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COLONY AND PROTECTORATE OF KENYA

LEGISLATIVE COUNCIL DEBATES

OFFICIAL REPORT

SECOND SERIES

VOLUME XXXVI

1950

FIRST SESSION

21st to 24th February, 1950

CHRONOLOGICAL INDEX

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List of Members of the Legislative Council

President:

HIS EXCELLENCY THE GOVERNOR, SIR P. E. MITCHELL, G.C.M.G., M.C.

Vice-President and Speaker:

HON. W. K. HORNE

Ex Officio Members:

- CHIEF SECRETARY AND MEMBER FOR DEVELOPMENT (HON. J. D. RANKINE, C.M.G.).
ATTORNEY GENERAL AND MEMBER FOR LAW AND ORDER (HON. K. K. O'CONNOR, C.M.G.).
FINANCIAL SECRETARY AND MEMBER FOR FINANCE (HON. V. G. MATTHEWS, O.B.E.).
CHIEF NATIVE COMMISSIONER AND MEMBER FOR AFRICAN AFFAIRS (HON. E. R. ST. A. DAVIES, M.B.E.).
MEMBER FOR AGRICULTURE AND NATURAL RESOURCES (MAJOR THE HON. F. W. CAVENDISH-BENTINCK, C.M.G.).
DEPUTY CHIEF SECRETARY AND MEMBER FOR EDUCATION (HON. C. H. THORNLEY).
MEMBER FOR HEALTH AND LOCAL GOVERNMENT (SIR C. E. MORTIMER, C.B.E.).

Nominated Official Members

- DR. THE HON. T. F. ANDERSON, O.B.E. (Director of Medical Services).
HON. R. PATRICK, E.D. (Director of Education).
HON. E. M. HYDE-CLARKE, M.B.E. (Labour Commissioner).
HON. P. E. H. PIKE (Acting Solicitor General).
HON. S. GILLET (Director of Agriculture).
BRIG.-GEN. THE HON. SIR G. D. RHODES, C.B., C.B.E., D.S.O. (Special Commissioner for Works and Chief Engineer, Public Works Department).
HON. W. PADLEY, O.B.E. (Assistant Financial Secretary).
HON. H. L. ADAMS (Secretary for Commerce and Industry). (1)
HON. C. M. DEVERELL, O.B.E. (Administrative Secretary).

European Elected Members:

- HON. M. BLUNDELL, Rift Valley.
HON. S. V. COOKE, Coast.
HON. D. Q. ERSKINE, Nairobi South.
HON. W. B. HAVELOCK, Kiambu.
HON. J. G. H. HOPKINS, O.B.E., Aberdare.
MAJOR THE HON. A. G. KEYSER, D.S.O., Trans Nzoia.
HON. L. R. MACONOCHE-WELWOOD, Uasin Gishu.
HON. E. A. VASEY, C.M.G., Nairobi North.
HON. C. G. USHER, M.C., Mombasa.
HON. T. R. L. PRESTON, Nyeri.
HON. G. B. MOUSLEY, Ukamba. (2)

LIST OF MEMBERS OF THE LEGISLATIVE COUNCIL—Contd.

Asian Elected Members:

HON. C. B. MADAN (Central Area)
HON. I. E. NATHOO (Central Area)
HON. A. B. PATEL, C.M.G. (Eastern Area)
DR. THE HON. M. A. RANA, M.B.E. (Eastern Area)
HON. A. PRITAM (Western Area)

Arab Elected Member:

HON. SHARIF MOHAMED SHATRY

Nominated Unofficial Members:

Representing the Interests of the African Community:

HON. J. J. K. ARAP CHEMALLAN
HON. J. JEREMIAH
HON. E. W. MATHIU
HON. B. A. OHANGA

Representing the Interests of the Arab Community:

HON. SHEIK SAID SEIF BIN SAFIM

Acting Clerk to Council:

T. V. N. Fortescue, Esq.

Reporters:

A. H. Edwards, Esq.
Miss Seely

- (1) During absence from Kenya of Member for Commerce and Industry, A. HOPE-JONES, Esq.
(2) During absence from Kenya of LADY SHAW, Member for Ukamba.

ABSENTEES FROM LEGISLATIVE COUNCIL SITTINGS

21st February—

Hon. Acting-Solicitor General.
Hon. Member for Arab Area.
Hon. Member for Arab Interests.

24th February—

Hon. Member for Central Area (Mr. Madan).



COLONY AND PROTECTORATE OF KENYA

LEGISLATIVE COUNCIL DEBATES

FIRST SESSION, 1950

Tuesday, 21st February, 1950

Council assembled in the Memorial Hall, Nairobi, on Tuesday, 21st February, 1950.

Mr. Speaker took the Chair at 10 a.m. The proceedings were opened with prayer.

ADMINISTRATION OF OATH

The Oath of Allegiance was taken by H. L. Adams, Esq., Secretary for Commerce and Industry.

MINUTES

The minutes of the meeting of 27th January, 1950, were confirmed.

PAPERS LAID

The following papers were laid on the table:

BY THE CHIEF SECRETARY (MR. RANKINE):

Estimates of revenue and expenditure for 1950 of the East Africa High Commission non-self-contained services.

BY THE ATTORNEY GENERAL (MR. O'CONNOR):

Prisons Department annual report for 1948.

BY THE HON. FINANCIAL SECRETARY (MR. MATTHEWS):

Schedule of Additional Provision No. 5 of 1947.

BY THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES (MAJOR CAVENDISH-BENTINCK):

Review of Kenya Fisheries for 1946 and 1947.

BY THE MEMBER FOR HEALTH AND LOCAL GOVERNMENT (SIR CHARLES MORTIMER):

Select committee report on the African District Councils Bill.

NOTICE OF MOTION

SIR CHARLES MORTIMER gave notice that he would move the adoption of the select committee report on—the African District Councils Bill during the present session.

ORAL ANSWERS TO QUESTIONS

NO. 14—TRADERS LICENSING COMMITTEE

MR. PRITAM (Western Area):

Having regard to the fact that normal trading conditions are fast returning, will Government please consider the desirability of abolishing the Traders Licensing Committees which were appointed in every province under Defence Regulations?

MR. ADAMS (Secretary for Commerce and Industry): Yes, sir. A draft Bill to replace the present traders licensing legislation is at present under consideration by the Board of Commerce and Industry in consultation with the Chambers of Commerce, and it is hoped to introduce it into the Legislative Council in the fairly near future.

BILLS

FIRST READING

On the motion of Mr. O'Connor, seconded by Sir Charles Mortimer, the Guarantee (High Commission Posts and Telegraphs Loan) Bill and the Nurses and Midwives Registration (Amendment) Bill were read a first time, and notice given to take the subsequent stages during the present session.

ADJOURNMENT

Council rose at 10.10 a.m. and adjourned till 9.30 a.m. on Wednesday, 22nd February, 1950.

Wednesday, 22nd February, 1950

Council reassembled in the Memorial Hall, Nairobi, on Wednesday, 22nd February, 1950.

Mr. Speaker took the Chair at 9.30 a.m.

The proceedings were opened with prayer.

PAPERS LAID

The following papers were laid on the table:—

By MR. O'CONNOR:

Select committee report on the Immigration (Control) (Amendment No. 2) Regulations, 1949, and the Immigration (Control) (Exemption) (Amendment) Regulations, 1949.

By MAJOR CAVENDISH-BENTINCK:

Select committee report on the Kenya Meat Commission Bill.

ORAL ANSWERS TO QUESTIONS

No. 9—WHEAT PRICES

MR. MACONOCHE-WELWOOD (Uasin Gishu):

Will Government state whether the increased price of one shilling per bag granted for the 1949 wheat crop is covered by the increased price of wheat feeds for stockowners?

If this is not so, what proportion of the increased price of wheat is so covered?

MAJOR CAVENDISH-BENTINCK: The increase in the price of one shilling per bag for the 1949 wheat crop is covered by the increased price of stockfeeds.

Government, in considering how the increase in the price of wheat should be absorbed, found that if it was to be absorbed in the price of flour the increase in the price of white flour would have had to be 78 cents per pound and of brown flour or atta 69 cents per pound. It would obviously have been impracticable to have made an increase in the price of flour to the consumer of less than one cent per pound. Equally the raising of the price of flour to the distributor by one cent per pound would have not only raised the price of bread but would have gratuitously provided the baker and retailer with a margin of profit beyond that at present authorized and considered adequate.

The prices of wheat feed have remained lower than those obtaining in 1939, despite frequent and substantive rises in the price of wheat, which since that date have more than doubled.

Government was thus faced with the alternatives of raising the price to consumers of flour—a clearly undesirable step in view of the rising costs of living—or allowing this small increase in the price of wheat to producers to be absorbed by a rise in wheat feed prices. In view of the low level at which wheat feed prices have been maintained it was considered that this step, though undesirable, was likely to cause least hardship.

MR. MACONOCHE-WELWOOD: Mr. Speaker, arising out of that reply, is it the policy of the financial advisers to Government so to arrange that when an increase is granted to one class of farmer, such increase is invariably handed on to another type of farmer?

MAJOR CAVENDISH-BENTINCK: Sir, I think Government has taken the lesser of two evils in dealing with a matter of this kind and, of course, it is not the customary policy to pass the increase in the price of one thing on to another.

MR. BLUNDELL (Rift Valley): Mr. Speaker, arising out of the reply, I would ask the hon. Member if it is the opinion of his financial advisers in the case of a mixed farm producing both wheat and animal products, that they are the richer by transferring a shilling from one pocket to another? (Laughter.)

FINANCIAL SECRETARY (Mr. Matthews): Mr. Speaker, the opinion of the financial adviser had better come from the mouth of the financial adviser himself! In problems of this kind it is always the policy of Government to attempt to solve a problem in a way which produces the greatest good for the greatest number. (Hear, hear.)

MR. BLUNDELL: May I have an answer?

MR. HOPKINS (Aberdare): Arising out of that answer, was the Board of Agriculture, which is Government's recognized advisory body on agricultural matters, consulted before the decision was taken to make stockfeed bear the increased cost of wheat?

MAJOR CAVENDISH-BENTINCK: Sir, I believe not, but one of the employees

(Major Cavendish-Bentinck) of the Board of Agriculture was present when the discussions took place. I would add that it is quite realized, as I said in my answer, that this is not a very desirable method of dealing with the situation, but it was the only one Government could see was workable at the time.

MR. BLUNDELL: May I ask the hon. Member to answer my question? Whether, in the case of a farmer producing wheat and animal products, he is of the opinion that the transfer of a shilling from one pocket to another made any financial difference to that farmer?

THE SPEAKER: The question supplies its own answer. (Laughter.)

No. 11—ENTRY PERMITS

By MR. PRITAM (Western Area):

Is it a fact that even Kenya-born persons, if and when they ask for an entry permit to return to Kenya on the completion of their education or to see their parents, are called upon to pay the statutory fee of 40 shillings and, if so, will Government consider exempting all Kenya-born persons from the payment of this fee?

MR. O'CONNOR: (a) Children of permanent residents of the Colony who are about to return to Kenya on the completion of their education are exempted from the necessity of obtaining an entry permit by reason of regulation 3 (1) (d) of the Immigration (Control) (Exemption) Regulations, 1948.

(b) Children of permanent residents of the Colony, who desire to visit their parents, will be admitted on visitors' passes at no charge.

(c) A Kenya-born person falling within the definition of "permanent resident", as set out in section 2 (1) of the Immigration (Control) Ordinance, 1948, as amended, must, by reason of section 7 (1) of that Ordinance, obtain an entry permit. The select committee appointed by this Council to consider the Immigration (Control) (Amendment No. 2) Regulations, 1949, has made a recommendation regarding exemption of Kenya-born persons in possession of certificates of permanent residence from the obligation to pay a fee for an entry permit. The report of that committee will shortly be considered by the Council, and Govern-

ment does not wish to anticipate the advice of Council on this matter.

No. 13—GHEE CONTROL

By MR. PRITAM:

Having regard to the fact that ghee control now benefits blackmarketeers only, will Government please consider the desirability of lifting all movement restrictions at least within Kenya in order that ghee may be made available to consumers at reasonable prices?

MR. ADAMS: Government does not agree with the suggestion that ghee control benefits blackmarketeers only, but in accordance with an undertaking given during the recent budget debate, careful consideration is being given to the necessity for the continued distribution control of ghee, in common with certain other foodstuffs.

IMMIGRATION (AMENDMENT) REGULATIONS

SELECT COMMITTEE REPORT

MR. O'CONNOR: Mr. Speaker, I beg to move: That the Select Committee report on the Immigration (Control) (Amendment No. 2) Regulations, 1949, and the Immigration (Control) (Exemption) (Amendment) Regulations, 1949, be adopted.

By the amending Ordinance passed last year, section 7 (1) of the Immigration (Control) Ordinance, 1948, was amended so as to substitute the expression "sums to be prescribed" for the maximum sums which had previously been laid down in the Ordinance as required to be possessed by intending immigrants falling under classes B to E in section 7 of the Ordinance; that is, persons intending to engage on their own account in agriculture, mining, trade, business or certain professions, and manufacture. The sums previously laid down in the Ordinance had been reported to be quite insufficient, particularly in respect of classes D and E, trade or business and manufacture. In order to enable the Legislature to retain control of the maximum sums which might be prescribed, an undertaking was given in the course of the debate and a provision was inserted in the amending Ordinance to the effect that any regulation made by the Governor in Council prescribing these sums would be laid on the table of this

[Mr. O'Connor]

Council. That was done; the Governor in Council prescribed the sums and the regulations were duly laid.

In those regulations a number of other matters besides these maximum sums were dealt with. There was no obligation to lay those, but the Governor in Council considered that it would be desirable to have the benefit of the advice of this Council upon those matters also, and, accordingly, all were laid, and a select committee was appointed to consider them all. That committee has now reported, and this is the report which is before hon. members. All those regulations have been carefully scrutinized, the select committee decided that many of them should stand as they were, and recommended useful amendments to others. There are many matters of detail considered in the report, which I think it will be unnecessary for me to go into now, and I propose only to draw attention to two or three important questions contained in the report and to leave the matters of detail over. I will attempt, if any hon. member requires information, to answer questions on any item which may be desired to be raised.

The first question which I think I should touch on is this question of the maximum sums to be required for intending immigrants falling within classes B to E. The committee ultimately agreed, with one dissentient, to endorse the maximum sums which had been prescribed by the Governor in Council, provided that the Ordinance was maintained in the form in which it now is. The process of reasoning which led the committee to that result is set out in paragraphs 7 to 16 of their report, and with the permission of the Council, and with your permission, sir, I will quote from those paragraphs:

"7. This is the Regulation which prescribes the various maximum sums which a person falling within Class B, C, D or E of the Ordinance is required to have in his own right and at his full and free disposition.

The various sums prescribed by the Governor in Council in Government Notice No. 1268 of 1949 are as follows:

Class B	£2,000
Class C	£2,000
Class D	£2,000
Class E	£5,000

8. The original maximum sums recommended by the Immigration Control Board were higher, that is to say—

Class B	£4,000
Class C	£2,000
Class D	£4,000
Class E	£10,000

In making these recommendations the Immigration Control Board was advised by appropriate authorities, that is, for Class B the European Settlement Board, for Class C the Chairman for Mines and Geology, for Classes D and E the Board of Commerce and Industry. Your Committee has been informed that Uganda adopted the following sums before Government Notice No. 1268 of 1949 was issued in Kenya:

Class B	£2,000
Class C	£2,000
Class D	£2,000
Class E	£5,000

9. The desirability of uniformity with Uganda may have influenced the Governor in Council in prescribing similar sums for Kenya.

10. Your Committee was informed that Tanganyika Territory had not adopted these sums and that the maxima prescribed by that Territory were as follows:—

Class B	£4,000
Class C	£1,500
Class D	£4,000
Class E	£10,000

11. Mr. Patel contended that the sums originally contained in the principal Ordinance, which had been arrived at after prolonged inter-territorial discussion, were the proper sums and that these should be maintained, namely:

Class B	£1800
Class C	£800
Class D	£800
Class E	£2,500

12. The Principal Immigration Officer informed your Committee that instances had arisen when the sums mentioned in the Ordinance would obviously have been insufficient for the type of occupation which the intending immigrant wished to pursue; particularly was this so with regard to intending manufac-

9 Immigration (Amendment)

[Mr. O'Connor]

turers under Class E, and that the Board of Commerce and Industry had expressed the opinion that the existing maxima were far too low and had, as mentioned above, recommended maxima of £4,000 and £10,000 for Classes D and E.

13. Your Committee discussed this question at length. It draws attention to the unpractical nature of some of the requirements laid down by the Ordinance. For instance, an immigrant intending to engage on his own account in the business of agriculture (Class B) would be in a very different position, if he had already acquired his land, from the position of an immigrant who had only received permission to acquire land and would consequently have to pay for his land out of the capital which he held at his disposition. The Ordinance, however, takes no account of this and requires the same maximum sum to be prescribed in both sets of circumstances.

14. Your Committee also noted that the prescribed authority could determine a lesser sum in respect only of classes of occupations and not in respect of particular individuals. Your Committee is of opinion that this is a defect in the Ordinance, as the circumstances of individual cases must differ widely; there should be some latitude permitting the prescribed authority to allow variations in the capital sums required to suit individual cases. Your Committee, while realizing that this may be considered outside its terms of reference, desires to recommend that an amendment of the Ordinance on these lines should be considered. If such an amendment is made, the Committee would favour high maximum sums being prescribed for Classes B to E, as there would then be a discretion to reduce them in individual cases. In these circumstances the Committee would recommend the following maximum sums:

Class B	£4,000
Class C	£4,000
Class D	£4,000
Class E	£10,000

15. If, however, such an amendment of the principal Ordinance is not made, the Committee endorses the figures prescribed by the Governor in Council and published in Government Notice No. 1268 of 1949 and recommends their adoption.

16. The Committee's above stated recommendations with regard to maximum sums were unanimous, except for Mr. Patel who, as already stated, considered that the sums laid down in the principal Ordinance before its amendment should be maintained."

Those were the reasons which led the Committee to its conclusion with regard to these maximum sums. I do not suggest that those conclusions are satisfactory in all respects, but, while the Ordinance stands as it is at present, those were the recommendations which the committee, with the exception mentioned, decided to make. If the Ordinance is amended so as to allow consideration of individual cases, then those sums will probably require to be reviewed. You may think that to create rigidity is unfortunate in an Ordinance of this kind, and that prescription of high maximum sums which can only be reduced for classes and not for individuals may result in the shutting out of many settlers who would otherwise be very desirable persons to admit. That, however, is not within the terms of reference of this Committee. We cannot make a recommendation on it. We merely draw attention to that position.

If I may be permitted to quote again very shortly—this is not such a long passage—from the report, I wish to draw attention to the next paragraphs, paragraph 17, and paragraph 18:—

"17. In the course of their consideration of the Regulations the Committee noted what they considered a fundamental defect in the principal Ordinance, namely that, under section 7, any person, other than a prohibited immigrant, who is able to satisfy the prescribed authority that he belongs to any of the Classes there set out, is entitled to a permit to enter the Colony. The Committee considers that (subject, of course, to any obligations arising by treaty) it is a matter for serious consideration whether aliens should be on the same footing as British subjects in this respect, and whether aliens should, if they comply with such conditions as possession of requisite capital and the like, be able, as of right to enter a British Colony. The Committee is aware that to make recommendations upon this matter would be going beyond their terms of reference, but they desire to draw the attention of

[Mr. O'Connor] the Legislature to it and in this connexion to draw attention to the words of Lord Atkinson in delivering the judgment of the Privy Council in the case of Attorney General for Canada v. Cain (1906) A.C. 542, 546—

'One of the rights possessed by the supreme power in every state is the right to refuse to permit an alien to enter that state, to annex what conditions it pleases to the permission to enter it.'

18. Having made a recommendation regarding maximum sums and discussed the question of principle mentioned in the last paragraph, your Committee proceeded to consider the amending Regulations (Government Notice No. 1268 of 1949) in more detail."

As to those matters of detail, the committee's conclusions are fully set out in the report, and I do not think that I need draw particular attention to them.

There is only one other matter which I think that I should mention specifically with regard to the first set of regulations, and that is the amendment to regulation 22 of the principal Regulations. That is dealt with in paragraph 20 of the committee's report.

"20. Regulation 7 (re-numbered 8) effects an amendment to Regulation 22 of the principal Regulations. Regulation 22 of the principal Regulations deals with the issue of Temporary Employment Passes. Its wording was defective in that a Temporary Employment Pass could only be issued by the Principal Immigration Officer upon the advice of the Labour Commissioner that no suitably qualified residents of the Colony were, for the time being, available for employment of that class. The result of this was that if there were suitably qualified residents of the Colony available for employment of that class, a Temporary Employment Pass could not be issued, notwithstanding that such residents of the Colony might, because of matters not connected with their qualifications, be quite unacceptable to a prospective employer."

Accordingly, the Governor in Council supplied an amendment to that regulation which the committee carefully considered, and to which we suggest some verbal alterations. Those verbal altera-

tions are set out under the regulations on page 5, and the important one is sub-regulation (1):—

"22. (1) A Temporary Employment Pass may be issued by the Principal Immigration Officer upon application made to him as in Form 1) of the First Schedule hereto to any person, if the Principal Immigration Officer is satisfied after consultation with the Labour Commissioner—

(a) that such person is qualified to undertake employment in the trade, business or calling in respect of which the application is made;

(b) that there is not already unemployment in that class of trade, business or calling to an extent which, in the opinion of the Principal Immigration Officer, would make the taking up of such employment prejudicial to the economic interests of the inhabitants generally of the Colony; and

(c) that the taking up of such employment will not be prejudicial to the interests, whether economic or otherwise, of the inhabitants generally of the Colony."

Then certain amendments to other sub-regulations of that regulation are suggested, and I should like here to emphasize that both with regard to sub-regulation (1) and sub-regulation (6) it is essential that the Principal Immigration Officer and the Labour Commissioner should maintain the closest liaison, so that they may adjust the issue of temporary employment passes to the needs of the Colony.

I do not think that there is anything more on the principal Regulations to which I need invite specific attention, but there is one provision of the Exemption Regulations to which I should refer. It is in paragraph 15 of the report, Regulation No. 2:—

"Your Committee recommends that the new paragraph (e) (to be substituted for paragraph (e) of sub-regulation (1) of the principal Regulations) should be amended to read as follows:—

(e) Subject to the provisions of sub-regulation (4) of this Regulation any person, being a British subject or a British protected person, who—

[Mr. O'Connor]

(i) satisfies the Principal Immigration Officer; that he is the husband of a permanent resident; and

(ii) in any case in which the Principal Immigration Officer so requires, satisfies the Principal Immigration Officer that he was the husband of such permanent resident prior to his entry into the Colony."

The words "a British subject" or "a British protected person" will be altered to "not being an alien" to cover difficult questions of national status which are now arising. The provision requiring the Principal Immigration Officer to be satisfied that the applicant was "the husband of such permanent resident prior to his entry into the Colony" is new. As explained in the report, "The amendment was designed to discourage an undesirable practice which had arisen of aliens who were in Kenya on temporary employment or as visitors marrying Kenya-born women and thus obtaining exemption from the necessity for acquiring entry permits". It was, however, represented that the regulations as prescribed by the Governor in Council "might bear hardly on certain communities whose practice it is to obtain husbands for their marriageable girls from outside Kenya and your Committee has, therefore, recommended an amendment which will give the Principal Immigration Officer a discretion in such cases".

I think that is all I need say upon this report. It does not profess to be a solution of the thorny problems of immigration policy, its scope is much narrower than that. An immigration policy should not be static, it should vary continually to suit the needs of an expanding and growing Colony. But immigration has not been the function of your committee, their terms of reference were restricted. They have produced a much more modest but, I suggest, useful report, which I commend to the careful consideration of this Council.

Sir CHARLES MORTIMER seconded.

MR. PATEL (Eastern Area): Mr. Speaker, I regret very much that it was found necessary for each territory of East Africa to take unilateral action for

the increase of the amounts prescribed under section 7 of the Ordinance, Classes B to E, after having taken two or three years ago concerted action after consultation with unofficial bodies in all the three territories. It is a matter of great regret that Uganda and Tanganyika have already taken action in this matter, without giving the opportunity for another interterritorial organization to consider it first.

The increase in these amounts strikes me in this way: that we are giving a better opportunity to those who possess a bank balance over those who have only enterprise and initiative. If we look at those countries where settlement is taking place from outside sources, you will find that people with no bank balances, or very little money, have proved worthy citizens and have made great contributions to the development of the colonies and countries in which they have settled. Even if we look at East Africa, in manufacturing or mining or business you will find Europeans and Asians of enterprise who have proved worthy citizens of East Africa, and whose contributions to the development of these territories has been very great. Yet they did not enter with the bank balance which is now required by these regulations. Therefore I regret very much that the committee found it necessary to raise the amounts in the manner now recommended.

I hope further that the Immigration Board and the Governor in Council will take early action in regard to one matter. That is, under the Ordinance these amounts are supposed to be maximum amounts that an immigrant shall possess in certain classes. I should like to remind Council of the provision in section 7, Class D (ii), under which an immigrant has to have "in his own right and at his full and free disposition such sum as may be prescribed or such lesser sum as such prescribed authority may determine in respect of any particular class of trade or business". The intention of this Legislative Council in making that provision was that these amounts were to be the maximum, and in each group lesser amounts may be prescribed for each class of business or manufacturing or mining or agricultural activity. For instance, a contractor may require a larger sum than a person starting a shoemaker's business and it will be necessary

[Mr. Patel] to carry out the intention of this Council that the prescribed authority should classify the various types of people who come under this section and a lesser amount should be prescribed as early as possible. If this matter is delayed, the result will be that a shoemaker who may not require more than £500 will not, because the Immigration Board will not have authority, will not be allowed in unless he possesses the maximum amount of £2,500. Therefore I hope that Government will take early action to prescribe the lesser amounts for those people for whom the maximum figures are not required.

MR. HAVELOCK (Kiambu): Mr. Speaker, I would like to ask the hon. member if he could give an assurance that Government will take serious note on consideration of paragraph 17 of the select committee's report. It is merely stating the opinion of the committee and, as has been put in the report, it is hardly a recommendation, but it is one on which the majority of members feel very strongly indeed. This also applies really to paragraph 14, in which the recommendation is slightly outside the terms of reference of the committee. These two paragraphs are the essence of the whole argument as regards the Immigration Ordinance of this country, and I hope the hon. member will be able to give that assurance, that Government will consider these recommendations very seriously.

With regard to the remarks of the hon. member Mr. Patel, I, too, am a little worried at the effect of large sums being prescribed for people who are allowed to enter the country under the different categories, but I believe that if the recommendation in paragraph 14 is accepted by Government that need not be a hardship, because in that case individuals may be considered separately according to their qualifications and their value to the country as immigrants. With those remarks, I beg to support the motion.

MR. O'CONNOR: Mr. Speaker, I am glad to notice that the report has received so much support, with the exception of the regret expressed by the hon. Member for the Eastern Area that the committee found it necessary to raise the amounts and that each territory had found it necessary to do so, I think the

fact that each territory has found it necessary to raise these sums shows that there is undoubtedly a case for raising them.

I would entirely agree with what the hon. member and the hon. Member for Kiambu have said with regard to the importance of adjusting these sums to the individual in order that useful settlers may not be shut out. It is, I think, quite true, in the history of every young country, that many useful types of settlers have arrived in the country who are not possessed of large bank balances, and I think we should be very careful to make sure that we do not discourage those types. They can, of course, come in under temporary employment passes, but we should also, I think, review our policy with regard to entry permits.

The hon. Member for the Eastern Area has also pointed out, quite correctly, that these are maximum sums and that there is power to prescribe lower sums for certain classes, and he asked that that should be done. That is a complicated and difficult matter, but I will endeavour to see, in so far as I am able, that sums are prescribed for the various classes, though it may be very difficult to cover all classes, and it would probably be a better approach to adopt the recommendation made by the committee in paragraph 14 of this report.

I will also give the assurance that Government will very seriously consider the matter raised in paragraph 17 of this report which I myself, I might say, regard as of considerable importance.

The question was put and carried.

SCHEDULE OF ADDITIONAL PROVISION

No. 5 of 1947

MR. MATTHEWS: Mr. Speaker, I beg to move: That the Schedule of Additional Provision No. 5 of 1947 be referred to the Standing Finance Committee.

MR. PADLEY seconded.

MR. COOKE (Coast): Mr. Speaker, I will probably be accused of mental aberration if I ask the hon. member if he is not departing from usual procedure in referring the schedule to the Standing Finance Committee? Is it not now presented to Council to be accepted or rejected? I would also like the hon.

