

# KENYA NATIONAL ARCHIVES

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COLONY AND PROTECTORATE OF KENYA

# LEGISLATIVE COUNCIL DEBATES

OFFICIAL REPORT

COUNCIL INAUGURATED  
JUNE, 1948

VOLUME XLII

1951

THIRD SESSION — THIRD SITTING

8th May, 1951, to 17th May, 1951

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1951

THIRD SESSION—SECOND SITTING  
13th February, 1951, to 9th March, 1951

CORRIGENDA

Col. 606:—

Line 9.—Delete the word "controversial" and insert the word "consequential".

Line 13.—Delete the word "sphere" and insert the word "spirit". Delete the word "Gambi" and insert the word "Igembe".

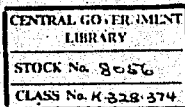
Line 14.—Delete the word "Mungeni" and insert the word "Nyambeni".

Line 19.—Delete the word "there".

Line 21.—Insert full-stop after the word "one" and insert capital "I" for the word "it".

Line 23.—Delete the word "Ukembu" and insert the word "Igembe".

Line 24.—Delete the word "this" and insert the word "these".



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:*

ACTING CHIEF SECRETARY AND MEMBER FOR DEVELOPMENT (HON. C. H. THORNLEY).

ACTING ATTORNEY GENERAL AND MEMBER FOR LAW AND ORDER (HON. J. B. HOBSON, K.C.).

\*ACTING FINANCIAL SECRETARY AND MEMBER FOR FINANCE (HON. W. PADLEY, 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. CAVENISHU-BIRNICK, C.M.G., M.C.).

\*ACTING DEPUTY CHIEF SECRETARY AND MEMBER FOR LABOUR (HON. C. H. HARTWELL).

MEMBER FOR EDUCATION, HEALTH AND LOCAL GOVERNMENT (HON. E. A. VASEY, C.M.G.).

*Nominated Official Members*

DR. THE HON. T. F. ANDERSON, O.B.E. (Director of Medical Services)

HON. F. W. CARPENTER (Labour Commissioner).

\*HON. A. HOP-JONES (Member for Commerce and Industry).

\*HON. A. P. HULL, C.I.E. (Acting Secretary to the Treasury).

\*HON. K. L. HUNTER, O.B.E. (Acting Assistant Chief Secretary).

\*HON. SIR CHARLES MORTIMER, C.B.E.

\*HON. P. E. H. PIET (Acting Solicitor-General).

BRIEF-GEN. THE HON. SIR GODFREY RHODES, C.I.I., C.B.E., D.S.O. (Special Commissioner for Works and Chief Engineer, Public Works Department).

\*HON. G. M. RODDAN (Director of Agriculture).

*European Elected Members:*

HON. M. BLUNDELL, Rift Valley.

\*LT.-COL. THE HON. F. H. LE BELTON, M.C., Acting Member for Trans Nzola.

HON. S. V. COOKE, Coast.

LT.-COL. THE HON. S. G. GIERSE, O.B.E., Nairobi North.

HON. W. B. HAVELOCK, Kiambu.

HON. J. G. H. HOPKINS, O.B.E., Aberdare.

HON. L. R. MACOSCHIE-WELWOOD, Uasin Gishu.

HON. T. R. L. PRESTON, Nyanza.

HON. C. W. SALTER, Nairobi South.

HON. LADY SHAW, Ukamba.

HON. C. G. USHER, M.C., Mombasa.

\*Temporary Member.

**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, O.B.E. (Eastern Area).  
HON. A. PRITAM (Western Area).

*Arab Elected Member:*

HON. SHARIFF MOHAMED SHATRY

*Nominated Unofficial Members:*

*Representing the Interests of the African Community:*

HON. J. J. K. ABAP CHEMALLAN.  
HON. J. JEREMIAH.  
HON. E. W. MATHU.  
HON. B. A. OHANGA.

*Representing the Interests of the Arab Community:*

HON. SHUKRIFF ABDULLA SALIM.

*Acting Clerk to Council:*

T. V. N. Fortescue.

*Assistant Clerk to Council:*

E. V. Borrett

*Reporters:*

Miss R. Seeley

Miss E. Fraser

**ABSENTEES FROM LEGISLATIVE COUNCIL SITTINGS**

1951—

8th May—

Hon. Attorney General.  
Hon. Special Commissioner for Works.  
Hon. Labour Commissioner.  
Hon. Member for Eastern Area (Dr. Rana).

9th May—

Hon. Member for Eastern Area (Dr. Rana).

10th May—

Hon. Member for Eastern Area (Dr. Rana).

11th May—

Hon. Member for Eastern Area (Dr. Rana).

15th May—

Hon. Member for Education, Health and Local Government.  
Hon. Member for Eastern Area (Mr. Patel).  
Hon. Member for Eastern Area (Dr. Rana).

16th May—

Hon. Member for Eastern Area (Dr. Rana).  
Hon. Member for Western Area (Mr. Pritam).  
Hon. Member for African Interests (Mr. Chemallan).

17th May—

Hon. Member for Rift Valley.  
Hon. Member for Uasin Gishu.  
Hon. Member for Trans Nzoia.  
Hon. Member for Nyanza.  
Hon. Member for Eastern Area (Dr. Rana).  
Hon. Arab Elected Member.  
Hon. Member for African Interests (Mr. Ohanga).  
Hon. Member for African Interests (Mr. Chemallan).



COLONY AND PROTECTORATE OF KENYA

LEGISLATIVE COUNCIL DEBATES

THIRD SESSION, 1951

Tuesday, 8th May, 1951

Council assembled in the Memorial Hall, Nairobi, on Tuesday, 8th May, 1951.

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 Lt.-Col. F. H. le Bletan, M.C., Acting Member for Trans Nzoia; A. P. Hume, Esq., Acting Secretary to the Treasury; K. L. Hunter, Esq., Acting Assistant Chief Secretary; G. M. Roddan, Esq., Director of Agriculture.

MINUTES

The minutes of the meeting of 9th March, 1951, were confirmed.

PAPERS LAID

The following papers were laid on the table:—

BY THE ACTING CHIEF SECRETARY:

- (i) Proceedings of the East Africa Central Legislative Assembly—Fourth Session 1951-52, First Meeting.
- (ii) Annual Report, 1950, by the Commissioner for Transport on Civil Aviation.
- (iii) East African Meteorological Department Annual Report, 1950.

- (iv) East African Tsetse and Trypanosomiasis Research and Reclamation Organization Annual Report, 1950.

NOTICE OF MOTION

Mr. MATIU (African Interests) gave notice of the following motion:—

That this Council recommends to Government to appoint a committee to investigate the question of destitute Africans in urban areas with special reference to beggars in the streets of the major towns of the Colony.

BILLS

FIRST READINGS

On the motion of the Acting Solicitor General, seconded by the Director of Medical Services, the following Bills were read a first time:—

*The Juveniles (Amendment) Bill.*

*The Medical Practitioners and Dentists (Amendment) Bill.*

*The Marriage (Amendment) Bill.*

*The Police (Amendment) Bill.*

The Acting Solicitor General gave notice of the intention to take all subsequent stages of the above Bills during the present sitting of the Council.

THE ACTING SOLICITOR GENERAL moved: That the Council resolve itself into Committee of the whole Council to consider the Income Tax (Amendment) Bill clause by clause.

THE DIRECTOR OF MEDICAL SERVICES seconded.

The question was put and carried.

## COUNCIL IN COMMITTEE

The Bill was considered clause by clause.

The ACTING SOLICITOR GENERAL moved: That the Bill be reported back to the Council without amendment.

The question was put and carried.

Council resumed, and the Member reported accordingly.

## BILLS

## THIRD READING

The ACTING SOLICITOR GENERAL moved: That the Income Tax (Amendment) Bill be read a third time and passed.

The DIRECTOR OF MEDICAL SERVICES seconded.

MR. BLUNDELL (Rift Valley): Mr. Speaker, hon. Members on this side of the Council have made their views quite clear as to the increase of the tax from Sh. 4 to Sh. 5. Although we do not intend to debate it, we intend to oppose the third reading.

MR. COOKE (Coast): That does not include me, Sir.

The question was put and carried and the Bill was read a third time and passed.

## VALEDICTORY

## APPOINTMENT OF DIRECTOR OF AGRICULTURE AS CHAIRMAN OF THE OVERSEAS FOOD CORPORATION

The ACTING CHIEF SECRETARY: Mr. Speaker, as hon. Members know, since this Council adjourned at our last Session, my hon. friend, the then Director of Agriculture has, alas, left us to take up a new appointment as Chairman of the Overseas Food Corporation, and I think that it will be the wish of my colleagues on this side of the Council that I should refer to the service which this country has had during his long and distinguished career as an Agricultural Officer (from Mr. Gillett, *hear, hear*.) Perhaps in the course of that career he will be remembered particularly for the very valuable work that he did on Coffee Research, and later, since 1948, when he was appointed Head of the Department, on introducing improvements in Agricultural methods in African areas. During

the period that he served as a Member of this Council, Mr. Gillett could always be relied upon to provide useful and valuable advice in debate on every matter, which came up for discussion within his particular sphere, and I would like on behalf of my colleagues to express our thanks to him for all the assistance that he gave to us during that time. I would like also on behalf of my colleagues warmly to express to him on this occasion our warm congratulations on his appointment as Chairman of the Corporation and to wish him and Mr. Gillett every possible success in the very difficult task that he has taken up. (*Applause*.)

I think it would also be appropriate on this occasion that I should extend a warm welcome to his successor, who takes his place in the Council this morning—(*applause*)—an old and trusted friend who needs no introduction from me. We are indeed glad to have him back after so short an absence from the Colony. (*Heat, hear.*)

MR. BLUNDELL: Mr. Speaker, I rise on behalf of the European Members of Council to endorse the remarks which the hon. Member opposite, the Chief Secretary, has made. In losing Mr. Gillett, Sir, we are of the opinion that the agricultural industry of this Colony has lost a very sincere and a very true friend. The hon. Chief Secretary has already touched upon his work for the coffee industry, but apart altogether from the research work which he initiated, I would also like to pay tribute to the marketing research and the development of the industry in other areas which he initiated. Secondly, Sir, I think it would be quite wrong to allow this opportunity to pass without paying a very great tribute to Mr. Gillett for his work over the European Settlement Board. There is no doubt about it that, in the initiation of that scheme, with the using of public funds to the tune of £1,600,000, he worked extremely hard and made the most tremendous success of it, and he earned the confidence, I believe, of every tenant farmer. If he left no other monument behind him, he could have left nothing better than the European Settlement Scheme.

Like the hon. Member opposite, Sir, we would also like to wish Mr. and Mrs.

[Mr. Blundell] Mr. Gillett the greatest success in the prosecution of their new duties in Tanganyika, with the Overseas Food Corporation.

Also, Sir, I would like to give an assurance to the hon. Member opposite, the new Director of Agriculture, that the agricultural industry, I am certain, whether prosecuted by Europeans, Asians—although I say that with some temerity in view of the hon. Mr. Mwan being here—or Africans, will welcome his arrival here with a great deal of pleasure. (*Applause*.)

MR. PAUL (Eastern Area): Mr. Speaker, on behalf of the Indian Elected Members, I would like to associate myself with the remarks made by the hon. Acting Chief Secretary and the hon. Member for Rift Valley. Although the Indian Members had very rare occasions to come in contact with the activities Mr. Gillett had to carry out on behalf of this country, we, as colleagues in this Council, would like warmly to congratulate him on the work which he is called upon to do now, and also we associate ourselves with the warm welcome to the new Director of Agriculture. (*Applause*.)

MR. SHAIKY (Arab Elected Member): Mr. Speaker, I also would like to associate myself with the previous speakers in welcoming the new Member, Mr. Roddan, and I would also say that we share the views given by the hon. Mr. A. B. Patel. On behalf of the Arab community I would say we have little opportunity of meeting the Director of Agriculture, but it is our duty to welcome the new Director and we hope that co-operation will exist between us in this Council.

MR. MATHU (African Interests): Mr. Speaker, I would like on behalf of the African Members to associate myself with the remarks made by the Acting Chief Secretary in paying tribute to the previous Director of Agriculture, Mr. Gillett, and in congratulating him on his new appointment. It is true that, during the term of office of Mr. Gillett as Director of Agriculture, there has been a definite sign of improvement or result in African agriculture, and we must definitely pay tribute to him in that regard. I know also that he had a special interest in developing the wattle industry among the Africans in this

country—I would like to declare an interest here—and in particular the marketing aspect of the bark has shown a tremendous improvement during the term of office of Mr. Gillett.

I would like also to welcome back to Kenya the new Director of Agriculture, and it is not necessary for me to say that he will at least follow in the footsteps of his predecessor and we may see our country coming forward in greater leaps in agriculture. (*Applause*.)

## ADJOURNMENT

The SPEAKER: I believe there is no other business before Council. Council will now adjourn until 9.30 a.m. tomorrow morning.

Council rose at 10.20 a.m. and adjourned until 9.30 a.m. on Wednesday, 9th May, 1951.

Wednesday, 9th May, 1951

Council assembled in the Memorial Hall, Nairobi, on Wednesday, 9th May, 1951.

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

The proceedings were opened with prayer.

#### MINUTES

The minutes of the meeting of 8th May, 1951, were confirmed.

#### PAPERS LAID

The following papers were laid on the table:—

(a) BY THE ACTING CHIEF SECRETARY:

(i) The Development and Reconstruction Authority Annual Report, 1950.

(ii) The Development and Reconstruction Authority, 1st Quarterly Report, 1951.

(b) BY THE ACTING FINANCIAL SECRETARY:

Memorandum—Provisions for the Administration of the Agricultural Land Rehabilitation Fund.

#### SUSPENSION OF STANDING RULES AND ORDERS.

THE ACTING ATTORNEY GENERAL moved: That Standing Rules and Orders be suspended to enable the following Bills to be read a first time:—

*The Special Districts (Administration) (Amendment) Bill.*

*The Sital Industry (Amendment) Bill.*

*The Distribution of German Enemy Property Bill.*

*The National Parks (Amendment) Bill.*

*The Hospital Treatment Relief (European) Bill.*

THE ACTING SOLICITOR GENERAL seconded.

THE ACTING ATTORNEY GENERAL: The reason, Sir, for moving the suspension of Standing Rules and Orders is that it has not been possible, owing to pressure of business and other causes, to get these Bills published in time so that the statutory period could be allowed to run before they were introduced in this Council.

Mr. Speaker, I beg to move.

MR. HAVELOCK (Kiambu): Mr. Speaker, hon. Members on this side of the Council have been consulted as to suspension of Standing Rules and Orders in order to take these Bills but, speaking on behalf of the Unofficial Members, I wish to emphasize once again that we believe that it is a very wrong principle to adopt and we cannot really see any strong reasons why these Bills should not have been ready for this Session. (Hear, hear.) We have laid down the dates of the different Sessions of Legislative Council, Sir, and therefore we feel that Government should be able to prepare both the legal drafting of the Bills and, indeed, the printing through the Government Press and, although Sir, we will not oppose that motion I want, once again, to make quite clear on behalf of the Unofficial Members that we are very much opposed to the principle implied.

THE ACTING CHIEF SECRETARY: Mr. Speaker, I do not want to challenge any single word that has been spoken by the hon. Member for Kiambu and I am sorry that it has been necessary to come forward with this motion which we have introduced only after considering it in the Sessional Committee and, as the hon. Member said, with the agreement of Unofficial Members on that Committee. The reason why is the great pressure of work in the Law Office. We do realize the importance of the legislation prepared and circulated so that the necessary required notices can be given; and there is no other reason than great pressure of work in that office which has, once again, caused us to come forward with a motion in these terms. We will, Sir, do our best in future to avoid circumstances arising which require resort to this procedure.

The question was put and carried.

On the motion of the Acting Attorney General, seconded by the Acting Solicitor General, the above five Bills were read a first time.

THE ACTING ATTORNEY GENERAL gave notice that all subsequent stages of the above Bills would be taken at the present sitting of Council.

#### BILLS

##### SECOND READING

*The Juveniles (Amendment) Bill.*

THE ACTING SOLICITOR GENERAL: Mr. Speaker, I beg to move: That the

[The Acting Solicitor General] Juveniles (Amendment) Bill be read a second time.

Recently the Commissioner of Prisons has carried out, on a very limited scale, experiments in releasing juveniles, sentenced to terms of detention in the institutions, for short periods at home—a sort of short holiday from school. The results which have been shown by this experiment have been so satisfactory that it is considered desirable to enable it to be done on a more regularized basis. The benefit has been not only to the individual juvenile but to the discipline and morale of the institution itself, and the purpose of the amendment in the existing clause 2 of the Bill before you is to enable such juveniles to be released for periods which the Chief Inspector of Approved Schools thinks proper and subject to such conditions as he thinks proper. That was the only amendment in the published Bill.

