B. Pandya called for a division.

The division was called and the question carried by 33 votes to 6.

Ayes: Messrs. Bale, Bemister and Bruce, Ven. Archdeacon Burns, Major Cavendish-Bentinck, Messrs. Daubney, Fazan and Gardner, Major Grogan, Messrs. Harragin, Harvey, Hoey and Hosking, Lt.-Col. Kirkwood, Messrs. La Fontaine, Logan and Long, Major Luxford, Messrs. Montgomery and Morris, Dr. Paterson, Mr. Pilling, Sir Godfrey Rhodes, Major Riddel, Capt. Schwartz, Sir Robert Shaw, Messrs. Sikes, Vidal, Wade, Walsh, Waters and Willoughby and Dr. Wilson.

Noes: Messrs. Isher Dass, Mangat and Pandya, Sheriff Abdulla bin Salim, Mr. Shamsud-Deen and Dr. de Sousa.

THE FARMERS ASSISTANCE BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that the Farmers Assistance Bill be read a second time.

Before I proceed to the details of this Bill I would like to thank you, Sir, on behalf of the Committee over which I had the honour to preside, for the very kind reference that you made to us in your Address yesterday. We are indeed extremely gratified that we were able to propound a scheme; whether it is good, bad, or indifferent remains to be seen, but it at least did this—managed, if it was bad, to deceive first this Government, then the Colonial Office, and then His Majesty's Treasury who, I think we all agree, are extremely difficult to deceive. I feel confident, in view of the support which this scheme has received from the bodies I have mentioned, that we can look upon it with more confidence than usual.

We had, Sir, a very difficult task, as I think everyone in the country realizes. We assembled together with the object, or the alleged object, of trying to do away in some concrete measure with agricultural indebtedness. We were inundated with innumerable schemes, good, bad, and indifferent, but not often very practicable. But what we did realize from the very beginning was this: that, having heard the evidence, whatever we were going to recommend had to be something that would be done quickly, and however excellent some of the larger schemes may or may not be this at least will remain a fact that had we recommended, let us say, the bond scheme—though I may say at once that had we started on that very difficult issue I fear that we should still be sitting or, if we had come to a conclusion it would have been a divided Report and would therefore have been of less value than the unanimous Report we were able to put forward.

Secondly, we felt that this scheme, if it was to be done quickly, could not possibly embrace the very large scheme we were asked to consider, and I should like to say at the outset that we do not think as a Committee that anything we have done is in any way hurting the prospects of any larger scheme that may follow it. We go further. We say that the Committees and Boards which we hope will be set up under this Bill will form a very good beginning for any scheme to come after; you will have something upon which to work.

Before I pass, Sir, to the actual details of what the Committee thought and did not think, I would like to make public mention here of the enormous assistance we were given on that Committee. You all know who were on the Committee, but there is one name which does not appear at the bottom of the Report as he was not officially a member. I refer to the Secretary of the Land Bank, Mr. Thornton, who gave up hours, days, almost weeks gratuitously to assist the Committee in every way he could and, in fact, was our agent, often going into the country to discover certain details which we wanted to check up. I take this opportunity of conveying the Committee's thanks to him for all he did for us and, I think, for the Colony, gratuitously. (Applause.)

The first thing we became satisfied with was this; that, given equal opportunities, the farmers of Kenya could hold their own with anybody. I refer particularly to the depressed industries—they were depressed at any rate at the time we were meeting, and I regret to say that one or two are still somewhat depressed to-day; I refer, naturally, to maize and coffee. Some of you may wonder why we appear, let us say, to back the maize industry. Well, we are not backing it as a whole, because we say distinctly that we think it is essential for the maize farmer to switch over to mixed farming as soon as possible. But what we are satisfied and say is this: that, given equal opportunities, if we could do away with bounties and subsidies which other rich countries are able to give their maize farmers, there would be no need for Kenya maize farmers to worry at all. Our production is almost as high as any in the world, and the cost of plating it on the market is not excessive. We therefore felt it would be a great mistake if we recommended anything which would mean the actual dying out of the maize in what we think to be one of the most favourable countries for growing it in the world. At the same time, we did feel, and in our judgment we were guided a great deal by experts who gave evidence before us, that some provision must be made whereby the unfortunate maize farmer was able to turn over to this mixed farming which is so essential. We believe in mixed farming for more reasons than one.

The first is that we have complete belief in the stock industry, which includes of course milk, butter, and so on, and in addition such things as pigs, which few people realize can be produced so well in this country, and had we the opportunity to export them we have not the slightest hesitation in saying that we should have a very big industry in a very short time. But this is a subject which another Committee may perhaps report on later on.

But what we wish to impress on the public is that if only the maize farmer did not have all his eggs in one basket he might find, as was actually happening at the time we were sitting, that although maize at that time was extremely depressed the prices of butter and butter fat had gone up, so that he would have been able to balance the one against the other and possibly come out on it. At least, that was our sincere hope. You know also that there are other things beside stock, such as poultry and wheat, and things of that description.

We therefore made up our minds that whatever scheme we evolved we would endeavour to bring forth something which would enable these people to change over as soon as possible.

With regard to coffee, although coffee was admittedly very depressed at that time, we did feel it was not so much the market that was affecting them, and again I am only speaking from evidence given before us, as it was a question of quality. Now, lack of quality as you know is the result of years of drought, and I say here quite frankly, that if this country were going to go through another period of five or six years drought I think the prospects of coffee producers of this country would be extremely poor. But almost before our Report was put up it started to rain, and I am glad to say it has continued fairly regularly ever since.

Before I get down to the dry details of the Bill, I should like you to visualize how we hope this scheme will work out in practice, no matter what is written here—there may be many details of the Bill which hon. members will wish to see altered in select committee, but the principles I trust will remain. I myself have already prepared a page of small amendments to clarify the Bill. But let us deal to-day—and on the second reading we always should—only with the main principle and analyze the practical working of the Bill.

Let us take, for example, a coffee planter who has an estate which he has mortgaged, let us say, up to £10,000. He has actually bought it in very good times, and the estate is not worth even the £10,000 that it was mortgaged for, at the present day. Now, we must take the human element

into consideration. The mortgagee, as we are presuming the unfortunate mortgagor has been unable to pay interest, has had an opportunity for years of going in and taking over that estate. But the ordinary lender of large sums like that is not in a position to go and take it over himself, and if he does he has to employ a manager, which will be more expensive, and if the coffee market is depressed he will be gambling still further with his own capital because he would have to supply money to his manager to work the estate.

Imagine the mortgagor in this financial embarrassment; let us say there are other debts as well, but we will not complicate the argument by bringing them in. He comes to the Board to be set up under this Bill and says "I want assistance." The first thing the Board does—actually it will be the Local Committee that will do it—the first thing the Local Committee will do is to give notice to the mortgagee that application has been made for assistance from the mortgagor. The mortgagee will attend, and the facts will be placed before him. The first fact presumably to be placed before him will be that the Local Committee has sent out its valuer to value the estate, and he puts in a return that it is worth £7,000. They then say to the mortgagee that "most unfortunately for you, instead of having security for £10,000 you have security for £7,000. The mortgagor has no money to carry on the estate which has, for years, been going backwards instead of forward, and we are prepared to offer him a chance of carrying on under suitable circumstances if you, on the other hand, will do your share by reducing your mortgage to what we consider to be a fair amount, which, naturally, will be £7,000 in this case. There is no compulsion, but from a practical point of view the position is this. If you do not like it, take over the estate." The last thing the unfortunate mortgagee will want to do is to take it over, for presumably he is no agriculturist. He will then, not unnaturally I suggest, come into the scheme and say "Yes, if you will supply money to carry on the estate (which is the effect of this Bill) I will agree not to object to a stay order for whatever the term of years is," let us say five years.

How does he stand to gain? is the first thing you will ask. My answer is this: that for the first five years he has probably been getting no interest at all and, as I said, quite naturally the estate has been going backward. We come in and say "Let us in effect run this estate. We will improve the estate so that we trust that at the end of five years it will be in a better condition than it is to-day. That is Number one. Number two: We will advance the money from year to year for the outgoings of the estate but if on the sale of

the crop a greater amount is received than the outgoings from the Board that money will be distributed to the creditors in the order laid down in the Bill."

So that I suggest that the mortgagee is in a far better position than he was before. He knows that the Board is going to look after its own money, at least we hope it will, otherwise the scheme will be a failure. We know that the Land Bank does. Why not this? What we wish is that the property which he has as security will have its value improved so that at the end of five years he will come in for a better property if he wants to foreclose or sell and, if not, he will naturally allow the mortgagor to carry on.

I do suggest that we give a fair deal to the mortgagee, as he has got to consent to the scheme. If he does not, the option is with him to take over the estate and try and run it himself, and we all know that mortgagees are not particularly interested in doing "fair" sort of thing when the produce is in a depressed state in the market.

Now we come to the mortgagor. The mortgagor, of course, has everything to gain. Presumably he will not come to the Board until, in so many words, he is up against it. He says he will have to hand over the estate to the creditors and clear out, going to the goldfields or whatever other inclination he may have to follow. He comes to the Board and says "I have a sound proposition." The soundness of the proposition—I wish to stress that. This scheme does not help those who are unsound but merely those with sound propositions who, owing to ill luck, have been unable to come through those bad years we have been having and which are coming to an end I hope. He says "If you can carry me for the next few years, if you can persuade my creditors to agree, I believe I will be able to come out." His scheme is examined, and as result of that, if it is accepted—of course, if it is turned down there is no more to be said about it—but if it is accepted, you then have this position: that the mortgagor becomes a paid servant of the Board until such time as the stay order is removed. In other words, the mortgagor is going to have security of tenure for the time the stay order lasts, and surely that is the biggest thing he can possibly ask for and, in addition, after the stay order is removed, if the scheme has been successful he will have a free or less encumbered property.

You then come to a third person who should be interested, and that is the Colony generally, and why I suggest this is a good thing for the Colony is this: that we believe we will be keeping on the land a large number who otherwise would have to give it up. We are always hearing that the Colony is an agricultural colony and depends on agriculture primarily.

I think we are all agreed on that. It seems to me that it is absolutely necessary that we should strain every effort to keep these agriculturists, and I wish to make a small point here with regard to this; that surely it is of greater importance for us to keep on the land those who have seen the burden of the day, who have been through hard times, than to let them go out after all their experience and let unexperienced people come in to start all over again, possibly with the same mistakes. (Hear, hear.) This is a genuine effort to keep the experienced sound man on the land.

These, roughly speaking, are the three aspects from which I suggest this Bill should be viewed: the mortgagee, the mortgagor, the country generally (or the Government, whichever you like to call it). I do suggest to you that if you take them one by one you will see that each and every one has a great deal to gain by coming into this scheme; and that you have a great deal to gain by putting this Bill through in approximately the same form as it is before you to-day.

If I may deal with the Bill section by section, I know that there are some sections, at least three or four, which are going to be most contentious. I know that, because I have already been through it in another place, and I have no doubt that exactly the same arguments will come up here.

The first clause I intend to refer to is clause 3, the other two being merely formal. Clause 3 sets out the personnel of the Conciliation Board. As you know, any of you who have served on committees of this description, it is always most difficult to decide how many or how few there should be on any board. I personally, probably quite wrongly, lean to the smallest number possible, but unfortunately in this Colony where there are so many different interests every interest feels it is left out in some way unless it is represented, and I feel the country as a rule leans towards large numbers. I would like to see only three on the Board, but having gone into the matter very carefully you see the Board set out in clause 3. I have no doubt that everybody will have a different idea as to who should go off and come on, and I can only tell you this: that if we take them one by one up to a certain point I am certainly going to support them. I am extremely anxious, for instance, that the chairman should be a judge. I want someone who will be entirely outside any interests whatever of the mortgagee or mortgagor, and one who will not be interested in land at all, just to listen and be able to guide the Board in coming to a just decision in what in fact is a civil case every time it comes up. I also rely on his persuasive powers in dealing with the creditors. The next one that I suggest should be on the Board without doubt is the person responsible for the money, and that is

naturally the Treasurer, who incidentally at the same time is Chairman of the Lank Bank, which will be the agent of the Board; it seems to me impossible to leave him out if you wish smooth working between the Board and its agents. The third I suggest is correctly put down as a member of the Land Bank. I support him because members of the Land Bank probably know more about the subject of the valuation of properties and securities in the country than anybody else, and if we are able to pick a suitable one to serve I think we shall be extremely lucky. The next one, (d), is a representative of the commercial banks. (Members: No.) I know that some people may think that is a mistake—(Members: Hear, hear.)—but all I can tell you is this: that those who are backing our loan in London wish him to be on, and that being so it leaves nothing more for me to say. The Lords of the Treasury suggest that a bank representative should be on the Board, and naturally one can think of all sorts of reasons why he would be a very useful member. Many people do not like bankers, but you cannot get on without them, and they do know a great deal more about business than most of us. The other two members you will all agree to, two representatives of the public who, I suggest, will probably be as a matter of practice two experienced farmers; or possibly one business man who deals with the produce of farmers from the town of Nairobi.

The next is a dull section, and deals with the procedure of the Board, quorum, and that sort of thing, and naturally if the Board is altered the procedure will have to be slightly altered also.

In clause 5 we give the Board power to delegate some of its duties, because it will not be able to travel all over the country as a whole, though it might be necessary to do something upcountry, and the Board will be able to delegate its duties in that respect.

In clause 6 we say that the Land Bank shall be made the agents of the Board, and that is hardly worth arguing, as they are the only people at present who could do the job properly and cheaply, because we are taking the Land Bank and are using the system already in force and making them do it for nothing which is I think of great advantage to the scheme whose only fault, I may say at this juncture, is that I feel the cost of administration might be too high, and all through the committee's deliberations we felt that was a thing I have to stress. We must have a plan which does not make the cost of administration too high, that the money is to be lent at a reasonable rate of interest, and you will all agree that the Land Bank machinery is at hand with experienced people to run it, and they are certainly the best agents who could possibly find for the Board.

Clause 7 is formal. It merely states that the funds which from time to time will be disposed of by the Board shall be allocated by the Government. Actually that means by the Governor in Council and I will make that verbal amendment in committee.

We then come to the local committees in clause 8. Local committees of course are purely advisory. I think there has been a little misunderstanding about them. Their procedure will be laid down for them by the Principal Board and they act entirely in an advisory capacity to the main Board. I was asked a question yesterday as to their voting powers and whether they decide on anything or whether they decide on nothing, they will send their report in. They are unable to make a final decision themselves. They send in a report to the Board and no one need be worried very much with regard to the actual procedure before the local committee. I have given the matter consideration, though I have not taken the precaution to get it down in black and white, but I have put in a section which says that the usual procedure is to be followed and for the information of hon. members I have taken the precaution in anticipation of this Bill going through of getting Government to make discreet inquiries as to who will serve on these various local boards and I hope to get the thing going as a going concern in a very few weeks.

We then come to section 9—the formalities which have to be observed. You have there set out what the applicant has got to do. He naturally has got to put before the Board his exact financial position, his assets and liabilities, his creditors and so forth, and also the creditors and the mortgagee have got to be notified that this application has been made in order that they may be heard first of all before the local committee if they so desire either representing themselves, by agent, or in writing.

We then set out the actual form of the application in section 10, and in section 11 you see what the result of the application will be. Now the result will immediately be that there will be issued an interim stay order. There may be in committee some slight amendment as to where that shall be registered but that is a detail to be dealt with later, but the net result of the application by the farmer will be that for a certain time, and that depends on how long the Board takes to dispose of the application, there will be an order vesting everything that he has in the Board. No question of levying or taking action against him until the Board has removed that interim stay order can arise. It is impossible for me at this point to gauge how long it will take. Only practice can tell us, but I think you will find it will get shorter and shorter as the Board gets more practice in its duties.

Immediately the farmer files his papers the effect is that all his property vests for the time being in the Board so that no one can take action against him. That is set out more fully in clause 12. Clause 12 will require a little recasting in committee because I think there are one or two words out of place. I think the word "deeree" should be used instead of the word "judgment" in one place.

Another effect of filing his papers will be that the local committee can appoint a temporary supervisor. The object of that is not to have innumerable supervisors but in order to meet this difficulty. We are assuming that the farmers has some contracts he would like to carry out—coffee to deliver—that can be done for the Board or can be carried out by the temporary supervisor, so that there will be no cessation of activities on the farm except for a very short time. You will see we were frightened of some long delay between the application and the grant, four or five weeks in which everything would be at a standstill, and the temporary supervisor would be at a standstill, and the temporary supervisor produces the agency by whom this can be overcome. Also in order to save time I gave the chairman of the local committee the power to send out a valuator to value the applicant's assets. Strictly speaking he should be sent by the Board but again the object of giving the chairman power is to save time. These valutors will be people known as Land Bank Valuers—people you can rely on and known in every district—and automatically the chairman will send out a valuator to put in his report so that at the first meeting the report will be before them and they will be able to carry on with their business.

You then have it set out shortly the form of the proceedings that will take place before the local committee, which simply says that any of the creditors will be entitled to be heard and to discuss freely before the committee the best agreement that can be come to, which in turn will have to be forwarded to the Board in Nairobi, and where a local committee is doing its job well I foresee that in the future you will find very little work for the Board here to do except to approve or disapprove of the recommendations of the local committees.

Section 16 deals with the consideration by the Board of the local committees' recommendations. Now there are two things the Board can do on receiving this application and the report from the local committee. They can either refuse or they can grant it or can call another meeting of the creditors with of course the applicant and try to get them to come to some better understanding, shall we say, and get the creditors to enter into a form of agreement which will make it possible

as a business proposition for the Board to take up the case of the farmer. That is dealt with in section 18 which deals with the refusal and section 17 with the granting.

Now I know and I have a lot of sympathy with the suggestions that may be made later with regard to the voting powers of the creditors and I do not intend at the present juncture to commit myself one way or another. Of course as you realize, I am as anxious as anybody else in this room that this scheme should be a real success and something that farmers will be able to take advantage of and naturally if I could whittle down in any way the voting powers of the secured creditors, let us say to a percentage of 75 instead of 100 as at present, I would favourably consider it. It will be a matter for very serious consideration in committee and at this stage I do not think I would be right to go any further than that.

Section 19 deals with the position when the application has been granted and the position is as I have tried to visualize a little earlier. At the moment the application is granted, a stay order has been made absolute so to speak and has been registered in the proper place, everything that the farmer has vests in the Board and the farmer himself in most cases will be put upon the farm as a manager. He will be paid we trust a living wage and as a result of the advance which he will get towards the administration of his farm we hope that at the end of whatever the period of the stay order is, he will be able to see daylight and his creditors likewise.

Section 21 is a section which also requires careful consideration. There was no mention made in the report of the committee as to the percentage that should be advanced against expenditure but it is laid down now, again as a suggestion or an order from those who are backing the scheme at home that if advances are to be made that they shall not be greater than 70 per cent of the value of the crop which it is estimated will be produced as a result of the advance and 60 per cent where the advance is going to be made against such things as stock. For instance, what I mean by that is, as I told you before, we visualize helping the man to produce a crop to be put on the market and we also visualize a turnover from maize only to mixed farming and in order to do that the farmer will have to have assistance to buy this stock and it is put down that the amount we are permitted to advance in that case will be 60 per cent of the value of the stock which is bought. I feel that although we did not as a committee recommend this percentage, as a business proposition it is reasonable. It does keep the owner, as he still is really the owner although his property vests in the Board for the time

being, still interested as he has to put up 40 per cent and then, at the end of say five years we trust we will have helped to put him on his feet.

Section 22 merely deals with the publication of the stay order so that everybody shall know about it.

Section 23 deals with the deed of adjustment which is a deed which we hope the Conciliation Board will be able to get the creditors to agree to and we make provision that the moment they have agreed to this, that the Board shall draw up the deed and that deed shall be registered and binding for ever.

As I said before section 24 provides for the Land Bank receiving all monies, as agents for the Board that should come in in the ordinary way to the farmer and we make sure in section 25 that the Land Bank keeps proper accounts so that anybody interested can go and see what is happening on the farm.

Section 26 gives power to the Board to at any time cancel the stay order for good reason. It is not likely they will if there is any money out but there is the power for them if for any peculiar reason they consider it necessary.

Section 27 makes it perfectly clear that when the stay order comes off the original position revives. No one will be any the worse off, and at the end of the stay order all debts revive. The mortgagee can do what he likes under the law and so on and we also make it clear in another section that the time during which the stay order is running will not be computed against any would-be litigant to bring it within the Statute of Limitations or any other statute of that description.

Section 28, I consider, myself, a pious hope and that is all it says that when the stay order is taken off the amount outstanding to the Board shall become a charge on that season's crop. The words "then current" I think will be altered in committee and we can call it some definite time, say twelve months. You will see that in sub-section (2) all secured creditors come in before this charge and if it should happen that any money is still owing I feel that the secured creditors will have gobbled it up long before the unfortunate Board get any, but at any rate for the space of one year it will be a formal charge against the crop.

The other sections in that page are not of particular interest. They just give the Board power to sign for either the creditors or the mortgagor in the event of them wanting to change their minds after agreeing to the deed of adjustment and section 30 deals with the registration of that deed.

Section 31 makes it clear that any action taken under this Bill will not be deemed to be an act of bankruptcy. Of course that would defeat the whole object of the Bill if that were permitted. Section 32 gives the Board or a committee or anybody authorized by the Bank power to inspect the land at any time to see that the money is being spent in a proper way.

Section 34 deals with punishments for making false statements in any of the necessary declarations that have to be made. Section 35 provides for forms. It may interest you to know that the forms are at present in the print waiting to be sent out, subject of course to the approval of the Board, but they are all ready for the Board as soon as they meet.

Section 36 provides that there shall be no stamp duty and we are anxious to have that in, in order to keep costs down. Section 37 is a formal section with regard to the making of rules and section 38 deals with offences.

Those, shortly, are the provisions of this Ordinance. The Bill, I admit, is a hotch potch of mine gleaned from all sorts of places. You will find some sections from Ontario, some from New South Wales and many from New Zealand, and I have no doubt that in select committee there will be many minor adjustments to be made and I do hope that hon. members who are on the select committee will read the Bill most carefully in order that when it goes to the world in final form it will really be a workable proposition.

I commend this Bill to you because I believe that it is a genuine effort to keep the poor man on his farm. I admit at once there may be far greater schemes that can do a lot more. I am not interested in those at the moment and I merely say this is something. It may not be the whole loaf; it is only a small part; but at any rate it is bread, and to the extent of £200,000. (Applause).

THE HON. THE TREASURER seconded.

THE HON. A. C. HORN: Your Excellency, as a preface to any remarks or criticisms which I have to make on this Bill, I would first of all like to express to you, Sir, the deep appreciation many of us feel on this side of the House at the efforts which have been made by Government to deal with this very difficult problem. Sir, I would also like to pay a tribute to that committee which reported on agricultural indebtedness. I do not altogether agree with their report; I do not think the report goes far enough; but the fact remains that as an outcome of their energies on that committee we have before us to-day a Bill which I think goes a long way towards constructing a practical scheme which is going to deal with the very position which is so urgent before us to-day.

When I say that I do not altogether agree with the report of the committee on the question of agricultural indebtedness, I do not think that report goes far enough. It is very limited and it is very incomplete when it comes to deal with the question of agricultural indebtedness. But, Sir, we must remember that that committee was only appointed last October, I believe it reported at the end of the year, and here to-day we have a Bill embodying the proposals which were put up by that committee to deal with this situation and what is far more important we have to-day, Sir, the cash available to give effect to those proposals, and I think that is a very highly satisfactory position. (Hear, hear.) And I must say that I think a measure of credit is due to all those who have been concerned with this measure and I would especially refer, Sir, to my hon. friend opposite, the Attorney-General. No one can deny that this measure has not been handled in an expeditious manner and personally I believe it has and I think it is a great pity that some of the very important problems which face this country to-day as regards economic reconstruction are not treated in a similar manner. I specially refer, Sir, to the Dairy Control Bill because I believe that the success of this measure which we are discussing to-day is going to really depend upon that Dairy Control Bill and I should like to say the Maize Quota Bill and I am afraid it must be a matter of very great regret on this side of the House that we have not yet had those Bills before this House.

Sir, to some of us who are champions of white settlement, a heavy burden of responsibility rests on us over this measure. We have got to do everything we possibly can to see this measure is effective and I do agree it is wise to sound a note of warning that this is not a measure of philanthropy. It is a definite measure leading towards economic reconstruction and there is one thing this Bill must do—it must dispel from anyone's mind the idea that Government is out to kill white settlement and I look forward to the day which I hope is not going to be far distant when we shall be meeting here in this House discussing active measures for the encouragement of white settlement in this country.

It is well to look at the circumstances which have led up to this measure, and what are they? In my opinion they are due to force of circumstances over which the individual has little or no control: the world's depression, abnormal fall in commodity prices and the series of droughts and locusts which we hope now are events of the past; with the result, Sir, that a great number of very deserving settlers have battled against these elements and have determined not to give in, until to-day they are in a position that unless there is going to be some assistance forthcoming to help them to stay on the

land they will be driven out of existence altogether. No one who really has the interests of this Colony at heart can possibly imagine for one moment that is advisable in any circumstances whatever and I definitely believe that with the measure of production and financial assistance that this Bill gives a great number of very deserving farmers will be saved and live to become a real asset to the Colony.

Sir, I do not think these are the days to adopt any defeatist attitude. I am a great believer in this country and I do agree with the remarks just previously made by the hon. the Attorney General. I believe when we get some revival of world prices and there is a slight indication of that now, that Kenya will come forward and hold her own against any country. Sir, I am an optimist by nature but although there is evidence of a general improvement in the Colony's finances it must not be taken that the position of the primary producer is improving as a result. Figures, Sir, are often misleading because when we point to an increase of export tonnage, this in point of fact in the interests of maize and coffee really shows a greater loss which has to be borne by the producer and I believe, Sir, that there are signs of improvement or returning prosperity and we have got to take courage and deal with this position and determine that whatever happens we are going to keep some of our very best settlers on the land.

Now, Sir, this Bill envisages a change over into mixed farming. You yourself have said that it is highly necessary that people who are engaged in that pioneer crop, as you called it, maize, should get busy and readjust their houses. If this is to be the case, and I entirely agree, I agree that the policy of mixed farming and the change over is absolutely essential for the welfare of the farmers and settlers in this country. But when you change over it means one thing: that you have got to try and make quite certain of your ground and the activities that you are about to enter into concerning the possible marketing and the likely returns you are to get from it. I do think in that policy of change over, which I trust is going to take place almost universally throughout this country, where you have people committed to maize alone, that every possible step will be taken to organise and rationalise these industries on which these people are going to embark.

As regards the changeover, one thing I should like to make clear is this. That is, that any primary products to be produced under such a policy must stand on their own feet. They cannot be subject to cash subsidies. If that is so, it is absolutely necessary to get down to a scheme of organisation and rationalisation of our industries.

What is the position of the dairy industry, which must play a prominent part in any scheme of change over? The position to-day is not secure by any means. There is no security as regards marketing methods, and I do think it is entirely wrong that you should devote the Colony's funds to such an industry as this until you have first of all given that measure of security as regards marketing that is so vitally essential. If security is not to be given, what is the position of the dairying industry to-day? It is quite unfair to expect that the present position can continue indefinitely whereby the co-operator is really shouldering the whole burden of export and the non-co-operator is getting the benefit of the local market. Until you can bring these two under one hat so to speak I believe there must be a very great measure of insecurity regarding the dairying industry. I do hope, Sir, that it will not be long before we shall have both Bills before this House and that we shall bring them into effect, because I am positive that, more especially the Dairy Control Bill, they are imperative to the success of the measure we are discussing to-day and, in fact, while we are discussing this we are really putting the cart before the horse.

I do not want to go on very much longer, and I do not wish to deal with a lot of minor criticisms which I hope I shall be able to put forward when the Bill goes to select committee, but I will concentrate on one or two main objections to this Bill as I see it.

The hon. and learned Attorney General has already referred to many points which are going to be brought up on this side, and first of all he referred to clause 8. The exception which I take is to (d)—I fail to see why it should be necessary to have a representative of the commercial banks. Bankers' views are very often very prejudiced views (laughter), and they are bound to have a great deal of weight on the members of this Board. It is a question in my mind whether this Board would not function in a much more thorough way if it did not have a representative of the commercial banks on it. Bankers, I think, take a rather short-sighted view of finance in these days, and I personally honestly think they would be rather more of a hindrance than a help. (Mr. Shamsud-Deen: They know too much!) I do not wish my remarks construed in any way as a reflection on the banks, because I must say I think the banks have shown a very great deal of patience and sympathy for the difficult period we have been passing through, but I doubt very much whether they would serve the purpose anticipated under this Bill, and I think the appointment of a representative of the commercial banks is merely superfluous.

Now we come to (c), "two shall be representatives of the public." The hon. and learned Attorney General has already said that naturally Government would look around for two people of farming experience or with wide knowledge of farming, but I was rather amazed to hear him say that he thought one of them might be a member of a firm engaged in dealing with agricultural produce. It seems to me that if we go on long enough we shall have a Conciliation Board entirely representative of the creditors! (Laughter.) I do strongly suggest that should be altered. I think there should be three representatives of the public, and that those three representatives should be persons who are recognised as having wide farming knowledge. The reason why I say three is that I believe the applications which will come forward under this Bill will be divided into three parts: one, applications from people who are engaged in coffee; two, in general agriculture; and three, in stock; and I think it essential that these three branches of industry should be represented on this Board. (Hear, hear.)

The same remarks apply to clause 8, which deals with the local committees. Again I think it most important that a local committee should consist of a chairman and three other members with considerable farming knowledge. I should just like to elaborate that point. What would happen in a district such as I come from? The main industries of the Trans Nzoia are maize and coffee. If you have two representatives on the local committee they are bound to be representatives drawn from those two interests, therefore there would be no stock representatives. Here you are, advocating a change over, talking about mixed farming and dairying, and it is essential you should have on that local committee representatives of all three branches of those industries.

I should just like to touch on one point which I think is of great importance, especially to my constituency, and that is clause 15 (4), which deals with local committees. It says—

"No person shall be permitted to be present at the meeting other than the chairman and members of the Committee and the applicant and his creditors."

I would like to see provision made in this section for the applicant's accredited representative, because in the district I come from we have a number of South African Boer farmers, and probably they would be very anxious to discuss their affairs with their local solicitor and would feel he could put up their case in a far more competent way than they themselves could. I am sure the object of the Bill is to give every possible facility, and I cannot think there would be any objection to that.

Now we come to the real crux of the Bill, and that is clause 17. This is a most contentious clause. First of all it says:—

"In any case where, at a meeting of the Board, the terms proposed for the adjustment of the applicant's affairs are agreed to by—

(a) the chairman and the members of the Board who are present;"

What does that mean? Does it mean that every member of the Board has got to agree, or is it by a majority? That is a very important point, because it means you could have one member of the Board who did not see eye to eye with the rest of the Board, in which case the Board's functions would be upset by one dissenting member. (Capt. the Hon. H. E. Schwartz: The banker!)

Now we come to (b) of this clause:—

"all the secured creditors of the applicant."

The Bill rests on that.

We have had a picture painted to us this morning by the hon. and learned Attorney General about an interview between the mortgagee and the mortgagor, and although you might get a splendid scheme of adjustment agreed to by those it does not necessarily mean that that scheme can be put into effect. My hon. friend did not really touch on the most important point of all to my mind, and that is that one secured creditor even to the extent of £10 can make the whole of this adjustment null and void. That is an impossible position. It is absolutely essential that you should not have a scheme of adjustment upset in this manner, and I consider that what should happen is this, that what should happen is that the Board should have compulsory powers. (Applause.) Undoubtedly this point has been very carefully considered when the Bill was framed and, of course, when one reads the Report of the Committee one can see there was a very great deal of discussion on that point. However, when we come to deal with the question of secured creditors I consider that an alteration must be made. I am very glad indeed to hear from the hon. mover that he has an open mind on this, and I hope that before the debate is finished we shall be able to convert him. I believe the right and proper way of handling this is that when the total amount of the secured indebtedness has been arrived at, that provided the secured creditors up to 75 per cent of the amount involved are in agreement they should carry the other 25 per cent; that 25 per cent should not be allowed to wreck the scheme of adjustment. I hope very much

when the Bill gets into select committee that we shall be able to reach some agreement on that, because I am perfectly certain this Bill cannot be really effective until there is an alteration in that clause.

To turn to clause 21. It states:—

"(a) no advance under this section shall be made of an amount exceeding 70 per centum of the value (as determined by the Board) of the anticipated crop."

I may be very dense, but I should like to hear how the hon. mover deals with the question of butter fat, because this section deals with crops, and I see no provision for dealing with a man engaged, for instance, entirely in the stock industry.

Then again in (b). I am at a loss to understand that. What is the exact meaning of "security"? because section 9 (a) states that one of the purposes of the Bill is to enable farmers in the Colony to make application—

"through a local committee to the Board for assistance in accordance with the provisions of this ordinance upon all or any of the following grounds—

(a) that his liabilities exceed a reasonable valuation of his assets."

Can we have any security to offer at all? I should like to be enlightened on that.

Sir, I do not want to take up the time of the House by going into other rather minor points, because as I say I hope I shall have the fullest opportunity, and I hope it will be possible to put forward some useful suggestions, in select committee when it comes to framing rules, because I think rules to govern the administration of the Bill are of vital importance to its success.

I support the motion before the House.

The debate was adjourned.

Council adjourned till 10 a.m. on Wednesday, the 20th May, 1936.

WEDNESDAY, 20th MAY, 1936

Council assembled at the Memorial Hall, Nairobi, at 10 a.m. on Wednesday, the 20th May, 1936, His EXCELLENCY THE GOVERNOR (BRIGADIER-GENERAL SIR JOSEPH ALOYSIUS BYRNE, G.C.M.G., K.B.E., C.B.) presiding.

His Excellency opened the Council with prayer.

MINUTES.

The minutes of the meeting of the 19th May, 1936, were confirmed.

BILLS.

THE FARMERS ASSISTANCE BILL.

THE HON. THE ATTORNEY GENERAL, having moved:

That the Farmers Assistance Bill be read a second time.

THE HON. THE TREASURER having seconded.

The debate having been adjourned.

The debate continued.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I crave your indulgence on a matter of personal explanation before the debate on this Bill is resumed.

I received to-day from the shorthand writer a copy of my speech of yesterday on the Bill, and I find I made one error when I stated that it was laid down in the measure the order of priority in which any surplus moneys could be paid out. Actually, that is not in the Bill yet, but it will either appear at a later stage or will be found as a matter of practice in the deed of adjustment.

THE HON. ISHER DASS: Your Excellency, the hon. and learned mover of the Bill told us that settlers, or unfortunate farmers, will gain by the introduction of this Bill. The taxpayer probably, in his opinion, also stands to gain something if the position of the settlers becomes better. Indirectly, probably the Government also will gain by means of revenue and taxation. Surely there must be somebody who will lose in this game? Well, Your Excellency, I want to make it absolutely clear that the people who are about to lose by the introduction and implementation of this legislation are the Indian community and the natives of Kenya.

There is another thing. When your Government is seeking to raise a loan of half a million pounds, they are giving, as a security, "the general revenue of the whole country". That means the whole burden will be borne by the taxpayers, irrespective of whether they are Indians, Europeans, or natives, and I say that indirectly or directly the Indians and natives will not benefit in the least. At least, even sympathy of any kind cannot be expected from these farmers in this Colony. If I was asked to substantiate this allegation that not a word of sympathy ever comes from those gentlemen, I would refer to the speech yesterday of the hon. Member for Nyanza, when he said that Government should be careful not to give a living wage to the natives employed on the road work, otherwise the question of employment by the settlers . . .

THE HON. CONWAY HARVEY: On a point of order, Your Excellency, I made no such statement as that implied by the hon. gentleman who has just spoken.

THE HON. ISHER DASS: What the hon. member probably suggested then was that these people should not be paid generously. Let me put it this way—I do not think he will deny it—that they should not be paid generously, otherwise they will naturally ask the farmers in that district for increased wages and that will bring about some trouble.

THE HON. CONWAY HARVEY: On a point of order, Sir, I mentioned the generous way in which the natives were treated by the tea companies in that area, and suggested that the natives working on the roads should get similar treatment so far as was possible.

THE HON. ISHER DASS: In fact, I must congratulate Government if Government is actually trying to increase the economic conditions of these poor people by paying them generously. If anybody begrudges them it is not my fault.

Before I deal with the whole situation I would refer to two points raised by the hon. Member for Uasin Gishu.

In the course of his speech he mentioned that he would have thought that Government would have brought in the Dairy Industry Control Bill and the Maize Quota Bill. We have no such Bills before us now, and I will not waste the time of the House except for the information of the hon. member who thought fit to bring in these points to refer him to the *Sunday Post* of the 17th May, 1936, page 2, column 3, the article headed "The Corporate State. A Warning for Kenya?" I will not leave hon. members on this side of the House in suspense, but will read it:

"Recent legislation in the Irish Free State provides for the restriction of the import and export of butter and milk products, the registration of milk vendors, the payment of bounties and the fixing of butter prices. Other Acts provide for the regulation of the dairying industry and of bacon production. And so we go on in an ever-widening vicious circle of tariffs, bounties and controls, all providing more jobs for clerks and inspectors, increasing the cost of living and destroying the freedom of trade."

That is for his information. He has suggested that these two measures should be brought in by Government for the relief of the settlers, and I must take the opportunity of telling him that the municipalities of Mombasa and Nairobi, all the institutions in Nairobi, social and political as well as trade associations, have unanimously condemned the idea that any such measure as the Dairy Industry Control Bill should ever be brought in in order to raise the cost of living. When he was asking that such a measure be brought in and was sorry that it had not been, he was speaking against the whole of the wishes of the Nairobi, Mombasa, and upcountry people.

THE HON. A. C. HOEY: On a point of order, Sir, the hon. member is entirely wrong as usual! Let me tell him there has been a motion passed by a municipality supporting this Bill.

THE HON. ISHER DASS: I wish the hon. member would inform us the name of the municipality, because we have so many.

That is one point which he raised.

The second thing I will inform the House before I deal with the Bill now before us clause by clause, is that he also said that as provided in clause 3 of the Bill he resented any representative of the banks being on the Conciliation Board, and one hon. member pointed out that the banks knew too much about them. That is why they were afraid that in the implementing of the Bill the banks shall be represented on the Board. The Land Bank is also directly against the banking interests in this country, and if the banks have agreed to co-operate with the Government in giving assistance to these settlers it is up to them to show they accept the appointment with due grace and dignity.

This Bill when it becomes law will give relief to the people who number 2,000 only at the cost of 36,000 Indians and three million natives, as well as part of the European community. I will divide those 2,000 settlers into four

groups: one, bad farmers on bad land; two, good farmers on bad land; three, bad farmers on good land; four, good farmers on good land.

Dealing with the first, bad farmers on bad land. I entirely agree with the hon. and learned mover that by this legislation the country will get rid of them. But there is one point. Those bad farmers in the first instance were not farmers; they were probably retired military officers or civilians or people who did not know anything in the least about agriculture. In the first instance they were asked to come here as part of the white settlement, they have been brought here, persuaded to come, and all sorts of things were shown them, that it was the land of sunshine and all that sort of thing. In other words, Government deliberately sold these gentlemen bad land. Do hon. members on this side of the House suggest that Government actually deceived these people by giving them bad land? You have to say in very clear words "Yes" or "No". If "Yes," then Government has deliberately cheated these people. At first these people were free to go and inspect the farms and take all sorts of precautionary measures before buying, they knew what the land was. If it were good when it was bought it is good to-day, and it goes to prove this: that all the farmers in possession of good land have not been able to do anything with their land, and therefore the sooner they are got rid of the better. In that I entirely agree with the hon. and learned mover of the Bill.

Secondly, these people do not deserve any kind of financial assistance, for probably they have been keeping this land just for the sake of speculation.

Regarding the second class of people, the good farmers on bad land, as I have said before, if they were really good farmers they knew all about agriculture, all about land, and all about the soil, they were silly enough to buy bad land from the Government? Is there any justification for any man with common sense pleading for a moment that these people knew all about land, were wonderful agriculturists, and yet they bought bad land? If they have been silly then they are silly to-day, and they do not deserve financial assistance at the cost of the other inhabitants of the Colony.

As to bad farmers on good land, it comes to the same thing. These bad farmers will never be able to do any good by possessing good land. They will never do well because they are not good farmers, and good land is absolutely useless to them. They do not deserve in the least any financial assistance, as

it will be throwing pearls before swine, and as bad farmers do not deserve to hold the land any more. Government should buy their land from them and tell them to go somewhere else.

The fourth class, the good farmers on good land. Any man will have real sympathy with these people; in spite of the fact that I am very much opposed to the agricultural policy of Government, even I would admit that such people— it does not matter to which race they belong—do deserve human sympathy. And they are the only class that deserve some kind of assistance. But let us see one thing, Sir, that when they are very unfortunate and have had ill luck, when they are hard hit by world depression, drought and other things, have they been able to contribute something good towards the development, to the social progress or economic conditions of this country? and politically as well? We have to consider and compare these two issues before we assist them. As the funds are raised on the security of the general revenue of the Colony we shall have to compare the good and the bad. Unfortunately, the good farmers with good land have been hard hit by matters over which they had no control but, Sir, have they contributed anything towards this Colony? The hon. the Treasurer made it absolutely clear, I would remind you, that when they asked for all sorts of relief, embarrassing the Government with requests for all sorts of concessions, yet they only paid £2,000 in poll tax. On the other hand, the Secretary of State for the Colonies in 1934, in giving an answer to a Labour member in the House of Commons, made it clear that an average of £300 has been drawn by each of the 2,000 settlers in Kenya.

There you are! We have assisted them with £300 per head against only £2,000 revenue, which they paid in 1934. Government has been very generous in giving them relief to the extent of £300 per head while they contributed only £1 per head to the general revenue of the Colony.

Politically. This Government, which is at the moment considered by Indians and natives at least impartial in some ways, has been embarrassed and harassed for the last two years by the constant demand for self government by means of constitutional and unconstitutional agitation. Is this their contribution towards this country politically when actually this country was passing through depression, drought, and all sorts of difficulties and even the Railway had to meet a deficiency?

HIS EXCELLENCY: I must ask the hon. member to confine himself to the Bill under discussion and not to bring in irrelevant subjects.

THE HON. ISHER DASS : I was only referring to their contributions. Before they ask for financial assistance we are justified in asking what contributions they have made financially, politically and socially. I will say one thing. These European farmers in this Colony in very clear words have asked for one thing for all time to come, and it was referred to yesterday in the speeches of the European members; that is, the introduction of an Order in Council for the reservation of the highlands. Whenever this matter is brought into this Council, it will be an unfortunate day . . .

HIS EXCELLENCY : I must call the hon. member to order. You must confine yourself to the Bill and not bring in these very wide topics in Council and various other things.

THE HON. ISHER DASS : Well, Sir, as I said, what have these gentlemen actually contributed socially to the advancement of the country? I have already said that in order to embarrass the Government and to widen the gulf between the different communities they have asked for certain concessions which will be debarred to other British subjects of the Crown.

Having said this about the different classes of farmers, I have made it absolutely clear that under no circumstances whatever, even from a financial point of view, their own interest point of view, the Government point of view, and the point of view of the general taxpayers, these settlers should not be given in one form and another any kind of assistance, and that the only class really deserving of some kind of assistance have been given considerable assistance and still have not been able to make good. I only suggest that in the interests of this country, the sooner Government buys them out and wishes them goodbye the better.

What shall be done then? for after all this is an agricultural country. It would be in the interests of the country as a whole and the British Empire if the three million natives here are encouraged to form a decent peasantry, which will result in their being the backbone of the British Empire and not 2,000 people.

It is true Government has been so very anxious these last two years, though it seems funny business, to bring about this legislation in face of the Colonial Office and your own Government's flat and point blank refusal to place any funds at the disposal of the Land Bank for the financial assistance of these gentlemen. Has your Government ever been anxious to the same extent to bring about the same kind of legislation which will really help the commercial people of this country in bad times? What legislation or financial assistance has been given to any commercial house in this town however much

that house has been carrying on business on honest lines and failed, unfortunately, through circumstances over which it has no control, or is in difficulty? Never. Not one instance can be quoted by your Government. I suggest that if your Government is not anxious to help the Indian commercial houses there are European commercial houses in this country in difficulty in the last two or three years on account of world depression, but not one word has been suggested by Government or shown that some form of financial assistance should be given to these unfortunate commercial people in the time of their need and dire necessity. Then why favour one community more than another, one section of industry more than the other? This sort of treatment I do not think for a moment is a right attitude to take on the part of your Government.

Now, Sir, I will quote for the information of these gentlemen farmers in Kenya what actually are the measures which Government during the last five or six years have brought into existence and how far they have gone to help these farmers. Take first the subsidies given to these gentlemen. All kinds of assistance is provided by your Administrative officers in procuring labour; concessions in railway rates have been given to these gentlemen; there is a Land Bank; there is an Agricultural Advances Board. In addition to this, Sir, the Railway recently have given them some financial assistance to the extent of £12,500 in rates. Beside all these concessions given to these gentlemen there are private money lenders in the country and banks to advance money on the security of land. When all this has been given, still these gentlemen have not been able to make good on the land they possess within these past twenty-five years. These concessions have been given to them during the last four or five years, and if they have not been able to make good and have not been able to pull through with all this assistance, how is this £200,000 or even £500,000, going to help them to pull through? We have heard also the hon. Treasurer move yesterday the write-off of certain agricultural advances, and exactly the same thing will happen.

I am saying that those who cannot make good and keep their houses in order and pull through in the time of depression will never be able to do good, however much assistance you may give them in the future at the cost of other people. But if we only knew in this country that this assistance of £500,000 would be able to pull through these people then it will be a different question. Probably some people might take a charitable view of the whole position but, Sir, on top of it what is going to happen? Here in your speech, Sir, you made it absolutely clear that the policy of your Government is to encourage white settlement. If unfortunately land is bad or serious depression has made things worse and the Government

is anxious to help these people by giving them financial assistance, is it honesty of purpose to invite some other people living elsewhere to this Colony? I ask these gentlemen on this side of the House, are they asking someone else to share their destitution and starvation? At least if you cannot be fair to us because we belong to a different race, then at least be fair to your own kith and kin. You are asking these people to come over here. Do you want them to share your ruin? At least be fair to your own people, if not to us.