[Mr. Cooke] member to tell us why there has been this rather unreasonable and unconscionable delay in presenting this schedule. This is a schedule for 1947—that is two years ago. I know, of course, the overwork which has to be performed by the Accountant General's Department, but this does seem to be an unreasonable delay.

MR. MATTHEWS: Mr. Speaker, I myself am inclined to agree with the hon. Member for the Coast that the procedure of referring this schedule back again to the Standing Finance Committee, when in fact all the items, or all the items within their power, have already been approved or recommended for approval by the Standing Finance Committee is a waste of time, and possibly it would have been more logical to have referred this schedule direct for the approval of this Council. The position, however, is that this procedure is required by Standing Rules and Orders, and in these circumstances I have no option but to follow it. I think we might take the opportunity at some time of considering whether this rather prolonged and cumbersome procedure should be followed, and I will undertake to see whether some amendment of procedure can in fact constitutionally be brought about.

I agree also with the hon. Member for the Coast in regard to the extraordinary lengthiness of this schedule. It is now in the third year of age, as you might say. I have made some tentative inquiries into this and I find that a good deal of delay was due to the preoccupation by the Accountant General with the estimates, which have just been accepted by this Council, and a good deal of delay was occasioned in the Government Printer's department owing to the fact that he again was preoccupied with the printing of the Colony's estimates and those of the High Commission. In these circumstances I am afraid the delay was virtually unavoidable.

The question was put and carried.

AFRICAN DISTRICT COUNCILS BILL

SELECT COMMITTEE REPORT

SIR CHARLES MORTIMER: Mr. Speaker, I beg to move: That the select committee report on the African District

Councils Bill be adopted, subject to the amendment of two very small typographical errors to which I will refer later.

The select committee very carefully considered all the clauses in this Bill, and in our deliberations we had the valuable assistance of the provincial commissioners, who contributed constructive proposals. The great majority of the recommendations which the committee is now making are purely drafting matters, or matters of comparatively small importance, put in to make the machinery of the Bill work more smoothly. I will, therefore, refer only to comparatively few matters which appear to me to be of sufficient importance for mention in Council.

The proposed amendment to clause 5 (2) refers to the method of election where the provincial commissioner has determined that a council is sufficiently far advanced to elect a proportion of its membership, and we now propose that the provincial commissioner, before he decides upon the method of election to be applied, shall consult the district council concerned. In the proposed amendment to clause 6 (1) we suggest that where a vacancy in a council is caused by the retirement or death of an elected member that vacancy shall be filled by election.

The proposed amendment to clause 7 (2) is of importance. The Bill as originally drafted provided that the deputy president of the council should be appointed by the provincial commissioner, or that in certain circumstances the provincial commissioner might allow the election of the deputy president. After very full consideration and the concurrence of the provincial commissioners, we recommend that it shall be mandatory that the deputy president shall be appointed by election within the council itself. This is an important provision, and one that I am sure will gratify the hon. members representing African interests. The proposed amendment to clause 7 (3) provides for the term of office of the president and deputy president, three years in the case of the president and one year in the case of the deputy.

Clause 21 (14) we recommend should be deleted, not because it is not regarded as being of value, but because we felt it

[Sir Charles Mortimer] to be redundant in view of the wording of sub-clause 13. Clause 21 (25), hon. members will no doubt recollect that, in proposing the second reading of this measure, I referred to the Beecher Report and to the probable effect upon this clause which the conclusions reached upon that report would have. On examining the clause, however, the select committee found that it did not adequately fulfil its object if this provision is to stand, and if African district councils are to have the control of primary education within their areas, so we propose the addition of the words "establish" and "manage" in relation to schools. I now repeat the same undertaking that I gave before, that this clause will be operated precisely in line with whatever is decided upon as the correct policy after the discussion of the Beecher Report.

Turning now to clause 22, there are a few amendments, most of which are of minor importance, but some are significant.

Sub-clause (1), paragraph 6: We recommend that the whole sub-clause be transferred to clause 23 as sub-clause (1). Clause 23 contains a list of by-law-making powers which can only be exercised with the authority of the Member for Health and Local Government. We propose this transfer at the request of the hon. African members on the select committee, as they feel that the operation of the similar provision in the Native Authority Ordinance has been harsh and unjustified. This refers to the prohibition, regulation or controlling of excessive dancing by Africans, or the performance of any dance of an indecent or immoral nature, or of such a nature that it is likely to lead to immorality or a breach of the peace. The hon. African members were quite content to have this clause transferred, but they will no doubt press upon this Council the desirability of dropping the word "prohibiting" from these powers. The rest of the committee did not share their views, and I am quite sure that the African district councils themselves will not share their views. There are certain dances which, in African opinion and in the opinion of all self-respecting citizens of the country, should be prohibited and not merely regulated, and so the majority of the committee would strongly press that that

clause be left unaltered but merely transferred to the other section.

Sub-clause 7 of 22 (1) refers to the control of premises used for immoral purposes. At the end of that clause there was in the original Bill power to control by by-laws the movements of females in order to prevent prostitution. It was felt by the select committee, on the representations of the African members, that that was a very dangerous power to place in the hands of any authority, and was liable to be abused. The situation, it was felt, could be controlled better in other ways and by the growth of a healthy public opinion, and so the committee recommends that the latter part of that sub-clause be deleted. Sub-clauses (17) and (18) of 22 (1), we propose, should be transferred to clause 23, as they deal with agricultural matters on which unified policy is desirable, and on which the hon. Member for Agriculture and Natural Resources must be consulted. Sub-clause 31: we propose a substituted clause, a rewording of the existing clause, and this will in effect give control over the building of trading premises outside markets and trading centres and will also give control of residential buildings within markets and trading centres. This is in the interests of good planning and of the orderly development of land in the African areas.

We come now to the two small typing omissions to which I referred in reference to clause 23. It will be noticed under sub-heads (a) and (c) there is a reference to sub-clause 1 (6). Under (a) the words "of clause 22" should be inserted there, and under sub-paragraph (c), after "sub-clauses 1 (17), (18) and (23)", the words "of clause 22" should be inserted.

In clause 25 we propose an amendment to provide for objections to by-laws to be made by anybody who will be affected by them, and for those objections to be properly considered by the council concerned before the by-laws are made. We add a further clause, that where the Member for Health and Local Government is satisfied that there has been substantial objection to any by-law he shall refer it to the Standing Committee before promulgating the by-law making it statutory law.

Under clause 40 a small and important amendment is proposed in the chairman-

[Sir Charles Mortimer] ship of the Standing Committee. The original Bill had it that the chairman was *ex officio* the Member for Local Government. It is considered by the committee to be very desirable that the chairman of that committee shall be someone who is fully conversant with matters in African areas and is fully aware of the background to this measure, and so we propose an amendment that the chairman shall be the Member or such person as the Member may appoint. We give further powers to the Standing Committee, not merely to advise the Member upon such matters as he may refer to the Committee, but also of their own initiative to advise the Member upon any matter upon which they consider such advice may be of assistance to the Member.

Under clause 46 some concern was expressed by African members that there might be delay in handing over persons taken into custody to the proper authority, and that they would be kept under lock and key for an unconscionable period, unnecessarily long, so we have amended the clause to provide that such persons shall be kept in custody only for such time as may be reasonably necessary to deliver them into the custody of a police officer, and so on. In clause 52 we propose to add to the rule-making powers powers to prescribe qualifications which a person shall possess in order to vote at an election for members of the council.

It is gratifying to know that the select committee was able to reach unanimity upon practically all points. There were a few points, however, on which our African members did not see eye-to-eye with the remainder of the select committee, and they have therefore taken their privilege of submitting a minority note. They will no doubt express their views and hon. members will have an opportunity of judging and deciding upon the relative merits of their suggestions and those of the remainder of the members of the select committee.

I beg to move the adoption of the report subject to those two trifling amendments.

MR. PIKE (Acting Solicitor General) seconded.

MR. MATHU (African Interests): Mr. Speaker, in rising to support the motion

for the adoption of the select committee report on this Bill, I should like to say that, as the hon. Member for Health and Local Government has stated, the committee did come to unanimity in their recommendations and, actually, the points on which the hon. Members for African interests dissented are not very important. I refer particularly to clause 22, paragraphs (2) and (3), and there it is a matter of words. We state that the word "prohibiting" appearing in these two paragraphs is unnecessary, and we thought our request for its deletion was a very modest one, because we do agree to regulating and controlling the matters referred to in those two paragraphs. We could not, however, persuade ourselves to accept that word, and that is why we felt we should record our dissent.

We differ from the majority of the committee, too, on paragraphs (5) and (6) of the same clause. These are not minor matters, they are matters on which we feel very strongly, the question of prohibiting the movement of livestock, for example, under (5), and the question of African dances under (6). These we consider are very major matters. The hon. mover did say in regard to dances that African district councils perhaps would support us in our plea that these matters should not be matters for legislation. I would like to say that time will tell whether we are right or the majority of the committee. After consideration, we thought that these two paragraphs should be transferred to clause 23, but we went further and we suggest that they be deleted, and that is what we have in our minority report as we do not think they are necessary.

I do not want to labour the point, but I should like to say that the operation of (6) will definitely as in the past create very unhealthy repercussions on the African community. They have very little amusement left for them in the land units as a result of regulations but, as I say, it will be seen in time whether we or the majority of the committee are right.

Regarding clause 23, paragraphs (7), (10), (13), these we consider are very important matters, and we see tremendous dangers as a result, and that is why we have registered our objection. Finally, we object to clause 30 (1), where

[Mr. Mathu] district councils will be empowered to raise taxation. We agree to the taxation to be levied under (b), a tax on each adult male African, but those suggested in (a), (c) and (d) should not be introduced. Therefore we propose that they be deleted; as they do infer a tax on the land of the African which in any case is not legal under the Native Lands Trust Ordinance, and the taxation of African women having independent means is unfair. It is our considered opinion that the introduction of a graduated tax under (d) on the incomes of Africans is premature, particularly when we have no economic data on which to base our assessments.

I should like to say here that the African members have discussed this matter fully with the hon. Chief Native Commissioner and the provincial commissioners, and the suggestion is that a central committee should be set up to go into the whole question of the African basis for taxation, and before that data could be presented to the country we would not like to see any departure from the present system of taxation.

I beg to support.

CHIEF NATIVE COMMISSIONER (Mr. Davies): Mr. Speaker, I will try and answer one or two of the points made by the hon. member Mr. Mathu.

He referred to clause 22, paragraphs (2) and (3), of the Bill, which gives power under (2) to prohibit, regulate and control "the manufacture, consumption or possession of intoxicating liquors, and the supply of such liquors to any particular class of Africans", and under (3) to prohibit, regulate or control "the carrying of arms by Africans". (6) prohibits certain dances.

I think that the real difficulty some members of the committee found in dealing with the suggestion of the African members that the word "prohibiting" should be taken out, was, I think, the legal one, that unless you have there the word "prohibiting" you cannot prohibit by regulation. You may want to regulate the position of intoxicating liquor, you may want to say that young men of 16 or 12 should not have intoxicating liquor, or you do not want your daughter to be supplied with it, but unless you have the word "prohibit-

ing" I understand that the position of intoxicating liquor cannot be regulated. In the same way the prohibiting of the carrying of arms was objected to on the ground that it was unnecessary. There was an old custom, I believe, in the House of Commons that when members were attending they used to leave their swords outside in case they had a scrap inside the House. At meetings where there might be a fracas it would seem well advised to leave arms behind, or again, where there is going to be a party with a good deal of drinking, it is advisable to have a law making it necessary to leave knives behind. We know how many drunken brawls have occurred in the past few years, and if people must have a scrap it is better they should scrap with their fists than scrap with more lethal weapons, so that the prohibition of knives and arms seems to be necessary.

As far as dancing is concerned, under (6), I have a great deal of sympathy with the hon. member. It is perfectly true that in some districts a complete ban on dancing has been made, and that seems to me to be unsympathetic. We have suggested that this paragraph be transferred to clause 23, containing the rule-making powers, as the hon. member has said, because we feel again that there are dances of a bad nature, which need prohibition. There are four or five Kikuyu dances, and one or two dances in the Nyanza Province, that have been prohibited for a long time, which every member, including hon. members on the other side, would wish continued to be prohibited.

Another point made by the hon. member Mr. Mathu was that (5), "prohibiting, regulating or controlling the sale or movement of livestock" should be deleted. There again, the other member of the select committee could not agree to that. One of the reasons, and a very potent reason, for controlling the sale of livestock is to be seen in Nyanza where the sale of livestock is confined to markets. In parts of Nyanza there is a good deal of internal stock theft, and unless you can tell where an animal was obtained or sold or bought it is extremely difficult to trace stolen stock, and it has been found convenient to restrict the sale of animals to markets where a receipt can be given and a record made of the sale and purchase of an animal.

[Mr. Davies] and that has been a great help in tracing those beasts when they have been stolen.

I know that it has been suggested that this is purely a method of obtaining revenue. I do not think that is a serious criticism, because to start with the councils have got to have men at the markets to keep the necessary records, and I see no reason why those services should not be paid for; it is a service to the community.

The hon. member also referred to clause 23, (7), (10) and (13). The objection, I think, by the African members of the select committee to (7) was that no area should be declared to be an area reserved for reconditioning unless another area was made available for the owners. It may be very desirable that those people should have somewhere else to go, providing that all their land is actually reserved, but whether they have or not I do not think that one could argue that unless such a guarantee is given we should not be able to recondition the land, because the logical conclusion is that if they stayed on land which is already badly eroded or in poor condition and requires reconditioning, they would go on making it worse until it becomes an absolute desert. One must have power to close such land and let it recover, and I do think that everyone must appreciate that the use of the land by this generation is not just a matter of the moment, but of generations of children, and when this generation has passed away they cannot snap their ghostly fingers at their descendants and say "It does not matter what happens to you".

One other point I would like to say in a few words about, and that is the objection to clause 30—the powers which the Bill seeks to give a council for taxation purposes. The African members of the select committee did not like the idea of a council being able to levy a rate on immovable property. It may well be, in fact it already is, a fact that Africans in the native areas possess immovable property in the shape of shops and buildings and this kind of that, and they have of course a long right of user although technically, as my hon. friend Mr. Mathu has said, under the Native Lands Ordinance they do not actually possess the land. But if that right of user of land is

over a lifetime and the possession and use of immovable property does, in fact, make that user or possessor a rich man, I can see no reason why he should not contribute from that source of riches to the council's funds, and I think it would be a mistake to tie the Councils of the future so they could not in fact tax that type of potential taxpayer.

The tax on African women of independent means is also opposed. I think if we travelled with my friends the African members back to the United Kingdom about 100 years ago, they would find that married women at least had no property, and their property belonged to their husbands willy nilly—usually nilly! But I think those days are past, and also there is an enormous increase of employment of women in Europe. In Africa, I think I am right in saying, there is one African woman barrister, if not more, and I see no reason why the women of East Africa should not be equally intelligent and eventually—in not such a long time either—be able to earn very considerable salaries, and if they do so I do not see why they should not contribute towards the general weal of the state.

As for a graduated tax on Africans, we have talked several times about that. As my hon. friend Mr. Mathu said, we have had a long discussion on the subject, and we do think that we must find out the facts, and I do not see why we should not start to try and find out the facts. In fact, I had every intention of making a move in that matter, and although we do not know the facts now I see no reason why we should not eventually know them, and I see no reason why district councils, for the next twenty years, should not be able to use that knowledge in adding to their incomes.

MR. COOKE: I would like to support the suggestion of my hon. friend Mr. Mathu about a committee going into the question of a graduated tax. The gentlemen on the other side of the Council for some reason unknown to me have been very reluctant to bring in a graduated tax, and I think that this is a matter in which the Central Government should set an example. They are in effect asking these newly established district councils to grasp a nettle, and if I may mix my metaphors, to use their fingers to pick the chestnuts out of the fire, and

[Mr. Cooke]

I think it would be lamentable if the district councils started on the wrong foot. I was very glad to hear that my hon. friend the Chief Native Commissioner is in favour of graduated taxation as I, and I think most members on this side of the Council are, but my contention is, as I said before, that it is a task which the Central Government should carry out, and they should not ask the district councils to step in where the angels on the other side of the Council would fear to tread. (Laughter.)

SIR CHARLES MORTIMER: Mr. Speaker, I welcome the cordial reception given to this measure by hon. members opposite, in that their silence, I take it, conveys their cordial approval. My hon. friend the Chief Native Commissioner, has replied effectively to all points raised by my hon. friend, Mr. Mathu. I would just add what the other members of the select committee repeatedly said during our deliberations: these are only enabling powers—and I would say that also to my hon. friend the Member for the Coast. We are not asking district councils to do anything, we are merely giving them the opportunity of doing it if they so wish.

On this question of taxation, I do not for a moment imagine that immediately this measure is placed on the statute book every new district council will forthwith set about imposing all these four methods of taxation which will lie within their powers. They will, I am quite sure, stick to the one method until after the investigation has taken place into the possibilities of a graduated tax or taxes on property, or some other method of inducing the wealthy Africans to pay a more just contribution to the central exchequer, and they will no doubt be guided by those deliberations. But again I would emphasize that these enabling powers which a council may adopt if it wishes or may reject if it wishes, but it is wise, I think, to make our legislation sufficiently elastic so that powers can be used in accordance with advancing public opinion without having to come back to this Council every few months asking for amendments in the law. I am sure that the hon. African members, having made their points, will cordially co-operate in making this most important measure a great success in its operation in the African areas.

The question was put and carried.

Council adjourned at 11 a.m. and resumed at 11.15 a.m.

LAND FOR PUBLIC PURPOSES

THE SPEAKER: The next order is in the name of the hon. Member for Rift Valley. Is it a select committee that you have in mind?

MR. BLUNDELL: No, sir.

THE SPEAKER: I cannot see how Council can move to appoint anything except a select committee. The motion will have to be phrased in the form of a request or recommendation that the Government appoint a committee. You may have something in your mind which I am not aware of, but the motion looks on the face of it not to be in order.

MR. BLUNDELL: With your permission might I substitute the words: "This Council recommends to Government to appoint a Committee".

THE SPEAKER: That is all right.

MR. BLUNDELL: Mr. Speaker, I beg leave to move the motion standing in my name. This Council recommends to Government to appoint a committee with the following terms of reference: "To examine the provisions for compensation for the use of land and property for public purposes as defined in the Crown Lands Ordinances, 1902 and 1915, with especial reference to (a) the compulsory acquisition of land; (b) the requisitioning of basic materials; (c) camping by public servants or contractors; (d) the necessity or otherwise of reconditioning land from which public highways or railways have been moved; and to make recommendations for the amendment of these Ordinances where, in the opinion of the Committee, the provisions in these Ordinances for (a), (b) and (c) mentioned above appear onerous or inequitable to the individual land or property owner in the light of the development required for public highways and railways at the present time".

Mr. Speaker, I should like to make two things clear before I deal with the motion itself. These are the two points. There is no connexion in my moving this motion with any realignment of the railway in so far as it affects Elementeita. I mention that because we have had two or three critics on that matter, and I would not like hon. members to think that anything to do with that realignment

[Mr. Blundell] was motivating me now. Secondly, I would like to explain that I have worded this motion specifically so that we get recommendations which we can then examine and we are not tied down to any actual changes until we have explored the position.

The necessity for the suggestion that I have put forward. The Crown Lands Ordinances were produced in 1902 and 1915, and it is hardly necessary to say since those times very considerable changes in the development of the country have taken place. Undoubtedly, in so far as the sections dealing with compensation, camping and requisition of basic materials were concerned, the intention in those days was to allow the traveller, perhaps an official, who was moving over what after all were very sparsely inhabited and vast tracts of this country, to camp wheresoever it happened in the evening he had arrived, and in addition, so far as materials were concerned, undoubtedly the intention was that where wagons made tracks earth could be taken from the neighbouring land and the ruts filled up, so that the road was reasonably maintained. In those days there could have been no foresight that we should have a tarmac road such as the present Great North Road running from Nakuru through to Kisumu, and already completed from Nakuru to Nairobi.

I think one can prove that the intention of those days was roughly on those lines, merely to expedite the movement of travellers and to keep up such roads as existed, and the placing of telegraph poles and things, from the wording of the Ordinance. There is a section which allows the camping of travellers—it allows the servants, wagons and animals of the traveller to camp on anybody's land for forty-eight hours, provided he is not within a quarter of a mile of a house. It would be very difficult for a traveller at the moment who was moving with an ox wagon to camp anywhere at Karen or Spring Valley, which I think would be permissible under these Ordinances, because (a) it would be almost impossible for him to camp outside a quarter of a mile of a house, and (b) I think the owner of a ten- or twenty-acre plot would naturally feel his rights were being impinged upon if a sixteen-foot

wagon and a sixteen ox-team camped on his plot for forty-eight hours.

I would like to deal, in order to explain what I have in mind, with the actual clauses (a), (b), (c) and (d) which I put in my motion.

(a) The compulsory acquisition of land. There are two points there which are causing concern. They are these. First, whereas the Railway Ordinance of 1927 allows compulsory acquisition of land under the Indian Acquisition Act, with an assessor or collector—in effect, for some reason or other, Government always acquires land for the railway under the 1902 and 1915 provisions, which are very much more beneficial to Government than under the Railway Ordinance. Again, under the compulsory acquisition of land it is allowed under the 1915 Ordinance that 4 per cent of the area may be taken without compensation. I would have thought that 4 per cent was 4 per cent of any individual farm or unit, but my hon. and learned friend opposite has ruled that that 4 per cent must be of the total holding of an owner, so that one might have the extraordinary situation of a man who owned, shall we say, ten thousand acres of dry ranching land at five shillings an acre in Northern Laikipia and a ten-acre plot just outside Nairobi. If, for the purpose of argument, a road was driven through the ten-acre plot it could be argued that he had not lost 4 per cent of his total holding and no compensation would apply for the ten acres. I mention that to show what I think is an anomaly, and I have the ruling of my hon. and learned friend, or one of his minions, with me now.

Under (b), the requisitioning of basic materials, I have in mind particularly and solely materials for the construction of roads. As I have said, undoubtedly the intention in 1902 and 1915 was that shovelfuls of earth could be chucked into a rut caused by a wagon going over the tracks of that area, and the present system by which many thousands of tons of stone—I will quote a particular instance shortly—may be removed from one specific point for the construction of a road for ten miles was not envisaged.

Camping by public servants, I do not think needs very much development. I have a case where something like one hundred Africans are encamped on a

[Mr. Blundell]

small 600-acre farm, and I understand whereas the Europeans supervising their work do pay rent for the houses they are in, the Africans are camping there free.

(d) The necessity or otherwise of reconditioning land from which public highways or railways have been moved. That is a point that has not been brought very much to the fore before, but again I have a case at Njoro where both the railway and road are moving off a farm of 400 acres, and we should at least examine whether we ought not to attempt to return the land in some better order than it is left in after the many embankments and cuttings which result when a railway is moved.

In order to give hon. members something to grip on in this matter, I would quote two instances to show them the sort of thing that is happening. I wish to emphasize again, that when these Ordinances were passed in 1902 and 1915 no one could have envisaged probably that there would be an extensive realignment of the roadway or the great development in bituminized main roads which is happening to-day.

The first instance to which I wish to draw the attention of Council is the instance of a small farm at Rongai where with the consent of the hon. Chief Secretary opposite, a small committee did investigate the matter with a view to assessing whether compensation should be paid or not. This is a farm of 600 acres; it has had driven through it the Great North Road from Nakuru to Eldoret. In order to make that road, a quarry has been taken on the farm and the figure I have been given, although I have not checked it, is that the abstraction of stone from the one quarry on one farm will be 30,000 tons. In order to deliver that stone it has to go east and west from the farm. When travelling east, of course, a radial road is made from the quarry on to the main road and the stone is delivered over something like an eight-mile distance. Undoubtedly, as the road passes through the farm, radial roads will be made from the quarry to the nearest point on the main road, thus destroying a considerable area of land all round.

I do contend in this case that it cannot be right for one land owner with

600 acres only to suffer (a) from the driving of a main road through his farm; (b) the construction of many radial roads, which are considerable and fan out from the quarry as the main road passes it, and (c) the delivering of something like 30,000 tons of hard aggregate from the one quarry. In addition, the farm in question has to maintain a camp of something like one hundred Africans, with the very difficult health conditions which thereby arise, and the erection of four or five houses for Europeans who are constantly passing to and from near the farmer's piggeries, and it appears to me in circumstances such as that that more had been carried out than was ever intended in the 1902 or 1915 Ordinance.

I also have a case to which I must draw Council's attention, that of a farm at Njoro. This is four farms together, in varying blocks, one being actually only 23 acres, but they are all under one ownership. The total is 2,273 acres, and the total land which has been in the past and is to-day used for public purposes is in the order of slightly under 200 acres. That would normally, of course, be well over 4 per cent, but much of the land has been land that was the railway and has now been returned, and compensation for new construction does not therefore apply. I would just like to read to members which has happened on this 500-acre farm. It is 500 acres, and it has on it at the present time the existing Njoro Road, 12½ acres; the main existing railway, 37 acres; abandoned railway, 37 acres; new Njoro Road, 19 acres; and topsoil has been removed from three or four acres to build embankments. That is all on under 500 acres, and I think that will show hon. members the very considerable damage which is being done for public purposes to the individual.

This position may have been envisaged at the time, though I think it is doubtful, for with the natural caution of Government there is provision in the 1915 Ordinance for Government to make rules dealing with compensation, but that provision has never been used. In the past, in the case of a farm at Kijabe, a similar case to Rongai, Government made an *ex gratia* payment, but it would be far better than having series of such payments—which are often only satisfactorily arrived at after considerable trouble and agitation—it would be

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[Mr. Blundell]

simply if they tried to get down to specific rules by which we could abide.

Just to finish off, I should like to say why I recommend to Government to appoint a committee and not a select committee. I felt that hon. members on this side were overburdened with work and felt that hon. members on the other side as a result of the industrial consultant's report had a considerable measure of time for recreation and amusement. (Laughter.) I felt also that this was a matter which did not necessarily require the adjudication of hon. members of Council, and, although he may not like me saying it, I felt it would be excellent work for the present hon. Member for Health and Local Government to undertake in his well merited retirement. (Laughter.)

MR. HAVELOCK (Kiambu): Mr. Speaker, I beg to second.

The question having been proposed.

MR. HAVELOCK: Mr. Speaker, after the speech of the hon. mover I have not a great deal to add, but I would like to give my support to the motion.

THE SPEAKER: Technically, you are speaking twice on the motion. You rose and said you seconded, and now you want to speak again.

MR. HAVELOCK: I wanted for you to propose the motion.

THE SPEAKER: You should have continued to speak after seconding, but you have made a mistake and I will not take advantage of you. (Laughter.)

MR. HAVELOCK: There is only one point that I want to underline. It has been mentioned by the hon. Member for Rift Valley, the difficulty as regards under which Ordinance compensation shall be paid or land shall be compulsorily acquired for railways, and he mentioned the Railway Ordinance of 1927 under which many people consider that land should be acquired. There is one thing that Ordinance, which is based on the Indian Land Acquisition Act, that compensation under the Indian Act will be paid not only for the goodwill of the land taken away but also on the loss of profits and damages for disturbance and so on. I think that the case already quoted by the hon. Member for Rift Valley shows that there is really in equity

a need that compensation should be paid on these grounds, as well as the grounds under which they can be paid under the Crown Lands Ordinances.

I could mention many instances in my own constituency parallel to those mentioned by the hon. Member for Rift Valley where people have, I believe, suffered great damage and hardship when their land has been acquired for roads or railways. I think the hon. member has made his case strong enough as regards his own constituency, and the only one I would mention is in the Kiambu area, of 80 acres where the railway put a road through the length of it. It belonged to a very old settler who had a small market garden farm, and the railway went through the spring which supplied the water to the farm, though admittedly a bore hole was sunk. But it is a small farm, and the line land acquisition with its embankment went right through it, so that the farm is completely useless. There are small areas which can be properly cultivated, but half of the farm is on the other side of a very high embankment, and altogether this old settler, who has done a lot for this country in his years, has suffered great hardship, gaining compensation only to the tune of some £2,000.

I do hope Government will see its way to accepting this motion, so that this matter can be thoroughly thrashed out and a satisfactory conclusion reached.

SIR CHARLES MORTIMER: Mr. Speaker, I think that the hon. Member for Rift Valley has made out a good case for an investigation of the position, and I have no specific objection to the acceptance of his motion, only a general objection, that this is one more committee. (Laughter.)