In addition, there has been circulated, only this morning I regret to say, a further amendment which is designed to resolve a difficulty presented by the fact that none of the approved schools has any facilities for the reception and treatment of European juvenile delinquents. In view of the remark this morning by the hon. Member for Kiambu, I hasten to apologize for the short notice which Members have had of it, and I am content and to explain that it is attributable solely to the fact that the deficiency in our legislation has been brought forcibly to notice by a case now being tried in Mombasa in which one of the accused is a juvenile of about 16 years of age, and, if he were convicted, it is considered to be most undesirable that he should be sentenced to a term of imprisonment which is the only punishment which could properly be imposed if he is found guilty. It is for this reason that we have sought to amend the Ordinance in a further respect so as to provide a means of getting him into a suitable institution.

Now, there exists in the Children's Act of the Union of South Africa an express provision which enables the Governor General to enter into an agreement with a Government of any territory south of the Equator for the reception into and retention in any reformatory in the Union of a juvenile

ordered to be detained in a reformatory in the territory and it is for this purpose that we propose to add a new provision that we consider Ordinance which will be a counterpart of the South African provision and will enable the Governor to enter into such an agreement with the Governor General for the reception of a Kenya juvenile, if I may so call him, into the Union of South Africa reformatories. This also necessitates an amendment of the definition of an "approved school" in our Ordinance because in the South African Act, the provision is that the juvenile must have been sentenced to a reformatory in the territory. We have no institutions in the territory which are known as reformatories, hence the amendment of the definition of "approved school" to include a reformatory in the Union of South Africa.

While the South African legislation only empowers the Governor General to enter into an agreement with a territory south of the Equator and while clearly the whole of this Colony is not south of the Equator, the Protectorate is entirely south of the Equator, and to solve the immediate problem, it is considered that it would be proper and possible for the Governor to enter into an agreement in relation only to the Protectorate. We hope that, on representation being made to the Union Government, it may see its way to amend its legislation so as to enable the agreement subsequently to be extended to the Colony as well, but it would no doubt be possible, if future cases arose where, for example, a European delinquent were to be tried in the Colony, for his trial to be transferred to the Protectorate and to take place in Mombasa, so that even though we cannot enter into an agreement, immediately covering the whole territory we can, I think, satisfactorily solve the whole problem. The provision enabling the Government to enter into this agreement also requires that notice of the fact of an agreement and also of a summary of its terms be published in the Gazette.

Sir, I beg to move.

THE ACTING ATTORNEY GENERAL: Mr. Speaker I beg to second and I just wish to say this. The particular case to which

[The Acting Attorney General] my hon. friend the Solicitor General referred is, of course, *sub judice*. We do not know whether there will be a conviction and we do not know whether if there is a conviction the person who is a juvenile will be sentenced to be sent to an approved school, but we have thought fit to make this amendment forward, in case this does happen so that we can deal with the matter in the manner adumbrated by my hon. friend.

MR. SALTER (Nairobi South): Mr. Speaker, would the hon. Member indicate the nature of the small additional expenditure which is contemplated by the introduction of this Bill? It would appear that one of the objects of the Bill is to enable inmates of approved schools to proceed on leave. Is the expenditure involved in travelling, in maintenance, or what is it? After all they are persons in need of reform and they are primarily delinquents and therefore the matter of this expenditure would, I submit, require a certain amount of scrutiny.

THE ACTING SOLICITOR GENERAL: Hitherto, Sir, I was informed that no actual expenditure has been incurred in carrying out the experimental efforts, but it was thought wise to insert into the Bill a statement that some small expenditure might be incurred, if, as the hon. speaker opposite mentioned, it were necessary for travelling expenses. It would only be for the purpose of, for example providing bus fares for the boy from the approved school to his home. That was what the expenditure envisaged would be. I cannot predict that there would be no other expenditure, but, in any event, the clause, which will be inserted in paragraph 5 and if the expenses proved exorbitant, would no doubt remain unused.

The question was put and carried.

#### The Medical Practitioners and Dentists (Amendment) Bill

THE DIRECTOR OF MEDICAL SERVICES: Mr. Speaker, I beg to move that the Medical Practitioners and Dentists (Amendment) Bill be read a second time.

This measure has been introduced in order to enable the Director of Medical Services, who is also the Registrar of the

Medical Practitioners and Dentists Board to bring the list of registered practitioners down to date. The principal Ordinance lays down the way in which the names of practitioners may be placed on the register, but it makes no provisions whatever for removing such names when the individual concerned has either died, or is presumed dead, or has left the country, or who has remained in this country but has ceased to practise. There are at the present time on the Medical and Dentists Register some 720 names and it is known that a large proportion of these have either died or have left the country, or ceased to practise. I am continually being asked by pharmaceutical firms and other bodies to provide them with an up-to-date list of practitioners and this I am unable to do in the present rather chaotic condition of the Register.

The amending Bill makes provision under section 4 (b) for the Registrar to remove the name of any person who has died, and under sub-section 3 (a) the Registrar, with the consent of the person concerned may remove from the Register the name of that person if he has ceased to practise. Sub-section 3 (b) is perhaps the most important sentence or clause in this Bill, which enables the Registrar to send a registered letter to any practitioner to his last known address to ask him whether he is still practising and, if no reply is received within six months, the Registrar is then empowered to move his name from the Register. In case a practitioner did not get the letter and subsequently wishes that his name should be reinstated, sub-section 3 (c) enables the Registrar to reinstate that person's name in the Register and it is intended that this should be done without further charge.

Clause 3 of the Bill empowers the Member to make Rules under the Ordinance. The only rule which is contemplated is to prescribe a form of certificate which is mentioned in section 4 of the Bill. At the present time, when a practitioner registers his name he is given a very small and extremely unattractive-looking bit of paper which is in fact, an official receipt, and it is thought only proper that he should be given a certificate to show that he is entitled to practise. The opportunity has also been taken in this amending Bill to include certain definitions in section 2 of clause 2. The

[The Director of Medical Services] words "Registrar" and "Register" are defined. They are not defined in the principal Ordinance, and section 3 lays down with more accuracy the duties of the Director of Medical Services as Registrar.

Sir, I believe that this Bill will prove to be largely non-controversial and therefore I beg to move.

THE ACTING SOLICITOR GENERAL: Sir, I beg to second, reserving my right to speak if necessary.

The question was put and carried.

#### The Marriage (Amendment) Bill

THE ACTING SOLICITOR GENERAL: Sir, I beg to move: That the Marriage Amendment Bill be read a second time.

The Bill will effect certain amendments of a more or less routine nature, to the Marriage Ordinance which experience has shown to be desirable in the interests of the proper working of the Ordinance. Again there is an additional amendment, this time I am happy to say it was circulated well in advance, which it is proposed to move in Committee, and as this amendment deals with two sections of the Ordinance chronologically earlier than those dealt with in the Bill itself, I will deal with them first. It has been represented that by far the greater number of applications for a special licence made to the Governor to get married are occasioned by the fact that neither of the parties resides in the district in which the marriage is to take place. Section 7 of the Ordinance requires the notice to be given to the Registrar of the district in which the marriage is to take place. Section 11 forbids the Registrar to issue this certificate unless he is satisfied that one of the parties has resided in the district in which the marriage is to take place for a period of 15 days preceding the giving of the certificate.

Now, it is not considered really essential that the notice should be given to the Registrar of the district in which the marriage is to take place, because quite conceivably neither of the parties may have resided there and the real district in which some benefit is to be derived from notice being given is surely the district in which one of the

parties has resided and in which there is a possibility that some person may bring of some cause against the parties being married. It is to amend section 7 so as to require the notice to be given in the district in which one of the parties resides and to require the Registrar merely to be satisfied that one of the parties has resided in the district in which the notice was given that this additional amendment is proposed.

The other effect of this amendment will be to reduce the number of applications for special licences, because the Registrar would then be able to issue the certificate without having to be satisfied as to residence in the district in which the marriage is to take place.

Clause 2 of the existing Bill will amend section 19 so as to obviate what often is a practical difficulty. That section requires the consent of the father of a person under the age of 21 years unless he is dead, of unsound mind or absent from the Colony, when the consent of the mother is sufficient; and if the mother is also dead, or of unsound mind or absent from the Colony, consent of the guardian is sufficient. But it frequently happens that in the custody of a young person is not in the father, it has been given perhaps by a court to the mother, but none the less as the law now stands the consent of the father must be obtained. This is considered quite unnecessary and it is to remedy this that clause 19 has been re-drafted to require only the consent of the person having lawful custody.

Clause 2 will therefore amend the section so as to require the consent of the person having the lawful custody whether it be the father, mother or other guardian. Clause 3 makes a consequential amendment resulting from the previous amendment. Clause 4 takes away from the Governor the quite unnecessary duty placed on him of seeing that Registrars are supplied with books of marriage certificates.

Clause 5 will amend section 33 so as to correct a queer anomaly. The Registrar General under that section has not as great power as his assistant registrars. We merely amend it so as to give him the powers of his assistants.

Clause 6 will amend section 40 to provide the fees payable to a Registrar be



[The Acting Solicitor General] also payable when the duty is performed by the Registrar General. Again a queer anomaly—no fees to the Registrar General.

Clause 7 will amend the form of Notice of Marriage, Registrar's Certificate and Special Licence so as to require a statement therein of the true conditions of the parties to be married. That is to say, whether bachelor, spinster, widow or widower, or divorced person, as the case may be. This will bring the local law into line with that of the United Kingdom and it will also enable a clergyman to know whether, he is, in fact, being asked to marry a divorced person and will not leave it to the individual effort of the clergyman to make a specific inquiry in each case.

Clause 8 will amend the Second Schedule by increasing from Sh. 2 to Sh. 5 the fee paid for a certified copy of a marriage certificate and by providing for a fee of Sh. 4 for inspecting the Register. These fees are in accordance with the fees charged under the Births and Deaths Registration Ordinance.

Sir, I beg to move.

THE ACTING ATTORNEY GENERAL: Sir, I beg to second.

The question was put and carried.

#### The Police (Amendment) Bill

THE ACTING SOLICITOR GENERAL: Mr. Speaker, I beg to move: That the Police (Amendment) Bill be read a second time.

This Bill will make legal provision for an intermediate rank in the Police Force; intermediate that is, between that of Inspector (African) and Chief Inspector (African). At the present time, and up to the present time, the Commissioner of Police has not considered that any African police officer has been suitably qualified for appointment to the rank of Chief Inspector. It is to create an additional avenue of promotion that this rank of Senior Inspector has been created. I am informed that the Commissioner hopes that in 1952 there will be one or two African police officers who will be eligible for appointment as Chief Inspector, and that, in fact, he intends to ask that provision be made in

the 1952 Estimates for the provision of salary for such posts. This necessary amendment will be made by clause 3 of the Bill, which inserts into section 4 of the new rank. Clauses 2 and 4 of the Bill merely make consequential amendments to sections 2 and 43.

Sir, I beg to move.

THE ACTING ATTORNEY GENERAL: Mr. Speaker, I beg to second and reserve my right to speak if necessary.

MR. JEREMIAH (African Interest): Mr. Speaker, I rise to speak on the Bill mainly to congratulate the Government for being brave enough to introduce a legalizing amendment in order that we may legalize an illegal action taken by it.

Now, Sir, everyone, I think, in this Council knows that we strongly oppose this proposal of introducing an intermediate grade for the African Police Inspector, I am very sorry to hear that the reason is that it is considered there are no Africans fitted for promotion to Chief Inspector. I am sorry also to say, Sir, that I cannot believe that, because my experience shows me that there are suitable Africans for promotion to Chief Inspector.

Another point which I cannot understand is why the examinations for promotion to such ranks are not the same for all. I am informed the examinations are necessarily different for Europeans, Asians and Africans.

Now, Sir, if you provide separate examinations for promotion to a rank which is similar, how can you say that they are not suitable. I would like to see the examinations on the same standard for all, and that action will prove whether there are Africans suitable or not for promotion to Chief Inspector.

Now, Sir, this proposal actually in my view is to deprive the African Inspector of the chance of earning reasonable pay which is being provided for in the Holmes Report, and I cannot see why, if it is found that the African is not suitable for promotion to as high a rank as Chief Inspector, he should be promoted to anything at all.

There are two points to be considered. Either the intention is to mispend the public funds by giving more salary to an unsuitable person or to deprive the

[Mr. Jeremiah] African Inspector of the right to earn his proper salary, as is provided in the Salary Commission's Report.

I am surprised to hear the hon. Member say that he intends to ask to be allowed to create a new post of Chief Inspector, but there is no necessity to get permission for it, Sir: The establishment is already created. It is only for him to recommend some people to be promoted.

Another point which I think should be considered very carefully is, why is it necessary that such steps should be considered for Africans only. We have the ranks of European Inspectors and Chief Inspectors, Asian Inspectors and Chief Inspectors, African Inspectors and Chief Inspectors, but, if it is necessary to introduce an intermediate grade, it should be for all, because it cannot be said for certain that all the others can go direct from Inspector to Chief Inspector without any difficulty, and failing the acceptance of introducing intermediate steps for all the service, then I can only consider this as a deliberate intention to deprive the African Inspector of the salary to which he is entitled and that is real racial discrimination.

The African police salaries are quite low as it is and when it is considered that they should get the right salary, which is according to what is laid down, then someone thinks it is not right and that they should get still lower salaries. I strongly object to that: We should accept what is provided for the sake of improving the service.

With those few remarks, Sir, I strongly oppose the motion.

MR. MATTHEW (African Interest): Mr. Speaker, I should like to associate myself with the remarks made by my hon. friend, Mr. Jeremiah. During the Budget Session we raised this point and suggested that we could not see any earthly reason why there should be created a rank which is lower than that recommended by the East African Salaries Commission. We took the trouble to consult the officers concerned in this matter and after being satisfied that they themselves felt that an injustice had been created, wrote to the Member for Law and Order on the 11th January this year suggesting that a Senior Inspector rank

should not be created and that the recommendation of the Salaries Commission in regard to this matter should be implemented, that is, promote the officers concerned to Chief Inspector rank. Well, we have had no reply from the Member for Law and Order since the 11th January. The reply is the introduction of this Bill, which, as my hon. friend said, we want to oppose vehemently.

The Salaries Commission recommended that there should be a rank called the Chief Inspector (African) to carry with it a salary scale of £333 by £12 to £381 (E.B.) by £15 to £441. At present, the Government after passing the Salaries Commission Report went and created a new grade of Senior Inspector—senior in age, big in build, in size, I do not know the difference. However, they created a senior rank and offered a salary which is provided for in the Police Vote 3-4, the scale of £270 by £12 to £330. This is definitely lower than that recommended by the Salaries Commission.

Now, how can anybody convince us that this is justice. I submit, Sir, that it is a gross injustice to offer to very important officers of Government, who are responsible for the very important service of keeping law and order in this country, to give them something lower than that which was recommended after very careful investigation by a reasonable commission—something lower!

Sir, I have attached tremendous importance to this matter and I have suggested it because I believe the Police Force is such a vital factor in the life of this country, and if you do not give incentives, prospects, to the African people who are manning that Force by far the largest number of all the communities in this country, and without them the other races cannot do the job, then what? With no prospects whatever, I say we are not doing this for the interest of the country. The interest of this country is to establish a force which is contented and which will serve us exactly as we want it, and I submit, I have been in contact with these officers and they are dissatisfied. They think that the Government is not giving them the chances that they ought to have and the young men who would like to come forward, the educated men, to be recruited in the Police Force, would not dream of

[Mr. Mathu]

coming forward and that is why we have a preponderance of illiterates among the recruits in the Police Force.

Sir, I do not think we can do very much more except to lodge this protest as vehemently as we can. We are in a minority and will be out-voted but we would like to place on record that we consider that this is a grave injustice, and we would like to say in opposing the second reading of this Bill that while the Council will prevail that the Government may change their mind and promote these Africans to Chief Inspector rank.

When we raised this matter, as the hon. Member the Mover has said, in December last year, we got the information from the Member for Law and Order that the Commissioner of Police does not consider that there are Africans qualified to be promoted to Chief Inspector rank. Well, anybody can say that, particularly the person in power. He can always say by what standard he is to judge his employee. It is difficult to dispute this, but my hon. friend Mr. Jeremiah recommended last year and he has raised the same point today, that give them the same examination in the Penal Code and all the laws by which you train the police officers. Give them the same examinations—to European and Asian officers, Arab and African officers—and if they cannot pass the examination do not promote them—without that how can we be convinced. It is impossible. We have, some of us had the privilege of studying in universities with other races and we have passed the examinations. Why can you not give these officers the chance to do that? Then you tell us that because their mental energy has not been up to standard they will be given a lower rank.