Having said all this, Sir, I will deal with the Bill clause by clause. On the back of the Bill, Sir, the second paragraph under the heading of "Objects and Reasons" states that the Bill makes provision for a system of short-term agricultural relief in the Colony and follows, to a very limited extent, the procedure adopted in New Zealand. I hope, Sir, in a few days time we may not have another Bill before this House where it will be suggested that the procedure to be adopted in that case is that followed in the instance of Newfoundland.

I will refer first of all to clause 3 (1) in which are given the representatives who will form the members of the Farmers Conciliation Board. We have been told that it is necessary for a judge of the Supreme Court to be the Chairman because he is absolutely an impartial man. Unfortunately there is an opposition to this, but I entirely agree with the hon. the Attorney General that a judge of the Supreme Court is the right person to be the Chairman of that Board. And also the Treasurer should be a member as he should know exactly where the money is going and where it is coming from; also there should be a member of the Board of the Land Bank. I fail to understand here why anybody, and particularly the hon. Member for Uasin Gishu, should object to a representative of the local banks being on the Board. It is absolutely essential that those people who have been assisting the commercial community and dealing in money matters, if they have agreed to co-operate with your Government I should say their representative will be one of the fittest persons to be on the Board to give advice. The last two members it is suggested shall be representatives of the public. I hope Government will give an assurance when they say public they do not mean exactly that the public consists of European taxpayers, for it consists of Indians as well as Europeans. Here you will have a bank representative who is bound to be European, but when it comes to the commercial representatives, then we want an assurance from the Government that there will be no racial discrimination, that it will be impartially considered, and an absolutely fit person who actually represents and is in possession of the confidence of the general public shall be

nominated; even if he happens to be an Indian, the Government and the settler community of Kenya will not grudge his appointment because he is an Indian.

Dealing with clause 8, it is stated that for the purposes of this Ordinance the Governor may divide the Colony into districts, and in each such district may appoint a local committee, consisting of a chairman (who shall be an administrative officer performing the duties of a district officer) and two other members. Now I have great fear about this and I have instances in my knowledge and I can quote where the influence of the big landlord in the district has been instrumental in getting the refusal of an application of a poor farmer by the Land Bank and the Agricultural Board, and I say that the committee appointed by Your Excellency with one administrative officer and two officials is likely to be misled by the influence of the bigger farmers against the interests of the small farmers. That is my only fear and I hope when the whole thing is referred to select committee and the question of the appointment of this local committee is considered, or by the hon. mover, they will be very careful to see that such abuses are not likely to happen.

I will now refer to clause 9 (1) (b) which states that a farmer may make application on the ground that such action has been taken or has been threatened against him by his creditor or creditors as to render it impracticable for him to continue his farming operations with a reasonable prospect of success. The hon. mover told us that in such a case when an application is made by a farmer to the Conciliation Board an application is made by a farmer to the Conciliation Board or committee and he places the whole facts before them, the man who lent the money will be called upon, and it is purely an optional business and he will be asked if he can take it over. There will be no compulsion and, at the same time, may I take it that the farmers are not going to use this measure as a threat against money lenders or against any person who has loaned them money in time of need and dire necessity? What stops these farmers going to these people and saying "Look here, if you wish to take my farm and my products you will have to pay me so much; if not I am going to make an application for assistance to this committee and to make an application is granted what do you gain? I will be appointed the manager at £40 or £50 a month to run the farm and for one year you will not be entitled to anything." What stops these same gentlemen from using this measure as a threat against the money lender whose fault is that he assisted these gentlemen at one time? I hope the hon. mover—though he very seldom replies to my suggestion—will consider it a favour if he does so. After all these people who have loaned the money do not belong to my race.

In clause 19 it is stated that in every case where an application is granted the Board forthwith shall (a) prepare and file with the Registrar of the Supreme Court a Deed of Adjustment containing the terms and conditions of the arrangement and in (b) (c) and (d) all the provisions are made with regard to the application and procedure. There is also the question of a living wage. I think personally the hon. mover will go good enough if, when he brings the select committee's report after due deliberation, he will give a suggestion to the effect as to what he considers a living wage for a bad farmer on bad land, for a good farmer on bad land, for a bad farmer on good land and for a good farmer on good land. Some people might be having Rolls Royce motor cars on their good farms and some a Ford on their bad farms. We have to take into consideration, when assistance is being given, that the living wage must be made absolutely clear and will not provide for the running of Rolls Royces and other kinds of luxuries such as polo teams.

The next clause is clause 28. We were not informed by the hon. mover that if after an application has been made and a stay order given and the farmer appointed as manager, in the end it is found that the liabilities are more than the assets and nothing realized. Who is responsible for the expenditure incurred in connection with this farm for one year or for the period that the stay order has been in force and a manager has been acting on behalf of the Conciliation Board? Who is going to bear this cost of running the farm for the period during which the stay order is in force? It might be argued that probably the lien on the crops. It should be absolutely made clear that this money shall be realized under all circumstances and not written off because after all if a man makes an application to this Board for assistance and the Board makes inquiries, which take time and cannot be done in 24 hours, in such a case provision must be made that the Board shall have the power to ask the applicant to deposit a certain amount of money in order to ensure that the Board shall not suffer any loss.

I have dealt with this Bill and I have also dealt with the class of farmers we have in this Colony and I have made out a case that under no circumstances should financial assistance be given to these people at the cost of three million natives and 36,000 Indian taxpayers. If we all thought that your Government had in these last two years found some kind of loophole, circumstances or factors and they have made the Colonial Office agree to these preposterous suggestions of helping these ne'er-do-well farmers who only number about 2,000 at the cost of others, then I must say I lodge here and now my most emphatic protest against this injustice being done

by the Government against the Indian community at the cost of others and I am sorry I cannot be a party to any such legislation in this House.

THE HON. J. B. PANDYA: Your Excellency, I am not going to tire the House by any references or long speech on this issue; but I think there are a few points which I should like to bring to the notice of this House.

This Bill deals with a very simple issue, and that is that if the money is to be provided there must be a method by which it is distributed, and it provides for the appointment of a Conciliation Board to administer these funds. But when the issue is that the money has got to be provided on the security of the public revenue then, Sir, we have to make some criticisms about this Bill. This Bill is intended for those whose liabilities have increased beyond their assets, and it is only then that this Bill comes into operation.

It has been the fashion generally of late in this country to talk about various things as if they were entirely in the interests of the country as a whole, even though they were intended to be in the benefit of the European community. Therefore, it only becomes necessary occasionally for people like myself to bring to the notice of this House that this country is populated by three different races, and that the interests of one are not necessarily the interests of the others.

In this connection, Sir, I would like to make a brief point. It might be pointed out, and it is generally said by various well meaning friends, that an attitude of this nature on our part is perpetually creating a bad feeling among the residents of this country. The advice of those well meaning friends is just like the advice which in these days Signor Mussolini is giving the sanctionist countries in regard to the annexation of Abyssinia. He says, "Forget and forgive and let us join in the preservation of world peace."

I consider that my attitude is justified on this occasion by the stand which has been taken by the Prime Minister of Great Britain, that we accept the present situation with all reservations! This Bill in principle, or this Conciliation Board when formed, will settle the accounts of those unhappy and unfortunate farmers who may have greater liabilities than their assets and who would be unwilling to follow the example of some of our business friends who act in such a generous spirit and, without giving any trouble to Government quietly leave the country in a spirit of forget and forgive without adjusting their affairs.

Great emphasis has been laid by the hon. and learned mover on the necessity of preserving or keeping in this country these farmers in order that we might benefit by their experience. If we go by the experience which has resulted in these difficulties, if it were not advantageous to them I can hardly understand how it will be more advantageous to the country as a whole. It might also be due to the difficulty of getting others who lack such fine experience. The desire on the part of the Government in this connection is very laudable, generous, and full of human sympathy, but I am afraid that it does not strictly follow the definition of the Government machine which the hon. the Colonial Secretary recently advanced in his speech on the 6th May which he delivered at the annual meeting of the Asian Civil Service Association. He is reported to have said:

"Nothing could be easier than being generous with other people's money. The Government was not a charitable institution and could not be swayed by favouritism, but it was rather a cold blooded, impartial machine which would see that it got its money's worth."

Now, Sir, in this particular instance I do not find any cold blooded impartiality of the Government machine between various taxpayers, nor its money's worth. It might be asked with a certain amount of genuine indignation by my friends on this side of the House as to where in this Bill is there a racial disability which lays down that the European only will benefit by this scheme. I think Sir, it is perfectly true to say there is no racial discrimination in this Bill, and that a native or an Indian can get the same benefit if he so desires. But the point I wish to lay emphasis on is this, that while it is theoretically true it is not practically true.

There is not the slightest doubt that the agricultural industry in these days, as has always been the case everywhere, requires a certain amount of support, but in this country, if there was really and truly anyone more in need of special support or assistance financially, it is the native farmer. To-day he is in a very bad condition, hardly able to pay his taxes, but with the assistance which the State should render him he would be able to earn more from the land he occupies at the present moment.

With regard to the funds which are to be placed at the disposal of this Conciliation Board, there is a difference. It is to be administered by the Land Bank as agents of the Government, and while the Bill as such has to a great extent safeguarded certainly the advances as far as possible, from their very nature there is bound to be a great deal of loss on the operation. We take our experiences from the operation of the agricultural advances, and we find that ultimately the

taxpayer has got to make good these writings-off; it is a loss to the general revenue. I do not wish to imply it is due to inefficiency in working or the administration of the finances, but the very nature of the scheme is such that it could not be otherwise than that. Therefore in this instance also the general taxpayer is certainly coming into the picture very much in regard to the loss he will have to suffer, particularly so when all of us know that farming is not a very profitable undertaking and that the money has got to be advanced on assets which deteriorate and partly disappear when not properly looked after.

The hon. the Attorney General made one point, that this assistance was temporarily necessary for the change over from maize farming to mixed farming and he said they had complete confidence in the stock industry. It will therefore be reasonable to assume that if the change over was to be made from a losing proposition to a paying proposition, then perhaps the general taxpayer would get a relief from the continuous burdens of subsidies which they have to pay to-day. But what do we find, Sir? that even before the real change over has commenced from maize to mixed farming it has been demonstrated that the very industry which the hon. and learned mover says is very strong is unable to stand on its legs and in the form of a Dairy Control Bill have asked for payment of a subsidy from the consumer. The general taxpayer is therefore between the devil and the deep sea. He does not get relief, and because of his assistance to the farmer to change over he has to pay again in the form of the high cost of living, and that means that in both ways he will be losing.

The hon. Member for Uasin Gishu regretted that we had not before us this Dairy Control Bill and the Maize Quota Bill. I am not going to enlarge on this matter, but I should like to say that I am very glad indeed that Government has not been bamboozled into bringing these measures before the House without giving sufficient opportunity to the people to understand what they are. I congratulate Government for not being hurried into these things and bringing them in without the fullest inquiry.

The hon. member mentioned one point, that the export production of maize and certain other things in this country is increasing but that that should not be interpreted as a sign of any prosperity, because it does mean an increased loss to the producer. But I think he omitted one issue, namely, that that increased production which results in loss to the producer is also resulting in increased loss to the taxpayer, because he has got to continue subsidizing the uneconomic production.

He went on and asked for security for the stock industry, and what he wanted was the collective security of consumers for the stock industry. But I do not suppose he realized that the collective security of the League has already failed and that it will not be long before the collective security of the consumers will fail also if pressed too hard.

There is only one other point finally that I should like to make; that is in regard to the personnel of the Board. The position of the banker on the Board has been objected to on the ground that he generally takes a short-sighted view and is a hindrance. This means that those who would administer the scheme with safety to its finances are a hindrance, but I think safe finance is desirable and necessary for the prosperity and good of the country. In my opinion, the provision in that clause of having two representatives of the people is very unwise and unfair to the community as a whole. A Board of this nature which deals with the finances of the country should have impartial people on it and the financial experts. If necessary, what expert advice in regard to agriculture is needed by the Board should be employed on payment on occasions when applications are made, but these gentlemen should not be allowed to be full members of the Board with a vote.

If that principle is recognized it would be desirable that Government should have only a small Board of three persons to deal with this kind of scheme impartially, but if the Board is to be enlarged for the purpose mentioned here, I think it is only fair and reasonable for us to press that in the interests of the taxpayers we represent in this country that on that Board there should be an Indian member.

Council adjourned for the usual interval.

On resuming.

THE HON. THE COLONIAL SECRETARY: Your Excellency, I propose to intervene in this debate not for the purpose of discussing the merits of the Bill or in any way anticipating the reply of the hon. and learned Attorney General. I wish to refer quite briefly to two points made by the hon. Member Mr. Isher Dass.

Almost at the beginning of his speech he said that because the hon. and learned Attorney General had said that Government was going to gain by this measure, that the farmer was going to gain and, in his belief, the general taxpayers, somebody must lose by it. That seems to me to be a very fundamental fallacy; in fact, it is very dangerous heresy, a heresy that ought to be refuted at the first possible moment.

To take a simple, homely illustration. If I break the big end of my motor car, it does not follow that because I get it repaired some other part of the machine has got to pay for it. In fact, a prudent owner would get that particular part repaired in order that the whole machine might function properly. I believe that is a perfectly good parallel. I think that in a mixed state such as ours, of different communities, I can go much further, and say that it is economically impossible to confer permanent benefit on one community without it at the same time conferring a benefit on the whole. (Hear, hear.)

It seems to me that the argument is so self-evident that it hardly needs stating but, as a matter of fact, I find it needs re-stating very often.

I will give the hon. member one concrete instance for his consideration. Let him reflect on the difference between a deserted farm and a farm run as a going concern by a prosperous farmer. And I want to confine the argument to the lowest level of economics only. What happens when you have your prosperous farmer? Who is it shares in his prosperity? First of all you take Government, you get his taxes, his licences, his petrol tax, and customs duties on various goods he has to import. Then there is the trading and commercial community who derive benefit from supplying his needs, and among that commercial community there must be a number of Indian traders. In my experience, and I have had many friends among the Indian traders in different parts of the Colony, it would be a very great blow indeed to Indian commerce if the European farmers went out of business; in fact, it is difficult to see how the Indian commercial community would continue to exist.

Then come the natives and, for some reason or the other, it was suggested that this measure could only be introduced at some cost to them. But a prosperous farm means the employment of a number of natives, a varying number of natives, it may be as many as two or three hundred, possibly even more. So it seems to me that in this one simple instance of one prosperous farm all the natives around derive a certain amount from that prosperity. There can be nothing economically unsound in endeavouring to restore some of that prosperity.

The next point to which I wish to refer is the point made by the same hon. member, that if this measure is a valuable one it ought to have been introduced when times were rather worse, that is in 1934, and he asked why was that not done then. Surely the answer is a very easy one, a very satisfactory one.

At that time, early in 1934, we were in the depth of a depression, it was very difficult to see daylight, and we were informed that the financiers in the City of London were getting a little bit nervous about our credit. The hon. member asked what has happened since then to make this measure now desirable when it was impossible at that time. Two very important things have occurred, two concrete facts. That is to say, two balanced budgets. But, more than that, this Colony has begun to show signs, unmistakable signs, of that irresistible power of recuperation which we have seen not only on this occasion but on previous occasions during the last quarter of a century. This means, in my opinion, that what might have been regarded as possibly a bit of a gamble early in 1934—or at any rate a measure not quite so safe as the financiers in London wished it to be—has now become not a gamble of any sort or kind but a measure of reasonable and prudent finance.

One other point was made by the hon. member Mr. Pandya; he quoted me perfectly correctly and perfectly fairly in saying that on another occasion I stated that Government likes to see its money's worth and that, in his opinion, Government was not going to get its money's worth out of this machine. That probably must remain a matter of opinion, but in our opinion Government will be getting its money's worth if, in the words of the hon. and learned Attorney General, we can maintain sound farmers on the land. Hear, hear.)

On other occasions in this Council, when the Estimates come up, we have voted large sums of money for every community. We have voted money—and we have voted a lot of money lately—for agriculture, veterinary services, education, medical development, improvements in native services, and it has never been suggested that Government was not getting its money back because we tried to improve the standard of living of the native population.

I think the argument is equally valid here. We are trying to restore the farming community, a valuable part of the State, to some of its former prosperity in order that it may be enabled to function properly as it ought to. (Applause.)

THE HON. SHAMSUD-DEEN: Your Excellency, I think that this corner of the House has had its quota of the proportion of time, and I do not propose to speak at length, but I must say, after hearing the hon. the Colonial Secretary, that if I were satisfied that the loans which have been advanced to the agricultural community in the past have not really meant any loss to the country at large, I should certainly think this is a proper measure which should have the support of all concerned.

But unfortunately, like all Government accounting statements, you are never sure as to what our position to-day is as regards advances already made. Taking into consideration all the interest and other charges that come out of the general revenue of the Colony, and amounts that have to be written off, are we to-day losers of any sum, or have we made anything out of it, or are we just on a par?

I should say that if past advances to the agricultural community have not resulted in any loss to the whole community, it is very good justification for believing this measure will also not result in any loss. I hope that after this Bill is passed, some sort of analysis will be placed before this House at a future date, say six months or a year hence, showing exactly what has been the result of this enterprise, or this measure, and how the country has benefited in the way roughly speaking, of revenues and other taxes, etc., to the Government which might have been lost if this measure had not been passed.

I wish to say one or two other things. One is that I rather admired the hon. Member for Uasin Gishu yesterday when he made a very frank statement and said he was a champion of the cause for white settlement. Although as the hon. member Mr. Pandya has pointed out, there does not appear to be anything in this Bill to prevent an Indian or native asking for help, all of us know that it is entirely for one section of the community, and that is the European settler community. We have been blamed very often for introducing the racial question at every step. I would ask the hon. Member for Uasin Gishu for one minute only to put himself into my position. If he is a champion of white settlement, is it not my moral and legal duty to be champion of the settlement of the community I represent?

Your Excellency also mentioned in your opening speech that Government was doing what it could to encourage white settlement. I want to know what Government has done to encourage Indian settlement? When talking about white settlement one would think that this country was a happy hunting ground for all the inhabitants of European countries, which should not be the case. I maintain there is room enough in this Colony, which is essentially an African country, for all British subjects; they may be British born subjects, or British Indian subjects, and it is equally the duty of Government to encourage and help all sections of British communities, including Indians.

I do hope that some of this money will go to Indian farmers engaged in agriculture in the Lake area, and also to some of the natives, but I doubt very much whether there will be any applications from natives at all.

I cannot be blamed for indulging in racial matters if I explain by giving a simile. If I was told, for instance, that I cannot enter this House, this being sacred precincts which I must not pollute by my presence, but if the atmosphere became too hot for the happy occupants I should still be asked to bring in water or set the fans going. That is what this Bill means. We are told that the land which it is proposed to keep going is forbidden land to us, but as taxpayers we are asked to help to keep European farmers going on with the land which is forbidden to us. That is the most galling part of it to us, and I feel constrained to refer to it to-day.

As regards the development funds, the Bill really means how and by whom this money is to be distributed. I could not help laughing at the novel arguments advanced by the hon. the Treasurer yesterday when he said it was a business concern, and because Indians were not likely to be applicants for borrowing money there should be no Indian member on the Board. I cannot think he means that there are no Indian business men in this country, nor is there any reason why, because Indians are not borrowers, they should not be represented on the Board. After all, the Indian is going to take his share of the burden in footing the bill. I hope, as the hon. and learned Attorney General has said, that there should be somebody on the Board not interested in land that at least one Indian business man may be appointed to the Board.

The hon. mover has put before the House all sorts of hypothetical things as to what is going to happen in certain cases where the borrower fails to repay the money advanced out of the funds. But he has not given us a vivid picture of what is going to happen when, even after being helped by this money, the borrower fails to repay and the mortgagee and the Government have to take back the farm, as has been pointed out has been the case with more than one farm already. Will that farm not go back to the whole community who is backing this Bill and who helped to borrow the money, or is to be sold to a limited ring of people who will be a sort of privileged section of the community, so that they can remain on it? If the whole community is responsible for the loan, it is only fair that in case of failure the land thus abandoned should be put up to auction for all communities to bid.

That is my main objection to this loan. You cannot say that one community should always enjoy the monopoly of farming in a particular area and yet expect all sections of the community to come to their rescue when they are in trouble.

The hon. the Colonial Secretary also made mention of the Indian trading community benefiting by the prosperity which we hope will come to the European farmer as a result of this Bill. I think all those who have noticed the progress of this

country during the last ten years or so cannot deny the fact that the trade of the Indian community has practically been restricted to trade with the natives. There are so many commodities—sisal, coffee, wheat—which are entirely European and they have a complete monopoly of trade in those commodities. Indians cannot possibly expect to do any trading in them, and they are therefore restricted to trading with the natives alone. This aspect is being daily increased.

I have only one more point to mention. That is, that the hon. mover, when he elaborated the details of the Bill, did make it sound as though this is going to be a sort of forerunner or kind of experiment to see how this famous five-million bond scheme is going to work, because with the only exception that it is not proposed in this instance to pay off the mortgage all other details apply. I do hope that this Bill will not be a sort of thin end of the wedge and not land the whole Colony into a very disastrous scheme which is foreshadowed by this bond scheme proposal.

As regards the farming community, I have said that there is room enough here for all British subjects to live. On one occasion an hon. member said that I stated that the sooner the white settler goes out of the country the better it will be. I have never said that, but I have always held the opinion that there is room for all three communities, and each community's interests are complementary to the others. Unfortunately, as some of my colleagues have said to-day, all mention of the Indian community is deliberately omitted and ignored altogether. I think if all three communities of British subjects were to pull together there is no reason why there should not be room enough for Indian settlement as well as European and native.

Although, as I said, on the ground that my community is not to derive any benefit from this Bill I ought not to be a party to it, yet I maintain it is the duty of every community to help these farmers who have really sunk all they had and borrowed everything they possibly could and now want Government to help them. But I feel as a gesture that I must vote against this Bill because it will benefit one section at the cost of all sections of the community.

MAJOR THE HON. E. S. GORDON: Your Excellency, I only propose to confine my remarks to some of the general principles that appear in connection with the Bill and the occasion of the Bill and the substance of the Bill itself, and not to go into details.

On Monday, when we had the privilege of listening to Your Excellency's Address from the Chair, I had a gathering sense of being Alice in Wonderland when I heard you elaborating the grounds that were obviously intended to suggest a

rising tidal wave of prosperity flowing over this land. It is perfectly true that the general position materially improved as a result of the increasing pressure being brought to bear and, in many cases enforced, on the victims of the tragic times through which we have been going; but there was no reference, that I remember, to the fact that this rising tide was liable to submerge and keep submerged and utterly extinguish the owners of the craft who provide the cargoes and which are anchored by a short cable to the rocks.

When I listened to the hon. and learned mover of this Bill that impression of being Alice in Wonderland considerably increased. I listened with great interest in particular to his prelude, that bucolic phantasia which excited our enthusiasm as to the increasing prospects of the agricultural industry. It seemed as if the winter of our discontent was ended, that spring had broken, and that the long-silent waters were gushing forth in an unexpected channel.

I quite agree with my colleague, the hon. Member for Uasin Gishu, in his tribute to the efforts made by the Agricultural Indebtedness Committee in preparing as quickly as they did a report. But I regard that report itself, and the circumstances which led up to the report, as a terrible indictment of your Government as a whole. To begin with, it seemed as if it was suggested in your Address that the Government was entitled to credit for this happening. In actual fact, the Government were to all intents and purposes brutally and rudely kicked into taking steps and appointing such a Committee. And when the Committee was formed and began to sit it was found that the Government had accumulated no data whatsoever to enable them to form any useful or immediate conclusion as to the conditions of the country. The perilous and parlous state of the agricultural industry of the country was only made apparent after the collection by an outside organization of the necessary statistical matter to show how dangerous that position had become. The mere appointment of such a Committee, and certainly the conclusions of that Committee, are a direct and final refutation of all the pretensions put up by your Government right up to a very short period before the appointment of the Committee itself.

There is, I think, in the Bill itself a confusion of purpose. This Bill is the result of admittedly emergency recommendations and interim recommendations made by the Committee. They point out that the position had been allowed to drift to such a perilous point that unless something quite unusual was not done immediately there was risk of material collapse of a substantial portion of the industry. Therefore this Bill should properly be considered as an emergency measure contrived to deal with an emergency, and there should be no inclusion in

it whatsoever, in my opinion, of any other principle such as any system of long term finance. There is, I forget the exact section—section 21 I think it is—a perfectly obvious confusion of issues. The purpose of this Bill is to deal with seasonal finance which has collapsed because of the aggravated position in which these victims of the past few years find themselves, and I think it is a great mistake if we allow this Bill to incorporate any factor whatsoever which has to be extended in the future to cover the whole problem with which the country is faced.

I think we can congratulate ourselves on the ready acceptance by the Colonial Office of the recommendations that were made, and the proper deduction from that is this, that if the Colonial Office as readily as it did, accepted these quite unusual—and, if I may venture to say so, rather jejune—suggestions of that Committee, surely it is quite clear that the Colonial Office has, up to that point, not been properly informed by your Government. That was the conclusion I formed when I was last home, and I say it without the slightest hesitation that I personally am quite convinced that this Government has definitely and deliberately refrained from advising the Colonial Office of the serious position of the agricultural industry in this country, presumably for the sole purpose of trying to retain the special privileges of the Civil Service which have been built up during the period of inflation and never revised to meet the fall in prices.

I am going to ask the hon. mover if he will kindly, in his reply, explain two remarks. I am getting a little old and do not hear very clearly, but I understood him to refer on two occasions to the backing of certain parties at home. On two occasions I understand, Sir, he referred to backing parties at home. I would be glad if he would explain to us exactly what he meant by that, whether he meant in this particular case the backing is an Imperial guarantee of this loan, or whether he merely meant that the proposals had been approved by the gentlemen who, in the jargon of these documents, are described as experts; in other words, those underpaid gentlemen in the Treasury and in the Colonial Office who are alleged to be, or believe themselves to be, or are paid as being, financial experts, to whom these issues are referred by gentlemen who receive twice the same amount of money.

So far as the main principles are concerned, I have one strong objection, and it is this: that the compulsory principle is not included. The hon. and learned mover of the Bill said, quite rightly, that the ground of intervention in this matter was based on the fact that an agreement of parties to these ancillary assistances would be beneficial to the mortgagee, mortgagor, and the Colony. If you are going to appoint

an elaborate and responsible machinery to judge in each particular case as to whether or no support should be given, and if the conclusion is come to that support should be given, and if, as is alleged, and I agree, that it is to the advantage of all three parties, why, in the name of heaven, not make it compulsory? Why not, when the State with enormous elaboration has adjudged that a case should be remedied, leave that particular thing to be upset by some spiteful or hepatic subject who has a £10 interest in a large concern? Why should it not be compulsory?

I would further ask, why should a measure of this sort, belated as it is, and, as stated at the end of the Bill is only very partially following the procedure adopted by New Zealand—I would remind hon. members of the steps taken by New Zealand, and nobody can suggest that New Zealand is a scatterbrained, wild, communistic land—the machinery adopted there for the protection of their basic interests from destruction has been a very elaborate one, and also has been precluded by a drastic devaluation which in itself readjusted very largely the distortion of the incidence of debt brought about by the fall in prices. If New Zealand, with the immense initial advantage of a universal readjustment of the disequilibrium brought about by monetary policy, still found it necessary to introduce compulsory principles, and highly elaborated machinery protecting their farmers from being exploited to extermination, why should not this country—which has taken no essential steps—introduce the same compulsory principles?

I have listened as far as I could to the objections on the part of our Indian friends and colleagues, and in respect of their comments all I would have to say is this; that I would suggest to them that they make a little elementary study of natural history. They would then find that the octopedal entomological swarms that ride upon an ox do not produce the grass nor can they eat it except in predigestive form . . .

THE HON. SHAMSUD-DEEN: On a point of order, Your Excellency, is the hon. member allowed to personally abuse a whole community?

HIS EXCELLENCY: I do not quite follow what the hon. member is driving at. (Laughter.)

MAJOR THE HON. E. S. GROGAN: I am sorry, Sir, but perhaps you have not pursued your entomological studies as far as I have! (Laughter.)

THE HON. SHAMSUD-DEEN: I know what he has said; he has called the whole community ticks and parasites.

MAJOR THE HON. E. S. GROGAN: I would say, in pursuance of my old friend's interjection, that there is nothing racial whatsoever in that matter, but that it is purely an analogy which does in effect represent very closely the analogy between the different functions of various groups in any community; in other words, you have your primary producers who produce direct from the land and you have all the other factors in society who participate in the result, but unless the farmer does produce there is nothing to digest and nothing to distribute. The idea that Civil Servants, lawyers, bankers, and so on can all live happily together exchanging compliments without any physical basis of the whole transaction is a fallacy that could only possibly exist among people who have made no study whatsoever of the structure of society.

My purpose is to support the Bill as a small and belated contribution to the great problem not of relief but of restitution which lies before the Colony.

VEN. ARCHDEACON THE HON. G. BURNS: Your Excellency, I have not many words to say but there is an old book that I know that states "Bear ye one another's burdens" and until that principle becomes a real working principle in Kenya Colony we will have this confusion which I am afraid seems to exist at the present time with regard to this Bill.

There is only one question that has been in my mind with regard to the people whom I have the honour to represent—the natives of this Colony—and it is this: Would it really be to their benefit? Would it help them in any one way if the farmers, who are admittedly good farmers and who have good land to cultivate but owing to unforeseen circumstances have got down to the bottom of things, were left to swelter there in that bottom without anyone putting out a hand to help them up? The question in my mind was—would that be a help to the natives of the Colony, or would it be a loss to them? And after considering it very carefully I have come to the conclusion that for any such man who has really sunk in this Colony all his wealth and has come and made his home here and his family with him and has come to the end of things, I think, Sir, that the Government would unquestionably be wrong to allow that man to be driven out of the country without putting out a hand to help him to try and get back to where he was four or five years ago before this depression came. (Hear, hear.) And I am convinced that that man being helped—I quite understand that the whole community, if it is a failure, will have to bear the loss and the community I represent, Your Excellency, will have to take their full share in bearing that loss, but the hon. and learned mover gave us to understand that the Board would enquire most carefully and scrutinize most

carefully the class of man that this money, this £200,000, is going to help. That being so, Your Excellency, I think it would be foolish for me, as a representative of the natives, to come to any other conclusion than this, that it is better for the natives of this Colony that such men should be kept on the land who would give them work to do on their shambas, and who through their teaching of those natives would help them to understand better methods of farming themselves in their own native reserves.

There is one point that I just want to make and that is that I entirely agree with the hon. Mr. Pandya in the remark he made and also with the suggestion of the hon. member that a small committee of three would serve the Bill and would be perhaps more efficient, calling in for advice or for evidence any one they thought would be valuable to them as giving that advice or evidence. I should like very much to see that and also of course I should like to say—I do not know whether it is incorporated in the Bill or not—but that there should be a limit to the time when a farmer who is so helped and is returned to his farm as a manager at a given wage, that there should be a time limit to that arrangement with such a farmer.

It is my intention, Your Excellency, although I may be criticized for it—I care not—to support this Bill when it comes before the House.

DR. THE HON. C. J. WILSON: Your Excellency, I am not over-anxious to take part in this debate which is not strictly concerned with native interests, but after listening to what has been said I think I must very briefly refer to one or two points, particularly in view of the possibility of material alteration to this Bill in select committee. No doubt I shall give the opportunity to one or two friends later on to tell me to mind my own business!

First of all, I think my hon. and reverend colleague has dealt very well with the question of the benefit to the country and to the native community of the successful farmer. I think everyone, of whatever race or class, if he is honest must agree that if we can keep the sound farmer on his farm that is a very definite benefit to the Colony as a whole, including the native population; that is self-evident, I think. Without exaggerating the benefit which the natives derive from him, I think everyone must agree the Colony is in a much healthier condition with a prosperous farming community than otherwise. Insofar as the object of the Bill is to put the European farmer in a sounder financial position, everyone should support it, provided there is a reasonable prospect of it being successful, and it is just that question of whether these proposed loans will be successful that suggests criticism.

I submit that Kenya is suffering so severely from extravagance—if I may call it that—in the past, that everyone with a sense of responsibility and caution must be very wary of further borrowing. What one wants to be sure about is that we are not throwing good money after bad and that this financial relief now being offered is really going to help to establish farming instead of it being a liability.

For myself, in supporting the Bill, I should feel more happy if some evidence were available and were produced to show that European agriculture in Kenya in the years to come was going to pay. I am not saying that a good case cannot be made out; I only say that I should feel happier in supporting the Bill if we had been convinced by plain figures that the average farmer was going to make good in the next few years. I suppose, Sir, I perhaps have been impressed too much by the arguments here and elsewhere about the hopelessness of the European farmer's case. I only wish we could hear more about the hopefulness.

I do not know what number of farmers are likely to be able to avail themselves of this financial help now being offered, but under the terms of the Bill there are such conditions in the way of applications for help that it is to be supposed that by no means will every applicant for help get the money he wants. That is, of course, as it should be. There must be very strict conditions as a safeguard but, as I see it, the real safeguard for the proper use of the money lies not so much in the clauses of the Bill as in the personnel of the Board that will have the disposal of the money, and I submit that there must be the greatest care in the selection of the Board. There is certainly a good example of how such a Board can function in the case of the Land Bank. I think the record of the Land Bank transactions does give good reason for hoping that this proposed Farmers Conciliation Board will be able to manage without too many unsafe or unwise commitments. If this new Board and the Land Bank Board continue to carry on the good work in the future as it has in the past one may say, I think, there is reasonable hope that the Colony's funds will be in safe hands and any incidental losses will be small in comparison with the total benefits.

At the same time, I am thinking that the members of the Board will need all their powers of discrimination and judgment if they are to be successful in avoiding too many bad debts, and there is one direction in particular in which, I think, caution is needed. That is, in the direction of mixed farming which has been referred to several times already.

If I may say so, mixed farming is Kenya's latest slogan, but it is no new idea. I remember it was advocated years ago, but to-day it is being advertised as the remedy for all troubles. What it seems to me in practice is that the farmer now growing maize at a loss will be encouraged to invest in a dairy herd, the idea being that the cows will manure his maize and the maize feed his cows, but if the dairy herd fails to show a profit the farmer will not be much better off. In all this anxiety about the Dairy Industry Control Bill it seems to suggest at least a doubt that dairy farming under present existing conditions is possibly not profitable. It must not be forgotten that the greater number of dairy farmers in Kenya, whether or not there is any controlling legislation, the less the profit, and it may be show a loss to each individual producer.

However, it is not for me to anticipate problems that will have to be faced, and I only hope that when the farmer, mixed or otherwise, submits his application for assistance he will be able to put up such a satisfactory prospective balance sheet, based on facts and not on optimistic fancies; that this Board will be able to let him have the money he wants and without any undue risk to public funds.

So I admit that it is not with any great enthusiasm that I support this Bill, but I do say sincerely that I trust, if I may say so, the faith, hope and charity of its supporters will be justified and rewarded.

CAPT. THE HON. H. E. SCHWARTZ: Your Excellency, I have been requested to deal with certain sections of the Bill which, although at first sight they may appear to be matters of detail, are, in the opinion of the European elected members, in reality largely matters of principle.

Before I commence with the clauses, and I shall not go long, I would like to refer to the remarks made by the hon. Member for the Coast in connection with the ignorance which prevails at home with regard to affairs out here; I am referring to ignorance in the Colonial Office and other Government departments. Without expressing any opinion as to why that ignorance exists, as to whether they are kept short of knowledge, or whether there is any other reason, I am absolutely satisfied in my own mind that ignorance does exist. I had a good deal to do with the Colonial Office while I was a short time at home. I was received with the greatest possible courtesy and consideration by everyone in the department, from the Secretary of State downwards, and I went away with the quite definite impression that no ill-will existed in the Colonial Office towards this Colony but that the whole trouble is lack of knowledge.

There were certain instances which I will not quote which were not due to this Government not having provided information. It had presumably got lost in the archives of the Colonial Office, but I am equally certain that it is only quite recently that the Treasury have had brought to them a full realization of the position of the primary producers in this Colony, and I think that in addition to expressing our gratitude, which the hon. Member for the Coast has done, to the Colonial Office for the expedition with which they dealt with the Report of the Agricultural Indebtedness Committee, we also do owe a debt of gratitude to the Chancellor of the Exchequer and the members of the Treasury for the prompt way in which they, really the final arbiters, permitted funds to be placed at the disposal of the Colony both for the Land Bank and for this Bill, and the quite definite assurance given in public and private that they have now complete knowledge of the difficulties through which this Colony is passing and have every desire to help and no desire to hinder.

With regard to this Bill, I want first to refer to clause 3, and merely to the question in (d) of a banker being a member of the Board. I am opposed to a banker being a member of the Board, not because of the allegation of bankers not being business men or taking shortsighted views, but because of the very argument put up by the hon. mover when he stated that in his opinion that it was of such great importance that this Board should as far as possible be outside any interests and that is why he was so anxious that a judge of the Supreme Court should be chairman. It is impossible that a member of the commercial banks should be completely outside the business of this Board when any applications are made to it. It is almost certain that many applicants will be involved with the bank of which this gentleman is manager or an employee, and if we are to try and keep the Board completely impartial—I do not use the word "impartial" in any objectionable sense—but if we are to get people who are completely outside the whole question of the individual and his difficulties then the obvious person not to have is a member of a bank; one of the three commercial banks in this Colony with whom all farmers of necessity do business. I understood the hon. mover to say in his speech that this was one of the conditions laid down by the Lords of the Treasury. If that is so, it is probably a waste of time arguing it here, but we on this side of the House feel, without in any way impugning the goodwill of the managers of the banks, that if we are to have a completely impartial tribunal, no one of the banks should be represented.

Regarding clause 5, we feel that the delegation of powers there given is too wide; it is about the widest delegation that

could possibly be given, that "with the consent of the Governor" the Board may delegate all its powers to an individual person or body of persons. I would draw the attention of the select committee to that and believe it may be altered to suit all parties.

In clause 8, which provides for the appointment of local committees each to consist of a chairman and two members, the same arguments apply as were put forward by the hon. Member for Uasin Gishu in dealing with (c) of clause 3, when he asked that instead of two there should be three members, agriculturists. He gave reasons, and if sound in that case they should be equally sound in regard to clause 8, that there should be three members instead of two.

Regarding clause 9 (d) and (e), which provides that a farmer can make application even though a receiving order has been made against him or has assigned his estate to his creditors, I would ask the hon. mover in his reply if he can inform us whether there is precedent anywhere else for retrospective legislation of this description, because on the face of it it seems peculiar, that if a person has assigned his estate to a third party a bargain so clinched can be broken by retrospective legislation to the very great detriment of the other party to the contract. I have heard it stated that there are precedents, but all of us on this side of the House would very much like to know if there is such precedent or if it is completely new.

Now we come to the proviso (a) of clause 12. I think it is quite clear that it is a very difficult section to read clearly. As far as I can make out, these words in brackets "(but so that judgment shall not be entered nor any further proceedings taken thereon)" in effect mean that if a stay order is made permanent and, we will say, is prolonged from year to year up to a maximum of five years, not only does the stay order affect the ordinary contractual debts but entirely protects a man from the consequences of any sort such as running down a person in his motor car and being liable and—and this sounds nonsense but I believe the Bill as drawn to mean it—that if a stay order exists for five years a man can commit conjugal infidelities without, I think, getting divorced until the stay order is removed! (Laughter.) It is perfectly obvious that that was never intended, and it should not be allowed to pass, because the clause in practice says that although you can institute proceedings in respect of torts, divorce and so on, judgment shall not be entered, which means in effect that no judgment can be obtained until the stay order ends. I hope I have not misread the clause, and no doubt the hon. mover will tell me whether he agrees with me for once or not.

There are two points in clause 17, and the first is the question of whether an application is granted by a unanimous or majority vote.

With regard to the secured creditors, the hon. Member for Uasin Gishu dealt with this matter and suggested that 75 per cent should bind the other 25 per cent. It is very important, if such a provision is put in—which I think is probably wise—the provision of 75 per cent must be based on the real value of the secured creditors security. There may be a first mortgage of £1,000, and you may have a second mortgage of £500, and a third mortgage of £500. It is perfectly obvious in a case like that that the £1,000 security for the first mortgage is very much greater than the combined second and third because they rank after the first, and it is not right that a third or fourth should be able to block the whole of this scheme. That has been pointed out already. Therefore I suggest that if there is any question of 75 per cent or 25 per cent put in as requested it should be made quite clear in the Bill that 75 per cent is not necessarily the face value of the security as it stands but is the actual value as far as can be ascertained; that is putting the security of the first mortgagee much nearer par than the second mortgage.

There is also in (c) that: "a majority of such unsecured creditors of the applicant, as have a claim for less than £5." That must be, in my submission, a majority both in value and numbers, otherwise you will get a whole lot of petty creditors owed Sh. 10 completely out-voting the large creditors who are prepared to agree to a stay order and give the man a chance of rehabilitation, whereas the others will be able to block it.

With regard to clause 21, "anticipated crop" at the end of (a) of the proviso. There are two points arising on that. I think that probably the words "or produce" ought to be added, because you are dealing with short term advances, and in the case of dairy farmers who have no crops it may be argued that no advance could be given them to help them carry on because no value of a crop could be ascertained.

The question also arises as to whether the advance must be based on the 70 per cent only of one year's crop. There are many cases, as hon. members know, where you can be certain you are not going to get a very large crop this year because you are doing something which is going to make a large crop next year. Take the case of coffee and pruning back. You will say "I am doing this to my coffee farm this year and it will result in a small crop this year but a bigger one next year." I earnestly request the select committee and the hon. mover to consider whether it would not be possible

to insert something in the Bill which would allow in special circumstances an advance to be made based on the anticipated crop for two years. It may be that one year will defeat its own object. I do not suggest that the hon. mover in his reply should definitely bind himself one way or the other, but I am sure he will give it every consideration and allow it to be discussed in select committee.

With regard to (b) of the proviso to clause 21, which has been dealt with by the hon. Member for the Coast, I do not frankly understand what the word "security" means. I rather gather from the hon. mover's remarks that it referred to a case of capital required for a turnover from maize to mixed farming, but it is very difficult to see whether it does or not and, as the hon. Member for the Coast said, if this really deals with long term advances and if you are going to lend on capital security you cannot get it back within one year. It seems to be a clause inserted in this Bill which could be much more advantageously put in any Bill which may come before the House as a result of the examination at home of a bond issue scheme, but it seems peculiar to insert one clause in this Bill which appears to connote long term advances in a Bill mainly and practically entirely based on a system of short term advances.

With regard to clause 24 (1), there is a small point. It appears that if under this clause anyone wins the Irish Sweep the money has to go to the Land Bank, and it also appears that if anyone receives a £5 cheque from his Aunt Jemima for Christmas it also goes to the Land Bank. It may be so or not, but in the case of the small Christmas present it will not go to the Land Bank and no one will know anything about it. The clause requires explanation because of the penalties at the end for infringement, and it is rather ridiculous that anyone who receives £5 for Christmas or a postal order should go to gaol for six months for not immediately putting it into the Land Bank! It would rather complicate the finances of the Land Bank I think!

My final point, Sir, I do not wish to refer to a clause but to a remark made by the hon. mover, that if there was a surplus in any given year that surplus would be paid out in a specified priority . . .

THE HON. THE ATTORNEY GENERAL: Your Excellency will remember that I corrected the error this morning but unfortunately the hon. and learned member was not present.

CAPT. THE HON. H. E. SCHWARTZ: It seems impossible for me to get the better of the hon. gentleman! (Laughter.)

Before I sit down I wish to refer to one remark made by the hon. Member Mr. Isher Dass towards the conclusion of his speech, the only part of that speech I am happy to say I was privileged to listen to! He made a statement which, even coming from that hon. member, whose remarks can generally be disregarded, cannot go unchallenged. The statement I refer to was when he referred to the farmers of this Colony as a lot of ne'er-do-wells. That is a statement, Sir, which I think I can assert without fear of contradiction will receive the support of no one in the House, from Your Excellency downwards, and I say that for anyone to refer to people who have borne the heat and burden of the day—what heat, how great a burden, and how long a day—us ne'er-do-wells, is to give expression to an iniquitous a slander as was ever uttered in this or any other House. (Hear, hear.)

MAJOR THE HON. SIR ROBERT SHAW: Your Excellency, I am sure all hon. members will agree that the essence of this measure now before us is its urgency and our desire is to get it placed on the statute book at the earliest possible opportunity. We therefore in agreement not to delay that happy ending by making any lengthy peroration which I do not propose to do. At the same time, Sir, it is part of our functions to endeavour to reach a Bill in the best form and I have one or two words to say. It appears to me throughout this Bill that there is no provision for any sort of control over what it is going to cost an applicant for assistance under the Bill except of course section 36, a very proper and welcome section which says that the ordinary stamp duties shall not apply in this case. There are many people looking forward to making applications who bear in mind how much it costs to make an application for Land Bank moneys. I am not confusing the two issues but in the Land Bank it probably costs the better part of £10 to get an application investigated. I do not even say that the Bill should include any such provision but I think I can best explain my meaning by reading a portion of a resolution which claims to come from a meeting of coffee planters in my constituency, the relevant part being this:—

"While supporting the Bill as a possible palliative, desire to express the fear that its implementing in its present form will cost the applicants too great an amount in porportion to the benefits likely to be attained."

and I think that those people have at the back of their minds, as I say, the cost of making application for money under the Land Bank. Anyway, the hon. mover can deal with that matter in his reply or whether it is a Select Committee point I do not particularly mind, but we would like an assurance of some kind at any rate that the applicants for this emergency

assistance will get their applications through with the minimum possible cost, because after all it is provided in the Bill for the activities of a number of supernumeraries, temporary supervisors, etc., and people will want to know whether they have to pay mileage and so on to finance the activities of those people and I think it is a reasonable question.