The hon. member has made the point, which is a valid one, that these two Crown Lands Ordinances were enacted at a time when the development of the country was in its initial stages, when land was of little value, and when the amount of disturbance which lessees or owners were liable to was comparatively small. There have been great changes since that date, but I would remind hon. members that any purchaser of land since that date has acquired the land under specific conditions which are laid down by Ordinance and of which they were aware, or should have been aware, and those conditions did give to Govern-

[Sir Charles Mortimer]

its servants, agents and contractors very wide powers. The power under the Crown Lands Ordinance of 1902 is that if the piece of land held on lease or freehold, title is over 100 acres, roads and railways may be constructed on the land without any compensation whatever except for buildings destroyed or damaged; if the land is under 100 acres, compensation has to be paid for the land so taken. The law is absolutely silent as to what is to happen if the land in question is exactly 100 acres? (Laughter.) So far as taking basic material is concerned, the 1902 Ordinance gives full and free right for the Government, its servants and agents to enter and abstract any material required for the construction of roads and railways.

Under the Ordinance of 1915, Chapter 140, the conditions are different. There power is given, if the land in question is 200 acres or over, to enter freely and to resume such land as may be required for roads and railways, subject to the condition that, if the area taken is over 4 per cent of the total area of the land, compensation has to be paid for any excess of 4 per cent. If a piece of land was originally 2,000 acres and it has been divided into 100-acre portions, the 4 per cent shall be regarded as applying not to the 100-acre portions but to the total of the original area, and so we reach the state of affairs where, as far as the law is concerned, if the area of the plot is comparatively small and the original title embraced an area of over 200 acres, practically the whole of the plot may be taken up by roads and railways and no compensation may be legally claimed. So far as the taking of basic material is concerned for construction and repair of roads and railways, the Crown Lands Ordinance, 1915, allows free entry and free access and the use of all such materials.

But there is a limitation. The law says: "Provided that the Governor in Council may make rules providing for compensation to be payable or relief to be given to the grantee, purchaser, lessee or occupier under a licence of such land, for any damage done to buildings, roads or crops, or otherwise and for any interference with the rights of occupancy of such land." The Governor in Council never, in fact, made any such rules. I think probably because the Governor in

Council, if it thought about the matter at all, realized that it was extremely difficult to make rules that were going to be applicable to all cases. I would ask hon. members to reflect on that point and consider what sort of rules they themselves would make which would be applicable to all cases other than such general rules as would be almost meaningless.

The hon. mover has referred to the camping powers given under the Crown Lands Ordinances of 1902 and 1915 to travellers. That is not included in his resolution, but will no doubt be taken into consideration by the committee. That servitude has stood the test of time, and I am sorry to blunt the point of the hon. member's spearhead in his reference to such areas as Karen and Spring Valley. There is provision in the law that anyone who can satisfy the Commissioner of Lands that there is adequate provision for outspanning and for camping in the near neighbourhood may obtain exemption from that servitude. In fact, many landowners have taken advantage of that privilege and have obtained exemption.

I am not familiar with the precise provisions of the Railway Ordinance in regard to the acquisition of land for railway purposes, but I think the reason for the non-use of those powers, and reliance upon the Crown Lands Ordinances, is that the railway in fact does not own the land in the same sense as a private owner, and that the land occupied by the Railway Administration for running-tracks, stations, sidings, houses and the like remains crown land set aside for the use of the railway and administered by the railway organization.

I am quite prepared to agree that there have been many cases of hardship where, under existing conditions, it has been necessary to obtain basic materials from farm lands adjacent to roads or railways. I have no doubt far in excess of what was originally intended when these ordinances were passed. I know of several cases of real hardship, and I think I am right in saying that in cases of hardship that have been brought to notice *ex gratia* compensation has been given outside the limits of the law, but merely because a case of hardship was proved and Government considered that some compensation should be given to mitigate what had been done.

[Sir Charles Mortimer]

I do not think there is anything more that I can say, except to draw the hon. mover's attention to the fact that the Local Government (District Councils) Ordinance gives very similar powers to district councils to enter upon land and take basic materials, and I think that this provision might very well be examined at the same time. I would move an amendment, therefore, that in addition to the reference to the Crown Lands Ordinances of 1902 and 1915 there be inserted the words "and the Local Government (District Councils) Ordinance". Having moved that amendment, which perhaps the hon. member might be willing to accept as part of the substantive motion, I would be willing on behalf of Government to accept the motion. The only objection I have to the hon. member's remarks is his final reference to the chairman of that committee. (Laughter.)

MR. BUNDELL: I accept that amendment, sir.

THE SPEAKER: Strictly speaking, you are not entitled to accept anything. (Laughter.) I hear that this is often done, but strictly the motion is the property of the Council and is no longer the property of the mover, and the amendment should be formally put, if necessary debated, and then voted upon. As, however, I take it there will be no objection to this amendment, I will not formally put it.

MR. MATHU: Mr. Speaker, just one point. In supporting the motion I should like to place on record that in the event of this committee being appointed I do hope they will consider the matters which the hon. member has given as affecting the whole country and not any particular area. In doing so, I would like to draw the hon. member's attention to the definition of Crown land in the Crown Lands Ordinance of 1915. It reads: "Crown land" shall mean all public lands in the Colony which are for the time being subject to the control of His Majesty by virtue of any treaty, convention, or agreement, or by virtue of His Majesty's protectorate, and all lands which have been acquired by His Majesty for the public service or otherwise howsoever, and shall include all lands occupied by the native tribes of the Colony and all lands reserved for the use of the members of any native tribes.

SIR CHARLES MORTIMER: Mr. Speaker, I am sorry to interrupt the hon. member's speech, but I would draw his attention to the fact that that particular reference to land occupied by the native tribes was repealed by the Native Lands Trust Ordinance, 1938, when all such lands ceased to be crown lands and became native lands.

MR. MATHU: I was going to mention, sir, that powers of compensation are included in section 50 of the Native Lands Trust Ordinance, and that is why I want to connect the two, because the powers that the hon. mover is criticizing were transferred almost *in toto* from the 1902 Crown Lands Ordinance to section 50 of the Native Lands Trust Ordinance. That is why I am drawing the attention of Council to this matter, so that when a committee is set up they will have a view of the whole situation, because these powers affect all sorts of native lands, I beg to support.

SIR CHARLES MORTIMER: If I may rise on a point of order, subject to anything you may wish to say, I suggest the committee appointed under this motion could not take into view any other ordinances except those mentioned in the motion.

THE SPEAKER: It would be necessary to move an amendment if the hon. member Mr. Mathu wished to get this other matter inside the competence of the terms of reference.

MR. MATHU: Would I be in order, sir, in doing so? If I should like to move an amendment that after the words in the last amendment by the hon. Member for Health and Local Government there be inserted "and the Native Lands Trust Ordinance, 1938".

MR. OHANGA: I beg to second.

THE SPEAKER: It is proposed to add after the words "the Local Government (District Councils) Ordinance", the words "and the Native Lands Trust Ordinance, 1938".

MR. BUNDELL: Mr. Speaker, I hardly like to incur another rebuke—

THE SPEAKER: I object most strongly to the language of the hon. Member for Rift Valley. I have never rebuked him. To say that an hon. member is out of order is a matter which is within my competence, and I must do so when duty calls me to do it.

MR. RANKINE: Mr. Speaker, so far as Government is concerned we have no objection to the amendment suggested by the hon. Member for African Interests. While I am speaking I would like to take the opportunity of saying in reply to the hon. Member for Rift Valley, who is moving this motion, that it was only a short time ago that it was he himself who was criticizing Government for having too many boards and committees. Therefore I think it is singularly fitting that he should be the first to take steps to appoint another committee!

MR. BUNDILL: I wish to speak on the motion. I am speaking now as the mover. On behalf of members this end of this side of Council, we can accept the amendment.

The question was put and carried.

The debate on the motion as amended was resumed.

MR. BUNDILL: I will not delay Council long. There are three points to which I wish to refer. When I moved this motion I stressed it was exploratory. That was because I realized the force of the point made by the hon. Member for Health and Local Government that leaves were granted with this obligation. The point I was trying to stress is that I cannot believe there ever was the intention, and no one could have foreseen, that that obligation could incur such a situation as 10,000 tons of stone being taken from one quarry for ten miles of road. The intention was that every landholder should contribute his quota for the immediate frontage of road running through his property in that respect, so I think that is a good case for re-examining whether that provision is onerous or inequitable.

Secondly, as the hon. member opposite has made a point of this committee, I must just deal with it. I have here a letter from the office of my hon. and learned friend the Member for Law and Order, of which the last paragraph reads as follows: "If you feel that the present provisions, for compensation for the taking of land for public purposes are inadequate to deal with present-day claims for compensation it is of course open to you to make representations to the appropriate Member of Legislative Council". Had I gone to the members opposite and said, the whole set-up under

the Crown Lands compensation provisions must be altered, the answer would have been undoubtedly a lemon, and the only way to make a decision on this matter is to have a committee. I regret it is necessary to have a committee to set the ponderous machinery of Government in motion. That is my excuse for asking for a committee.

When the hon. Member for Health and Local Government was speaking I felt he was, of course, putting a point of view as a member of the Government. When he is translated, and possibly my suggestion is accepted that he might be chairman of this committee, I hope he will snuff off the habit of a lifetime of saying "No" when he should say "Aye" and "Aye" when he should say "No", and examine this as a decent, honest, God-fearing and respected citizen (laughter).

The question of the motion as amended was put and carried.

GUARANTEE (HIGH COMMISSION POSTS AND TELEGRAPHS LOAN) BILL.

SECOND READING.

MR. MATTHEWS: Mr. Speaker, I beg to move: That the Guarantee (High Commission Posts and Telegraphs Loan) Bill be read a second time.

I have a feeling that hon. members are not entirely unacquainted with this type of Bill? In fact, this Bill follows exactly in its construction and intention the Bill which was before this Council recently in relation to the Railways and Harbours Loan. I shall, therefore, not presume, to underdate the memory of hon. members by attempting to go through this Bill clause by clause, and shall say little beyond what is stated in the statement of objects and reasons.

Briefly, the position is that the Posts and Telegraphs Department, is now one of the self-contained services of the High Commission. It proposes to embark upon a very considerable programme of expansion, of development, and of increased services. I think that idea must be heartily approved by every person in East Africa. That development, of course, as with other development, needs money, and it is proposed to provide that money by the raising of a loan, a loan of £4-1/2m. The permission of the High Commission to raise that loan has been sought and

(Mr. Matthews) has been obtained from the Central Assembly. It now remains to provide that when that loan is raised we secure, or at least the Posts and Telegraphs Department secures, the best possible terms. The best possible terms can be obtained by providing that such stock as may be issued attracts so-called trustee status. The legal position is that trustee status for that stock can only be secured if the territorial Governments, the three territorial governments, severally guarantee that loan. It is because of that need that this Bill is to-day before the Council.

If this Council passes the Bill, the technical position is, of course, that *vis-à-vis* the bondholders the Kenya Government would be liable to repay the total sum, equally the Tanganyika Government, which has already passed this legislation, would be liable, and so of course would the Uganda Government. In order to reduce the individual liability of each territory, therefore, an agreement has been reached whereby each territory undertakes to meet one-third of the total liability. It might be asked, is that agreement enforceable? Well, it is proposed that the agreement which has so far been covered by an exchange of letters shall be embodied in a formal agreement, and I am advised that an agreement so framed and so constituted would be enforceable.

Another point, I think, that arose on the recent Railway Loan Guarantee Bill was, why is it necessary for each of the territories to guarantee the whole amount? Why is it not possible within the law for each Government to give a proportionate guarantee? I believe at that time the Government undertook to investigate this aspect of the matter. Investigation has been put in train, and the tentative view is this—it is only a tentative view—that a proportionate guarantee which in sum total covers the whole loan would, in fact, come within the requirements of the law. But it is quite clearly stated by those who ought to know that in their opinion such a guarantee would not be so attractive to potential bondholders as the present form of several guarantee. This being so, it is quite likely that the terms would be adversely affected. In these circumstances, while the legal point will be pursued,

I am not sure that even if it were legally permissible to utilize a system of proportionate guarantees that it would be within our interests to do so. Quite clearly, any adverse effect upon the terms on which the various High Commission self-contained services can borrow money ultimately has its effect upon the people of East Africa. In those circumstances, as I say, although we shall pursue the legal point further, I am not sure at this stage whether it would be wise to take advantage of that legal position should it transpire to be as I have stated.

MR. PIKE seconded.

MAJOR KEYSER: Mr. Speaker, I rise to support this motion on behalf of the European Elected Members. There is one difference between this Bill and the Railway Bill in that in our opinion there is not the doubt that the development for which this money is required will be revenue earning, whereas we felt that there was some doubt over the Railway Guarantee Loan Bill.

I only had two more points to make, and the hon. mover has replied favourably to both of them. One was the question of the agreement between the three territories for a division of the responsibility of this loan being legally binding, and he has given us a satisfactory answer as I think he possibly can. The other point was over the question of the future loans for the High Commission, the guarantee being given for one-third by each territory; and there again, sir, I am very glad to hear that Government took the action that they have taken and put the matter in train as rapidly as they have since the debate on the Railway Bill.

Sir, I beg to support.

MR. MATTHEWS: Sir, it is quite clear to Council that, in fact, there are no points to reply to, inasmuch as the hon. Member for Trans Nzoia has referred to points which he wished to raise and which were in fact answered in anticipation. I would like to say, however, that from this side of the Council Government is extremely gratified to see that hon. members opposite find themselves, without any qualification whatever, in full support of this measure.

The question was put and carried.

NURSES AND MIDWIVES (REGISTRATION) (AMENDMENT) BILL.

SECOND READING.

MR. CHARLES MORTIMER: Mr. Speaker, in moving that this Bill be read a second time I am sorry to have to bring before hon. members an amendment of an Ordinance which was so recently passed. The circumstances, however, are somewhat peculiar. The measure, although small, is quite important.

The original Ordinance set up a Nursing Council which was to consist of 17 members. The constitution of the Council was carefully laid down in various sub-sections, and it was set out most particularly what bodies or individuals were to appoint the various members. One of the members was to be a person appointed by the General Nursing Council for England and Wales, established under the Nurses Registration Act, 1919. The constitution of the local council was as recommended by a special committee which had been considering this question for a year or more, and it was taken for granted, inadvisedly as it turns out, that in making this recommendation they had, in fact, consulted the General Nursing Council. When, however, it came to putting the Ordinance into operation we wrote to the General Nursing Council asking them to appoint their representative. We found that was the first they had heard of it and they did not wish, and in fact refused, to appoint a member. We were advised by my hon. friend the Member for Law and Order that unless such a member were appointed or unless the mandatory provision in the Ordinance were deleted, the Nursing Council would not be properly constituted, and all its operations would be *ultra vires*. So we are asking Council to-day to agree to the deletion of that particular clause, and the alteration of the members of the Council from 17 to 16.

We are also taking the opportunity of amending a clause which was not very happily drafted, in order to make clear the real intention of the Ordinance. It was intended that the Ordinance should prescribe that no one claiming to be a nurse or midwife could practise as such unless enrolled by the Nursing Council. Unfortunately, the wording of the particular section merely stated that any

one who was entitled to be enrolled as a nurse or midwife could not practise unless so enrolled, leaving it quite open for persons who were not entitled to be enrolled to practise without let or hindrance. That, of course, is an absurdity which must be put right, so the amendment proposed is to prohibit from practising as a nurse or midwife any person not registered or enrolled under the provisions of the Ordinance.

MR. PIKE seconded.

The question was put and carried.

BILLS

IN COMMITTEE.

MR. O'CONNOR moved: That Council do resolve itself into committee of the whole Council to consider the two Bills clause by clause.

MR. PIKE seconded.

The question was put and carried.

COUNCIL IN COMMITTEE

The Bills were considered clause by clause.

MR. O'CONNOR moved: That the Bills be reported back to Council without amendment.

Council resumed, the report was adopted.

THIRD READING

On motion made by MR. O'CONNOR, seconded by MR. PIKE, and question put the Guarantee (High Commission Posts and Telegraphs Loan) Bill and the Nurses and Midwives Registration (Amendment) Bill were each read the third time and passed.

ADJOURNMENT

Council rose at 12.20 p.m. and adjourned till Thursday, 23rd February, 1950, at 9.10 a.m.

Thursday, 23rd February, 1950

Council reassembled in the Memorial Hall, Nairobi, on Thursday, 23rd February, 1950.

Mr. Speaker took the Chair at 10.10 a.m.

The proceedings were opened with prayer.

MINUTES

The minutes of the meeting of 22nd February, 1950, were confirmed.

ORAL ANSWERS TO QUESTIONS

No. 15—RICE IMPORTS

DR. RANA (Eastern Area):

1. (a) Is it a fact that a large quantity of rice has been imported from the Congo Belge by the Produce Controller or his agent? If the reply is in the affirmative, what was the exact quantity so imported and the c.i.f. Mombasa price paid by the Produce Controller? (b) If it was imported through an agent, will Government please inform Council the commission or profit allowed to the agent concerned? (c) Will Government please inform Council if any attempt was made to get cheaper rice from elsewhere before placing the order for this Congo Belge rice? (d) Is it a fact that the Produce Controller was approached with an offer to import Congo rice at a cheaper price than £65? If the reply is in the affirmative, why was the offer not considered?

2. (a) Is it a fact that on 29th January, 1950, a large quantity of rice was imported from Bangkok, Siam? If the reply is in the affirmative, will Government please state the exact quantity imported and, the exact c.i.f. Mombasa price paid for the rice? If the reply is in the negative, was the rice imported by an agent and what commission or profit was allowed to the agent? (b) Will Government please inform Council whether the Produce Controller asked other importers for their prices, and was any notification given in the Press in order to get the best minimum prices in the interests of the Colony and particularly of the consumers? If the reply is in the negative, why was not such notification published

and what are the reasons for not publishing such notification?

MR. ADAMS: 1. (a) 200 tons of rice at £70 per ton and 400 tons of rice at £65 per ton landed weights. Mombasa were purchased by the Government from the Belgian Congo. In each instance the merchant was responsible for deliveries being up to sample. (b) The price offered included any profit made by the merchants and the details of such profit are not known. It is, however, the case that in each instance the price offered was the lowest quoted to the Government at the time in question. (c) Yes. (d) Offers were received for later delivery after the above orders had been placed, and when it had been ascertained that rice could be secured from soft currency sources. The Government was not then prepared to expend further hard currency.

2. (a) 1,100 tons at £64 per ton to be followed by 500 tons at £59 6s. per ton, conditions as in 1 (a) above. The second part of the question does not, therefore, arise. (b) A statement was issued to the Press at the end of September, 1949, stating the general rice supply position. As the result, the Produce Controller was approached from time to time by a number of firms with offers of rice. In each instance, the lowest price offered at that time, combined with reasonable quality sample, was accepted. As soon as the immediate future supply position was assured a Press communiqué was issued stating that import licences would be granted for rice from soft currency sources, subject to certain conditions.

MR. NATHOO: Mr. Speaker, arising out of the question, may I ask if it is a fact that no offers were received from other sources because it was known that Government was going to import rice?

MR. ADAMS: The answer to that question is "No, sir". A number of firms offered rice, and Government made extensive inquiries with regard to supplies of rice from sources other than both the Belgian Congo and Siam.

MR. SHATRY: Arising out of the question, is it a fact that the rice from Siam has been allowed to be exported?

MR. ADAMS: The answer to that is that any such exportation would be completely illegal.

STANDING FINANCE COMMITTEE

APPOINTMENT OF MEMBER

MR. RANKINE moved: That Standing Rules and Orders be suspended to enable the motion standing in his name to be taken without due notice.

MR. O'CONNOR seconded.

The question was put and carried.

MR. RANKINE moved: Be it resolved, that the Hon. W. B. Havelock be appointed a member of the Sessional Committee in place of the Hon. E. A. Vasey.

MR. O'CONNOR seconded.

The question was put and carried.

MOTION DEFERRED

On the order standing in the name of Mr. Hlondell being called from the Chair, relative to a self-reimbursing fund of £100,000 for educational purposes, Major Keyser informed Council that its consideration would be postponed until the May session.

EMPLOYMENT (AMENDMENT) BILL

FIRST READING

On the motion of Mr. O'Connor, seconded by Mr. Pike, the Employment (Amendment) Bill was read a first time.

MR. O'CONNOR moved: That Standing Rules and Orders be suspended to enable the subsequent stages of this Bill to be taken forthwith.

MR. RANKINE seconded.

The question was put and carried.

SECOND READING

MR. HYDI-CLARK (Labour Commissioner): Mr. Speaker, I beg to move: That the Bill be read a second time.

This is one of the few, I hope, non-controversial measures affecting labour. The objects and reasons are clearly set out, and the proposals have been before the Labour Advisory Board and received their support and commendation. I will therefore not waste time in going through the clauses, but I shall be happy to answer any questions which may be raised.

MR. PIKE seconded.

The question was put and carried.

IN COMMITTEE

MR. O'CONNOR moved: That Council do resolve itself into committee of the whole Council to consider the Bill clause by clause.

MR. PIKE seconded.

The question was put and carried.

Council in committee.

The Bill was considered clause by clause.

MR. O'CONNOR moved: That the Bill be reported back to Council without amendment.

Council resumed.

The report was adopted.

THIRD READING

MR. O'CONNOR moved: That the Bill be read the third time and passed.

MR. PIKE seconded.

The question was put and carried, and the Bill read accordingly.

AFRICAN DISTRICT COUNCILS BILL

THIRD READING

MR. O'CONNOR moved: That the African District Councils Bill be read the third time and passed.

MR. PIKE seconded.

The question was put and carried, and the Bill read accordingly.

KENYA MEAT COMMISSION BILL

SELECT COMMITTEE REPORT

MAJOR CAVENDISH-BENTINCK: Mr. Speaker, I beg to move: That the select committee report on the Kenya Meat Commission Bill be adopted.

As has been stated in the committee's report, this has proved a somewhat controversial measure and a very large number of points were raised during the debate on the second reading. The select committee has done its utmost to take into consideration every matter that was raised and has framed its recommendations in accordance with the points raised in the debate. The committee met on a number of occasions, more than is recorded actually in the report, to deal with details raised. For the convenience of hon. members we have redrafted the Bill in accordance with the recommendations of the select committee, and if hon.

[Major Cavendish-Bentinck]

members have the original Bill before them, on which, of course, the report is made, and the redrafted Bill, it may assist them to follow the various clauses to which it has been necessary to propose amendments.

As regards the first recommendation, which concerns the title of the Bill, we have recommended that there should be a slight alteration chiefly for the purpose of clarification to show that it is not the intention of the Commission to, for instance, deal with certain undertakings such as tanning hides, because fears were expressed by persons who gave evidence that the Commission was going to indulge in a whole number of activities which in fact the Commission is neither destined to indulge in, nor has any intention of doing so.

To clause 2 we have recommended certain amendments, most of them in definitions, and I think they are self-explanatory.

In clause 3 we have inserted a completely new clause in accordance with the undertaking given during the course of the second reading. But I would draw the attention of the Council to the proviso which appears in the report on page 3 to clause 3 (1), which reads: "Provided that when the greater proportion of the Commission's undertakings cease to be capitalized with moneys advanced by the Treasury or with moneys the repayment whereof is guaranteed by the Government, the representative of the Member for Finance shall cease to be a member of the Commission and the Governor in Council shall, after consultation with the members of the Commission, fill the vacancy thereby caused and subsequent vacancies in the membership originally allotted to the representative of the Member for Finance, either by reappointing the representative of the Member for Finance or by appointing some other person". In other words, the Commission is consulted and the Governor in Council can then appoint either the Member for Finance or some other person.

Under sub-section (2) of clause 3, if you follow the Bill you will see that it is provided that the chairman of the Commission shall during the first four years from the commencement of this Ordinance be appointed by the Governor in Council, after consultation with the members of the Commission appointed pursuant to sub-section (1) of this section, and thereafter the chairman shall be elected by the Commission from among the members thereof. The select committee again had it pointed out to

off it would be obligatory on the Governor in Council to appoint some other person and not in fact to allow the representative of the Member for Finance to be a member of the Commission, even were the Commission to desire the assistance of such a member. The committee therefore felt that both these things should be changed. The select committee was under the impression that the intention during the second reading was undoubtedly that so long as public moneys were invested in this Commission, there should be a representative of the Member for Finance on the Commission; secondly, the select committee felt it would be wiser to give latitude to the Commission and to the Governor in Council if they so desired to have the assistance of a representative of the Member for Finance or the Member himself at any time during the life of the Commission, which may be a very long time.

Therefore this is the suggested wording which we have put forward: "Provided that when the Commission's undertaking ceases to be capitalized with moneys advanced by the Treasury or with moneys the repayment whereof is guaranteed by the Government, the representative of the Member for Finance shall cease to be a member *ex officio* of the Commission and the Governor in Council shall, after consultation with the members of the Commission, fill the vacancy thereby caused and subsequent vacancies in the membership originally allotted to the representative of the Member for Finance, either by reappointing the representative of the Member for Finance or by appointing some other person". In other words, the Commission is consulted and the Governor in Council can then appoint either the Member for Finance or some other person.

Under sub-section (2) of clause 3, if you follow the Bill you will see that it is provided that the chairman of the Commission shall during the first four years from the commencement of this Ordinance be appointed by the Governor in Council, after consultation with the members of the Commission appointed pursuant to sub-section (1) of this section, and thereafter the chairman shall be elected by the Commission from among the members thereof. The select committee again had it pointed out to

[Major Cavendish-Bentinck] them that what that would, in fact, entail is that after the first four years the chairman appointed under clause 3 (1) would cease to be chairman and the Commission would be asked to elect their own chairman. That we all agreed in principle, but under the wording of this sub-clause it has to be from among their existing members at that time; it will reduce the membership of the Commission from nine to eight and they will have to elect a chairman from among the eight, and the select committee felt that that was not intended. They have therefore recommended that the words "from among the members thereof" at the end of that sub-clause (2) should be deleted and that the word "elected" should become "selected". It will therefore read, "and thereafter the chairman shall be selected by the Commission". That, I think, entirely fulfils the desire expressed by members during the second reading.

I think there is nothing further that I need draw the attention of Council to regarding this very important clause 3. It is all contained on pages 3 and 4 of the report which is before members. No recommendations were made under clause 4, but under clause 5 certain recommendations are contained in the report which are mostly consequential on the changes which have been brought about during the second reading. I would, however, point out that under sub-clause (10) of clause 5, which provides that the procedure at meetings of any committee of the Commission shall be as nearly as may be the same as the procedure at the meetings of the Commission, no provision is made for laying down the quorum which it will be necessary for a committee of the Commission to have in order to deal with its business, and in the absence of such a provision it might be held that the proceedings of a committee of the Commission to have in order to deal with its business, and in the absence of such a provision it might be held that the proceedings of a committee of the Commission would be improper or illegal if all the members were not present. So it is proposed to add to that "and a quorum at any meeting of any committee shall be two-thirds of the members thereof".

The next clause which the committee dealt with was clause 6 on page 5 of the

report and there, in the original Bill, it was laid down that the Commission may, with the approval of the Member, appoint a general manager of the undertakings of the Commission, whose remuneration and terms and conditions of employment shall be subject to the approval of the Governor in Council. The select committee took note of certain criticisms made during the second reading of this Bill, and you will note they have altered this clause to give the Commission complete powers in regard to the appointment, on such terms and conditions as they thought fit, of their general manager. On the top of page 5 of the draft Bill you will note that the Commission may also, subject to the provisions of sub-section (1) of this section, pay to any person in its employ, such salary, wages, and so on, and as we have altered sub-section (1), subject to the provisions of sub-section (1) of this section, should come out in sub-clause (3) of clause 6.

Now we come to probably one of the most important clauses of the Bill, and one of the biggest changes which the select committee is recommending to this Council. Clause 7 is a clause which confers exclusive rights to the Commission and clause 9 equally confers exclusive privileges to the Commission, and clause 8 is a general enabling clause, enabling the Commission to carry out a number of undertakings.

Clause 7—It was quite rightly pointed out during the course of the second reading that this clause was altogether too embracing, and it contained and gave exclusive rights in regard to a number of activities which certain members of this Council felt were altogether too wide. The select committee went into this question and has considerably altered clause 7 (1) (a) and they have confined it to the erection, establishment and operation of abattoirs, meat works, cold storage concerns or refrigerating works for the purpose of slaughtering cattle or small stock, processing by-products thereof, and chilling, freezing, canning or storing beef, mutton or other meat foods (excluding poultry). In other words, that they could only process the by-products of the animals which go through the abattoirs, cold storage concerns and so on referred to in this clause. They have further safeguarded the public

[Major Cavendish-Bentinck] and butchers and hotels and other institutions which might have quite considerable refrigerating works, and all persons who might wish to erect a cold storage concern in any town, by a provision that nothing in this section is to apply to any cold storage concern or refrigerating works having a capacity of less than five thousand cubic feet, and that is quite a large cold store. We have excluded poultry under sub-section (2), and we have inserted a definite provision in regard to compensation under this clause.