I am sorry, Sir, I am speaking with some amount of feeling, but it is because, as I say, I attach tremendous importance to this and as far as Government is concerned it fits with the whole policy of the Civil Service. If you look at the opposite page of this Bill where we amend it, you see what I mean. "Subordinate Officers" Africans always occupy subordinate positions in the Government. "Chief Inspector" you say, will make him feel proud and

swollen-headed, call him something lower. That is the policy and that is the attack because it is not justified. And, Sir, the time has come when the Government must take the African into greater confidence and the way to do it is to give them their right due, and these Africans have been doing a first-class job and I would like now to pay a tribute to African ranks throughout the Police Force. Without them, law and order in this country would be impossible—(Hear, hear)—and, Sir, I know that the previous Commissioner of Police was sympathetic with our point of view. He had even recommended to the Member for Finance that this rank should be created two years back. That was not done, and when it went to the office of the Member for Finance he might have said it was too much money for only two or three of our young people to be promoted, and we could spend the money elsewhere, and we are discouraging an important element in the life of this country.

And I therefore sit down and say that I oppose the second reading of this Bill, and I request that the Government should reconsider and withdraw it; and even if it meant to let Africans stay in subordinate positions, they will demonstrate to those who think they are better than we are that they are loyal to this country and are worthy of promotion.

MR. COOKE: Mr. Speaker, the speeches of the last two Members merely emphasize the deep suspicion which the Africans unfortunately hold about the bona fides of the Government and they have the tendency, Sir, to reject the proposals which to us, at any rate on this side of the Council—we Europeans—looking at the matter objectively, are manifestly to their own good.

Now, Sir, it is obvious that the suspicion behind the speeches of the last two Members is that they think that this proposal is an expedient on behalf of the Government to delay the promotion of Africans to the rank of Chief Inspector. I think it was unfortunate that the Mover did not emphasize enough in his speech, and I hope he will in his reply, the fact that something else enters into promotion in the police besides merely examinations. There are, Sir, other virtues, many of

[Mr. Cooke]

them imponderable, such as the character, dependability and those other virtues which we, at any rate, pride ourselves, after centuries of experience of trial and error, have developed. It is unfortunate that we often show lapses ourselves in that respect. But, it is nothing to the discredit of the African. It is merely the fact that he is a younger member, as it were, and is growing up and he naturally has not developed that trait of works with us and for that reason he has got to be tried out. I think, myself, that it is unfortunate that there is not the same sort of grading as there is amongst the Europeans and Asians and that the three ranks do not correspond. There is no intermediate stage, at the moment, between an Inspector and Chief Inspector. I think it is because they have Assistant Inspectors at the moment in the Indian and European force and I think that has probably given rise to suspicion, but so far as I am concerned, looking into this matter, I, personally, think, and I think most Members on this side of the Council think that this proposal is manifestly to the advantage of the African police themselves. (Hear, hear.) (Applause.)

MR. A. B. PAILL: Mr. Speaker, when the Bill has proved highly controversial and the African Members have expressed strong opposition, one would certainly like to hear more information from the hon. Member for Law and Order on this subject.

Firstly, Sir, I would like to know if any African Inspector has been promoted to the position of Chief Inspector so far or not, and if no African Inspector of Police has been promoted to the post of Chief Inspector, why it has not been done. I would like to hear reasons and very clear reasons why it has not been done so far. And I would also like to know if the creation of this extra post in the case of African personnel in the police of Senior Inspector is intended to be a step in the direction of promotion to the post of Chief Inspector or merely for the purpose of creating a post which will delay that promotion, even in the case of merit.

Sir, I certainly appreciate and sympathize with the point of view of the hon. African Members when they state that there is no such senior post as the post

of Senior Inspector provided in the case of Europeans or Asians, and why has it been found necessary that such a post should be created in the case of Africans. If it is meant that the Africans shall be promoted to the post of Chief Inspector, but at the same time their number in the police is much bigger than that of Europeans or Asians, therefore, it is necessary that a larger number of African Inspectors should have an opportunity of promotion, and if for that reason the intermediate post is created, one can understand it. But, if it is merely to delay their promotion to the Chief Inspector's post, I think it will be very unjust to the African personnel in the police and therefore, I would like to have a clear statement on all these points from the hon. Member for Law and Order. At the same time, I would like to say that if by passing this Bill we are going to create dissatisfaction amongst the African Inspectors, it will not be wise to push through this Bill in this Session. (Applause.)

MR. OTIANGA (African Interest): Mr. Speaker, before the hon. Member for Law and Order replies to the points that have been raised, might I raise one or two that have not been raised by my hon. colleagues here.

Firstly, I should like to know if this rumour which we have in the country has any foundation at all. It is rumoured that it is the practice in the country now to recruit to the Police Force Africans who are illiterates only. If that be true, then what prospects would there be for promotion of these people to any higher rank? I emphasize that that point is a rumour which I should like clarified.

Secondly, it has been said by one of the hon. Members that have spoken before me that Africans are younger members of the Police Force and should be content to learn from their more senior colleagues. That, I think, is accepted and is acceptable throughout. We do not dispute the fact that we are junior colleagues in any forces of administration in the country, but we should not like perpetually to be regarded as juniors for ever and ever. (Hear, hear.) You are only a junior because you may be a senior tomorrow, but if you are going to be fied down to the position of junior all your life, you can see the psychological effect of that, it is going to be very frustrating.

MR. COOKE: On a point of explanation, my argument was that we, as an old nation in Europe, had risen to a higher stage of civilization than the majority of the Africans. No fault is imputed to the African for that particular reason. Therefore, we understand more thoroughly than the vast majority of Africans the value of dependability and of reliability and those other imponderables. That is really the point I endeavoured to make.

MR. OHANGA: Mr. Speaker, I do accept the explanation which I have received from the hon. Member.

The next point I should like to make, which need not necessarily be a question to the Member, is this one, Sir. This country is moving in the direction of non-racialism. The racial factor, I think, in my mind, has been an obsession with this country. You meet it in every turn of life and very often the African comes off badly. If we are going to create this post of Senior Inspector, we would have no objection whatsoever if it is necessary—let it be there—but we would like to make it clear to all that a post of this kind if it were non-racial and everybody would pass through it we would have no objections, but when it is pointedly placed down that it is going to be only for Africans, then our suspicion is understandable. I do not see why any members of the Police Force who are Asians or Europeans should not go through the same stage. I do not think it would delay them in the least. If they are, as they are alleged to be, men of more superior mentality, if it is correct, they will go through it in, perhaps, months, we will not deny them that, but it should be a state through which all members should pass and then we will be quite satisfied. But, if it is only created for us, then our fears are clear. What we foresee in that is that it is going to be our highest grade. Although the establishment for Chief Inspectors exists, none of our fellows will be able to aspire to it, and that is why I register very strong opposition to the second reading of this Bill.

Sir, I beg to oppose.

THE ACTING ATTORNEY GENERAL: Mr. Speaker, I was glad to hear the hon. Member for African Interests, Mr.

Jeremiah, congratulate the Government on introducing this Bill upon the ground that it is, so far as the Ordinance is concerned, legalizing a position which already exists. In the Estimates for the year, provision was made for the post of Senior Inspector and, in fact, there are officers who fill and occupy that post and this Bill merely provides in the Police Ordinance for that rank.

Now, I want to make it perfectly clear that it is not considered by anybody who has to do with the Police Force of this Colony that no African is fit for promotion, that no African ever will be fit for promotion to the post of Chief Inspector. Africans have been promoted to these posts of Senior Inspector and, as my hon. friend the Solicitor General said in moving the second reading of the Bill, the Commissioner has indicated that very early consideration will be given to promoting certain Africans to the post of Chief Inspector, and that he is going to ask in the Estimates for next year that provision be made for a certain number of those posts.

But, up to the present, it has not been thought that any African—so far as I know, there may have been in the past African Chief Inspectors, but certainly in the immediate past according to my information, it has not been thought that any Africans in the Force have been fit for promotion to the post of Chief Inspector. That is exactly why, to give some encouragement and to give some benefit to the Africans, these Africans, to whom I have referred, have been made Senior Inspectors and that why this Bill is being introduced.

Surely, Sir, the Commissioner must be the best judge of these matters—the Commissioner and his advisers and his other officers. He is in command of this Force, he is in daily touch with the members of it and I do not think it can really be suggested that he is taking this course because of any racial matter of anything of that sort. (Hear, hear.) The suggestion that all ranks and all nationalities and races in the Force should take the same examination will be considered. I will discuss this with the Commissioner. It may be that he may come to the conclusion, and so may I, that it may not benefit all Africans to have to take the same examinations as

(The Acting Attorney General). Europeans, but I will certainly take it up with the Commissioner.

If, and I fully accept what my hon. friend the Member for African Interests, Mr. Mathu, has said, no reply has been received to a letter addressed to the Member for Law and Order, I can only apologize. Knowing my hon. friend, the hon. Member for Law and Order, who has just left this Colony, I am perfectly certain that no discourtesy was intended and I have only been acting in this office for a comparatively short time, but I do apologize if that was the case. I hold, here, Sir, a copy of a letter dated the 27th December, 1950, and addressed to my hon. friend Mr. Jeremiah by Mr. O'Connor in which this matter was discussed, and with your permission, Sir, and that of the Council, I will quote from that letter:—

**"Senior Inspector Rank.**

The introduction of the rank of Senior Inspector, far from being a great injustice, benefits African Inspectors, since, as none is yet fitted for advancement to Chief Inspector rank, they would otherwise have remained as Inspectors, whereas now they have opportunity of advancement."

Well that, I think, Mr. Speaker, is certainly and obviously true, that if nobody is thought fit at the moment to become a Chief Inspector, the creation of this rank must be of benefit to them.

"It is hoped that certain Inspectors will be suitable for advancement to Chief Inspector in the next year or two. If so, they will be advanced to that rank from any of the ranks of the Inspectorate and there will be no barrier to the direct entry to Chief Inspectorate rank from either Assistant Inspector or Inspector rank."

So that ensures there is no blind alley. Reference has been made to a blind alley.

I do wish to stress that there is no question of a blind alley being created. The post of Chief Inspector is not being abolished by this Bill. It is remaining in the Ordinance. It will be there so that Africans can be promoted to it when the opportunity arises.

My hon. friend, Mr. Mathu, says that the African Members have thought fit to

make this protest and that they may be outvoted, but their protest will have been made. I can give him that assurance that I will go into this matter personally with the Commissioner of Police so that the protest, even if they are outvoted, will, I hope, not be in vain. I will reconsider the whole matter with the Commissioner of Police, but I do plead with the African Members not to vote against this Bill because I do feel, as the hon. Member for the Coast pointed out, it really is for the benefit of the Africans in the Force.

The hon. Mr. Mathu paid a tribute to the African members of the Force, I join in that tribute most wholeheartedly. I have marched over many miles of Africa with African *askaris*. I have served with them in the field and nobody has a higher regard than I have for the African *askari*. I join with him in paying tribute and I entirely agree that law and order could not be maintained in this country without the African.

With regard to the question asked by the hon. Member for Eastern Area, Mr. Patel, as to whether any African has ever been promoted to the post of Chief Inspector, I cannot answer that at the moment. I will look into it and let him have the answer by letter. As I have said, so far as I know, there is no African Chief Inspector in the Force at the moment. I find it very hard to believe that, if the African members of the Force have the purpose of this Bill explained to them and if they come to understand it, there will be any dissension among the members of the Force.

With regard to the matter raised by my hon. friend, Mr. Ohanga, as to whether recruitment into the Force is now confined only to literate Africans, I have been able to obtain an answer to that which has just been put into my hands, and I am instructed that that is incorrect. The majority of the new recruits into the Force at present are illiterate.

Mr. Speaker, I beg to support.

MR. NATHOO (Central Area): Mr. Speaker, I have heard with great interest the lucid explanation given by my friend the hon. Member for Law and Order, but, Sir, it seems to me that we have not been supplied with all the information which would enable us to make up our

[Mr. Nathoo] minds as to how we are going to vote, particularly as regards the information asked for by my hon. friend the Member for Eastern Area. Whilst, Sir, knowing the Commissioner of Police as I do, I am quite convinced that, as a person, he is the best judge of what is best in his Force and, from the point of view of discipline, that should be the case. I do think, Sir, that when introducing measures such as these, the African Members ought to be taken into confidence and the Government should consult them before producing this Bill. It is stated in the Objects and Reasons, Sir, that by creating this post, there will be an expenditure of about £316 per post. Are we, Sir, going to buy the disunion which has been promised to us by the Members representing African interests by paying this money? I feel, Sir, that, if we are not convinced that the hon. Members for African Interests are going to co-operate with the Government in supporting the Bill and until such time as the Bill has been explained to the members of the Force who are concerned and are convinced that it is in their best interests, Sir, I regret I must oppose the Bill.

MR. USHER (Mombasa): Mr. Speaker, Sir, I should be very much obliged if the hon. Member would make clear in his reply what will be the position of those who have been promoted to these posts if this Bill is not passed?

LADY SHAW: Mr. Speaker, I have listened with great interest to this debate. The thing which strikes me so very fugally in most of the speeches made from this side of the Council is that mention is made of race, political reactions, salaries, promotion posts, and nothing has been said at all on this side of the Council, except in one instance, about efficiency. It does seem to me that to promote a man just for the sake of promoting him just because he happens to be one particular colour, that he should regard it as necessary, or that his own people should regard it as necessary, that he should be given a higher post, given extra responsibility, given a higher salary, whether he is fit for it or not, this strikes me as a most incredible suggestion when dealing with any force such as the Police Force, the Army, or anything of that kind. It would be a most frightful

disaster in this country, to my mind, if people were promoted to higher posts purely because someone felt that there should be such promotion posts for people in that grade. It would completely undermine, in my view, the whole position of the public service and I could not possibly support any such suggestion under any circumstances whatsoever. It seems to me that it would be a reduction of the position of the African Chief Inspector when he is eventually promoted if it were felt that the post was filled either in his own Force or in the country at large, that could it possibly be had been promoted merely to placate the political distribe which has taken place in this country during the past few months. In so many cases when Bills are introduced into this Council which, to a simple-minded person like myself, appear to be an enormous advantage to the people concerned, I hear them opposed from the other end of the Council for political reasons. It seems to me the most incredible position for responsible people to take up.

I beg to support.

MR. CHAMALLIS (African Interests): Mr. Speaker, I also rise to register my opposition to the second reading of this Bill. The hon. Member for the Coast referred to the African as being the younger member in the Force but, if any Africans at all were promoted to the rank of Chief Inspector, still they would remain more or less subordinate to the European or Asian Chief Inspectors because this rank is provided separately for the three races. The question of an African being a younger member is simply there even if he were promoted to Chief Inspector.

MR. HAVELOCK: Mr. Speaker, I merely find myself in a quandary over this. I would like the hon. Member or some Member of the Government to answer this question. Looking at the clause or the section of the present Ordinance as quoted on the opposite page to this Bill, I see that there are 3 ranks—3 inspectorial ranks for Europeans, 3 inspectorial ranks for Asians and 2 for Africans—and this Bill intends to make a third, but when the hon. Member for Law and Order was quoting from a letter from Mr. O'Connor just now, he mentioned the rank of Assistant Inspector African—Assistant Inspector

[Mr. Havelock] African—which is not, as I see it, mentioned in this Schedule. The reason why I am in a quandary is that I thought it would not matter very much what the Inspectors were called—Chief Inspector, Senior Inspector, or Assistant Inspector, but that this Bill was merely intended to create 3 inspectorial ranks amongst the Africans just as there are amongst the other races. Now I am in a bit of a fog and I would like it explained just how many inspectorial ranks there are at present as far as the Africans are concerned, and if there is an Assistant Inspector, then it is necessary to have a fourth inspectorial African rank, and could the reasons for necessity be further underlined and emphasized by the hon. Member in his reply?

THE ACTING CHIEF SECRETARY: Mr. Speaker, I still think that there must be some misunderstanding in the minds of hon. Members representing African interests over the purpose of this Bill.

Firstly, the Bill makes legal provision for a post for which financial provision has already been made in the Colony's Estimates. I would have thought from listening to the speeches of the hon. Members that the Bill purported to substitute this new Senior Inspector post for, and to abolish, the Chief Inspector post; but, of course, it does nothing of the kind. There is absolutely nothing in this Bill which need necessitate the promotion of any African member of the Force who is sufficiently well qualified for promotion to being a Chief Inspector. What it does is to provide a promotion post which can be more quickly reached by African members of the Force, who qualify for such limited promotion, than can the more senior post of Chief Inspector; but if the Commissioner of Police should be satisfied to-day, to-morrow or the day after, that any member of the Force is ready and sufficiently well qualified for promotion to be a Chief Inspector, there is nothing whatever in this Bill to debar him promoting that man, to-day, to-morrow or the day after, whenever the time comes.