There are other points but I will not mention one because the hon. Member for Nairobi South has dealt with it exactly as I intended to—the question of the anticipated crop being allowed to cover two years—but I would like to refer his very good explanation of that point back to section 19 which only allows this Board to make a stay order for one year and then renew it. I think it is fairly clear that if such a good case can be made out for the anticipated crop being allowed to cover a period of two years, I think almost everybody would agree that this section would be better if the Board was allowed to make the stay order for two years in the first instance. I think we are all agreed on that.

I have no other point to make. I hope this matter will be dealt with.

Before I sit down I would like to say this with regard to the word "palliative" in the resolution I have just quoted. We welcome this Bill but to me its principal value is if it enables me to believe that it is an earnest of further measures to come; if it is an indication that we have at last broken down this terrible inertia from which we have suffered for the last five years. It is a palliative, Sir, but we want a great deal more than palliatives. Other hon. members have referred to it and I wish to express my complete agreement with what they have already said and as pointed out by the hon. Member for Uasin Gishu that really this Bill can hardly help us to the extent we want it to help us unless other measures are brought in which will provide for the people we want to help and the conditions under which they can make proper use of the assistance which this Bill gives them.

MAJOR THE HON. G. H. RIDDELL: Your Excellency, the small objections to this Bill have been inadequately dealt with by my colleagues on this side of the House who have already spoken. My support of this Bill is of course assured. I do not propose to go into any long remarks on the subject of good farmers on good land, or bad farmers on good land, or good farmers on bad land or bad farmers on bad land, because that question has already been dealt with by the hon. Mr. Isher Dass whose information presumably comes from the platforms in Hyde Park, nor do I propose to deal with the question of

mixed farming because that question has already been dealt with by my hon. friend, Dr. Wilson, whose information presumably comes from the laboratories of the Malay States.

There is one point which I wish to make which has not yet been made. The hon. mover made great play with the fact that the mortgagees at the present time had been and are being very temperate with regard to the acquisition of land, the implication being that the mortgagees in 99 cases out of 100 had taken no steps as regards the acquisition of the land. That is true only while we were in a state of complete depression, but if there is daylight coming I do not think that that is a thing on which we can wholly and entirely rely. Personally I see great danger for the farmer who is in the hand of a mortgagee holder when there is a rapidly rising tide of prosperity. I myself have instances where that is a danger and I am sure there are other hon. members on this side who can confirm and produce evidence to the hon. mover that that state does in fact exist. The absence of any form of compulsion in this Bill is a danger to those people and that is the only point I really wish to make.

THE HON. N. S. MANGAT: Your Excellency, the hon. and learned mover in regard to this motion reminds me of that famous saying of one of his illustrious predecessors, Lord Bacon, that "he who seeketh to be eminent among great men hath indeed a great task." The child of his thoughts has been thrown in the laps of the House since yesterday; some have praised it and others have almost murdered it and this corner of the House has expressed its feelings very strongly and does not need any further supplement from me. All I am going to say is this, that the measure in the Indian Members' opinion neglects the substantial existence not only of the Indian community but that of the African community also. Now, we know, Sir, that in natural history every plant has its parasite and if the Indian members have referred to the European settlers as parasites that exist in this country, in my opinion they are quite justified in doing so as that allegation is based on sound facts. In my opinion, the hon. Member for the Coast has lost a golden opportunity of keeping quiet on this question. The compliments that he paid to the Indian community, whether they are good, bad or indifferent, to borrow the words of the hon. and learned mover, or are nonsensical, I can assure the hon. member that they are mutual.

There is only one section that I wish to point out and which I understand is not seriously meant as far as the Bill is concerned. If section 28 is read with section 21 (3) it would be evident that the amount advanced by the Board is not

safe. It is essential that the advances made by the Board should have preference over all other debts and in the case of default in the payment of instalments which are provided for in section 21 (3) no further advance should be given and steps must be taken to recover the outstanding liability.

My friend, the hon. Member for Nairobi South, was so sensitive about the remarks made by an Indian member, but I believe he was the loudest in saying "hear, hear" to the remarks made by the hon. Member for the Coast, while both statements if correctly interpreted would amount to slander.

CAPT. THE HON. H. E. SCHWARTZ: On a point of explanation, Sir, I did not say "hear, hear" at all. I laughed at the ox and the grass.

THE HON. N. S. MANGAT: He should have said "hear, hear" because it would have been a more correct interpretation of his feeling at that moment.

I am sure the hon. Member for the Coast would not mind my giving him advice although it would come from one much younger but of greater experience in this House, that ever since Sir Quiller-Couch wrote his famous book on the subjects verbosity and jargon in parliaments of men have ceased to be called King's English.

LT.-COL. THE HON. J. G. KIRKWOOD: Your Excellency, I do not propose to go into the details of this Bill so much as to say that the Elected Members Organization has discussed it and we have agreed on the advisability of certain alterations in detail, so I will leave it at the moment to the Select Committee.

First and foremost I should like on this very rare occasion, an opportunity which is so rare, to congratulate Government on the expeditious manner in which this Bill has been produced and I am sure that the thanks of the whole of the Colony are due to Government for bringing this measure before Council to-day in the manner in which they have done.

I do not agree with the principle of the voting power and I think the absence of compulsion is a disadvantage to the farmer and the reason for not allowing compulsory powers is to protect the lender. I honestly believe that if the borrower and the lender could be forced together and to compromise on a reasonable basis it would be to the advantage of the whole of the Colony. I also believe that in introducing this Bill before introducing the Sale of Maize Bill and the Dairy Control Bill that Government is putting the cart before the horse, but I intend to vote for the Bill as I still live in hopes that

the two Bills I have mentioned or Bills on lines to deal with the subject of rationalisation of those industries will be brought before the House at a very early date.

The question of successful farming is not altogether one of money you will find. This Bill is dealing with finance and finance only and that is the crucial mistake in the Bill. To help the farmer there is one thing and one thing only that will help him and that is raising the price level. This Bill is not going to raise the price level; it is going to raise the cash, but until Government take the necessary measures for rationalisation of the industries and endeavour to raise price levels, this Bill will not be the success it ought to be.

I have listened very patiently and I think the whole House was very patient in listening to the racial issue raised on this Bill but I can find nowhere in the Bill any matter on which a racial issue can be raised unless it is the way in which I raise it myself before I sit down, and I regret this issue is continually cropping up and certain Indian Members seem to take a delight in holding it as a provocative measure to every member of this Council.

I should also like to appeal to the hon. Director of Agriculture to get rid of the inertia that has pervaded his department for a considerable time. I have waited patiently for a long time now for initiative from that department either of suggesting assistance or legislation or methods of suggesting how to change over to mixed farming.

HIS EXCELLENCY: Has that got anything to do with this Bill?

LT.-COL. THE HON. J. G. KIRKWOOD: Well I think it will have a great deal to do with its success or otherwise, Sir, if it is passed.

The advisability of changing over to mixed farming has been mentioned by several speakers and the Agricultural Department can do a great deal in an advisory capacity and make this Bill as great a success as it will do if that advice is given. That is my point.

HIS EXCELLENCY: At all events you must confine yourself to the Bill.

LT.-COL. THE HON. J. G. KIRKWOOD: I do not wish to make a long speech for the reasons I have already stated. The Bill is a foregone conclusion and the only racial issue I see in the Bill is that this Colony depends on agriculture definitely. It is the key industry of the Colony and if the key

industry fails the Colony financially will fail. The European producers pay to the natives in wages an amount approximating to their taxation. If the European farmers are kept on their farms and I am sure with rationalisation measures they will succeed, it will then follow that it is a great benefit not only to the Colony but individually to every native in the Colony by reason of the large amount paid by the European producers to the natives and in addition this is passed on to the "dukas" (shops) most of which are run by Indians, and I maintain, Sir, that the three races will benefit by this measure and there is no other sense of racialism in this Bill and I hope that when the Bill comes back from the select committee we will agree on the alterations that will be suggested and that this Bill will be put into operation and be followed at no distant date by measures of rationalisation on the same lines or similar to measures on the statute book already of this Colony.

MAJOR THE HON. F. W. CAVENDISH-BENTINCK: Your Excellency, every point has been covered practically in dealing with this Bill including that we regard this Bill as part of a programme of reconstruction. We welcome it very much and we do hope it is regarded as part and not as entirely self sufficient in itself.

There is only one question I would like to ask and that is: Is it the intention that the rate of interest charged as referred to in section 21 (3) should be that of the Land Bank or will it be based on the terms on which this new loan is going to be floated? That is the only question I should like to ask.

*Council adjourned till 9 a.m. on Thursday,
the 21st May, 1936.*

THURSDAY, 21st MAY, 1936

Council assembled at the Memorial Hall, Nairobi, at 9 a.m. on Thursday, the 21st May, 1936, HIS EXCELLENCY THE GOVERNOR (BRIGADIER-GENERAL SIR JOSEPH ALOYSIUS BYRNE, G.C.M.G., K.B.E., C.B.) presiding.

His Excellency opened the Council with prayer.

MINUTES.

The Minutes of the Meeting of the 20th May, 1936, were confirmed.

PAPERS LAID ON THE TABLE.

The following Paper was laid on the Table:—

BY THE HON. THE COLONIAL SECRETARY:
Prisons Department Annual Report, 1935.

ORAL ANSWERS TO QUESTIONS.

QUARANTINE DETENTION AT MOMBASA.

No. 12.—THE HON. ISHER DASS asked:—

"Are Government aware that a number of Indian passengers who arrived in Mombasa from India on 8th May, 1936, were put into quarantine, in spite of the fact that they possessed vaccination certificates issued by the medical authorities in Bombay?"

Will Government be pleased to state the reason for this detention and take immediate steps to prevent a recurrence of such incidents, which entail unnecessary hardship on a number of Indians and their families?"

THE HON. THE DIRECTOR OF MEDICAL SERVICES: Government is aware that a number of Indian passengers who arrived at Mombasa from India on the 8th May, 1936, were detained under observation or surveillance in spite of the fact that they possessed vaccination certificates issued or countersigned by medical authorities in India.

These passengers were so detained because, although in possession of vaccination certificates, they failed to show evidence of successful vaccination at any time. It is necessary to detain such passengers under observation for a period after arrival at Mombasa, because the voyage from India to Mombasa is undertaken within the incubation period of smallpox, which is endemic in India.

The necessity for this procedure has been evidenced on many occasions by passengers from India developing smallpox shortly after arrival in this Colony, the infection having been contracted either in India or on board ship. One of the passengers who landed at Mombasa on the 8th May, 1936, from the ship in question was in fact diagnosed a few days later as suffering from smallpox.

Government does as much as is possible to minimize inconvenience by allowing passengers to land under observation or surveillance at Mombasa, if guarantees can be given by responsible persons. In the present instance, such guarantees were given, and the passengers were allowed to remain in rest-houses at Mombasa, instead of being sent to the quarantine station at Zanzibar.

The remedy, however, rests with passengers, who should ensure, not merely that they have a certificate to the effect that they have been vaccinated, but that they have actually been successfully vaccinated.

EX-INDIAN ARMY OFFICERS SETTLEMENT SCHEME.

No. 15.—THE HON. ISHER DASS asked :—

“ Will Government be pleased to lay on the table, for the information of the House, all correspondence which passed between them and the Imperial Government in connection with the proposed scheme of settling in Kenya a number of British ex-officers of the Indian Army, a scheme which was subsequently rejected by the Imperial Government? ”

THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: The matter is still under consideration, and Government is therefore not in a position to lay any papers on the table on the subject.

KENYA DEFENCE FORCE.

No. 18.—THE HON. ISHER DASS asked :—

“ Will Government be pleased to state their reason for not appointing an Indian member on the Kenya Defence Inquiry Committee? ”

(a) Is it the intention of Government to have local Defence Forces manned entirely by Europeans?

(b) Are the local Defence Forces solely intended for the protection of the European residents of this Colony?

(c) Is the safety and protection of the Indian residents of Kenya not the equal concern of the Government, and, if so, what are the reasons for deliberately excluding Indians from all activities connected with local defence?

(d) Are Government of the opinion that Indians are not fit for military service?

(e) Will Government be pleased to make a definite and unequivocal pronouncement on this question, so that Indians in Kenya may know where they stand with reference to any future defence schemes? ”

THE HON. THE COLONIAL SECRETARY: As the Defence Inquiry Committee was appointed for the purpose of considering the reorganization of the European Defence Force, it was not thought necessary to appoint an Indian member to that Committee.

(a) Non-Europeans are eligible for enrolment in the Kenya Royal Naval Volunteer Reserve.

As regards the military forces, when the revised scheme for the utilization of the European man-power has been approved and brought into operation, and its financial effect ascertained, the question of utilizing the non-European man-power will receive consideration.

(b) The answer is in the negative.

(c) The answer to the first part of the question is in the affirmative and as regards the second part the position is made clear in the answer given to question (a).

(d) The answer is in the negative.

(e) In view of the answers to the previous questions, an answer to this question would appear to be unnecessary.

THIKA WATER SUPPLY.

No. 19.—THE HON. ISHER DASS asked :—

“ With reference to question No. 100 of 1934, will Government please state what action has been taken in the matter of the provision of water supply to Thika, and whether provision will be made for this purpose in the next Budget? ”

THE HON. THE DIRECTOR OF PUBLIC WORKS: Government has under consideration the inclusion of provision for Thika water supply in the Draft Estimates for 1937.

RESIDENT NATIVE LABOURERS ORDINANCE.

No. 27.—MAJOR THE HON. C. LUXFORD asked :—

“ 1. In view of the fact that a Committee was appointed to review the working of the Resident Native Labourers Ordinance (No. 5 of 1925), and that the Committee's deliberations were continued from the 18th September, 1933, until the 29th October, 1934, and that their

report, together with a draft Bill to regulate the residence of native labourers on farms, was submitted; can Government state—

- (a) When the report of the Committee and the proposed draft Ordinance was forwarded to the Secretary of State?
- (b) Whether any reply has yet been received?
- (c) If not, whether any reminder has been sent, and, if so, when?
- (d) Whether Government anticipate introducing the proposed Ordinance during 1936?

2. Whether Government would, if yet further delay is anticipated, be prepared to consider the introduction of interim legislation, so as to give immediate effect to that portion of clauses 16 and 21, which refer to the keeping of stock by natives or Somalis on farms, giving the necessary powers to a local authority to exercise local option in the matter?"

THE HON. THE COLONIAL SECRETARY: 1. (a) The report of the Committee on the working of the Resident Native Labourers Ordinance, 1925, containing a draft Bill to regulate the residence of native labourers on farms, was sent to the Secretary of State on the 29th October, 1935.

(b) No reply has yet been received.

(c) A reminder was sent on the 26th March, 1936.

(d) Government is unable, for the reasons given above, to state when it will be possible to introduce this Bill.

2. It would be necessary to refer to the Secretary of State interim legislation of the kind suggested, and as such legislation is already in the hands of the Secretary of State no useful purpose would be served by adopting the course proposed.

BILLS.

THE FARMERS ASSISTANCE BILL.

THE HON. THE ATTORNEY GENERAL having moved:

That the Farmers Assistance Bill be read a second time.

THE HON. THE TREASURER having seconded:

The debate having been adjourned.

The debate continued.

THE HON. THE ATTORNEY GENERAL: Your Excellency, no matter how innocent or circumscribed a Bill may appear in this House when it is introduced, there would appear to be no limits to the ramifications into which the unfortunate person replying to the debate is led during the debate. I have no intention of following any red herring, such as where the hon. member Dr. Wilson got his knowledge of mixed farming from, or anything else of that description, but I intend to stick strictly to the issues at stake in getting this Bill through.

I am, of course, extremely satisfied with the reception which the Bill has received. As I said when moving the second reading, I expected there would be various anomalies to be corrected and alterations made, and that prophecy has proved very accurate. I can only say how grateful I am to hon. members who have taken the trouble to go so carefully into the details of this Bill, so that we hope to get things right before it finds itself in the Statute Book. As you know, where I gain is not only by having posterity believe that I am a better draughtsman than I really am, but you and I are saved the trouble of passing amending legislation in the near future, and I am always grateful for suggestions for the betterment of a Bill.

Taking seriatim the points that came up in debate, the main criticisms at the beginning rested on clauses 3, 21 and 17. In other words, the personnel of the Board; the percentage which could be lent, namely 70 and 60; and the voting by secured creditors, which it was suggested from a unanimous vote should be reduced to something in the neighbourhood of 75 per cent.

Dealing with the first point, the only real objection to the Board as set out in the Bill would appear to me to be to the banks' representative. Although a good deal of lip service was given to bankers generally by individual members as to their worthiness and kindness, everybody seemed to be of the opinion that it would be a good thing if they were not on the Board. That is a little hard, because, in fact, we had a banker on the committee which propounded this Bill, and it seems a little hard that we should say that while he is capable of initiating he is not capable of carrying it out. However, the matter is taken entirely out of my hands unless hon. members wish the Bill postponed once more, because it was one of the conditions on which the Lords of the Treasury approved this scheme.

The point raised by the hon. Member for Nairobi South did not escape the attention of the hon. the Treasurer nor myself, and it is realized that it is possible and probable that on certain occasions the banker will be interested in a particular

application. You will find in due course, in the Rules which will be issued under the Ordinance guiding the procedure of the Board, that no one interested shall take part or vote in the consideration of an application in which he or his firm are financially interested.

There is one other small point to clear up at this stage. It was taken by the hon. Member for the Coast, when he asked me to explain what was meant by the word "backing". I can say at once that I was not using the word in the sense usually used on the race-course; I merely meant that this Bill which had gone home had been "vetted" by the Colonial Office and "vetted" by the Treasury, and therefore, presumably, I was entitled to say it had the backing of both of them as a sound measure, as far as they could see, and was not some wild will-o'-the-wisp scheme one sometimes hears of.

With regard to the 70 per cent of the advance, again I regret to say that my answer is the same, that that was the only other condition made by the Lords of the Treasury, that there should be a limit placed on the amount advanced, namely 70 per cent in the one case and 60 per cent in the other. Actually, when you work it out and realize that this is in fact a business proposition, it is quite a reasonable percentage to insist upon.

The last point was with regard to the secured creditors' vote, and, as I said when moving the second reading, I have not got any strong feelings personally, but I am a little frightened. What I mean is this: If you put the figure suggested, which, on the face of it may seem reasonable, 75 per cent, it may easily mean that the first secured creditor, the careful man, who came in with a first mortgage for £500 would be swamped out and out-voted by the second mortgage of £1,500 and the man with the third mortgage of a large amount. In Select Committee we must go into that carefully, because it would be manifestly unfair that the man who really had the security on the estate was perhaps diminished by the action of one or two other secured creditors who, counting as such on paper, were not in actual fact secured when it came to the matter of realizing cash. That is the only point I wish to make for the moment with regard to that issue.

A suggestion was made that an applicant should be permitted to have his accredited representative to plead his case before the local committee or Board. I do not think that anyone can raise any serious objection to that, but I will only say in passing that the sight of an applicant, who presumably is extremely hard up, coming to the Board for help, being attended by an expensive lawyer to argue his case, might not do his case any good in the eyes of the Board. This, however,

is a matter of opinion, and I shall be extremely pleased to alter it and know that my brother lawyers will have an opportunity of earning an honest penny! (Mr. Harvey: Do it for nothing!) That may be!

The last criticism by the hon. Member for Uasin Gishu that I can remember was his regret that this Bill was not brought in in double harness with the Dairy Control Bill. As you know, I am extremely keen on this Bill, and I should be very sorry to find my filly harnessed to such a sluggish starter. That being so, I think hon. members will forgive me if I prefer to follow my own course and leave them to pursue later as best they can.

The next point I wish to refer to is clause 21, and I fear the desire for amendment is because it has created more confusion in the minds of hon. members than any other clause in the Bill. The real offender is (b) of the proviso. What I visualize, Sir, is this. It is all very well to say you can advance 70 per cent on the crops of the next year, the anticipated crops (and at this stage I will say that I intend to accept the suggestion of the hon. Member for Nairobi South, that the words "and produce" should be added here), but what is to happen to the man who is not necessarily going to have crops next year? For I am thinking of mixed farming once more. A mixed farmer will not have anything of which he can realize next year, and for that reason you find the proviso worded as it is. What I visualize is that the creditors will agree, and the Board will immediately put on a stay order for five years, and I do submit that five years is not long term advance, it is short term. If the creditors do not agree to five years, then if any money is left outstanding at the end of the year that will again be protected by a further stay order, which the Board has the right to issue year by year, up to five years, unless the amount is paid off.

That is the real intention of clause 21 (b). If it is possible in Select Committee to make it clearer, I will be only too pleased to do so. There is always the danger of trying to set out in detail everything that should happen in a particular scheme, and leaving nothing to the intelligence of the chairman and the Board itself, whose duties will be to interpret their powers under this particular section, so that my answer in a nutshell is that clause 21 (b) is not meant to be long term finance, as it cannot last longer than five years.

I now come to the somewhat unfortunate speech of the hon. member Mr. Isher Dass. He has accused me of failing to answer his questions on past occasions. He has been good enough not to suggest that I do not answer them from ignorance, but the suggestion is that I do not do so with malice

aforethought. The hon. gentleman is correct. I certainly have on several occasions omitted to answer his questions, and I will tell him why: because his questions are always asked in the same way that all his questions on this Bill have been asked. He starts off by putting words into my mouth that I never said. He then quotes, quite apart from the context, some reference, in this case to the Agricultural Indebtedness Committee Report, and, having built up a structure of his own, proceeds to knock it down and asks me if I will put it up again.

I have not the slightest intention of trying to do so, but I will point this out: I never at any time in the course of my speech said that this Bill was for the benefit of European farmers only. It is a most extraordinary thing in this House that, however carefully you draft a Bill without any reference whatever to the racial question, somehow that question is dragged in. I wonder why the hon. member did not get up and object when I was introducing the Approved Schools Bill some sessions ago. We all know in fact that this Farmers Assistance Bill will assist the primary producers of the country more than anybody else, and I admit at once that I suppose more than 90 per cent will be Europeans; but it is equally true to say of this Approved Schools Bill that 99 per cent of the ameliorations of the conditions there affect the natives only. Yet I did not hear anybody get up and say it was class legislation inasmuch as it was only for the natives.

When you have a Bill before you, I suggest you must deal with it as a whole. You cannot live in watertight compartments. The hon. member knows perfectly well that if prices of primary produce went up, particularly of coffee and maize, the whole country would be booming; not only the Indians, but the natives, Europeans, and everybody except Government officials (laughter), so that so far as I can see it is a great mistake to bring into a Bill—which is going to help admittedly the primary producer and therefore the whole country—what is in fact an entirely petty racial affair.

The other point made by the hon. member was when he quoted several times from the Report about the good farmer on bad land and the bad farmer on good land, and so on, and we set out in that Report exactly what we thought about all of them. The short answer to his question is this: that I am only interested in the farmer on good land, and I suggest that this Bill will only serve to help the good farmer on good land, and that it is to the interests of this country and everybody in the country that the good farmer should remain on good land cultivating it. That is why this Bill has been introduced.

If you ask me why it has been done, I will only say it is doing what has been done by every civilized nation in the world, only some years earlier.

It was said in the course of the debate, I forget by whom, that Government was spineless because it had not introduced this Bill earlier; in other words, that they had refused in 1934 to introduce the Bill and that, driven on or kicked, or whatever the words were, by the European Elected Members, we have it to-day. There is an extremely simple answer to that question. As hon. members are well aware, in 1934 we were told that we could not raise a ha'penny on the London market. Therefore, what on earth was the good of me or anybody else getting up and talking about giving £200,000 as a subsidy, or whatever you like to call it, for any particular industry? The difference is that in 1936 we can put our hands on £200,000, and that is why the opportunity has been taken in 1936 to introduce the measure which is now before you.

I was asked what will happen to the money-lender. If the hon. member has read the Bill, and the money-lender is a secured creditor, he has the same rights as every other secured creditor under the Bill. At the moment there is the absolute right of veto, with the possibility of amendment in Select Committee, to a 75 per cent majority of the secured creditors.

I was also asked what wage a good and a bad farmer would be given. As you know, no bad farmers will be helped under the scheme, so that I am not interested, and the question of what wage a good farmer will be given will be decided by the Board when called on to do their duties, and not by me.

I was further asked why we as a Committee were advocating mixed farming when, at the same time, the Dairy Control Bill was in the offing. Does any hon. member really think that because an industry is being rationalized, a thing which is being done all over the world in every other industry, we must therefore assume it is in a bad way? Because the country is putting it on a sound footing, must we take it for granted that it is an unsound industry? The answer is that if the industry is rationalized in the future it will be all to the good of those who have got advances under this Bill, and that is why there is not the slightest anomaly in the Dairy Control Bill following this, perhaps in the very near future.

I was also accused of foreshadowing the bond scheme in one section. There was nothing further from my thoughts. I only endeavoured to explain, in introducing this Bill, that, whatever hon. members may think of the bond scheme or may not, whether it is good or bad, this particular Bill will not

hinder its introduction in any way whatsoever, but that actually we are setting up machinery in this Bill which I believe can be turned to very useful purpose if and when such a bond scheme is ever introduced. But I can assure you that there is not the slightest intention in this Bill of giving a fair or ill wind to that particular scheme.

The hon. Member for the Coast was kind enough to give some measure of support to this Bill. I am extremely grateful to him, but I am sure he will be the first to agree with me when I say, "Deliver me from my friends." I can, however, assure him that with his opening statement all was forgiven, for he told us that as a result of some sort of anaesthetic which Your Excellency on the first day, and myself on the second day, administered to him he felt that he was Alice in Wonderland; that he was in the land of dreams. I can imagine nothing more nerve-racking than the unfortunate Alice sitting waiting for the Queen's decision at the end of her case—"Off with her head!" But I think we should use every endeavour to bring the hon. member back from dreamland, because he will find that things are not as bad as he thinks. He will find, for instance, that Kenya is not that calm, quiet, undemonstrative place, peopled with those quite incapable of expressing their opinions, relying entirely on the machinations of a wicked Government to tell the Colonial Office exactly as much and as little as they want them to know about the place. He will find when he wakes up that he is dealing with a virile race, a race well capable of expressing themselves in every possible manner. They have political meetings. They are not all fortunate enough to hear all the speakers they expect. (Laughter.) They express their opinions freely. They insist on committees and commissions. They know that those committees and commissions have got to report, and they know that all the reports have to be sent to the Secretary of State. If he will think for a moment, there was a most gloomy picture painted of the state of affairs in the Economic Development Committee's report; that went to the Secretary of State, and if it was not read there you cannot blame the Kenya Government. I go further and say that if by any chance the Colonial Office does not understand all that is sent to them, this virile race send envoys home to explain any point of difficulty. And if the hon. member really thinks that the salary—or what remains of it after the iniquitous levy has been removed—if he thinks the salary of the civil servant depends on the ignorance of the Colonial Office as to conditions here, then, as one of the salaried persons, I feel more secure than I did the day before yesterday. Further, I say this, that if any scheme that the hon. member is backing depends for its success again on the ignorance of the Colonial Office, I think he is on a very bad wicket indeed. But when he wakes up, he will find that, in fact, as I said

before, things are not so gloomy; that, in fact, those horrible nightmares about devaluation, the machinations of a wicked Government deceiving the Colonial Office, the overpaid official and the Eastern menace, are all figments of a fertile imagination in dreamland.

He did ask me one very direct question which I would like to answer with regard to the Bill, which was, "why I did not follow New Zealand." Well, of course, that would have been an easy thing to do, but unfortunately not practicable. The fact of the matter was that New Zealand was in the lucky position—and when I refer to New Zealand I, of course, mean the compulsory clauses that appear in the New Zealand Act—New Zealand is not dependent on outside capital, or was not when it passed the Act, for various reasons which we need not worry about: They were even preventing their own capital leaving the country. Kenya is dependent on outside capital, and therefore that is one reason why we did not put in these compulsory clauses. For we are very anxious not to frighten away outside capital, particularly at a time when we are hoping to float a loan of £500,000 on the London market.

MAJOR THE HON. E. S. GROGAN: Am I to understand—

HIS EXCELLENCY: I am afraid the hon. member cannot intervene now.

MAJOR THE HON. E. S. GROGAN: I was only asking now. I did not understand what he meant. Am I to understand that New Zealand is not dependent on overseas capital and has no external debt?

THE HON. THE ATTORNEY GENERAL: I am much too old a debater to be drawn into an argument with the hon. member at this stage. What I have said, I have said, and as far as I know it is correct. Of course we all know every country is to some extent dependent on outside capital, but some countries cater for it particularly, and I suggest Kenya is one and New Zealand is not, and that is the answer so far as I am concerned.

The hon. Member for Nairobi South made some very valuable suggestions with regard, in my opinion, to matters of detail, but as they were brought out in open debate it might be as well if I deal with them now. He has dealt with clause 5 where I gave power to the Board to delegate its duty. I realize that there is a lot to be said for the argument that you should not give an important Board like this such wide powers of delegation, but I am most anxious to make this scheme as cheap as possible. If this scheme is going to be a success it can only be a success because the money is loaned

as cheaply as possible, and if we go on mounting up the members of the committee the fact that committees cannot delegate duties to one man and go themselves or whatever expensive method has to be adopted, I do not know where it will lead us. However, if hon. members feel it is too wide, I will be the first to agree to some form of amendment in Select Committee.

With regard to clause 8, he suggests that there shall be three outside members of the local committee instead of two, and again my remarks with regard to the expense are equally true. The local committee, as you know, is only an advisory committee, and as such has no actual power, and I was extremely anxious to keep it as small as possible, and therefore as cheap as possible. If for some reason, which is not extremely clear to me at the moment, it is necessary to have more than two, I am quite prepared to agree to that amendment.

I was then asked whether clauses 9 and 12 followed any precedent. Well, in fact, they do. In one case the precedent of South Africa and in the other case the precedent of New South Wales. I say this because I was asked the question definitely; but because I have taken it from precedent it does not necessarily mean we cannot improve on it, and I think this section is possible of improvement and possibly recasting altogether, but keeping the same principle.

With regard to section 17, he suggested a slight verbal amendment with regard to value and numbers in dealing with creditors, and I think this is perfectly reasonable.

I have already dealt with section 21 (b), which he suggested was the beginning of some long term scheme. As I told you, it did not.

Strange to say, the most difficult question put to me was the question about Auntie and the £5, because naturally no one wishes to prevent a young man, who happens to have got an advance, receiving a present from his aunt. But there is another side to that. If, instead of £5, £500 arrives regularly every Christmas, then you see we are looking on an entirely different picture. However, if anyone can think out some way of modifying it, I will be extremely pleased to adopt it.

Lastly, with regard to the voting powers of the Board. There was a suggestion that the chairman, on the wording alone, could outvote the committee. If you look at section 4, the chairman has one vote, and, in the event of equality, a casting vote, and that is the decision of the Board—the decision of the majority.

The hon. member Dr. Wilson asked me a direct question which I cannot answer. He asked me, can I produce figures to prove that a farm would pay, beyond the figures I have put in the report. I can produce no other figures; but I have no doubt, if he will call on the Director of Agriculture at any time he has a moment to spare, he will be able to see all the figures that I had at my disposal. I endeavoured to show, however, in my opening speech that I could see no reason whatsoever why, given a fair chance, a farm in Kenya should not pay and pay well, and that is all I have to say on that point, and you can only come to that conclusion by comparison with the costs in other places, all of which was set out in the report which I have no doubt the hon. member has read.

I was also asked—I think by the hon. member Mr. Shamsud-Deen—what will be the cost of administration. I frankly cannot give you any idea of that, except to say that all through our deliberations and the drafting of this Ordinance we have endeavoured to keep it down as much as possible. I think there is a little confusion on that with regard to the cost of an application. I do not foresee that an application will cost anything at all. A man makes an application, lays his cards on the table, and if the local committee choose to send a valuer to value the assets of the applicant, then if the applicant is successful, I foresee that that will have to come out of the loan—the cost of obtaining the loan—but if the application is unsuccessful, I fail to see how the Board will ever be able to recover anything. My answer on the face of it is: for the application alone it will cost the applicant nothing, and only if successful will he have to pay the costs, such as the cost of the valuer in valuing his assets.

I have I think already dealt with the question of the stay order. I tried to explain that the stay order can be from year to year if there is anything outstanding to the Board, or by agreement it can be for any time up to five years, but no longer, and that is a point that has to be remembered, because I do suggest that proves it is entirely a short term Bill, and nothing to do with long term.

With regard to the rates of interest charged, the thing is we have got to find out the cost of administration first, before we can definitely say any amount. Naturally, I foresee it will be varied from time to time, as the machinery of the Board improves.

Those, I think, are all the points which were raised in debate, and I hope I have not left any out, but there will be an opportunity on the debate after the Select Committee to ask me again if anything has been left out by me unintentionally.

There is just one other point I wish to refer to, and that was the bolt from the blue delivered by the hon. Member for Trans Nzoia. At the end of this debate yesterday he suddenly accused the unfortunate Department of Agriculture of inertia. Well, I considered for some time what that had to do with this Bill. I could not see how it hurt the provisions of this Bill in any way, but if there is a suggestion that the Department of Agriculture did not assist me in every possible way in preparing a full report and giving evidence and preparing the Bill, I can assure him he is entirely incorrect, and every possible assistance was given to us, and me in particular, on every possible occasion. Then as he proceeded with his arguments, I thought he was making some reference to inertia with regard to the Dairy Produce Bill. It seemed an unfortunate day to choose to make that remark, as we had that morning been reading in the papers of the alleged result of the energies of the Agricultural Department in Zanzibar. I wonder if a little inertia in Zanzibar in the same department might not have saved many lives; but apart from that point, it is a little amusing to members on this side that the one Government member that I am certain is wholeheartedly in favour of this Dairy Bill, and is doing his utmost to press it through, is the unfortunate man who receives the attack, and I suggest a stab in the back, when no one in this whole room has done more than he has to press on the Dairy Bill, and I suggest the attack was unfair, unjust and uncalled for.

The question of the second reading of the Farmers Assistance Bill was put and carried.

APPOINTMENT OF SELECT COMMITTEE.

THE HON. THE ATTORNEY GENERAL moved that the Farmers Assistance Bill be referred to a Select Committee consisting of the following:—

The Hon. the Attorney General (Chairman).

The Hon. the Treasurer.

The Hon. the Director of Agriculture.

The Hon. Member for Nairobi South.

The Hon. Member for Nyanza.

The Hon. Member for the Coast.

The Hon. Shamsud-Deen.

THE HON. T. D. H. BRUCE seconded.

The question was put and carried.

LAND AND AGRICULTURAL BANK (AMENDMENT) BILL.

THE HON. THE TREASURER: Your Excellency, I beg to move the second reading of a Bill to amend the Land and Agricultural Bank Ordinance, 1930.

This Bill has the full support of the Land Bank Board, and, so far as I know, is entirely non-controversial. At the same time, it contains many important amendments to the Principal Ordinance. The most important amendment proposed is in respect of the increased maxima of loans to individuals as recommended by the Land Bank Board and the Economic Development Committee. Clause 4 of the Bill increases the maximum amount which may be advanced for the purpose of discharging an onerous mortgage from £3,000 to £3,500. Clause 6 increases the maximum amount to be advanced to any individual from £3,000 to £5,000. These increases will have the effect of extending the operations of the Land Bank to planters and farmers who, by reason of the scope of their operations, have not previously had the opportunity of access to long term finance facilities which are provided by the Land Bank Ordinance.

Clause 5 provides for a special advance up to £200 to any individual for the purpose of combating soil erosion. This is a matter which has exercised the minds of the Board for a considerable time, and it is felt that the provision of financial facilities of this sort will do something towards avoiding or reducing the serious losses which are being occasioned through soil erosion.

Clause 9—another important clause—provides for any reduction in interest charges to be spread over all the funds of the Land Bank, and not to new clients, as is the case in the law as it stands.

The other amendments proposed are of a less important character. Clause 2 is amended for the purposes of administrative convenience, it being found impracticable to depute a particular member to sign specific documents. Clause 3 removes an ambiguity. Clause 4 is designed to satisfy an audit query to the effect that the original section gave the power to discharge an existing mortgage, but did not give power merely to reduce it.

Clause 7 provides a necessary safeguard to Government in cases where the full amount of stand premia has not been paid. Under the law as it stands, Government assumes an incalculable liability on land resumed by the Crown and at the same time under a mortgage to the Land Bank. In the present circumstances Government is forced to repay to the Land Bank out of general revenue so much of the advance and

interest due thereon as the Land Bank is unable to obtain from the mortgagor. It is considered only reasonable that Government should have some control over the advances of this nature, and the provision is made accordingly in this clause.

Clause 10 makes a very necessary provision for prompt action on the part of the Land Bank when the consent of other interested parties is obtained or the farm has in fact been abandoned. As the Board will be dealing in future with coffee-estates, which has not been so much the practice in the past, this power is a very necessary one in order that the estates should not deteriorate.

Clause 12 makes the position clear in regard to responsibility for payment of rent, and clause 13 specifies the purposes for which short term advances may be made.

The remaining clauses, I think, Sir, are unimportant, and do not involve any question of principle.

I have Your Excellency's authority for stating that if this motion is approved the Bill will be referred to the same committee as that appointed to consider the Farmers Assistance Bill, in order that any point of detail may be discussed there.

THE HON. THE ATTORNEY GENERAL seconded.

The question was put and carried.

APPOINTMENT OF SELECT COMMITTEE.

THE HON. THE TREASURER moved that the Land and Agricultural Bank (Amendment) Bill be referred to a Select Committee consisting of the following:—

The Hon. the Attorney General (Chairman).

The Hon. the Treasurer.

The Hon. the Director of Agriculture.

The Hon. Member for Nairobi South.

The Hon. Member for Nyanza.

The Hon. Member for the Coast.

The Hon. Shamsud-Deen.

THE HON. THE ATTORNEY GENERAL seconded.

The question was put and carried.

EDUCATION (AMENDMENT) BILL.

THE HON. THE DIRECTOR OF EDUCATION: Your Excellency, I beg to move the second reading of a Bill to amend the Education Ordinance, 1931.

The objects and reasons explain the purpose of this Bill, but it might be as well if I amplified them slightly for the information of hon. members of Council.

To begin with, I should like to inform Your Excellency that this Bill has been fully discussed and unanimously approved by the Advisory Council on African Education. The position is that during the last few years in certain areas in the Kikuyu Reserve, and to a minor extent in the Kavirondo Reserve, independent schools have been established. By independent schools, I mean schools which are not under the control of any missionary body or Government or of the Local Native Councils. While one must admire the enterprise and initiative behind this movement, which is an entirely African movement, at the same time it is essential in the interests of the African people themselves that these schools should be controlled. If control is not exercised then the pupils attending these schools are in very grave danger of being cut off entirely from any education above the very elementary stage. The Bill only applies to African schools. There is a very good reason for that in that the majority of African parents are illiterate and quite unable to judge of the value of the curriculum to their children.

There are very adequate safeguards provided in the Bill in order to control any aggressive action by the Director of Education or his staff, and in the districts where there are district boards of education those boards must be consulted before any action can be taken. In districts in which there are no such boards, then the Director must consult the Advisory Council on African Education.

I should like to assure Your Excellency and hon. members of this Council that there is no intention of making an aggressive campaign against these independent schools. In fact, every effort is being made to persuade the managers to come into line with the general programme of development for African education, but it is necessary that Government should be able to take action in the case of any particular school which is doing a disservice to the African community in its vicinity.

THE HON. THE ATTORNEY GENERAL seconded.

VEN. ARCHDEACON THE HON. G. BURNS: Your Excellency, there is just one point only I should like to draw the attention of the hon. mover to, and that is with regard to the curriculum approved by the Director of Education or his Department. If after inspection it is found that that curriculum is not being carried out, I should like to see that the people responsible for that school be given due notice that unless that curriculum is

carried out within a given time, there is a danger of their school being closed down. That is the only point I would like to make in the matter, that they should be given a chance of putting their house in order, not only from the point of view of sanitary arrangements and all that, as is mentioned in clause 2 of the Bill—section 34 (1) (b)—but also with regard to the curriculum. I can quite understand that is not the intention of the Director of Education, seeing that he is going to refer such a matter to the District Education Board, who would be responsible to have a say in the matter, but that the people responsible for the school—and there are many of these schools in which, to my knowledge, there are as many as 200 scholars—that they be given a chance of complying with the curriculum as set forth, and then, if they refuse to do that, steps to be taken for the closing of the school.

MAJOR THE HON. F. W. CAVENDISH-BENTINCK: Your Excellency, I am supporting the Bill, which I think is very badly needed, but I would ask the hon. the Director of Education what happens in the event of the District Education Board not agreeing with the Director of Education? I feel that the latter should have the last say.

THE HON. THE DIRECTOR OF EDUCATION: Your Excellency, I will deal first with the question of the hon. and reverend member for native interests. No action would be taken against the managers of any schools without their first being called either before the District Board of Education or, alternatively, the Advisory Council on African Education; they would have an opportunity of explaining their position, and every facility would be given them to make any alteration that was required.

With regard to the question of the hon. Member for Nairobi North, in the event of the District Board not agreeing with the Director of Education's recommendations, then the Director would have to be guided by the opinion of the Board.

The question was put and carried.

THE SISAL INDUSTRY (AMENDMENT) BILL.

THE HON. THE DIRECTOR OF AGRICULTURE: Your Excellency, I beg to move the second reading of the Sisal Industry (Amendment) Bill.

In clause 2 of this Bill the definition of "sisal fibre" is altered to include "any rope or cord manufactured in the Colony". The effect of this alteration will be that the levy which is at present payable on exported sisal fibre will also be payable on exports of sisal rope and cord.

Hon. members will recall that under the Principal Ordinance a levy on exported sisal can be imposed not exceeding Sh. 2 per ton, and that the levy has been actually fixed at Sh. 1 per ton. When local produce of sisal fibre is manufactured locally into rope or cord and exported as such, it is considered that the product should be subject to the same levy in the same way as fibre. This amendment brings Kenya legislation in line with Tanganyika legislation in this respect.

Clause 3 of the Bill deals with sisal grading. It brings the grading under the supervision and control of the Sisal Industry Committee by enabling the Committee to prescribe the standard of grades and to grant certificates to sisal growers who use the standard mark on sisal fibre made in accordance with these standard grades. The standard mark is given in clause 5 of the Bill. The importance of correct grading and the standard marking of agricultural produce is well known to hon. members, and needs no emphasis. In some cases the grading can be done at the port of exit, but in the case of sisal it has to be done before baling at the factory.

It is hoped that this measure will lead to a better grading of sisal in this country, and enhance the reputation of the standard mark. It is important that the use of the standard mark should be reserved for those sisal growers who actually do grade in accordance with the standard grades, and in clauses 3 and 4 it states that any grower who has been granted a certificate and fails to maintain his standard grade will be liable to have it taken away by the Committee, and any grower not in possession of a certificate and using the standard mark is liable to a penalty. In Tanganyika the subject of grading is under consideration by the Tanganyika Sisal Growers Association. In this connection I should mention that the Kenya Sisal Growers Association are satisfied with the assurance given at a recent joint meeting between representatives of the Kenya and Tanganyika sisal interests that nothing will be done in Tanganyika which is likely to impair the working of this grading system in Kenya.

Clause 4 deals with the purposes for which the sisal fund must be devoted. Under section 9 (g) of the Principal Ordinance, at first sight one would imagine that the Committee would be able to devote funds to any service which, in the opinion of the Committee, is "calculated to promote the welfare of the sisal industry", but, in point of fact, they are unable to do so unless such service is likely to secure more the economic production of sisal fibre. As a service for that purpose would promote the welfare of the sisal industry, it is quite clear that the words "to promote the welfare of the sisal industry" are quite useless as they stand. To say the least of it, that section is ambiguous. Clause 4 of the Bill is to remedy

this ambiguity, and makes it quite clear that the Committee is empowered to devote funds to any other service which, in the opinion of the Committee, is calculated to promote the welfare of the sisal industry.

This Bill has been fully considered by the Kenya Sisal Growers Association and by the Sisal Industry Committee, both of which bodies are in favour of the measure.

THE HON. THE ATTORNEY GENERAL seconded.

THE HON. CONWAY HARVEY : Naturally, Your Excellency, I support the measure, but I should like to draw the attention of the hon. mover to the phraseology used at the beginning of clause. I suggest it is a point which should be taken into consideration during the committee stage. It says: "paragraph (g) of the Principal Ordinance is hereby amended". I think what was intended was "sub-section (g) of section 9 of the Principal Ordinance".

THE HON. THE ATTORNEY GENERAL : *Peccati!*

The question was put and carried.

THE COFFEE INDUSTRY (AMENDMENT) BILL.

THE HON. THE DIRECTOR OF AGRICULTURE : Your Excellency, I beg to move that the Coffee Industry (Amendment) Bill be read a second time.

Under the present Ordinance the Coffee Conference consists exclusively of delegates appointed by the licensed coffee planters. The effect of the amending Bill is that the Conference will consist of the delegates appointed by the licensed coffee planters, plus delegates appointed by organizations representing the trade interests. The amendment is a reversion to the parent Ordinance of 1932.

The two trade members of the Board have already full status on the Coffee Board, and this Bill gives full status to traders' delegates to the Coffee Conference, who can be present, speak and vote at the Conference in the same way as the planters' delegates. With the present constitution of the Coffee Board it is recognized that trade representation should be given full standing, not only on the Coffee Board but also at the Conference, and this Bill in consequence has the support of the Coffee Board of Kenya and the Coffee Trade Association of Kenya.

THE HON. THE TREASURER seconded.

THE HON. CONWAY HARVEY : Your Excellency, in supporting this Bill I wish to draw attention to a very curious printer's error which has prevailed in this Ordinance since the year 1932 when it was first introduced. Curiously enough, that printer's error was repeated in the consolidating Ordinance passed in 1933 or 1934, and it is of very great importance.