In regard to compensation, although we were fairly confident that as worded in the original Bill we should not be liable for compensation, we nevertheless felt it was wise to make the facts quite definite under clause 7 and under clause 9, except, of course, as especially provided for under specific contingencies which we shall deal with later.

The next clause that has been dealt with at some considerable length in the report is clause 8. In clause 8, which is only an enabling clause, as I have already said, very wide powers are given to the Commission to deal in various businesses, and the fear was expressed by some of the witnesses that appeared before the select committee that, for instance, the Commission was going under this clause to have the monopoly of hides and skins, that is sun-dried or shade-dried skins, or that it was our intention to appoint agents and buy all over the country. There was also the fear expressed by butchers that we would, by this Bill, put them out of their normal business of contracting for, for instance, hotels, schools and so on, and so, in order to remove these fears, we have reworded to a considerable extent the powers of the Commission as tabulated in clause 8.

It will be noticed that one of the things dealt with is the business, on a wholesale basis, of dealing in livestock, carcasses, fresh products and so on. The select committee felt that when you had a clause dealing with wholesale business it was necessary to endeavour to lay down what was intended, and an attempt has been made to do that under the proviso which is in the report and in the draft Bill before you, to try and show what was meant by "dealing in livestock

and fresh products and carcasses on a wholesale basis". I am well aware that this proviso will not satisfy everybody, and the select committee spent a very great deal of time on trying to devise this suggested limitation. We heard evidence and decided that certainly the Commission would never wish to enter into competition with butchers in regard to supplying hospitals, hotels, restaurants, schools, clubs or boarding-houses, but there remains the question of supplying labour, and possibly supplying meat in very big quantities on some contract of the nature which could not be precisely foreseen.

We therefore have inserted a specific prohibition for the Commission to deal with hospitals, hotels, boarding-houses, restaurants, schools or clubs, and we have said that any sale other than to a retailer for the purpose of resale such meat will have to be sold in quantities of not less than 2,000 lb. in weight in any one week, or 25,000 lb. in weight in any one year. The select committee did hear in evidence from the general manager of the existing Meat Marketing Board that it would be not at all usual, nor would it be at all desirable, for the Meat Commission to enter into every sort and kind of small contract and cut out butchers. On the contrary, it usually is more convenient to distribute and sell through existing channels, but the select committee was unanimous that some provision of this kind had to go in the Bill giving them permission—at any rate, the right—to sell under those conditions.

Towards the end of section 8 members will find a very large number of extra powers that have been added to those which were conferred in the original Bill, and the select committee made these recommendations in order to endeavour to conform to requests that were made in the debate on the second reading of the Bill, that the Commission should quite clearly be given powers to raise moneys in various ways so that eventually it could be shown that the intention was that the Commission might become either a public utility company or a public company or a co-operative society, and so on. Therefore we have added the sub-sections (o), (p), (q) and (r), and we hope that those sub-sections will meet the wishes of members who expressed those views over the second reading.

[Major Cavendish-Bentinck]

I am afraid, sir, I have omitted to refer to an alteration in sub-section (n) of clause 8, where it will be noted that we have reworded the power given under the original Bill, also under (m), the same sub-clause. In the original Bill the wording was: "to acquire, lease, maintain and develop land required by the Commission for holding and ranching cattle and small stock". The select committee thought in the first instance it was quite unwise to suggest that the Commission was going to go in for ranching on a big scale, and so we cut out the words "and ranching". It was then represented to the select committee, notably, I think, by the hon. members representing African interests, that they did not like the words "to acquire". They felt there was some danger of conferring under this Ordinance powers on the Commission to acquire land by acquisition, let us say, for holding grounds, and to make it quite clear what was intended we have put in these words: "with the consent of the Member, to purchase, lease, maintain and develop land required by the Commission for holding cattle and small stock".

There is a most important further addition to the powers of the Commission recommended to this Council under (r) on page 8 of the report. It appears on page 8 of the report and page 8 of the draft Bill. There you will see that the select committee are recommending that discretion should be given to the Commission, subject to the consent of the Member, to make *ex-gratia* compensation payments to any person damaged by the exercise by the Commission of powers conferred by this Ordinance. I have already explained that the select committee, after taking advice from the Attorney General and others, decided, save as provided under clause 18, to make it perfectly clear that the Commission was not liable for compensation, as otherwise it might be that all sorts of claims, some substantial and some somewhat foggy, might be made against the Commission for a very long period of time. But clause 18 only provides for compensation under clause 7, and for compensation under very specific conditions and circumstances, and we therefore felt that there might be persons who were really seriously injured by the

activities of this Commission, possibly quite small people, who, unless we put in some clause of this kind, would be completely debarred by this act from receiving any consideration by the Commission, and that is the reason why we have inserted this enabling power in clause 8.

The only other thing I need mention, I think, regarding this clause is that at the bottom of page 8 of the draft Bill we have made a further slight alteration allowing the Commission to delegate its powers to its general manager without referring to the Member.

On page 8 in the last sub-paragraph of clause 8 we have inserted a new clause, which I think reads in your report: "The interest payable on any shares, stock debentures or debenture stock issued pursuant to paragraph (q) of sub-section (1) of this section shall be at such rate as the Governor in Council may specify". It was pointed out to us that we should include dividends, so the select committee, in the report which has been tabled, made a verbal alteration—"the dividends or interest payable". They have also made a slight verbal alteration under (q), clause 8, making it clear that the creation and issue of shares is subject to the Governor in Council which is consequential on (o) and (p)—that is merely verbal.

The select committee has then made a number of recommendations also in regard to clause 9. Clause 9 conveys exclusive privileges to the Commission, and among other things to sell or otherwise deal with slaughter stock purchased and with the products derived from such slaughter stock including the hides, skins and offals. To make the clause perfectly clear we are suggesting under 9 (1) in the fourth line "to deal with any slaughter stock purchased and to sell or otherwise deal with any products derived from any such slaughter stock, including the hides, skins and offals, in any manner which the Commission thinks fit". We have reworded this clause in order again to make it abundantly clear that that is the intention, that the Commission should only deal with the hides, offals and by-products of those animals which it buys itself and are slaughtered in its own abattoirs.

Under clause 9 (2) powers are given in the original Bill for the Commission, by a permit in writing, to authorize any

[Major Cavendish-Bentinck]

person to exercise any of the special privileges conferred on the Commission by this section. It was pointed out at the second reading that that might make it extremely difficult to cover, for instance, the sales of slaughter stock and purchases of slaughter stock to and by Africans. Therefore it was more or less agreed during the second reading that we would widen that power given to the Commission by enabling any person specially authorized in that behalf by the Commission or by the Member, which is the amendment before you, to give these permits, and the intention therefore is that the Commission could delegate its powers to the Administration, so that district officers and district commissioners could issue the necessary permits.

Under clause 9 (3), the point was made during the debate on the second reading, by the members representing African interests, that they wished the words "by a native to a native" changed to "by an African to an African", but they also desired that the question of limitation of sale by an African to an African of the same district within any native area should be removed. In that connexion, members will note that the hon. member Mr. Chemallan has appended a minority note to this report in order to draw attention to his views on this particular subject. I would like to be a little precise about this, because although it is really a question of policy it is one to which the select committee gave a very great deal of thought. The select committee are quite aware that this Bill is not intended to be in any sense of the word a diseases of animals Ordinance, and therefore that provisions for the limitation of movement of stock through fear of the spreading of disease should not be included in a Bill which is intended to deal with the marketing of meat.

The select committee were also fully aware of the incongruous position that arises in this Colony especially where we have certain reserves very overpopulated in many cases by persons who are very meat-hungry and who are unable to buy sufficient meat and who have insufficient stock in those very thickly populated areas, and in some cases those very reserves are lying alongside areas

which are grossly overstocked and in which the policy of Government is to try and induce the inhabitants to destock in accordance with the carrying capacity of the land. Therefore, at first sight, it would seem that it would be sensible to allow a considerably greater freedom than has been allowed hitherto to the inhabitants on one side of the line to go across and buy without any restrictions from those overstocked areas.

But that is not the whole picture. To begin with, we want to have some sort of co-ordinated marketing, and the whole object of this Bill is to deal with proper marketing of cattle; and, secondly, we must be able to have some check on the movement of cattle in this country, be they European or be they African cattle. What, in fact, is suggested by the amendment asked for by the representatives of African interests was that the European cattle should be controlled, but that in regard to African cattle there should be no limitation whatever. On this we took the advice of the Chief Native Commissioner and certain district officers who have recently been in districts where this problem arose. Their unanimous advice was that we could not entirely free movements to the extent asked for by our African colleague. Therefore we have suggested this, that under clause 9 (2), after the words "in that by the Commission", we should insert the words "or by the Member". The effect would be (a) that the Commission could give permits, and (b) the Commission will presumably authorize all district officers to give permits. If by any chance the Commission in its own interest disregards the desirability of providing meat for those areas which are short of meat from those areas which have a surplus or is unwilling to grant those specific permits when the Member himself could intervene regardless of the Commission and give the necessary authorization to district officers to give permits, subject, of course, to veterinary restrictions, we do not think it possible to go any further than that, and I think we are going a long way to meet the desires of the African members of this Council.

The debate was adjourned.

Council adjourned at 11.05 a.m. and resumed at 11.20 a.m.

MAJOR CAVINDISH-BENTINCK (continuing): Mr. Speaker, I was dealing with sales by Africans to Africans, and the only other matter to refer to under clause 9 is the new sub-clause (5), which has been inserted again to absolve the Commission from compensation.

Under clause 10 there have been a number of minor amendments. In sub-clause (1) we have removed the description of butcher as being either "wholesale or retail", because we wanted to make it quite clear that we want to keep the butchers in business. There is an amendment which appears in the report as (1) (a), to substitute the words "native areas" for "a native area" so as to conform to the interpretation clause. We have also made the necessary provision asked for during the debate on the second reading to that it shall not be illegal for any person to move the fresh products of slaughter stock from a native area for his own use, so that farmers living contiguous to native reserves can obtain meat for their labour from those reserves. In clause 10 (2) the words "native area" should read "district".

In clause 11, which refers to Treasury advances, we have made two small alterations. The first one is consequential on an amendment to clause 12, where we have provided for a sinking fund, which was not provided for in the original Bill. It was also mentioned during the debate on the second reading that the position might arise when money advanced by the Treasury might have ample security on part of the assets of the Commission who might want to hypothecate some other assets in respect of some other loan or commitment. We have made the necessary alteration in clause 11.

Clause 12 in the Bill provides for banking accounts and reserve and stabilization funds, and it was mentioned in the debate on the second reading that provision should be made to make it quite clear that the Commission could by, say, the imposition of a cess, or in any other way they felt appropriate, to establish a sinking fund to pay off the capital which enabled them to start. We have therefore provided for a third fund in this clause, a sinking, a reserve, and a stabilization fund, and prescribed the purpose of all three funds.

Under clause 13 we have made a good deal of verbal amendments, which

appear in the report. In paragraph 16 (ii) we have recommended the deletion of the words "with the approval of the Member" which occur in the fourth and fifth lines of the clause as we did not consider it necessary for the Member's prior approval to be obtained before the Commission paid out any part of its surplus profits to suppliers of slaughter stock. Later it was pointed out that it was probably a mistake to delete the limitation "with the approval of the Member", it might even be a mistake to do so from the point of view of the producers themselves as it would lay the Commission open to the charge, even if it was not a justifiable charge, that before providing such moneys we should make the Commission put payments into the sinking fund. You will note that under clause 12 "the Commission may", it is not obligatory on them, if they wish to distribute profits to producers. We also looked up the Southern Rhodesia Act, and found that their version was "with the approval of the Minister". We therefore are proposing to delete this paragraph (ii) on page 10 of the report because we want to recommend to Council that the words "with the approval of the Member" shall remain in the Bill as was provided in the original Bill.

There was, during the debate on the second reading, considerable discussion about the possibility of making individual payments to individual African suppliers of cattle in respect of any surplus profits which might be made by the Commission. We have specifically referred to that in the report in paragraph 26 on page 16. The committee took note of the points made in that debate, but was unable to say how it could be possible to improve the wording of the clause in the original Bill, clause 13. We think that under that clause it is perfectly clear that the Commission can make arrangements through the Administration or some other way to make sure that individual suppliers would get supplementary payments if such can be made available.

Clauses 15, 16 and 17 refer mostly to the provisions for audit, and although these have been redrafted it is really a formal matter. They have been redrafted by the Attorney General in conjunction with the Society of Accountants which now exists in the Colony in order to get these clauses correctly worded and up to date.

[Major Cavendish-Bentinck]

That brings us to clause 18, which is a new clause, and which hon. members will see in the redrafted Bill. Clauses 18, 19 and 20 refer to compensation. It was suggested in the debate on the second reading that it was absolutely essential in a Bill of this nature to make it quite clear that, where an undertaking was going to be put out of business, compensation should be paid. We have therefore gone into this question extremely carefully, and we have taken evidence from a number of sources in connexion with these compensation clauses. Under clause 7 an undertaking can continue to operate up to the limit of its present capacity and existing plant and machinery, providing that undertaking was functioning on the passing of this Bill. Furthermore, under clause 7 it is possible for the owner of such an undertaking to apply to the Member who, in consultation with the Commission, could give them a permit to increase their capacity or could refuse to give such permit.

Under these compensation clauses it will now be possible for any person who feels they are going to be injured by the institution of this Commission to apply to become a scheduled undertaking, and the conditions under which they can apply will be found on page 14 of the draft Bill. They can apply within one month of the passing of this Bill—Council may suggest two months—at any rate, within a stated period a person can apply to be put on the Schedule. We have made provision for an extension of the time, because it is possible that in due course the Commission may extend its activities, in two or three years' time, when some undertaking may find itself aggrieved, although at the moment it is completely unaffected. Therefore, in a case of that kind, it will be possible for the Member to extend the time of application to be put on the Schedule to cover that contingency. The amount of compensation to be paid is laid down, and the arbitration, arbitrators, and method of ascertaining compensation also. Goodwill is provided for on the formula of an annual average net profit multiplied by three. In other words, it is three times the average net profit made over the last five years.

In clause 18 (5), at the top of page 14 of the report, is the procedure under which a person operating an abattoir, meat works and so on, who is not granted a licence or who is dissatisfied with the conditions attached to a licence to operate, can apply to the Governor in Council to have his undertaking added to the Schedule, and if the Governor in Council thinks the claim is just and that the application should be granted the Commission has no alternative but to take over the undertaking on the basis laid down in this Bill. I would draw attention to this sub-clause (5) because after the words at the commencement "Any person" we are going to add the words "not being the owner or operator of an undertaking which is already included in the Schedule to this Ordinance", to make matters quite clear.

At this stage it would be only right if I read to hon. members a letter I received this morning from the Municipal Council of Nairobi, because they appear on the Schedule to this Ordinance, and they are naturally very much affected by the passing of this Bill. We had an interview with His Worship the Mayor and six other delegates from the Municipal Council, and we had considerable discussion with them, and now they have written me this letter:—

"I am directed by the Council's Finance Committee to forward herein a copy of a resolution passed at its meeting held this day, in connexion with the select committee's findings concerning the above-mentioned bill.

The resolution referred to is as follows:—

"The Municipal Treasurer reported to the committee on the findings of the select committee set up to receive evidence and to report on the Kenya Meat Commission Bill.

Following a discussion thereon it was resolved:—

The Hon. Member for Agriculture, Animal Husbandry and Natural Resources be informed that the Finance Committee of the Nairobi Municipal Council, in the short time it has had at its disposal to study the select committee's findings, registers its objection to the rate of compensation recommended by the select committee to be paid in respect of goodwill consequent

[Major Cavendish-Bentinck] upon the acquisition of abattoir undertakings. It is the considered opinion of this committee that the minimum of five years' profits earned for the five years immediately prior to acquisition should be the basis for the payment of compensation for goodwill.

I am to request that you will bring this objection and the committee's view to the notice of Legislative Council when the Bill receives its next reading."

We have recommended, after very careful investigation, that the basis should be the value at the time of taking over the plant, buildings, equipment, machinery, land, etc., plus goodwill, calculated on the basis of average annual profits earned over the last five years multiplied by three. It is difficult no doubt, although the hon. Attorney General may be able to give further information, it is almost impossible to find an exact precedence for these various forms of compensation, but we felt that this was generous. The Municipal Council has asked that it should be a minimum of five years' profit earned immediately prior to acquisition. That, I conclude, means the sum total of profits over the last five years.

I do not think I need say much more about the arbitration clauses; they are there for hon. members to study, and no doubt hon. members who have any comments will make them.

The new clause 21 deals with the vesting of scheduled undertakings in the Commission, and there is a verbal amendment to leave out the word "which has been".

There is a new clause 22, again in conformity with requests made by hon. members during the debate on the second reading, providing for compensation to be paid to servants employed by an undertaking which may be taken over by the Commission. The system advocated in this clause is that an attempt shall be made for an agreement to be reached as between the Commission, the owner or operator of the undertaking, and the officer or servant concerned. It is felt that by regulations a system should be prescribed which is in vogue in England under similar circumstances for computing the compensation which shall become payable.

The old clauses 18 and 19 now become clauses 24 and 25, under which the Commission may make rules and under clause 25, now old 19, the Member may make regulations. Under the new clause 25 we have provided powers which would enable specifically the Member to make rules for the grading of slaughter stock, and in evidence from the Master Butchers' Association great stress was laid to resist this particular power. I believe it has been suggested—I have been asked to refer to this by one of the hon. members opposite—that the wording should be in clause 25 "the Member shall", but I do not think the select committee will accept that. They feel it is unusual to put in the word "shall". By the word "may" it is quite obvious that if it is for the benefit of the working of this Ordinance the Member will do what he is empowered to do under the Ordinance. There is the word "or" to come between "debentures" and "debenture stock". There is a Schedule to this Bill on which appear the Nairobi and Mombasa municipal abattoirs.

Those, I think, are the more important details of the recommendations of the select committee. I am afraid I have had to submit a very long report working against time, and there have been one or two alterations, too, which have been suggested and considered by the select committee since that report was cyclostyled. Those recommendations do appear in the report which has been laid on the table of Council, but in order to regularize the position it is proposed that on the third reading we should recommit the Bill in respect of those amendments only, in order to regularize and make it perfectly clear what these, for the most part quite minor alterations, are which have been recommended by the select committee?

I beg to move the adoption of the report which I have just read.

MR. O'CONNOR: I beg to second, sir, and reserve my right to speak again.

MR. USHER: Mr. Speaker, I should like to begin by congratulating the select committee, and particularly the hon. Member, on the close attention given to representations that have been made on some controversial aspects of this Bill. They have, I know, worked extremely hard and have done a task which, per-

[Mr. Usher] being expected before the Council at the present time, you cannot amend it in Council, certainly. The only thing you could amend or try to amend would be the paragraph in the report that deals with the clauses you are referring to. There are suggested new clauses in paragraph 19 of the report.

MR. USHER: If there is an opportunity later on for amendments to clauses being made I will not bother with it now, only with the principles.

THE SPEAKER: "If on the third reading of the Bill any member desires to amend or delete any provision contained in the Bill or introduce any fresh provision, he may move that the Bill be re-committed and if the motion be agreed any alteration proposed may be discussed in committee of the whole Council." (Standing Rule and Order No. 83.) That, I understood from the hon. Member's speech, is to be taken advantage of, to put in one or two small amendments he desires. At the conclusion of the hon. Member for Agriculture's speech he proposed that when the third reading is moved he would move to recommit to make certain small alterations. If you have alterations you wish to make, it will be in order, no doubt, at that time to make them also.

MR. USHER: Thank you, sir. I shall endeavour to do that.

May I conclude with a few general remarks? I have already protested about the manner of this Bill. The fact is that later on this Council will almost undoubtedly be asked to provide, upon terms not yet settled, a very large sum of money, and it is a matter on which the general public has had no opportunity to judge, therefore I would urge that the Government should consider making a statement at the earliest possible opportunity on the lines of the prospectus. The taxpayers of this country are involved to so great an extent that I should have thought that the issue of such a statement would have been a foregone conclusion. (Hear, hear.)

I should like also, if the hon. Member would indulge me in this matter—and I think a large number of the public would also like—to have made available the balance sheets for, say, the last two years, of the organization in Southern Rhodesia. Nothing would give greater

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There are one or two matters of detail to which I wish to refer. The first is in clause 7 of the Bill. I should be anxious for an assurance from the hon. Member that the expression "meat works" does not include a butchery or a butcher's shop. I now come to clause 19 (a) with regard to compensation. This provides that what should be considered in determining compensation in certain cases is market value, but I see that under sub-clause (3) "In assessing the market value of the buildings, plant, machinery, apparatus and equipment, regard shall be had to the age, state of repair, condition and saleability thereof."

MAJOR CAVENDISH-BENTINCK: Not saleability.

MR. USHER: I understand saleability is out. It is that that I was going to challenge.

I wish I could persuade the hon. Member to reconsider the question of grading of stock and to make it obligatory for the Member to provide for the grading. It is regarded outside by consumers as of very great importance. It has been thought that that has been hitherto a great weakness in the organization which has so far operated, and if it is impossible for the Member to reconsider this matter I shall have, I think, to move an amendment. I have one written out here and may I ask, sir, for your guidance as to whether I should move it now in specific terms? It is, of course, a lay drafting and inexpert, but I have it here.

THE SPEAKER: Where are you proposing to amend a paragraph in the report?

MR. USHER: I understand the amending Bill to be a part of the report.

THE SPEAKER: There is a copy of the Bill as it would be if the report were adopted, but to get that amended, it not

[Mr. Usher] confidence if those balance sheets are what we understand them to be, if they reflect what we understand them to reflect. I refer, of course, to the Southern Rhodesia Cold Storage Commission. I do not know if I have that title right, but it will be understood. If those could be made available very early that would help us all, and help me particularly in the line that I shall have to take if and when the question of providing these moneys comes before this Council.

Finally, I should like to express a hope that no measure involving such great expenditure, without actually asking for that expenditure to be voted, shall again be brought before this Council. When the time comes for us to vote this money action will have been taken which will render it quite impossible for any reasonable person to refuse his consent.

MR. CHEMELAN. Mr. Speaker, while I give general support to the introduction of the motion before us, I feel I must back up my notes which are appended to the report itself. This is that I disagree with the recommendation of the majority to restrict the movement of slaughter stock sold from one district to another. It was my wish, and the wish of my colleagues the African members, that the words "in the same district" which appear in the proviso to clause 9 (3) should be deleted.

I have three reasons for recommending this. The first one is that the African stock owners will not be free to sell their surplus stock into consuming areas, even those next to them. The second is, application for a permit to buy slaughter stock should not be necessary provided that veterinary regulations are adhered to. The hon. mover, when he was moving the adoption of this report, mentioned that it was not desired that this Bill should be a cattle diseases Bill, and I might venture to say I agree with him, and I do not see why the Kenya Meat Commission Bill should restrict the extent to which cattle are bought or sold. It is entirely in the hands of the veterinary people to see to that, and I do not see why it should be a case for this Bill to take into consideration at all. My reason is that the business of an African petty trader would prove uneconomic due to his having to travel long distances to buy slaughter stock in public auction

markets. The word "uneconomic" here does not only apply to trading itself but also applies to the consumer, because the price of meat will have to be such that the consumer will have to pay beyond the ordinary local price. I believe that the proviso in this section is not going to encourage the African stock owner. In cases where you have a hungry consuming area restricted to buying from the next door producing area you will certainly not escape finding that there were some cattle going into the consuming area through the black market.

Another point, the question of paying surplus profits to the individual supplier of cattle has been mentioned several times. Let me say that the hon. mover has stressed that the Commission is going to see that this is done, but the Africans fear it is not going to be done, because the African producer will not have a representative on the Commission.

The last point I should like to make on this report is that it is very desirable that we establish proper stock routes in the various areas where slaughter stock are sold. The African pastoral tribes are not all together. We have a good number of them locked out by the various European farmers, and if we were not to allow these people to get proper routes through which they can pass their surplus stock then I do not see how we are going to encourage them really to get rid of their surplus stock which are a danger to the land, and I should like the hon. mover to give me an assurance that this is going to be done. It is a very important thing, and it is my wish that Government should give it very strong consideration.

Sir, I beg to support.

MR. SHATRY. Mr. Speaker, I would like also just to associate myself in congratulating the members of the select committee on the very hard work they have done in a very short time with the very important amendments that have been brought into this new Bill. The only thing I would like to draw the attention of this Council to is that the Arab traders have been trading in meat for more than 100 years, and in the war years Arabs travelled to the Northern Frontier District to bring cattle to the Meat Marketing Board. I am afraid his Bill will deprive Arab traders of their trade which

[Mr. Shatry] is their livelihood. I would like to have an assurance from the Member that the Arab traders will be safeguarded in this Bill and that a clause should be definitely put in to safeguard the interests of those butchers.

The other point I would like to raise is clause 3, which reads: "3 (1) There shall be established a Commission to be known as the Kenya Meat Commission which shall consist of a chairman and eight members appointed by the Governor in Council, of whom (a) four shall be representatives of stock owners and shall be selected for appointment from a panel of names submitted to the Governor in Council by the Stock-owners Council of the Kenya National Farmers' Union; (b) one shall be an African representing African stock owners; (c) two shall be persons selected for their business ability; and (d) one shall be a representative of the Member for Finance.

In these appointments we find no Muslim member who will safeguard the interests of the Muslim community, and I should therefore also like to have an assurance from the Member that under clause 3 (1) (c) one of those two persons shall be a Muslim member who will be able to give the views of the Muslim community.

With these few words I would like to support the report.

MR. VASEY. Mr. Speaker, there are only two points I wish to raise. I find myself in a little difficulty because I am not quite sure whether this report and the draft of the Bill that we have in front of us, as they do not altogether agree, whether it does not mean the Bill will automatically have to be re-committed, because, of course, we are adopting the report and if the Bill differs from the report I take it Council will be given the chance to comment on the points of difference. If that happens I must in duty to my constituents merely reiterate the request of the Municipal Council that compensation should be based on a five-year period and not a three.

The other point that I wish to draw attention to is on page 13 of the report, paragraph 19 (3). "In assessing the market value of the buildings, plant,

machinery, apparatus and equipment, regard shall be had to the age, state of repair, condition thereof"—I am told "safegability" has been taken out, though not in the copy of the report which I received—"and no regard shall be paid to replacement value." I think that we are going to have an awful lot of litigation on that last particular point, because I do not see how a man can assess the market value of plant, machinery, apparatus and equipment, without having regard to the replacement value. The market value is surely governed by the replacement cost at that date. If equipment cost originally £1,000 in, shall we say 1941, to-day it would cost £5,000 to purchase. The assessor, when assessing the market value, is bound to have regard to the £5,000 level which is indeed the replacement value.

I think that the hon. Member opposite should go into that point before it is put into the Bill finally. Either it should be "In assessing the value no regard should be paid to replacement value", and you are leaving the market value out of it, which I suggest would be an injustice to the people concerned, or the last part should be deleted and it should end at "thereof". But if the valuer has to go into court with an aggrieved party and say that he assessed the market value but he took absolutely no account of what it would have cost to have replaced the equipment in the open market, I think we are in for a little confusion. I should like to hear the opinion of the hon. Member for Law and Order on that particular point; but I suggest it does need a little alteration when we come to the committee stage, if we do.

MR. ERSKINE. Mr. Speaker, I have one word to say on the question of the future finance of the Commission and especially in connexion with the position of the consumer.

The first draft of this Bill gave very little indication as to how the financial structure of the Meat Commission would grow. The redrafting on the basis of the report which we are debating gives a good deal more indication and enables me to draw what I think is a not unfair inference as to how the financial structure will grow. Clause 8 (1) (g) of the new draft uses the words "create and issue shares". It enables the Commission

NURSES AND MIDWIVES (REGISTRATION) (AMENDMENT) BILL

SECOND READING

SIR CHARLES MORTIMER: Mr. Speaker, in moving that this Bill be read a second time I am sorry to have to bring before hon. members an amendment of an Ordinance which was so recently passed. The circumstances, however, are somewhat peculiar. The measure, although small, is quite important.

The original Ordinance set up a Nursing Council which was to consist of 17 members. The constitution of the Council was carefully laid down in various sub-sections, and it was set out most particularly what bodies or individuals were to appoint the various members. One of the members was to be a person appointed by the General Nursing Council for England and Wales, established under the Nurses Registration Act, 1919. The constitution of the local council was as recommended by a special committee which had been considering this question for a year or more, and it was taken for granted, inadvisedly as it turns out, that in making this recommendation they had, in fact, consulted the General Nursing Council. When, however, it came to putting the Ordinance into operation we wrote to the General Nursing Council asking them to appoint their representative. We found that was the first they had heard of it and they did not wish, and in fact refused, to appoint a member. We were advised by my hon. friend the Member for Law and Order that unless such a member were appointed or unless the mandatory provision in the Ordinance were deleted, the Nursing Council would not be properly constituted, and all its operations would be *ultra vires*. So we are asking Council to-day to agree to the deletion of that particular clause, and the alteration of the members of the Council from 17 to 16.