But I do think that when an hon. Member of this Council suggests, as I understood my hon. friend, Mr. Jeremiah, to suggest, that his judgment in the matter of the qualifications of members of the African Force for promotion is better

than that of the Commissioner of Police, well I think that the hon. Member is taking upon himself very grave responsibility. (Hear, hear.)

So far as the Government is concerned, it must, of course, on matters of this kind accept the advice which it receives from the Commissioner of Police. I have no hesitation in saying that no one will be better pleased than the Commissioner when the time comes for him, and we have already heard that the time may be coming shortly, to be able to recommend the promotion of a member of his African Police to be a Chief Inspector.

A question was asked by the hon. Member for Eastern Area (Mr. Pale) as to whether any African members of the Force had as yet been promoted to be a Chief Inspector. The answer, I am informed, is in the negative.

Lastly, Sir, in case anybody should be under any misunderstanding as a result of what has been said in this debate, I would like to say in Council what I myself when acting once before as Chief Secretary have said in public, that we in this country have very good reason to be tremendously proud of our Police Force. That Police Force contains members of different races. We are equally proud of all of them.

I would in conclusion, Sir, ask hon. Members representing African interests to reconsider their attitude on this matter: What exactly would happen if this Bill were to be thrown out at this stage I am not entirely certain. The fact is that members of the Force have already been promoted, on the strength of the provision in the Estimates, to the new post for which provision is made in this Bill and surely provision is made in the wish of hon. Members representing African interests that such men who have qualified for such promotion, should, as a result of their opposition to this Bill or as a possible result of the Bill being thrown out, that such officers should be demoted.

Sir, I beg to support.

LIEUT.-COLONEL LE BRITTON (TRANS NZONI): Mr. Speaker, it seems to me that this Bill is entirely in the interests of the African members of the Police Force. But notwithstanding that, I would have

[Lieut.-Colonel le Breton] supported the hon. Asian Members in their plea that this Bill should be withdrawn, seeing that it is opposed by the African Members, were it not for the fact that already some members of the Force have been promoted to this rank of Senior Inspector, and I feel that seeing that this is so, it is impossible to withdraw this Bill, as a great injustice would accrue to these Senior Inspectors. I would ask the African Members to reconsider the matter in the light of the officers who have already been promoted.

Seeing this is so, I beg to support.

**THE ACTING SOLICITOR GENERAL:** Mr. Speaker, I will deal first with the point made by the hon. Member for Kiambu. It has been brought to my notice that in the Estimates of the Colony there is provision for the rank of Assistant Inspector (African). That rank, however, is not provided for in the Ordinance which we are now amending, and no request was ever made that it should be amended in this respect, but I think that we must now give consideration to moving an amendment at the Committee stage which will correct the anomaly of having a rank in fact but none in law.

Next I would refer to a point made by the hon. Member for African Interests. He stated that it was in the interests of the Colony that we should have a contented Police Force, and I understood him to say that the promotion of African officers to the rank of Chief Inspector would promote that contentment. With that I entirely agree. I could not be in a disagreement, but if in fact those police officers are none of them fitted for appointment, can it be said to be in the interests of the Colony that they should be appointed to it?

**MR. MATIU:** Discharge them!

**THE ACTING SOLICITOR GENERAL:** My hon. friend says "discharge them," but surely that would not be in the interests of the African police officers either.

**MR. SPEAKER:** I really cannot see how the creation of an additional and better paid rank can be said to be in the interest of Africans. There is no suggestion that this new rank is going to be a conduit pipe through which all Africans must pass to get to the rank of Chief Inspector. They will be eligible to appointment straight from any of the

other inspectorate ranks to the rank of Chief Inspector.

On the point made by the hon. Member for Mombasa, I find it difficult to give any decisive answer. At the moment there is provision for the salary of Senior Inspector (African), on the Estimates. Presumably therefore, until that provision is exhausted, then those persons could continue to hold those posts, but it would hardly be proper to make fresh provision in the Estimates for a post which is not provided for in the law, and they would therefore it seems to me, have to relinquish this post of African Senior Inspector, and if the individual officer concerned was not at that time ripe for promotion he would have to be demoted. Again that would hardly be in the interests of the officers concerned.

**THE SPEAKER:** It is now eleven o'clock, we will suspend business for ten minutes.

*Council adjourned at 11 a.m. and resumed at 11.20 a.m.*

**THE ACTING SOLICITOR GENERAL:** Mr. Speaker, in conclusion, may I say that Government will give consideration to all the matters which have been raised in this debate, but it does not consider that those matters affect the Bill before the Council—(Hear, hear)—and far from withdrawing the Bill, I ask that the Bill be passed a second time.

I will, however, ask that the Committee stage of the Bill be deferred in order that careful consideration may be given to the one point made by the hon. Member for Kiambu as to the existence of the rank of Assistant Inspector (African) in the Estimates and no provision for it in the Ordinance. Government would wish to consider carefully whether any amendment should be moved in Committee on this Bill to correct that anomaly, but otherwise the Government does not consider that the matters raised should affect the passage of this second reading.

The question was put and carried.

**THE ACTING ATTORNEY GENERAL** moved: That Council do resolve itself into Committee of the whole Council, to consider the following Bills clause by clause:

- The Juveniles (Amendment) Bill.*
- The Medical Practitioners and Dentists (Amendment) Bill.*
- The Marriage (Amendment) Bill.*

**THE HON. ACTING SOLICITOR GENERAL** seconded.

The question was put and carried.

### COUNCIL IN COMMITTEE

**THE CHAIRMAN:** Hon. Members will have had notice that new clauses are to be moved in Committee to this Bill. We have, in the past, permitted, I think, that the new clauses should be moved, so to speak, by way of amendment. That is not the correct procedure and I propose to read two paragraphs from "May" which make the procedure clear.

"New clauses are normally considered after the clauses of the Bill have been disposed of" (that is in Committee), "and the insertion of any that are passed in their proper place in the Bill is not fixed by the Committee, but is left to be settled between the Member in charge of the Bill and the Public Bill Office, which is responsible for reprinting the Bill as amended. New clauses are considered in the order in which they stand on the notice paper, that is, the order in which they have been handed in, except that clauses offered by the Member in charge of the Bill are placed first and may be arranged in any order he wishes.

The procedure on a new clause gives an opportunity for a debate on its principle and, then for the proposal of amendments before its incorporation in the Bill. The Member, in whose name it stands, on being called by the Chairman, 'brings up' the clause in a speech, stating the reasons for its adoption. Under the provision of Standing Rules and Orders a new clause is read the first time without question put and the reading of the marginal note by the clerk is taken as complying with the standing order. The question that the clause be read a second time is then proposed, and, if this is agreed to, amendments may be moved in the ordinary manner. Finally, the question is put that the clause or the clause as amended, be added to the Bill."

So we go through the Bill first with the clauses as they are in the printed copy, then afterwards new clauses are added.

### *The Juveniles (Amendment) Bill*

On the motion of the Acting Solicitor General, a new clause to amend section 2 of the principal Ordinance was read a first time.

### *The Juveniles (Amendment) Bill*

**THE ACTING SOLICITOR GENERAL:** Mr. Chairman, I beg to move: That clause 2 be read a second time.

Not knowing of this change in procedure I have already spoken on the purpose of this clause in opening the second reading this morning and to do more would probably be wearisome.

### *Amendment of section 2 of the principal Ordinance*

Section 2 of the principal Ordinance is amended by substituting for the definition of "approved school" the following:—

"approved school" means a school established under section 26 of this Ordinance, or a school declared by the Governor under that section to be an approved school, or a reformatory in the Union of South Africa if there is in force an agreement entered into by the Governor pursuant to the provisions of section 40 of this Ordinance.

The question was put and carried.

The question that the new clause be added to the Bill was put and carried.

On the motion of the Acting Solicitor General, a new clause to be clause 40 of the principal Ordinance was read a first time.

**THE ACTING SOLICITOR GENERAL** moved: That the new clause, which would add a new section 40 to the principal Ordinance, be read a second time as follows:—

### *Insertion of new section 40 in the principal Ordinance*

4. The principal Ordinance is amended by adding thereto after section 39 the following new section:—

### *Reception of persons from the Colony in reformatories in the Union of South Africa*

40. (1) The Governor may enter into an agreement with Governor General of the Union of South Africa for the reception into and retention in any approved school in the aforesaid Union of any person under the age of twenty-one years whose detention in an approved school has

[The Acting Solicitor General] been ordered by a competent court.

(2) The Governor shall cause to be published in the Gazette a notice setting out the fact that any such agreement as is mentioned in subsection (1) of this section has been entered into and a summary of the terms of such agreement.

The question was put and carried.

The question that the new clause be added to the Bill was put and carried.

#### *The Marriage (Amendment) Bill*

On the motion of the Acting Solicitor General, a new clause to amend section 7 of the principal Ordinance was read a first time.

THE ACTING SOLICITOR GENERAL moved: That the new clause to amend section 7 of the principal Ordinance be read a second time, as follows:—

#### *Amendment of section 7 of the principal Ordinance*

2. Section 7 of the principal Ordinance is amended by substituting for the words "the marriage is intended to take place" the words "the party giving such notice resides".

The question was put and carried.

The question that the new clause be added to the Bill was put and carried.

On the motion of the Acting Solicitor General, a new clause to amend section 11 of the principal Ordinance was read a first time.

THE ACTING SOLICITOR GENERAL moved: That the new clause to amend section 11 of the principal Ordinance be read a second time, as follows:—

#### *Amendment of section 11 of the principal Ordinance*

3. There shall be substituted for section 11 of the principal Ordinance the following section:—

#### *Issue of registrar's certificate*

11. (1) The registrar, at any time after the expiration of twenty-one days and before the expiration of three months from the date of the notice referred to in section 7 of this Ordinance, shall, upon being satisfied by affidavit that—

(a) one of the parties has been resident within his district for at least 15 days preceding the issue of the certificate; and

(b) each of the parties to the intended marriage (not being a widower or a widow) is twenty-one years old, or that if either party is under that age, the consent hereinafter made requisite has been obtained in writing and is annexed to such affidavit; and

(c) there is no impediment of kindred or affinity or any other lawful hindrance to the marriage; and

(d) neither of the parties to the intended marriage is married by native law or custom or in accordance with Mohammedan law to any person other than the person with whom such marriage is proposed to be contracted,

issue his certificate in the Form C in the First Schedule hereto.

(2) The affidavit required by subsection (1) of this section may be sworn either before the registrar or before a magistrate.

(3) The registrar or magistrate taking such affidavit shall explain to the person making the same what are the prohibited degrees of kindred and affinity and the penalties which may be incurred under the provisions of this Ordinance.

The question was put and carried.

The question that the new clause be added to the Bill was put and carried.

MR. BLUNDELL: Mr. Chairman, I would like to move a small amendment in the Schedule:—

"I hereby give you notice that a marriage is intended to be had."

I should like to move an amendment that the word "had" should be deleted and the words "entered into" should be substituted.

I do agree that many people have "had" marriage in a big way, but I feel there is something terribly final, almost Saxon, about the word "had" and I would ask the hon. Member to agree to my slight alteration.

[Mr. Blundell.]

The question of the amendment was put and carried.

The question that the Schedule as amended be the Schedule to the Bill was put and carried.

THE ACTING ATTORNEY GENERAL moved: That the Juveniles (Amendment) Bill and the Marriage (Amendment) Bill be reported back to Council with amendment and the Medical Practitioners and Dentists (Amendment) Bill be reported back to Council without amendment.

The question was put and carried.

Council was resumed and the Member reported accordingly.

THE SPEAKER: It is open now to Council, of course, to further amend, at the report stage, the two Bills that have been amended in Committee, but if there is no question of further amendments, I will ask for the third reading of all these Bills to be moved.

#### BILLS

##### THIRD READINGS

THE ACTING ATTORNEY GENERAL moved: That the Juveniles (Amendment) Bill be read a third time and passed.

THE ACTING SOLICITOR GENERAL seconded.

The question was put and carried and the Bill was read a third time, and passed.

THE ACTING ATTORNEY GENERAL moved: That the Marriage (Amendment) Bill be read a third time and passed.

THE ACTING SOLICITOR GENERAL seconded.

The question was put and carried and the Bill was read a third time and passed.

THE ACTING ATTORNEY GENERAL moved: That the Medical Practitioners and Dentists (Amendment) Bill be read a third time and passed.

THE ACTING SOLICITOR GENERAL seconded.

The question was put and carried and the Bill was read a third time and passed.

#### MOTIONS

REPLACEMENTS ON COMMITTEES DURING ABSENCE OF MEMBERS

THE ACTING CHIEF SECRETARY: Mr. Speaker, I beg to move the following resolution:—

Be it resolved that the hon. Mr. Blundell be appointed a Member of the Sessional Committee in the place of Major the hon. A. G. Keyser, D.S.O., now absent from the Colony and Protectorate, during such absence.

The terms, Sir, of this resolution are self-explanatory and need no further explanation from me. But I would, on behalf of my colleagues like to say how very much we all regret the circumstances which have for the time being deprived us of the advice and counsel of the hon. Major Keyser—(Hear, hear and applause)—and to express the hope of all of us that he will soon be restored to health and able to resume his place in Council. (Hear, hear.)

THE ACTING SOLICITOR GENERAL: Sir, I beg to second.

The resolution was put and carried.

THE ACTING CHIEF SECRETARY: Mr. Speaker, I beg to move the following resolution:—

Be it resolved that the hon. J. G. Ft. Hopkins, O.B.E., be appointed a Member of the Standing Finance Committee in place of the hon. Mr. Blundell.

This motion, Sir, may be said to follow as a corollary to the first resolution that we have just now passed, and needs no explanation from me.

THE ACTING ATTORNEY GENERAL seconded.

The resolution was put and carried.

THE ACTING CHIEF SECRETARY: Mr. Speaker, I beg to move as follows:—

Be it resolved that Lt.-Col. the hon. S. G. Gherrie, O.B.E., be appointed a Member of the Standing Finance Committee during the absence from the Colony and Protectorate of the hon. W. B. Havelock.

Happily, Sir, the circumstances of Mr. Havelock's forthcoming absence are different from those to which I have just referred, and all that I need say on this particular resolution is to express the hope that he and Mrs. Havelock will have a very happy holiday. (Hear, hear.)

THE ACTING SOLICITOR GENERAL  
seconded.

The resolution was put and carried.

THE ACTING CHIEF SECRETARY: Mr. Speaker, I beg to move as follows:

Be it resolved that Lt.-Col. the hon. S. G. Gherie, O.B.E., be appointed a Member of the Sessional Committee during the absence from the Colony and Protectorate of the hon. W. H. Havelock.

THE ACTING SOLICITOR GENERAL  
seconded.

The resolution was put and carried.

THE ACTING CHIEF SECRETARY: Mr. Speaker, I beg to move as follows:

Be it resolved that Lt.-Col. the hon. S. G. Gherie, O.B.E., be appointed a Member of the Committee on Standing Rules and Orders during the absence from the Colony and Protectorate of the hon. W. H. Havelock.

THE ACTING SOLICITOR GENERAL  
seconded.

The question was put and carried.

THE ACTING CHIEF SECRETARY: Mr. Speaker, I beg to move as follows:

Be it resolved that the hon. C. W. Silber be appointed a Member of the Committee on Standing Rules and Orders during the absence from the Colony and Protectorate of the hon. S. V. Cooke.

THE ACTING SOLICITOR GENERAL  
seconded.

The resolution was put and carried.

AGRICULTURAL ADVANCES WAIVED

THE ACTING FINANCIAL SECRETARY: Mr. Speaker, I beg to move:

Be it resolved that this Council approves recovery being waived of the sum of £343 12s. due as interest on a loan advanced under the provisions of the Agricultural Advances Ordinance, 1930.

Hon. Members will recollect, Sir, that the Agricultural Advances Ordinance, 1930, was enacted as an emergency measure to assist the farming community which suffered severely from economic depression in order to obtain credit facilities, even though they could not always offer proper security for the loans advanced. I am glad to be able to say

that the capital sum of the loan which is the subject of this motion has been paid in full, although it remained on the books of the Land Bank as a bad debt for 11 years. What is now outstanding, Sir, is the interest, and Government is satisfied that the borrowers will suffer financial hardship if the interest were not written off. The whole matter, Sir, has been very fully investigated by the Standing Finance Committee, on whose recommendation this motion is now before the Council.

I beg to move.

THE ACTING SOLICITOR GENERAL  
seconded.

The resolution was put and carried.