As you are aware, all the functions with which the Coffee Board is endowed by this measure are based on a conference held annually which appoints the Board. Section 3 of the Bill, which arranges the composition of the Conference, provides among other representations for three planters from the eastern areas of the country who "own, occupy or manage" coffee plantations in that area.

The error is this : In respect of the three planter representatives from the western area, it is stated that they must consist solely of planters "who own, occupy and manage" coffee plantations in that area. My suggestion, which can easily be adopted if you approve, when the Bill is considered by Council in Committee, is the substitution of the word "and" by "or" in connection with the planters from the western area. I have mentioned the matter to my hon. and learned friend the Attorney General, and I understand my proposal has his complete concurrence.

THE HON. THE ATTORNEY GENERAL : That, Sir, is entirely correct. The hon. member pointed this out to me, and I am not so sure that I am quite as sympathetic with the coffee industry, because they have taken something like two years to discover it, though it is a mistake. Actually, it makes good English, and there is no reason why it should not be in, but really it means the few people who own and manage estates. In the committee stage, if the House so desires, I shall be perfectly ready to submit the necessary amendment.

The question was put and carried.

THE FERRIES BILL.

THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT : Your Excellency, I beg to move the second reading of the Ferries Bill.

The phrasing of this Bill follows almost exactly the provisions of the Local Government (Municipalities) (Amendment) Ordinance passed by the Council last year, the necessary changes being made. In principle the two measures are identical, and therefore I need only explain to Council how this measure comes to be necessary to-day.

The Ordinance which was passed last year did three things. It empowered the Mombasa Municipality to establish and maintain ferries; it gave them power, if they wished to exercise it, to let out the ferries to contract rather than to run them departmentally; and thirdly, where a contract had been made, it authorized them to prohibit competition against the contractor for such areas and such periods of time as the Governor might approve.

During the course of the debate on that Bill a suggestion was made that the control and maintenance of the ferries which cross a waterway between two parts of a municipality was not really a local municipal function. I was glad, however, to read recently that the present Member for the Coast is not of that opinion, but shares the Government view that the control of ferries serving Mombasa Island is a proper municipal function.

The ferries to which this Bill particularly refers are the ferries known as Likoni and Mtongwe. Up to 1928 these and all other ferries up and down the coast and, indeed, all port activities, were controlled by Government direct. In that year the Harbours Management Ordinance was passed, and in it power was conferred on the Port Authority to maintain ferries. At the same session of Council the Local Government (Municipalities) Ordinance was also passed, and there, too, power was conferred on municipal authorities to maintain ferries, but as the Port Authority was established first and the Mombasa Municipality had a great many other pressing activities on its hands, it was decided that the Likoni and Mtongwe ferries should be handed over to the Port Authority.

It was not long before the Port Authority represented that they would like to be relieved of these ferries. It was in March, 1929, that the first suggestion to this effect was put to the Mombasa Municipal Board by the then Port Manager. Later, the proposal was supported by the Hon. the General Manager, by the Railway Advisory Council, and by the High Commissioner of Transport at the time, who represented that the running of these ferries was really not a suitable activity for the Port Authority, and asked that they might be relieved of the responsibility.

The regulation of the time of the services and the tariff of charges of ferries on a waterway between two parts of a municipality are matters which, to say the least, intimately concern the local municipal authority, and therefore negotiations were commenced with the Mombasa Municipal Board for them to take over these ferries. During the course of these negotiations it appeared to the Board that they might suffer some loss if they took over and managed the ferries departmentally. That point was not fully established, and there is

on my file a memorandum prepared by the late Local Government Inspector, who went carefully into the matter at the time, and showed that after all reasonable provision for replacements, etc., were met it was likely that a small margin of profit would ensue, even though the ferries were conducted departmentally.

Towards the end of 1933 the Mombasa Municipal Board, in preparing its estimates for the following year, made provision in those estimates for running the ferries, but they were not quite satisfied that they were fully empowered to take over all ferries, and they were also rather nervous of possible competition from the Railway. They therefore asked that they should be granted a monopoly if they took over the ferries. Drafts of two Bills to satisfy these doubts were discussed with the Board for a number of months.

In the meantime the Overseas Motor Transport Company was negotiating with the Board for the right to give a bus service in Mombasa, and they represented, as an illustration of how overheads might be saved, that if they were empowered to run the ferries as well as the bus service economies might be achieved. Consequently, in the draft Bills provision was made to empower the Board with authority to let out the ferries under contract.

With this provision the Bill was passed, but unfortunately the Mombasa Municipal Board has declined to exercise its powers. That refusal, coupled with the refusal by the Port Authority, has left only one course open; and that is that Government itself must maintain these ferries, since it is clear that the services must continue to be provided.

We can do that in one of two ways—either departmentally or by contract. Since local government was established in Mombasa there has been a curtailment in the resources and staff of the Public Works Department, and, as Your Excellency has remarked from the chair, it has always been the policy of the Unofficial Members of this Council that as much public work as possible should be done by contract rather than departmentally, and Government, wherever possible, has followed that policy and put it into practice. Therefore, when the Central Roads and Traffic Board considered how to deal with these ferries and an application was received from the Overseas Motor Transport Co. that Government should lease the ferries to them direct, they advised Government that if the Mombasa Municipal Board persisted in its refusal to take over the ferries, a contract should be entered into with this company.

Negotiations were reopened with the Mombasa Board, who persisted in their refusal, and therefore we commenced parhousers with the company in question. Only when it became clear that they required an exclusive licence from Government, as they would have done from the Mombasa Board, did this measure come to be required. It might be said that as the less is contained in the greater, and as we have already empowered a subsidiary authority to grant an exclusive licence to a company to operate the ferries, this Bill is unnecessary. The only reason why the Bill is brought forward is because in every case where an exclusive licence for any purpose has been proposed the specific sanction of this Council has been invited.

We as a Government feel that we are being drawn into a local activity into which we do not wish to enter, but as the local authority has refused to undertake this service we are obliged to do so, and we feel we should be specifically empowered by this Council to manage the ferries in the manner we consider most economical. Even at this late stage, or even after the Bill is passed, Government hopes that the Mombasa Municipal Board will exercise the powers granted them and take over these ferries. At the present time, the position is that the Railway, acting as agents for Government, are operating the ferries, but they only agreed to do so for a very short period of time, and therefore the matter brooks no delay.

THE HON. T. D. H. BRUCE seconded.

MAJOR THE HON. E. S. (MUNGAN: Your Excellency, I must compliment my hon. friend on the accustomed skill with which he has confused the issue and disguised the purpose of this Bill. The purpose of the Bill, I may say, is not that shown as the "objects and reasons" of the Bill. The primary purpose of the Bill is to disguise the fact that the ferries— which were originally provided, as I understand, out of public moneys for the convenience of the people at the coast and were entrusted to the operation of the Railway, and the funds of which have, in fact, been pillaged by the Railway and treated as revenue to the point where practically no ferries remain—the purpose of the Bill is a very general purpose: to pass the buck, as it is vulgarly called in other circles.

There is a confusing of three distinct issues. The first issue is, who is to provide the funds that have been taken away and used as revenue, quite improperly, by the operating medium; secondly, there is the problem of maintaining these ferries in proper running condition; and thirdly, there is the problem of operating the ferries.

The Municipal Council, Committee, or whatever it is called, of Mombasa—which, in practice, I understand is one of the many *aliases* under which my hon. friend opposite disguises himself (laughter)—very properly, in my opinion, refused to assume the responsibility of replacing at the cost of Mombasa ratepayers a large capital sum of money, in the vicinity of £5,000, which had been originally provided for their use at the public expense and quite wrongly appropriated as general revenue by the parties who were entrusted with the operation of the ferries.

I think it is very important that these three points should be kept quite clear. There is no doubt whatsoever that any municipal council, if it were a free agent, would naturally be prepared to operate the ferries and very likely maintain them if they could contract out the maintenance of the ferries, which is quite probably what they would do, by using the many resources there are at the Port for dealing with sea-going craft. Why the maintenance of the ferries should be allocated to a body running road-going craft, to maintain piers, floats, and boats, and you have also to have slipways and special facilities which exist at the Port, I do not know. The actual operation, as far as my experience of ferries goes, merely consists of putting one of our darker brethren at either end and leaving them to wrangle for hours with fellow-citizens as to whether five hens do in fact represent one load or two! (Laughter.)

I watched the operation of a ferry for a couple of hours recently, and timed them, and I can assure you, Sir, and my hon. friends that wrangling went on for ten minutes by my watch on that particular issue, as to whether one unfortunate gentleman bringing some attenuated chickens to sell in Mombasa, five of them, did in fact constitute one or two loads. (Laughter.)

I am sure the Municipal Council, Committee, or whatever they are called, would gladly take the ferries over with their not very onerous operation of deciding the chicken issue, and put a gentleman on either side to collect the fees scheduled in the Bill, or the customary fees, at either end of the ferry. It is only because of the capital amounts involved, which have been taken by the public to spend as public money, and which therefore ought to be replaced by the public out of the public moneys before this particular issue is settled, that they do not.

It sounds very well to talk about private enterprise, and we are all in favour of entrusting everything possible to private enterprise if it does not involve the establishment of some monopolistic privilege which ultimately is to be recovered at great cost to the public, and to suggest that this is following

the general principle which most of us are in favour of is entirely misleading, because what you are really proposing to-day is to hand over to a third party a monopoly of means of transport over a link in the main highways of the country.

It has been suggested that we are opposed to this principle, that we never raised any objection or would not reasonably raise any objection to the franchises that have already been given quasi public-private bodies like the bus company. The answer is, of course, that nobody sensible would raise any objections to the kind of contract this municipality has made with that company of any monopolistic privilege of moving cars along the road. Buses, for example, go by my house to town, but I am not compelled to get into a bus to get to town. I can ride a donkey or a cart or anything else, and come in quite regardless of their facilities offered. But in this particular case the only alternative to using the ferries is to swim! It would hardly be suggested that the ordinary passenger travelling along the road should be reduced to the alternative of accepting the monopolistic privilege or swimming? Therefore there is no comparison whatsoever about it.

I, personally, and speaking for my coast colleagues in general, am entirely opposed to the giving of any monopoly in this matter. It is the monopolistic privilege involved to which we are taking the gravest exception, and if a franchise is going to be given the use of the existing more or less derelict ferries, I see no objection in the world why they should not be given for a period of ten, twenty years, anything you like, subject always to the proviso that some other body can at any time come in and exercise similar rights and produce competitive services. It is all very well to say that the principle of goodwill is going to be excluded from this contract, but I can assure you, speaking from some forty years experience of business, it would be practically impossible to draft anything any reasonable body would accept which does in fact exclude the principle of goodwill. It would mean scheduling all the rates of the depreciation of all materials used in the operation, which, of course, is absurd, and I cannot believe that any company could possibly enter into such a contract unless the principle of goodwill—in other words, remuneration for something over and above the physical assets—were incorporated in the contract. It would be quite ridiculous. On the one hand, you are expending a certain amount of money, and will have to expend very much greater sums of money, in bringing about increased production all over the coast areas on what are euphemistically described in these circles as "cash crops", whereas to many of the natives they are quite properly and accurately known as "tax crops". If you are going to protect an extension of the production of these products, that these

natives do not want to produce, and propose taking away from them, it is only reasonable that you should prevent a third party from deriving a financial benefit.

I think also, if this Bill is going to be drummed through, as it probably will be, and it is of course already well known that the purpose of this Bill is to make it possible to complete a contract the main provisions of which have already been agreed, and the idea of putting it out to competition is mere eye-wash—if this Bill is going to be drummed through, then a similar right of monopoly should be included to be given to anybody that provides an alternative and better method of crossing these creeks. I refer, for example, to the Nyali Bridge. In the case of the bridge some benevolent gentlemen provided a sum of money amounting to something like £150,000, entirely at their own risk, to provide a more convenient method of crossing one creek as against another creek which separates the Island of Mombasa from its own extensions, and if it is proposed to give a monopoly to a body that does not even provide in the first instance the capital sums involved, then quite clearly a similar monopoly in common equity should be given to a party who has provided very much greater facilities.

I propose to oppose this Bill in every possible way for the reasons I have given.

THE HON. J. B. PANDYA: Your Excellency, I am also opposed to this Bill. I am surprised, Sir, that the Government has brought up this Bill in spite of the opposition from the people at the coast which we had advanced at the time we discussed the provisions of the similar Bill conferring powers on the Municipality to run the ferries. At that time, Sir, we first thought that the Government was going to consider sympathetically the point of view which we had advanced, but ultimately we found that they had to steam-roller the Bill through against the united opposition of the coast people, and in that the Arab Elected and even the Nominated Member representing Arab interests was with us. At this stage the reason why this Bill has been brought before this House is that the Municipality of Mombasa refuses to be the scapegoat of the Government in regard to giving a monopoly under their name, and therefore it has come back to the Government on the same issue.

The first main issue on which we differ is that the hon. member has said that it is not the Government responsibility to run these ferries. That is the main issue which we cannot accept. We at the coast definitely believe and are of the opinion that this is entirely the responsibility of the Government. The issue is this: that these ferries about which we

are talking this morning form the main vital link between the communications of Mombasa Island and the southern coast and also Tanganyika, and therefore it is the responsibility of the Government to maintain this trunk road system of communications in the country. It has been always accepted as such a responsibility because we find that on the northern side the Government has provided the Mueupa causeway, and also in the country similar facilities have been provided in the main trunk road system, and there is no reason why on this side of the island the Government should refuse to accept that responsibility. It is generally assumed that these ferries form a part of the responsibility of the Municipality of Mombasa. I hold no brief on behalf of the Municipality, but I should like to submit that it is rather unfair that a small island population should be asked to bear the cost of and the responsibility of the main trunk road systems, and particularly when we find the finances of Mombasa Municipality in the state they are, with the population already overtaxed in regard to rates.

It is not quite right to assume that the Municipality as such is interested in these ferries, because it forms a link between a portion of one part of the Municipality to the other part. If we limit it to the municipal requirements, I am sure that for many years it is not necessary at all for the population to go on the other side of the ferry for residential purposes, and at the present moment that side of the township does not pay any rates.

The question of free ferries has been mentioned, but I do not think that that forms part of the discussion on the vital issue which we are discussing this morning. Free ferries can come at any time when Government decides to give a subsidy in regard to these communications at the Coast, but it is obvious, Sir, why the Mombasa Municipality would not accept the responsibility of running these ferries because the plant has reached a stage where it has ceased to be of any value, and whoever is trying to run the ferries will have to provide capital expenditure for this plant.

I entirely agree with the hon. Member for the Coast when he says it is a moral responsibility of the Government in this particular instance that they should provide the replacement of the plant for which there was no provision made by way of a depreciation fund, and when the hon. mover says that the Port Authorities refuse to have anything to do with this kind of service, I think it is a little unfair that such an attitude should be taken by the Port Authorities. If we limit it really to the principal issue, then why should the Railway assume the responsibility of the Port at all? The Port Office, which was the Government department, has been acquired by the Railway, and therefore it is reasonable to expect that if the

Railway acquires that department it should be made to run the activities which properly belong to that department; and this is one of the things which was mainly and entirely the responsibility of the Port Office, and it cannot be reasonably argued that this is not a part of the activities of the Port Authorities, whoever they may be.

The Government's opinion was that the proper authority in this instance to run the ferries was the Municipality. I think in that case, in view of the fact that the finances of Mombasa Municipality are in the state in which we find them to-day, they should have offered assistance from the public revenue, either by way of loan or otherwise, of the capital expenditure which might be necessary for the replacement of the ferries. Apart from that, Sir, in my opinion, as it is a part of the main trunk road system, 50 per cent of the running expenses should also be given to the Municipality, and if this was done I am quite sure the Municipality would have accepted; but in view of the attitude which the Government has taken, it would be very unfair to the ratepayers if they had accepted the responsibility, and I do not think anyone can blame the Municipality for refusing to take this burden. There is another ground on which I think that the Government should have considered this particular point of view in regard to these communications at the coast. With the exception of the Mueupa Causeway, which was mainly on to a great extent a necessity of the Railway, there is very little capital expenditure which has been undertaken at the coast by the Government in regard to road systems and in comparison particularly to the large amount of capital money invested in the road systems up-country, and is it, Sir, unfair to request Government that a case like this, which involves only a small amount of money, should be considered more sympathetically and generously. It is contended, Sir, that the P.W.D. is not technically staffed to run these ferries in the proper manner, but we have not demanded that these ferries must be run by the P.W.D. The principal issue which we oppose is based on the fact that because of the want or necessity of a small amount of money and capital we are transferring these services into the control of a third party, and if it was found that the ferries could be more efficiently run by an outside agency, I for one would have no objection whatsoever to giving such a contract on a yearly basis for running these ferries by an outside agency.

I think, Sir, it has been mentioned here about a contract being given to a party which is the bus company. I think it should be made clear as far as I am concerned that, in fairness to the company, this principle to which we are opposed has

nothing to do with the contract itself. The company is running a business which is to the public satisfaction, and it is not expected that it would be anything otherwise when they run the ferries, and there are so many other agencies also who might tender. The real issue here is that the main link which forms part of the inter-territorial system of communications, namely to Tanganyika, is being given to the control of a third party. It is all the more unfortunate that while in England and other countries we find that central road system is usually in the hands of the Government, that in this country we are trying to transfer to the control of a private company the vital link between the two parts of the Island, and if we go further into the question of figures we find that the amount required for replacement of the plant from time to time would not be more than £5,000, and this £5,000 is not required immediately. It will only be required in small amounts as and when this plant requires replacement, and I think it is unbelievable that the Government of this country, if they really desire, could not provide the funds for this service. Only in this session the generosity of the Government resulted in the provision of very large amounts of money, for perhaps very good reasons, but here is an instance in which funds are required for the convenience of non-natives and even the native agriculturists. This service is more I should say to the advantage and for the benefit of the native agriculturist on the other side of the Island, and here is an instance in which a small amount of money is required for the benefit of the native agriculturist, but the Government's generosity and sympathy would not rise to the extent of a small amount in this particular instance, which is very deplorable.

Coming to the financial side of the matter, I think the taxpayer is no better off nor efficiently served by the transfer of the service to private enterprise. The private company who will provide the capital for the replacement of the plant is not a philanthropic institution. It will never do it for charitable purposes, but naturally they will be expected to cover the depreciation plus their profit in the running of the ferries. Therefore it has got to be paid for, and then again, when the ferries have to be acquired, which will ultimately have to be done, by the public authorities, the Government will have to pay the full amount which will be required by the Company. Where then, Sir, is there any benefit to anybody in this instance in transferring this public right to a private company, even in regard to finance? In my opinion, Sir, there is not the slightest case made out, either morally or legally or to the benefit of the taxpayers in regard to the transfer of this vital service to a private enterprise, and I appeal to the

Government to look to this question and take a more reasonable sympathetic and generous attitude, which should conform to their desire to serve the people at the coast.

Council adjourned for the usual interval.

On resuming:

THE HON. F. A. BEMISTER: Your Excellency, at the outset I would put my case in this way: that I cannot understand for what reason or how it can be reasoned that this Bill is necessary.

At the present moment we have a Bill which enables the Municipality to carry out exactly the same proposals, the same functions, as are outlined in this Bill. And what is the excuse given by the hon. the Commissioner for Local Government for the present alteration and production of this document? It is that (1) the Railway do not wish to carry on the operation of the ferries, and (2) that the Municipality do not wish to carry them on. But, Sir, would it not be fair to examine exactly why these refusals have been given, and if refusals have been given are they justified? Did Government ever ask the Railway to take over the ferries? Is it not a fact that the ferry operations were included in the Port Department activities which the Railway, in taking over the harbour, demanded should be included in their activities? The hon. member the General Manager shakes his head. I would ask him to kindly read the debates at that time which actually took place in Mombasa.

The Railway, in their activities during the time of their controlling the ferries, have gone further to ignore public opinion at the coast than anyone else has ever done or any department has ever done with any operation of Government in the Colony. The Mtongwe ferry, which used to run from the Old Harbour steps, was a most convenient place for natives to carry their produce across. Without consulting anybody, neither the natives, nor anybody in Mombasa, they have altered the position of the ferry and you, Sir, have received petitions out of number from people using that ferry declaring that at the present moment the situation on the Mombasa side of the Mtongwe ferry is practically unworkable for the natives. The reason for that alteration was merely that natives were creating a right of way through the Port area between 6 a.m. and 6 p.m.; as a matter of fact, at a time when everybody can enter the harbour.

Having done this, Sir, the Railway wishes to hand it over to somebody else because difficulties have been created and difficulties are always being complained of. Continually letters

are being sent to the Port Manager asking him for relief in this regard. However, the Railway—or the Port Department—I will call it—the Port Department as you see refuses to operate these ferries, and they did persuade Government, to whom they are really subservient, to transfer the activities to the Municipal Board and to entice the Board to accept them and granted them, in the Bill now on the Statute book, the privilege of leasing the ferries.

What was the reason of that? The Municipal Board had they wished at any time to lease any of their ferries would have applied to you for power to have done so. But did they apply to you? You first of all tried to force on to the Municipality a derelict concern which obviously would force them to go to somebody else to help them out with the main finances. In the introduction of the Bill by the hon. the Commissioner he mentioned that the local government auditor—who I think it will be agreed is one of the most conservative auditors and financial experts who ever visited this country—went into the figures and did prove that on the basis of municipal finance—I want you to think of that—there was a profit.

What is the different between municipal and government finance? It is a very big difference. Municipal finance has to bear customs duty on all supplies; municipal operations have to carry third party insurance risks. Now, Sir, with all these extra expenses added into the cost, the local government auditor proved that there was a profit. He also included, as you stated, redemption charges, replacement charges, for the craft. Is not the picture quite plain to you, Sir, that the Government, not having to pay these charges, ignoring the replacements, taking the gross returns into their own coffers, have secured enough revenue out of the people, the natives particularly of the coast, sufficient to replace these craft and make the ramps in a proper condition.

If the Government were only to disgorge this amount even, I believe, by way of a loan—and I think the hon. Treasurer mentioned yesterday that he had some £12,000 knocking around that he could not use (laughter)—if they were to say to the Municipality at Mombasa "We see your difficulty, we see how the people know too much that we cannot pass the buck, we are willing now to disgorge at a nominal rate of interest the money which you have already paid us and which we have spent in the betterment of the country, and the ferries being in proper condition, will you take them over?" That would be fair, and I feel sure the Municipality would favourably consider it.

I would like, Sir, for you to examine the position of Government and of the Municipality under these conditions. It must be remembered that the Municipality are all your

nominees, they are part of the family party. Yet these men have refused to take over this responsibility. Why, Sir? Because they know that the justice of the case is so clear, that the Government have had the money which they should return. And, before they hand over the operation of the ferries, the ferries should be put into first class condition; so that they can be handed over as a going concern, and then leave the Municipality to lease them under whatever conditions they like to enter into an agreement. They would then be standing on their own feet and not, as they are at the present moment, and as the last Bill indicated, that they have no money and must go to a third party with the proposition: "You can take it over on your own terms provided you put the ferries into proper order because we have no money to do it with."

It would be a one-sided agreement, and it is obvious that none of your nominees would accept such a privilege as to land Mombasa citizens with a £5,000 to £6,000 debt.

VEN. ARCHDEACON THE HON. G. BURNS: Your Excellency, I should like to preface my remarks by saying that, in my opinion, there is no question about it, the authority that should be running the ferries is the Municipality of Mombasa.

With regard to the question of main roads or trunk roads leading into Mombasa, there is a point which I think may perhaps have been forgotten. Every trunk road, and every mile of a trunk road, must cost something for its upkeep. Therefore, to expect that these two miles, or whatever the distance may be, from Likoni on the one side of Mombasa Island to the other should be free of charge, is not a question that anyone will bring in at the present moment.

The question which I should very much like the hon. the Commissioner for Local Government to give some information about is whether accounts have been kept of the ferries as they have been running for the last three years to show if they have been a losing or a profitable proposition? We have evidently no evidence to show whether they have been running at a loss or whether they have been a money making proposition.

Apart from that altogether, the reason why I am speaking with regard to this matter is on account of the natives who are living on the mainland and who have to bring their produce into Mombasa for sale. A native may start from his home with his *kikapu* in his hands containing a very small amount of produce which he hopes to sell. When he comes to the ferry, he will have to pay 6 cents for himself, 6 cents for his

litapu, whatever the amount of produce may be in it. On his return journey he has to pay 6 cents again for himself. That is 18 cents out of the little amount of produce which he brings into the market for sale, leaving him going home looking at the few cents in his hand and wondering whether the world is well.

If we give the running of these ferries to private enterprise, no matter who they may be, if that is going to prevent the possibility in the future of reconsideration with regard to the tariffs charged natives on the ferries, who are dependent on them, if a monopoly is given so that three or four natives cannot combine together to run their own boat, if that happens I think there will unquestionably be very real hardship on the natives living on the mainland who have to bring their produce into the market.

I would urge very seriously that all due consideration be given to that aspect of the question, whether it is the Municipality, Government, Railway, or a bus service which is going to run the ferries, for the native aspect is very real.

I have lived at the coast for a number of years in close proximity to the ferry leading from Freretown to the Island, and I know something of the numbers that pass over from the mainland to the Island. If these people have to pay without any possibility of a reduction in the fares charged for them and their little bit of produce, I do hope Government will seriously consider that aspect of it when they are dealing with this Bill.

The other aspects of the matter people more able than I have dealt with, but from the native point of view, if a monopoly of the ferries is given and all ferries are stopped except those which are given permission by Government to run, it is going to be in my opinion a very real hardship on natives who have to bring their little bit of produce into Mombasa for sale.

MAJOR THE HON. P. W. CAVENDISH-BRENTNCH: Your Excellency, this question of communication between Mombasa and the mainland is a very vexed one and has come before this House on several occasions. Elected members who represent upcountry constituencies do not as a rule like to interfere in matters which concern the coast and Mombasa. At the same time, this Bill does raise certain questions which in turn raise matters of principle.

The hon. mover in moving the second reading of the Bill started by saying that the principles contained in this Bill were identical with the principles contained in the Bill passed

by the Council last year. With all due respect to the hon. member, I submit there is a very great difference of principle involved.

Several members who have spoken have said that in their opinion the proper authority to deal with these ferries is Mombasa Municipality, and I entirely agree with them; I think we all agree with them. Last year a Bill was passed giving powers to the Municipality to either run the ferries themselves or to hand them out to contract to some third party. I think that at the time we passed that legislation we all realized that there was a third party in view in the shape of the company which is running the bus services in Nairobi and Mombasa. However, the Bill passed last year did give the powers to decide to the Municipal Board. That Council incidentally, as I believe I am right in saying, since that date has been given powers to deal with the control of all ferry services running across the creeks.

This Bill proposes to give more or less the same powers to the Director of Public Works. He is to have the power more or less regardless of the wishes of the Municipality, to give these ferries out to contract and to make terms which he considers wise with the contracting company. That is a rather a different story.

First and foremost I should like to say that we feel that if this Bill is to go through and if that power is given the Director of Public Works, the terms of any contract entered into, the details and conditions, must be subject to the approval of the Central Roads and Traffic Board, so that the country can have some control, some say, in the arrangements made.

I believe the history of these ferries dates back two or three years. It is an undoubted fact, as in many other instances, that when Government runs these services or services like them, instead of providing annually for depreciation and repairs they take all the profits made and use them in general revenue, and when the time comes for replacement to be made a large sum has to be found in one year.

Part of the difficulty which is facing us now is the fact that the time has come when a large sum has to be found to replace these ferries. Knowing that, when the bus company discussed the question of a bus service in Mombasa I believe their original letters will show that they did not think a bus service by itself in Mombasa at the present time was likely to be an economic unit, and they asked leave to tender both for the bus and ferry services combined, with the idea of running the ferries in conjunction with their bus service.

Their idea, I believe, was to purchase new plant, up-to-date that the crossings should be made very much quicker, and to run the ferries to a timetable with the buses.

Government, I believe, was under no moral obligation, but I believe that was originally the understanding made, and the understanding was that this arrangement should be entered into with the Municipality. The Municipality then got frightened, partly because they were afraid they might be led to some expenditure, and partly because there was talk of free ferries. I suggest that in discussing this Bill, which is merely an enabling Bill, the question of the advisability or otherwise of free ferries does not enter. That is a question which should be raised as a separate issue, and I do not think it affects this Bill in any way.

We who represent uncountryside constituencies are interested to the extent that we realize that what has been referred to as a vital link—that is, the communications between the mainland and Mombasa itself—is in a very bad state of repair and is working very unsatisfactorily at the present time. We therefore feel that everything would be to the good if some arrangement could be made within the near future whereby that link in those communications could be improved. We do not propose to oppose this Bill, provided we can get an assurance that the terms and conditions will be the subject of discussion by the Central Roads and Traffic Board and subject to their approval, and on that Board there are representatives of the coast, representatives of native interests, and of all parties interested in this matter.

I think, Sir, that is all I have to say on this Bill, except that I would like to add one thing: that is, the question of the possibility of a goodwill clause. I believe that a draft agreement is in existence which might be the subject of confirmation between the bus company and the Director of Public Works. We feel that when you hand over a service to a company with a clause under which at the end of a period Government may wish to reacquire that service, there must be provision made for adequate compensation. By adequate compensation we consider the value of the assets written down to what as a running concern is probably fair, but when it comes to the question of goodwill we submit that goodwill should really be paid for the creation of something which did not exist before. You cannot say that the passengers and traffic going across these ferries form something that did not exist before. It does exist, and surely it is merely taking over a service which has been created. We therefore trust that when Government enters into any such agreement it will be very careful as to the phrasing of this goodwill clause.

Finally, as regards monopolies. We do not think we want to bring the question of Nyali Bridge into this Bill, but at the same time we would point out that the question of getting people to put up large sums of money for erecting bridges or providing ferries does seem that there ought to be a fairly general and accepted principle; that it would seem rather unfair to give a complete monopoly one side of the island and let people be handicapped who put up large sums of money on the other side of the island. (Hear, hear.)

LT.-COL. THE HON. J. G. KIRKWOOD: I rise with some diffidence this morning for two reasons. The last speaker has inferred correctly that uncountryside members are rather hesitant about interfering with anything that affects the coast. I do not feel any great hesitation really, being an uncountryside member, and I hope anything I have to say will show the people of the coast that we are out to help them when possible. The second reason is that I understand that during my absence this morning I was severely criticized and attacked by the hon. and learned Attorney General. But I will have something to say about that in a more proper place at a later stage of this session.

I feel we have got to consider seriously handing over any public highway or dealing with a Bill which affects it. I would be in favour of free ferries if it were possible to run them. This Bill, as I understand it, is an enabling Bill, which enables the Director of Public Works to hand over his responsibility to somebody else. That is what has been done on several occasions during recent years as regards these particular ferries. I agree that the Mombasa Municipality appears to me to be the principal authority and the best authority to operate these ferries, but for financial reasons they are not prepared to take it on. I also understand that it is clearly in the offing that the company running the bus services now in Mombasa are prepared to enter into an agreement with Government to operate the ferries on details to be agreed on.

I suggest that this Bill should not go beyond its second reading, but should go to a select committee, and should then be referred to the Central Roads and Traffic Board, a very representative Board which has the Director of Public Works and several members of this Council as members. They would be in a position then to call the representatives of the bus company and find out what agreement they are prepared to enter into. If the reference to the Board could be embodied in the Bill, we would know a great deal more about the potentialities of the Bill than we know now.

We do not know whether there has been a profit or loss on the operation of the ferries, whether the Public Works Department have got their rake-off and the profit has gone into the funds of the Department or general revenue. The same remarks applies to the Kenya and Uganda Railways when they operated the ferries.

To ask anybody to take over that derelict service is unreasonable, and if there are profits that have gone into general revenue that should be discouraged. We shall have to be careful not to create a monopoly or even a goodwill by agreeing, if the company is prepared to take a ten years' lease, let us say, that there shall be no goodwill but that they shall be compensated should Government interfere with the contract during the term that it runs. Otherwise Government will be liable to be mulcted in a very considerable sum of money if they create a goodwill, which they are liable to do with increased traffic and profit. And it costs a great deal more to take a concern back during the term of the agreement than if there is no goodwill clause. In previous discussions outside the Council I have suggested that goodwill was a dangerous word to use and compensation is the better one.

I should also like to hear what the hon. the Director of Public Works thinks of the matter, and how it will affect the producers at the coast. I have no doubt he can also give Your Excellency words of wisdom as to what should be done with the producers—native and European—because it is a very serious matter to them if they have to buy an uneconomical ferry service to get their produce to Mombasa, which is their potential market.

I hope, Sir, that my suggestion that the Bill be referred to the Central Roads and Traffic Board will be agreed to and the Bill not read a third time this session of Council.

MAJOR THE HON. SIR ROBERT SHAW: Your Excellency, I only rise for one moment to ask a question about a point which I think it worth considering and that is, I hope the hon. mover will be able to assure us that Government has in fact got authority to enter into a contract with a third party which involves a monopoly of what are in fact inter-territorial waters and the main highways of the town.

THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: Your Excellency, when I said that the principle of this Bill is identical with that of the Local Government (Municipalities) (Amendment) Ordinance, 1935, I meant that the principle of this Bill was the conferring of a power to lease a service out to an exclusive licensee. That was the main principle of the previous Bill and though, of

course, the authority which will grant the licence is changed in this Bill, I suggest that the main principles of the Bill are the same.

I entirely agree with the hon. Member for Nairobi North that the question of free ferries does not really enter into the debate on this Bill and should be discussed as an entirely separate question. However, Sir, that apparently is a very difficult thing to do and various members, although in my judgment the question of free ferries has entirely coloured their views, have been put to various expedients to explain their opposition to this Bill on other grounds.

The cycle of ideas in connection with this question, Sir, was that, when the transfer of the ferries from the Railways to the Mombasa Municipal Authority was first mooted, as I endeavoured to explain, the financial reflection of that transfer on the municipal revenues was gone into. That examination did not proceed to its final conclusion because there intervened this suggestion of handing over the ferries, of letting the ferries out to contract. The Bill last year, at the stage at which it was brought in, was brought in with the concurrence of the Mombasa Authority and indeed at their request, and the reason why the Mombasa Board has not exercised that authority has been variously stated by several members and it is somewhat difficult, Sir, to really know who is quite who in this matter, because none of the reasons given are the reasons actually given by the Board itself.

Now the hon. Member for the Coast suggests or rather, states emphatically, that he is thoroughly opposed to the granting of a monopoly in connection with the ferry service. He denied any analogy between the ferry service and the bus service because the former left no alternative; he said that, whereas in the case of the bus service you could use your own car, if you did not want to go by the ferry the only alternative was to swim. Now, Sir, I am well aware that the Likoni Creek is hardly comparable to the Hellespont but I have no doubt that there are some romantically inclined young Leanders in Mombasa who would prefer to swim across rather than to take the ferry for reasons of their own, but I am quite sure that so grim a realist as my hon. friend opposite would undoubtedly provide himself with his own private boat! There would be nothing in this Bill to prevent him doing so.

In point of fact this has always been a monopoly. It was run as a monopoly effectively by the Government and by the Railway and curiously enough the authority we had to hand over to has made it an initial condition that they too must have a monopoly.

MAJOR THE HON. E. S. GROGAN: Is that correct?

THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: I said, Sir, that it has been run effectively as a monopoly and that the Mombasa Board had made it a condition in the negotiations for their taking over, that they should be granted a monopoly of the service. Certain members have used the phrase "handing over this ferry to a private company" as though the suggestion was that all control should be released on the part of Government. Of course there is no shadow of truth or accuracy in that suggestion. The proposal is that Government should be authorized to let it out to contract on certain terms and one imagines and feels sure that, when those terms are discussed, the question of control of tariffs and control of regulation of the service will be two of the prime things to be considered.

I have no hesitation whatever in assuring the hon. Member for Nairobi North that, if the Bill is passed and tenders put out, the terms of the tenders and the agreement will be put before the Central Roads and Traffic Board. He will also no doubt have noticed that the powers of the Director are subject to the approval of the Governor and he is also aware that there is an Ordinance—the Central Roads and Traffic Ordinance—which sets out the duties of the Central Board and establishes that Board as Your Excellency's advisers on all matters relating to roads and traffic, so that this matter would automatically go to that Board for advice.

Your Excellency, it does not often happen that my hon. friend, Mr. Pandya, changes his views within a short time or allows one any debating point against him, but I did notice to-day, Sir, that he stated and I thought with emphasis that free ferries were not part of the vital issue. But when the other Bill was under discussion he saw no objection to the ferries being handed over to the Municipality. He said:—

"I should not object to that, because so far as Mombasa is concerned the Municipal Board is the road authority there. But we are opposed to the scheme mentioned in the Bill, that the Mombasa Municipality should give an exclusive licence to some firm to treat the ferry as a business concern. If that happens, then the progressive realization of free ferry services is very difficult to obtain, and from this point of view I think a select committee on the Bill can, in my opinion, change the Bill so that it will not allow the Municipality to issue an exclusive licence for any ferry."

So, Sir, that rather confirmed my feeling that the opposition to this Bill expressed here is really grounded on the same opinions which were expressed on the previous measure. He suggested, Sir, that the ferry, being a part of the main trunk road, should be maintained entirely by Government and that

it was the duty of the Government to equip it and take responsibility to its maintenance. I am sure he is fully aware of the principles of contribution between Government and Municipalities which have been set out in the Local Government (Municipalities) Ordinance, 1928, and have been in operation for eight years. He knows, therefore, Sir, that one of these principles is that the Municipal authorities assume control of main trunk roads within their municipal areas and that Government in its financial relations towards them accepts the half cost of construction and reconstruction and maintenance of main trunk roads in that area. Government has no less than two and a half years ago already informed the Municipality that, if in the running of this ferry any loss was incurred, it would be perfectly ready to put into practice those principles and to share the half of the amount of that loss. So therefore we have already adopted the point of view which the hon. member wished to make, but I think perhaps in losing sight of those general principles he was incorrect in suggesting that it was the duty of Government to endow this ferry with a completely new service. He referred to the cause-way across Macupa and cited that as an instance of where Government had borne the whole cost. That was constructed by Mombasa before the Board was established, but I have no doubt he would be reluctant to suggest we should make the arrangement retrospective and claim half of its cost from the Municipality.

He suggested that Government had been niggardly in capital expenditure on roads at the coast and I am sure, because I have reason to believe that he travels the roads frequently, he has not forgotten that, just prior to the establishment of the Mombasa Municipality, Government spent no less than £28,000 on Kilindini Road. These items amount to a considerable amount of money and were the subject of a grant from the Central Government's revenue to the local people there, and I cannot think there is any merit in the suggestion that, because that action was taken when the roads were the sole responsibility of Government, it should be used as a precedent for similar action now when other arrangements have been made with local authorities.

The Ven. Archdeacon Burns asked whether accurate accounts were kept and what the financial position is at the moment of the ferry service. I am afraid that, as those accounts are Port Accounts, I am not able to answer that question at the present time. He further expressed the hope that the tariffs of the ferries if an exclusive licence were given would be subject to control, and I can assure him that that will be one of the essential features of any contract.

As I said in opening, Government does not wish to be forced into handling this local matter. It has given power to the Municipal Board for them to run the ferries themselves or to let them out to contract. If it is now seen that the running of the ferries by themselves is preferable and they wish to return to the position of the examination of the finances of the ferries, then, Sir, I devoutly hope they will study that position and put up their proposals in that regard and I have no doubt Government will consider those proposals sympathetically and in the light of the principles to which I have referred specifically.

The hon. Member for the Coast, I think, suggested, Sir, that there was a definite commitment to the Kenya Bus Company, and I must, of course, emphatically state that there is no commitment whatever.

MAJOR THE HON. T. S. GROGAN: I did not.

THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: I am sorry. I must have heard him wrong. So that point does not arise, Sir.

The question of the second reading of the Ferries Bill was put and carried.

CONTROL OF FUGITIVE BELLIGERENTS BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move the second reading of a Bill to regulate the control of belligerents who during the neutrality of the Colony have taken refuge therein.

As hon. members realize the necessity for this Bill has only arisen within recent months. The moment it was found that a war was raging on our borders I rushed to the books of international law and looked up to see what would happen in the event of fugitives coming into Kenya and as one would expect the books were particularly silent on this particular point using all sorts of vague phrases such as "it is customary" etc., and another point is particularly interesting because although in 1929 there was a convention drawn up at considerable length by most of the civilized nations of the world they carefully excluded any mention of prisoners detained in a neutral country and only dealt with prisoners between the two belligerents. My advice to Government was to go on doing the right thing and eventually if necessary at the end of the war pass a validating ordinance. Unfortunately incidents have occurred in the camps and it becomes necessary to validate the incarceration of these people forthwith and this Bill is designed to give the necessary authority to deal with future belligerents who come over our border.

There is nothing of particular interest in the Bill. The principal clauses deal with the right to disarm belligerents and the right to see that no internee leaves to resume hostilities. That of course is particularly important because you may get soldiers coming over and unless they are interned and prevented from resuming hostilities they would be getting us into trouble for having permitted them to pass through Kenya, so that has to be guarded against, or we would find ourselves getting involved with the other side coming over into Kenya to prevent them coming out flanking them. There is the necessary power to control and establish camps. We were advised from the Colonial Office that this Bill should be based on the Prisoners of War Convention I mentioned of 1929 and the various details that occur in that Convention with regard to clothing, housing and sanitary arrangements appear in this Bill. It also provides for the employment of prisoners and that they shall be paid at a rate corresponding to that paid to ordinary persons doing similar work, but if they were working in connection with the camp they do not get paid. If Government wanted to use them and they were willing to work on the roads they would be paid for such work.

The most important section, from this Colony's point of view, which I commend to hon. members is section 24 which simply validates all acts of whatever kind which have been done with regard to the incarceration of these people in the past.

There is one point I would like to clear up with regard to the objects and reasons. It is not at the moment clear who is going to pay at the end of the war and I cannot find that set out very clearly in any convention I have been able to see. It is hoped—I say no more—that we will be able to recover the money from the parties who should pay at the termination of hostilities, but I can give you no authority either legally or a Convention under which we can definitely claim it in a court of law.

THE HON. T. D. H. BRUCK seconded.

MAJOR THE HON. F. W. CAVENDISH-BENTINCK: Your Excellency, European Elected Members support this Bill which it is obviously necessary to pass. I would only like to ask one question with reference to the last point referred to by the hon. mover. I trust that the expenses incurred by building camps and feeding and so on will be included in the amounts which, I believe, are submitted to the Imperial Government and which the Imperial Government, I believe, has reimbursed.

VEN. ARCHDEACON THE HON. G. BURNS: Your Excellency, there is just one question with regard to the Somalis interned in that camp. When peace is restored and tranquility is supposed to reign in that country, will they be compelled to go back to their own country, and if so, has this Government any control as to what may happen to them when they go back there?

THE HON. THE TREASURER: Sir, perhaps I can give a certain amount of information to the hon. Member for Nairobi North. The special expenditure of the nature he has mentioned is included in the special returns which are submitted to the Imperial Government and the Imperial Government has placed to the credit of this Colony a sum of £14,000 to cover the period involved to the 31st March. That has not finally been put to account because it has to go through the local audit to the Colonial Auditor to be approved.

THE HON. THE ATTORNEY GENERAL: With regard to the other question I regret that I am unable to give the venerable member any assurance as to what will happen at the end of hostilities with regard to these people and my only answer is that the Bill does not cover that issue. I have no doubt it will be a question dealt with by the Foreign Office in as suitable a manner as possible.

The question was put and carried.

COMMITTEE STAGE.

THE HON. THE ATTORNEY GENERAL moved that this Council do resolve itself into committee of the whole Council to consider, clause by clause, the following Bills:—

Prisons (Amendment) Bill.

Special Districts (Administration) (Amendment) Bill.

Native Liquor (Amendment) Bill.

Dangerous Drugs (Amendment) Bill.

British and Colonial Probates (Amendment) Bill.

Specific Loan Bill.

Education (Amendment) Bill.

Sisal Industry (Amendment) Bill.

Coffee Industry (Amendment) Bill.

Ferries Bill.

Control of Fugitive Belligerents Bill.

THE HON. T. D. H. BAUCA seconded.

The question was put and carried.

Council went into Committee.

In Committee.

THE PRISONS (AMENDMENT) BILL.

The Bill was considered clause by clause.

THE SPECIAL DISTRICTS (ADMINISTRATION) (AMENDMENT) BILL.

The Bill was considered clause by clause.

THE NATIVE LIQUOR (AMENDMENT) BILL.

The Bill was considered clause by clause.

THE DANGEROUS DRUGS (AMENDMENT) BILL.

The Bill was considered clause by clause.

THE BRITISH AND COLONIAL PROBATES (AMENDMENT) BILL.

The Bill was considered clause by clause.

THE SPECIFIC LOAN BILL.

The Bill was considered clause by clause.

THE EDUCATION (AMENDMENT) BILL.

The Bill was considered clause by clause.

Clause 2—Inspection and closing of private schools.

MAJOR THE HON. F. W. CAVENDISH-BENTINCK: I move that the clause be amended by the addition at the end thereof of the following words:—

"Provided that the Director shall not be bound to accept the advice of any District Education Board, but shall have the right to refer it for final decision to the Advisory Council on African Education."

THE HON. THE COLONIAL SECRETARY: I suggest that this is unnecessary, because the final part of the clause reads that the Director of Education—

"may, after consulting the District Education Board, appointed under the District Education Boards Ordinance, 1934, or if there be no such Board, after consulting the Advisory Council on African Education, order such school to be closed."

He may order such school to be closed, in my submission, whether a Board agrees or not; he is merely compelled by law to consult them but he is not bound to accept their advice.

MAJOR THE HON. F. W. CAVENDISH-BENTINCK: I asked that question before, and was informed that if he disagreed the Local Board overruled him.

THE HON. THE DIRECTOR OF EDUCATION: I think I gave the wrong answer to the question. I had not an opportunity of consulting the principal ordinance.