We are also taking the opportunity of amending a clause which was not very happily drafted, in order to make clear the real intention of the Ordinance. It was intended that the Ordinance should prescribe that no one claiming to be a nurse or midwife could practise as such unless enrolled by the Nursing Council. Unfortunately, the wording of the particular section merely stated that any-

one who was entitled to be enrolled as a nurse or midwife could not practise unless so enrolled, leaving it quite open for persons who were not entitled to be enrolled to practise without let or hindrance. That, of course, is an absurdity which must be put right, so the amendment proposed is to prohibit from practising as a nurse or midwife any person not registered or enrolled under the provisions of the Ordinance.

MR. PIKE seconded.

The question was put and carried.

BILLS

IN COMMITTEE

MR. O'CONNOR moved: That Council do resolve itself into committee of the whole Council to consider the two Bills clause by clause.

MR. PIKE seconded.

The question was put and carried.

COUNCIL IN COMMITTEE

The Bills were considered clause by clause.

MR. O'CONNOR moved: That the Bills be reported back to Council without amendment.

Council resumed, the report was adopted.

THIRD READING

On motion made by **MR. O'CONNOR**, seconded by **MR. PIKE**, and question put the Guarantee (High Commission Posts and Telegraphs Loan) Bill and the Nurses and Midwives Registration (Amendment) Bill were each read the third time and passed.

ADJOURNMENT

Council rose at 12.20 p.m. and adjourned till Thursday, 23rd February, 1950, at 9.30 a.m.

Thursday, 23rd February, 1950

Council reassembled in the Memorial Hall, Nairobi, on Thursday, 23rd February, 1950.

MR. SPEAKER took the Chair at 10.10 a.m.

The proceedings were opened with prayer.

MINUTES

The minutes of the meeting of 22nd February, 1950, were confirmed.

ORAL ANSWERS TO QUESTIONS

No. 15—RICE IMPORTS

DR. RANA (Eastern Area):

1. (a) Is it a fact that a large quantity of rice has been imported from the Congo Belge by the Produce Controller or his agent? If the reply is in the affirmative, what was the exact quantity so imported and the c.i.f. Mombasa price paid by the Produce Controller? (b) If it was imported through an agent, will Government please inform Council the commission or profit allowed to the agent concerned? (c) Will Government please inform Council if any attempt was made to get cheaper rice from elsewhere before placing the order for this Congo Belge rice? (d) Is it a fact that the Produce Controller was approached with an offer to import Congo rice at a cheaper price than £65? If the reply is in the affirmative, why was the offer not considered?

2. (a) Is it a fact that on 29th January, 1950, a large quantity of rice was imported from Bangkok, Siam? If the reply is in the affirmative, will Government please state the exact quantity imported and the exact c.i.f. Mombasa price paid for the rice? If the reply is in the negative, was the rice imported by an agent and what commission or profit was allowed to the agent? (b) Will Government please inform Council whether the Produce Controller asked other importers for their prices, and was any notification given in the Press in order to get the best minimum prices in the interests of the Colony and particularly of the consumers? If the reply is in the negative, why has not such notification published

and what are the reasons for not publishing such notification?

MR. ADAMS: 1. (a) 200 tons of rice at £70 per ton and 400 tons of rice at £65 per ton landed weights Mombasa were purchased by the Government from the Belgian Congo. In each instance the merchant was responsible for deliveries being up to sample. (b) The price offered included any profit made by the merchants and the details of such profit are not known. It is, however, the case that in each instance the price offered was the lowest quoted to the Government at the time in question. (c) Yes. (d) Offers were received for later delivery after the above orders had been placed, and when it had been ascertained that rice could be secured from soft currency sources. The Government was not then prepared to expend further hard currency.

2. (a) 1,100 tons at £64 per ton to be followed by 500 tons at £59 6s. per ton, conditions as in 1 (a) above. The second part of the question does not, therefore, arise. (b) A statement was issued to the Press at the end of September, 1949, stating the general rice supply position. As the result, the Produce Controller was approached from time to time by a number of firms with offers of rice. In each instance, the lowest price offered at that time, combined with reasonable quality sample, was accepted. As soon as the immediate future supply position was assured a Press communiqué was issued stating that import licences would be granted for rice from soft currency sources, subject to certain conditions.

MR. NATHOO: Mr. Speaker, arising out of the question, may I ask if it is a fact that no offers were received from other sources because it was known that Government was going to import rice?

MR. ADAMS: The answer to that question is "No, sir". A number of firms offered rice, and Government made extensive inquiries with regard to supplies of rice from sources other than both the Belgian Congo and Siam.

MR. SHATRY: Arising out of the question, is it a fact that the rice from Siam has been allowed to be exported?

MR. ADAMS: The answer to that is that any such exportation would be completely illegal.

STANDING FINANCE COMMITTEE

APPOINTMENT OF MEMBER

MR. RANKINE moved: That Standing Rules and Orders be suspended to enable the motion standing in his name to be taken without due notice.

MR. O'CONNOR seconded.

The question was put and carried.

MR. RANKINE moved: Be it resolved, that the Hon. W. B. Havelock be appointed a member of the Sessional Committee in place of the Hon. E. A. Vasey.

MR. O'CONNOR seconded.

The question was put and carried.

MOTION DEFERRED

On the order standing in the name of Mr. Blundell being called from the Chair, relative to a self-reimbursing fund of £100,000 for educational purposes, Major Keyser informed Council that its consideration would be postponed until the May session.

EMPLOYMENT (AMENDMENT) BILL

FIRST READING

On the motion of Mr. O'Connor, seconded by Mr. Pike, the Employment (Amendment) Bill was read a first time.

MR. O'CONNOR moved: That Standing Rules and Orders be suspended to enable the subsequent stages of this Bill to be taken forthwith.

MR. RANKINE seconded.

The question was put and carried.

SECOND READING

MR. HYDE-CLARKE (Labour Commissioner): Mr. Speaker, I beg to move: That the Bill be read a second time.

This is one of the few, I hope, non-controversial measures affecting labour. The objects and reasons are clearly set out, and the proposals have been before the Labour Advisory Board and received their support and commendation. I will therefore not waste time in going through the clauses, but I shall be happy to answer any questions which may be raised.

MR. PIKE seconded.

The question was put and carried.

IN COMMITTEE

MR. O'CONNOR moved: That Council do resolve itself into committee of the whole Council to consider the Bill clause by clause.

MR. PIKE seconded.

The question was put and carried.

Council in committee.

The Bill was considered clause by clause.

MR. O'CONNOR moved: That the Bill be reported back to Council without amendment.

Council resumed.

The report was adopted.

THIRD READING

MR. O'CONNOR moved: That the Bill be read the third time and passed.

MR. PIKE seconded.

The question was put and carried, and the Bill read accordingly.

AFRICAN DISTRICT COUNCILS BILL

THIRD READING

MR. O'CONNOR moved: That the African District Councils Bill be read the third time and passed.

MR. PIKE seconded.

The question was put and carried, and the Bill read accordingly.

KENYA MEAT COMMISSION BILL
SELECT COMMITTEE REPORT

MAJOR CAVENDISH-BENTINCK: Mr. Speaker, I beg to move: That the select committee report on the Kenya Meat Commission Bill be adopted.

As has been stated in the committee's report, this has proved a somewhat controversial measure and a very large number of points were raised during the debate on the second reading. The select committee has done its utmost to take into consideration every matter that was raised and has framed its recommendations in accordance with the points raised in the debate. The committee met on a number of occasions, more than is recorded actually in the report, to deal with details raised. For the convenience of hon. members we have redrafted the Bill in accordance with the recommendations of the select committee, and if hon.

[Major Cavendish-Bentinck]

will be the original Bill before them, on which, of course, the report is made, and the redrafted Bill; it may assist them to follow the various clauses to which it has been necessary to propose amendments.

As regards the first recommendation, which concerns the title of the Bill, we have recommended that there should be a slight alteration chiefly for the purpose of clarification to show that it is not the intention of the Commission to, for instance, deal with certain undertakings such as tanning hides, because fears were expressed by persons who gave evidence that the Commission was going to indulge in a whole number of activities which in fact the Commission is neither destined to indulge in, nor has any intention of doing so.

To clause 2 we have recommended certain amendments, most of them in definitions, and I think they are self-explanatory.

In clause 3 we have inserted a completely new clause in accordance with the undertaking given during the course of the second reading. But I would draw the attention of the Council to the proviso which appears in the report on page 3 to clause 3 (1), which reads: "Provided that when the greater proportion of the Commission's undertakings cease to be capitalized with moneys advanced by the Treasury or with moneys the repayment whereof is guaranteed by the Government, the representative of the Member for Finance shall cease to be a member of the Commission and the Governor in Council shall appoint some other person in his place". I am sorry that it was not possible to circulate the new wording of that proviso to members before this debate.

What the select committee was faced with was that it was pointed out to them that, under the proviso as it appears in the report, (a) the minute Government finance had been paid off to the extent of 51 per cent then automatically under the wording of this proviso the member representing the Member for Finance would come off the Commission; and (b) it was also pointed out that under the wording of this proviso, which I may add was the wording I read out on the second reading, if after all moneys which had been advanced by Government were paid

off it would be obligatory on the Governor in Council to appoint some other person and not in fact to allow the representative of the Member for Finance to be a member of the Commission, even were the Commission to desire the assistance of such a member. The committee therefore felt, that both these things should be changed. The select committee was under the impression that the intention during the second reading was undoubtedly that so long as public moneys were invested in this Commission, there should be a representative of the Member for Finance on the Commission; secondly, the select committee felt it would be wiser to give latitude to the Commission and to the Governor in Council if they so desired to have the assistance of a representative of the Member for Finance or the Member himself at any time during the life of the Commission, which may be a very long time.

Therefore this is the suggested wording which we have put forward: "Provided that when the Commission's undertaking ceases to be capitalized with moneys advanced by the Treasury or with moneys the repayment whereof is guaranteed by the Government, the representative of the Member for Finance shall cease to be a member *ex officio* of the Commission and the Governor in Council shall, after consultation with the members of the Commission, fill the vacancy thereby caused and subsequent vacancies in the membership originally allotted to the representative of the Member for Finance, either by reappointing the representative of the Member for Finance or by appointing some other person". In other words, the Commission is consulted and the Governor in Council can then appoint either the Member for Finance or some other person.

Under sub-section (2) of clause 3, if you follow the Bill you will see that it is provided that the chairman of the Commission shall during the first four years from the commencement of this Ordinance be appointed by the Governor in Council, after consultation with the members of the Commission appointed pursuant to sub-section (1) of this section, and thereafter the chairman shall be elected by the Commission from among the members thereof. The select committee again had it pointed out to

[Major Cavendish-Bentinek] them that what that would, in fact, entail is that after the first four years the chairman appointed under clause 3 (1) would cease to be chairman and the Commission would be asked to elect their own chairman. That we all agreed in principle, but under the wording of this sub-clause it has to be from among their existing members at that time; it will reduce the membership of the Commission from nine to eight and they will have to elect a chairman from among the eight, and the select committee felt that that was not intended. They have therefore recommended that the words "from among the members thereof" at the end of that sub-clause (2) should be deleted and that the word "elected" should become "selected". It will therefore read: "and thereafter the chairman shall be selected by the Commission". That, I think, entirely fulfils the desires expressed by members during the second reading.

I think there is nothing further that I need draw the attention of Council to regarding this very important clause 3. It is all contained on pages 3 and 4 of the report which is before members. No recommendations were made under clause 4, but under clause 5 certain recommendations are contained in the report which are mostly consequential on the changes which have been brought about during the second reading. I would, however, point out that under sub-clause (10) of clause 5, which provides that the procedure at meetings of any committee of the Commission shall be as nearly as may be the same as the procedure at the meetings of the Commission, no provision is made for laying down the quorum which it will be necessary for a committee of the Commission to have in order to deal with its business, and in the absence of such a provision it might be held that the proceedings of a committee of the Commission to have in order to deal with its business, and in the absence of such a provision it might be held that the proceedings of a committee of the Commission would be improper or illegal if all the members were not present. So it is proposed to add to that "and a quorum at any meeting of any committee shall be two-thirds of the members thereof".

The next clause which the committee dealt with was clause 6 on page 5 of the

report and there, in the original Bill, it was laid down that the Commission may, with the approval of the Member, appoint a general manager of the undertakings of the Commission, whose remuneration and terms and conditions of employment shall be subject to the approval of the Governor in Council. The select committee took note of certain criticisms made during the second reading of this Bill, and you will note they have altered this clause to give the Commission complete powers in regard to the appointment, on such terms and conditions as they thought fit, of their general manager. On the top of page 5 of the draft Bill you will note that the Commission may also, subject to the provisions of sub-section (1) of this section, pay to any person in its employ such salary, wages, and so on, and as we have altered sub-section (1), "subject to the provisions of sub-section (1) of this section" should come out in sub-clause (3) of clause 6.

Now we come to probably one of the most important clauses of the Bill, and one of the biggest changes which the select committee is recommending to this Council. Clause 7 is a clause which confers exclusive rights to the Commission and clause 9 equally confers exclusive privileges to the Commission, and clause 8 is a general enabling clause, enabling the Commission to carry out a number of undertakings.

Clause 7. It was quite rightly pointed out during the course of the second reading that this clause was altogether too embracing, and it contained and gave exclusive rights in regard to a number of activities which certain members of this Council felt were altogether too wide. The select committee went into this question and has considerably altered clause 7 (1) (a) and they have confined it to the erection, establishment and operation of abattoirs, meat works, cold storage concerns or refrigerating works for the purpose of slaughtering cattle or small stock, processing by-products thereof, and chilling, freezing, canning or storing beef, mutton or other meat foods (excluding poultry). In other words, that they could only process the by-products of the animals which go through the abattoirs, cold storage concerns and so on referred to in this clause. They have further safeguarded the public

[Major Cavendish-Bentinek] and butchers and hotels and other institutions which might have quite considerable refrigerating works, and all persons who might wish to erect a cold storage concern in any town, by a provision that nothing in this section is to apply to any cold storage concern or refrigerating works having a capacity of less than five thousand cubic feet, and that is quite a large cold store. We have excluded poultry under sub-section (2), and we have inserted a definite provision in regard to compensation under this clause.

In regard to compensation, although we were fairly confident that as worded in the original Bill we should not be liable for compensation, we nevertheless felt it was wise to make the facts quite definite under clause 7 and under clause 9. Except, of course, as especially provided for under specific contingencies which we shall deal with later.

The next clause that has been dealt with at some considerable length in the report is clause 8. In clause 8, which is only an enabling clause, as I have already said, very wide powers are given to the Commission to deal in various businesses, and the fear was expressed by some of the witnesses that appeared before the select committee that, for instance, the Commission was going under this clause to have the monopoly of hides and skins, that is sun-dried or shade-dried skins, or that it was our intention to appoint agents and buy all over the country. There was also the fear expressed by butchers that we would, by this Bill, put them out of their normal business of contracting for, for instance, hotels, schools and so on, and so, in order to remove these fears, we have reworded to a considerable extent the powers of the Commission as tabulated in clause 8.

It will be noticed that one of the things dealt with is the business, on a wholesale basis, of dealing in livestock, carcasses, fresh products and so on. The select committee felt that when you had a clause dealing with wholesale business it was necessary to endeavour to lay down what was intended, and an attempt has been made to do that under the proviso which is in the report and in the draft Bill before you, to try and show what was meant by "dealing in livestock

and fresh products and carcasses on a wholesale basis". I am well aware that this proviso will not satisfy everybody, and the select committee spent a very great deal of time on trying to devise this suggested limitation. We heard evidence and decided that certainly the Commission would never wish to enter into competition with butchers in regard to supplying hospitals, hotels, restaurants, schools, clubs or boarding-houses, but there remains the question of supplying labour, and possibly supplying meat in very big quantities on some contract of the nature which could not be precisely foreseen.

We therefore have inserted a specific prohibition for the Commission to deal with hospitals, hotels, boarding-houses, restaurants, schools or clubs, and we have said that any sale other than to a retailer for the purpose of resale such meat will have to be sold in quantities of not less than 2,000 lb. in weight in any one week, or 25,000 lb. in weight in any one year. The select committee did hear in evidence from the general manager of the existing Meat Marketing Board that it would be not at all usual, nor would it be at all desirable, for the Meat Commission to enter into every sort and kind of small contract and cut out butchers. On the contrary, it usually is more convenient to distribute and sell through existing channels, but the select committee was unanimous that some provision of this kind had to go in the Bill giving them permission—at any rate, the right—to sell under those conditions.

Towards the end of section 8 members will find a very large number of extra powers that have been added to those which were conferred in the original Bill, and the select committee made these recommendations in order to endeavour to conform to requests that were made in the debate on the second reading of the Bill, that the Commission should quite clearly be given powers to raise moneys in various ways so that eventually it could be shown that the intention was that the Commission might become either a public utility company or a public company or a co-operative society, and so on. Therefore we have added the sub-sections (o), (p), (q) and (r), and we hope that those sub-sections will meet the wishes of members who expressed those views over the second reading.

[Major Cavendish-Bentick]

I am afraid, sir, I have omitted to refer to an alteration in sub-section (n) of clause 8, where it will be noted that we have reworded the power given under the original Bill, also under (n), the same sub-clause. In the original Bill the wording was: "to acquire, lease, maintain and develop land required by the Commission for holding and ranching cattle and small stock". The select committee thought in the first instance it was quite unwise to suggest that the Commission was going to go in for ranching on a big scale, and so we cut out the words "and ranching". It was then represented to the select committee, notably, I think, by the hon. members representing African interests, that they did not like the words "to acquire". They felt there was some danger of conferring under this Ordinance powers on the Commission to acquire land by acquisition, let us say, for holding grounds, and to make it quite clear what was intended we have put in these words: "with the consent of the Member, to purchase, lease, maintain and develop land required by the Commission for holding cattle and small stock".

There is a most important further addition to the powers of the Commission recommended to this Council under (r) on page 8 of the report. It appears on page 8 of the report and page 8 of the draft Bill. There you will see that the select committee are recommending that discretion should be given to the Commission, subject to the consent of the Member, to make *ex gratia* compensation payments to any person damaged by the exercise by the Commission of powers conferred by this Ordinance. I have already explained that the select committee, after taking advice from the Attorney General and others, decided, save as provided under clause 18, to make it perfectly clear that the Commission was not liable for compensation, as otherwise it might be that all sorts of claims, some substantial and some somewhat bogus, might be made against the Commission for a very long period of time. But clause 18 only provides for compensation under clause 7, and for compensation under very specific conditions and circumstances, and we therefore felt that there might be persons who were really seriously injured by the

activities of this Commission, possibly quite small people, who, unless we put in some clause of this kind, would be completely debarred by this act from receiving any consideration by the Commission, and that is the reason why we have inserted this enabling power in clause 8.

The only other thing I need mention, I think, regarding this clause is that at the bottom of page 8 of the draft Bill we have made a further slight alteration allowing the Commission to delegate its powers to its general manager without referring to the Member.

On page 8 in the last sub-paragraph of clause 8 we have inserted a new clause, which I think reads in your report: "The interest payable on any shares, stock debentures or debenture stock issued pursuant to paragraph (g) of sub-section (1) of this section shall be at such rate as the Governor in Council may specify". It was pointed out to us that we should include dividends, so the select committee, in the report which has been tabled, made a verbal alteration—"the dividends or interest payable". They have also made a slight verbal alteration under (g), clause 8, making it clear that the creation and issue of shares is subject to the Governor in Council which is consequential on (o) and (p)—that is merely verbal.

The select committee has then made a number of recommendations also in regard to clause 9. Clause 9 conveys exclusive privileges to the Commission, and among other things to sell or otherwise deal with slaughter stock purchased and with the products derived from such slaughter stock including the hides, skins and offals. To make the clause perfectly clear we are suggesting under 9 (1) in the fourth line "to deal with any slaughter stock purchased and to sell or otherwise deal with any products derived from any such slaughter stock, including the hides, skins and offals, in any manner which the Commission thinks fit". We have reworded this clause in order again to make it abundantly clear that that is the intention, that the Commission should only deal with the hides, offals and by-products of those animals which it buys itself and are slaughtered in its own abattoirs.

Under clause 9 (2) powers are given in the original Bill for the Commission, by a permit in writing, to authorize any

[Major Cavendish-Bentick]

person to exercise any of the special privileges conferred on the Commission by this section. It was pointed out at the second reading that that might make it extremely difficult to cover, for instance, the sales of slaughter stock and purchases of slaughter stock to and by Africans. Therefore it was more or less agreed during the second reading that we would widen that power given to the Commission by enabling any person specially authorized in that behalf by the Commission or by the Member, which is the amendment before you, to give these permits, and the intention therefore is that the Commission could delegate its powers to the Administration, so that district officers and district commissioners could issue the necessary permits.

Under clause 9 (3), the point was made during the debate on the second reading, by the members representing African interests, that they wished the words "by a native to a native" changed to "by an African to an African", but they also desired that the question of limitation of sale by an African to an African of the same district within any native area should be removed. In that connexion hon. members will note that the hon. member Mr. Chemallan has appended a minority note to this report in order to draw attention to his views on this particular subject. I would like to be a little precise about this, because although it is really a question of policy it is one to which the select committee gave a very great deal of thought. The select committee are quite aware that this Bill is not intended to be in any sense of the word a diseases of animals Ordinance, and therefore that provisions for the limitation of movement of stock through fear of the spreading of disease should not be included in a Bill which is intended to deal with the marketing of meat.

The select committee were also fully aware of the incongruous position that arises in this Colony, especially where we have certain reserves very overpopulated in many cases by persons who are very meat-hungry and who are unable to buy sufficient meat and who have insufficient stock in those very thickly populated areas, and in some cases those very reserves are lying alongside areas

which are grossly overstocked and in which the policy of Government is to try and induce the inhabitants to destock in accordance with the carrying capacity of the land. Therefore, at first sight, it would seem that it would be sensible to allow a considerably greater freedom than has been allowed hitherto to the inhabitants on one side of the line to go across and buy without any restrictions from those overstocked areas.

But that is not the whole picture. To begin with, we want to have some sort of co-ordinated marketing, and the whole object of this Bill is to deal with proper marketing of cattle; and, secondly, we must be able to have some check on the movement of cattle in this country, be they European or be they African cattle. What, in fact, is suggested by the amendment asked for by the representatives of African interests was that the European cattle should be controlled, but that in regard to African cattle there should be no limitation whatever. On this we took the advice of the Chief Native Commissioner and certain district officers who have recently been in districts where this problem arose. Their unanimous advice was that we could not entirely free movements (to the extent asked for by our African colleague. Therefore we have suggested this, that under clause 9 (2), after the words "in that by the Commission", we should insert the words "or by the Member". The effect would be (a) that the Commission could give permits, and (b) the Commission will presumably authorize all district officers to give permits. If by any chance the Commission in its own interests disregards the desirability of providing meat for those areas which are short of meat from those areas which have a surplus or is unwilling to grant those specific permits then the Member himself could intervene regardless of the Commission and give the necessary authorization to district officers to give permits, subject, of course, to veterinary restrictions. We do not think it possible to go any further than that, and I think we are going a long way to meet the desires of the African members of this Council.

The debate was adjourned.

Council adjourned at 11.05 a.m. and resumed at 11.20 a.m.

MAJOR CAVENDISH-BENTINCK (continuing): Mr. Speaker, I was dealing with sales by Africans to Africans; and the only other matter to refer to under clause 9 is the new sub-clause (5), which has been inserted again to absolve the Commission from compensation.

Under clause 10 there have been a number of minor amendments. In sub-clause (1) we have removed the description of butcher as being either "wholesale or retail", because we wanted to make it quite clear that we want to keep the butchers in business. There is an amendment which appears in the report as (1) (a), to substitute the words "native areas" for "a native area" so as to conform to the interpretation clause. We have also made the necessary provision asked for during the debate on the second reading to that it shall not be illegal for any person to move the fresh products of slaughter stock from a native area for his own use, so that farmers living contiguous to native reserves can obtain meat for their labour from those reserves. In clause 10 (2) the words "native area" should read "district".

In clause 11, which refers to Treasury advances, we have made two small alterations. The first one is consequential on an amendment to clause 12, where we have provided for a sinking fund, which was not provided for in the original Bill. It was also mentioned during the debate on the second reading that the position might arise when moneys advanced by the Treasury might have ample security on part of the assets of the Commission who might want to hypothecate some other assets in respect of some other loan or commitment. We have made the necessary alteration in clause 11.

Clause 12 in the Bill provides for banking accounts and reserve and stabilization funds, and it was mentioned in the debate on the second reading that provision should be made to make it quite clear that the Commission could by, say, the imposition of a cess, or in any other way they felt appropriate, to establish a sinking fund to pay off the capital which enabled them to start. We have therefore provided for a third fund in this clause, a sinking, a reserve, and a stabilization fund, and prescribed the purpose of all three funds.

Under clause 13 we have made a good deal of verbal amendments, which

appear in the report. In paragraph 16 (ii) we have recommended the deletion of the words "with the approval of the Member" which occur in the fourth and fifth lines of the clause as we did not consider it necessary for the Member's prior approval to be obtained before the Commission paid out any part of its surplus profits to suppliers of slaughter stock. Later it was pointed out that it was probably a mistake to delete that limitation "with the approval of the Member", it might even be a mistake to do so from the point of view of the producers themselves as it would lay the Commission open to the charge, even if it was not a justifiable charge, that before providing such moneys we should make the Commission put payments into the sinking fund. You will note that under clause 12 "the Commission may", it is not obligatory on them, if they wish to distribute profits to producers. We also looked up the Southern Rhodesia Act, and found that their version was "with the approval of the Minister". We therefore are proposing to delete this paragraph (ii) on page 10 of the report because we want to recommend to Council that the words "with the approval of the Member" shall remain in the Bill as was provided in the original Bill.

There was, during the debate on the second reading, considerable discussion about the possibility of making individual payments to individual African suppliers of cattle in respect of any surplus profits which might be made by the Commission. We have specifically referred to that in the report in paragraph 26 on page 16. The committee took note of the points made in that debate, but was unable to say how it could be possible to improve the wording of the clause in the original Bill, clause 13. We think that under that clause it is perfectly clear that the Commission can make arrangements through the Administration or some other way to make sure that individual suppliers would get supplementary payments if such can be made available.

Clauses 15, 16 and 17 refer mostly to the provisions for audit, and although these have been redrafted it is really a formal matter. They have been redrafted by the Attorney General in conjunction with the Society of Accountants which now exists in the Colony in order to get these clauses correctly worded and up to date.

[Major Cavendish-Bentinck]

That brings us to clause 18, which is a new clause, and which hon. members will see in the redrafted Bill. Clauses 18, 19 and 20 refer to compensation. It was suggested in the debate on the second reading that it was absolutely essential in a Bill of this nature to make it quite clear that, where an undertaking was going to be put out of business, compensation should be paid. We have therefore gone into this question extremely carefully, and we have taken evidence from a number of sources in connexion with these compensation clauses. Under clause 7 an undertaking can continue to operate up to the limit of its present capacity and existing plant and machinery, providing that undertaking was functioning on the passing of this Bill. Furthermore, under clause 7 it is possible for the owner of such an undertaking to apply to the Member who, in consultation with the Commission, could give them a permit to increase their capacity or could refuse to give such permit.

Under these compensation clauses it will now be possible for any person who feels they are going to be injured by the institution of this Commission to apply to become a scheduled undertaking, and the conditions under which they can apply will be found on page 14 of the draft Bill. They can apply within one month of the passing of this Bill—Council may suggest two months—at any rate, within a stated period a person can apply to be put on the Schedule. We have made provision for an extension of the time, because it is possible that in due course the Commission may extend its activities, in two or three years' time, when some undertaking may find itself aggrieved, although at the moment it is completely unaffected. Therefore, in a case of that kind, it will be possible for the Member to extend the time of application to be put on the Schedule to cover that contingency. The amount of compensation to be paid is laid down, and the arbitration, arbitrators, and method of ascertaining compensation also. Goodwill is provided for on the formula of an annual average net profit multiplied by three. In other words, it is three times the average net profit made over the last five years.