AGRICULTURAL LAND REHABILITATION  
FUND

THE ACTING FINANCIAL SECRETARY: I beg to move, Sir:

WHEREAS it is in the best interests of the country that certain farm lands should be turned over to a system of balanced farming;

And whereas this Council has approved the provision of £200,000 as a loan to be placed to the credit of a Fund to be known as "The Agricultural Land Rehabilitation Fund";

Now therefore be it resolved that this Fund shall be administered in accordance with the provisions of the memorandum dated 2nd May, 1951, and entitled "Provisions for the Administration of the Agricultural Land Rehabilitation Fund" which has been laid on the table of this Council.

The proposal to establish what has now become known as the Agricultural Land Rehabilitation Fund was first made to this Council in the Member for Finance's speech in introducing the Budget for 1951. With your permission, Sir, I should like to quote what Mr. Matthews said on that occasion.

"In my reference to the paramount and essential need for the optimum exploitation of our assets and, in particular of the land, I do not wish implicitly to underrate the efforts already being made to preserve the full fruitfulness of the soil. The large sum of £3,000,000 is already in process of being expended through the Development and Reconstruction

[The Acting Financial Secretary]

Authority on land rehabilitation and settlement in African areas. A further 1,650,000 is being expended on soil conservation in the same areas. I had in mind, however, the problem presented by certain of the cereal growing areas of this country. As it will know, the Government in fixing the prices of farm-grown maize and wheat takes into consideration the cost of production. Such costs are averaged over the whole acreage of these farm-grown cereals. Consequently they include the cost of growing crops on ecologically unsuitable land or areas of low soil fertility—sometimes loosely called the sub-marginal lands. This procedure not only operates to inflate the price but, worse still, it connives at the further impoverishment of land already unfit for growing these cereals.

It is true that until comparatively recently, the country needed all the maize and wheat that could be produced, including that produced on these so-called sub-marginal lands. With the much increased overall production, however, the time has now arrived when a longer range policy is possible and the danger of a potential shortage no longer exists as a reason for permitting the continuance of this wastage. Certainly in allowing the utter ruin of these otherwise useful areas to continue without making every effort to reclaim them, we shall incur the just censure of generations unborn. As it well known, reclamation of this kind is best effected by a change over from cereal monoculture to a system of mixed farming. But such a change involves capital and a considerable proportion of the farmers concerned are without capital and without the facilities to raise it. If the change-over is to be effected, these farmers will need assistance and I suggest that the only method of giving that assistance is to make available to them finance at reasonable rates of interest. The Government, therefore, proposes to institute a Rehabilitation Fund from which, in appropriate cases, advances can be made to such farmers who, for reasons beyond their control, cannot raise the necessary capital. The problem is a considerable one and it is estimated that over the whole scheme a total of

about £1,000,000 will in due course be needed. Although there can be no question of providing so large a sum this year I suggest that the problem is so urgent that we should not defer making a start if we can find at least part of the money. The Government, therefore, proposes to earmark for the Fund a contribution of £200,000 from revenue this year. I do not wish to disguise the fact that since the money may have to be lent without proper security in the ordinary sense, there will be a certain amount of financial risk involved. I suggest, however, that if we can succeed in reclaiming these large and potentially valuable areas, the risk will have been taken in a very good cause. The details of this scheme are at present under the consideration of myself and of my hon. friend the Member for Agriculture and in due course concrete proposals will be placed before this Council for approval.

That, Sir, is what Mr. Matthews said in introducing the Budget for 1951. Now, Sir, in approving the draft estimates for 1951, this Council approved the appropriation of £200,000 for the purpose described by the Member for Finance. The purpose of the motion to-day, is to obtain the Council's approval of the proposals for administering the scheme in accordance with the undertaking given by the Member. These proposals have now been placed before the Council in the form of a memorandum entitled "Provisions for the Administration of the Agricultural Land Rehabilitation Fund". I do not propose to comment on the provisions which I would submit are a model of clarity.

I beg to move that they be approved.

THE ACTING SOLICITOR GENERAL  
seconded.

The question was put and carried.

AGE OF RETIREMENT FROM GOVERNMENT  
SERVICE

THE ACTING DEPUTY CHIEF SECRETARY: Mr. Speaker, I beg to move:

Be it resolved that the provisions of sub-section (1) of section 21 of the Pensions Ordinance, 1950, shall continue to have effect until the 31st day of December, 1954.

[The Acting Deputy Chief Secretary.]

Hon. Members will remember that in the Report of the East African Salaries Commission it was recommended that the age of retirement from the Service should be reduced to 45 for an experimental period of three years. With your permission, Sir, I will read the portion of paragraph 260 of the East African Salaries Commission Report which referred to this matter. This is what they said: "... there is no provision for according retirement benefits to pensionable civil servants before the normal retiring age, except when their retirement is occasioned by ill health or abolition of office. In the result, it not infrequently happens that an officer whose keenness in his work has lost its edge stays on unwillingly in the Service only because he cannot afford to forego the pension which will ultimately come to him, and, on the other hand, governments are sometimes saddled with officers of mediocre quality with whose services they cannot dispense without resorting to a procedure designed to apply only to cases of proved incompetence. In these circumstances we recommend that any officer, whether European, Asian or African, should be permitted to retire at the age of 45, or, of course, at any time after, with, in the case of a pensionable officer, a proportionate pension, and that governments should be empowered to require him to retire at that age or thereafter without assigning cause. The effect of such a change is necessarily conjectural. If it had the effect of purging the Services of disgruntled or mediocre officers it would be all to the good, but if it resulted in the premature retirement of officers of high quality it would clearly be detrimental to the interest of the Services. In the light of these considerations we think it prudent to safeguard our recommendation by a further recommendation that the new arrangements should apply, in the first instance, for an experimental period of three years. The experience gained during that period would enable governments to advise the Secretary of State whether its continuance was desirable or not."

Well, Sir, the three-year experimental period comes to an end on 31st December this year, and the time is now come to consider whether the rules should be extended.

There is no doubt that up to the present the arrangement has operated rather to the disadvantage of the Government. Up to the end of January, 1951, 110 officers (45 European, 22 Asian and 45 African) retired voluntarily under the rule, whereas the Government compulsorily retired only 14 officers (7 European and 7 Asian). But, Sir, amongst the voluntary retirements there were, of course, officers whom the Government was not particularly sorry to lose. That is to say, it would not be right to assume all those were people of first-rate calibre and that the Government was very anxious to keep them. So that the comparison between the two sets of figures I have given is not as bad as it might at first appear: Let us look for the reasons for the preponderance on the side of voluntary retirement. As a result of the war and the interruption of university education there is still a general shortage of most types of professionally and technically qualified men. This makes it difficult for the Government to recruit new staff with those qualifications. At the same time it has made it easy for men and women in the Service to secure attractive employment elsewhere. The result of this certainly has been that the Government has lost quite a number of officers, whom it would have liked to retain, while on the other hand, it has not always been possible to retire an officer who was not perhaps 100 per cent efficient, because if that had been done it would not have been possible to get anybody to replace him who was any better. Now, Sir, is this state of affairs likely to continue? Taking the long view of the matter we, on this side of the Council, have come to the conclusion that it is in the public advantage to retain the arrangement for another period of three years. The present shortage of candidates for the public service is not likely, we think, to be permanent. The universities will again begin to turn out candidates with the qualifications that are required and, as reasonable, we think, to suppose that within the next few years recruitment will become less difficult than it is now. When that comes about it will, we think, be to the public advantage to have an arrangement by which an officer, who has reached the age of 45 and has, as the Commission says, lost some of his drive and energy and enthusiasm, can be retired from the Service.

[The Acting Deputy Chief Secretary.]

There is another reason (and a very important one) why the Government considers that at the present time it would not be in the interest of the Service to terminate the rule at the end of this year. There are a number of officers—it is impossible for me to say how many—in the Service who will be eligible, or are now eligible, to retire under the rule before the end of this year but who, if the rule is not extended, will have to stay in the Service until the normal retiring age. Now, even although many of those officers may have no immediate wish to leave the Service, it is possible that if the rule ends at the end of this year they will feel that they must take the opportunity of going while the opportunity exists, rather than be tied to the Government service for several years more. At this time, when the recruitment of certain types of officer is still very difficult, we feel that we can all afford to lose people in this way.

The 45-year rule is provided for under section 21 of the Pensions Ordinance which was passed by this Council last year and it requires a resolution of this Council if the rule is to be continued. It will be seen, Sir, that the resolution to which I am now speaking specifies the 31st December, 1954, as the date at which the rule should end unless it is further extended, which would allow a further period of three years. That is the period which the Government thinks appropriate. We think within that time recruitments should have improved and it should be possible to see whether the rule is really in the public interest from the long range point of view.

Sir, I beg to move.

THE ACTING SOLICITOR GENERAL  
seconded.

MR. HAVELOCK: Mr. Speaker, this matter has been discussed at length by the Unofficial side of the Council and it is the great majority of opinion that it is in the best interest of the Colony to retain the 45-year rule. It is really, Sir, a matter of opinion. The hon. Member has said that Government believes in three years' time that it will be easier to recruit officers, especially the ones he referred to—presumably those with professional and technical qualifications. I think that is a matter certainly of diverse

opinion. We are, Sir, at the moment in the world facing a crisis amounting almost to war and we feel on this side of the Council, that it is very unlikely that the situation will improve to any great extent. In spite of the fact, Sir, that out of the large number of officers who have retired voluntarily—the number was given to us by the hon. Member in spite of the fact that out of that number some of them were I presume those to whom the Government said, "We wish you good-bye with little regret"—even so, there must have been a great number within that total whose departure from Government service has definitely been to the disadvantage of the Colony in general. It seems to me that if we extend this rule for another three years that we will continue to lose a number of energetic and keen officers who might temporarily find jobs elsewhere, but if they felt that they should stay on and had to stay on until they reached 55 as was the original rule, I am sure that they would not slow down in their jobs because of that. That type of man once he has made his mind up, and if we help him to make his mind up by not allowing this rule to continue will, I am sure, give us very good service in this Colony. I know that the argument about might be brought forward is that if a man is dissatisfied and wishes to leave the Service he will not be a very good officer; but I think too much is made of that argument, because a man has been persuaded to make his mind up that his career is with the Civil Service.

The other point is this, Sir, is it not possible to strengthen and to rather simplify the procedure by which one can dismiss an officer for inefficiency? I understand that the procedure in this Colony is not nearly so stringent or not nearly so strict as in other Colonies, and I see no reason why Kenya should not strengthen those provisions. It may need a certain amount more organization in the Director of Establishments' office recording the mistakes that are made by officers of the Service, and I have no doubt the Director of Establishments will say he will need more staff to cope with it, but even so we believe on the whole that it would be better to revert to the old practice, not allow this 45 rule to go on, and at the same time to try to strengthen the provisions for dismissing



[Mr. Havelock]

an officer for inefficiency. It is, Sir, as I said at the beginning, a matter of opinion. We do not think that these men will come forward in greater numbers during the next three years. We do think that a number of officers, more officers than we can afford, who would serve the country well, that more officers of that type will leave if we extend the rule, and it is for those main reasons that we oppose this motion.

Sir, I beg to oppose.

THE ACTING CHIEF SECRETARY: Mr. Speaker, I would like to say a few words on this motion to which has been given very considerable and lengthy thought by the Government before it was introduced. Not only has this Government given a great deal of thought to it, but so, too, have the other two East African Governments, and the three Governments in conference together with the High Commission; and I think it is significant that although we recognize that the advantages and disadvantages of the proposal are fairly evenly balanced, I think it is significant that all three Governments did in the end come down in favour of the policy recommended in this motion.

The hon. Member has mentioned that we believe that the recruitment position will get easier. That certainly is no more than an opinion, but it is an opinion which has been formed on the indications that we have from hon. Members. Therefore it is a little more than a pure guess.

I would also like to suggest to hon. Members that although this policy has operated on the whole to the disadvantage of Government over the period of the previous three years, I think it would be a mistake to assume that that particular experience would be repeated over a period of three years starting from the beginning of next year. The period that we have been through and to which this experiment has been related has been a period of fairly extensive development after the war, and this has, I think, undoubtedly meant that more opportunities were available to officers, particularly highly qualified technical officers, for alternative employment than would be the case in more normal times.

I would like also to make the point with regard to the suggestion that officers who have reached the age of 45 and who are anxious at that stage to leave the Service, that it is not only a possibility that some of those will not be as useful in their posts if they have at the back of their minds a wish to leave the Service; but there is also to my mind the important factor that those officers are remaining in posts which subordinate officers look to as promotion posts. This, to my mind, is a second and fairly strong reason why the officer who feels that by the time he has got to 45 he has really given of his best and would prefer to go—or, I should say why the law should be such as to enable him at that age to go and to earn his pension. Therefore, Sir, it is not without the most careful balancing of the advantages and disadvantages that we have come forward with this motion; and as there is the possibility—I will not say more than that—which has been referred to by my hon. friend, the Acting Deputy Chief Secretary—as there is the possibility that we may lose, if this motion is not accepted, some valuable officers who would not wish to tie themselves for another long period of years, by their putting in applications to retire during the next 9 months—as that is a possibility which we could ill afford to my mind to risk at this moment, I would ask hon. Members to think very seriously before they oppose the motion, though I would repeat that we recognize that the advantages and disadvantages are very evenly balanced in this matter. But I hope that we have not come down on the side we have without very thorough consideration of all the pros and cons.

Sir, I beg to support.

THE MEMBER FOR EDUCATION, HEALTH AND LOCAL GOVERNMENT: Mr. Speaker, as my friend the hon. Acting Chief Secretary has said, this is a matter on which there are arguments to be balanced on either side. But if I may, Sir, I will look at this for a moment from the point of view of the keen and energetic officer whom we are desirous of keeping in the Service of the Colony. He is not forced immediately to make a decision as to whether he shall retire voluntarily or not. He has some seven months in

[The Member for Education, Health and Local Government]

which to decide whether he shall retire or not if this resolution is passed. He has to decide in the face of an economic situation. To-day he is 45 or 46. He can go out into life outside Government with a prospect of some 10 or 15 years' active life. He is of value to a commercial, or professional firm for that 15 years, and he can in consequence look forward to an increasing amount of remuneration and benefit in his commercial life. On the other hand, he has served a fairly long period of time in Government. He has established a basic pensionable amount and his next ten years which he will be compelled to serve if he does not accept the opportunity to retire now will be of very little real value in addition to his pension. He has at the present moment to face an economic world where inflation is in process and his pension is indeed losing in real value as against the cash amount that he appears to receive. Now in view of these things, Sir, what will the keen and energetic man decide? It is fairly obvious that he will decide that his best course indeed is to take the amount of pension that he has earned up to his 45 years and enter the outside life whilst he is still young enough to establish for himself a position in the commercial and professional outside world. Now, Sir, during the next nine months the keen and energetic man will have time to look round and decide whether in the position that I have outlined they are not better off carving a niche for themselves in that outside life. It is my opinion that if they are forced to make that decision during the next few months, as forced they will be unless something of the nature of this extension is granted, that we shall lose them very rapidly at a time when the professional resources of new manpower are not of sufficient inflow to replace them. Whether that inflow will be sufficient in three years' time may be a matter of opinion, but that it is insufficient at the present moment to replace them if they are forced to make a decision of that kind is no matter of opinion—it is a matter of solid fact and reality.

Those are the conclusions which have brought the Government down on the side of the extension of the rule; there

may be differences of opinion as to what will happen in three years' time. I myself believe that in such professions as the medical and accountancy professions we shall see an inflow of manpower in three years' time which will ease the situation. I admit that that is a matter of opinion and one may be proved wrong, but that there is no inflow of manpower to-day in those professions sufficient to replace an efflux of manpower which might well take place of our keen and energetic men who are compelled to take a decision of this kind in the next nine months can, I submit, be no matter of opinion. It can be shown in the recruitment lists of commercial firms as well as of Government. I believe that when you balance these factors one against the other you will see that it is in the interest of the Government of the Colony that this rule should be given at least another three years' trial, because the effect of forcing a decision on men of ambition in the next nine months will, under the economic circumstances of the moment, inevitably weigh them to make the decision that they will take what they have established in Government in the way of a pension, and the real value of which they see dropping, and go out and carve for themselves in the field of commercial opportunity a greater and better level of remuneration and position.

MR. COOKE: Mr. Speaker, it is obvious that the Government feel that they are losing the battle as they put up my hon. friend with his well-known eloquence to melt the hearts of his late colleagues (Laughter).

THE MEMBER FOR EDUCATION, HEALTH AND LOCAL GOVERNMENT: If I may interrupt the hon. Member, Sir, I was not put up. I suggested that as this was a matter on which I felt very deeply that I would like to speak.

MR. COOKE: I accept the hon. Member's statement—at any rate, I am sure he has succeeded in melting the hearts of a certain number of people on this side of the Council.