THE HON. THE ATTORNEY GENERAL: I entirely agree from a legal point of view with the Hon. the Colonial Secretary.

MAJOR THE HON. F. W. CAVENDISH-BENTINCK: In that case I beg leave to withdraw my amendment, but it is a rather important point. The amendment was by leave withdrawn.

THE SISAL INDUSTRY (AMENDMENT) BILL.

The Bill was considered clause by clause.

Clause 4—Amendment of section 9 of the Principal Ordinance.

THE HON. THE ATTORNEY GENERAL moved that the clause be amended by the insertion after the words "Paragraph (g)" in the first line thereof of the words "of section 9".

The question was put and carried.

THE COFFEE INDUSTRY (AMENDMENT) BILL.

The Bill was considered clause by clause.

Clause 1—Short title.

THE HON. THE ATTORNEY GENERAL moved that Clause 1 be amended by deleting the expression "No. 54 of 1933" which occurs as a marginal note and by substituting therefor the expression "No. 54 of 1934".

The question was put and carried.

New Clause.

THE HON. THE ATTORNEY GENERAL moved that the following clause be inserted after Clause 2:—

"3. Sub-section (1) of section 3 of the Principal Ordinance is hereby amended by the substitution of the word "or" for the word "and" which occurs in the second line of paragraph (e) thereof."

The question was put and carried.

THE FERRIES BILL.

The Bill was considered clause by clause.

Clause 2—Interpretation.

MAJOR THE HON. E. S. GROGAN: In the definition of ferry boats it says "between any two points from one side of a waterway to another", without any qualification. That means that they have complete control of all shipping contracts all over the world. That ought to be linked up to territorial waters. The Indian Ocean is a waterway. I move that the clause be amended by the insertion of the words "within territorial waters" at the end of the fourth line of the definition of "ferry boat".

THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: This definition has, I think, existed since the Harbour Regulation Ordinance was passed, but I see no objection to the amendment proposed. I apologise to the hon. Member for Ukamba for not answering the question which he asked. The answer is in the affirmative.

THE HON. THE ATTORNEY GENERAL: As we can only legislate within territorial waters, it does not matter so much what we say. We can only legislate for the waters which are within our territorial waters.

MAJOR THE HON. E. S. GROGAN: We might legislate to prevent them going further so that they could not get anywhere else.

THE HON. THE COLONIAL SECRETARY: I do not think this amendment ought to be passed. This is merely a definition of a ferry boat, as to what is a ferry boat, and we can only legislate to that extent.

HIS EXCELLENCY: I will leave it to the House.

The question was put and lost.

MAJOR THE HON. E. S. GROGAN: There is one other amendment which I wish to propose: that the proviso be amended by substituting "50" for "3" and "100 tons" for "80 lb." I feel that the clause as worded will interfere with the ordinary launch on the harbour which

carries people to and from, tourists, or for amusement, or anything else, between one side of the harbour and another, and it will close down all the barge and lighter traffic, of which there is considerable now, which moves stuff between one side of the harbour and another.

HIS EXCELLENCY: I am afraid that Government cannot accept this amendment, but I will put it to the vote. The question proposed by the hon. and gallant member . . .

MAJOR THE HON. E. S. GROGAN: Not gallant. I lay no claim to gallantry!

HIS EXCELLENCY: I regret I made the mistake!

MAJOR THE HON. E. S. GROGAN: I think that 100 tons is the capacity of the normal lighter, one of the biggest lighters in Mombasa, speaking from memory.

MAJOR THE HON. F. W. CAVENDISH-BENTINCK: I really think there is something in what the hon. member says. If it is a ferry boat it is only capable of carrying three people but a great many are capable of carrying up to 10. It is rather ridiculous to prohibit them from going from one side of the harbour to the other. We could probably make it a lesser number than 50 and, say, one ton, and come to some agreement.

THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: The object of the clause is to prevent competition with normal established ferry services. The boats to which the hon. member refers would hardly be described as ferry boats; they do not ply regular services from one side to the other. I have never heard of lighters doing that, and I may remind the House that this definition is in exact terms with the definition in the amending ordinance passed last year.

MAJOR THE HON. F. W. CAVENDISH-BENTINCK: It does not say anything here about plying regularly, but what in effect it means is that you cannot hire a small boat to go across. If you put in the word "regularly" it will help.

THE HON. THE ATTORNEY GENERAL: If you make any amendments now it will make the rest of the principal ordinance absurd, because this is what appears in the principal ordinance which we passed last year. Now if we alter the definition that will be dealing with entirely different objects.

MAJOR THE HON. E. S. GROGAN: Will the hon. and learned Attorney General give his opinion as to whether or not this debars a company in Kilindini Harbour hauling goods from one side of the island to the other for hire, as that is the constant practice in the port?

THE HON. THE ATTORNEY GENERAL: There is not the slightest doubt that the hon. member is perfectly right. If they ply from one side of the waterway to the other for hire they come within the definition.

MAJOR THE HON. F. W. CAVENDISH-BENTINCK: I was going to suggest 10 passengers and 500 lb.

MAJOR THE HON. E. S. GROGAN: I am quite prepared to withdraw my amendment in favour of another so long as it meets the point. The average capacity of a lighter is far in excess of 100 lb.

HIS EXCELLENCY: Are you prepared to withdraw your amendment?

MAJOR THE HON. E. S. GROGAN: Yes. I deliberately exaggerated the figures in order to draw attention to the matter.

The question of the amendment to the amendment was put and lost. The original amendment was by leave withdrawn.

HIS EXCELLENCY: Perhaps I had better go more slowly through these clauses.

MAJOR THE HON. E. S. GROGAN: It is all right, Sir, but I have got out of practice. (Laughter.)

Clause 4—Power of Director.

LT.-COL. THE HON. J. G. KIRKWOOD: I move to add after the word "Governor" in the fourth line the words "After consultation with and advice received from the Central Roads and Traffic Board."

I am not particular as to where they are put in, but we suggest that this is the proper thing to do. We should like to see the Board in the position of being able to give you advice which no doubt will be very helpful to you, but many questions have been asked in the House this morning to which no answers have been given. The Board obviously from its designation should be in a position to advise Your Excellency on matters of ferries, etc., and I should like to see these words included. The Board could, for instance, take evidence, have conversations with intending contractors, and so forth and so clear the way, and it would relieve Your Excellency of a good deal of time. We do think it advisable that the Board should come in somewhere in this Bill in an advisory capacity only before any order issues.

THE HON. A. O. HOYE: I have never seen any Bill received with so many amendments as this one is receiving in the committee stage, and some are coming with considerable surprise. It is a great mistake to hurry these things, and the proper thing would be to report progress and send the Bill to a select committee. There are nothing but amendments the whole time.

THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: The Bill follows the measure passed last year and which did go to a select committee. I suggest there is no substance in the proposal to refer the Bill at this stage to a select committee.

In regard to the point raised by the hon. Member for Trans Nzoia, I did say in my reply, referring to the speech made by the hon. Member for Nairobi North, that I could give a definite assurance that the Board would be consulted before action was taken by the Governor under the powers of the Bill. I also referred to the fact that the Board has been established under its own ordinance with definite duties to advise the Governor, so that automatically affairs relating to roads and traffic, etc., will go up to the Board. I trust that the hon. member will accept my assurance and will not press his amendment.

LT.-COL. THE HON. J. G. KIRKWOOD: I accept the assurance as being in favour of my suggestion, that the Board be mentioned somewhere or somehow in the Bill as proposed by myself and eventually agreed to by the hon. the Commissioner for Local Government.

THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: The point is that there is a governing ordinance on the statute book requiring the Board to be consulted in matters relating to roads and traffic and a reference of this sort in other measures dealing with specific questions of traffic would be entire redundancy. If you put the amendment in at all I am not at all sure that it is not enough to put it in one particular clause. If you have a governing ordinance it is unnecessary to pick out one particular clause to repeat the provisions of the governing ordinance.

LT.-COL. THE HON. J. G. KIRKWOOD: Again that is only an argument in favour of my contention, but I understand that as regards this Bill the Board have not yet been consulted. Before it goes through they should be consulted and His Excellency have their advice.

THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: I stated, I think, or I intended to, that this Bill had been proposed on the advice of the Board. It has been to that Board and they have approved of it.

THE HON. THE ATTORNEY GENERAL: I suggest that whatever the hon. member proposes must be redundant, because we already have an ordinance stating that matters dealing with traffic shall be referred to the Board. If the hon. member takes my assurance that if they ask me whether this particular agreement had anything to do with traffic that the answer would be in the affirmative, he will see that you are only making assurance doubly sure if I may say so by repeating this provision.

MAJOR THE HON. E. S. GROGAN: Are we to understand that there is an ordinance, or a proposed ordinance is subject to a master ordinance not referred to in this Bill?

THE HON. CONWAY HARVEY: I support the hon. Member for Trans Nzoia. We all know these matters well, if they do not forget to do it, what be referred to the Board. If that is done automatically, what earthly objection can there be to inserting words after "Governor", "after consultation with the Central Roads and Traffic Board". I see no objection, it does no harm, and pleases quite a few people. Definitely two. (Laughter.)

MAJOR THE HON. E. S. GROGAN: And also gives greater validity to the ordinance than the assurance of the hon. the Commissioner for Local Government, however eminent he may be!

THE HON. THE COLONIAL SECRETARY: As a matter of fact quite automatically this does come before the Board. Even the draft agreement of which we have heard so much to-day was referred to the Board as a matter of course. As the hon. the Commissioner for Local Government said, if you put it in any one particular clause what reason is there for not putting it in other clauses? It is already done by existing legislation, and I cannot see what purpose can be served by repeating that legislation.

MAJOR THE HON. E. S. GROGAN: Will the hon. and learned Attorney General accede to my request and quote the authority? He maintains there is some master ordinance that controls all these other ordinances.

THE HON. THE ATTORNEY GENERAL: There is no master ordinance, but there is one which directs that matters with regard to roads and traffic go to the Central Roads and Traffic Board. Therefore if any question came up about ferries and I was asked if it were a traffic matter, I would say yes, and therefore it goes to that Board automatically. There is no need to reassert that fact in this Bill.

MAJOR THE HON. E. S. GROGAN: I understand your legal colleague the Solicitor General in committee to say these things did not come under it at all, that terminals of roads were not in fact roads.

THE HON. THE ATTORNEY GENERAL: It is traffic. (Laughter.)

THE HON. THE DIRECTOR OF PUBLIC WORKS: I do not think it is mandatory in the Roads and Traffic Ordinance for matters dealing

with roads and traffic to be referred to the Board.—They may be referred if the Governor so desires, but I do not think it can be regarded as a master ordinance because it is not mandatory.

MAJOR THE HON. E. S. GROGAN: Thank you.

LT.-COL. THE HON. J. G. KIRKWOOD: That again strengthens my case, that if it is not mandatory there is no guarantee this will be referred to the Board. There is no legal objection which could be put up by the hon. and learned Attorney General, and the hon. the Colonial Secretary suggested that if it was put in one clause it should be put in every clause, but that is not correct. I am only asking for a few words at the end, or any suggestion from the hon. and learned Attorney General acceptable to Government, so that the Bill will be referred to the Board to enable them to give Your Excellency the necessary advice.

THE HON. CONWAY HARVEY: I suggest again that progress be reported, and suggest that this method is somewhat unseemly and will establish a dangerous precedent.

LT.-COL. THE HON. J. G. KIRKWOOD: It is an old practice, not a dangerous precedent.

THE HON. THE ATTORNEY GENERAL: The provision for dealing with this particular matter in the Central Roads and Traffic Board Ordinance will be found in section 4, where are set out the duties of the Board. It says it shall be the duty of the Board "to advise the Governor," among other things, "upon any matter or thing relating to the public roads of the Colony and the traffic thereon and the dedication of lines of public travel."

MAJOR THE HON. E. S. GROGAN: Is it mandatory on the Governor to submit an issue to the Board?

THE HON. THE ATTORNEY GENERAL: No, it is their duty to consider it.

MAJOR THE HON. E. S. GROGAN: We know that before, but it is different to what was suggested previously.

MAJOR THE HON. F. W. CAVENDISH-BENTINCK: I would ask Your Excellency whether it is not possible to refer the Bill to a select committee. There are a number of points, and it seems unsatisfactory to deal with in this way. If we are not very careful we shall put it wrongly, and there are amendments about which there is a good deal of feeling.

HIS EXCELLENCY: In view of the representations made by you I will refer this Bill to a select committee.

MAJOR THE HON. F. W. CAVENDISH-BENTINCK: Thank you.

THE HON. THE ATTORNEY GENERAL moved that progress be reported and that the Bill be referred to a Select-Committee consisting of the following:—

The Hon. the Commissioner for Local Government, Lands and Settlement.

The Hon. the Director of Public Works.

The Hon. T. D. H. Bruce.

The Hon. J. B. Pandya.

The Hon. Member for Mombasa.

The Hon. Member for Ukamba.

The question was put and carried.

THE CONTROL OF FUGITIVE BELLIGERENTS BILL.

The Bill was considered clause by clause.

THE HON. THE ATTORNEY GENERAL moved that the following Bills be reported to Council without amendment:—

PRISONS (AMENDMENT) BILL,

SPECIAL DISTRICTS (ADMINISTRATION) (AMENDMENT) BILL,

NATIVE LIQUOR (AMENDMENT) BILL,

DANGEROUS DRUGS (AMENDMENT) BILL,

BRITISH AND COLONIAL PROBATES (AMENDMENT) BILL,

SPECIFIC LOAN BILL,

EDUCATION (AMENDMENT) BILL,

CONTROL OF FUGITIVE BELLIGERENTS BILL,

and that the following Bills be reported to Council with amendment:—

SISAL INDUSTRY (AMENDMENT) BILL.

COFFEE INDUSTRY (AMENDMENT) BILL.

The question was put and carried.

Council resumed its sitting.

HIS EXCELLENCY informed Council that the following Bills had been considered clause by clause in committee of the whole Council and had been reported to Council without amendment:—

Prisons (Amendment) Bill,

Special Districts (Administration) (Amendment) Bill,

Native Liquor (Amendment) Bill,

Dangerous Drugs (Amendment) Bill,

British and Colonial Probates (Amendment) Bill,

Specific Loan Bill,

Education (Amendment) Bill,

Control of Fugitive Belligerents Bill.

and the following Bills with amendment.—

Sisal Industry (Amendment) Bill.

Coffee Industry (Amendment) Bill.

THIRD READINGS.

THE HON. THE ATTORNEY GENERAL moved that the Bills reported to Council as mentioned above be read a third time and passed.

THE HON. T. D. H. BRUCE seconded.

The question was put and carried.

The Bills were read a third time and passed.

Council adjourned till 9.30 a.m. on Friday,
the 22nd May, 1936.

FRIDAY, 22nd MAY, 1936

Council assembled at the Memorial Hall, Nairobi, at 9.30 a.m. on Friday, the 22nd May, 1936. His Excellency THE GOVERNOR (BRIGADIER-GENERAL SIR JOSEPH ALOYSIUS BYRNE, G.C.M.G., K.B.E., C.B.) presiding.

His Excellency opened the Council with prayer.

MINUTES.

The minutes of the meeting of the 21st May, 1936, were confirmed.

PAPERS LAID ON THE TABLE.

The following papers were laid on the table:—

BY THE HON. THE ATTORNEY GENERAL:

Report of the Select Committee appointed to consider and report upon the provisions of a Bill to amend the Land and Agricultural Bank Ordinance, 1930.

BY THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT:

Report of the Select Committee appointed to consider and report upon the provisions of a Bill relating to Ferries.

NOTICE OF MOTIONS.

The following notices of motion were given:—

BY THE HON. THE ATTORNEY GENERAL:

"That the Report of the Select Committee appointed to consider and report upon the provisions of the Land and Agricultural Bank (Amendment) Bill be adopted."

BY THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT:

"That the Report of the Select Committee appointed to consider and report upon the provisions of the Ferries Bill be adopted."

ORAL ANSWERS TO QUESTIONS.

ADMINISTRATION OF DECEASED PERSONS' ESTATES.

No. 20.—CAPT. THE HON. H. E. SCHWARTZ asked:—

"1. Has the attention of Government been drawn to the unsatisfactory position with regard to accounts of administrators of deceased estates?"

2. Is it a fact that while accounts have to be filed in court no provision exists for the passing of such accounts?

3. Is it further a fact that as a result insurance companies and other persons who ordinarily enter into bonds for the due administration of deceased estates are now declining to do so, as their liability remains a continuing one owing to the lack of any provision for the accounts to be passed and the surety to be discharged?"

THE HON. THE ATTORNEY GENERAL: 1. The attention of Government was drawn to the alleged unsatisfactory position with regard to the passing of administrators' accounts on the 16th of this month.

2. No provision exists for the passing of accounts except in the case of estates administered by the Public Trustee.

3. The letter received on the 16th drew attention to the action taken by certain insurance companies.

CAPT. THE HON. H. E. SCHWARTZ: Arising out of that answer, Sir, may I have an assurance that Government will go into the question of rectifying the matter by making provision for the passing of accounts at an early date?

THE HON. THE ATTORNEY GENERAL: I can certainly give an assurance that the matter will be gone into, and I think at this stage a rectification of the Ordinance can easily be made.

WHITE HIGHLANDS ORDER IN COUNCIL.

No. 21.—**MAJOR THE HON. F. W. CAVENDISH-BENTINCK** asked:—

"In view of the replies which have been recently given to various questions in the House of Commons, can Government now give any information as to what steps have been taken to implement the recommendations of the Kenya Land Commission set down in paragraphs 1441, 1449, 1469 and 1079 of the Report, which can be summarized as advocating that the White Highlands be safeguarded and declared by Order in Council?"

THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: Government has nothing to add to the replies given to the questions on this subject in the House of Commons.

LT.-COL. THE HON. J. G. KIRKWOOD: Supplementary to that, may I ask a question? I understood the hon. the Commissioner for Local Government to refer to the House of

Commons. Well, Sir, I am not aware of what is said in the House of Commons, and I think if Government answers a question in the House of Commons it should be said here.

THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: Is the hon. member asking a question, Sir?

LT.-COL. THE HON. J. G. KIRKWOOD: I am asking a question.

HIS EXCELLENCY: A supplementary question?

LT.-COL. THE HON. J. G. KIRKWOOD: Yes, Sir. I am asking if the answer given in the House of Commons, which was not known to the members of this House, can be repeated by the hon. the Commissioner for Local Government, Lands and Settlement?

THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: It is hardly in the form of a supplementary question.

KENYA LAND COMMISSION AND CROWN LANDS ORDINANCES, 1902 AND 1915.

No. 22.—**MAJOR THE HON. F. W. CAVENDISH-BENTINCK** asked:—

"Arising out of the replies given to my questions on this subject during the last two sessions of Legislative Council, can Government now give any information as to what further steps have been taken to implement the recommendations of the Kenya Land Commission Report to render section 31 of the Crown Lands Ordinance, 1902, and section 86 of the Crown Lands Ordinance, 1915, inoperative, both in existing and future leases?"

THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: There is nothing to add to the reply given to a similar question, No. 22 of 1935, in June last, which was as follows: "Provision for carrying out this recommendation in the Kenya Land Commission Report has been made in the draft of a new Native Lands Trust Bill which has been forwarded to the Secretary of State for his consideration."

REPORT OF SIR ALAN PIM.

No. 23.—**MAJOR THE HON. F. W. CAVENDISH-BENTINCK** asked:—

"1. Can Government inform this Council when it anticipates receiving Sir Alan Pim's final and full report?"

2. Has the draft report or any part of it as yet been received in the Colony?

3. Will Government give an assurance that an opportunity will be given for this Council to discuss Sir Alan Pim's report as soon as it is received in this country and prior to any action being taken thereon?"

THE HON. THE COLONIAL SECRETARY: 1. Government has received no information on the subject of the date of publication of Sir Alan Pim's final and full report.

2. Certain heads of departments have received tentative notes for comment and for the purpose of checking figures, but nothing in the shape of a draft report has yet been received.

3. As the report will be made to the Secretary of State and not to this Government, it is not possible for this Government to give any assurance as to the procedure which will be adopted, but the desire of hon. members to discuss the report before any action is taken thereon will be conveyed to the Secretary of State.

MAJOR THE HON. F. W. CAVENDISH-BENTINCK: Arising out of that reply, are we to understand that Sir Alan Pim's report is subject to comments and criticisms of this Government or officers of it before publication?

THE HON. THE COLONIAL SECRETARY: I have little to add to what I have already said. The report will be made to the Secretary of State, and the Secretary of State will decide what procedure must be followed on the report submitted to him.

MAJOR THE HON. F. W. CAVENDISH-BENTINCK: In other words, it will not be Sir Alan Pim's report.

CAPT. THE HON. H. E. SCHWARTZ: Further arising out of the reply, might I ask whether the hon. the Colonial Secretary will convey to the Secretary of State a request that the report will be published as put in by Sir Alan Pim and not with excisions because certain persons do not like parts of it, as has been done in the past.

THE HON. THE COLONIAL SECRETARY: I cannot see any reason for the request. The report will be made to the Secretary of State, and he will decide what procedure will be taken.

MAJOR THE HON. E. S. GROGAN: Cannot we have an assurance that this will be Pim's No. 1 and not Pim's No. 4? (Laughter.)

PENSIONS.

No. 31.—**MAJOR THE HON. E. S. GROGAN** asked:—

"Is the payment of pensions to retired pensionable civil servants a contractual obligation on the part of the Colony?"

THE HON. THE ATTORNEY GENERAL: No civil servant has an absolute right to a pension; the Governor in Council may grant a pension in accordance with the terms of the relevant Ordinance, and a pension so granted is a charge on the revenues of the Colony.

As a discretion so vested must be exercised in a judicial manner, there is what might be properly termed a quasi contractual and moral obligation.

There is a legal obligation on the part of the Colony to continue the payment of such pensions as have been granted.

MAJOR THE HON. E. S. GROGAN: Arising out of that answer, may I ask are such contracts held to be expressed in terms of the local money used?

THE HON. THE ATTORNEY GENERAL: That would be a financial matter which I have not considered.

MAJOR THE HON. E. S. GROGAN: It is much more than a financial matter. It is a matter of supreme importance to the country.

THE HON. THE ATTORNEY GENERAL: I am afraid if you want an answer to that question you will have to give notice.

MAJOR THE HON. E. S. GROGAN: I will extend that to my supplementary question and ask if he is not aware of the fact—

HIS EXCELLENCY: I think the hon. member is going beyond the scope of a supplementary question. You will have to give notice.

MAJOR THE HON. E. S. GROGAN: May I ask when I can hope to get an answer to the other questions I have put in?

THE HON. THE COLONIAL SECRETARY: Well, Sir, we have had at this meeting very little notice indeed. We had a spate of questions thrown at us, and we have answered them nearly all. I think there are five outstanding to which written answers will be given when we have collected the necessary information.

MAJOR THE HON. E. S. GROGAN: That does not really answer the question in respect of the Land Bank. If the facts are not available in the Land Bank, they ought to be, because they are very simple actuarial questions, and I cannot understand it.

CAPT. THE HON. H. E. SCHWARTZ: Arising out of this point as to when questions will be answered, as Council I understand is to meet on Wednesday of next week, would it be possible for the hon. member's questions to be answered on that day as, quite frankly, there might be a considerable amount of supplementary questions arising out of the answers.

THE HON. THE TREASURER: I think I can throw some light on the Land Bank question. As the hon. member knows, I was engaged in this Council and in Select Committee practically the whole of yesterday. A draft reply to the question was put before me yesterday, but both the Secretary of the Land Bank and I found a certain amount of trouble in finding out what was required, and I therefore brought the papers here in the hope that I should get from the hon. member what exactly he did require during the interval.

MAJOR THE HON. E. S. GROGAN: I took very great care in drafting these questions so as to make perfectly certain they would be within the understanding of my hon. friend the Treasurer.

THE HON. THE COLONIAL SECRETARY: In answer to the hon. Member for Nairobi South, we will certainly give the answers by Wednesday if we can, but one or two will take some time to get out. For instance, the cost of holding a census this year. We have to go into considerable detail, and there is no statistical department in existence, in accordance with the recommendation of the Expenditure Advisory Committee, and the figures will take some time to collate.

CAPT. THE HON. H. E. SCHWARTZ: I hope that the hon. member will not think I want to be unreasonable. I only suggested that, as we are meeting on Wednesday, the answers might be given then.

THE HON. THE COLONIAL SECRETARY: I can assure him I will do my best to get them ready, but they are all questions which will take some time I am afraid.

BILL.

LOCAL GOVERNMENT (RATING) (AMENDMENT) BILL.

THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: Your Excellency, before formally moving the motion on the Order Paper for to-day, I would beg

leave of the Council to withdraw the motion which is substantially before Council on this subject, and which was proposed by me at the last session. During that debate an amendment to that motion was moved, and I understand the hon. Member for Nairobi North will ask similar leave to withdraw that, so that we can then take this as a substantive motion.

MAJOR THE HON. F. W. CAVENDISH-BENTINCK: Your Excellency, I would like to withdraw my motion, and I would like to recall to hon. members that the position, as far as I realize it, is that this Bill was sent to a Select Committee of this Council, who reported on it at the last session. There was majority and a minority report, and Government, contrary to usual procedure, brought in a motion for the adoption of the minority report, which is the motion to which the hon. member opposite has just referred. I amended that by moving an amendment that the adoption should be for the majority report, and I now beg leave to withdraw my motion.

HIS EXCELLENCY: I take it that the House has no objection to these motions being withdrawn.

The motion and the amendment thereto were by leave withdrawn.

THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: Your Excellency, I now beg to move the adoption of a unanimous report (hear, hear):—

"That the Report of the Select Committee dated 9th May, 1936, on the Local Government (Rating) (Amendment) Bill be adopted in substitution for the Report dated 7th January, 1936."

The point on which a difference of opinion arose previously was the question of the rating of land reserved for public purposes. At the last session, I dealt fully with those parts of the previous report which were unanimous. They represent a compromise which the local authority of Nairobi was prepared to accept, and I think I need not go over that ground again.

The difference between this report and the previous one is contained in clause 4, and relates to the proposed section 25, sub-sections (3), (4) and (5). Those sub-sections, Sir, refer to the adoption of the five-year rating contribution plan which has now been accepted and put into effect.

Two comments were made in this connection—I think largely by the hon. Member for Nyanza and myself—last session: that is to say, that when a piece of Crown land which has been reserved for a public purpose is declared to be

no longer reserved, and an alternative piece of Crown land is selected in its stead, then in respect of that second selection the local authority should refund the rating contribution for the previous five years, having received from Government a similar contribution in respect of the plot no longer required.

The second point relieves Government from the liability for the rating contribution in respect of any land at the disposal of municipal authorities during such period as they may not take out a title for that land.

THE HON. THE ATTORNEY GENERAL: seconded.

MAJOR THE HON. F. W. CAVENDISH-BENTINCK: Your Excellency, I have nothing to add, except that I strongly support the adoption of this report, which is the result of a great deal of careful inquiry, and the Committee has taken a great deal of evidence, and now unanimously we submit a solution of what in the past has been a rather contentious subject, and I trust the House will support it.

The question was put and carried.

CAPT. THE HON. H. E. SCHWARTZ: On a point of order, Sir, I may be wrong, but is it not necessary to pass the third reading of the Bill now?

THE HON. THE ATTORNEY GENERAL: The particular rule dealing with this is Rule 83, which reads as follows:—

"Where a Bill is reported from a Committee of the whole Council with or without amendment, or is reported to the Council by a Select Committee, and the report has been adopted as provided in Rule 80, the question may be put, either forthwith or at a subsequent time, that the Bill be read a third time and passed."

CAPT. THE HON. H. E. SCHWARTZ: It is usually done; that is why I mention it.

THE HON. THE ATTORNEY GENERAL: I had proposed to do it at the end of the motions, but I have no objection.

MOTIONS.

LOAN ESTABLISHMENT—BUILDINGS ACCOUNT.

THE HON. THE DIRECTOR OF PUBLIC WORKS: Your Excellency, before proceeding to the motion standing in my name, I would like to take this opportunity of thanking Your Excellency for your kind reference in your opening speech to myself and my impending retirement and good wishes for myself and family in the future, and also the hon. members of

Council for their kind reception of Your Excellency's remarks. Your Excellency's words and the reception which they received will always remain in my memory. I need hardly say that, so far as may lie in my power, it will be my earnest and constant endeavour as occasion arises to further the interests of Kenya, a colony I love so well. (Applause.)

Your Excellency, I now move the motion standing in my name:—

"This Council approves of the closing of the Loan Establishment—Buildings Account, with effect from the 31st December, 1934, in the manner recommended in the Report entitled 'Colonial Loans Expenditure on Buildings; Water Supplies and Roads during the period 1925-1934', and the consequent reallocation of Loan Charges, including the opening of a new sub-head 'Investigations and Designs for Abandoned and Deferred Projects,' £22,957, under the head 'Public Buildings,' and a new item 'Extension to P.W.D. Head Offices and Stores Yard and the Construction of the Railway Siding' £7,413, under the head 'Public Buildings,' sub-head 'Other Buildings.'"

This motion seeks approval for the closing and liquidation of the Establishment Account with effect from 31st December, 1934, in the manner set forth and explained in paragraphs 70 to 78 and Appendices I, II, and III of the Report which has been laid on the table. This motion does not seek authority for additional funds; it only seeks authority for certain redistributions of sanctioned provisions so as to reflect costs more accurately on closure of the accounts.

These hon. members of the Council who were members of the Loan Works Committee in the past will recall the history of the Establishment Account and its predecessor, the Common Expenses Suspense Account. I have endeavoured briefly to relate this history in Parts IV and VI of the Loan Report. These accounts, both of which were in the nature of Suspense Accounts, were financed by taking various percentages off sanctioned provisions and crediting them to the account in order to provide a fund to which general expenditure pertaining to the design and execution of the programme could be charged, and which from their very nature could not be allocated to individual items. A device of this kind was clearly necessary, as a large number of works were being dealt with simultaneously; some in the preliminary stages of construction in conjunction with town planning schemes, drainage and water supply schemes, and so forth; others were under detailed design and quantity surveying, and others again were under execution.

It has always been the intention eventually to liquidate these general charges constituting the Establishment Account by a combination of the due percentage of the general charges with the direct charges on the individual items of works, so as to set forth the true cost of each individual asset which resulted from the execution of the loan programme. In 1934 it became clear that this intention could be effected immediately, for although loan proposals were still under consideration, design and construction, they had been reduced to a relatively few large structures. The need for the Establishment Account had ceased to exist, because such general charges as arose subsequently could be allocated direct to the financial provision for each work, in proportion to the time of individual members of the staff spent on each, for the general charges which remained were almost entirely staff charges.

It was clearly desirable to liquidate this Suspense Account, which had been open for nine years, as soon as possible by an approved method. During 1935, after the accounts for 1934 had been audited, the details for liquidation were worked out, and since 1934 no entries have been debited against the Establishment Account. These details are explained in Appendices I, II and III of the Report.

In 1931, as I have explained in paragraphs 64 to 69 of the Report, a provisional or interim combination of a portion of these establishment charges with direct charges was made in respect of certain buildings. This partial liquidation was largely for the purpose of giving information to the Loan Works Committee and others concerned regarding the amounts which would be available from savings and unallocated reserves for future allocation. I have dealt with this matter at some length in the Report in view of the fact that the method of showing expenditure on completed buildings in the Loan Seasonal Statements is based on it. It will be seen from paragraphs 66, 67 and 69 of the Report that the adoption of this method for the final closing of the Establishment Account and showing the cost of individual works correctly is unsuitable.

As is explained in the Report, the programme of public works was a continually varying one and was subject to the application of various policies which had to be tried out. Furthermore, estimates were put up to the Select Committees on loan proposals of 1925 on scanty information regarding requirements and sites. These so-called estimates became fixed sanctioned sums for those structures, approved by Legislative Council. What inevitably happened in practice was that in some cases the provision was in excess and in others inadequate. For instance, the provision for educational buildings was inadequate, while the provision for housing for Govern-

ment servants was in excess. It will be noted from the Schedule appearing in paragraph 78 of the Report that when educational buildings bear their correct proportion of the establishment charges, the provision for those buildings, as sanctioned by legislature is inadequate, while there is a very great saving on the provision for housing for Government servants. Reallocations of this kind—some important, some trivial—are shown in the Appendices II and III to the Report, and are summarized in paragraph 78.

I have explained in paragraphs 80 and 81 and in other parts of the Report that much of the time of the loan staff and outside architects, Sir Herbert Baker and Mr. Hoogterp, was employed in designing work which never came to fruition and for which no financial provision had been made. In other cases, designs were prepared for works for which financial provision was made, but owing to change of opinion new designs had to be prepared; the old designs were quite valueless. The total waste of the time and expenditure in connection with these abandoned and deferred projects out of establishment charges is £22,057, as exhibited in Appendix IV of the Report. It is clearly unsuitable to combine expenditure of that kind with the cost of constructed works, and it is proposed to introduce a new sub-head of Public Buildings, entitled "Investigations and Designs for Abandoned and Deferred Projects, £22,057," as alluded to in paragraphs 78 and 81. The term "abandoned and deferred projects" is preferable to the term "abandoned projects" used in the Report, because some of the designs may come in useful later on when projects are revived.

In paragraph 80 of the Report it is mentioned that the cost of construction of the Public Works Department yard, railway sidings and buildings at Nairobi, £6,804, was charged to the Establishment Account because no financial provision for the work had been made, whereas similar buildings at Nakuru and Eldoret were charged to the Construction Account. Clearly there should be a new item for this work, and consequently a new item appears under the sub-head "Other Buildings, £7,413," the difference between the two figures being due to the addition of the quota of establishment charges suitable to the design.

Coming to the method proposed for spreading the remaining balance of the Establishment Account over individual items of constructed buildings the method will, I think, be understood from a perusal of paragraphs 70 to 72 of the Report, and especially Appendix I, where it is shown in detail. It will be observed that, after deducting from the Establishment Account firstly those two items just mentioned and

which are shown under the headings A and B on the right-hand side of Appendix I, and, secondly, those items which were under design and construction at the end of 1934 and which are shown under C in Appendix I, and, thirdly, those items which through one cause and another, should bear a special establishment charge less than the average, and deducting from the construction charges; firstly, those items just mentioned as bearing a special establishment charge, and, secondly, those which bear none at all, we are left with the sum of £161,046 which has to be spread *pro rata* at an average rate of 18.88 per cent over items amounting to £855,874 in the aggregate, constituting the construction charges. The full effect of these suggestions will be appreciated from Appendices I, II and III, and it is summarized in the Schedule to paragraph 78.

These proposals would close and liquidate the Establishment Account, and I commend the motion to the favourable consideration of Council. I may say they have received the full approval of the Treasurer, and they have also been unanimously approved by the Loan Works Committee by resolution. I have the authority of the hon. the Treasurer for saying that if this motion is passed a sessional loan statement will be prepared and laid on the table at a later session.

Before I sit down, Your Excellency, I should like to pay a tribute to the work of the Loan Works Committee during the last ten years. As mentioned in my Report, the Committee held 79 meetings and recorded 699 minutes. It has performed a very valuable function by fully considering the issues which were brought before it, deciding on the majority, and making recommendations to Government regarding those which were outside its powers.

I trust also that it may not be out of place for me to refer to my high appreciation of the work of my staff, who have never spared themselves, and have often worked hard during week-ends, public holidays, and at night. As one who was engaged for six years on engineering organizations outside Government, I have never come across a more loyal, efficient, hardworking staff.

I should also like to express my appreciation of the Native Industrial Training Depot, which assisted materially with the construction of over £100,000 worth of work. I also wish to record my thanks to the Provincial and District Administration who helped in ways far too numerous to mention. (Applause.)

THE HON. THE TREASURER seconded.

MAJOR THE HON. F. W. CAVENDISH-BENTINCK: Your Excellency, this motion in the first place gives me the oppor-

tunity, on behalf of the Elected Members, of endorsing your remarks regarding the hon. the Director of Public Works in your opening address. (Hear, hear.)

For many years the hon. member has been a playful target for the shafts of marksmen on this side of the House—and, I may say, he has been a very durable one. (Laughter.) Quite apart from that, Sir, we do appreciate very much indeed the work he has done in this country, not only in his official capacity but also in an unofficial capacity, and in that he has done a great deal. We are very sorry to think that we are going to lose one whom we regard as an old friend. (Hear, hear.)

Regarding the motion before the House, it has been before the Loan Works Committee, of which I am a member, and I would merely say that I support it.

VEN. ANCHUTON THE HON. G. BURNS: Your Excellency, I should like to associate myself with the hon. member as representing native interests in the words he has spoken regarding the departure of the hon. the Director of Public Works.

The question was put and carried.

AGRICULTURAL RECONSTRUCTION PROGRAMME.

MAJOR THE HON. F. W. CAVENDISH-BENTINCK: Your Excellency, I beg to move:—

"That this Council, having listened to His Excellency's communication from the chair, regrets that no mention was made of the Maize Control Bill, 1936, and that no more definite announcement was made with regard to the date of introduction of the Dairy Control Bill, and trusts that measures on these lines will be introduced without further delay as forming an integral part of the Colony's urgently needed programme of agricultural reconstruction."

I think, Sir, as a preamble to what I have to say, I have some justification in suggesting that the deliberations which have taken place in this Council during the last few days have been in a better atmosphere than for a considerable time past. We have been for a large portion of the time engaged in co-operating with Government in trying to find solutions to very urgent problems. It may be asked, why has this change of atmosphere taken place? My answer to that is that it is because, as viewed from this side of the House, we feel that Government have at last admitted that a very urgent problem faces us here, have admitted that a great deal had to be done in other countries years ago which we ought really to have

done here years ago, and have shown, as you yourself said in your opening address, goodwill in trying to get these things—though to some extent belatedly—done.

At the same time, Sir, having listened to your communication from the chair, and having listened to the lines on which certain hon. members opposite have argued during the course of the debates recently, we have some misapprehension that Government do not realize to the full what a lot actually still has to be done, nor how urgently it has got to be done if we are really going to take advantage of better times. We are referring in this motion to Your Excellency's communication from the chair, because we do regard that as a statement of Government's policy, and as such we consider that we have a right to refer to it in debate.

I have said a good deal, and so have other members, and so indeed have hon. members opposite, of what measures other countries have had to take in order to readjust their positions through the very, very difficult circumstances of the last few years. What have these measures been? In most cases, countries dependent on agriculture have been forced, in the first place, to adopt some form of devaluation of their currency. That is one thing they have had to do. In addition to that, in nearly every case they have brought in all sorts of special farmers' relief Acts; primarily dealing with the individual's debt position. I refer to such measures as mortgagors' relief Bills, compulsory measures under which there is a writing down both of principal and interest, stay orders, and all sorts of legislation that up to recently has been regarded as quite revolutionary. Incidentally, they have also in nearly every country made ample provision for providing short-term advances. But that is not all. They have in many cases also provided subsidies, direct subsidies, for certain industries. And lastly, Sir, throughout the world, there has been an unprecedented attempt at rationalization of industries in every country.

The above programme has been regarded as a programme in practically every country, and they have not only done one or the other of those things but in nearly every case they have done quite a number in such a way that the various measures which fall under each head fall generally into a complete scheme. These things have been done in Australia, New Zealand, South Africa, Chile, Roumania, Belgium, Denmark, Brazil, Canada, practically every country dependent on agriculture. If it has been deemed essential to introduce far-reaching measures such as I have referred to in old-established countries, how much more necessary must it have been to have done something in a new, partially developed country such as

The hon. the Colonial Secretary and, I think I am right in saying, the hon. and learned Attorney General, both gave it as an excuse that we were told we had no credit in the past, and therefore nothing could be done until now. Well, Sir, I do not agree. I think that Government should not have accepted without question the Secretary of State's statement, and should have been far more insistent in getting something done a long time ago. However, it is no good crying over spilt milk or regretting what has happened in the past; we have to look to the future. But I would like to add this: that the amazing thing to me, and I believe to everybody else who thinks about it, is that in spite of the fact that we have done nothing adequate in the past the farmers are still there. And that, Sir, is my answer to such remarks as have been made by my hon. friend who represents native interests, whose faith in the tenacity and activities of the white race seems to have been so sadly shaken, and to the remarks of that eminent agriculturist, the hon. member Mr. Isher Dada. (Laughter.) It shows that we have good farms and that we have got a wonderful country.

Your Excellency referred at great length and gave a very large number of figures, which are always indigestible matter, proving how very much the situation had improved from the Colony's point of view during last year. We agree that it has improved, and we are very thankful to think that is the case. But one of the chief items of evidence adduced was the export trade, the amount exported from the country. I venture also to say again, in answer to certain allegations made and which are constantly made, that the backbone of the export trade of this country is the European agriculturist and planter. And what is his position to-day? We have pointed out for a very long time that his position is becoming increasingly precarious. Only in July last a motion was moved referring to this subject, and I think that even hon. members on the other side of the House will admit that their attitude towards this problem ten months ago was very different then to what it is to-day.

In your address, Sir, you referred to 1935, and you showed how much better things were last year than the year before, but I would point out that at the end of last year a committee was appointed, the Agricultural Indebtedness Committee, the results of whose labours we have been discussing in the House in the last few days. They sat at the end of last year—the year of plenty. What did they find? They found that it was—

“not necessary to stress the importance to the Colony of an economically sound European agricultural industry”;

that—

“their knowledge of methods, control of diseases and pests, preservation and improvement of soil fertility

and general local farming conditions has been gained at considerable cost, but now represents an asset which this Colony cannot afford to lose.

And the Committee added that, even in this year of plenty, 1935—

"We wish to stress the fact that many farmers will not be able to continue operations unless some measure of relief can be afforded without delay."

The terms of reference of this Committee are also apt. They were:—

"To explore the possibilities of lightening the burden of agricultural indebtedness."

I submit that what that Committee really visualized was that in order to save these farmers, in order to get this country moving again, some such programme as has had to be introduced in all other countries had to be introduced into this one; not bits of a programme, but a carefully thought out scheme as a whole. I would like just to suggest that unless Government has in its mind a more comprehensive scheme than we have yet heard of in the debates of the last few years, they are not really doing their duty.

What can we do? The first thing which I referred to that other countries have done was devaluation. That is probably impossible in this country. The next thing is to try and do something to deal with the crushing burden of indebtedness by the provision of long-term finance. We are told that a scheme has been sent to England, and we may or may not hear what the opinion of the so-called experts is on it for some time, but we were definitely told that the scheme before us yesterday was primarily one of short-term finance, and we therefore stress that some measure which also provides for long-term accommodation is the one that should really have come first and cannot be overlooked, even if the scheme which has now gone home is found not altogether acceptable in its present form. We must remember that the problem has got to be faced now; it will be too late in a few months' time.

The second step is the provision of short-term finance, and that we have been discussing during the last few days. The third step is to deal with prices and rationalization of industries. Certain industries have done a great deal in this respect. They cannot control prices, but they can help very much in marketing and in reducing costs of production and in various other ways by a scheme of rationalization. It has been done in the case of the coffee industry; it was done voluntarily in the case of a small industry in which I am interested, the timber industry; and I think we have got to face the fact that it has got to be done in the case of all the major exporting

industries of this country. It is not to be regarded apart from the subjects we have been discussing in the last few days, but rationalization of industries is fundamental to the success of the measures we hope we are going to pass in the House in the next few days. It is no good helping a man with short-term finance if we cannot help him to produce, if not at a profit, at any rate without a loss.

Furthermore, I would propose that unless these measures of rationalization are introduced very shortly indeed we are going to lose practically a whole year which, in the case of the maize industry and dairy industry, would be very disastrous. It is going to take some time after the legislation has been passed to get it working, and therefore we cannot afford to brook delay. (Hear, hear.) The hon. and learned Attorney General, probably very rightly, because he is very enthusiastic about the Bill he introduced yesterday, said he did not want to see his filly harnessed to a slow starter. But his filly alone has not sufficient strength to pull the wagon we wish to get moved again, and the slow starter has got to be coerced into pulling as well if we are to achieve what we hope to achieve.

I therefore, Sir, trust that Government will show still more of its willingness to help, its goodwill and its capacity to govern, by not paying so much attention to the, perhaps, rather minority vocal representations to the effect that something is wrong in this Bill or that, but will take the wider point of view that there must be a comprehensive programme, that they are satisfied that such a programme will help to pull the country together, and therefore they are going to force that programme through. We heard yesterday—I think they were meant to be scathing—remarks about the properties of inertia. I do not think the simile was very apt, but it was suggested that had the authorities in Zanzibar shown a little more inertia there would have been less trouble. A perusal of the report on the recent disturbances in Zanzibar revealed the fact that a little activity as regards these Bills might avoid us having to face similar difficulties. Actually it was inertia they suffer from in Zanzibar, and we are rather apprehensive lest measures, which are absolutely necessary and vital portions of our programme of reconstruction, are going slowly to drown by reason of inertia.

I want to ask, in moving this motion, that Government will give us an assurance that they will immediately publish the Dairy Control Bill and the Bill for Regulating the Trade in Muizo in the Gazette, as has to be done under our constitution, and that fourteen days hence or as near the period as possible this House will reassemble to discuss these Bills, so that we can at least get them to the Select Committee stage and not run the risk of wasting another year.

I am not going to deal with the details of the Bills. My position is that I represent a number of people who probably object and think that certain parts of the Bills are wrong. But I have spoken to them, and everyone agrees that in principle, from the point of view of the country as a whole, the introduction of these rationalization measures to put our industries on their feet is an absolute necessity. (Hon. Isher Dass: No.) The details can be gone into later.

In conclusion, I do trust that Government will show its goodwill, will show it is determined to get the country on its feet again, by accepting these measures as part of our accepted programme, and will not run the risk of allowing us, with some justification, to say, "You have just given us something as a sop, and you do not propose to do anything more."