In clause 18 (5), at the top of page 14 of the report, is the procedure under which a person operating an abattoir, meat works and so on, who is not granted a licence or who is dissatisfied with the conditions attached to a licence to operate, can apply to the Governor in Council to have his undertaking added to the Schedule, and if the Governor in Council thinks the claim is just and that the application should be granted the Commission has no alternative but to take over the undertaking on the basis laid down in this Bill. I would draw attention to this sub-clause (5) because after the words at the commencement "Any person" we are going to add the words "not being the owner or operator of an undertaking which is already included in the Schedule to this Ordinance", to make matters quite clear.

At this stage it would be only right if I read to hon. members a letter I received this morning from the Municipal Council of Nairobi, because they appear on the Schedule to this Ordinance, and they are naturally very much affected by the passing of this Bill. We had an interview with His Worship the Mayor and six other delegates from the Municipal Council, and we had considerable discussion with them, and now they have written me this letter:—

"I am directed by the Council's Finance Committee to forward hereto a copy of a resolution passed at its meeting held this day, in connexion with the select committee's findings concerning the above-mentioned bill.

The resolution referred to is as follows:—

"The Municipal Treasurer reported to the committee on the findings of the select committee set up to receive evidence and to report on the Kenya Meat Commission Bill.

Following a discussion thereon it was resolved:—

The Hon. Member for Agriculture, Animal Husbandry and Natural Resources be informed that the Finance Committee of the Nairobi Municipal Council, in the short time it has had at its disposal to study the select committee's findings, registers its objection to the rate of compensation recommended by the select committee to be paid in respect of goodwill consequent

[Major Cavendish-Bentinck] upon the acquisition of abattoir undertakings. It is the considered opinion of this committee that the minimum of five years' profits earned for the five years immediately prior to acquisition should be the basis for the payment of compensation for goodwill.

I am to request that you will bring this objection and the committee's view to the notice of Legislative Council when the Bill receives its next reading.

We have recommended, after very careful investigation, that the basis should be the value at the time of taking over the plant, buildings, equipment, machinery, land, etc., plus goodwill, calculated on the basis of average annual profits earned over the last five years multiplied by three. It is difficult no doubt, although the hon. Attorney General may be able to give further information, it is almost impossible to find an exact precedence for these various forms of compensation, but we felt that this was generous. The Municipal Council have asked that it should be a minimum of five years' profit earned immediately prior to acquisition. That, I conclude, means the sum total of profits over the last five years.

I do not think I need say much more about the arbitration clauses; they are there for hon. members to study, and no doubt hon. members who have any comments will make them.

The new clause 21 deals with the vesting of scheduled undertakings in the Commission, and there is a verbal amendment to leave out the word "which has been".

There is a new clause 22, again in conformity with requests made by hon. members during the debate on the second reading, providing for compensation to be paid to servants employed by an undertaking which may be taken over by the Commission. The system advocated in this clause is that an attempt shall be made for an agreement to be reached as between the Commission, the owner or operator of the undertaking, and the officer or servant concerned. It is felt that by regulations a system should be prescribed which is in vogue in England under similar circumstances for computing the compensation which shall become payable.

The old clauses 18 and 19 now become clauses 24 and 25, under which the Commission may make rules and under clause 25, now old 19, the Member may make regulations. Under the new clause 25 we have provided powers which would enable specifically the Member to make rules for the grading of slaughter stock, and in evidence from the Master Butchers' Association great stress was laid to resist this particular power. I believe it has been suggested—I have been asked to refer to this by one of the hon. members opposite—that the wording should be in clause 25 "the Member shall", but I do not think the select committee will accept that. They feel it is unusual to put in the word "shall". By the word "may" it is quite obvious that if it is for the benefit of the working of this Ordinance the Member will do what he is empowered to do under the Ordinance. There is the word "or" to come between "debentures" and "debenture stock". There is a Schedule to this Bill on which appear the Nairobi and Mombasa municipal abattoirs.

Those, I think, are the more important details of the recommendations of the select committee. I am afraid I have had to submit a very long report working against time, and there have been one or two alterations, too, which have been suggested and considered by the select committee since that report was cyclostyled. Those recommendations do appear in the report which has been laid on the table of Council, but in order to regularize the position it is proposed that on the third reading we should recommit the Bill in respect of those amendments only, in order to regularize and make it perfectly clear what these, for the most part quite minor alterations, are which have been recommended by the select committee.

I beg to move the adoption of the report which I have just read.

MR. O'CONNOR: I beg to second, sir, and reserve my right to speak again.

MR. USHER: Mr. Speaker, I should like to begin by congratulating the select committee, and particularly the hon. Member, on the close attention given to representations that have been made on some controversial aspects of this Bill. They have, I know, worked extremely hard and have done a task which, per-

[Mr. Usher] sonally, I thought was impossible in that time, and they have given, I know, a very patient hearing, anyhow to my own constituents. In particular, I should like to welcome the provisions for limiting the invasion of this Commission into certain existing businesses, for the provisions they have made for compensating those who may be adversely affected, and for the evolution from a parastatal condition to some condition which I regard as much more healthy.

There are one or two matters of detail to which I wish to refer. The first is in clause 7 of the Bill. I should be anxious for an assurance from the hon. Member that the expression "meat works" does not include a butchery or a butcher's shop. I now come to clause 19 (a) with regard to compensation. This provides that what should be considered in determining compensation in certain cases is market value, but I see that under sub-clause (3) "In assessing the market value of the buildings, plant, machinery, apparatus and equipment, regard shall be had to the age, state of repair, condition and saleability thereof".

MAJOR CAVENDISH-BENTINCK: Not saleability.

MR. USHER: I understand saleability is out. It is that that I was going to challenge.

I wish I could persuade the hon. Member to reconsider the question of grading of stock and to make it obligatory for the Member to provide for the grading. It is regarded outside by consumers as of very great importance. It has been thought that that has been hitherto a great weakness in the organization which has so far operated, and if it is impossible for the Member to reconsider this matter I shall have, I think, to move an amendment. I have one written out here and may I ask, sir, for your guidance as to whether I should move it now in specific terms? It is, of course, a lay drafting and inexperienced, but I have it here.

THE SPEAKER: Where are you proposing to amend a paragraph in the report?

MR. USHER: I understand the amending Bill to be a part of the report.

THE SPEAKER: There is a copy of the Bill as it would be if the report were adopted, but to get that amended, it not

being expected before the Council at the present time, you cannot amend it in Council, certainly. The only thing you could amend or try to amend would be the paragraph in the report that deals with the clauses you are referring to. There are suggested new clauses in paragraph 19 of the report.

MR. USHER: If there is an opportunity later on for amendments to clauses being made I will not bother with it now, only with the principles.

THE SPEAKER: "If on the third reading of the Bill any member desires to amend or delete any provision contained in the Bill or introduce any fresh provision, he may move that the Bill be re-committed and if the motion be agreed any alteration proposed may be discussed in committee of the whole Council." (Standing Rule and Order No. 83.) That, I understood from the hon. Member's speech, is to be taken advantage of, to put in one or two small amendments he desires. At the conclusion of the hon. Member for Agriculture's speech he proposed that when the third reading is moved he would move to recommit to make certain small alterations. If you have alterations you wish to make, it will be in order, no doubt, at that time to make them also.

MR. USHER: Thank you, sir. I shall endeavour to do that.

May I conclude with a few general remarks? I have already protested about the manner of this Bill. The fact is that later on this Council will almost undoubtedly be asked to provide, upon terms not yet settled, a very large sum of money, and it is a matter on which the general public has had no opportunity to judge, therefore I would urge that the Government should consider making a statement at the earliest possible opportunity on the lines of the prospectus. The taxpayers of this country are involved to so great an extent that I should have thought that the issue of such a statement would have been a foregone conclusion. (Hear, hear.)

I should like also, if the hon. Member would indulge me in this matter—and I think a large number of the public would also like—to have made available the balance sheets for, say, the last two years, of the organization in Southern Rhodesia. Nothing would give greater

[Mr. Usher] confidence if those balance sheets are what we understand them to be, if they reflect what we understand them to reflect. I refer, of course, to the Southern Rhodesia Cold Storage Commission. I do not know if I have that title right, but it will be understood. If those could be made available very early that would help us all, and help me particularly in the line that I shall have to take if and when the question of providing these moneys comes before this Council.

Finally, I should like to express a hope that no measure involving such great expenditure, without actually asking for that expenditure to be voted, shall again be brought before this Council. When the time comes for us to vote this money action will have been taken which will render it quite impossible for any reasonable person to refuse his consent.

MR. CHIAMALLAN: Mr. Speaker, while I give general support to the introduction of the motion before us, I feel I must back up my notes which are appended to the report itself. This is, that I disagree with the recommendation of the majority to restrict the movement of slaughter stock sold from one district to another. It was my wish, and the wish of my colleagues the African members, that the words "in the same district" which appear in the proviso to clause 9 (3) should be deleted.

I have three reasons for recommending this. The first one is that the African stock owners will not be free to sell their surplus stock into consuming areas, even those next to them. The second is, application for a permit to buy slaughter stock should not be necessary provided that veterinary regulations are adhered to. The hon. mover, when he was moving the adoption of this report, mentioned that it was not desired that this Bill should be a cattle diseases Bill, and I might venture to say I agree with him, and I do not see why the Kenya Meat Commission Bill should restrict the extent to which cattle are bought or sold. It is entirely in the hands of the veterinary people to see to that, and I do not see why it should be a case for this Bill to take into consideration at all. My reason is that the business of an African petty trader would prove uneconomic due to his having to travel long distances to buy slaughter stock in public auction

markets. The word "uneconomic" here does not only apply to trading itself but also applies to the consumer, because the price of meat will have to be such that the consumer will have to pay beyond the ordinary local price. I believe that the proviso to this section is not going to encourage the African stock owner. In cases where you have a hungry consuming area restricted to buying from the next door producing area you will certainly not escape finding that there were some cattle going into the consuming area through the black market.

Another point, the question of paying surplus profits to the individual supplier of cattle has been mentioned several times. Let me say that the hon. mover has stressed that the Commission is going to see that this is done, but the Africans fear it is not going to be done, because the African producer will not have a representative on the Commission.

The last point I should like to make on this report is that it is very desirable that we establish proper stock routes in the various areas where slaughter stock are sold. The African pastoral tribes are not all together. We have a good number of them locked out by the various European farmers, and if we were not to allow these people to get proper routes through which they can pass their surplus stock then I do not see how we are going to encourage them really to get rid of their surplus stock which are a danger to the land, and I should like the hon. mover to give me an assurance that this is going to be done. It is a very important thing, and it is, my wish that Government should give it very strong consideration.

Sir, I beg to support.

MR. SHATRY: Mr. Speaker, I would like also just to associate myself in congratulating the members of the select committee on the very hard work they have done in a very short time with the very important amendments that have been brought into this new Bill. The only thing I would like to draw the attention of this Council to is that the Arab traders have been trading in meat for more than 100 years, and in the war years Arabs travelled to the Northern Frontier District to bring cattle to the Meat Marketing Board. I am afraid his Bill will deprive Arab traders of their trade which

[Mr. Shatry] is their livelihood. I would like to have an assurance from the Member that the Arab traders will be safeguarded in this Bill and that a clause should be definitely put in to safeguard the interests of those butchers.

The other point I would like to raise is clause 3, which reads: "3 (1) There shall be established a Commission to be known as the Kenya Meat Commission which shall consist of a chairman and eight members appointed by the Governor in Council, of whom (a) four shall be representatives of stock owners and shall be selected for appointment from a panel of names submitted to the Governor in Council by the Stock-owners Council of the Kenya National Farmers' Union; (b) one shall be an African representing African stock owners; (c) two shall be persons selected for their business ability; and (d) one shall be a representative of the Member for Finance."

In these appointments we find no Muslim member who will safeguard the interests of the Muslim community, and I should therefore also like to have an assurance from the Member that under clause 3 (1) (c) one of those two persons shall be a Muslim member who will be able to give the views of the Muslim community.

With these few words I would like to support the report.

MR. VASEY: Mr. Speaker, there are only two points I wish to raise. I find myself in a little difficulty because I am not quite sure whether this report and the draft of the Bill that we have in front of us, as they do not altogether agree, whether it does not mean the Bill will automatically have to be re-committed, because, of course, we are adopting the report and if the Bill differs from the report I take it Council will be given the chance to comment on the points of difference. If that happens I must in duty to my constituents merely reiterate the request of the Municipal Council that compensation should be based on a five-year period and not a three.

The other point that I wish to draw attention to is on page 13 of the report, paragraph 19 (3). "In assessing the market value of the buildings, plant,

machinery, apparatus and equipment, regard shall be had to the age, state of repair, condition thereof"—I am told "saleability" has been taken out, though not in the copy of the report which I received—"and no regard shall be paid to replacement value." I think that we are going to have an awful lot of litigation on that last particular point, because I do not see how a man can assess the market value of plant, machinery, apparatus and equipment, without having regard to the replacement value. The market value is surely governed by the replacement cost at that date. If equipment cost originally £1,000 in, shall we say 1941, to-day it would cost £5,000 to purchase. The assessor, when assessing the market value, is bound to have regard to the £5,000 level which is indeed the replacement value.

I think that the hon. Member opposite should go into that point before it is put into the Bill finally. Either it should be "In assessing the value no regard should be paid to replacement value", and you are leaving the market value out of it, which I suggest would be an injustice to the people concerned, or the last part should be deleted and it should end at "thereof". But if the value has to go into court with an aggrieved party and say that he assessed the market value but he took absolutely no account of what it would have cost to have replaced the equipment in the open market, I think we are in for a little confusion. I should like to hear the opinion of the hon. Member for Law and Order on that particular point; but I suggest it does need a little alteration when we come to the committee stage, if we do.

MR. ERSKINE: Mr. Speaker, I have one word to say on the question of the future finance of the Commission and especially in connexion with the position of the consumer.

The first draft of this Bill gave very little indication as to how the financial structure of the Meat Commission would grow. The redrafting on the basis of the report which we are debating gives a good deal more indication and enables me to draw what I think is a not unfair inference as to how the financial structure will grow. Clause 8 (1) (g) of the new draft uses the words "create and issue shares". It enables the Commission

[Mr. Erskine]

to create and issue shares. Then, going back to clause 3 (1) (d), there is reference made to the possible withdrawal of the representative of the Member for Finance after, say, 51 per cent of the Government capital is repaid. Then again in clause 12 (2) and (3) there is reference made to three funds, of which one is a sinking fund to be used for the repayment of borrowed moneys. It is obvious that these funds and the sinking fund can derive only from what is usually described as profit in ordinary commercial pounds, and it is, furthermore, perfectly clear that profit surpluses can only be derived from the reasonable loading of the price of meat to the consumer.

I do not know whether I have made my point, the point being that in the long run the housewife is going to pay by an increased price on her meat—slightly increased loading on the price of meat—for what is a kind of metamorphosis from a Commission financed by a loan from the public to something in the nature of an ordinary public company or co-operative society, and that metamorphosis will be paid for by the purchaser of meat over the counter in the butcher's shop. The consumer of meat will not grumble at that because it is inevitable. There is no other way to achieve this metamorphosis, but where there may be some query and some trouble later on would be over the speed at which this change is to take place. For instance, it might be possible to say that it would be the policy of the Meat Commission to make the change extremely fast, so that within a period of one, two, three or possibly five years the whole vast sum of £400,000 should be repaid and the Meat Commission start again as a public company and issue these shares. That would mean that the consumer would pay rather more for meat than would be strictly necessary, or rather more than if the change were to take place over a period of, say, 20 years. Then the next thing, we see here the words, "create and issue shares", and we assume that these shares or debentures will be created as and when the original loan is paid off and we naturally wonder to whom these shares will be issued. Of course, it is possible that the Meat Commission will invite ordinary subscriptions from the

public or from anybody else to repay this loan, but I think it is more likely and not an unfair inference to suppose that as the sinking fund accumulates so the Government will be paid off, and shares or debentures will be created in their place and probably issued to the producer.

Now I do not think that is an unfair inference to draw, and I for one have no objection, always provided that this change is a gradual change and will not result in the overloading of the price of meat to the consumer, especially in the early stages. I feel there is going to be tremendous support in this country for the Meat Commission, just as there was tremendous support and enthusiasm for it in Southern Rhodesia, and that support will be greatly increased if the immediate result shown will be better meat at a reduced price.

With that comment on the possible re-orientation of the finance of the Commission and in the hope that the hon. member will give us a clue as to what he personally has in mind in that connection. I would like to give my support to this motion.

MR. JEREMIAH: Mr. Speaker, I only rise to ask for a clarification of a word in clause 9 (3), where it says "sale by an African to an African of the same district". My question is: Suppose an African of the Kiambu district has a butcher's shop at Fort Hall, will he be allowed to buy meat in the Fort Hall district?

DR. RANA: Mr. Speaker, as a member of the select committee I think it would be unusual for me to waste the time of the Council, but I would like to pay my tribute to the chairman of the select committee for the very clear and impartial way in which he dealt with the fears and doubts of the Muslim community, and for inserting clause 26 in the Bill. I can assure him that we are very grateful to him and the other members of the committee who unanimously agreed to this clause.

Regarding one or two points raised by the hon. Member for the Arab Area, I did point out this matter, and I hope the hon. Member for Agriculture will give an assurance to the Arab dealers in cattle, who have been carrying on this

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[Mr. Ferial]

business at the moment, that there will be no objection in their ordinary trade or occupation in which they are engaged to accept, if the Government should so desire, any such business in the Council.

The chief point is that I am going to refer to the chairman who permitted me to refer to the committee, and I would like to refer to the committee, but I do not think it is an excellent way with the grievances of people I would point out, not because I am a Moslem, that is this is an unusual Bill it is only that that consumers who have certain religious scruples, and there is a big number, should have one appointed as their member on the Commission. Provision is made to appoint two "who shall be persons selected for their business ability", and the appointment could be made there. I know that the word "business" is difficult to define, and I take it that "business ability" means common sense, impartiality, and not a man with a very big building account or anything of that kind. I hope there may be someone who can give the voice of the consumer section, and if there are any doubts this appointment would go a long way towards making the working of the Commission a success.

I beg to support the motion.

MR. HUGHES: Mr. Speaker, I wish to refer to two points arising out of the debate today.

The first is on the movement of stock. It should be then members opposite to know that the Government is not concerned they will be most concerned if the movement of stock is not only checked but absolutely checked. At the present time with the development and control of diseases, we cannot do better to relax any precautions in the movement of stock.

The second is on the question of compensation. I understand the recommendation insofar as the three years is concerned, and I should like to make that clear. I think it fair and I should be a strong critic of any extension of the period in regard to the assessment of profits. On the matter of market value, I agree with the hon. Member for Nairobi. Next I think that the market value and replacement value are not necessarily the same and whether you get a replacement value or not you cannot get away from

the assessment will be shown in the market value.

MR. NATHOO: Mr. Speaker, I wish to emphasize two points mentioned by the hon. Members for Nairobi, South and North. In the initial stages of the chief opposition to this measure came from two sections of the community. One was the consuming section, which was not quite sure whether it might grant the price of meat to the consumer would be increased. Now that we have more information about the working of the scheme, it is in the interests of the country and all communities that the hon. Member for Agriculture should make arrangements to give the public an idea as to the possible effect of the measure, so that any unreasonable fears in the minds of the consuming public about the price of meat may be allayed.

On the question of cooperation, it is but right that we have a measure of this nature is introduced which is of a large section of the community, broad-minded liberality should be shown, so that the support of all sections of the community can be obtained.

I beg to support.

MR. COOPER: Mr. Speaker, I suggest that inasmuch as the organization required to take over these various concerns will be considerable, it would probably be advisable to insert in clause 11 of the Bill a provision to the effect that the Bill shall come into operation on such date as the Government, by notice in the Gazette, appoint. That will give a certain amount of flexibility in regard to the date of the operation of the Bill.

It has been asked: a committee on the provision on page 115 of the Bill clause 19 (3), which says: "An assessing the market value of the buildings, plant, machinery, apparatus and equipment, regard shall be had to the age, state of repair, condition and utility thereof, and no regard shall be paid to replacement value". I would point out that in regard to these last words that it is the replacement of the undertaking that is mentioned, and the point is that the assessed undertaking will not have to be replaced. If it is of course, and for that the new value of similar machinery would to some extent come into the calculation, because the market value is not

[Mr. O'Connor] will have its ordinary meaning of what a willing buyer would give a willing seller for that machinery at that particular date. In making up his mind the willing buyer would naturally take into account what he could get similar machinery for at a new price, and to that extent the new price will come into the computation. But it will not be open to the scheduled undertaking to ask the arbitrators to take into account what they would have to pay to replace the machinery, because they will not have to replace machinery. I trust I have made the position clear.

It is, of course, a difficult point of policy that does not desire to shut out consideration of what a willing buyer may have to pay to get new machinery instead of second-hand, but it is desired to shut out argument by the scheduled undertaking that they would have to replace at a certain price because that does not seem to be relevant in this particular case.

I think that was the only point I was asked to deal with specifically, so I will sit down! But before doing so I would like to congratulate the hon. Member for Agriculture for the way he has dealt with this extraordinarily difficult and complicated question, and the members of the committee, who I happen to know have been working night and day to get this report ready in time.

MR. DAVIES: The hon. member Mr. Chemallan wrote a minority report, and I would like to make one or two remarks on points he raised in regard to the proviso to clause 9 referring to the buying of stock by an African and selling of stock to an African by an African. Government would be prepared to consider the changing of the words "of the same district within any native area" to "of the same native area within any native area or of the same native land unit", and when the report is committed again that point will no doubt be dealt with. That will cover the difficulty of the buying of stock by an African of, say, the Kiambu district and the buying of stock in the Fort Hall district which are in the same native land unit.

The hon. member Mr. Chemallan said that under this Bill, as it is now presented, the African stockowners will not

be free to sell their surplus stock, and that African traders would not be able to buy surplus stock without travelling great distances to public auction markets, but, as the select committee have recommended, permits will be given by the Commission to persons specially authorized by the Commission or by the Member to members of the Administration. Officers of the Administration will be able to give permits to people who wish to buy or sell stock, and I think this alteration of clause 9 (2) will meet the objections put up in paragraphs 1 and 3 of the hon. member's minority report. As far as the necessity for some permit is concerned, I can only say that one must have some control over the enormous boundaries in districts like the Masai district reserve, South Nyanza reserve and various other boundaries which are long and where you have to have some control over stock movement for the ordinary purposes of law and order.

Sir, I beg to support.

MAJOR CAVENDISH-BENTINCK: Mr. Speaker, points have been raised which require some reply.

The hon. member for Mombasa asked whether the words "meat works" which appear in clause 7 could be held to include butchers' shops. Well, I can only give him an assurance that it is not held, as far as I know, to include butchers' shops, and if he looks at clause 8 (b) and the proviso thereto, it is fairly clear in the Bill itself that it is not meant to include butchers' shops. The hon. member is most anxious to make some provision in the bill itself rendering it obligatory on the Member to produce grading regulation for slaughter stock. I have already said in my opinion that it is somewhat unusual in an Ordinance to make such responsibility obligatory, but I am quite prepared to discuss the situation with the members of the select committee, and if they feel that there is a good reason for making that suggestion I will see whether we can introduce it at the third reading of the Bill. I may say, incidentally, that it is our intention to have grading regulations—indeed we have grading regulations already drafted under the existing Meat Marketing Board.

The hon. member Mr. Chemallan pressed his points, which I think have

[Major Cavendish-Bentinck] been answered by the Chief Native Commissioner. All I can say to African members is that I am fully aware of the importance of making it as easy as is reasonably possible for those areas which are short of meat to obtain meat from those areas which are overstocked, and quite apart from any other reason we will certainly do all we can to make permits easy. But, as the hon. Chief Native Commissioner has said, the question of law and order does enter into this, the prevention of stock thefts and so on, and if we are providing for the orderly marketing of cattle I think some limitation is necessary. We indeed have limitation of movement very strictly enforced in the European areas.

The hon. member representing the Arab community was anxious to obtain some assurance as regards Arab butchers, and I think he really meant Arab stock-dealers. I think we dealt with that on the second reading of the Bill. It is not the Commission's intention to abolish those traders. On the contrary, a lot of Arab and Somali traders are very helpful to the Commission and we shall probably want to increase their number rather than decrease it, and the same applies to butchers. I do not see how we are likely to react detrimentally to the interests of this class of butcher.

The hon. member, supported by the hon. member Dr. Rana, was anxious to get an assurance from the Government that, in the composition of the Commission and under the special provision whereby two men of business ability will be placed on the Commission, one should be definitely a Moslem, and I think their reasons were that they still feel that it might be suspected that the original slaughtering carried out by the Commission was not entirely satisfactory. They also point out that among the consumers of meat the Moslems are probably the biggest, if not one of the biggest, of meat-consuming communities in the country. Much as I appreciate their reasons for putting forward their requests, I could not possibly on behalf of Government commit the Commission to a membership of that kind. I think it would be quite wrong, and on second thoughts I am sure the hon. members will realize that if one conceded a point of that kind there is no limit to the

representation on the Commission which would be asked for, both on religious and other grounds. What I can give the hon. member an assurance of is that we have taken the greatest care to consult the heads of the Moslem religious communities, and I believe we have satisfied them that we shall and will deal with ritual slaughtering and provision of animals for sacrificial purposes in a manner which I believe will entirely satisfy them.

The hon. Member for Nairobi South and also the hon. member Mr. Nathoo were both nervous lest, under the provisions of this Bill as amended by the report of the select committee, we had left a loophole whereby it might be possible for the Commission, by loading the price of meat to the consumer unduly, to get rid of capital liabilities and other liabilities very quickly, and they were most anxious to have some assurance that would not be the case. I think I can give them that assurance entirely. In the first instance, the prices that are given to producers and the wholesale prices to butchers are under the control of the Governor in Council, and that alone, I should have thought, was a fairly safe assurance. But, in addition to that, I would again stress that if this Commission is to be a success and is to perform the very important functions which we hope it will perform, it has got to run efficiently, and if it is to run efficiently it will have to keep a satisfied consuming public, which after all are its customers, as well as attempting to keep a satisfied producer, and I am sure between those two safeguards that the hon. members need have no fear there will be any risk of unduly loading prices to consumers, in order to pay off debts.

The hon. Member for Rift Valley was anxious about the movement of stock. As I have said, this Bill is not a diseases of animals Bill but it does deal with the orderly marketing of cattle, and by that I do include the holding and movement of stock which is a very important part of marketing.

I think, sir, those are the only points which I have to answer.

The question was put and carried.

MR. O'CONNOR: With your permission, sir, it is proposed to move the recommendation of this Bill to incorporate certain

[Mr. O'Connor] amendments which have been suggested since the tabling of the select committee report, to-morrow, and thereafter to take the third reading.

THE SPEAKER: Now that the report has been adopted I hope members will understand that recommitment does not really permit the report to be torn to pieces, and that notice of amendment should be given.

That concludes the business on the Order Paper, but before we adjourn the hon. Secretary for Commerce and Industry wishes to make a personal explanation.

PERSONAL EXPLANATION

MR. ADAMS: Mr. Speaker, I wish to seek the indulgence of Council to correct an impression liable to be created by my reply to a supplementary question asked this morning by the hon. Member for Arab Interests, Mr. Shatry, arising out of question number 15: "Is it illegal to export rice without the necessary licence and such licence as would not normally be granted?" It is the Government's policy to encourage the dhow trade, and when the rice supply position was assured a limited amount was made available for export, under control, by dhows.

ADJOURNMENT

Council rose at 12.45 p.m. and adjourned till Friday, 24th February, 1950, at 9.30 a.m.

Friday, 24th February, 1950

Council reassembled in the Memorial Hall, Nairobi, on Friday, 24th February, 1950.

Mr. Speaker took the Chair at 9.35 a.m.

The proceedings were opened with prayer.

MINUTES

The minutes of the meeting of 23rd February, 1950, were confirmed.

NAIROBI-NAKURU RAILWAY REALIGNMENT

MR. RANKINE: Mr. Speaker, I beg to move: Be it resolved that, as a consequence of the realignment of the railway between Nairobi and Nakuru, action be taken on the general lines of the recommendations submitted by the Boyd Committee, subject to the modifications which the passage of time and further investigation since the report was published have shown to be necessary and, in particular, (a) that the road system should be (1) Elmenteita to the new Mereron Station (improvement of existing road 13 miles); (2) Elmenteita to Kariandusi (11 miles); (3) Elmenteita to Enderit (improvement of existing road 6 miles); (4) Elmenteita to a point approximately 5 miles south of the old Elmenteita Station; (5) Buru Hill to Gilgil (10 miles); (b) that these roads should be constructed throughout to an all-weather gravel standard.

I should like to make one reservation straight away. For convenience, the mileages of these roads have been given. They are as accurate as possible, but I cannot guarantee, as some of them have not been surveyed, that these mileages are exact.