Now, the hon. Member more than once talked about "keen and energetic officers" but I have another way of looking at it, and I am very doubtful if a keen officer would leave the Service—he would not be

[Mr. Cooke]

a keen man, certainly in the Government sense, if he seizes the first opportunity to get out. I am also doubtful about the statement that it would be difficult to fill the vacancies. That may have been true three years ago; but I do not think that people will find it so easy to-day, certainly, as they have found it in the last three years, to get jobs if they leave Government Service. I would also remind my hon. friend that there are keen and energetic officers who are coming on and who could fill the places of those keen and energetic officers who leave the service, and I myself am all for the promotion of the younger men, and I think that this would assist the promotion. I think my final argument in favour of abolishing the present rule is that, on the admission of my hon. friend himself, during the last three years it has worked to the disadvantage of the Government. Well, now, although we are not convinced that to abolish the rule would be a good thing, it would be a good thing to give it a trial in consequence to the fact that the rule as it existed has been affected.

Therefore, Sir, I oppose the motion (Applause.)

**THE ACTING DEPUTY CHIEF SECRETARY.** Mr. Speaker, there is very little more for me to say in view of what has already been said on this side by the Acting Chief Secretary and the Member for Health and Local Government.

The Member for Kiambu suggested that the recruitment—particularly of professional and technically qualified people—will not improve substantially during the next three years. That is, as we have already said, a matter of opinion, but from what I have seen of it my opinion is that it is reasonable to suppose that there will be improvements, particularly in grades like engineers, lawyers, surveyors and geologists. Indeed, in some of those grades improvements have already occurred. I think it is reasonable to suppose that the situation will progressively improve.

The Member for Kiambu also referred to the procedure in the case of retirement on the ground of inefficiency. We have tried during the last few years to streamline the procedure which is used in these cases. But of course rule 45 which

we are now talking about, is much wider than that. The people who are got rid of under that rule cannot be regarded as inefficient. It merely is that they have reached a stage where Government feels that they could with advantage be replaced by younger and more energetic men.

The question was put, Council divided, and the motion was carried by 19 votes to 14.

The question was put, and on a division, carried by 19 votes to 14. Ayes: Dr. Anderson, Messrs. Carpenter, Cavendish-Bentinck, Chemallan, Davis, Hume, Hunter, Jeremiah, Sir Charles Mortimer, Messrs. Ohanga, Padley, Pike, Sir Godfrey Rhodes, Messrs. Roddan, Thornley, Vasey, 19. Noes: Messrs. Blundell, Cooke, Havelock, Hopkins, Le Bretton, Macnochie-Welwood, Mathu, Patel, Preston, Salim, Saller, Shatry, Lady Shaw, Mr. Usher; 14. Did not vote: Messrs. Gheraie, Nathoo, Pritam; 3. Absent: Mr. Madan, Dr. Rana; 2.

#### KIPSIGIS LAND EXCHANGE

**THE ACTING DEPUTY CHIEF SECRETARY.** Mr. Speaker, I beg to move that—

#### WHEREAS—

(1) that part of the Lumbwa Native Land Unit occupied by the Kipsigis tribe two areas of land, namely Plots Nos. L.R. 5467 and 4098 comprising approximately 6,500 acres have, since the year 1920, been leased for a term of 99 years to the Kenya Tea Company;

(2) it is considered desirable in the interests of the African tribe concerned that the area above referred to should be permanently excised from the aforesaid Native Land Unit and that an area of Crown Land of approximately 7,650 acres known as Kimulot Block should be permanently added to the Lumbwa Native Land Unit;

BE IT THEREFORE RESOLVED that pursuant to the provisions of section 6 of the Native Lands Trust Ordinance (Cap. 100) this Council approves the exchange by the permanent excision of the area described in the First Recital hereof from the Lumbwa Native Land Unit and the permanent vesting in the

[The Acting Deputy Chief Secretary] the Native Lands Trust Board of the area of land referred to in the Second Recital hereof.

Sir, I think hon. Members are aware that the negotiations regarding this exchange have been going on for some years. This resolution is concerned with an exchange between the Lumbwa Native Land Unit on the one hand, and a piece of Crown Land which is in the Highlands on the other. The 6,500 acres in the Lumbwa Native Land Unit—I think it is on the edge of the Native Land Unit—is planted up with tea. It is a tea estate, and is under lease for 99 years, beginning in 1920, so that it is of little use at the present time to the Kipsigis. The 7,650 acres of Crown Land is to be given in exchange. I understand that this has already been agreed to by the Highlands Board, whose consent is required because the Crown land is in the Highlands.

Under section 6 of the Native Lands Trust Ordinance, the consent of the Governor, the Legislative Council, the Native Lands Trust Board, the Local Land Board and the Local Native Council are all required for an exchange of this kind. The proper procedure has already been gone through, and the authorities concerned have agreed, save that the Legislative Council has not yet been consulted; and that is now being done. The object of this motion is therefore to secure the approval of the Legislative Council under section 6 of the Ordinance.

Sir, I beg to move.

**THE ACTING SOLICITOR GENERAL.** seconded.

**MR. OHANGA:** Mr. Speaker, I should like to make a few remarks regarding this resolution this morning, and I should like to make it clear that my remarks are going to be opposed to the proposal to the motion moved. The story is that the Kipsigis Land proposals, which have been occupying the attention of the Government for some time, are being solved or put through in a manner which is detrimental to their interests. It is a long history, and I shall not weary the Council with the details of the whole matter, but I should like to point out that this whole matter has been before the African District Council of that particular district at least four times, and all

that within about 13 months, it has all happened since the year 1949, and each time that it has been put before the Council, some opposition has been raised. In fact, some opposition was so strong at first that nothing could be done. But it appeared later on that it was necessary to get the matter through and somehow it went through, at the beginning of the year 1950. But it only went through in Council, but the whole of the Kipsigis population is not interested in the exchange.

The history is that the Kipsigis people were living in the area concerned long before European occupation was introduced in that country, and in the year 1927, when the Europeans were beginning to occupy that area there was trouble between the farmers and the natives and the Carter Land Commission was also in preparation. The Kipsigis say that about 600 bulls of theirs were burnt down completely in this particular area, and a very large number of natives were evicted. They therefore claim that although the present Crown Lands around Kimulot, which is in the European area by virtue of the Carter Commission, the land is actually theirs, because they have lived in it, buried their old forefathers in it and they can see their old deserted homes still lying there. They have therefore continually pressed that the Government should give them a part of that land to live in free of any question of exchange, and their land belongs to Government have been very numerous in the past. The Government has been kept under pressure that the part of land known as Kimulot, which includes an area called Kibulngy and Kaptemndoi, should be released for Kipsigis occupation. They have kept this pressure on both before the Carter Commission and after the Carter Commission.

At the moment the official view is that the Carter Commission, having come out and settled the matter, no question of claims of that kind should arise, but the Kipsigis people want somewhere to live and therefore they are not quiet about it, they still claim to have some say.

Now, the attempt to settle the matter I think was first made by the Government in 1949, when the African District Council of that area discussed the matter which is before the Council, and I

[Mr. Ohanga]

should like just to quote a little paragraph in the findings of the Council at that time. This is the Kericho District Council in January, 1949:

"Government proposals for the granting of 5,000 acres of Kimulot land to the Kipsigis and then leasing to them of 10,000 acres (Webb-Marshall farms) in Solik were explained. Councillors were told that a fence, along the Solik farms' boundary from Gelele to the Kipsigis, would be constructed and that no further claims for a stock route from the Chepangui to Buret or for additional land could be entertained. Further, they (the Kipsigis) would relinquish all rights to the 6,500 acres of their land now on lease to the Kenya Tea Companies.

Council considered the two areas of land independently and after lengthy debate made the following decisions:

#### Kimulot.

1. The whole Kimulot area (1,200 acres) should be granted to the Kipsigis. They were not willing to accept less, & they were originally in assumption of all this land before removal by Government."

That was in 1927.

"2. The 6,500 acres (Chebown-Kericho) should continue to be held on lease to the Tea Company."

And that is the very area with which the speaker is concerned. There the Kipsigis' opinion at this time is that it should continue to be held on lease with. What they wanted from the Government was a free grant of land from the Crown land from which they were removed by force. It was never in their heads to entertain any question of exchange whatsoever and up to this time I (the) speaker says that they have never bargained for any exchange. They have never said that if they were given more land than what they were actually getting they would agree; the question of exchange is entirely new to them, and they are completely opposed to it. I am in daily touch with them, and I only know too well that their feelings run very high over this question, and I have not made it secret to the Government. I have approached

them and told them that this was really a burning question and should be gone about carefully.

The Native Lands Trust Board has been mentioned. My hon. friend Mr. Mathu and myself are members of that Board. We were unable to entertain it and we would not support its passage through that Board. But the arrangement of the Native Lands Trust Board, as it is, provides for two Africans, which is in the minority and because of our minority position on that Board it went through that Board not been so, I do not think it would have found its passage through to this Council, it is only by virtue of the constitution of the Board. We could not do it because we knew that it was not in the interests of the Kipsigis. They have made numerous representations to us over all this time that this question has been outstanding, and I should like to assure the Council that if the Council proceeded with this resolution and made the exchange they might be incurring an injustice which might cause a lot of difficulties in the future as regards relations.

Next to that, Sir, I should like also to add this, that the Kipsigis have been told of this exchange, and also a little more. They have also been promised the use of the 10,000 acres which lie in the Solik area known as the Webb-Marshall farms, and here the Kipsigis are absolutely adamant. They say that even with that which makes the whole area available to them some 17,000 acres, they would not look at it, even at that. Actually you will see that that is not included, here, and that will show that even if this Council is proposed to proceed with this Council more than this they are not prepared to entertain any question of exchange. They say "Kimulot is our land; we were forced to get out of it, Kericho and Chebown is our land, why should we be made to exchange our land with our land?" And that question be explained. The only explanation is the Carter Commission, and the 199 years' lease in which the Kipsigis themselves, I maintain had no part. They walk up to find that that was the situation and they had to put up with it. Whether in fairness it should be made something really binding on them I would not like to say. In any case, the Kipsigis are sure that they are not going to do anything of that kind.

[Mr. Ohanga]

Now, I should like to add, Mr. Speaker, my own feeling about this. After discussing this matter several times with fellow friends and the Government Officials with whom I come into touch, and who are concerned with it, I feel that there are at least three points which are related to this and which might have caused difficulties in the past. First, the Kipsigis as a people, they are loyal; their relations with the European farmers who grow tea in their areas are very good, we do not find any friction and if we are going to force upon them a decision of this kind, I feel that we might be causing difficulties between the people who so far have been living together peacefully. Secondly, this is not a question of Kipsigis land and Crown land, as the Mover has already stated, the Government had to consult the Highlands Board, which deals with those lands which are put aside for European farming, and that raises it to African lands as opposed to European lands, and if the African section, in whose benefit it is proposed to effect this exchange is opposed to it, I feel the general position would be that the Highlands Board is from its own decision lying to excise from the African Land Unit, I would not mind if the Kipsigis were in favour of the exchange and they asked for it. But where we are opposed I feel that point cannot be ignored.

Thirdly and lastly, Sir, the total land available for Africans and their farming agricultural development per head is limited. That is well known. Generally the Africans want more land, not for exchange with any they already have. They cannot spare any land for exchange. The African community wants more land and their demands for more land are being heard every day from all quarters. I do not think that it would be fair to excise any area for the benefit of anybody in view of the general difficulties which the Africans experience in finding agricultural land.

THE CHIEF NATIVE COMMISSIONER: Mr. Speaker, I think we must keep our eyes completely on the facts as they are, and not as we would wish them to be, or some of us would wish them to be, when we argue a matter of this kind. The Carter Land Commission did take place and we have to take our stand upon it.

Now, the facts here are that there are two farms which have been alienated and which are inside the Lumbova Native Land Unit and they comprise some 6,500 acres. Now, they were leased in 1920 for a term of 999 years; 31 of these years have now gone by, and 968 have still to run. Now, 968 years is a very long time. If we think just how long it is and try to get it well into our minds, just let us cast our minds back to 968 years ago and we find what? We find that King Canute has not yet stemmed the tide, we find that Ethelred the Unready was King of England, and find that St. Dunstan was Archbishop of Canterbury. I must say this, because I want to get this in perspective—968 years is a very, very long time, and 968 years in advance is an equally long time, and we know that the course of events runs a good deal faster now than it did in the time of St. Dunstan.

Now, the motion before the Council, Mr. Speaker, proposes that in exchange for this reservation interest which the Kipsigis have in those two areas, that is that the Native Lands Trust Board is proposed on the behalf of the Kipsigis, that this should be exchanged for an area of 7,650 acres, which is part of this Kimulot block. That is at present in the Highlands, and it is proposed that this area should be added to the African Land Unit. Now, the immediate result of that exchange, if this Council agrees to it, would be that the Kipsigis in return for giving up this very nebulous and long-term reversion any interest would at once get an area of land larger than the land they say they are giving up; land which is at present unalienated, Crown land in the Highlands, and is not part of their present Reserve and land which they would immediately be able to occupy under the rules of good management. Now, on the face of it, there could be no question that the Kipsigis by accepting it, they have nothing to lose, and they have a lot to gain. There is no question that the Kipsigis Local Native Council, as it was then called, now the Kipsigis African District Council, have agreed to this exchange. And what is more they did bargain, and I must disagree with my friend the hon. Mr. Ohanga when he said they did not. They did bargain; in the first instance they met and they decided that they could not accept an

[The Chief Native Commissioner] offer of acre for acre, which was the first offer made them in an exchange, and bargaining did take place, and the final offer was an addition of some 1,000 acres of the Kimulot. That exchange was, as I say, a matter of a year's negotiation and not only did the African District Council agree to the exchange, but they also agreed that with an area of 10,000 acres in the Chepalungu, which should be made available to them for controlled grazing, it would be considered a final settlement of the needs of the Kipsigis for the Kipsigis for land, with the exception of possible needs that they might have in the area of the forest glades. Now, I do not believe, and I cannot agree that the African District Council of Kericho was cajoled or bulldogged into this agreement. They are, as we know, the Kipsigis are an extremely a tribe who are full of character, their representatives in their own Council are not people who say "yes" when they mean "no".

#### ADJOURNMENT

THE SPEAKER: It is now 12:45. Council will adjourn until 9.30 a.m. tomorrow.

Council rose at 12:45 p.m. and adjourned until 9.30 a.m. on Thursday, the 10th May, 1951.

#### Thursday, 10th May, 1951

Council assembled in the Memorial Hall on Thursday the 10th May, 1951.

The Speaker took the Chair at 9.30 a.m.

The proceedings were opened with prayer.

#### MINUTES

The minutes of the meeting held on the 9th May were confirmed.

#### PAPERS LAID

The following papers were laid on the table:—

By THE ACTING DEPUTY CHIEF SECRETARY:

Government White Paper No. 1 of 1951.

By THE ACTING SOLICITOR-GENERAL:

The Report of the Select Committee of Legislative Council appointed to consider and report upon the Waki Commissioners Bill.

#### ORAL ANSWERS TO QUESTIONS

##### QUESTION NO. 11

1. COL. S. G. GHERSIE (Nairobi North):

1. Will Government please state the number of dwelling houses rented from private individuals in Kenya and occupied by—

(a) Kenya Government officials;

(b) Officials of the East African High Commission and services operating under that organization.

2. Will Government please state the annual amount expended in respect of the renting of premises referred to in (1) above.

3. Will Government please state in respect of (1) above—

(a) The number of houses the rental for which has been assessed by the Rent Control Board (Kenya East African High Commission).

(b) The number not so assessed.

THE ACTING FINANCIAL SECRETARY:

1. Dealing with the first part of the question: there are 63 dwelling houses rented by the Kenya Government from private individuals in Kenya; of these six are occupied by officials of the East African High Commission and 57 by officials of the Kenya Government.

[The Acting Financial Secretary]

There are also 391 houses rented by the East Africa High Commission all of which are occupied by officers of that Administration.

2. Dealing with the second part of the question: the amounts expended in respect of the renting of the premises referred to are—

£11,820 by the Kenya Government, and

£21,152 by the East Africa High Commission.

3. As regards the third part of the question: the rental of 19 of the houses rented by the Kenya Government and 308 of those rented by the East Africa High Commission has been assessed by the Rent Control Board. This leaves 44 in the case of the Kenya Government and 83 in the case of the East Africa High Commission which have not been so far assessed by the Rent Control Board.

MR. HAVELOCK: Arising from that answer, Mr. Speaker, can the hon. Member tell us when he considers the Rent Control Board will be able to assess the outstanding houses?