If we can see Government working with us on these lines, I suggest there will be a new era of co-operation between this side of the House and Government; but if, as I do hope will not be the case, Government persists in the attitude that things are going so well that they need not do any more, we in our responsibility to those who have sent us here must keep on attacking as we, unfortunately, have had to attack during the last two years.

THE HON. E. C. LONG: Your Excellency, I beg to second the motion. On the general question I have very little to say. I wish to refer in particular to the Dairy Control Bill. I must say that I was very surprised, almost amazed, to hear you, Sir, say in your opening address that the Dairy Industry Committee had not yet finished their deliberations or given the answers to the criticisms which the general public made to the Government, which everybody knows were thrown back to the Committee to answer. In fact, Sir, what has actually happened is that on two occasions this particular Inquiry Committee made special efforts to get these answers out and get their deliberations finished in order not to delay this Bill coming before Council. To substantiate what I say, Sir, I should like to read out a letter which I received on the 6th May from the Director of Agriculture. It is addressed to me as a member of the Committee:—

"Sir, I send herewith a copy of the final draft of the answers to criticisms of the Bill and conclusions regarding the Mombasa milk market. Please inform me as early as possible whether you agree with the memorandum as now drafted, so that Government may be informed accordingly. In the meantime I am sending a copy to Government in order to acquaint them of the position."

Now, Sir, when I got that, in order that there should be no delay at all I telegraphed my agreement, and I am quite sure

that the other members of the Committee did not waste any time either. It is perfectly true that when this session started or just before, on the Saturday, the hon. the Director of Agriculture approached me and informed me that the hon. the Attorney General was in difficulties over one particular part of the Bill with regard to Tanganyika and Uganda, but I suggest, Sir, that if my hon. and learned friend, the Attorney General, is in difficulties over this point, it is quite impossible to expect the Dairy Inquiry Committee to settle it, and that it is far better to settle it in Select Committee.

This Dairy Inquiry Committee was appointed by Government to go into the facts and figures of the industry for the special purpose of making out a plan to organize the industry. The Committee months ago got out a report and published a Bill to deal with this industry with the report, and it seems to me, Sir, that the whole affair is now out of the hands of the Committee and it is entirely a matter for Government to make up its mind whether the plan put forward by this Committee is worth while or whether it is not. As far as the general public are concerned, the consumers in Nairobi and Mombasa, the middleman and so on, I must take this opportunity of stressing the fact that this particular Dairy Control Bill has been bandied about the country from pillar to post to be criticized and trodden on, and months to do so, and any suggestion that the general public has not had sufficient time to criticize the Bill completely falls to the ground, and delay from that source should not be tolerated.

There is one other point I want to make, Sir, and that is, in my opinion, it is perfectly useless borrowing money, raising loans, or dealing with a thing from the financial aspect alone, providing farmers with money to pursue their particular courses, whether dairying or maize or coffee farming or whatever it is, unless every possible step is taken to organize the particular industry which you propose to finance. Otherwise, all that happens is that we shall lose more money and be in a worse position than when we started.

I must refer, before I sit down, to my hon. friend the Attorney General's remarks of yesterday when he was answering the hon. Member for Uasin Gishu; he referred to the Farmers Assistance Bill as a flying silly, and he did not want it put into double harness with an obstinate mule. I suggest that it is not a question of double harness at all. I admit the hon. the Attorney General has a fine silly, but I suggest he has taken on a dangerous job driving that silly without harness, and I suggest the harness, or two essential parts of it, are the Dairy Control Bill and the Maize Control Bill—(hear, hear)—which will ensure the safe conduct of the particular coach which the hon. the Attorney General will have

to drive. That coach is the agricultural industry of this country and without the particular harness to which I have referred it is absolutely a certainty that his filly and the coach and the industry are going to be ditched. (Applause.)

THE HON. CONWAY HARVEY: Your Excellency, I too, Sir, watched the initial perambulations of the learned gentleman's fancy filly with a good deal of pleasure, especially, Sir, as the condition in which she was turned out reflected great credit on her chief strapper. In view of that it is a little unfortunate that already she is developing slight signs of spavin. I am sure, if that filly could speak—to follow the analogy of the two last speakers—she would say, "How gladly would I avail myself of the assistance of my two stable companions, Dairy Control and Maize Control, to help me pull the wagon of Kenya agriculture out of the rut of depression."

Now, Sir, I was very sorry indeed to hear Your Excellency's definitely discouraging remarks on the subject of the maize industry. It is no good ignoring facts, Your Excellency; we appreciate that, as you undoubtedly do. Nevertheless, I think it would be most improper to panic at the present juncture, more especially as the depression which is so seriously affecting the maize industry of Kenya is due almost entirely to external factors which Kenya cannot control and for which they are in no way responsible and which they are quite unable to ameliorate. There are no inherent defects in Kenya agriculture, more especially in maize, and let me mention that the average production per acre in Kenya is something in the region of eight bags per acre, whereas in South Africa, another great maize-growing country, the average production is as low as three bags per acre. But, Sir, other countries competing with Kenya in the maize markets of the world, as I said, have been able to avail themselves of many ameliorating measures which are denied to the people of Kenya. I refer especially, Sir, to the currency manipulation of many countries, such as the Argentine, and the subsidy policy of the Union of South Africa. The grain-growers domiciled in the Union of South Africa receive a Government subsidy equal to the total amount received by the maize-growers of Kenya through their co-operative organization, the Kenya Farmers' Association. And as everybody knows currency manipulation has gone so far, the tight-rope of manipulation has been so stretched in the Argentine, one of the largest maize-producing countries in the world, that their financial acrobats performing on this greatly stretched tight-rope are in danger of collapsing, which will have a serious effect on the audience underneath.

As in the case of the dairy industry, the maize industry of Kenya has been the subject of most intensive scrutiny and examination by committees which have been appointed from

time to time. A very representative sub-committee of the Board of Agriculture was appointed last September. That committee consisted of the Director of Agriculture, the Chief Native Commissioner, Colonel Griffiths, Mr. Puri, Mr. Mackay, Mr. Mortiboys (representing the Sisal Growers' Association), Mr. Wollen (representing the Coffee Board), and Mr. Burton, the Acting Deputy Director of Plant Industry. May I point out that only two of those eight names are strictly concerned with maize production, if I exclude the Chief Native Commissioner, whom I regard in such matters very much as a jack-of-both-sides. This committee invited evidence from all and sundry and everyone interested in any manner in this problem, and amongst those who gave evidence were the Chairman of the Coffee Board, the Chairman of the Tea Growers' Association, the Chairman of the Sisal Growers' Association, Mr. Wolryche-Whitmore, Mr. Hansard, Sir Charles Liston Poulis, and a deputation from the Federation of Indian Chambers of Commerce and Industries in Kenya, and in addition to those Mr. Robins, of the Kenya and Uganda Railways, also gave evidence. After hearing the evidence of all those people, the committee came unanimously to the conclusion that there are areas in Kenya which are ideally situated for the production of maize; that the maize industry as a means of supplying a suitable article of food to the native population is essential to the country; that under normal world conditions maize is a sound economic crop for Kenya, and so on. I will not waste your time reading any more of the recommendations, the very carefully considered opinions of this representative body, based on evidence from all over the country. I suggest, in the light of this report, it is grossly unfair of Government to disparage and belittle the importance of the maize industry to the economic life of Kenya.

There are two more points which I should like to mention before I sit down. It is often thought by ill-informed folk that the natives of Kenya are quite capable of growing at a very low cost of production all the maize requirements of Kenya. Such is not the case. Never in the history of Kenya has native production reached the local demand with the one exception of this year, and I tremble to think what would be the effect on the large consuming interests of Kenya if European maize-growers went out of cultivation and it was found necessary to import maize from South Africa, where the price to-day at South African ports is something in the region of 18/1d. per bag. I do not think we should ignore the fact that a great deal of the structure of Kenya was based on maize. Our super-service was largely based on maize. Our costly transport service years ago was very largely based on maize. And I think, Sir, it is an act of gross injustice and it is very short-sighted policy

to cast the maize industry on the muck-heap to-day, like an old shoe which has served its purpose and for which we have no further use.

THE HON. J. B. PANDYA : Your Excellency, I am surprised that the hon. mover has thought fit to bring in this session the consideration of these issues. From his own point of view, I imagine that debates of this kind staged in this House do no service to the country's interests as a whole. (Major Cavendish-Bentinck : Not!) It does no benefit to the farming industry, because it will be said that the industry which is permanently crying for public support and the need for funds is not the right industry for the country. It also would not be helpful in getting new settlers to the country.

Now, Sir, the hon. mover has quoted instances of assistance in various forms granted to the farming industry in other countries, and he cited certain measures taken by those countries, and I think he implied that this country had not done very much to further the agricultural industry in this country. I think there could be no larger indictment of the whole country's policy than this coming from the responsible members of this House that the Government has not supported the agricultural industry in this country. We on this side of the House have always blamed the Government for doing very much more than they ought to have done in this direction, and therefore I think it would be only fair to the Government to say that they have done their very best under the circumstances, and I think it is only fair that everyone in this country who is interested should acknowledge it. I do not wish to go into details of what we have done in this country for the agricultural industry because I think it is well known to every one of us here who has been listening to the debates and voting money for these industries that primarily this country has supported the agricultural industry by prohibitive protective duties. It has not been given the weight which it should have been given in the schemes of support to these various industries. Secondly, we have used the Railway for furtherance of the objects of these various industries, given them low freights in inward and outward directions, rebates on kerosene, petrol, and many other things, and we have also given direct subsidies in the form of the maize subsidy, indirect subsidies in the form of reduction of charges for maize at the reconditioning plant and lower port charges, and, lastly, we have in this very session passed the second reading of a Bill giving £200,000 in the way of help to the farmers.

Now, Sir, to say that nothing adequate has been done for these various agricultural industries is rather unfair. The hon. member went on to say that in spite of the inadequate support

which this Government has given to those industries, these farmers have maintained themselves on the land. Then he goes on to say that there is a great necessity of the long standing credit facilities to the farming industry in this country. The real position is this : that if the farmers have remained on the land up to now they have remained because of this very assistance rendered in various forms by the country, and it is not fair to say that it is not so.

Now, Sir, it has been said that these two Bills, of which we have heard so much here this morning, are based on the principle of rationalization of industries. There can be nothing very much far from truth than calling these Bills rationalization of industry. I should imagine the word rationalization—at least, it conveys to me that these industries have to put their houses in order. They should produce an article economically at a cheaper price to put on the market in competition with the price at which other countries put it on the market. The rationalization of industry in various countries means this fundamental principle. What is the principle in this so-called rationalization of industry in this country? It is a misnomer; the word is wrong. It would be correct to say that these are the taxation measures for maintaining these industries. They are purely and simply measures intended to pass over to the other fellows in this country the burden of those industries. I say that deliberately and I can prove that in regard to the Maize Quota Bill. I am not going into the figures this morning because it is not necessary; the Bill will come before us, one hon. member has said. I hope not, but still it might come before us, and it is quite clear as far as that Bill is concerned it means the natives of this country will have to pay a higher price to support the European maize farming industry.

What are the facts in regard to the dairy industry? The Dairy Industry Bill will mean that the consumers of milk will have to pay a higher price for maintaining that industry in this country. (An Hon. Member : No.) If it is not so, then nobody will be more pleased than myself, but there is nothing which I have read in that report which leads me to any other conclusion.

Then, Sir, it should be realized that these are not rationalization measures, and who stops them having these measures amongst themselves? The aisa and such other industries are being rationalized. They try to produce at a cheaper price and put it on the market in competition with other countries, and nobody has objected. But these are not export industries by themselves and nobody prevents rationalization without Government support and legislation. But here is an instance where they desire assistance from consumers in this country by force of legislation. That is the main point in this connection.

In regard to the Dairy Control Bill, the hon. Member for Rift Valley tried to make out a case from the Report which was published. I think the Government has done much more to give a greater weight to that Report than it deserved, because in the first instance that Committee had a number of people on it who are interested parties and they have no right to judge on behalf of the consumer or anybody else the necessity of such a measure. They might be good advocates. They should have given evidence which would have been more weighty, but to become the judge in things where one is interested is against the spirit of English law. That Committee produced a Report which was very vehemently opposed by the whole country, and the country is populated by 2½ millions of natives and 36,000 Indians. To say that that Report was acceptable to the country is absolutely untrue, and to blame the Government that because a Bill was advocated by interested parties that therefore they should immediately pass it is equally amazing. No Government worthy of the name would tolerate such a position. The Government must act as they have done in this particular instance. They must consider all points of view before arriving at any decision, and to hurry them up to make a decision on the evidence which is not proved I think is an unjust and unfair demand.

Your Excellency, it was said by the hon. Member for Nyanza that the wagon of agricultural industry in this country required these two mares, the Maize Quota Bill and the Dairy Control Bill. I wonder with these two spirited mares yoked to this wagon they might not lead that wagon to destruction or to difficulties or to an accident with another wagon of consumers which is on the road. The wagon is not insured against third party risk, and it would be a real difficulty for the consumers to file an action for damages. Your Excellency, in regard to measures likely to affect seriously other interests I think it is only fair that the interested party should be patient and allow everybody an opportunity to present their case and to show that it is not in the interests of the country. I think the Government has only done the right thing which is expected of any Government, and at this stage to hurry them up is not desirable. From this point of view I do not think I can be expected to vote for this motion.

Council adjourned for the usual interval.

On resuming:

MAJOR THE HON. C. LUXFORD: Your Excellency, there is one point of view which I should like to bring up in connection with this motion. We have just recently been debating the Farmers Assistance Bill which might be construed as a

sort of ambulance service for the rescue of some of the existing casualties. I should like to emphasize the fact that for nearly three years many of us have been looking for some constructive measure to consolidate or co-ordinate the dairy industry which, in my opinion, will prove to be the most essential industry for future white settlement. In using the word co-ordinate I wish to say that one hon. member, I think Mr. Pandya, has inferred that the proposed Dairy Bill entails a subsidy. I believe that to be a misleading suggestion. The delay which has occurred and the hesitation which is at present being displayed by Government in introducing this measure is adding to the roll of casualties, and the more it is prolonged the more I believe will the roll be increased, though the Farmers Assistance Bill is designed to relieve it.

I am representing for the time being, rather nervously, a constituency which comprises a very large number of small dairy farmers, and I can assure you, Sir, that they regard this Dairy Control Bill as a most necessary insurance for their future security. Indeed, it is only a question of setting the industry's house in order, and I think that all this incitement towards this change over to mixed farming does seem optimistic before putting that house in order.

Before sitting down, I should like to borrow the simile used by the hon. the Colonial Secretary when he was supporting the Farmers Assistance Bill, when he referred to the big end of his motor car. I believe that the Dairy Control Bill is the big end of the mixed farming omnibus. (Applause.)

MAJOR THE HON. E. S. GROGAN: Your Excellency, I welcome this motion as representing a long needed innovation in the proceedings of this Council. It does, of course, follow the precedent established by the House of Commons, of which this august assembly—or pantomimic ceremonial, whatever you like to call it—is alleged to be a larval form and which is at the interesting stage in the evolution of primitive beginnings which may have some significance in the affairs of the country eventually. The motion does, in fact, remove one of the main difficulties from which we on this side of the House have suffered from for many years.

The difficulty arises out of the kaleidoscopic nature of the gubernatorial post. It is a very difficult task to distinguish between the Mendelian characters that make up that post without getting into a mess with the gentleman who occupies the position at the moment.

The characters are as follow. First, there is the suggestion of the King: a sort of evescent, intermittent halo which floats to and from across the brows of the occupant of the post. Secondly, he is the Speaker. He is also the Prime

Minister, which is the Governor's function in Executive Council. He is also, in addition to that, in the ordinary transactions of the affairs of his office, Permanent Under-Secretary of all departments of State. He has also to act as a sort of Beau Brummel, controlling the social relationships of the Colony, and he is Field Marshal of the local Army. At intervals he may appear as honorary President of the dominant Trade Union of the country, and finally, generally speaking on many occasions he appears as the sane, simple person that God made him.

We have always suffered from the difficulty that in criticizing Government, not necessarily the Governor himself, this confusion of functions is bound to creep in and suggest something illegitimate in the nature of anything that may be construed as an attack on the Governor himself. Only on this occasion is his function perfectly clear, and his Mendelian character at the moment stands out stripped of all complications, because when the Governor appears at the opening of the session and reads the Address from the Chair, which is supposed to be the local equivalent of an Address from the Throne, no sooner does his voice die away, the kingly halo vanishes, he remains, before he re-crystallizes into the Speaker, as the Prime Minister primarily responsible for the policies of his Government. Therefore on this, the only occasion without any possibility of confusion, we are in a position to say exactly what we think of him and the Government of which he is the prime mover. Doubtless when that issue is cleared up it will be easier for debates on these big matters.

Now, quite obviously, when the present incumbent of that onerous post arrived in Kenya, it was a very critical juncture in the history of this country. We were then at the beginning of this catastrophic collapse of the price level and consequential disequilibrium of society arising not out of anything done here but world movements over which we in this country had no control, and although there were signs of that in the beginning his predecessors might have anticipated it and taken some precautionary measures. But there is no doubt that when you yourself came, Sir, you arrived at probably the most difficult moment in the history of the Colony, and there is every sympathy with you on the majestic proportions of the problem with which you were promptly called on to deal.

The issue as it must have appeared to anybody at that time was a rapid diversion of the normal share in the wealth of the country from one section to the other section of the community brought about by the fall in prices and consequent distortion of every contract based on a price level, and all our

social adjustments are related to price level because it quite obviously is the distributing mechanism of the wealth of society.

When you arrived here that position was beginning to become obvious. It was quite clear, as the price level of the commodities of the country fell, so the share in the wealth of the country was passing from one side of the community to the other, and the ratio of division were varying widely. It created, of course, an astounding opportunity for anybody who was prepared to chance his hand, grapple with a great problem and so earn his niche in history.

The distinction is roughly this, that as the price level falls, the proportion of the wealth of the community that normally flows to the people who primarily produce that wealth was being taken away from them and transferred—I am speaking only, of course, of ratios—to other sections of the community. Anybody who studied the position *de novo* coming to the country with a fresh mind, must have seen that the main beneficiaries of that distortion in the equilibrium of society was in favour of the Civil Servants of the country.

HIS EXCELLENCY: I suppose the hon. member is keeping to the motion, before the House? (Laughter.)

MAJOR THE HON. E. S. GROGAN: Yes, Sir, I am, on strictly logical lines. I began by stating that had the matter been a little more closely realized by that element of society—because, after all, they are the first charge on society, the first mortgagee—they were obviously deriving the full benefit of the change taking place, and following them perhaps the banks and other institutions, whereas in fact the only ultimate beneficiaries outside the Civil Service were the quadrupedal inhabitants of the Usin Gishu and other districts who returned to the deserted areas. I hope that my hypersensitive friends will not interpret this as a new insult in any sense! When you come to the real analysis, outside the Civil Service, whose buying power increased, no beneficiaries remained except the zebra, who re-entered the domains from which he had been expelled by the settlers.

In considering the issue with which you were faced, there were two alternative methods of dealing with them. One was to pursue the problem with the aid of the unit which brought about the distortion, by use of the monetary unit; in other words to follow the line of devaluation already adopted by practically every comparable country.

HIS EXCELLENCY: I think that the hon. member is far beyond the motion?

MAJOR THE HON. E. S. GROGAN: I don't think so. (Laughter.)

HIS EXCELLENCY: I must ask you as quickly as possible to get on to the point.

MAJOR THE HON. E. S. GROGAN: May I point out in self-defence that what we are discussing now is the problem of agricultural reconstruction, and in order to suggest any programme of reconstruction it is essential to have clearly in one's mind the factors that brought about the collapse of the particular machine you wish to reconstruct.

DR. THE HON. A. C. L. DE SOUSA: On a point of order, Sir, the motion refers only to regrets. It is a motion of regret for something not yet given.

HIS EXCELLENCY: I do not want to restrict the debate, but I do wish the hon. member would try and confine himself to the motion.

MAJOR THE HON. E. S. GROGAN: I am trying very hard, Sir. I am only pointing out that there are various methods, already referred to by the hon. Member for Nairobi North, and I am merely labouring a little bit some of the points he raised, that there are two alternative methods of dealing with this problem. One is by devaluation and by a desperate attempt to remedy the fall in external prices by some relief in our external obligations, and the other the normal process of deflation which represents large proportionate cuts in the Civil Service and other beneficiaries, the forcible reduction of rates of interest, the compounding of capital obligations, the institution of moratoria, subsidies; in fine, the general curriculum which every country in the world has been compelled to pursue in remedy of the problem.

I want to emphasize that point because it is quite clear from the statements made on the other side, and even by yourself, that there has been and still is a complete failure to realize that the problem with which we are faced to-day is a vast distortion of all contracts brought about by a factor over which we have admittedly little control and which has led to the robbing and plundering to the extent of millions of the finances of the people who provide the whole foundation of the State, and the suggestion that this eke-moynary project of providing relief is inspired by kindness shows complete misunderstanding of the whole situation. In fact, the agricultural industry in this country by the incidence of the monetary factor has been robbed and plundered for the assumed benefit of other parties in society, and any idea of restoration and redistribution of the

general wealth of the community in more equitable proportion as a form of relief, as those octopodal gentlemen persist in suggesting, is entirely wrong, and until everybody gets it perfectly clear in their own mind that as a result of the monetary factor the people we are now trying to help have been robbed and plundered, we shall never understand this subject and can never enter into a comprehensive conception of the problem that lies before them.

If you take, Sir, what has not been done, and that is essential in considering what is left to be done, we have the problem of devaluation, which was the system adopted by every country in the world. No explanation of any kind or description from any responsible party has ever been given as to why these territories, these servile states of the Colonial Office, have been denied the remedies adopted by every other authority all over the world under similar conditions. One would have thought that the attention of Government would have been drawn to this problem, when we were considering especially the enabling Bill to enable the Crown Agents to borrow money to keep down the internal price level while adopting at the same time a few trivial measures to put up the internal price levels. Similarly with the 6 per cent loan: no effort was made to put forward the case for the country, except to refer the matter to those gentlemen always described as experts, a convenient method of shifting an obligation from the responsible parties to a third party . . .

THE HON. SHAMSUD-DEEN: On a point of order, Sir, may I suggest to the hon. member that he asks permission of the hon. mover to add at the end of the motion the words "internal price level and devaluation". Then he will definitely be in order in going on with his speech?

HIS EXCELLENCY: I take it that he is making his speech on the words in the motion: "as forming an integral part of the Colony's urgently needed programme of agricultural reconstruction." That is what you are basing your speech on?

MAJOR THE HON. E. S. GROGAN: Yes, Sir.

HIS EXCELLENCY: It is very wide.

MAJOR THE HON. E. S. GROGAN: In the matter of the 6 per cent loan, and other onerous loans, if this case had been properly argued from this side and the precedent already established by Newfoundland, there is no doubt about it that this country could have established a case either for default, for the relief of the victims of this policy, or for some relief in respect of the loan itself. I say without the slightest hesita-

tion, that no proper steps were taken by this Government to get a reconsideration of the matter, probably because nobody in Government had the necessary qualifications to enable them to put up an effective case.

It has been stated during this session by the hon. and learned Attorney General that no funds were available three or four years ago for providing the reliefs required, for the restitution required, but he has surely forgotten that there was an enormous Civil Service in this country drawing salaries admittedly at the rate of 150 per cent above pre-war conditions when the price levels of the products of the country were higher than the price level prevailing at the time. Surely, as the gold mines of South Africa, one of the beneficiaries of deflation, were taxed for the maintenance of the agricultural victims of deflation, the chief beneficiary in this country should equally have been taxed for the same reason, and there was no reason, no equity, but unlimited precedent why those salaries, which are scandalous in relation to present conditions, should not have been proportionately reduced as they have been in every country in the world outside the control of the Colonial Office and India—and I think even the India Office has done it.

But what happened? As I understand it, an average 2½ per cent cut, and on one occasion I have a recollection of your sympathizing with the Trades Union on the dreadful sacrifice they had made. This was followed by the late Attorney General's screed, which was a most discreditable document, arguing that this was a contract which could not be modified in any way at all, whereas his successor to-day has assured us there is no contract at all.

HIS EXCELLENCY: I would ask the hon. member to keep to the motion. You are making a very wide speech.

MAJOR THE HON. E. S. GROGAN: I am sorry if it hurts, but these things have to be said.

HIS EXCELLENCY: I may have to rule you . . .

MAJOR THE HON. E. S. GROGAN: They had better be said here rather than in the clubs and bars and elsewhere.

HIS EXCELLENCY: At the proper time, yes, if it is covered by the terms of the motion, but this motion does not include Civil Service salaries . . .

MAJOR THE HON. E. S. GROGAN: I was showing . . .

HIS EXCELLENCY: I shall rule that you must stick to the terms of the motion.

MAJOR THE HON. E. S. GROGAN: Shall I sit down, Sir?

HIS EXCELLENCY: Keep to the point.

MAJOR THE HON. E. S. GROGAN: I hoped I was.

HIS EXCELLENCY: You do not, and that is why I call you to order.

MAJOR THE HON. E. S. GROGAN: The real point I want to make was to make it perfectly clear by a historical resume—which I kept as brief as I could—that the Government of the country during the last four or five years has failed utterly and completely in either grasping the magnitude of the problem with which it was faced or to take no precautionary steps to deal with it, and the result is that we are now faced with catastrophic conditions which are going to require a very large number of complicated measures to restore to the robbed party some measure of security as against the future.

We are faced with this issue also. It has been stated there are no funds left. Quite obviously there are funds, because if there were any kind of equitable redistribution there would be plenty of funds for all reliefs, and for the backing of loans if necessary. Of course, we are told we must have the best men, and that we shall not have them unless we pay the best salaries. We have in fact the best men, but, Sir . . .

HIS EXCELLENCY: The hon. member is getting away from this subject again.

MAJOR THE HON. E. S. GROGAN: I do not think so, Sir?

HIS EXCELLENCY: I rule that you are.

MAJOR THE HON. E. S. GROGAN: I accept your ruling. I have said what I wanted to say. The two measures specifically referred to in the motion are integral parts of a general scheme of restitution and reconstruction, and what I was trying to do was to induce your Government really to grasp the problem as a whole and recognize that the present complicated position is due to internal mishandling of the position in the past, and that we shall have the advantage of a death bed repentance and an eleventh hour real reconstruction.

VEN. ARCHDEACON THE HON. G. BURNS: Your Excellency, I know that I am putting my head into the lion's den but I am quite prepared to let them have a snap at it (laughter). I want, Sir, to congratulate the Government on their delay

(applause). I do so not from the point of view that I am perhaps opposed to certain aspects of those Bills, as from the point of view of those who are involved in them. The hon. mover of this motion drew an analogy between certain countries and this, such as Australia and New Zealand. I do not think that the analogy is parallel at all. We have here in this country not only Europeans—and I am not introducing, and never have, the racial question—but we have other sections of the community who are seriously involved in both these measures that are under discussion this morning, that is, the Maize Control Bill and the Dairy Control Bill. The natives of the country are growing maize, whether successfully or not it is for the Agricultural Department and those connected with it to say. They are also beginning under the tuition of the Agricultural Department or a section of it to find some value in the products of their cattle. They are being trained to know what cleanliness means in the production of that product, and also sending that product into market, which I understand, as far as Mombasa certainly is concerned, the product that comes from the people out from Mombasa a little way, is supposed to be the best that is sent into Mombasa. I say, Sir, that the Government, in delaying those two measures and giving every person an opportunity of expressing his views on this matter, is doing the country a service and not a dis-service, and certainly the people that I have the honour to represent, it is doing them a very real service indeed.

With regard to the other matters which have been brought before us in the very able and wonderful speeches that we have listened to, perhaps I am one of those unenlightened people who do not understand the situation, as has already been referred to, but I think, Sir, that when we come to think of the tasks that Government had to undertake—and I am not throwing roses now—when I assure you that since Your Excellency yourself came here five years ago that task has been done in a manner that must call forth the admiration of all who look upon the way Your Excellency has tackled that job and brought it to the state it is to-day. (Applause.) We cannot expect that you could just bring in that wonderful state that we have been hearing about in the short time that Your Excellency has held the reins of this Colony. I do believe and I say to this honourable House that Your Excellency has done a tremendous lot towards helping to alleviate the distress that the years of depression, low prices, locusts and drought have brought upon this country. Your Excellency, I have no hesitation in saying it, has done a tremendous lot for which the country should be grateful to you for having done.

With regard to these two Bills, when they come forward we shall have of course a further opportunity, if we are here, of saying something with regard to them. The natives, with regard to these bills, are very much involved indeed and we hope that when the Bills, after Your Excellency's Government has given them all the consideration which they deserve to receive from the Government, come before this House we will be able to guide those fillies and their wagon along in such a way that some sections of the community will not be crushed under the wheels that those fillies are dragging along the road, but that every section of the community will derive benefit, not only the Europeans, but also the natives and the Indians, from the form those Bills will take, and so help forward the country as we all long to see it helped forward.

MAJOR THE HON. SIR ROBERT SHAW: Your Excellency, I hope I shall be able to stick to the point and not occupy too much of your time. I only rise really to deal to a small extent with one or two aspects of this discussion which I think have been greatly distorted here this morning.

I am glad that my hon. and gallant friend on my left (Major Grogan) has succeeded, in spite of numerous interruptions from one corner of the House, in providing at least some idea of the background which exists for the introduction of such a motion into this House and for years past has forced upon us all on this side of the House continually to introduce motion after motion of this nature. I use the word continually and I use it chiefly not as the hon. Mr. Pandya used it when he was speaking. I think this is what he implied that all these funds for the agricultural industry and measures passed and moneys borrowed in order to support that industry really waste of time if that industry must be continually crying out for assistance. Unless one remembers some of the facts that my hon. friend here pointed out, Mr. Pandya might, if I may so put it, get away with that statement. The agriculturists of this country made one appeal and made it five years ago when Your Excellency came here and was faced with this very difficult problem as has already been stated. Lord Delamere at that time suggested when we thought—I may say all of us as represented here in this House and outside were in fact at the top our form in the matter of co-operation and government by agreement and that kind of thing—and Lord Delamere offered at that time to Government every conceivable measure of support and assistance and asked Government to form a Standing Economic and Finance Committee to meet all these problems as they came up. Government stepped off on the wrong foot and has never been able to get back into step since. The result is that session after session in this Council we have to bring motions of this sort in order to bring

out some of the things we have been endeavouring to obtain, and in yesterday's debate a small advance in that direction was made. But that is not to say that the whole of this problem of agricultural reconstruction must be considered in terms of such emergency measures as we have passed yesterday. The necessity for rationalization—I use the word in spite of the fact that Mr. Pandya does not like it—the necessity for rationalization of these big industries which are export industries, the exports upon which the health and wealth of this Colony depends, is absolutely necessary—not as emergency measures—but as measures of common sense and pure straightforward business, in order to enable us to compete with every other country in the world which have organized their industries years ago before any depression set in. And here we are, six years after the depression, with our industries quite completely disorganized—two of the biggest of them. The dairy industry offers the greatest opportunity for the exploitation of the great grass lands of Kenya. Personally I think after the time spent on this and the admirable assistance received from the committee appointed, which committee was appointed not as the hon. Mr. Pandya suggests but to make recommendations, the Government should at least show a desire to judge the issue. I think it was the 14th March I received a letter to put forward proposals and here we are two months later and people are saying they have not had time to make their statements on this one way or the other. I simply cannot understand why this golden opportunity which Government had of bringing these measures in after six years has been so hopelessly and completely missed.

I endorse entirely everything the hon. mover of this motion said that he hopes that this occasion—I do not think I misunderstood him—may be one of the last occasions when we shall have to attack Government and attack it from every conceivable side in order to overcome this complete inertia which has existed in this country for the past six years.

LT.-COL. THE HON. J. G. KINKWOOD: Your Excellency, in terms of the motion I rise to support, I also rise to express regret, firstly, that in speaking on the Conciliation Board I did state that these two Bills should have come first and I also expressed the opinion that I would like to see some initiative from the Agricultural Department. I made a perfectly innocent remark expressed in parliamentary language and it was not personal and was not intended to give offence and I regret has given offence. I also have another regret that the hon. Attorney General should have seen fit to accuse me of assassination, of stabbing a man behind his back. If there was anybody stabbed in the back it was the speaker who was absent and the hon. Attorney General was addressing my

empty chair. I think everybody will agree at once that the speaker on all occasions does not go behind anybody's back to state his opinion. I have made it a rule to confine any criticisms I have first of all to express them in this Council and give Government and Heads of Departments an opportunity of refuting any statement I make and I did follow that rule. I do not rush into the Press and neither do I unduly criticize Government to the man in the street and I regret that my hon. friend the Attorney General saw fit to use the term he did. Still I cannot see that there is a corpse on this side of the House and the stabbing in the back has proved not to be fatal because the hon. Director of Agriculture is looking in perfect health and there he is now smiling.

I did also notice that the hon. Attorney General had introduced a flying filly and had tied it on to the slow going mule. That was probably a foolish thing to do to get a flying filly and handicap it. I would much prefer if he had produced his filly and tied it to golden opportunity and prosperity of the maize and dairy industries. As I stated on a previous occasion these two Bills are tied up with the Farmers Assistance Bill. It is definitely a mistake to say purchase a business for an individual or put him into business if there is no business for him to get into. If the business is there for him to get you will have to make provision that he is going to get a fair amount of it and that it is to be remunerative.

I want to ask Government here and how whether they believe in rationalization of industry? Because they have proved by their action in the past that they do believe in it. They have passed the Sales of Wheat Bill which was legislation to give the industry the control of that particular calling. One instance was quite enough. Others have been mentioned but I do not wish to reiterate. I maintain the maize industry is entitled to the same measure of rationalization if it is going to be a success.

I would also ask Government to give a definite answer whether they believe in the principle of raising internal price levels for it is the policy of the British Government to raise world price levels if possible. It was for the purpose of raising prices that the Ottawa Conference was called. That was representative of all units in the British Empire and I should like a definite answer to those two questions.

I would also like to ask the Government whether it is Government's policy to govern? If it is their policy to govern as regards the passing of these two Bills, then Government will also state definitely whether they propose to govern and introduce these two Bills. Naturally before these Bills are introduced Government will have to commit itself to the principles, the general principles involved.

I am not going to deal with details. They can follow and will be thrashed out in the form of a Bill before this Council so that hon. members can have something to bite on. I have not prejudged these two Bills, neither am I prejudging the details, but I do maintain, Sir, that Government has got to act and to state here and now this morning that they do agree with rationalization and they do believe in raising the internal price level and do believe that Government should govern, and if we do that we will get a long way further than we have for a long time. Taking a comparison with a medical practitioner, he does not go to an outsider who knows nothing about the subject or very little and ask him what treatment a patient should get. The medical man himself determines the treatment and takes the responsibility of the treatment which he prescribes. In other words, he governs; and that is all I want Government to do. I am not even asking you to pledge yourselves to these Bills and beyond asking that you will pledge yourselves whether these Bills are going to be brought forward in some shape or form, the details do not interest me at the moment. It has been stated as a matter of fact by Your Excellency that the maize crop is a pioneer crop. I do not agree. It was a pioneer crop when pioneered in Kenya by the European settler. It was on the advice of the Agricultural Department that settlers were induced to come to this country, more especially soldiers. I cannot see how it can be described as a pioneer crop. It is an essential crop to this Colony. A fundamental crop. Without a bulk crop such as maize, though it may be a low freight traffic from the point of view of the Railway, similar to cotton seed, but without those bulk crops the Railway would be severely handicapped. They could scrap at once 30 per cent of the rolling stock and also their staff. They would lose immediately the whole of the handling charges at the coast and without those the Railway would show a deficit and not a profit. It has been proved on two occasions to my knowledge and probably more to men of longer experience of this Colony than me—I have been here 17 years—that the maize problem and European maize, and European maize only, has saved the native from starvation and it is immaterial how much maize the natives grow. It has no control and no co-operation and until you get that you will not even after a famine be able to secure the native the same as European maize through a co-operative society.

The hon. Mr. Pandya stated that the case was not being proved in regard to these two Bills otherwise than for rationalization and stabilization of price or whatever he had in mind. I take it as a general term. My answer to that, Your Excellency is that the juries on this case have sat throughout the world in every country of the world and they have come to the

unanimous verdict that the case has been proved up to the hilt, that these industries must have rationalization or assistance in some other form. A number of countries have gone in for devaluation. I believe in the Argentine they have devalued to 40 per cent odd. Yet you ask maize farmers in this Colony to compete and pay you a pound. They have succeeded in keeping in existence notwithstanding that great disadvantage. New Zealand has depreciated through their banks 25 per cent on sterling. Australia has depreciated also by 25 per cent on sterling. It exists throughout the world—either devaluation, subsidy, rationalization or some other method to help the producers of cereals to market their produce at a profit, however small it may be, on the overseas market. In every case, without exception, within my knowledge, which the late Director of Agriculture found not inconsiderable, I definitely state, Sir, that in every case throughout the Empire measures have been taken to raise the internal price levels of all cereals produced in every part of the Empire. I am well aware of the assistance that has been rendered to agriculture in the past but I would remind those who criticize it that there have been no free gifts. The money has been advanced on conditions, either from the Land Bank or from the original maize subsidy for which there is still a contingent charge on future maize producers in this country. That money is recoverable by Government when maize again reaches (I am quoting from memory) Sh. 7/45. Now it is a contingent liability on the future growers of maize.

Maize is an essential crop to this country not only for its general welfare. Whatever the hon. the General Manager of the Railway may say to the contrary I maintain he could not do without these bulk crops of cotton and maize. The whole system of the financing of the Railway would collapse and I do hope that in the very near future both these Bills will be presented to Council for consideration.

The Ven. Archdeacon Burns representing native interests also complimented Government on its delay. While I am always quite prepared to compliment anybody in using their judgment and wisdom and not being rushed, I do submit there has been unnecessary delay not only as we consider it, Your Excellency, but there is a strong feeling, rightly or wrongly, throughout the country that Government are not anxious to produce these Bills. I have even heard it stated they have been published for criticism and that the definite bringing of them before Council or putting them in a definite form and advertising them has been deliberate. While I do not myself believe that that is correct, I do charge Government with unnecessary delay and I do think that where in a Colony like Kenya we have three mixed races and other problems, the handicap of being a Crown Colony, that a strong line taken by

Government invariably kills a lot of opposition. Once it is known that Government recognizes a certain principle our opposition fades away.

I do hope that what I have said will be borne in mind and the assurance I have asked for will be given here and now this morning.

THE HON. SHAMUDD-DEEN: Your Excellency, I have a good deal of doubt in my own mind as to the propriety of this motion at all. Our hon. friend, the Member for the Coast, has told us of certain constitutional practices of the House of Commons and I could not quite follow his poetical language of which he has a habit of indulging in. I understood him to say that he compared Your Excellency with many holders of position in the House of Commons. I have no experience of the House of Commons, only the hon. member probably has. I doubt whether he has even been a member. I know definitely that he contested a seat and was defeated and he probably knows from that. I know this much that when Your Excellency in your capacity as the representative of the King or as the Speaker delivers a speech from the Chair, it seems common sense that it should sound just as a matter of fact like a speech from the Throne, but I doubt whether it should be made the subject of a motion like we have. This motion primarily arraigns Government for not introducing these two Bills. If they had confined themselves to that instead of the speech from the Chair being made the subject, I should have had nothing to say because Government is after all an institution that is open to attack and criticism.

These two Bills have been the subject of all sorts of speeches that one would think that this is a debate on the budget session for the third time this year. I only wish to say that the Government of this Colony I think really deserves to be congratulated on not hurrying these two measures which are going to have very far-reaching effects.

The hon. Member for Native Interests, the Ven. Archdeacon Burns, I think made a very great speech this morning. Although he started by saying he was going into the lions' den, I do not think he has gone far enough in dealing with this Maize Bill. Maize is not only the primary crop of this country but the staple food of the native of the country and I can well realize that if two natives were sitting on those two chairs they would have said—"Don't touch our staple food." I am not against any community although the agricultural community of this country has always been like a bad child and spoon fed. I don't begrudge that. I do not wish to see them go out of the picture either. But let them grow sisal or something or this brush grass that was suggested in the papers the

other day, but please don't let them compete with the natives in growing their staple food. That is why I think the Government has been very cautious indeed.

The case of Zanzibar has been mentioned a few times in this House—the Zanzibar riots and the Committee's report. It is really too painful to bring in to my mind for the reason that as I think most of you know I suffered a loss which is irreparable to me. It is the same thing. Government interfering with a crop grown by the natives and the same mistake is likely to be committed here in this country if we go and compel the natives for after all that is the object of this Bill: We want to compel the natives to export a certain percentage of the maize grown by them.

We know very well that the native of this country is accustomed to a certain type of maize grown, known as the small sweet grain, and that grain according to my information has little or no sale in the markets of the world. They have been persuaded with very little success by the Agricultural Department to grow maize which has a market, but they are not taking them. If you are going to ask them to grow something or to force them to eat something because that is what will happen. If you export a certain proportion of their produce which will necessarily have to bear the loss which the Europeans are bearing at the present moment, they will be compelled to eat something they do not like. We have been told that in all other countries the production of maize per acre is something like three bags as compared with seven bags in this country. It is very misleading to put only one side of the picture before the House. We have not yet been told what sort of population there is in those countries which grow maize and what is the cost of production. That is the most important point of all. I could grow in Nairobi I think with municipal watering and chemicals not only seven bags but eight or nine or even ten, but one has got to keep in mind the cost of production. My information is that in those countries mentioned so frequently maize is grown on such an extensive scale that the cost of production as compared with the cost in this Colony is very, very low. Here a farmer grows maize on a very limited scale. He competes with the native, who has no expense practically to incur, pays no labour, no overhead charges, while the European farmer has got to get out of his acre of farm not only the wages of his labourers and headmen, his overhead, but also a living for himself and his family which naturally in a country like this has to be higher in order to keep up the customs of the white man. That is one of the reasons why maize has never been a success in this country. It is quite possible with all the machinery we have that we could manufacture a motor car but can we compete with Henry Ford as far as the cost of production is concerned?

Therefore, I think that the maize industry will never be a crop on which any businesslike farmer can possibly be helped because it cannot be economically grown at the same cost of production. We have given them subsidies and on one occasion we told them it was the last occasion. We have changed our mind and only last session we gave them a guarantee of £12,500. If the Government ever brings in that Bill the Government will be committed at every demand to come to their rescue whenever there is a fall in price. That is one of the reasons why I hope the Bill will never be introduced in this House.

As far as the Dairy Control Bill is concerned, when some hon. member said the cost of milk would be reduced here there were cries of "No, no," but the fact is that the result of that will be that the cost of milk will be increased which means that you will be taking it away from the mouths of little babies simply in order to help the dairy industry farms, because to-day a family buying 3 quarts will only be able to buy 3 pints and that is one of the reasons why Government should bear in mind the interests of other communities as well.

I think, as other Indian members are going to speak, I will leave something for their part and I will not take up the time of the House.

THE HON. A. C. HOYE: Your Excellency, I propose to be very brief and to concentrate on the motion before the House on two points.

The motion is the outcome of a debate on your Address from the Chair, because there are two very important things which we consider are imperative to the economic reconstruction of this country. I refer to the Dairy Control Bill and the Maize Quota Bill. As an outcome of that debate on the Farmers Assistance Bill I consider that a new era has been opened up to this country, inasmuch as you have decided, and rightly so I think, to come to the assistance of a great number of farmers who, unless they are going to receive assistance, as outlined in this Bill, would have no alternative but to close down. I think that a right and proper decision to come to.

In coming to it it is as well to look back, and when you come to think of what Kenya Colony has achieved since the war you can definitely turn round first of all and point to the large amount of capital that has been lost, and the disappointment of people who have left the country fed up, thinking there was nothing good left in Kenya. There has been a loss of capital, a loss of energy, and misdirected energy through lack of experience. But you have arrived at a position now when you can point to very positive results, and the question which faces

you is: "Are you going to build on those results or not?" I am perfectly sure it is the intention of everyone, including Government, to build on them, but how?

One of the industries which has come to the fore during this period, especially during the depression of the last two or three years, is the dairying industry; and that industry has expanded very considerably, and in such a manner that now it is looked upon by responsible people as having great potentialities. Those concerned in the industry have now come to one conclusion, and that is if they are going to carry on and really make a success of things, and in view of the increasing output, it is vitally necessary to rationalize the industry, with the result that Government appointed a committee to go into this matter. That committee worked very hard and got out a scheme called the Dairy Control Bill.

I definitely believe in my own mind that Government fails entirely to realize the enormous good that can come out of that Bill. I believe Government fail entirely to realize how essential it is to the industry. What has been the result? A committee has been appointed, it has reported, and the Bill has been bandied about like a shuttlecock between the Secretariat and various committees. So it goes on. And to-day even, there is no finality at all, no assurance yet forthcoming that the Bill will be before the House at any definite time. It is procrastination once more, when it is absolutely essential if you are going to open up, as you will, the possibilities of dairying in this country by handing over certain funds under the measure we were discussing yesterday, that you should give that industry every opportunity to organize itself and to reduce its marketing costs to an absolute minimum. It is the marketing costs in this country which are proving such a burden for the various interests to shoulder.

Of course, one must agree, and I am sure those interested in dairying will agree, that this is not a perfect Bill. It is a Bill that will have to receive criticisms—goodness knows it has received enough already!—but there is no desire on the part of those concerned in the dairying industry to force this Bill. Government would not be so silly as to force it through but to get every possible opinion from everybody as regards the merits of the Bill. There is no desire to inflict hardship on anyone. Everyone's point of view will have to be considered. But let Government take action; let them bring the Bill forward for consideration by those people who do object to the Bill and make their objections through the proper representative channels.

What I really believe about this is that we have to try and understand one another's point of view more. Let us try and get together. I do not expect my Indian friends to

realize my difficulties as a primary producer, but I am prepared to stand up and fight for them. They can object, and I will meet them. I have such faith in this Bill that I am certain that when it comes before the House it will fight its way through on its merits, and I would urge Government that they give an assurance that the two Bills will come up at a definite date.