On the 17th July, 1946, the General Manager as he was then of the Kenya and Uganda Railways and Harbours moved a motion in this Council that approval should be given to the realignment of the railway between Nairobi and Uplands and between Gilgil and Nakuru. During that debate, the hon. Member for Nairobi South asked for the appointment of two committees. The first was to consider whether the realignment itself was justified, and in the event of it being justified the second was to advise whether the land-owners affected by such realignment should be compensated for

[Mr. Rankine] any consequential loss and, if the answer was in the affirmative, to advise on the nature and extent of such compensation.

The first committee was duly appointed. It was under the chairmanship of Mr. Troughton, who was then a member of this Council, and it reported in January, 1947. It recommended that the proposed realignment should be carried out, and that recommendation was duly endorsed by this Council. It was then, consequent upon the arrangement made, decided to appoint the second committee to consider the question of alleviation of hardship. It is the report of this second committee which we are considering this morning, and in order to avoid confusion I suggest that these two committee reports should be known as the Troughton Committee—that was the first one which advised whether the realignment should be carried out or not, and is this yellow report—and the second should be known as the Boyd Committee—that is this blue report, which dealt with the subject of alleviation of hardship.

The second committee sat under the chairmanship of Lieut.-Col. S. R. Boyd, and its terms of reference may be conveniently summarized as follows: "To consider representations from any persons who considered that they will suffer material hardship as a result of the implementation of the realignment of the railway and to make any recommendations considered appropriate". The actual terms of reference are set out in full in paragraph 4 of the report itself, on page 1, and if hon. members wish to see them in detail they are there.

This committee made the following recommendations: (1) That traders whose business depended largely on being carried on in proximity to the railway and whose business would suffer when the railway was realigned, should be given the option of securing plots similar to their present ones in the vicinity of the new alignment, on no worse terms, and with similar facilities; (2) that in respect of farmers for whom the realignment would mean increased transport costs for produce and other goods and increased difficulties in the movement of stock, (a) a network of roads to an adequate stan-

dard to be provided in the Elmenteita-Eburru area, (b) suitable fenced stock routes to be provided in that area with suitable water points and other necessary facilities for the movement of livestock, (c) postal and telegraph facilities and a telephone exchange to be provided at or near the site of the existing Elmenteita station, (d) the Elmenteita godown to be retained for a period of 12 months following the realignment for disposal to any enterprise wishing to run a local transport system.

I should like to deal with these recommendations individually in turn.

In the first case, with regard to the traders, there were two trading centres, one at Elmenteita and the other at Escarpment. In respect of the first, the traders at Elmenteita have decided to stay where they are as their trade is with established farms and Africans in that area. They do not wish to move, and therefore no further action appears to be required with regard to those traders.

The position with regard to the traders at Escarpment, I am afraid, is much more difficult. Their trade depended almost entirely on having easy access to the railway, and the removal of the railway has left them isolated. The traders themselves asked that a new centre might be established at Uplands, and that they might be given trading sites there, but unfortunately there are difficulties which make this impossible. First of all, there is no suitable land at Uplands for the establishment of a centre; and secondly, there is no water. Moreover, Government is advised that it would not be in the best interests of the traders to go to Uplands, because there is insufficient trade in the area for four new shops. There is already a well-stocked shop in the area quite adequate to supply the local farms and the factory labour, and Government is also advised that little custom could be expected from the neighbouring land unit where there are already well-established and sufficient markets.

For these reasons, quite obviously Government is unable to comply with their request, but they have been informed that, although this is not possible, Government will consider carefully and most sympathetically any applications they may make for facilities in already

[Mr. Rankine]

established centres or centres about to be established.

With regard to the recommendations regarding the construction of roads, here may I suggest that members might turn to the map which is provided at the end of the Boyd report, the one with the blue cover. One of the difficulties with regard to these roads is that there has been a difference of opinion from time to time among the local people concerned as to what roads should be constructed. The Troughton Committee recommended the construction of the following roads: (a) a road from Mau Narok to Njoro, (b) a road from the old Elmenteita station to the new station at Mbaruk, (c) a road from the old Eburru station to Gilgil. They also recommended that the standard of the existing road from Elmenteita to Nakuru should be raised. The Troughton Committee tentatively estimated the cost of these roads at a figure of £38,000, and they recommended that this cost should be met by the railways. This recommendation was accepted by the General Manager on behalf of the railway administration. I should make it clear that when he accepted that, the estimated cost was £38,000.

The Boyd Committee in their report made certain amendments to those recommendations regarding the network of roads. Their detailed recommendations will be found in the appendix to the report on page 9, and they can be conveniently summarized as follows: (1) a road from Elmenteita to the new line, but joining the line at the new station at Kariandus instead of Mbaruk as recommended by the Troughton Committee; (2) a road from Elmenteita to Gilgil via Eburru constructed along the old railway alignment (this was really an extension of the road proposed by the Troughton Committee to link Eburru with Gilgil); (3) the improvement of the existing road from Elmenteita to the new station at Mererone (this recommendation is an endorsement of the recommendation of the Troughton Committee); (4) an improvement in the standard of the road from Elmenteita to Nderit River (this is in effect an extension of the new road recommended from Elmenteita to Kariandus).

It will be noted that the Boyd Committee did not endorse the recommendations of the Troughton Committee that a new road should be constructed from Mau Narok to Njoro. The Boyd Committee had this to say about this road: "It will be noted that our recommendations do not include the construction of a road from Njoro to Mau Narok. . . . The only person in the Mau Narok area who can be said to be affected by the removal of the railway from Elmenteita is Mr. Powys-Cobb and, in evidence before us, he stated that from his point of view he would not use a road to Njoro even if it were made available to him". In view of that, obviously there is no justification for the construction of a road from Mau Narok to Njoro in order to alleviate hardship arising from the realignment of the railway.

As I have said, there has been a difference of opinion from time to time among the farmers and others in the area as to the roads which ought to be constructed. In the circumstances, after hearing all the views and after Government officers had met local farmers at meetings, Government came to the conclusion that the following roads should be constructed. So far as it has been possible to ascertain it, these roads are what the local farmers want, and they should provide adequate access to the new line for those persons who have been affected by the realignment. Moreover, Government understands that this system of roads has the support of the district council concerned.

The roads are as set out in the resolution itself: (1) Elmenteita to the new Mererone station (13 miles); (2) Elmenteita to Kariandus (11 miles); (3) Elmenteita to Nderit (6 miles); (4) Elmenteita to a point approximately 5 miles south of the old station; (5) Buru Hill to Gilgil (10 miles). I should explain that, with regard to the last named, the road has not been surveyed, and although it is intended to provide a road of access from Buru Hill to Gilgil it may not actually follow the alignment suggested. That will have to be decided when a proper survey is made.

Members will note that these roads follow very closely the recommendations of the Boyd Committee. They have been amended slightly in the light of subsequent experience, but they meet what we

[Mr. Rankine]

believe to be the wishes of the local farmers. The main difference is the inclusion of the last named, that is from Buru Hill to Gilgil. The Boyd Committee recommendations were that the road from Elmenteita to Gilgil should follow the old railway alignment, and Government is advised that it would be very difficult and costly to carry out this recommendation, that owing to the topography of the country as I have said, it would be difficult, and in any case the amendment follows more closely what we believe the local people want.

Now I come to one very important point, and that is that the Boyd Committee recommended that the road from Nderit River to the main Gilgil-Nakuru road should have a bitumen surface. This road will clearly not carry a great deal of traffic, and having regard to the density of traffic which is likely to use it and to the fact that there are many other roads in the Colony carrying a very much greater density of traffic and which are crying out for bituminization, Government has reluctantly come to the conclusion that the expenditure of public funds for providing a bitumen cover for this road could not be justified. In any case, as I have said, it has always been the intention that the cost of these roads should be charged to railway funds, and the railway authorities do not regard the additional cost as a proper charge to railway funds which they could accept. For these reasons it has been decided that the additional cost of providing a bitumen cover for this road cannot be justified, and Government therefore cannot implement this particular recommendation.

With regard to the cost of these roads, the Troughton Committee estimated, as I have pointed out, very tentatively, the cost of the road system they recommended of about 57 miles of road at £38,000. The proposals which I have just outlined, which provide for a total mileage of about 45 miles, unfortunately come to £71,000, or very nearly double the original cost. This figure includes the cost of fencing, where stock routes are required, and water supplies. While the costs have undoubtedly risen since the original estimate was made, there is little doubt that they have not risen by all that much and that the original estimate was

much too low. As I have said, the railway administration accepted the cost estimated at £38,000 for the original recommendations, and naturally this great increase in cost, which amounts to double the original figure, has caused them very great concern, but I am glad to be able to inform the Council that the railway authorities have accepted the cost of the roads that I have outlined. (Hear, hear.)

There are two other recommendations with which I have still to deal, the first relating to the provision of postal and telegraph facilities at Elmenteita, and the second to the godown at Elmenteita. As regards the godown, I am informed by the railways that there has been no request for it from private enterprise and that it has been removed. With regard to the postal and telephone facilities at Elmenteita, I am glad to be able to inform hon. members that the Posts and Telegraphs Department intends to ensure provision of the full facilities at Elmenteita. The present position is that a post office and a telephone call box have been established under the control and in the premises of a shopkeeper at Elmenteita, and this appears to be providing adequate facilities. Every effort is being made to establish the telephone exchange at Elmenteita and to provide telephone services to the local farmers, but at the present time this is held up by lack of poles and overhead equipment. In addition to this, the Postmaster General is considering the establishment of a post office agency at the new station at Mbaruk, which will greatly facilitate communication between Elmenteita and the new station. The Postmaster General has informed us that in his opinion the services already provided, or shortly to be provided, will meet adequately all reasonable demands, but he has promised to give the fullest and most sympathetic consideration to any other representations which may be made to him.

That, sir, is an outline of the action which Government has already taken, or is taking, to implement the recommendations of the Boyd Committee. As I have explained, we have made great efforts to alleviate all the hardship and when action is completed I think that it can then be said that so far as is reasonably possible hardship will have been alleviated.

MR. THORNLEY: Mr. Speaker, I beg to second, reserving my right to speak later in the debate.

MR. BLUNDELL: Mr. Speaker, I rise to oppose the motion. I do not want to take longer than is necessary on this matter, and there is really only one very vital difference in my opinion between the point of view which I wish to put forward and the point of view which the hon. Chief Secretary put forward.

Before I deal with that vital issue I would like just to clear the air of Council on two points. The first is that the proposals now before you are an alteration of the Boyd report, as the hon. member opposite said, and I should like to endorse his remarks in regard to the wishes of local people. As far as I know the suggested slight realignments of the roads have not only the support of the local people but have also been endorsed by the local district council. There is one vital difference and that is, as I have said, on the question of standards.

Before I go on to that, I would just like to correct the hon. Chief Secretary in regard to one matter, that is the godown at Elmenteita. My information is that that godown was removed as soon as the railway moved itself from Elmenteita to the new alignment, and I have no doubt in my own mind that the removal took place because the district engineer did not realize it might have to remain. The people in that area made representations at the time and did feel rather bitterly about it, because they considered it was the first step in whittling down the terms of the Boyd report.

Now, sir, I must take Council back slightly to the Harragin report. In the Harragin report, roughly speaking £70,000 in cash would have been paid to the people who were going to suffer from the removal of the railway, but the Secretary of State at the time ruled that that would be improper. Whether he was correct or not I do not think, germane at the moment to this matter. He did do so. He was not of the opinion that cash compensation should be paid, and in the dispatch of the then Secretary of State, Mr. Malcolm Macdonald, No. 10 of 1940, he made this statement, which is very pertinent. He said the landlord might rightly expect in the circumstances to be provided with all reasonable access

to new stations on the realigned railway and, indeed, to be treated with all possible generosity in such matters as the actual road programme and the type of road being constructed.

I do not want to mislead Council. The people in that area have got the road system which they have asked for. What they have not got is, indeed, to be treated with all possible generosity in such matters as the type of road to be constructed.

Now to deal with the railway angle. The railways are the chief beneficiaries from the move or they would not have moved themselves. They must accept, in my view, the responsibility of providing a proper and adequate network of roads as a result of their removal and, indeed, that is not in dispute, but I wish to draw Council's attention to this; under the Troughton report their responsibility would have been, as the hon. Member opposite said, £38,000, under the Boyd report it would have been £68,000 on the 5th May, 1948, when the report was published, the date it was signed. They have more or less commuted their liabilities for a sum of £71,000. But what I think Council has to decide is this. The rise in the cost of construction of anything between May, 1948, and to-day, February, 1950, is considerable, and I do not think the railway, who after all moved their railway earlier than they intended, entirely for their own benefit, have adequately met their share of the rise. I cannot help considering that in order to reduce the amount of money which the railway has to pay they have reduced the standards.

I would just say one thing on the railway's responsibility—it is this I do not know what savings the railway will make per year, but I think it is likely—although I have no justification for the figure—to be certainly in the region of £30,000 a year, and on a basis of three years that would be £90,000, so they will in effect, from savings alone, in all probability be able to meet this cost. I wonder whether really it is fair for the people of that area to have the standard of their roads reduced on that sort of basis.

So much for that, sir. I do not want to deal any more with the background for railway responsibility, and I want to put before this Council the clear-cut issue. It is the question of standard. ...

[Mr. Blundell]

The hon. member opposite has moved that the standard should be an all-weather murrum (or gravel, I think is the word) standard. I cannot agree with that, and I am going to put the points quite clearly before this Council as a factual issue. I do not wish on this issue to score any debating points against the hon. member, because in my opinion every member on this side of Council will have a responsibility when he votes, whether he accepts what in my opinion is a moral obligation or whether he bows to the dictates of expediency. I am doubtful whether the traffic over the whole system would justify a bitumen road—that is on a clear-cut issue for the traffic only. As the hon. member opposite said, the various alignments have been altered, and the local people in one respect wished to alter the alignment in regard to a higher standard. In the Boyd report it suggests that the Elmenteita-Karandus road should be bituminized, but owing to various factors which we need not consider, but which have indeed caused the hon. member to make these suggestions in the alterations of these roads, they would now wish this bituminization to take place: (1) on the Elmenteita-Mererone road; and (2) on the Elmenteita-Enderit road; which is no change from the report itself. I would like to repeat that. Owing to the change in the distribution of traffic from the time of the Boyd report till to-day the local people wished to have the best standard, not as envisaged in the Boyd report but on the Elmenteita-Mererone road.

What in effect do these murrum roads mean? I do not think that they compensate those people in any way for the removal of the railway. In the dispatch of the Secretary of State he said: "with all possible generosity", but all that has been offered to these people is a normal district council road. It may, to start off with, be slightly better, but I doubt it because the road at present already constructed from the main Nakuru-Gilgil road down to Elmenteita, in respect of that portion which has been murrumed, is so bad that Mr. Moolraj, an Asian, who for so many years has had a *duka* or shop at Elmenteita station, has had to cease his daily transport over that road because of the shocking condition which it is in. It is not the unconstructed portion

which has caused that trouble, it is the constructed portion. What members of this Council have to decide is this: These people bought their land; they set up their shops, and they undertook their businesses in an area where there was a railway. That railway, for the public weal, is being moved. Are we right in offering to these people merely the lowest possible standard that we can offer, a gravel road? I do not, I hasten to add, think that a bad road would be deliberately constructed. What I mean is that they will get, in my opinion, very much a normal district council gravel road.

The real issue is this. When the railway moved—and it has moved to 10 to 12 miles—are we right to offer those people merely what, in effect, most people in the district are getting already? Because the railway has moved I do suggest they are entitled to rather more generous treatment than the generality of roads in the district. I am also deeply suspicious that bitumen has never really been considered, because I have never been given any actual figures for a bitumen standard, and when the hon. member replies perhaps he would be good enough to tell hon. members on this side whether, indeed, a specification has been drawn for the likely traffic on that road to a bitumen standard and whether indeed any actual figures of such construction have ever been put forward. If so I have never seen them. That makes me think that the intention was to provide these people with a road system without due regard to the moral obligations of the case, with an undue regard to the financial expediency of the case, because if I am right in my belief or at least in my suspicion it does look as if the attitude taken was: "We are going to have gravel and we will stick to gravel without any due regard to the possible extra cost of bitumen."

I will not keep the Council longer. Before I just come to the main issue, once again I would like to ask for an assurance from the hon. member that, whatever may be the outcome of this debate, when he replies I would like an assurance that he will immediately investigate the question of maintenance funds for these roads. It is no good passing any report agreeing to anything in this Council for building a network of roads unless at the same time con-

(Mr. Blundell) sideration is given to the maintenance. The Nakuru District Council have asked that the sum of £2,000 per annum be provided for the maintenance of these roads. Hon. members must remember that these roads are not the ordinary roads passing to and fro between shopping centres. These roads are designed to replace a railway transport system, and in equity the people there are entitled to a maintenance grant which will enable those roads to be maintained to a reasonable standard.

To finish. What hon. members have to decide is this: they have to decide whether, if they vote for this motion, they are going to put expediency before what I believe is a clear-cut moral issue—that is, the right of these people to have what was so clearly expressed in the Secretary of State's memorandum—to be treated with all possible generosity in the type of road to be constructed. That is the issue before hon. members. If they vote for the motion, in my opinion they will be openly accepting that expediency must come before what, in my opinion, is a moral obligation. If they vote against it, then at least they will have admitted that even in this world of 1950 sometimes morals are prepared to stand above financial expediency.

I beg to oppose.

MR. PATEL: Mr. Speaker, I also rise to oppose the motion before the Council. I strongly support the plea made by the hon. Member for Rift Valley in regard to treating people adversely affected by the realignment of the railway as generously as possible, but I wish to add something more.

The Indian traders at Escarpment and Elmenteita established themselves in those difficult periods of the opening up of this country, following the railway line when it was constructed. They established themselves at the railway stations and acquired land and established their business. New railway stations have come into existence on account of the railway realignment, namely, Mbaruk, near Elmenteita, and Matathia, near Escarpment. It is very unfortunate that, owing to the opposition of the district council concerned, no trading centre could be established at Mbaruk very near Elmenteita, and it is clearly very unfortunate

that no trading centre could be established at Matathia, near Escarpment, on account of the opposition of the local native council. It would have been fairest to establish a trading centre at Mbaruk and Matathia and allow the traders at Elmenteita and Escarpment to shift to those stations, but it was impossible on account of the opposition of the local government bodies.

The hon. mover said that the traders at Elmenteita do not desire to move and they wish to stay there. Of course they wish to stay there because it is not easy for them to go to some new centre, merely acquire more land, and start in competition with traders already established there. What they had hoped was to shift to Mbaruk station if a trading centre was established there, but if it could not be done then they had to stay at Elmenteita because otherwise it would have been very difficult for them to go to a new centre entirely and start a new career. The same position applies in regard to the Escarpment traders. They were very willing to go to Matathia if a trading centre had been established there, but unfortunately it could not be done.

The position of these traders at both centres has certainly been adversely affected. In regard to Escarpment it has been most difficult. I have been to Escarpment once, and I know an Indian trader who put up a stone building at very high cost. He would have very willingly pulled down his building and gone to Matathia station if a trading centre had been established there, and acquired a plot and put up another building. That could not be done, therefore he was willing to have compensation in lieu. Compensation is not available to him, and he has asked to go to some new centre somewhere in the Colony, and Government is prepared to give a plot to him. That is very difficult for him. He has to pull down his stone building at Escarpment, go and take a plot somewhere else, put up a new building, and start a new career completely in competition with the people there. It is not easy. I believe the case of these Indian traders at Elmenteita and Escarpment has not been given either sufficient or proper consideration, or the necessary sympathetic consideration. Their case, in my opinion, Mr. Speaker, ought to have been treated more generously. As a mat-

(Mr. Patel). er of fact it is not treated at all justly—there is no question of generosity. It is not treated justly at all.

The just and fair solution would have been to establish trading centres at new stations arising out of the railway realignment, but Government has failed to do it on account of the opposition of local government bodies, and in the circumstances I think the fairest way to treat these Indian traders, as far as Elmenteita is concerned, is to give them roads of access, as the hon. Member for Rift Valley has suggested, and as far as Escarpment is concerned I think it is a clear case that compensation should be paid to those Indian traders. The recommendations of the Boyd Committee's report are not sufficient to meet the case of those Indian traders at Escarpment; therefore I feel inclined, Mr. Speaker, to oppose the motion before Council.

MR. MOUSLEY: Mr. Speaker, I rise to oppose this motion on the grounds that I do feel that Government are not carrying out their duty to the farmers who are affected. It has been pointed out by the hon. Member for Rift Valley what the losses have been. I feel that if the hon. member moving this motion had put before us something of this description, that the main road which will carry most of the traffic, the one from Elmenteita to Mererone, would be built to the standard which would enable that road to be binuminized at some future date, I could understand there was something being done for that road and those farms, but to say they are going to build a gravel road I do think is really letting the farmers down in that area very badly. As for the other roads, being just ordinary gravel roads, I would like to have seen put in this motion more or less to what standard or type of road would be built. Surely just an ordinary gravel road would never satisfy anybody under the present circumstances. Surely an amendment should have been put in that where necessary that road should be macadamized and brought to such a state that it would stand up to all weathers, so that when the rains were on those roads would not deteriorate into mud pools and potholes, as the usual gravel road does. For that reason I feel that all members on this side will oppose this motion unless we

are sure that the road will be brought up to the standard I have mentioned.

I beg to oppose.

MR. COOKE: Mr. Speaker, a few years ago a distinguished American passed through this country, and on his return to America, in an interview he described the roads of this country as worse than the tracks across the desert of Georgia. Now I think it is a good thing we should be reminded of what others think about our roads, and I am one of those who support the plea of my hon. friend on my left that more money should be spent, and that the road should have a tarmac surface. I do this for two reasons. Number one is in the cause of equity, as was eloquently expressed by my hon. friend, and number two, I think it would be an economy in the long run. There is no doubt whatever about it that a gravel road of that nature which is envisaged in the speech of my hon. friend the Member for Reconstruction would in a few years be a complete series of potholes, which would necessitate in the end a tarmac surface.

I am not one of those impressed by these density arguments. If that argument had been used years ago we should never have had the Uganda Railway and in recent years we would never have had the Thomson's Falls railway line, because in neither of those cases was there any justification in the argument of density of the population. But communications such as railways and roads attract people, and I am not therefore impressed, or strongly impressed, by any arguments that the traffic density is too low to justify a good road, nor am I impressed by the question that there is no money. I feel we have got to find the money for these very important projects. While there is money in the till—and there is money in the till, though some may be lent out for certain purposes at the present moment but we have it on paper, and really in fact there is something like £4,500,000 in our balances—if it is a question of money some of that money should be obtained from that source to build a tarmac road. Therefore, sir, I join with the other members on this side of Council in opposing the motion.

MAJOR KEYSER: Mr. Speaker, I also rise to oppose this motion, because for one I think that the hon. Member for

[Major Keyser]

Rift Valley has put up a very good case against it; in addition, my view is that the whole of these new roads built up to a proper standard, a general standard, should have been paid for by the railway, and Government have allowed themselves to be out-manoeuvred by the railway on the whole question of a higher standard than the one suggested now, the cost of it falling on the revenues of the Colony.

The Boyd report was signed in May, 1948, nearly two years ago, and as far as I remember this is the first time it has been debated in this Council. If Government are going to allow themselves to be out-manoeuvred in that way by the railway, the whole blame for the situation that has arisen must rest with them. I think the whole matter should be reopened with the railway and that we should try and insist on them paying for the cost of these roads being built to a proper standard. The realignment of the railway was made because certain savings were to be made. As far as I can see, the case at the moment for the present standards is that there is insufficient money to build a higher standard, and that the railway would have to pay £71,000 towards the cost of these roads instead of as the Troughton Committee's original estimate of £38,000.

It must also be remembered that the savings the railway make from that realignment have also increased enormously in the last two years because the cost of running the railway, we are told, has risen. Therefore the savings will be greater than the original estimate, and in my opinion they can very well afford to pay for the higher standards.

I beg to oppose.

MR. MACONOCHE-WELWOOD: Mr. Speaker, I also rise to oppose this motion. I came here with an open mind, but having heard the arguments on both sides I have become completely convinced that the motion will be an injustice to the people of the Elmenteita district. The main reason I have for that is this. It is agreed, I think, that it is equitable for these people to have a replacement of the transport system over that line, and having travelled, as most of us have in the past between Nakuru and Nairobi, I cannot agree that a road built on the

standards that that old road was built would be a replacement of the transport system. If this gravel standard was placed in an area like my own, I would agree that it would be fair where roads stand up to some extent to heavy traffic, but not in the Rift Valley. I do not know the cost of the maintenance of the old Nakuru road before it was bituminized, but I would imagine that it was high, and even then it was largely inaccessible to traffic. I have travelled over the new road, and I support every word said by the hon. Member for Rift Valley, that during its construction it became obvious that it could not last and that it will not last in that dry climate.

I must oppose the motion.

MR. HAVELOCK: Mr. Speaker, I also came with an open mind, and the arguments put up by the hon. Member for Rift Valley have convinced me that it is only right to oppose this motion in its present form. The railway, I understand, accepted two obligations: one to build roads of access for the people in Elmenteita and secondly to provide a rather higher standard of access road than the traffic might warrant as a form of compensation. Well, that could have been achieved some years ago at a cost of £30,000. (MR. RANKINE: No.) Now it will cost very much more. I am glad to hear the hon. Chief Secretary say "No". In his reply he might convince me the other way.

MR. RANKINE: On a point of explanation, I explained in moving the motion that the estimate at the time was much too low.

MR. HAVELOCK: Thank you, but I understood that the estimate was intended to be for a bitumen standard. If the estimate was too low, the mistake was made by the engineers.

MR. RANKINE: The estimate of £38,000 did not include any bitumen.

MR. BLUNDELL: It was a pure guess.

MR. HAVELOCK: I did not understand that from the original speech. The only qualification I make is that I do not consider that any further moneys which have to be paid out to construct to a bitumen standard should be a charge on the central revenue. I support the hon. Member for Trans Nzoia that if the money can, and should be, obtained from the railway, the people of Elmenteita

(Mr. Havelock)
should have the standard promised, but I cannot see that it is a legitimate charge on the central revenue.

SIR GODFREY RHODES (Special Commissioner for Works): Mr. Speaker, perhaps at this stage I may be allowed to intervene to give one or two facts which may help hon. members in considering this particular problem.

The first thing I should like to say that the cost of adding a bitumen surface to these roads will be anything from £1,000 to £5,000 a mile, dependent on the nature of the soil found on each particular road. That would be in addition to the sum of money that we are considering on the motion moved by the hon. Chief Secretary. That is a fairly serious sum to consider, £3-£5,000 a mile, additional to the present figure. In considering that sum we should also bear in mind the amount of traffic that these roads are likely to have to carry. Our present estimate is not more than ten vehicles or so a day, which is a very small traffic density. Even if we allow the density to grow to 50 a day it still leaves you with a very small traffic figure.

I would agree that maintenance funds must, of course, be provided for any of the roads, but that will no doubt be dealt with out of the ordinary maintenance votes of the Colony.

A question was asked by the hon. Member for Kiambu as to whether these roads, as we propose to build them to a gravel standard, could be bituminized at some later date. The answer is "Yes". They can all be bituminized as soon as funds are allotted for the purpose. It is a question of providing a proper surface under the bitumen before that can be done. The type-of-road we propose to build has been described as an all-weather gravel road. That is meant to be an all-weather road. It will be built in such a way that it can be maintained and traffic get through in all weathers. It will not be, of course, as good as a bitumen road, but in my view it should be as good as the amount of traffic it will have to carry deserves, and there should be no difficulty whatever in maintaining it to a reasonable standard.

Mention has been made of the condition of the road between Elmenteita and

Kariandus. I think that has been exaggerated. I have not been over the road myself for two to three months, but I had a report the other day on it and it stated it was in reasonably good condition. It was a road built hurriedly, and it was largely done before we had our plan to build it the way we would have liked, but it will be maintained in reasonably good condition, and if there are bad patches now they can be dealt with.

The only other point I should like to touch on is the question of getting money from the railway. I should only like to say that the money to be spent must come from the same taxpayers and nowhere else, for the railway cannot get their money from any other source. It is true there will be savings from the railway, and that is the whole justification for putting through the realignment, but those savings go towards the cost of working the railway, and if we use them in any other way it means that the money must be found from the pocket of the taxpayer just as if we take money from the central funds.

These are the main points: very small traffic; it will cost £3-£5,000 to bituminize a road higher than gravel; the ordinary estimate in normal times was that it would cost roughly £150 a mile for a bitumen road but £80 to £100 for a good gravel road.