THE ACTING FINANCIAL SECRETARY: The position is not quite so straightforward as that—(Laughter).—With regard to the 44 houses of which rent has not been assessed, the rent of 19 houses and flats was the subject of negotiation and agreement with lessors before the buildings were completed and the question of assessment by the Rent Control Board in that case does not arise. Of the remaining 25, 12 were rented by the Government prior to the introduction of the Rent Restriction Ordinance and 13 are rented by the Government in the various up-country districts. These are not rented on long-term leases.

##### QUESTION NO. 12

1. COL. S. G. GHERSIE:

Will Government state if it is a fact that—

(a) Government servants may borrow money from Government at the rate of 2½ per cent per annum for the purpose of building their own houses and that such houses are then for rental purposes

assessed by the Rent Control Board on the basis of 8½ per cent per annum;

(b) if the rates in (a) above are inaccurate, will Government please state the correct percentage rates in each case?

THE ACTING FINANCIAL SECRETARY:

1. The answer to the first part of the question is in the negative.

2. 3½ per cent is the rate of interest for loans under the scheme to assist civil servants to build their own houses. 7 per cent on capital value is the rate allowed by the Government for non-pensionable house allowance to officers occupying their own houses, but 7½ per cent of salary is deducted in assessing that amount.

##### QUESTION NO. 13

1. COL. S. G. GHERSIE:

Having regard to the fact that Government servants are liable to pay 10 per cent of their salaries to Government by way of house rent, what are the total amounts paid by Government and the East Africa High Commission during the year 1950 to Government servants occupying their own houses or the landlords concerned in excess of the amount deducted in respect of rent?

THE ACTING FINANCIAL SECRETARY: The total amounts paid in 1950 in respect of house allowance to officers occupying their own houses, or renting houses under their own arrangements, are as follows:—

(a) By the Kenya Government 168,868

(b) By the East Africa High Commission 113,609

These are the amounts paid after deductions have been made in respect of the rent which the officer himself is required to pay.

##### QUESTION NO. 19

1. COL. S. G. GHERSIE:

Will Government please state the annual rental payable during the year 1951 in respect of office premises occupied by—

(a) Kenya Government Departments.

[Lt.-Col. Ghersi].

(b) East Africa High Commission, and services operating under that Organization?

THE ACTING FINANCIAL SECRETARY: 1. The annual rental payable during 1951 in respect of office premises occupied by Kenya Government is £21,290. 2. The annual rent payable during 1951 in respect of office premises occupied by East Africa High Commission Departments is £15,580.

MR. COOK: Mr. Speaker, arising out of that answer, this £21,000—would not that be a sufficient sum to service a building loan and will Government consider expediting the building of Government offices and start that very uneconomic and wasteful policy of renting offices?

THE ACTING FINANCIAL SECRETARY: Sir, the Government is prepared to consider anything that would help in increasing accommodation.

#### MOTIONS

##### KIPSIGIS LAND EXCHANGE.—(Contd.)

THE CHIEF NATIVE COMMISSIONER: When I finished speaking yesterday we were discussing the part played by the Kipsigis African District Council in the agreement that Council made regarding the exchange of land which is now under consideration by this Council. I said I could not agree that the members of the Kericho African District Council were the sort of people who say "yes" when they mean "no." Now, it was suggested by my hon. friend Mr. Ohanga, that those members of the Kericho African District Council had not consulted the Kipsigis people about this matter. We were also told at the same time that the whole of the Kipsigis tribe felt very strongly about it and negotiations went on for about a year and we know also that bargaining did take place during these lengthy discussions in Kericho. Now, I find it very difficult to believe that during this long period the members of the African District Council, at Kericho immolated themselves entirely and no member of the Kipsigis public approached them nor did they approach any of those members of the Kipsigis public to discuss this question. I am perfectly certain there were lengthy discussions and wide-spread discussions.

No. Sir, I believe that the objection to this proposed exchange has arisen since the agreement was made by the Kericho African District Council, and the objection has been made and raised by a few people who are in illegal occupation of that part of the Kimulot Block which is not included in this exchange and which forms the northern part of the Block.

They are saying, as Mr. Ohanga has told us, that the whole of the Kimulot Block was Kipsigis land and they do not agree to any exchange of one parcel of land in their Native Land Unit for another portion of land which they say is already theirs.

Now, the hon. Mr. Ohanga said that no doubt Government would refer to the Carter Land Commission at this point and he is perfectly right. That is exactly what I intend to do. The Commission did not award the Kimulot Block to the Lumbwa Native Land Unit and this Government can only accept the recommendations of the Carter Land Commission as the basis upon which we must base any matters of this kind.

Now, the hon. Mr. Ohanga referred to the fact that the Native Lands Trust Board, upon which both he and I have the honour to serve, had only recommended this exchange by a majority, and that the two African members of the Board disagreed with the recommendation. Now, he further inferred that if the majority of the members of the Board had been African, his recommendation would never have been made. Now, there that is not so. Sir, two conclusions one must draw from that remark. Either the hon. Member is inferring that the two other European members of the Board and myself were recommending something which we believed was not in the best interests of the Kipsigis people—and that I most emphatically deny—or else he infers that if an African took the place of the Europeans on that Board, those Africans would not appreciate—as I do not think the hon. Mr. Ohanga appreciates—the realists of the situation. The Native Lands Trust Board itself was set up as a result of the Carter Land Commission. It operates under the Native Lands Trusts Ordinance and the boundaries of the Lumbwa Native Land Units are set out under that Ordinance. So far as the Lumbwa Native Land Unit

[The Chief Native Commissioner] is concerned, those boundaries do not include any part of Kimulot. It was no good ourselves sitting on that Board pretending that Kimulot was part of the Native Land Unit. We had to work on what we had. The fact is that the Kimulot block is unalienated Crown land and those who are residing on it without permission are doing so illegally.

The issue, I suggest, before the Native Lands Trust Board is exactly the same as the issue before the Council to-day. Either we agree to this exchange or we do not. If we do agree, then the Kipsigis people will get the use of some 7,600 acres of land for proper land occupation in exchange for this nebulous reservation interest which falls due in nine and a half centuries time. If we do not agree to it, what then? This is what I think that the hon. Mr. Ohanga and those people who are residing illegally on part of Kimulot now do not appreciate. What would happen if this exchange was not done? Then the whole area of Kimulot Crown land as it would be liable to alienation—and not only the northern block which is already the subject of alienation. I believe the Native Land Trust Board did what was right. It took the right decision in this matter and did so in the interest of the Kipsigis people.

I would most earnestly ask this Council to do the same in the interest of the Kipsigis people and approve this resolution.

MR. MATHU: Mr. Speaker, I would like to say just a few words on this. The first is that there is a difference of opinion between us and the Movers of this motion in regard to the view held by the Kipsigis in this matter. We submit that it is not the few Kipsigis who are illegally, as it is called, residing in the part of the Kimulot block who are in opposition to this. Our information, which is quite direct information and my hon. friend, Mr. Ohanga, has taken the greatest trouble possible to visit the Kipsigis people and to hold meetings with them, is that all are in opposition and it may be that there are only a few people who are in favour, but outside the African District Council and inside it.

Now, all I can say there is that we must agree to disagree, and go on with the matter.

Now, the second point is that the Kerenga Estate is subject to a lease of 999 years from 1920, and that the hon. the Chief Native Commissioner thinks that such a very long time, and it is best if something could come to the Kipsigis now. Well, the Kipsigis appreciate that, because they say that the Kimulot block belongs to them and they were in beneficial effective occupation even before the appointment of the Carter Commission and they were forcibly evicted from that place and their homes burnt down at that time. They say: "what we want is we want the Kimulot block. If we get Kimulot back now we shall not interfere with the terms of the lease for the Kerenga Estate. The African District Council will continue to collect the rent as they are doing now". Now, there is the main point of difference between us and the Government.

The other point I wanted to refer to in this question of the Carter Land Commission. It is true that the Carter Land Commission did not recommend that the Kimulot block should be a part of the Lumbwa Land Unit. It is true also that the Schedule to the Native Lands Trust Ordinance does not include the Kimulot block within the boundaries of the Kipsigis Land Unit. What I want to know is whether the Carter Land Commission Report and its recommendations are going to be taken as sacrosanct, something that cannot be touched for 91 centuries to come. I say that this should not be allowed to continue and the African people have agitated against that report since 1933, the first time that report was published. They have agitated against the recommendations because they were unfair since those days, and they are unfair to-day. The composition of the Commission was entirely white and the African people have nothing to do with it. They even made representations to the Secretary of State in 1934, direct representations to the Secretary of State against this, and I know they are going to continue to say that that Report worked unfavourably against the land interest of the African people. Now that with us is not a very strong argument, because we have never accepted those recommendations of that Carter Commission, and we

[Mr. Mathu] should continue to fight against them even during these 91 centuries which are coming—I hope I shall be living! If not, I say, Sir, that the Crown Land Ordinance 1903—or 1915—makes provisions for leases of 999 years, and it is the law of the land that the leases should go to 999 years, which assumes that the human race, if not the present generation, will be in existence on this planet and within that argument I hold that there will be the remnants of the Kipsigis people during those 91 centuries who will have the right to occupy the Kerenga Estate. I think that the time has come when the Government should take cognizance of the grievances of the African people in regard to land needs and that a further commission with African representation be appointed to go into all these matters and remove gross injustices of this kind that have been put on the African people.

Now the final point Sir, is in regard to the part that the Native Lands Trust Board played in this recommendation of an exchange. I think my hon. friend Mr. Ohanga is quite right in saying that if Africans require further lands they should have a final say in the matter, but as we have not got security of these lands, even the composition of that Board has a European majority, and that majority, although they would work in the interests of the African people in the majority of cases, it is not inconceivable that they might sometimes be biased in matters of this kind. Further, the Highlands Board, the counterpart of the two Orders in Council which legalize the whole position of the land, has no African representation. Why should there be any European representation, for that matter, in the Native Lands Trust Board? If the land is ours we should have final control. It is not ours by law, and that is why we were put in this position. The exchange will, I know be effected, because this Council in the majority vote will support this, but we feel that we should place our opposition on record for the reasons we have given.

Sir, I beg to oppose.

Mr. BLUNDELL: Mr. Speaker, I rise to support the motion, and I should like to give to this Council the view of the

Highlands Board on this matter. First of all, Sir, it should be clearly understood that we have accepted the findings of the Carter Commission. The findings of that Commission were not always advantageous to the Europeans any more than they were always advantageous to Africans. We have accepted the findings of that Commission, we do not wish any change from the findings of that Commission and we intend to stand upon it. It is necessary to have some finality in the general interests of stability throughout the Colony in this matter, and that being so, whether the findings in any particular subject were disadvantageous to us or not, we have accepted them.

Secondly, Sir, I should like to assure the hon. Members on the left—and I think I speak for the whole European community now—we have no desire whatsoever to take from any African land which is properly and justly theirs, no desire whatsoever.

Now, Sir, the hon. Mr. Ohanga made a misstatement in this Council which I am going to ask him, if he has made it outside this Council, to take the trouble to completely rephrase. The statement which he made was that the Highlands Board were trying to excise land from the Native Lands Unit. Now that is a complete and utter misstatement of fact. (Hear, hear.) Government came before the Highlands Board—with proposals which were designed to ameliorate this matter in a reasonable spirit and although those proposals were extremely disadvantageous to the European nevertheless in the interests of a general settlement we accepted them. Those proposals in effect took from the Europeans ten thousand acres in the Serres, and exchanged 7,650 acres of Kimulot—which the Carter Commission had clearly laid down, although Crown land was within the Highlands area—exchanged that for the reversionary right of 968 years of 6,500 acres of the Chelbow-Kerenga area. So in effect the Highlands Board gave up 10,000 acres of land in the Sotik and an additional 1,000 acres in the Kericho area.

Now, Sir, Members of this Council should be in no doubt as to the attitude of the Highlands Board if this motion is lost. In that case we should feel compelled to stand upon the provisions and

[Mr. Blundell] definitions of the Carter Commission, and in my view the very considerable sufferers would be the Kipsigis themselves, and no Member of this Council should be under any misunderstanding on that point. If this motion is lost, the persons who will lose will be the Kipsigis, because in that case the Highlands Board will undoubtedly require the return of the 10,000 acres in the Sotik area, the Webb Marshall farms, and the exchange in the Kimulot area will not go through and the Kipsigis will lose the 7,650 acres which we have agreed to release for their use.

Sir, there is one final point I would like to raise, and I am going to be absolutely outspoken now, and I hope the hon. Member on my left will forgive me if I am.

Mr. MATHU: Certainly. I am glad to have that assurance.

Mr. BLUNDELL: The hon. Mr. Mathu said that in his opinion the African lands would not be properly protected until the personnel of the Native Lands Trust Board was an African majority. I believe, now, Sir, I can only tell him this, and I hope he will forgive me for saying so, that if the same attitude of unreason and the same disability to assess what is really for the benefit of the African were to be shown by a majority of Africans on that Board as is shown by their representatives to-day, then I can believe there would be no worse disservice to the Africans than at this stage to put an African majority on that Board. When reason can prevail and a proper appreciation of what is good for the Africans generally, then indeed, such a position may come about.

Now, Sir, with these words I beg to support the motion. (Applause.)

Mr. PATEL: Mr. Speaker, I wanted to remain a silent and resentful observer of the dual between the African reserves and the European reserves in this Council, because I, as an Indian, do not feel interested in this dual. But in the case of a division it is necessary to indicate my attitude on this motion as it has proved controversial. As the findings of the Carter Commission have been brought out in discussions in support of the motion, I must give an indication that the Indian community has never accepted those

findings, because their point of view was not accepted, and we have always opposed the findings of the Carter Commission.

Sir, therefore, I would only say that I am not interested in this motion and I am not going to vote for either side.

Mr. JEREMIAH: Mr. Speaker, I only rise, Sir, to say a few words in connexion with what has been said. On listening to the debate very carefully, what has appeared to me is that two sides are accusing each other of saying what is not true. The Government must explain that the people concerned have agreed to the exchange; our hon. friends here say that the people did not agree to the exchange.

Now, Sir, according to what I understand in connexion with the certain matter of exchange, it is necessary that the people concerned should clearly indicate their acceptance of the proposal. I am not quite sure, and I am not satisfied which side is right or wrong. I would suggest, Sir, that the Government should postpone the motion and find a way of satisfying us that the people concerned have accepted it or otherwise, and by that time we can be quite sure which way we should vote.

At present, I am only going to vote with the hon. Members, if it is pressed that the motion should go on now, because I, personally, think that what they say is the truth, and what Government say may be the truth according to what has been reported to them. I do not think, Sir, that the hon. Member, the Chief Native Commissioner, has ever had a meeting with the people concerned, but he only gets information from officers in the field. But, our representative here has had actual contact with the people and I am inclined to think that what he says is the proper truth in the matter. Therefore, Sir, I would like to hear Government's consideration in this matter, whether it is not advisable that the motion should be postponed and the matter gone thoroughly into again to find if the people accept it.

THE ASSISTANT CHIEF SECRETARY: I should perhaps explain I have recently retired from the position of Provincial Commissioner of Nyanza Province in which the Kipsigis Reserve is situated, and as such, I was personally concerned in conducting negotiations in this matter.

[The Assistant Chief Secretary].

I have had considerable connexion with the Kipsigis. I was Provincial Commissioner of that province for seven years, and I can say quite emphatically that on no occasion when I put proposals to the tribe have I had an immediate reply. Invariably, they have asked for an adjournment in order that they may consult with their people before they would answer in any way whatsoever. And, furthermore, it is a peculiarity of that tribe that they seem to object to taking votes. Their decisions are invariably unanimous, whether they come down on the side of the proposal or against it. I would emphasize that, because when I relate the circumstances of this instance, you will find their unanimous opinion was given.

This proposal was under negotiation between the Provincial Commissioner and the Government for a considerable period, but it was not until October, 1949, that I was in a position to lay it before their Local Native Council. I gave them full details, which are contained in their minutes, and this revisionary right was specifically mentioned, and I do say, their response was not at all enthusiastic. In fact, they said: "We are not at all happy about these proposals. Will you, as Provincial Commissioner, make a further approach to Government, asking whether Government will not divide Kimalot land according to their views, giving us as much as possible, and in this connexion we would ask for a little more than has been offered (which at that time was, acre for acre, 500 odd acres). Try and obtain for us a little more, and also do try and ask Government not to insist upon the exchange basis, but that we should maintain revisionary rights in these farms. In the meantime, we will consult our people, and when we are re-assembled, and you can give us the answer of Government, we should then be in a position to give you our reply." That was in October. In December they re-assembled and in the meantime Government had agreed to increase the area which would be made available to the Kipsigis by approximately a further 1,000 acres. But in the matter of revisionary rights in these two farms they had to be given up by the Kipsigis if they were to

obtain this land in Kimalot. I explained this to them and had they been completely against the exchange basis, they would there and then have told me the matter must be dismissed. However, in order that they might give me the matter further consideration, they asked that they might be shown the area on the ground so that they might know exactly what they were talking about. Consequently, the Council was adjourned on its first day and the second day the District Commissioner took as many Councillors as he could get on one lorry to the area and pointed out the approximate boundaries. A certain number of Kipsigis were present when this was done and realized what it was all about. Thereafter, the Councillors were brought back to Kericho and that afternoon and evening they had quite a lot of meetings and talked amongst themselves at length. The following morning the Council was re-assembled, and it was then that the Councillors gave their unanimous agreement to the proposals. I must add that they wished to record at the time that, if Government had allowed them to retain their revisionary right in the farms, they would have been very much better pleased. I repeat that, knowing these people, I am quite emphatically certain that, had they not unanimously agreed to consent, they would not have hesitated one moment to say so, when they essentially re-assembled in Council.