If we are going to go on with this continual delay, what hope do you give the people of the country you were trying to help yesterday? They turn around and say: "There is money going to be made available and we are keen to get on with it, but will you tell us when the Dairy Bill is coming, because we are not going on until that happens; we do not want assistance because we see no hope, but if you give us the Dairy Bill and allow us to rationalize our industry we agree that it has a very bright future."

That is the position to-day, and I urge Government to give a definite assurance that they will produce these Bills for debate in this House within a certain time. We cannot go on with this everlasting delay.

THE HON. ISHER DASS: Your Excellency, this debate to-day reminds me of a joke. A gentleman was asked if he had ever lived in Paris. He replied: "Yes, so long that I have become a Parasite." I am always accused of bringing in racial questions. I suggest to-day that some of these gentlemen farmers have lived so long on the land as agriculturists that they have themselves become mealy bugs on the finances of this country.

This motion as it is worded contains three things only. The first is:—

"That this Council, having listened to His Excellency's Communication from the Chair, regrets that no mention was made of the Maize Control Bill."

That is only regret, it contains mention of nothing more. Secondly, it regrets—

"that no more definite announcement was made with regard to the date of introduction of the Dairy Control Bill."

There they are asking for a date. The third thing is a pious hope:

"and trusts that measures on these lines will be introduced without further delay."

That is exactly what the motion is asking. How on earth devaluation comes in and where from and how, is a brain wave, and how the rolling stock of the Railway comes in, I

do not know. All that Government is asked is not to leave it until to-morrow, but all these other matters have been uselessly brought in. It seems to me it shows a sign of mental degeneration on the part of some of the European elected members. Otherwise, in order to save the time and money of this House the whole matter could have been put in the form of a question asking that Government should kindly supply the date by which these measures are likely to be brought before the House. An answer would have been given, and it would have satisfied them.

But they are doing this deliberately. They know perfectly well that there has been a Maize Inquiry Committee and that people have been given a chance to express their opinions. They know perfectly well to what stage that inquiry has reached. In spite of all that knowledge in their possession, either the hon. members are trying to ignore it and are just wasting the time of the House or are using this House as a sort of Hyde Park for their political propaganda!

The same remarks apply to the second point. We are not a bit concerned with the measures, no one has suggested anything about the details in this motion. The motion says simply that the measures on these lines should be brought before the House without further delay, or unnecessary delay, and that these Bills should be produced, nothing more than that. That could also have been asked by means of a question, which would have saved the time and money of the House.

I do not see why some people are always accusing us of trying to bring in racialities. For the information of the hon. Member for the Coast, I would inform him that if we have the same privileges, the same concessions, the same facilities given us we would have been better citizens than he or his countrymen are. Some of our countrymen have farmed in the Kibos district for many years and have never come forward with any requests for financial assistance or have suggested that they were starving. It is because hon. members on this side of the House do believe that Government have been too generous in giving them financial assistance, and the Governor or his representative have met them in a most generous way, in spite of the fact that owing to the wide depression, drought, and other circumstances, the country is passing through a very serious financial depression, Government has met them to a large extent. They should be grateful that they have a Governor like you, a kind-hearted and good-natured fellow. They should thank their stars they have not got a man like me as Governor of the country! (Laughter.)

In your Communication from the Chair, Your Excellency has told them all about the trade recovery, and the hon. the Colonial Secretary and the hon. and learned Attorney General

yesterday and the day before have made it clear that as the financial market in London has become easier they are trying to do their best, and have put certain schemes before the Colonial Office. These things take time, and, in spite of the fact that every possible information and assurance has been given by your Government to the European elected members, I would only say that this motion has been deliberately brought with a view to turning this honourable House into a Hyde Park for political propaganda only.

MAJOR THE HON. G. H. RIDDELL: Your Excellency, I want to clear up one point which has prominence in this debate. At the last session of the Council we had a categorical, a very direct statement, from the hon. the Director of Agriculture to the effect that the maize industry in his opinion was of great value to the country and was a sound, economic factor. Your Excellency in your speech delivered in this Council stated, so far as I understood you, that maize was a pioneer crop and I understood by that statement to mean that it was a crop that had been tried but the success of which was still in the melting pot. I should like to hear from a member of the Government an actual statement again such as we had from the hon. the Director of Agriculture as to whether Government does consider in fact that maize is an economical crop and should be encouraged or not.

In that regard the hon. Member representing Native Interests, Dr. Wilson, gave us a dissertation on what he considers mixed farming and his statement, which I verified with him this morning, was that in his opinion mixed farming was a change over to an economic crop such as dairying, if one can call dairying a crop. I always look—I may be wrong or right—but I always look on the hon. Member Dr. Wilson as an echo of Government opinion, and it is desired to have a categorical statement from Government again, so welcomed by our then Chairman, Lord Francis Scott, when an actual definite opinion on this subject was given. I know it has been expressed by the hon. the Director of Agriculture, but I want to hear it again.

The hon. Member for Trans Nzoia and the hon. Member for Nyanza both defended the maize industry, but I do not consider that the maize industry as an economic crop requires any defence; that the defence has already been made, but I want to hear it again.

While we are on this subject of mixed farming, I should like to hear from the hon. the Director of Agriculture some sort of definition of what mixed farming means, because I have already tried to express in this House that I did not look on mixed farming as a change over from maize to a more economic crop. I look on mixed farming as ordinary farming, the

practice of ordinary farming in other countries. You do not in England describe a farm as a wheat or oats farm, but as a farm, and that is what I mean, getting down to the established practice of other countries when in this country we describe it as mixed farming. The hon. and learned Attorney General described my remarks as drawing a red herring across the trail; I invite him to have another smell.

THE HON. THE COLONIAL SECRETARY: Your Excellency, I propose to confine my remarks to that part of the motion which deals with the Dairy Bill and the results of the Dairy Industry Inquiry Committee, and I wish to refer to the charges brought against Government of delay, inertia, procrastination, and to say straight out that in my opinion there has been no delay, no inertia, and no procrastination. The work of Government in connection with this matter has been exacting, consistent, persistent, and uninterrupted since the matter was first mooted, and that work is not yet quite finished.

The hon. Member for Rift Valley was surprised that the Report of the Committee was not in the hands of Government. It is perfectly true that I did receive for the information of Government a copy of what I understood was a draft Report. The Report was unsigned, and I was informed that it had not yet been signed and was given to understand that it might be and probably would be subject to amendment. More than that, there was one complication at the end of the Report which had to be cleared up before that Report could possibly be published. There was no earthly use in publishing a Report which would immediately call down protests from neighbouring territories of violation of Customs Agreement or Customs Union.

As to the line Government take in this matter, I would like hon. members, in common fairness, to place themselves in our position and ask themselves, what line they would have taken in the same circumstances. What happened?

When the first Report was published of the Dairy Industry Inquiry Committee with the draft Bill for information and criticism, it was met with a storm of protest from one end of the Colony to the other. It would seem from the debate to-day that the hon. elected members may be ignorant as to the nature and volume of the protests and criticisms. The hon. member suggested that Government should not take too much notice of the criticisms of a vocal minority. Had we been listening to the criticisms of a vocal minority, we might have been justified in disregarding them, but we were not. I have received letters from established farmers who said the introduction of the measure must inevitably spell their ruin; there have been responsible deputations protesting that this was the most

barefaced act of robbery Government could ever contemplate, and resolutions from responsible bodies such as the Nairobi Municipality and the Mombasa Municipal Board.

Government had three alternatives. It could immediately have said "Well, for everyone in this Colony who wants this measure there must be at least ten, possibly 100, people who do not," and Government could have dropped the Bill and said they would not go further with it. Another alternative was to stamp on the objectors. We could have said to Nairobi Municipality: "You are a collection of congenital idiots, with not the foggiest idea what you are talking about, and you are not fit to exercise the trust given you," and we could have said the same to the Mombasa Municipality and to everyone who criticised.

The hon. Member for Trans Nzoia asked, was it the policy of Government to govern? When anyone asks me that question he generally has some idea of his own of what government means. My answer is in the affirmative, but my idea of government may possibly be different from his. I rather gather that it is a legitimate inference from his speech that if Government had stamped on the objectors that would have been government, but that if Government had stamped on the Bill that would have been misgovernment. Government took a different line and said, "These protests are such that they cannot be treated as frivolous hurlings of an irresponsible minority; they come from responsible people, from responsible bodies."

We in this Colony, rightly or wrongly—most of us believe rightly—have adopted the policy of local government which we are developing. We have established local authorities in the two big towns. Can we now turn to these local authorities when they pass resolutions and give us their advice and say: "We do not propose to take the slightest notice of you"? I do not believe that anyone who gives the matter serious consideration can say that Government was wrong in treating those protests and criticisms as a serious contribution towards the solution to this difficult problem, and doing the only sensible—and incidentally the only courteous thing—to refer those criticisms and protests to the Dairy Industry Inquiry Committee and say: "Here are objections to your scheme, can you meet them?" Is not that sheer common sense?

If there is any suggestion that Government is opposed to these Bills in principle, I should like to remove it. If we could see these doubts and criticisms met, no one would be more delighted than Government. Government have done nothing to stifle or obstruct them, but have devoted all its energy in helping to frame these Bills in such a way that they will meet with general acceptance.

Another question which the hon. Member for Trans Nzoia asked was, does Government believe in rationalization? I want to be rather careful about that question, because I am not perfectly certain what he means by rationalization. I rather doubt if it is a word that ought to be in any dictionary. I am not even certain that it is in any dictionary. In any case, it is used with different meanings. One meaning is 'rationing an industry'. For example, suppose the Colony is given a quota for sugar, and we ration it among the mills. That is one sense in which rationalization is used. In another sense it is used as an alternative to organizing an industry. If the hon. member means, does Government believe in organizing the industries, the answer is in the affirmative, provided it can be done without damaging too many other people.

Another question asked was, do Government believe in raising the internal price level? When anybody talks to me about an internal price-level I expect to get out of my depth quickly! I will put it more simply. If he means, would we like to see the farmers of this country getting better prices for their produce, the answer very definitely indeed is in the affirmative.

I should like hon. members to believe that Government is trying to work out a scheme for the benefit of these two industries which can be agreed to, at any rate, by a considerable majority of responsible people and responsible bodies. As I said, the work is not quite finished, because we have not yet got a Report in from the Committee which has been dealing with these criticisms and because there are still one or two points outstanding to be cleared up. When that is done, it ought not to take more than a few days or a week to finish the Report, and it will be published for information. We still hope, as I say, that agreement may be reached.

I would like the hon. elected members to believe that Government in this case has not been guilty of deliberate delay or deliberate procrastination, and we certainly have shown no inertia.

DR. THE HON. A. C. L. DE SOUSA: Your Excellency, I am sorry to get up at this stage knowing that there is very little time before me, but I do so to say that this debate has been futile from our point of view. Perhaps the only thing useful about it is that it has afforded Government an opportunity to make clear its views in respect of the proposals before us. My chief reason for intervening at this stage is to reply to certain expressions by an honourable gentleman—I will not call him gallant just yet—in reference to us. It has been contended that our present troubles are of recent date and that we are suffering from the effects of the world-wide depre-

sion. To my mind the worries of the European elected members are not of recent origin. They are partly the result of the old activities of certain bipedal gentlemen who very early in the history of this country made for themselves a comfortable nest in a creek of Kilindini, now famous and known as Mbaraki, which cost the country £350,000. The hon. Member for the Coast has called us an octopedal swarm infesting the backs of oxen.

HIS EXCELLENCY: I would ask the hon. member not to bring in personalities.

DR. THE HON. A. C. L. DE SOUSA: There is nothing personal in this matter, Sir. The hon. member referred to us as an entomological octopedal swarm. I would call these bipedal gentlemen a zoological monstrosity in the form of an octopus which, having settled comfortably in Mbaraki, extended its tentacles right up to Uasin Gishu over the fifty-two additional miles of railway which again cost the country half a million pounds sterling. And I say, Sir, that our present troubles are to some extent due to the heavy rate of interest which we pay on the loan money to which we are committed on this account.

I wish, Sir, that these bipedal gentlemen, who are calling us Asia-tics, parasites, would shut up their mouths because they have partly contributed to this state of affairs. (Laughter) I am sorry to refer to these things, but it is always good for those who have not been here as long as I have, to know the history of the country and also to know where our troubles really began.

The debate was adjourned.

Council adjourned till 9.30 a.m. on Saturday,
the 23rd May, 1936.

SATURDAY, 23rd MAY, 1936

Council assembled at the Memorial Hall, Nairobi, at 9.30 a.m. on Saturday, the 23rd May, 1936, HIS EXCELLENCY THE GOVERNOR (BRIGADIER-GENERAL SIR JOSEPH ALOYSIUS BYRNE; G.C.M.G., K.B.E., C.B.) presiding.

His Excellency opened the Council with prayer.

MINUTES.

The minutes of the meeting of the 22nd May, 1936, were confirmed.

ORAL ANSWERS TO QUESTIONS.

APPLICATION OF SHOP HOURS ACT TO MOMBASA.

No. 13.—THE HON. F. HIER DASS asked:—

"With reference to my question No. 70 of 1934 and the reply thereto in regard to the application of the Shop Hours Act to Mombasa, will Government be pleased to inform the House how far this matter has now advanced and when this Act is likely to come into operation in Mombasa?"

THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: The sub-committee of the Mombasa Municipal Board, referred to in the reply to question No. 70 of 1934, has prepared the draft of a Bill to make provision for Regulating the Employment of Shop Assistants. The draft was considered at a meeting of the Board held on the 5th May, 1936, and, with certain minor amendments, has now been submitted by the Board for consideration by Government.

MAJOR THE HON. E. S. GROGAN: May I ask is there any prospect of receiving any answers to my questions?

HIS EXCELLENCY: I think you were answered yesterday as far as we could.

MOTION.

AGRICULTURAL RECONSTRUCTION PROGRAMME.

THE HON. MEMBER FOR NAIROBI NORTH having moved:—

"That this Council, having listened to His Excellency's communication from the chair, regrets that no mention was made of the Maize Control Bill, 1936, and that no more definite announcement was made with re-

gard to the date of introduction of the Dairy Control Bill, and trusts that measures on these lines will be introduced without further delay as forming an integral part of the Colony's urgently needed programme of agricultural reconstruction."

THE HON. THE ACTING MEMBER FOR RIFT VALLEY having seconded.

The debate having been adjourned.

The debate continued.

THE HON. THE DIRECTOR OF AGRICULTURE: Your Excellency, one or two technical points have been raised during this debate, and I should like to take the opportunity of answering or explaining them.

One hon. member asked what was meant by mixed farming. Mixed farming was described in the interim report of the Agricultural Indebtedness Committee, and there it is said:

"Maize must be regarded as a 'pioneer' crop, essential to the development of the territory. In other countries similarly situated, maize production has formed the stepping stone towards more diversified farming, and in our opinion the time has arrived for farmers now growing maize or wheat only to be encouraged and assisted to change over to mixed farming."

The report goes on in greater detail, but of course the basis of what is meant by mixed farming is that of a farm on which we have both crops and stock. Various advantages accrue from that system of farming. You have more than one saleable product. When you have fluctuations in the market, the price of one product might be good, while the price of one or the other is not so good. In general, it can be said that in Kenya the principal feature of a mixed-farm due to the natural conditions of the country should in most cases be dairying. There are several advantages from mixed farming. One of the main advantages is that by that system you can maintain soil fertility more economically. You can do so by having rotation crops, by using manures and by the intensive use of pastures. You also secure more economy by spreading the work that the labour does throughout the year, and you can undertake greater activities for the same overhead. But the general conclusion is that with mixed farming we mean crops and stock.

The hon. Member for Trans Nzoia mentioned at one stage of this session the inertia of the Department of Agriculture, and I think there was a little misunderstanding on

that point. I think the point the hon. member wished to make was that the Department of Agriculture was not giving sufficient advice to farmers in order to enable them to change over to a more diversified form of farming. I misunderstood his remark at the time, and I think my hon. friend the Attorney General also possibly misunderstood what the hon. Member for Trans Nzoia meant. Actually the Department does maintain services in European areas. We have a farm at Njoro and an agricultural officer there, and another one at Kitale. We have an agricultural officer at Kabete, and an agricultural economist in Nairobi. But this subject was discussed by the Board of Agriculture on the occasion when Sir Alan Pim and Mr. Milligan met the Board, and Mr. Milligan put up two suggestions, among many others of course, and he said, "As I see it, in this Colony you have two most important questions; one is concerned with the quality of coffee, and the other is concerned with the change over to a more diversified form of farming." And he suggested that the Department of Agriculture, in order to give adequate service for this purpose, should have two services—one for coffee and one for mixed farming. At the Board, Mr. Milligan got very full support with the idea of having a team of workers on coffee, but he did not get quite the same support for the team on mixed farming. In fact, I think he was rather discouraged by the remarks made at that meeting, and I do not know to what extent he has mentioned it in his report, but I hope he has suggested that we should give more service to that end. I should like to see the Njoro station developed so that we should keep stock and it should be regarded as a centre from which we could disseminate knowledge on all the problems, and we should of course have substations at Kitale and some highland station like Molo, or some place like that.

The hon. Mr. Shamsud-Deen, I think, mentioned a point about native maize. I think he suggested that the native consumer anyway preferred to have the soft round maize rather than the flat hard maize such as Europeans grow. The Department of Agriculture is helping the native grower in the cultivation of his maize, and we are doing that by issuing to them superior strains of maize which is called *murulka*. This is, in point of fact, very similar to the soft round maize that the natives used to grow, but it is very superior in yield. There is no question of foisting this maize on the producers. They ask us for it, and we supply them as far as we are able. We cannot supply every location in a district at once, but over a number of years we can give a supply of new seed to every location.

I do not think that this is the time nor the place for me to actually discuss the two Bills mentioned in this motion; that is the Maize Bill and the Dairy Control Bill. Naturally, as

chairman of the two committees which sat on these Bills, I personally think they go a long way, and they are certainly the best we, as committees, could think of.

I should say, Sir, that Government is most anxious to introduce a Bill for the rationalization of the dairy industry. Unfortunately, Sir, the opposition to the Bill, as printed in the Report of the Dairy Industry Inquiry Committee, has been so great—I need only mention the objections from the Nairobi Municipal Council and the Mombasa Municipal Board—that Government feels that it is most desirable that, if possible, this Bill should be modified so as to meet these objections as far as possible, and I feel sure, Sir, that I am interpreting your views correctly when I say that if the interests concerned could prepare a Bill which to a fair measure actually did meet these objections, that you would have no hesitation in giving it the full measure of your support. In this connection I am authorized by Your Excellency to say that you are prepared to hold a special session of Legislative Council at which the Bill could be considered by this Council. (Hear, hear.)

The same applies to the Maize Bill to a lesser extent. There have not been so many objections, but the objections nevertheless are somewhat serious, and it is considered desirable that the Bill and the criticisms which have been received should be referred back to the Maize Inquiry Committee, of which I am chairman, and that we thrash it out, and also the objections as well, as early as possible, and I am calling a meeting of that Committee at an early date.

I cannot recollect any further technical points that were raised. I think the hon. Mr. Pandya said that the Dairy Industry Committee should not be in a position to judge the matter, but, of course, that is not the function of the Committee. They have their terms of reference and formulate a scheme, and it is, of course, for this Council and Your Excellency's Executive Council to judge the matter.

The hon. Member for the Rift Valley asked what was the actual position of the second report that the Dairy Industry Committee had made. The position now is that we have finished our report and that it is a unanimous report. It was held up for a few days in order to secure unanimity. Our first report was not quite unanimous, and every member of the Committee was anxious to get a unanimous report for the second one. We have now secured that, and it will be laid before the Government, supported by all the members of the Committee, and I think that spirit of compromise which has prevailed will also prevail when we come to consider these two Bills in this Council, and we shall get Bills, if not satisfactory to everybody concerned, then at least satisfactory to a large number of those concerned. (Applause.)

MAJOR THE HON. F. W. CAVENDISH-BENTINCK: Your Excellency, there have been several points raised in the course of this rather long debate to which I feel I must reply.

The first criticism made by various members was that this motion was a complete waste of time and should not have been in the form of a motion at all, but should have taken the form of a question, which would have saved a lot of discussion and time. I would point out that as regards having it framed in the form of a question, I had already asked a question. I had asked Government before this session started whether there was any hope of these measures being brought in during this session, and if they could tell me when they were going to be brought in, and as I had replies to the effect that they did not know, replies very similar to those given in the course of the debate, I felt that asking a further question would only elicit the same reply. As to saying that this debate has been a waste of time, I am afraid I do not agree at all. In the first place, from the picture drawn by Your Excellency in your opening address we felt that there might be deductions drawn which would lead people to think that there was now no further necessity for measures of this kind; and secondly, Sir, as a result of this motion, we have got the position now very much clarified, and we have had a satisfactory assurance from the Government which we have just heard. I therefore, Sir, cannot believe that people can still maintain that this debate from the point of view of the country has been a waste of time.

Referring to individual comments, I would first refer to the speech made by the hon. member Mr. Pandya, who does not resort to violent abuse but nearly always supports his arguments fairly well. He started by saying that he was surprised that I in my position, I suppose as a member representing the consumers, should have seen fit on behalf of Elected Members to propose this motion. He also went on to insinuate that the country had supported the agricultural industry for a long time, and I think he said, possibly in a previous debate on the day before, he made reference to the fact that agriculture was supported by the taxpayer. If I agreed with that very fallacious doctrine, I agree with him that I should have been the wrong person to put forward this motion. But I entirely disagree with him. On what do the people whom I represent really live? I maintain, Sir, and I believe Government maintains, that the basis of the whole of this country is agriculture—(hear, hear)—and therefore, taking a rather longer view, I realize that there have to be certain compromises and certain alterations made in these various proposals in order to meet the just rights of the consumers and poorer people and those who are not agriculturists, but taking the long view we have got to keep agriculture going.

The hon. member Dr. de Sousa even went so far as to suggest that European agriculture, I suppose he meant, was like an octopus; I suppose, sucking the life-blood out of those who are in fact living on it, and he suggested that one of the enormities this octopus had committed was the construction of the Uasin Gishu Railway. I think even the branch line to Kitale is now, even by the hon. General Manager, admitted to be paying, and what is it paying on? Agriculture.

He also, Sir, towards the end got slightly muddled, I think; he suggested that milk and maize were not export crops or products. I would only refer him to Your Excellency's speech, and I would again remind him that although possibly a vastly improved position as regards exports does not always reflect in a vastly improved position as regards the individual who makes those exports, yet the fact remains that the prosperity of the country must largely depend on exports, and the fact remains, whether he likes it or not, that the bulk of those exports are produced by the European farmer. And, Sir, if he looked it up, he would find that both maize and dairy products figure very large on the list of better export figures which you gave in your opening address. Therefore, Sir, I feel that, as one representing commercial interests and as one who realizes that the commercial community just depends on the prosperity of the country as a whole, I am just as justified in putting forward a motion of this kind as would be a member representing a purely dairying district. (Hear, hear.)

The hon. and Ven. Archbishop in his remarks congratulated Government on the delay, and, as unfortunately he is seldom inclined to do, he evidently has at the back of his mind the idea that we, in putting forward these suggestions for putting the dairy and maize industries into better condition, have neglected and have not thought of the interests of those whom he represents. It is a thing I have never been able to understand as to why we should be supposed to be regardless of native interests, besides making it further from the truth. Putting the bulk and dairy industry to which he specifically referred, he will find, if he has read the Bill, that under the Bill the dairy is the only community which has had special protection guaranteed to it under the terms of the Bill. £2,000 a year, if necessary, has been set aside from the funds of the Government, so that they will be guaranteed, in order to carry out the various matters (provisions) under the Bill there will be standing, more or less, guaranteed, and if the Bill goes through in substance, as proposed, in principle, the native will be given an opportunity of having a market for his milk and of getting the best price on the European. I am sure, certainly, that the Government will give forward these proposals, we

have in no case that I can remember not made ample and adequate, if not generous, provision for native interests. I do not think there much more that I need say with regard to the remarks made by my venerable and hon. friend; except I would just say this, that he ended up by paying Your Excellency a great tribute. He stated that you, Sir, had held the reins of Government in this Colony for a very short time with very remarkable results. Well, Sir, I would point out that actually, I believe, you have held the reins of Government longer than any of your predecessors, and that, Sir, is not an argument for suggesting that we should replace you by Mr. Isher Dass! But during those years we do feel that your Government has not really done as much as it should, and I would only ask the venerable gentleman whether in his heart of hearts he is really satisfied with the reactions of Government's suggested good deeds on the people whom he represents? I think he will find they may have some difficulty now in finding the money to pay tax, and if more had been done they might be in a better position to do it.

As regards the hon. the Colonial Secretary, he quite rightly pointed out that Government was on the horns of a dilemma, and that there were obligations as regarded Customs Agreement and Customs Union with the neighbouring territories in matters of detail in connection with these proposed measures. I admit that those obligations probably do exist, and I trust that when you go down to the Governors' Conference, Sir, it may be possible to find a way out of those difficulties within the next few days.

The hon. member then referred to the difficulties in which Government found themselves when they were faced with criticisms, and he sounded quite logical in that there has been pretty violent criticism from responsible bodies about this Bill. But I would say, Sir, that he confines his argument on an entirely false premise. Why does Government find itself in a quandary? Because Government, as far as we can see, has never yet taken this view: first, what is the country dependent on? It is dependent on agriculture. Secondly, what branches of agriculture contribute most greatly to the country's prosperity? Having made up their minds that possibly the maize and dairy industries come into this category, Government should say right away, "We will produce measures to see that these industries do not go under but are put on their feet."

That, Sir, is governing. But what happens? Government tries as long as possible to do nothing, because they are always hoping something will turn up, and when the time comes and representations are made to them that something has got to be done they are rather apt to sit as judges and simply sit and say, "You say this has to be done" and so on; not "What are

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have in no case that I can remember not made ample and adequate, if not generous, provision for native interests. I do not think there much more that I need say with regard to the remarks made by my venerable and hon. friend, except I would just say this, that he ended up by paying Your Excellency a great tribute. He stated that you, Sir, had held the reins of Government in this Colony for a very short time with very remarkable results. Well, Sir, I would point out that actually, I believe, you have held the reins of Government longer than any of your predecessors, and that, Sir, is not an argument for suggesting that we should replace you by Mr. Isher Dass! But during those years we do feel that your Government has not really done as much as it should, and I would only ask the venerable gentleman whether in his heart of hearts he is really satisfied with the reactions of Government's suggested good deeds on the people whom he represents? I think he will find they may have some difficulty now in finding the money to pay tax, and if more had been done they might be in a better position to-day.

As regards the hon. the Colonial Secretary, he quite rightly pointed out that Government was on the horns of a dilemma, and that there were obligations as regarded Customs Agreement and Customs Union with the neighbouring territories in matters of detail in connection with these proposed measures. I admit that those obligations probably do exist, and I trust that when you go down to the Governors' Conference, Sir, it may be possible to find a way out of those difficulties within the next few days.

The hon. member then referred to the difficulties in which Government found themselves when they were faced with criticisms, and he sounded quite logical in that there has been pretty violent criticism from responsible bodies about this Bill. But I would say, Sir, that he confines his argument on an entirely false premise. Why does Government find itself in a quandary? Because Government, as far as we can see, has never yet taken this view: first, what is the country dependent on? It is dependent on agriculture. Secondly, what branches of agriculture contribute most greatly to the country's prosperity? Having made up their minds that possibly the maize and dairy industries come into this category, Government should say right away, "We will produce measures to see that these industries do not go under but are put on their feet."

That, Sir, is governing. But what happens? Government tries as long as possible to do nothing, because they are always hoping something will turn up, and when the time comes and representations are made to them that something has got to be done they are rather apt to sit as judges and simply sit and say, "You say this has to be done" and so on; not "What are

we to do?" I maintain that is not having the initiative which we have a right to expect from the Government of this country. (Hear, hear.)

There have been one or two remarks made during the course of the debate that there should be no interference with native products. It is insinuated that these measures are going to interfere with crops grown by natives and the methods by which they are grown. I would only say in reply to that allegation, which comes from one corner of the House—and I think, if they were really honest, it is not fear of interference with the natives who grow the crops that provokes these remarks; it is fear of interference with those who in some cases exploit the native who grows the crops—that these Bills will make that very much greater.

Lastly, Sir, as I do not want to take up much more time, I would refer to the remarks made by the hon. the Director of Agriculture. He started by saying, I think, that maize was a pioneer crop, which is what you said in your opening address. I would only draw his attention, as he quoted from this Interim Report, to paragraph 16 of that Report, in which it is stated:

"We are satisfied of the importance to Kenya and neighbouring territories of the European maize industry. We agree with the view of the Economic Development Committee that the preservation of the present organization and structure of the maize industry justifies a 'national effort to assist it and safeguard its interests' (vide Economic Development Committee's Report, para. 619), and with the further opinion of the same Committee that, 'Maize must be regarded as an essential crop. Its production in Kenya is one of the Colony's greatest safeguards against famine, for it is now a staple food of most of the native population and, apart from famine considerations, it is required in large quantities as a basic factor in other local industries. We regard the maize industry as of vital importance to the economic welfare of the Colony.'"

Sir, I think you can see that it is more than a pioneer crop, and I think we have the right to ask Government, and before the next crop difficulties are in view, to do what they can to preserve that industry.

I understood, and we all understood, and we were pleased to hear the hon. the Director of Agriculture—speaking, of course, on these industries—commit himself to the advisability of the introduction of these measures. He says there will have to be certain modifications to meet objections, and we agree with that. But if you over-modify a Bill you might ruin it; and as regards the objections made, which are the objections I believe Government are most nervous about, the objections

made by consumers in the towns, I would not vote for the Bill unless their objections could be met. But I believe they can, and that you will find in the Bill that Government have the right to control the price to the consumer. As long as Government have that right I believe Government can protect the poorer classes of consumer in the towns.

We have, I think, Sir, gone a step further when we hear that the second report to which reference has been made is a unanimous one, and we have just had the assurance that, as a result of this unanimous report, which must be a great step forward, and if as a result of your visit to the Governors' Conference the various difficulties to which the hon. the Colonial Secretary referred can be cleared out of the way, you are prepared to have a special session in order to fit in a few more pieces of the jigsaw puzzle which lies before us in our programme of reconstruction by introducing these two measures at the earliest possible date.

I should like to thank you for that assurance as a justification for the length of time the debate has taken, and, in view of that assurance, and with the permission of my seconder, I would like the permission of the House to withdraw my motion. (Applause.)

HIS EXCELLENCY: I take it that with the permission of the House the motion can be withdrawn?

THE HON. SHAMSUD-DEEN: Your Excellency, I feel the hon. member realizes that every minute of this House costs the country £2, and this sort of thing should not be made a practice of.

The motion was by leave withdrawn.

BILLS.

THE LAND AND AGRICULTURAL BANK (AMENDMENT) BILL.

THE HON. THE TREASURER: Your Excellency, I move that the report of the Select Committee appointed to consider and report on the provisions of the Land and Agricultural Bank (Amendment) Bill be adopted.

The amendments are of quite an unimportant character, and entirely deal with matters of drafting. It is suggested in clause 10 of the Bill that the proviso in regard to the selling of the security shall be limited to (a) of the proviso, that is, "if the debtor and the subsequent mortgagee consent to such action or actions being taken." That was the original intention and it was a drafting error that it was applied to (a) and (b).

Paragraph 2 of the report boils down to the insertion of the word "and" in clause 11.

Paragraphs 2 and 3 deal with the power of the Board to publish a notification in the Official Gazette of any advance or extinguishment of such advance. In these two cases the provision was left out of the Principal Ordinance by inadvertence.

THE HON. THE ATTORNEY GENERAL seconded.

The question was put and carried.

THIRD READING.

THE HON. THE TREASURER moved that the Bill be read a third time and passed.

THE HON. THE ATTORNEY GENERAL seconded.

The question was put and carried.

The Bill was read a third time and passed.

THE FERRIES BILL.

THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: Your Excellency, I move that the report of the Select Committee appointed to consider and report on the provisions of the Ferries Bill be adopted.

The report recommends that the inclusion of the words "after consulting the Central Roads and Traffic Board" should be made in clause 3 of the Bill. After a considerable amount of discussion of the various points raised in the course of the debate in the committee stage of the Bill, the Committee unanimously came to the conclusion that if it was provided that these words be inserted in the Bill, adequate consideration to any point that might be raised could be given by the Board, and that would secure the position.

THE HON. T. D. H. BRUCE seconded.

The question was put and carried.

THIRD READING.

THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT moved that the Bill be read a third time and passed.

THE HON. T. D. H. BRUCE seconded.

The question was put and carried.

The Bill was read a third time and passed.

THE LOCAL GOVERNMENT (RATING) (AMENDMENT) BILL.

THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT moved that the Local Government (Rating) (Amendment) Bill be read a third time and passed.

THE HON. THE ATTORNEY GENERAL seconded.

The question was put and carried.

The Bill was read a third time and passed.

*Council adjourned till 10 a.m. on Thursday
the 28th May, 1936.*

*[The date was subsequently changed to Wednesday,
the 17th June, 1936.]*

WEDNESDAY, 17th JUNE, 1936

Council assembled at the Memorial Hall, Nairobi, at 10 a.m. on Wednesday, the 17th June, 1936, His Excellency THE GOVERNOR (BRIGADIER-GENERAL SIR JOSEPH ALOYSIUS BYRNE, G.C.M.G., K.B.E., C.B.) presiding.

His Excellency opened the Council with prayer.

ADMINISTRATION OF THE OATH.

The Oath was administered to:—

Nominated Official Members.

GEORGE BRETNALL HERDEN, Postmaster General.

MONTAGUE RICHARD REYNOLDS VIDAL, Officer in Charge, Masai.

MINUTES.

The minutes of the meeting held on the 23rd May, 1936, were confirmed.

PAPERS LAID.

The following Papers were laid on the Table:—

BY THE HON. THE COLONIAL SECRETARY:

Schedule of Additional Provision No. 5 of 1935.

BY THE HON. THE ATTORNEY GENERAL:

Report of the Select Committee appointed to consider and report on the provisions of the Farmers Assistance Bill.

BY THE HON. THE CHIEF NATIVE COMMISSIONER:

Letter written by himself to Provincial Commissioners and Officer in Charge, Masai District, in connection with the draft Bill in regard to the control of the Dairy Industry, dated 13th February, 1936.

BY THE HON. THE DIRECTOR OF AGRICULTURE:

Volumes II and III of the Annual Report for 1934 of the Department of Agriculture.

ORAL ANSWERS TO QUESTIONS.

INDIAN REPRESENTATION ON NAIROBI DISTRICT COUNCIL.

No. 10.—THE HON. ISHER DASS asked:

"With reference to my Questions Nos. 38 and 95 of 1934 and the replies thereto, wherein Government definitely promised to appoint an Indian member on the

Nairobi District Council, will Government be now pleased to state definitely, seeing that nearly two years have already elapsed, whether they still contemplate making this appointment and, if so, when?"

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: Government does not, as at present advised, contemplate making this appointment in the near future.

NON-NATIVE CENSUS.

No. 25.—MAJOR THE HON. F. W. CAVENDISH-BENTINCK asked:

(i) What is the estimated cost of effecting a non-native census enumeration of Kenya Colony?

(ii) Is it the intention of Government to maintain the continuity of the quinquennial census by providing for an enumeration of the non-native population in 1936?

(iii) If not, will Government state their reasons for not doing so?"

THE HON. THE COLONIAL SECRETARY: (i) About £3,000.

(ii) No provision has been made in the 1936 Estimates for an enumeration of the non-native population, and it is not the present intention of Government to hold such an enumeration until 1941.

(iii) For reasons of economy, and because it is thought that statistics of immigration and emigration, taken in conjunction with the figures of the 1931 census, provide information adequate for practical purposes.

MORTGAGORS RELIEF (AGRICULTURAL) ORDINANCE, 1934.

No. 26.—MAJOR THE HON. G. H. RIDDELL asked:

"Will Government please state the number of persons who have applied for and the number of persons who have received relief under the Mortgagors Relief (Agricultural) Ordinance, 1934?"

THE HON. THE ATTORNEY GENERAL: The reply to both parts of the question is "one".

MAJOR THE HON. G. H. RIDDELL: Arising out of that answer, Sir, may I lodge a most emphatic protest against the delay in answering this question.

HIS EXCELLENCY: That is not a supplementary question.

MAJOR THE HON. G. H. RIDDELL: Will you accept my protest now, Sir?

HIS EXCELLENCY: Perhaps on a more suitable occasion.

LAND BANK INTEREST RATES.

No. 28.—MAJOR THE HON. E. S. GROGAN asked:

"(1) What is the rate of interest debited by Government to the Land Bank?

(2) What is the basic rate of interest charged by the Land Bank?

(3) Upon what rate of interest are the sinking funds of Land Bank calculated?

(4) What amount over and above (1) and (2) is charged?

(5) What is the total amount that has accrued in respect of (4) and how has it been allocated?"

THE HON. THE TREASURER: (1) 4.7 per cent on £240,000; 3.7 per cent on £260,000; making an average charge of 4.18 per cent.

(2) The interest charged to borrowers by the Land Bank is 6½ per cent.

(3) In addition to the interest charge mentioned in (2) instalments are so calculated as to contain a portion of capital repayment which results in the total extinction of the debt by a uniform half-yearly instalment over the period for which the loan is granted.

(4) (a) No charge other than interest is made by Government to the Land Bank in respect of the loan; (b) Application fees, valuation fees and the costs and fees payable under section 57 (2) of the Land Bank Ordinance are charged on sliding scales by the Land Bank to borrowers.

(5) The amount accrued from charges referred to above in (4) (b) up to 31st December, 1935, was £4,890/16/51. These charges are taken each year to Revenue and Expenditure Account, the credit balance from which constitutes the Reserve Fund provided for in section 49 of the Land Bank Ordinance.

EAST AFRICA CURRENCY EXCHANGE ON PENSIONS AND LEAVE PAY.

No. 30.—MAJOR THE HON. E. S. GROGAN asked:

"1. What was the total amount of exchange in the years 1933, 1934 and 1935 derived from the payment of:

(a) Pensions and gratuities to East African Civil Servant beneficiaries overseas?"

(b) Leave pay to East African Civil Servants overseas?

2. Do such amounts accrue to the phantasmal reserve of the East African Currency Board or are they distributed among the territorial parties to the service agreements of the Civil Servants concerned?"

THE HON. THE TREASURER: The attention of the hon. member is invited to the published balance sheets of the Colony from which it will be seen that Government maintains sterling balances in London. Sterling payments are made from these balances, and the question of exchange in respect of specific payments does not arise.

Remittances of Government funds to the Crown Agents are effected from time to time as circumstances warrant through the agency of the Government Bankers and not through the East African Currency Board.

THE HON. P. A. BEMISTER: Arising out of that answer, may I ask does that include the Indian Civil Servants of East Africa who live in India?

THE HON. THE TREASURER: So far as Civil Servants living in India are concerned, of course remittances would go through the Agents in India in the same way.

PUBLICATION OF ANNUAL REPORTS.

No. 32.—**MAJOR THE HON. F. W. CAVENDISH-BENTINCK** asked:

"In view of the fact that the annual report of the Agricultural Department for 1934 was only published and circulated in May, 1936, which greatly minimizes its value, and that many other reports have either been published very late or are still very much overdue, and further, in view of the fact that many of the reports and publications issued by the Government Press would appear to be unnecessarily lengthy, will Government appoint a small Standing Committee, on which there shall be one unofficial member, to inquire into the present position as regards Departmental publications and to exercise some control in the future in order that material should not be included in such reports which is not strictly necessary, and to ensure that possibly more concise but nevertheless adequate annual reports should be published with reasonable promptitude?"

THE HON. THE COLONIAL SECRETARY: Although circumstances delayed the publication of the annual report of the Agricultural Department in respect of 1934, it is not correct

that many other reports have been published very late or are still very much overdue. Of the Departmental reports for 1935 already submitted, a number have been received at an earlier date than in previous years and none has been unduly delayed. Preparation of the remainder depends on the compilation of statistics and receipt of data which, in certain cases, take a considerable time to collect.

In view of these facts and the fact that no Departmental report is approved for publication until it has been scrutinized by the Governor and, where necessary, amended or abridged by his direction, it is not considered that any useful purpose would be served by the appointment of such a committee as is suggested by the hon. Member for Nairobi North. Moreover, the compilation and publication of reports of the activities of Government must continue to be the sole responsibility of Government.

MARKETING OF NATIVE PRODUCE ORDINANCE, 1935.

No. 33.—**CAPT. THE HON. H. E. SCHWARTZ** asked:

"What is the present position of and the intention of Government with regard to the Native Marketing Ordinance?"

THE HON. THE CHIEF NATIVE COMMISSIONER: The Native Marketing Ordinance was brought into force on 1st January, 1936, by Proclamation No. 121 of the 10th December, 1935.

Rules under the Ordinance are now under consideration and as soon as they are approved the Ordinance will be applied, in the first instance, to the Central Province where the organization is ready.

PENSIONS.

No. 34.—**MAJOR THE HON. F. S. Grogan** asked:

"Arising out of the answer given to Question No. 31, will Government now state whether the quasi contractual and moral obligations regarding pensions to be granted in the future, and the legal obligations regarding the continued payment of such pensions as have been granted in the past, are deemed to be expressed in terms of the local money unit?"

THE HON. THE TREASURER: The obligations to which the hon. member refers are expressed in sterling. Under the Kenya and Uganda (Currency) Order in Council, 1921, obligations expressed in sterling may be discharged by payment in the local money unit at the rate of Sh. 20 to the pound.

MAJOR THE HON. E. S. GROGAN: Arising out of that answer, Sir, how does that conform with the instructions given by the Secretary of State in respect of payments to retired Indian Civil Servants?

THE HON. THE TREASURER: So far as Indian Civil Servants are concerned, I do not think the question arises.

THE HON. SHAMSUD-DEEN: Arising out of that question, I beg to ask if it is a fact that the pensions paid to the Indian retired civil servants who reside in India are not paid to them at the present rate of exchange and that they are only paid in rupees by which they do not get the full amount of the pensions they are entitled to?

THE HON. THE TREASURER: I shall require notice of that question.

THE HON. CONWAY HARVEY: Arising out of those questions, Your Excellency, are we right in assuming from the replies given that the instructions in the Secretary of State's despatch dated the 20th February, 1924, which contains this clause are adhered to? His instructions were:

"With regard to pensions of officials who retire on or after the 1st August, 1923, payments will be calculated in all cases on the sterling value of the pension due in East African currency and will be converted at the current rate of exchange in the country of payment."

THE HON. THE TREASURER: That is so, Sir, in regard to payments to civil servants who reside in India as the hon. Mr. Shamsud-Deen has pointed out. So far as payments to civil servants resident in England are concerned the conversion is made at the rate of Sh. 20 in the pound.

MAJOR THE HON. E. S. GROGAN: Arising out of that, are we to understand that the terms of service are entirely different in respect of Indian members and European members of the Civil Service?

HIS EXCELLENCY: You must give notice of that question.

CAPT. THE HON. H. E. SCHWARTZ: Arising out of what the hon. the Treasurer said, might I ask whether it is quite clear that, should the value of the East African shilling fall, the commitments of this Government with regard to the payment of pensions would be at the rate of exchange of the East African shilling as it might be and would not be on the sterling basis of Sh. 20 to the pound?

THE HON. THE ATTORNEY GENERAL: On a point of order, Sir, is not that a hypothetical question? When it does fall, it will have to be considered.

CAPT. THE HON. H. E. SCHWARTZ: With great respect, the Secretary of State's despatch, as read out by the hon. Member for Nyanza, says that the commitments shall be met at the current rate of exchange. The hon. Treasurer said that it is being met at Sh. 20 to the pound now, which is in effect the current rate of exchange. The question is if the rate ceases to be Sh. 20 to the pound the current rate is changed. I submit it is not hypothetical. It deals with a very important question which I do not want to go into now. Am I to understand that if the rate changed it would be adhered to, whatever it might be, whether up or not?

HIS EXCELLENCY: The Government will require notice of a question of this nature.

CAPT. THE HON. H. E. SCHWARTZ: With respect, Sir, the hon. Treasurer is ready to give an answer.

THE HON. THE TREASURER: I was only going to say that if the hon. member will look up the Order in Council he will probably find the information he requires. I think personally clause 5 (1) may help him:—

"Where any sum due to be paid after the commencement of this Order is payable in pounds or pounds sterling, whether the obligator to make the payment was incurred before or after the commencement of this Order, the payment may be made in shillings at the rate of twenty shillings to the pound or pound sterling."

If that rate were altered to Sh. 30 in the pound, naturally the same sort of computation would be made.

DAIRY INDUSTRY CONTROL BILL.

No. 35.—MAJOR THE HON. F. W. CAVENDISH-BENTON.
asked:

"(a) Will Government inform this House whether the report of the Dairy Industry Inquiry Committee together with the proposed draft Bill for the advancement and control of the dairy industry was sent out to certain Provincial Commissioners and District Officers with a covering letter signed by the Chief Native Commissioner or some other senior officer of Government?

(b) If the answer to (a) is in the affirmative, will Government give the text of such covering letter?"

THE HON. THE COLONIAL SECRETARY: (a) Copies of the report of the Dairy Industry Inquiry Committee were sent to all Provincial Commissioners and District Commissioners except those of Turkana and the Northern Frontier District, under cover of a printed letter from the Colonial Secretary identical with that issued with the report to persons and associations interested, requesting that any criticisms of the Bill which they might have to make should be addressed to the Director of Agriculture. The Provincial Commissioners were asked by the Chief Native Commissioner in a separate communication for their views on the proposals.

(b) A copy of the Chief Native Commissioner's letter has been laid on the Table.

THE HON. A. C. HOYE: Your Excellency, arising out of that answer, may I ask if Government place any value whatsoever on the comments of the Provincial and District Commissioners in view of the veiled instructions which were given in the circular letter sent out by the hon. Chief Native Commissioner? I submit they had no alternative but to make the comments they did and they were biassed up to the hilt.