SIR CHARLES MORTIMER: Mr. Speaker, I should like to say just a few words on a subject that has been touched on, and that is the hardship caused to the traders at Escarpment and Elmenteita.

Government decided that those traders should be treated as generously as might be practicable, and in consequence the hon. member Mr. Patel, the Chief Native Commissioner and I, interviewed the traders themselves and their representatives, and discussed with them what they would wish to do. Alternative proposals were placed before them. I feel I am right in saying that so far as the Elmenteita traders were concerned they are quite satisfied with the results, and they decided to stay where they are, realizing that the bulk of their trade was not brought to them by the railway but was in consequence of the situation of their plots in relation to the surrounding farms. One of those traders, just one, had three plots, and was allowed to exchange one for a

[Sir Charles Mortimer] plot in Nakuru, and he was very highly satisfied with the result.

So far as the Escarpment is concerned, I have much sympathy with the traders there, for I realize that they will suffer more loss and hardship if they are to stay on their present sites with no alleviation. It is unfortunate that it proved impossible to establish a trading centre at Matathia, and that it proved impracticable to establish one at Uplands. Something else will have to be done for the traders have only just been informed, as it was only apparent a few days ago, that the Uplands site was impossible. I would ask the hon. members concerned if they will arrange for me to interview the traders concerned, and to see if we can find some other solution for their problem that would go at any rate a long way towards meeting their complaints of hardship and injustice.

MR. RANKINE: Sir, I was going to suggest this might be a convenient time to take the adjournment, which would enable us to consult members on the other side in between the interval.

THE SPEAKER: Council will suspend business for 20 minutes.

Council resumed.

MR. PRESTON: In rising to oppose the motion before the Council I do so not so much on moral grounds, although I agree with them, as on the basis that I do not believe that the £71,000 spent on gravel roads in this area is, in the long run, going to be an economy. I believe we would do far better to spend the greater sum and make a road that is going to last. I know this area very well, and it is extremely difficult to maintain gravel roads, whereas, on the other hand, I think there are many hon. members here to-day who will remember two experimental stretches of road that were laid down at about mile 13 from Nakuru. They were bituminized on, I think, what was a comparatively light specification. These two stretches of road, as far as I am aware, lasted with very little maintenance for something like 10 or 11 years.

I am of the opinion myself that any bituminization that took place could be of a very low standard on this area, and I would urge that consideration be given to this measure and some facts be arrived at, at what would be the necessary

standard. It has been pointed out the traffic in this area is not very heavy, therefore I think it would not be unreasonable to assume that the maintenance would also be not very heavy. As regards the suggestion that the Elmenteita-Kariandus road is in fair condition, it is quite definite—I happen to know this for a fact—that one of the main transport services has definitely closed down on account of the condition of the road.

I do not think I have anything to add. The whole matter has been very adequately stated.

MR. PRITAM: Mr. Speaker, I also rise to oppose the motion, for the simple reason that we have just heard from the Member for Health and Local Government that traders at Elmenteita have agreed to stay where they are. That is an absolutely incorrect statement. With the exception of one trader, Mr. Moolraj, the others want to go. They have applied to the Land Office and I have interviewed more than once the Land Commissioner, with practically no results.

As for Escarpment, while we are discussing the question of roads, the traders there will be quite happy to stay where they are provided access is given to them between Escarpment and Matathia. There is already some sort of road in existence. It would not need very much money to put it in good condition; if that could be done we could be satisfied something has been done for the Escarpment traders.

As for roads generally, it is quite a fact that in the Rift Valley the roads being constructed would not stand very heavy traffic, and that is the experience of everyone who lives in that part of the world.

I oppose the motion.

THE SPEAKER: This would be a convenient moment for us to make the usual adjournment.

Council adjourned at 10.50 a.m. and resumed at 11.20 a.m.

MR. HOPKINS: Sir, after hearing all the arguments on either side I should like to move an amendment to this motion which I hope will be accepted by Government. I would like the addition of the following words: "Provided that further negotiations should be initiated

[Mr. Hopkins] by Government with the railway administration to procure sufficient money from that administration to enable the Elmenteita-Mereroni station road to be bituminized."

MR. USHER: I beg to second, reserving my right to speak.

MR. ERSKINE: Mr. Speaker, I would like to say that my colleagues on this side of Council would be willing to accept the motion as put forward by the hon. Chief Secretary, subject to the addition of these words about this subject.

If I may take this opportunity, it is now, I think, some 24 years since it was first proposed that sooner or later the railway line should be realigned. The realignment is now complete over the whole distance between Nairobi and Nakuru, and it is a fact that had it been possible to do this realignment earlier these farmers and traders at Elmenteita would have had their 8 ft. or 16 ft. bituminized strip, and it seems a little unfortunate for them that they should be deprived of it because of rising costs that have intervened in the meantime.

Sir, I repeat again that my colleagues on this side of Council would be only too willing to accept the motion, amended with the words that have been handed up to you.

MR. NATHOO: Mr. Speaker, when the hon. Member for Rift Valley made an eloquent plea that this issue should prevail against claims of expediency, I felt rather buoyant and felt that after all we were going to stand up against the dictates of expediency. I cannot possibly agree to the amendment on the grounds that we are getting into the frame of mind where we say: "Let us get while the getting is good however little we can get, and let the matter go by the board." On these grounds, sir, I beg to oppose.

MR. PATEL: Mr. Speaker, I am prepared to admit that the amendment proposed makes a certain difference to the objections raised before the recess, but as far as I am concerned the amendment does not satisfy me, because the position in regard to the Indian traders in Elmenteita and Escarpment is not materially altered on account of this amendment. Therefore, Mr. Speaker, I

would like the hon. mover to give an assurance that in any event the traders in those centres who wish to move to other places will be given alternative sites as quickly as possible, and that in the case of Escarpment there will be some reasonable road of access provided to Matathia from Escarpment.

MR. MATTHEWS: Mr. Speaker, on behalf of hon. members generally on this side of Council, I may say that Government accepts the amendment proposed.

THE SPEAKER: Government may say they do not oppose the amendment, but they cannot accept an amendment.

MR. MATTHEWS: I accept the correction, that Government cannot accept it.

MR. BLUNDELL: Mr. Speaker, in speaking to the amendment I must make two points clear. The suggestion now is we should accept the original motion of the hon. Chief Secretary provided that we reopen negotiations with the railway in regard to the bituminization of the Elmenteita-Mereroni road. I am prepared to agree to the amendment, but hon. members must understand I do not intend to be compromised on the main issue I put to this Council—that is the issue of principle. If these negotiations fail, then hon. members must understand that as far as I am concerned I am not in any way compromised and cannot in any way agree to the terms in the original motion, in the light of the words which I first put to this Council.

MR. COOKE: In supporting the amendment I would also say that if the railways do not produce funds I would support any motion in this Council by which funds should come from general revenue.

The question of the amendment was put and carried.

The debate on the motion as amended was resumed.

MR. O'CONNOR: Mr. Speaker, should I be in order in expressing relief at a solution which seems to extricate hon. members from the predicament in which they were left by the hon. Member for Rift Valley—hon. members on this side sticking to gravel and hon. members on the other side sticking to bitumen. (Laughter.)

MR. RANKINE: Mr. Speaker, this is a motion resulting from a subject which has been under discussion for a very long time, and the hon. Member for Trans Nzoia had some observations to make on the subject of Government and its inactivities in this matter. The position has been as follows: that it was accepted that these roads should be made by the railway administration, or rather at the cost of the railway administration. That cost was accepted at a figure of £38,000. Well, it stands to reason that until a higher figure was accepted this Government could have done little else. We had no funds with which to make the roads. On the other hand, farmers naturally were pressing to have them made as quickly as possible. I can assure hon. members that the delay has not been the fault of Government. The negotiations have been delicate ones. Naturally, the railway administration was concerned with the great increased cost and those negotiations have been going on for some time, and we thought were brought to a happy conclusion when agreement was reached at a figure of £71,000 which, if this motion is accepted, would enable us to go ahead and make the roads to the specification mentioned. We can, of course, appreciate the position of hon. members opposite and their desire to see that the farmers concerned get the best facilities they can, and if the motion now is accepted it will at least enable us to go ahead while negotiations are reopened with the railways. If the motion is accepted those negotiations will be reopened.

We were very pleased on one point, and that was to hear that it was agreed that the network to be provided, leaving out the question of specification, was regarded as satisfactory. As regards the question of the traders at Escarpment Government does agree that they have been left high and dry, so to speak. The hon. member Mr. Patel has asked for an assurance from me that we will give them sites in other centres as quickly as possible. My hon. friend, the Member for Health and Local Government, within whose portfolio, so to speak, this matter comes, has already given that assurance, and I have nothing to add to that. The hon. member Mr. Pritam did ask for another road to be constructed. Well, that is the first that I have heard

of this particular road. The Boyd Committee was appointed to go into this matter and it went into it very thoroughly. It made no mention of that road, and as far as I know no representations were made on the subject. The Council must be well aware of the present situation. This motion does specify the roads which are to be made, and I am afraid that at this short notice, in view of the financial situation which is apparent to everybody, I cannot add another road to the list. All I can do is, when negotiations with the railway authorities are reopened, to ask whether they should consider making this particular road, and that will be done.

I think all the other matters that were raised turn on the question of the specification of the roads, and as that is to be taken up again with the railway authority I do not think there is anything further for me to say.

The question of the motion, as amended, was put and carried.

MOTION DEFERRED

On the next order being called.

MAJOR KEYSER: With the leave of Council I would like to ask that this motion relative to the Land Control Ordinance, 1944, be postponed to the May session, but left on the Order Paper.

MR. RANKINE: So far as Government is concerned there is no objection.

STANDING FINANCE COMMITTEE

APPOINTMENT OF MEMBER

MR. RANKINE moved the suspension of Standing Rules and Orders to enable the motion in his name to be taken without due notice.

MR. O'CONNOR seconded.

The question was put and carried.

MR. RANKINE: Mr. Speaker, I beg to move: Be it resolved that the hon. L. R. Maconochie-Welwood be appointed a member of the Standing Finance Committee in the place of the hon. E. A. Vasey as a result of Mr. Vasey's pending joining of the Government he has resigned from the Standing Finance Committee, and it is proposed to appoint Mr. Maconochie-Welwood in his place.

MR. O'CONNOR seconded.

The question was put and carried.

KENYA MEAT COMMISSION BILL RECOMMITTAL

MR. O'CONNOR moved: That the Kenya Meat Commission Bill be read the third time and passed.

MR. PIKE seconded.

MAJOR CAVENDISH-BENTINCK moved: That under Standing Rule and Order No. 83 the Bill be recommitted to the committee of the whole Council to consider further amendments to the Bill.

MR. PIKE seconded.

The question was put and carried. Council in committee.

On motion made by MAJOR CAVENDISH-BENTINCK and question put, the following amendments were made to the Bill and the clauses amended stood part of the Bill:

Clause 1: By substituting a comma for the full stop at the end of the clause and adding the following words—"and shall come into operation as the Governor may, by notice in the Gazette, appoint," and adding to the marginal note the words "and commencement."

Clause 3: By deleting the proviso to sub-clause (1) and substituting the following—"Provided that when the Commission's undertaking ceases to be capitalized with moneys advanced by the Treasury or with moneys the repayment whereof is guaranteed by the Government the representative of the Member for Finance shall cease to be a member *ex officio* of the Commission and the Governor in Council shall, after consultation with the members of the Commission, fill the vacancy thereby caused and subsequent vacancies in the membership originally allotted to the representative of the Member for Finance either by re-appointing the representative of the Member for Finance or by appointing some other person," and by substituting for the words "and thereafter the Chairman shall be elected by the Commission from among the members thereof" in sub-clause (2) the words "and thereafter the Chairman shall be selected by the Commission".

Clause 5: By adding after the word "Commission" at the end of sub-clause (1) the words "and a quorum at any meeting of any committee shall be two-thirds of the members thereof."

Clause 6: By substituting for the words "The Commission may, subject to the provisions of sub-clause (1) of this section," where they occur in sub-clause (3), the words "The Commission may".

Clause 7: By substituting for the words in sub-clause (4) "whether arising from the prohibition against expansion contained in the proviso to that sub-section or otherwise howsoever" the words "arising from the prohibition against expansion contained in the proviso to that sub-section or otherwise howsoever under that sub-section".

Clause 8: By inserting in the margin opposite the reference to the Co-operative Societies Ordinance, 1945, in paragraph (c) of sub-clause (1) the words and figures "No. 38 of 1945"; by substituting for the words "borrow money by the issue of shares, stock, debenture stock" in paragraph (p) of sub-clause (1) the words "to borrow money by the issue of shares, stock, debentures or debenture stock"; by inserting at the beginning of paragraph (q) of sub-clause (1) the words "with the consent of the Governor in Council to"; by substituting for the words "The interest or dividends" where they occur in sub-clause (5) the words "The dividends or interest".

Clause 9: MAJOR CAVENDISH-BENTINCK moved: That the clause be amended by substituting for the words "of the same district" in the proviso to sub-clause (3) the words "in the same district".

MR. MATHU: The hon. member Mr. Chemallan spoke on this subject yesterday, and he also wrote a minority note to the select committee report on this very clause. We are asking now as a last request that this should be "in the same province" instead of "in the same district". That would give more latitude to a trader than the Bill now allows. I formally move: That the words "in the same province" be substituted for "in the same district".

MAJOR CAVENDISH-BENTINCK: I am afraid that as far as Government is concerned, for the reasons which were given yesterday, Government could not agree to this amendment.

THE CHAIRMAN: I said yesterday, I do not know whether the hon. member Mr. Mathu heard me, that a notice should be given of any amendments proposed.

[The Chairman] so that strictly speaking this amendment is not in order. But so that the hon. member should not think he is not getting everything he should, I am prepared to put this amendment if it is pressed?

MR. MATHU: I shall be grateful if you will put it.

MR. DAVIES: Mr. Chairman, the reasons why Government is unable to accept this amendment I gave yesterday, that we must have control over the movement of stock over such large and long boundaries. I think the hon. member's point will be met by the interpretation that we propose to give to sub-clause (2) of clause 9, that the powers of the Commission will be delegated to administrative officers to allow the sale and purchase of stock by Africans to Africans, and it is intended that this permission shall be given as far as it possibly can to allow reasonable control and give every reasonable allowance to Africans who wish to buy and sell stock in neighbouring districts. This actually relaxes the regulations to a very considerable extent, and I would ask the hon. African members to accept the undertaking I give now that the interpretation of this clause will be very reasonably and leniently administered.

MR. OHANGA: The amendment we have proposed has nothing to do with the movement of stock between districts, it is only sales within a province. The movement of cattle is adequately controlled by the Veterinary Department and that still remains, with permits issued by that department for the purpose.

The question of the amendment was put and negatived on a division by 25 votes to 10: Ayes—Messrs. Chemallan, Jeremiah, Mathu, Nathoo, Ohanga, Patel, Pritam, Rana, Salim, Shatry, 10; Noes—Messrs. Adams, Blundell, Cavendish-Bentinck, Cooke, Davies, Deverell, Erskine, Gillett, Hopkins, Hyde-Clarke, Keyser, Maconochie-Welwood, Matthews, Mortimer, Mousley, O'Connor, Padley, Patrick, Pike, Preston, Rankine, Rhodes, Thornley, Usher, Vasey, 25.

The question of the amendment moved by Major Cavendish-Bentinck was put and carried.

The question of the clause as amended was put and carried.

On motion made by Major Cavendish-Bentinck and question put, the following amendments were carried:

Clause 10: By substituting for the words "hides and skins" in the definition of "fresh products of slaughter stock" in sub-clause (2) the words "hides or skins".

Clause 13: By substituting for the words "the Commission may pay" the words "the Commission may, with the approval of the Member, pay".

Clause 18: By substituting in sub-clause (5) for the words "Any person who" the words "Any person, not being the owner or operator of an undertaking which is already included in the Schedule to this Ordinance, who,".

Clause 19: By substituting for the words "and no regard shall be paid to replacement value" the words "and no claim by the scheduled undertaking based upon present day cost of replacement shall be entertained".

Clause 21: By deleting the words "which has been" before the word "acquired".

Clause 25: By substituting in paragraph (a) for the words "debentures, debenture stock" the words "debentures or debenture stock".

THE HON. MEMBER FOR AFRICAN INTERESTS (Mr. Mathu) moved: That clause 9 be amended by substituting in sub-clause (3) the words "in the same province" for the words "in the same district".

MR. USHER: Mr. Chairman, I beg to move: That clause 25 be amended by deleting paragraph (b), re-lettering (c) as (b); inserting the figure (1) after the number of the clause, and adding as sub-clause (2)—"(2) The Member shall, after consultation with the Commission, make regulations to provide for the grading of slaughter stock".

This would give effect to what I have asked, that it should be obligatory for the Member to make these regulations, thereby removing any question of dispute between the Commission and the produce and, thereafter, of course, between the Commission and the butcher and ultimately between the butcher and the public who purchase the meat. It has

[Mr. Usher] been generally admitted, I believe, that there is a weakness in the grading hitherto, and in fact, there has been this difficulty, that the grading has not conformed to other known standards. We have had aged animals shown as first grade, whereas in fact I believe such animals when they come to the age of 5 might as well be 5 or 50. It would give great satisfaction generally if this amendment could be accepted by Government.

MAJOR CAVENDISH-BENTINCK: I understand the objective of this amendment, and Government is quite prepared to accept it. But I should like to point out that there will be regulations in any event as to grading, and there may be some difficulties of getting a uniform system throughout the country in the early stages. I should like to stress that. It is our intention to have almost immediately a highly qualified grader in the Nairobi area. It is not easy to have a similar person elsewhere. There is also the question of grading on the hoof and the carcass at the abattoir. Subject to pointing out these difficulties I accept the amendment.

The question was put and carried.

The question of the clause as amended was put and carried.

MR. O'CONNOR moved: That the Bill be reported back to Council with amendment.

Council resumed, and the report was adopted.

THIRD READING

The question that the Bill be read the third time and passed was put and carried, and the Bill read accordingly.

ADJOURNMENT

Council rose at 12.15 p.m. and adjourned till Tuesday, 9th May, 1950, at 10 a.m.

WRITTEN ANSWERS TO QUESTIONS

No. 10—GHEE PRODUCTION BY AFRICANS

MR. BLUNDELL:

In view of the shortage of ghee, will Government state what steps are being taken to encourage the production of this essential foodstuff by African producers?

Reply:

It will be appreciated by the hon. Member for Rift Valley that the maximum output of ghee must be limited by the type of cattle kept by the African and the grazing and feeding available, and therefore the stepping up of this maximum is a question of long-term policy. It will also be appreciated that in the pastoral areas the manufacture of ghee, except on a seasonal basis, is impracticable.

Government has pursued a policy of encouraging the African to sell his butterfat and to consume the separated milk, an article of diet which is little inferior to the whole milk, in order to step up supplies of ghee. It is now apparent, however, that a greater monetary incentive could be provided if the manufacturing and marketing arrangements for ghee, which have been supervised by the Veterinary Department in the past, were reorganized.

Proposals for the reorganization of the industry are now under consideration by Government.

No. 12—PRODUCE CONTROL PROFITS

MR. PRITAM:

Will Government please state the total profits that have accrued to the Produce Control through its trading operations till 31st December, 1949, and how such profits have been disposed of?

Reply:

1. Before actually answering this question, Government would like to make it clear that, though the Produce Control is run as far as it is possible to do so as a commercial organization, its object is not to make "profits" but so to cost its operations that losses will not be made. It will be appreciated that the working capital utilized by the Produce Control is provided by the Government which does not expect to have to underwrite

losses. Some of the operations in which the Control engages are commercially risky in that the primary obligations of the Control are to ensure an adequate supply of food for Kenya in the first place and for the rest of East Africa in the second, as well as to provide an assured market for crops, the prices of which Government guarantees to the producer (mainly Africans in this instance) in order to encourage the development of agriculture in the Colony on sound lines. This involves holding large stocks of foodstuffs over considerable periods, with all the attendant risk of loss in storage, during which time profitable export markets might be lost.

2. As it happens, and as will be seen by the figures given below, the Control has, by and large, managed to avoid serious losses, and has emerged over a seven-year period with a considerable surplus. It is not possible to give the figures up to the 31st December, 1949, as the accounts for the 1948/49 trading year have not yet been completed. As soon as they have been completed and audited they will be published in the Official Gazette.

3. The total turnover on internal transactions to the year ended the 30th September, 1948, was Sh. 36,352,947/09, on which a surplus of Sh. 669,731/80 was made—this represents a percentage on turnover of 1.8 which cannot be considered an unduly large margin for an organization such as this to work on. Over the same period, export sales amounted to Sh. 2,288,304/24, on which a sum of Sh. 523,301 was made. In passing it should be mentioned that the system for exporting produce over and above internal requirements, is to put such surpluses out to tender among the firms engaged in the export trade. The highest tender is accepted and the exporting firm then takes over the produce and becomes responsible for its movement and sale overseas. This can perhaps be considered a profit in a commercial sense. This sum plus a further Sh. 26,699 has been utilized to meet the assessed share of the Produce Control towards the acquisition of stores, vehicles and equipment required for the efficient operation of the joint Maize and Produce Controls.

4. The balance of Sh. 643,032/80 surplus on internal trading has been retained

in the accounts of the Produce Control as "working capital", thereby reducing the total amount which it is necessary to draw on the government guaranteed overdrafts to finance current purchases of controlled produce. No decision has yet been taken as to how this sum of money will be utilized and, in this connexion, two factors must be borne in mind. First, until the Control is finally wound up, it is not known whether its operations will prove to have been conducted at a final loss or with a final surplus in hand. Secondly, the sum in question has been earned by trading in African produce and this money it is considered, in accordance with Government's normal policy in relation to such matters, should be returned to the African producer in some form which will be to his ultimate advantage.

NO. 17—MAIZE DISTRIBUTION, CENTRAL PROVINCE

MAJOR KEYSER:

1. Will Government please say whether they are distributing maize and food in the Central Province?

2. If the answer is in the affirmative, will Government please say at what prices such foodstuffs are being provided and who is bearing the cost thereof?

Reply:

1. Maize and small quantities of millet, wimbe, and dried field peas are being so distributed, mainly through normal traders, on the advice of district commissioners and agricultural officers.

2. These food supplies are being distributed at normal wholesale prices and therefore there is no cost to Government.

NO. 19—E.A.R. & H. ROLLING STOCK MR. USHER:

1. What number and types of goods rolling stock are now on order by the East African Railways and Harbours?

2. On what date or dates was each individual order placed with the Crown Agents or other purchasing authority?

3. On what date or dates were the final orders placed with the manufacturers?

4. What delivery date or dates were specified against each individual order? Have any of such dates been subsequently modified?

Reply:

1. Sixteen Mikado type locomotives, due to be delivered in the first half of 1951; and 18 shunting engines due to be delivered between June and August, 1951, are on order.

One thousand two hundred and twenty-five units of rolling stock are on order and due for delivery to the Kenya and Uganda section in 1950. In addition, 696 diamond frame bogies are on order and are now arriving in the country. These bogies are designed to enable wagons which would otherwise have to be discarded to continue in service; they will also increase the capacity of the wagons so restored.

2, 3, and 4. A statement is attached showing in each case (i) the indent date on the Crown Agents, (ii) the date on which the Crown Agents placed the final order with the manufacturers, (iii) the delivery date specified against the order, and (iv) any revised dates that have been quoted.

The following additional information has been furnished by the General Manager in amplification of the figures given:—

"Going back to 1939, the orders outstanding comprised passenger rolling stock and locomotives. Six Garratts were on order from Beyer-Peacock following the sale of old locomotives to Indo-China. These were received. Inquiries had also been made for three additional Garratts, but these were of a type that could not be manufactured during the war and seven war-time standard Garratts were accepted instead. The inquiry for the three was, however, retained with the manufacturers to ensure high priority for the Administration's post-war orders and the opportunity was seized of swelling the order to 18 Garratts in 1947 which were received in 1949. Another opportunity was offered and seized when six light Garratts, which had been order for the Burma Railways, came unexpectedly to the market. These have now been delivered. Turning to goods wagon units, the dates on the statement would convey little meaning without some knowledge of the background against which orders were placed on the home market. In 1939 the Administration had no wagon orders outstanding when the war began because as a result of the 1931-1932

depression a considerable number of wagons had been taken out of service and stabled; and these were the first to be brought into service when the strain came during the war years. Then, during the war, the shortage of steel and the priority claims of the Services made it impossible to place orders on the home market. All orders for the East African area had to have military support and the military authorities were unable to obtain from the War Office any priority for East African rolling stock needs. However, as a result of insistent pressure by the Kenya and Uganda Railways and Harbours Administration that Administration eventually obtained through the forces some 380 American wagons under lend-lease. This was all the rolling stock obtained during the war, but immediately after the war the then General Manager went to England in 1945 to discuss the question of new rolling stock with the makers and others concerned and, in view of the information received in London, it was clear to him that, except for outstanding orders for coaching stock and a few minor orders for goods stock placed before the war, no orders would be accepted for rolling stock at that time, as the Committee charged with the allocation of all such orders would not accept them in view of the very high demand from Great Britain and other areas whose needs were greater than East Africa's through acts of war.

Apart from locomotives, the first order placed on the home market after the war was for the 696 diamond-frame bogies mentioned in the answer to the first question. This order was placed in September, 1947, and as already stated the bogies are now arriving in East Africa. Towards the end of the same year, i.e. 1947, orders were placed for 126 covered goods wagons, 44 horse boxes and 72 high-sided wagons, in addition to cattle trucks and bogie water tank wagons. Still later in 1947 the order was increased by adding 25 low-sided and 30 high-sided bogies to the original order. In the middle of 1948, by which time the Administration was in a position to assess more accurately post-war traffic trends, the order was increased still further by adding 150 low-sided and 150 high-sided bogie wagons, and these were added to the original order so fixing their place in the production queue."

KENYA/UGANDA LOCOMOTIVES AND GOODS STOCK ON ORDER

Number	Type	'Invent Date on Crown Agents	Date of Order placed with Manufacturers	Delivery Date	Revised Delivery Dates
16	2-8-2 Mikado Locomotives	26-7-48	Jan. 1949	Mid 1950	Jan-June, 1951.
18	Steam Shunting Engines	31-5-49	29-8-49	Oct.-Nov. 1950	June-August, 1951.
25	Low Sided Wagons Bogie	21-1-48	14-7-48	Periods 2-3, 1950	Now: 1. March; 4. April; 20. May; 1950.
1	Crocodile Wagon	22-7-40	9-11-49	March, 1950 Underframe Sept., 1950 Bogies	Delay owing to hostilities.
1	Crocodile Wagon	22-7-40	3-6-49	March, 1950	Delay owing to hostilities.
12	Underframes for Horse Boxes	12-12-47	15-7-48	Period 1, 1950	Mid 1950.
100	Cattle Wagons	12-12-47	15-7-48	Periods 3-4, 1950	Period 1, 1950.
72	High Sided Wagons	9-9-47	15-7-48	Period 2, 1950	
165	Covered Goods Wagons	9-9-47	15-7-48	Periods 3-4, 1950	1. August; 39. Oct.; 100. Nov.; 25. Dec. 1950.
44	Low Sided Wagons	9-9-47	15-7-48	Period 4, 1950	1. June; 19. Aug.; 24. Sept. 1950.
39	Water Tanks Bogie	12-12-47	15-7-48	Periods 1-2, 1950	Completion anticipated mid-February, 1950.
20	Water Tanks Bogie	27-6-49	28-7-49	Period 3, 1950	
150	Low Sided Wagons Bogie	24-1-48	2-9-48	Periods 2-3, 1950	75. June; 75. July; 1950.
30	High Sided Wagons Bogie	21-1-48	15-7-48	Periods 3-4, 1950	1. May; 29. July, 1950.
150	High Sided Wagons Bogie	24-1-48	31-8-48	Periods 3-4, 1950	50. Aug.; 50. Sept.; 30. Oct., 1950.

No. 20—INCOME TAX REBATE CLAIMS
THE HON. MEMBER FOR TRANS NZOIA:

1. How many claims have been received up to the 28th February, 1950, for rebate of income tax by ex-service personnel who paid U.K. income tax during the last war?

2. How many of these claims were paid by the 20th March, 1950?

— Reply:

Sixty claims had been received by the 28th February, 1950.

No claims had been paid by the 20th March, 1950.

Three claims have, however, been settled since the 20th March, and a further twelve claims will probably be completed within the next few days. In all other cases the available information is insufficient to determine the rebate due and the claimants have been asked to obtain the necessary data from the United Kingdom authorities concerned.

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IC. = In Committee; SC. = Referred to Select Committee; SCR.=Select Committee Report; Re.CI.=Re-committed to Council; Wdn. = Withdrawn.

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