THE HON. THE CHIEF NATIVE COMMISSIONER: Your Excellency, if the hon. Member would look at the answers received from the officers concerned which have been handed in to the Committee sitting on the Bill, he would see that those officers have carefully read the Bill, and their criticisms are genuine. I resent very much any imputation that this letter of mine would lead those officers to make comments other than what they had in mind themselves.

CAPT. THE HON. H. E. SCHWARTZ: Arising out of that reply, if the hon. member does not think that the views expressed in his letter would have any effect, why does he trouble to give his views when asking for their comments?

MAJOR THE HON. SIR ROBERT SHAW: Arising out of the answer given by the hon. Colonial Secretary and the supplementary answer by the hon. Chief Native Commissioner, can Government explain why the printed notice to which the hon. Colonial Secretary referred was not a sufficient and proper inquiry to make of officers of Government just as well as any other person?

THE HON. J. B. PANDYA: I think the proper time to discuss this matter would be in the debate on the Dairy Control Bill.

HIS EXCELLENCY: A question to be supplementary must be a question eliciting facts arising out of the original question. I cannot allow this to get into a debate.

MAJOR THE HON. SIR ROBERT SHAW: With great respect, I submit my question referred to a subject mentioned by the hon. Colonial Secretary and the hon. Chief Native Commissioner in their answers and I am merely asking for an explanation.

THE HON. THE COLONIAL SECRETARY: Might I remind the hon. member that the object of a question in this Council is to elicit information as to facts. I have given the hon. member all the facts.

LT.-COL. THE HON. J. G. KIRKWOOD: May I further ask whether the opinion expressed by the hon. member in his letter is the opinion of Government?

HIS EXCELLENCY: That does not arise as a supplementary question.

BILLS. SELECT COMMITTEE REPORT.

FARMERS ASSISTANCE BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that the Report of the Select Committee appointed to consider and report on the provisions of the Farmers Assistance Bill, be adopted.

I feel that I owe you, Sir, and the House an apology in that this Report has taken so long to come before the House for consideration. It had been the hope of the committee when we originally met that we would have been able to finish our labours in two or three days, but it became abundantly clear about half way through the first meeting that such a course would be impossible. I should not like anyone to understand or believe for a moment that the delay was due to any difference in principle between the members of that committee. The principle was agreed on, I think I may say by all of us, but in dealing with a new Bill of this description there is an abundance of detail which has to be gone into. You can find no help by reference to laws of other colonies or countries on small points, and it was only by going through the Bill with a very fine tooth comb that we hoped to remove anomalies, though we realize that others are still bound to arise in the future.

Be that as it may, I think you will agree that we made a very complete job of it, even if we took a little longer than we expected. And further, as we made so many apparent

amendments—I will deal with them in detail in a minute—I and the rest of the committee thought it only fair that members of the House, instead of having the ordinary twenty-four hours' notice of what had been done, should have at least a week's notice, and that is why Council, with Your Excellency's consent, was not called together last week to consider this very important matter.

Although there have been what may appear at first sight, when you look at the Report, a great many amendments, there are only four of what I call major importance, and I think everybody will agree with that statement. You must remember that when we make a small alteration in one section it entails a corresponding alteration frequently in other sections; for example, we appoint the Land Bank as the agent in this Bill, and therefore wherever we refer to them in the Bill those words had to be changed to "agent", and it meant about twenty amendments to be made by the Select Committee.

I notice that the hon. Member for Nairobi South is very kindly reminding me that before proceeding with this motion I should have moved the suspension of Standing Orders. At one time I thought this would be necessary, but actually, having considered Standing Rule and Order No. 26 and in view of the fact that seven days' notice of this motion has been given while Council is in session, I do not think the suspension necessary.

I am extremely grateful to the hon. member for pointing out to me what might have been a serious omission.

HIS EXCELLENCY: Does the hon. Member for Nairobi South agree?

CAPT. THE HON. H. E. SCHWARTZ: I quite agree, but it was thought in Select Committee that the suspension of Standing Orders would have to be moved.

THE HON. THE ATTORNEY GENERAL: I can assure the hon. and learned member that I am not trying to steal a march on him, and I was anxious to see him this morning to tell him of my decision, but he was late, and I was unable to tell him of that—and two or three other things. (Laughter.)

As I was saying, Sir, the mere alteration of the words "Land Bank" to the word "agent" makes it appear that the Bill has been altered in a considerable degree because it probably necessitates some fifteen small amendments being made in the Bill. So with various other amendments which we made, such as the use of the word "applicant" for the word "farmer". We have also tightened up various details with

regard to registration: we have provided for additional notices in the Gazette; we have altered the word "Governor" to "Governor in Council", and various things of that description which give those who are not used to reading these Reports the impression that we have made tremendous alterations in the Bill.

Actually, we have not, and I invite this Council's attention particularly to four clauses of the Bill now before us which contain, in my opinion, the principle amendments we have to consider to-day. I refer to clauses 13, 17, 20, and 26. They are, I think, the most important, but nevertheless I will, to the best of my ability, run through very shortly every amendment we made.

The first clause which gave us difficulty and took time in discussion was clause 3, which deals with the composition of the Board. As a result of certain evidence which we obtained and our discussions, we have made two amendments. One is (e), in which we have said that two members "shall be persons with general experience of agriculture". There appeared to be no guide to the type of person it was expected to be put on the Board, and therefore, in view of what followed in the new sub-clause (f), we made that amendment, which must be quite harmless.

The new (f) is: "one shall be a person with general experience of commerce". This was the result of certain evidence given before us, and I think everyone will agree it strengthens and stabilizes the Board, and it satisfies the town dwellers that their interests are also being looked after. I had personally a slight regret in that I was increasing the number of the Board by one, but I had to give way, and therefore you find that additional member.

In consequence, we had to alter the next section, where the quorum was three, by increasing it to four.

Also, in 4 (5) we made a slight amendment in that we suggest the Board should not have to obtain your consent, Sir, whenever they wished to make some small appointment in staff. Control is still reserved to the Governor, because he has to approve the salary to be paid, but to facilitate business it was pointed out it was quite unnecessary that every small acting appointment should be referred to you.

In section 6 we did the obvious thing when we recommended that instead of the Governor being called on to appoint an agent we should do it at once by appointing the only people possible, namely, the Land and Agricultural Bank of Kenya. We therefore state in clause 6 that the Land Bank shall be the agent for the purposes of this Ordinance.

Nothing else calls for comment until we get to clause 9. It is not a serious amendment, but sub-clauses (d) and (e) you will see have been deleted. The object of that is to avoid the possibility of a clashing between two Ordinances, inasmuch as (d) and (e) dealt with the assignment of estates to creditors and with receiving orders. What we felt was that as we were going to vest an applicant's property in the Board, it would be irregular to do so having by another Ordinance vested it in a receiver in bankruptcy. Therefore, as the applicant would himself be covered under (a) of the same clause we deleted (d) and (e).

Clause 10 was altered in a very minor degree by the substitution of the word "affidavit" for "statutory declaration". It is merely a matter of convenience because it is easier to carry out in practice. An affidavit can be made before any justice of the peace which is more convenient than to have to go to one particular official who can take a statutory declaration. We also put in an important sub-section (3), where we make it clear that the applicant must send a copy of his accounts, not only to the Local Board but also to the agent's headquarters here. The reason for that is that most creditors do not live in and around the applicant's districts, and this addition makes it possible for those people to go to headquarters and see the accounts instead of relying on someone examining them in the particular district where the application is being made.

I now come to clause 12. Though I mentioned it as a clause in which radical amendments had been made, there is no difference whatever in the effect. As was pointed out in the debate on the second reading of the Bill, I think by the hon. and learned Member for Nairobi South, there might have been great difficulties in certain cases had it remained worded as it was, and one example I remember he gave us was the question of divorce. Another which he gave later on was the question of an applicant who, insured against third party risks, while motoring happened to run some one down. As the hon. member said, it would be impossible to register judgment against him and the insurance company would have been able to sit back and do nothing until the stay order under this Bill was eventually taken off. We have amended the section in such a way that these anomalies will not occur.

There is absolutely no fear that this scheme will be harmed thereby, because so long as the property is vested in the Board it does not matter a great deal who gets judgment for they cannot touch the property but, as in the case of divorce, where it is not a question of property, the person desiring divorce will be able to get his judgment or decree

and, as in the case of the motor accident, the insurance company will be able to pay out right away without any legal difficulties intervening.

Clause 13 calls for no observation, but clause 14 introduces something new, and for that we are entirely indebted to the very valuable suggestion which came in committee from the hon. Member for the Coast. He referred us to what is known as "wasting security" which, as a rule, is held on what is generally known as a chattels mortgage by a grantee. A simple example will, I think, explain the position clearly to the House.

Assuming that you have a farmer who has already mortgaged his land and wishes a plough in order that he may carry on the cultivation of the land. He has not the money to buy it, or only part of the money. He obtains that plough by borrowing money, and the only security he can give to the lender is a chattels mortgage for the plough in question. As you all know, the life of a plough is not particularly long, and though in a sense the holder of the chattels mortgage is a secured creditor, nevertheless his security is what is known as a wasting security. The longer the plough is used the less its value becomes for realization purposes to the lender of the money.

We therefore felt that we had to make special provision for that person who has been doing a great service to this country. It is all very well for a mortgagee to invest his money in the land, and that is his security, but the land is perfectly useless to anybody if it is not possible to work it. It is these holders of chattel mortgages who have supplied the money to carry on when all else has failed, and it is only fair they should be protected in the Bill in which we are seeking to help the farmer.

The first reference which you will find to these wasting securities is in clause 14, that does not say much but it is an introduction. In clause 14 it is laid down that when an application is made to the Local Board, the Chairman, if there are any wasting securities, must have them valued, and we show later in subsequent clauses why this is so necessary.

The amendments in clause 15 are entirely verbal, and in clause 16 the first point to note is that the Board must give fourteen days' notice before they hold a meeting in order that everyone should have an opportunity of appearing and being heard.

The second important amendment is that we have cut out that sentence which gave the right to creditors to send their views in writing. Although at first sight it seems

reasonable that a creditor should be permitted to do so if he is unable to attend, in practice when we worked it out we were satisfied that it was perfectly useless, because until he attended a meeting he could not possibly know what particular proposition he would be called on to vote. We have therefore made provision that a creditor could be represented by anyone nominated by him. We felt they must be present in order to come to some intelligent understanding as to what was before the meeting. You might easily have a creditor who was not very interested writing in and saying he was opposed to any help being given an applicant, and then sitting back, but if we were able to get him there and let him realize the difficulties everybody was in we felt in that case there would be more chance of success. There is no hardship on a creditor in that he can attend himself or be represented by any agent he likes.

I now pass, Sir, to clause 17, probably the most difficult one in the whole of the Bill.

The first serious amendment we made in this clause is in sub-clause (b). As it read originally, it said that all the secured creditors of the applicant would have to agree before an advance could be made or, as we call it, the arrangement approved. On going into this, in practice the following case occurred to us. Assuming you have a man possibly mortgaged up to the hilt with a first, second, and third mortgage. In point of fact, the Board and everybody else would know that the chance of the third mortgagee getting anything would be extremely small but nevertheless on paper he was a secured creditor, with the result that he had only to sit back and object and no matter if he had only £100 as against £10,000 of the first and second mortgages, and if he did not agree, the scheme would not go through.

We therefore, after a great deal of serious thought, decided that it would be fair and just if we limited the consent to 75 per cent of the secured creditors, and when we say secured creditors we do not mean secured creditors on paper but in value as assessed by the Board. The importance of that is this. If you have a third mortgagee of an estate already over-mortgaged, whose security is really worth nothing, you do not want him baulking a scheme which, if agreed to by the first and second mortgagee, you must rest assured is sound. The Board have therefore the right to assess the value of the secured mortgagees, and if 75 per cent of the secured creditors agree, as far as they are concerned the arrangement will be deemed to be approved. You have therefore to get 75 per cent of the secured creditors in value as assessed by the Board to agree.

You then have the unsecured creditors to deal with, and again it must be perfectly obvious to anybody that any clause which permitted a few disgruntled unsecured creditors to come in and cramp the whole Ordinance would be doing a great disservice. We have therefore evolved this plan. I will read it to you and explain it later:

"The Board shall confirm the arrangement (that is if they approve of it and the 75 per cent of the secured creditors also) and grant the application unless a majority in value and in numbers of the unsecured creditors present and voting as have a claim for not less than five pounds oppose the arrangement."

I know that to some this sounds a very complicated matter, but if I may just give one small example I think it will make it clear to most of us. Assuming nine of us are unsecured creditors, eight of us of £100 each and the ninth of £801. As far as value is concerned he has the advantage of the other eight by £1. He is greater in value, but as on the voting he is not also greater in numbers, namely, when it is put to the vote he votes against the scheme and the eight for it, that scheme will go through because although he is greater in value he is not greater in number. If, on the other hand, there were no ninth voter and all had £100 each, that means a total of £800, and five of them were in favour, the scheme would go through, because five are greater than three in numbers, and in value too. It simply means that the small unsecured creditor will be not able to hold up the whole arrangement. I think this is equitable, and I can see no possible danger to the unsecured creditor who, on the face of it, as things stand when the unfortunate applicant is making his application, would have a very small chance of being paid in any event. We therefore feel that only if the majority in value and in numbers are against the scheme should be turned down.

Clause 19 is merely recast and put into a different order, and I think it quite unnecessary to mention anything about the amendments except to point out that the original (a) now becomes (d), with the addition of the following words: "and with the concurrence of the creditors". It is merely a drafting point. (b), (c), and (d) refer to what the Board have to do themselves, and the original (a) now becomes (d), only adding "with the concurrence of the creditors".

Little else calls for comment until we come to clauses 25 and 26. In passing, I will just mention clause 24, wherein we make it quite clear that where the Board, through their agents, are in possession of a wasting security, which is some thing held under a chattels mortgage, and while in charge sells that article, it shall be the duty of the Board to hand

the money over to the holder of the mortgage, and there can be no two opinions as to that. Before the Board took over, that chattel was vested in the grantee; and it would be manifestly unjust if we allowed the Board to take over and sell up his property and put the money into a hotch-potch. So we start off by saying that if the Board does sell that property, they must hand over the money to the real legal owner, the grantee, unless they use that money to replace the article sold with another of a similar kind.

Take, for example, a plough. If you have a chattels mortgage on X's plough, which has got old, and the Board say it must be sold for what it is worth because it is of little use, and buy a new one, they take the £10, or whatever the amount is, but do not hand it back to the grantee, but buy a new plough with other monies added, but they give the grantee a chattels mortgage on the new plough, so that he is in a better position actually than he was before.

Now we come to clause 25, which deals entirely with these wasting securities. What we are in a nutshell doing is this. The moment an applicant applies for money and he has over his movable assets, wasting securities, a chattels mortgage, we say to the grantee: "You have a right to take away the property which you hold under the chattels mortgage; if you wish you may take your plough away, and then and there you cease to be a secured creditor. If you take it away and sell it before the arrangement is approved, then you become an unsecured creditor for the balance (if any); if you have not sold it the Board may assess its value and you become an unsecured creditor for the balance."

I suggest that we have treated the chattels mortgages very fairly up to that stage. We then go one stage further and, as we well know in the majority of cases it will be absolutely necessary for the well-being of the farm and the farmer that he should be able to keep this plough, tractor, or whatever it is, we therefore come to an arrangement with the chattels mortgagee and say this: "We assess the value of the goods you hold under your chattels mortgage at so much, and we guarantee that at the end of the time (that is, when the stay order comes off, not longer than five years) you shall have a chattels mortgage on something of equal value to that which you have to-day; thus, we assess the value of the plough at £50 and before the stay order comes off you will be given a chattels mortgage on oxen or whatever it may be that has replaced the plough to the extent of £50." So that I do suggest we have met the chattels mortgagee in every possible way that I can imagine.

Clause 26 follows immediately on that principle. There you have set out in what order a farmer's debts will be paid off if and when, as we trust he will, he makes good. The object of this clause is to encourage creditors naturally to come into the scheme. The position is that we say to the creditors: "If you will allow us to help this farmer for five years, if we make any money—and we suggest there is some chance of us making money because we can provide the wherewithal to the farmer to help him make money—if you come in you will be paid in the order you see set out at great length in clause 26."

Some may not agree with the exact order, but it is the best we could do. We discussed it for almost two days, and we think it the most equitable order that could be arranged, and I must mention here and now that the section is subject to the deed of arrangement. If, for example, in any particular case it is provided that B shall be paid before C, or whatever hardship there may be, when the Board and the creditors are reconsidering this deed of arrangement they can make any re-imburement which appears just to them, and the order is merely put down as a guide which the Board should follow as far as possible and, in case they forget something, there it is set out for them.

I cannot say that I am particularly optimistic about the chances of people who rank in (v), (vi), (vii) and (viii) in clause 26 but still, if we do have such successful years as we hope for, perhaps they will come into the picture.

I do not think there is any other section worthy of mention. Clause 30 was amended merely with regard to details of what should be sent in to the Principal Registrar and so on; I do not think the House will be particularly interested in the details. We have increased the penalty section, because it is abundantly clear that grave hardship can be caused by a dishonest applicant; we have therefore increased the penalty for any person wilfully making false statements. We have also made various amendments with regard to the right of inspection of documents, but I think the principal amendments I have dealt with. That, I think, is all I have to say in recommending the Report of the Select Committee.

Before I sit down, I should like to pay my personal thanks and tribute to the committee generally who worked so exceedingly hard over a most difficult subject. I do not know what other people who have not tried to amend an entirely new Bill like this think of it, but I can assure you it was one of the most difficult tasks I have ever had, and I say without hesitation that there was not a single member of that committee who was not doing his utmost, whether you agree with him or not does not matter, to make this Bill a success from

his point of view. I should like to add my personal thanks to the hon. and learned Member for Nairobi South, who spent many hours with me unknown to the rest of the committee trying to work out details and make this Ordinance a success. I am glad of the opportunity of paying this public tribute. (Applause).

THE HON. THE TREASURER seconded.

THE HON. T. D. H. BRUCE: Your Excellency, I should like to move a small amendment to the Report of the Select Committee. The proposed amendment reads as follows:—

"That paragraph 23 of the Select Committee be amended by the deletion of the word 'or' which occurs in the fifth line of sub-clause (1) of the proposed new clause 25 and by the substitution therefor of the words 'and shall'."

If hon. members will turn to page 12 of the Report they will see that page 12 begins with the new clause 25 (1) which reads as follows:—

"Notwithstanding anything contained in section 12 of this Ordinance the grantee of an instrument which purports to transfer to him the property in any movable plant, machinery, tools, vehicle or other wasting security similar thereto may, if he so desires or if requested to do so by the Board, take possession of such security . . ."

Now, Sir, the desire in that part of that new clause is to provide that if he is requested to do so by the Board, the chattels mortgagee, the grantee as he is referred to in the Bill, shall take over the security. As it reads now it is that he may take over the security only, and therefore I desire to move, Your Excellency, that the word "or" in the fifth line thereof of new clause 25 (1) shall be deleted and the words "and shall" inserted instead.

THE HON. S. H. LA FONTAINE seconded.

THE HON. THE ATTORNEY GENERAL: I may say, Sir, that as far as I am concerned I certainly accept that it was the intention of the committee that the grantee should if he desired take it away and that he shall take it away if the Board desired him to do so. As it reads it might be argued in a court of law whether he wished to take it over.

MAJOR THE HON. E. S. GOGAN: There are certain difficulties about that, Sir. I can visualize at once a possible case where the chattels held as security are cattle and the farm may be in quarantine and it may be impossible to take them away. Certainly I would put the word "may". I take it as meant that way and not "shall".

HIS EXCELLENCY: The hon. mover can reply to this point.

CAPT. THE HON. H. E. SCHWARTZ: I agree, Sir, with respect, with the hon. Attorney General. The whole basis of this scheme is that the holder of the chattels mortgage could be ordered to take the thing away. We have tried, I think the hon. Member for the Coast will admit, to meet the chattels mortgagee. Our whole object was to put him in the same position as far as we could as he would have been if there had been no such Bill as this, and I think we have succeeded in what may turn out in practice. But the Board must have the right to tell him to take the chattel away if they want him to do so. Presumably they would not be so ridiculous to say you cannot move your cattle because of quarantine, nevertheless we cannot move your cattle because of quarantine, nevertheless we order you to do so. Subject to what the hon. Attorney General may say it would be an illegal order. I hope the hon. member will not oppose this amendment because it is the whole basis of the scheme and may require reconsideration of the whole matter.

THE HON. T. D. H. BRUCE: Your Excellency, I will only say in reply that it will be entirely in the hands of the Board whether they request him or not and no doubt they will use their discretion in a proper manner and I would just further say that, as the hon. and learned Member for Nairobi South has said, I understand that it was definitely the desire and decision of the committee that the chattels mortgagee should if he was requested to do so by the Board definitely remove the chattel instruments.

The question of the amendment to the Report of the Select Committee was put and carried.

CAPT. THE HON. H. E. SCHWARTZ: Your Excellency, before the debate starts, if there is going to be one, might I, on a point of detail as raised by the hon. the Solicitor General, ask the hon. the Attorney General whether he does not consider it necessary to make an amendment to clause 30 on the lines I suggested to him. I have not had an opportunity of seeing him, nor have I had an opportunity of further considering it. Perhaps it is not strictly in order, but we do not want to go away feeling it has been overlooked.

HIS EXCELLENCY: What I propose to do now is to adjourn for a short interval.

CAPT. THE HON. H. E. SCHWARTZ: That universal panacea would, I think, be a good thing.

Council adjourned for the usual interval.

On resuming:

HIS EXCELLENCY: The debate will now continue on the original motion.

MAJOR THE HON. F. W. CAVENDISH-BENTINCK: Your Excellency, the hon. and learned Attorney General, in moving the adoption of the report, has very ably explained the very many amendments to the original Bill which the deliberations of the Select Committee found necessary. These amendments have been very numerous, and as he pointed out the result was that they have printed a new Bill so that we can see exactly what the alterations entail.

Before, Sir, making any comments, I would like, on behalf of European Elected Members, and I think I might almost say on behalf of the majority of the members in this House, to express our very sincere appreciation of the very hard work done by the Select Committee, who, as pointed out by their chairman, undertook probably one of the most difficult inquiries that any Select Committee has ever undertaken, and I think we all owe a great debt of gratitude to the chairman and to the members of that Committee. The result of their labours has been that they changed a document which was shown, I think, by the debate on the second reading to be a somewhat bald outline with a limited scope, perhaps of what one might term somewhat Utopian proposals, into a practical and, we hope, workable and businesslike measure.

The report which is laid before us deals with a number of technical and legal points. I do not think that any of us wish to comment or criticize the recommendations of the Committee. There is one point that I would like to ask information about, because I thought it would be dealt with by the Select Committee and I do not think it has, but I may be wrong, and I would like to ask the hon. the Attorney General whether he has or not, and that is, that by this measure somewhat perhaps top-heavy machinery has been built up which has been rendered still slightly more top-heavy by, I admit, the necessary inclusion of an extra member as recommended on page 3 of the Report. I can see that it is necessary to have a pretty comprehensive machine to deal with conciliation, but there is another class of person to whom I thought this Bill was going to apply, and that is the man possibly who has a first mortgage on his farm possibly to a friend or relative on which he may be only paying, say, 5 per cent, and he may have certain other securities which, however, would not come under the provisions of the Land Bank Ordinance, so that he could not apply to the Land Bank. He might not really owe any money at all. He might deal in maize and might want to change over to some other form of farming, and it seems

to me under the Bill he has to go and make application in the usual way, give a list of his creditors, etc., and a stay order is immediately put on and all his affairs are taken out of his hands and run by the agent of the Board, which is the Land Bank. I was wondering, Sir, if the hon. the Attorney General could, in his reply, inform us whether that point was considered or whether any easier method could be devised for dealing with that particular case.

The only other point I wish to make is that in the new Bill which is before us, which was attached to the Report of the Select Committee, there is a rather important omission, and that is that the objects and reasons of the Bill have been omitted in the redrafted Ordinance. Now Elected Members attach considerable importance to the inclusion of objects and reasons in any measure in that they place on record the limitations and the precise objective of any Ordinance. In the original Bill the objects and reasons were stated to be—I need not read them out—they were printed. I venture to suggest that in view of the difficulties and limitations which the Select Committee must have taken note of during its deliberations, that had this matter not been overlooked the objects and reasons might have been slightly altered so as to be more clearly specified in the redrafted Bill. I suggest, Sir, that the objects and reasons should probably read as follows:—

“That this Bill is intended to give effect to recommendations contained in the Interim Report of the Kenya Agricultural Indebtedness Committee, 1935.”

By that I suggest leaving out the words “the main” recommendations, because I think we have got to remember that this Bill originated from an interim report. The terms of reference given to the Committee were to explore the possibilities of lightening the burden of agricultural indebtedness, and in section 19 they said:—

“We have not recommended the institution of any machinery which will directly lighten the burden of agricultural indebtedness.”

And in fact this Bill is a measure by which agricultural indebtedness can be increased in certain respects. Then, Sir, in the second paragraph of the objects and reasons, I suggest it should read:—

“The Bill makes provision in certain circumstances for the provision of short-term agricultural advances and relief in the Colony and follows, to a very limited extent, the procedure adopted in New Zealand and elsewhere.”

My reason for suggesting these alterations in the objects and reasons is that we feel it should be clearly placed on record that this only deals and is only intended to deal, and the

Select Committee Report was only intended to deal, with one aspect of the problem which is before us. As I have pointed out, the original intention of the Agricultural Indebtedness Committee was to frame a measure under which the burden of agricultural indebtedness can be lightened. We therefore want to make it quite clear that this Bill does not do that to any very great or adequate extent. Furthermore, we want to make it quite clear that provision can only be made in certain circumstances, and that it only follows to a very limited extent the procedure adopted in other territories, because, Sir, we feel the corollary to this measure is other measures dealing with various industries, without the implementation of which we fear this Bill will be limited to short-term advances possibly chiefly to the coffee industry.

It is for that reason, Sir, that I hope, when a reply is given, that we can have some assurance that the objects and reasons will be clearly stated, so that in days to come or next session we shall not be told that this Bill deals with the whole problem, which it does not.

That, Sir, I think, is the only remark which I wish to make with regard to the Report of the Select Committee.

VEN. ARCHDEACON THE HON. G. BURNS: Your Excellency, my intention is to support the Bill, but in doing so I should like to draw the attention of this House to the fact that the interests of the people whom I represent are in no wise touched by this Bill. They have to bear their part in the payment of interest, I presume, on the loan, and also in the case of any failure to make good; should any farmer or other person who may benefit by this Bill fail, they will have to pay their full part in that failure.

HIS EXCELLENCY: We are dealing with the Report of the Select Committee. The hon. member is referring to the principles of the Bill which we have already debated on the second reading.

VEN. ARCHDEACON THE HON. G. BURNS: I was speaking to the Report, Your Excellency, with regard to the personnel of the Committee.

HIS EXCELLENCY: That is quite in order.

VEN. ARCHDEACON THE HON. G. BURNS: In that personnel the people that I have the honour to represent are not in any way represented.

HIS EXCELLENCY: That is perfectly in order.

VEN. ARCHDEACON THE HON. G. BURNS: I intend to support the Bill because it is going to benefit the whole country. On the other hand, the natives will have unquestionably to foot the bill to anything that may have to be paid out in interest on the loan, and therefore I think in some way or other they should be represented, either through the Government side, and I do not see anyone, apart from the hon. the Treasurer, who would be representing the natives with regard to the matter we are now dealing with.

DR. THE HON. A. C. L. DE SOUSA: Your Excellency, I beg to move the following amendment:—

That paragraph (c) of sub-clause (1) of clause 3 be deleted and the following paragraph substituted therefor:

“(c) (i) one shall be a person representing Indian interests;

(ii) one shall be a person representing native interests.”

and in moving this amendment I do hope that the fears of the hon. and venerable member who has just spoken will to a great extent be removed and I might add that we feel that the objections originally put up to the Bill from the Indian point of view might also be mitigated to some extent.

THE HON. J. B. PANDYA: I beg to second that.

CAPT. THE HON. H. E. SCHWARTZ: On a point of order, Sir, I would submit to Your Excellency that this is not a proper amendment at all. It is an amendment to the Bill. The Bill is not before us. The right way is to propose that paragraph 2 of the Report of the Select Committee be amended in some way or other. We are debating the Report of the Select Committee, and the hon. the Solicitor General moved an amendment to the Report of the Select Committee. This is a definite amendment to the Bill.

THE HON. SHAMSUD-DEEN: Your Excellency, I think this is the most appropriate time that the amendment should come before the House, in that my note to the Report forms part of the Report. If we pass a majority report as a part of that Report it is right for anyone to move an amendment afterwards.

HIS EXCELLENCY: What is the Attorney General's opinion on the point of order?

THE HON. THE ATTORNEY GENERAL: On a strict construction, I must agree with the hon. Member for Nairobi South. It is very easy for the hon. Dr. De Sousa to re-word his

amendment by just proposing an amendment to clause 2 of the Report, because there we do refer to paragraph (e) you will see on page 3, where we say that "two shall be persons with general experience of agriculture", and thus Dr. De Sousa's amendment will come in there by adding the words, "of whom one shall be a person representing Indian interests and one shall be a person representing native interests".

HIS EXCELLENCY: You accept that? Your amendment will take that form?

DR. THE HON. A. C. L. DE SOUSA: Yes, Sir.

MAJOR THE HON. SIR ROBERT SHAW: Your Excellency, speaking to that amendment, I would like just very briefly to refer to this section 3 of the newly drafted Bill and ask hon. members just to read it through and appreciate what the composition of the Board now is. This is a desperate attempt, Sir, to see to it that every conceivable interest is represented on a board of this kind whose responsibility is to deal with a matter which is in fact the interests of the Colony as a whole and that of every community in that Colony, and a board which is being devised in such a manner as to give the most impartial consideration to every matter which is brought before them from the point of view of the interests of all communities in the Colony. It seems to me that it can only vitiate that board and prevent that board from operating in a purely impartial and consequently effective manner by endeavouring to pack it in this way with what must be interested parties. I do not say that in any derogatory sense. The board consists of a judge of the Supreme Court, the Treasurer or his deputy, and a representative of the board of the agent, that is the Land Bank. I ask you, could you have the disposition and use of this money which is committed to the care of this board in more responsible hands? You then add to the board, in order to advise them—let us put it that way—a member representing the commercial banks—let us leave it at that; I make no comment—and then two persons with general experience of agriculture and one with general experience of commerce. I submit that there you have a board which possibly is slightly unwieldy, but nevertheless a board in which we can place the utmost confidence to deal with these matters in a purely impartial and proper manner. I submit the amendment is not merely undesirable but, if accepted, would completely wreck the effectiveness of the board which we have been to such trouble to appoint.

DR. THE HON. A. C. L. DE SOUSA: Your Excellency, I do not wish to say any more than to add again that this Bill, although it has been hailed with great joy from the very beginning by a section of the community, the European farmers,

it has not been so by two other interests, and that is the native interests and the second is the Indian interests, and I say, Sir, that the least that this House can do is to give an assurance to these two communities that whatever views they may have on the expenditure of this amount which they guarantee and the interest they will have to pay, that they should be allowed an opportunity to place before the board such views as they may have on the disposal of the money and also, Sir, may I add, that if and when native farmers and Indian farmers have recourse to this board they may have the support of their representatives.

The question of the amendment to the Report was put and lost.

HIS EXCELLENCY: The debate on the original motion will now continue.

LT.-COL. THE HON. J. G. KIRKWOOD: Your Excellency, in speaking on the Report of the Select Committee I should like to endorse what has been said by the hon. Member for Nairobi North. Further, I would like to have seen an alteration in the Report by the introduction of the word "paradoxical". The Committee was appointed as the result of the Interim Report of the Agricultural Indebtedness Committee to investigate and report on relief to agricultural indebtedness. I fail to see any relief to agricultural indebtedness in this Bill. That is why I suggest the word "paradoxical" should have appeared somewhere.

It is a measure that will help, no doubt, in very many instances, creating advances, etc., but it is not achieving the result that agricultural interests and the interests and welfare of the Colony as a whole can really appreciate to the full, and unless something further is done to carry out the original intention of relieving agricultural indebtedness our efforts will fall far short of achievement.

While I do not intend to vote against this Report, I would ask Your Excellency to consider the advisability of giving an assurance again this morning that something further will be done as regards the two other Bills which Government have under investigation, and I should like the assurance that something will be done in the very near future to bring these Bills before the House—

THE HON. J. B. PANDYA: On a point of order, what have these to do with this Report?

HIS EXCELLENCY: It has not very much to do with it.

LT.-COL. THE HON. J. G. KIRKWOOD: I have very little more to say, Sir, except to put in my protest, which I have done, and the way in which I have done it. It is very difficult at times to keep within the rules, which I maintain I have, and I am not going to transgress the rules (laughter), and I leave Your Excellency to give the assurance I ask for.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I only intend to reply to the points raised on the motion I have moved, namely, that the Report of the Select Committee be adopted by this House.

I am afraid there are some hon. members who seize the opportunity of a select committee report to say all they should have said on the second reading. (Hear hear, and laughter.) When they have forgotten to say something at that stage it comes out on the report!

I should like to say one thing, with regard to the question raised immediately before the adjournment. I have discussed the point which the hon. and learned Member for Nairobi South referred to with regard to the amendment to clause 30, which states that when a stay order is removed the board has a lien on the crop, subject to other secured creditors, for a further year. Provision is made for that lien to be cancelled if paid off within the year, and nothing is said if it is not. I should like to assure the House and the hon. member in particular that no difficulty will arise. I will see that the Registrar, when he registers this lien for and on behalf of the board, makes it perfectly clear for anybody who wishes to look at the registry that it is only for one year. I think that will remove the difficulty and also the necessity for putting actually in the Bill that the word "cancelled" should be written across it after the end of one year.

There are very few other points which I should like to mention, except this: that some hon. members do not seem to realize that this is really a self-supporting scheme, and it is not, as the suggestion would appear to be in some quarters, a charity. If things go as we hope, there is no reason to believe that at the end of the time anybody should be asked to foot any bill at all. If in fact it does happen, that will be a misfortune which the whole Colony will have to face, and the interests of the Colony and of the particular sections to which hon. members were referring will be, I hope, adequately looked after by the hon. the Treasurer, who is a member of the board, and whose duty it is to look after the finances of the Colony generally.

Only one other point was raised, by the hon. Member for Nairobi North, and that was something to do with the "Objects and Reasons". If he will forgive me saying so, the

objects and reasons might have been discussed at the second reading, but there is no obligation on the part of the Committee who, out of the kindness of their hearts, in order that hon. members should be able to see exactly what had been done, attached a draft Bill to their Report, and said: "Here is our Report, but in case you cannot understand it quite as well as you might—admittedly, it is rather difficult—we attach a Bill which will show you how it will read if our suggestions are adopted." There is no question of the objects and reasons being demanded as under Standing Rules and Orders when a Bill is published for introduction into the House.

The "Objects and Reasons", I would like to make quite clear now (as a rule, they come from me), in no way bind Government, and if I happen by a mistake to say in them something hon. members would like to hang on to in the future I would be the first to resist it. Not that I have anything to resist in the objects and reasons as printed in this Bill, because they are so short that no one could find a peg to hang a hat on at all. The objects and reasons were short because I considered that they were already contained in the Report of the Agricultural Indebtedness Committee which had been published. In other words, the Report itself was a lengthy "Objects and Reasons" of the Bill, if you understand what I mean by that.

One other point was raised with regard to the man who wished to change over from, let us say, maize to mixed farming. He was not actually in debt and yet wanted money. It is not a point that escaped the Committee. I can assure hon. members. If I may say so, I think what will happen will be this: In 99 cases out of 100, this man should be helped, in our view, by the Land Bank. There are two methods of helping an agriculturist, in my view. One is the Land Bank, and the second is this scheme.

The Land Bank is for the man not encumbered to any extent, and you know the conditions under which money is lent by the bank. You realize, of course, that at the same time that this Bill is going through the funds of the Land Bank are being increased, and I suggest the two schemes go side by side. The second man we want to help is the man too embarrassed to get money from the Land Bank, and he has to come to us. There are two sides to every question, and if a man is not encumbered there is really no conceivable reason why we should give him the assistance of a stay order which will have the effect of holding off any possible creditors for five years. That is meant to protect a man who is going down and whom we have to keep afloat.

I do not believe, with all due respect to the hon. member's suggestion, that a man who is in that happy position would want to come under this scheme, because if there is one drawback to this scheme which I regret from a personal point of view, although from every other I support it, it is that he has to hand over to a great extent his identity. In effect, the board takes charge and he is manager. In practice I am certain it will work out very well, the man remaining on the farm and carrying on as before. But it is a step the ordinary Englishman is not in a hurry to do, to hand himself over to a board or a bank, whatever it may be. In this particular case, I fear however, if he wants money, he will have to humble his pride, and the answer is that he will be able to get this advance, the stay order will be only for a short time, and he will find he will be able to pay it off quickly, unlike the man who is encumbered with many debts.

It is a very difficult point, a real point, but we could not evolve any half measures, and the moment you try in a Bill to have half measures you find you get into trouble. My only answer can be for the moment that, if he is unencumbered, he should be able to get the money either through the ordinary banks or from the Land Bank, and if he is really in such a condition that he cannot, he must admit he is in difficulties and must submit himself to some of the disadvantages of this Bill we are debating.

I do not think it is quite fair to say of this Report that it will in any way increase agricultural indebtedness. Hon. members forget what I feel to be one of the strongest things in this Bill, this Conciliation Board. That Board, I believe, will be of more help than anything else in the whole of the Bill, because it will get people together and make them really see the futility of persecuting an unfortunate man, and I trust there will be, willy-nilly, whatever we may think about it now, a considerable scaling down of debts. While I am not pretending for a moment on behalf of the Committee that we have solved the tremendous problem handed over to us at a moment's notice, so to speak, of agricultural indebtedness in the whole Colony, at the same time I do say this: we hope, and particularly on this point, that the Board will have the effect of scaling down debts very considerably.

I do not think, Sir, there is any other point that has been raised to which I need reply.

The question was put and carried.

THIRD READING.

THE HON. THE ATTORNEY GENERAL moved that the Farmers Assistance Bill be read a third time and passed.

THE HON. THE TREASURER seconded.

The question was put and carried.

The Bill was read a third time and passed.

NOTICE OF MOTION.

CAPT. THE HON. H. E. SCHWARTZ: Your Excellency, I would ask, before the adjournment, as this is the end of the session, if you will allow me to give notice of a motion. It cannot be discussed at this session, but we feel we would like it to be given to-day, with your permission.

The notice of motion is:—

“That, in the opinion of this Council, the circular letter addressed to Provincial Commissioners by the Chief Native Commissioner on the subject of the Dairy Industry Inquiry Committee, and dated 13th February, 1936, was phrased in terms which definitely invited views adverse to the Report, and was a letter that should never have been written.”

Council adjourned sine die.

WRITTEN ANSWERS TO QUESTIONS.

PUBLIC WORKS DEPARTMENT, EUROPEAN EMPLOYEES.

No. 1.—By THE HON. MEMBER FOR UASIN GISHU:

Will Government please state—

1. The number of temporary European employees who have been discharged by the Public Works Department between July 1st, 1935, and December 31st, 1935?

2. The number of temporary European employees at present employed by the Public Works Department, and the nature of their duties, together with details of periods served with the Public Works Department?

Reply.

1. Four.

2. Eight temporary European employees were employed on the 10th January, 1936, on a monthly salary basis. These officers are engaged on survey, storekeeping, clerical work, road maintenance, and on repairs and maintenance of mechanical plant, and have been employed for periods varying from four months to almost six years. Seventeen were employed on an hourly basis as road gangers. They have served for periods varying from six weeks to three years and nine months.

WAKASIGAU, REMOVAL OF,

No. 2.—By THE HON. MEMBER FOR NAIROBI NORTH :

In view of the information contained in letter No. LND. 511/10/9, dated 6th August, 1935, and addressed by the District Commissioner, Voi, to Messrs. Teita Concessions, Ltd., may I please be informed what the present position is with regard to the proposal to remove the Wakasigau to the mountain?

Reply.

The matter is still under consideration and a further statement will be made when a decision has been reached.

KENYA DEFENCE FORCE.

No. 3.—By THE HON. MEMBER FOR RIPT VALLEY :

Will Government state the reasons given by Brig.-General Lewin for resigning from the post of Commandant of the Kenya Defence Force?

Reply.

It is not usual for Government to publish the reasons for which its officers decide to resign from public service, and Government does not propose in this case to depart from established practice by creating what might well be an undesirable precedent.

No. 4.—By THE HON. MEMBER FOR NAIROBI NORTH :

In view of Brig.-General A. C. Lewin, C.M.G., D.S.O., A.D.C., having unexpectedly resigned from the post of Commandant of the Defence Force, and of the wording of the Gazette notice appointing Colonel James A. Campbell, D.S.O., as Commandant, and of the feeling of uncertainty amongst members of the Defence Force thereby engendered, will Government consider the immediate appointment of a Committee of Inquiry as proposed in the motion moved by myself in Legislative Council on 10th January last?

Reply.

It is expected that the Committee will be appointed at an early date.

LAMU TELEGRAPH OFFICE.

No. 5.—By THE HON. MEMBER FOR COAST AREA :

1. The number of days per annum on which the telegraph office at Lamu should be open for the transmission of telegrams?

2. The total number of working hours per annum during which that office should receive and transmit telegrams?

3. The number of (a) days (b) working hours, and (c) occasions during 1935 when the line could not be used owing to breakdowns?

4. The longest period, in (a) days and (b) working hours during 1935 when the line was out of order? This refers to consecutive days and hours.

Reply.

1. On every day of the year.

2. 2,184.

3. (a) 57, (b) 331½, (c) 35.

4. (a) 4, (b) 2½.

JUBILEE BARAZA HALL, MOMBASA.

No. 6.—By THE HON. MEMBER FOR MOMBASA :

1. By what authority was the Jubilee Baraza Hall and the ground on which it stands at Mombasa taken from the Arab Community and handed over to the Mombasa Municipality?

2. What inquiry, if any, was made; who were the witnesses, and when was the inquiry, if any, held?

3. Has the Mombasa Municipality or the Commissioner of Lands the power to cancel a verbal grant made by His Excellency the Governor for the time being?

Reply.

1. Government has no evidence to prove that the Jubilee Hall, Mombasa, was at any time the exclusive property of the Arab Community.

The hall was built from the proceeds of public subscriptions, and was vested in three trustees, one Arab, one Indian, and one European.

Since the original trustees died without provision having been made for the continuance of the trust, the District Commissioner, Mombasa, undertook the administration of the property.

In 1930, the Mombasa Municipal Board, as the Local Authority, assumed the management of the trust. In the absence of duly appointed trustees, Government saw no objection to this procedure.

A proposal is under the consideration of Government for the vesting of the property in trustees to be appointed by the Arab Community.

2. So far as Government is aware, no formal inquiry was made at the time when the Municipal Board assumed control.

3. The answer to the third question is in the negative.

No. 8.—By THE HON. MEMBER FOR MOMBASA :

Arising out of the reply to Question No. 6, may I ask :—

If Government has no evidence to prove that the Jubilee Baraza Hall was at any time the exclusive property of the Arab Community, why is a proposal under the consideration of Government for the vesting of the property in trustees to be appointed by the Arab Community?

Reply.

Because, from examination of the records, it appeared to be a fair assumption that the purpose of the building was primarily for Arab functions.

CENTRAL TENDER BOARD MAIZE CONTRACTS.

No. 7.—By DR. THE HON. A. C. L. DE SOUSA :

Will Government be pleased to reply to the following questions regarding the contract given by the Central Tender Board for the supply to Government of maize and maize meal for the six months ending 30th June, 1936 :—

1. What was the price of the lowest tender for (a) maize, and (b) maize meal?

2. What was the price of the lowest tender for each of the above commodities from a firm or firms who had obtained contracts in the past and supplied to the satisfaction of the Government?

3. What is the price of the accepted tenders for each of the above commodities?

4. If the accepted tender or tenders were not the lowest among all the tenders received, or if they were not the lowest among those from reputable firms who had supplied in the past, what is the reason for the non-acceptance of the lowest in either case?

5. What is the total saving which Government would have effected during these six months had the lowest tender for the above-mentioned two commodities, or the lowest tender from reputable firms who had supplied in the past, been accepted?

	Reply.		
	Sh. cts.	Sh. cts.	Sh. cts.
1. (a) Nairobi	... 1 45	... 2. 1 45	... 3. 1 83
Kabete	... 1 45	... 1 45	... 1 80
Mombasa	... 1 50	... 1 80	... 1 95
Kisumu	... 1 00	... 1 40	... 1 63
Nakuru	... 1 00	... 1 35	... 1 35
Eldoret	... 1 35	... 1 35	... 1 35
(b) Nairobi	... 1 65	... 1 65	... 2 05
Kabete	... 1 65	... 1 65	... 2 03
Mombasa	... 1 70	... 2 10	... 2 17
Kisumu	... 1 00	... 1 60	... 1 85
Nakuru	... 1 25	... 1 25	... 1 57
Eldoret	... 1 57	... 1 57	... 1 57
Naivasha	... 1 50	... 1 50	... 1 81
Ngong	... 1 65	... 1 65	... 2 05
Lumbwa	... 1 55	... 1 55	... 1 57
Kitale	... 1 57	... 1 57	... 1 57
Kitale	... 1 47	... 1 47	... 1 47

4. It is not the policy of the Central Tender Board to accept the lowest tender received irrespective of quality and other considerations. In the case of maize and maize meal the Board, with the assistance of expert advisers, selected the sample which was adjudged to be the best of all those submitted, after satisfying itself that any difference in price was fully compensated for by superiority in food value.

5. (a) Sh. 10,483/88, (b) Sh. 7,350/11.

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18th May, 1936 to 17th June, 1936.

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