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: In rising, Sir, to support this motion I would add that it is a great disappointment to me to see the reception that has been given by the African representatives to proposals, which I took a considerable part in originating and which I firmly believe were in the best interests of the people concerned.

Sir, every morning in this Council a prayer is said on behalf of those who hold important trusts in this land and I think we must always bear in mind that in this Council we, in exercising those trusts, do have to advise or take decisions on a practical basis for the good of the people who inhabit this country, and, Sir, although persons who sit in parliaments are often misnamed politicians, persons who sit in parliament must always remember that there is a vast difference between irresponsible agitator political

[The Member for Agriculture and Natural Resources].  
speeches outside and the responsibilities they cannot avoid assuming when they are in session in the Legislature—(Applause.)—Sir, I fully understand that many people, Africans, Indians and Europeans, do not agree with the Carter Commission recommendations. It was because no agreement was visible or appeared likely to be achieved on land questions that the Carter Commission was appointed to try and draw up a basis which it was fully appreciated would not be agreeable to all, but a basis on which, as was pointed out by the hon. Member for Rift Valley, some stability could be built in the future, and it is for that reason, Sir, that Government stands on the Carter Commission recommendations.

Turning to arrangements which have been recently made in regard to the Lumbwa Land Unit, I would say, Sir, that I believe that we have tried to make certain arrangements for the benefit of a very progressive tribe, a tribe that has probably done more in the last few years to improve, at any rate its agricultural practices with which I am particularly concerned, than perhaps any other tribe in the country. We have done our very best to help those people in what we feel is a practical and sensible manner, and because the Members who represent them in this Council cannot lose sight of what I might call political pretensions trying outside, in Council they proceed to try and negative proposals that they must know in their heart of hearts are genuine proposals conceived for the benefit of the people they represent. Now, Sir, bearing that in mind I feel that we on this side and possibly all members of this Council have to consider what is their real duty in this matter, and I have no hesitation, whatever, in saying that our real duty is to do our best for these people within the realms of practical politics, and that the best thing we can do is to give these people this extra land in the manner which has been agreed to—I repeat, agreed to—by all the competent authorities as laid down in the Ordinance under which we are acting. Furthermore, I deny that it is true to say that all the Kipsigis are against this arrangement. In support of what the last speaker has said, I would say that I am in constant touch with the administration in the Nyanza

Province and only yesterday I spoke to the Provincial Commissioner, and I know Sir, that the plans which we are formulating for the use of the 10,000 acres, that is for the Webb Marshall farms and also for a comprehensive scheme for settling the Kimalot area, which may include tea growing by Africans, that these plans are being drawn up with the fullest possible co-operation of the people themselves. Is it likely if those people felt bitterly about these arrangements that they would co-operate in making plans for the use of this land?

It is very easy for individuals to go into those areas to try and collect the disgruntled and then to come back here and say "everyone is against these plans", and "you must not put them through", and "let's wait and find out and see who agrees and who does not". I say this has been going on for three years. We should disregard those sort of things and do the best we can for those whose interests have been committed to our trust.

I beg to support. (Applause.)

THE ACTING DEPUTY CHIEF SECRETARY: Mr. Speaker, I think all the points raised by the Members on the side have been adequately dealt with. I think it is only necessary to commend the resolution to the Council.

The question was put and carried.

CONTROL OF HOTELS ORDINANCE, 1948  
(Continuance in Force)

THE MEMBER FOR COMMERCE AND INDUSTRY: Mr. Speaker, I beg to move the motion standing in my name as follows:—

Be it resolved that this Council approves the Control of Hotels Ordinance, 1948, being continued in force until the 30th day of June, 1953.

Mr. Speaker, this resolution is moved periodically under the terms of the principal Ordinance. It is not, and I must repeat this, it is not the means by which hotels are price controlled. That is a matter for the Price Controller and the Hotel Control Authority. This is an Ordinance drawn up with the agreement of the industry, in consultation with them, to improve the standard of hotels. The title of the Ordinance is perhaps a misnomer, and here I owe hon. Members opposite an apology. Last year, in moving a resolution in similar terms, I

(The Member for Commerce and Industry)

said that I hoped that we would have a revised Ordinance submitted to Members before it became necessary under the terms of the principal Ordinance to propose this resolution again. Well, Sir, a committee has been appointed under the chairmanship of a member of the Legal Department to hold consultations with the Hotel Control Authority, through a sub-committee of that body and, of course, consultations with the industry itself. Further, the draft will have to be considered, before it is ready to come before this Council, by the Board of Commerce and Industry and by the Chamber of Commerce.

I apologise, Mr. Speaker, for not having the Bill ready. I can, however, report that the matter is in hand, the committee is appointed and we hope will soon be carrying on its very constructive work.

Mr. Speaker, I beg to move.

THE ACTING SOLICITOR GENERAL seconded.

MR. HAVILOCK: Mr. Speaker, this is an annual occasion, Sir. Naturally we accept the apologies of the hon. Member for Commerce and Industry, but it might be easier for me to read out the speech I made last year rather than to make a new one. Sir, I think he could have done the same. I suggest, Sir, as I did last year, that it is not necessary, in view of the assurances which the hon. Member is bound to carry out, Sir, that the Ordinance will be amended—assurances that he has given us for the last two years. In view of that assurance which he is bound to carry out, I suggest it is not necessary to extend this present Ordinance for two years. I wish to move an amendment, therefore, Sir, to the motion.

I beg to move that the date at the end of the motion "1953" should be deleted and the date "1952" should be inserted.

MR. USUKI seconded the amendment.

THE MEMBER FOR COMMERCE AND INDUSTRY: Mr. Speaker, again I will repeat what I said last year. The Government have no objection to the amendment.

The question of the amendment was put and carried.

The question of the motion was put and carried.

## BILLS

### SECOND READING.

#### *The Special Districts (Administration) (Amendment) Bill*

THE CHIEF NATIVE COMMISSIONER: Mr. Speaker, I beg to move: That the Special Districts (Administration) (Amendment) Bill be read a second time.

This is a very simple Bill, Mr. Speaker, it has two sections only of importance. The first one is an alteration to the definition of "tribesman" which appears in the Ordinance as it stands at the moment, and which alters that present definition from "tribesman" who "means any male person who by birth or adoption belongs to any tribe resident or being within a district or an area to which this Ordinance has been applied, and includes a Somali" to "means any male person who is a Somali or who by birth or adoption belongs to any tribe resident or being within a district or an area to which this Ordinance has been applied". That, I am sure, Mr. Speaker, is quite clear.

The second point is that when the Ordinance, (the original Special Districts (Administration) Ordinance was amended, there was an alteration in the numbering of the sections and in section 27 of the amended Ordinance this renumbering of the sections was not effected—and so the section 27 of the Bill now before the Council merely makes the alteration which should have been done before.

Mr. Speaker, I beg to move.

THE ACTING SOLICITOR GENERAL seconded.

The question was put and carried.

#### *The Sisal Industry (Amendment) Bill*

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: Mr. Speaker, I beg to move the second reading of an Ordinance to amend the Sisal Industry Ordinance.

This is a very short enactment and I think the Objects and Reasons explain fully the object of introducing this amending Bill. We have under the principal Ordinance entrusted a number of statutory powers to the Sisal Board subject naturally to their receiving the agreement of the Sisal Industry; but, under the wording of the proviso to paragraph 6

(The Member for Agriculture and Natural Resources).

in the existing Ordinance the Sisal Board sometimes found that their intentions are more or less invalidated by the fact that they have to have the support of not less than two-thirds—the members of the Association representing two-thirds of the average tonnage of sisal produced during the three years previously preceding. It only required one or two of the bigger growers, perhaps a bigger grower two years back, to be absent from the meeting to make their proceedings invalid. Therefore, Sir, they have asked—and I submit it is purely a domestic matter—the Association have asked for the amendment which is before you, which provides that a majority of the members present voting at a meeting, representing not less than two-thirds of the average tonnage produced by the members present and voting should be sufficient to pass the resolution.

I beg to move.

THE ACTING SOLICITOR GENERAL seconded.

The question was put and carried.

#### *The Distribution of German Enemy Property Bill*

THE ACTING ATTORNEY GENERAL: Mr. Speaker, I beg to move: That the Distribution of German Enemy Property Bill be read a second time.

It has been agreed, Sir, on an international level that German Enemy Property which is controlled here under the Trading with the Enemy Ordinance, 1949, shall be treated as part of the United Kingdom reparations from Germany. This Bill, which I now seek to introduce, is based on an Act of the Imperial Parliament of exactly the same name. The purpose is to enable the Governor to make an Order to provide for the collection, realization and distribution of German Enemy property by an administrator to persons who establish claims to German enemy debts. The Order, when it is made—and provision is made in clause 3 of the Bill for it to be made—will, among other things, provide for the manner in which, and the time within which, claims must be made, and also the order in which these claims will rank for payment, or part payment, out of the proceeds of German enemy

property. If, after all German enemy property has been collected and realized and distributed to the creditors, any surplus remains, the Governor may make an Order directing either that that property, that surplus, should be transferred to His Majesty's Government in the United Kingdom or that it should be held here to the order of His Majesty's Government.

Clause 6 of the Bill provides that where arrangements have been made by the Government of this Colony and the Government of any other territory for the decision of any conflicting claims to German enemy property, or by whatever name it is called in the other territory, the Governor, to give effect to any such decision, may order the administrator to transfer to any person in the other country any German enemy property held here, and any property transferred from the other country to this country will be dealt with by the administrator as German enemy property. It is a short Bill, Sir, and really a formal Bill which is merely intended to enable these powers to be given to the Administrator.

I beg to move.

THE ACTING SOLICITOR GENERAL seconded.

The question was put and carried.

#### *The National Parks (Amendment) Bill*

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: Mr. Speaker, this short enactment has a double purpose. The first is to give effect to the privilege that has been conferred on the Trustees by His Majesty the King who has been graciously pleased to grant them the privilege of prefixing the word "Royal" to the words "National Parks". (Applause.)

The second objective, Sir, is to provide the Trustees with the power of appointing an honorary President and Vice Presidents of the Trustees, and as the Trustees are a body corporate, naturally the proviso to the proposed section 6—sub-section (2) that is to say—has had to be inserted because if you have an honorary President of the type that is envisaged, one does not want to burden him with the responsibilities of the normal trustee.

Sir, I do not think there is anything else to add.

I beg to move.



THE ACTING SOLICITOR GENERAL seconded.

The question was put and carried.

*The Hospital Treatment Relief (European) Bill*

THE MEMBER FOR EDUCATION, HEALTH AND LOCAL GOVERNMENT: Mr. Speaker, I beg to move: That the Hospital Treatment Relief (European) Bill be read a second time.

Sir, in January, 1950, this Council debated the report of the Select Committee appointed to review the working of the Hospital Service Scheme and accepted that report in 1950. This Bill implements Recommendations 1, 3, 7, 8, 11 and 13 of the Report. That Report laid down the principle that the control of, and the responsibility for, hospitals and hospital treatment should disappear from the European Hospital Authority and that, instead, the Hospital Authority should become the administrative body of a Hospital Treatment Relief Fund which was to operate on as near to an insurance principle as possible. In order, Sir, that the reasons may be placed on record, I would like to read again paragraph 17 of the Report which laid down the reasons for the Recommendations 6 and 7:—

"We are in agreement with the points made in paragraph 21 (d) of the Hospital Authority Report which stated—

"The collection of revenue through the established taxation medium undoubtedly places the greatest burden upon the wealthy and the single men and women. It is a fact, by this means, the family man enjoys cover for himself and all the members of his family against the burden of hospital bills, while already in receipt of dependants' allowances for income tax purposes. The suggestion is, therefore, made that the possibility should be examined of weighting the income tax contribution of the individual with a charge per head of persons entitled to benefit. Alternatively, it might consider that a flat rate contribution with rebates for dependants should take the place of existing system by which the Scheme is financed."

From the point of view of ease of collection and adherence to the belief that this type of scheme should not be allied to taxation, some members of the Committee felt that if practicable the flat rate contribution was the most desirable method to apply to the Hospital Treatment Relief Fund. Other schemes, however, based on a flat rate contribution from all members, bring to the relief of the poor contributing to the relief of the poor into effect through central revenue meeting any shortfall in the annual expenditure, which means that a flat rate method for this Scheme, without any contribution from central revenue on the foregoing basis, would remove the principle of the wealthy contributing to the relief of the poor almost completely. We again, therefore, arrived at the point where financial principles suitable to a homogeneous community could not be applied to the Scheme now under consideration. We would suggest, however, that the possibilities of flat rate contributions be kept under review, so that should the position arise where the number of contributors enable a flat rate to be applied without imposing too great a burden upon the poorer section of the community, the question of the method of contribution should again be referred to the European community for its consideration.

The question of providing benefits to the family man is of importance, and, whilst some measure of relief is given to maternally benefits, we must point out that the family man also gets a greater measure of benefits for the same contribution. Because of these facts and because the overwhelming weight of evidence was so strongly in favour of a graduated contribution, in order to preserve some measure of the principle of the rich assisting the poor, the Committee felt that it must make the following recommendation."

— and then follows the well-known Recommendation 7 of the Committee.

That, Sir, is the principle on which this Bill which institutes the European Hospital Treatment Relief Fund is based. That and the contribution of £1 in £4 from central revenue as a recognition of Government's responsibility for a basic standard.

[The Member for Education, Health and Local Government]

Now, Sir, in order to avoid any misunderstanding as to what this Fund really means, it merely means that what is paid in by the European community to the Hospital Treatment Relief Fund will be paid out to the sick of the European community, and how much is to be paid out will obviously be dictated by how much is paid in, because the Fund will be run on a financial basis. This, Sir, is not a Government tax. That is a misapprehension under which a large number of people operate. It is not a Government tax. It is a burden voluntarily assumed by the European community to help the sick of its community and if the European Elected Members decided that such a scheme of assistance was not wanted by the European community, then Government would withdraw it, although it would deplore—I personally would deplore—such a retrograde step. But it is a voluntary burden assumed by the European community to assist the sick of their own community. The Fund will be administered by a Board of six members, four of whom will be appointed by the European Elected Members, ensuring a complete unofficial majority upon this Executive Body and they will elect their own Chairman.

I think, Sir, that is all that needs to be said on the principle of the Bill, but we must remember that the payments made from this Fund, Sir, will be of great value—I should say indispensable—to the conduct of the hospitals for Europeans run by the voluntary effort of the European community, which to-day represents in fact and intent every European hospital in the country except the one at Kisumu and, as I said once before, even the Kisumu hospital is now investigating the possibility of becoming a voluntary effort run by the local community.

Sir, I beg to move.

THE ACTING SOLICITOR GENERAL seconded.

MR. HAVELOCK: Mr. Speaker, I wish to welcome this Bill as it implements the recommendations which this Council accepted of the Select Committee referred to by the hon. Member.

Sir, there have been two criticisms which I have heard about this Bill. The

first one, that the new rates of contribution will mean a greater burden in the matter of cost of living, especially on the family man. This criticism, Sir, has been discussed and I think the answer to that is that, if it is a slightly heavier burden on the family man, the result is going to be a very much lighter burden on the sick and so you can have it either way. In other words, if it is a lighter burden on the sick, the cost of living of the community in general definitely receives relief, and I think it is a better way of doing it.

The other criticism, Sir, has been that all the recommendations of the Select Committee have not been implemented in this Bill. This criticism has also been studied by European Elected Members and we feel that all the recommendations which could be practically put into this Bill have been so put and, therefore, the suggestion made by the critics that the Bill should go to a Select Committee we feel is completely unnecessary, and therefore we hope that this Bill can be passed through this Council at this sitting without any further delay.

Sir, I beg to support. (Applause.)

MR. USHIER: Mr. Speaker, I should just like to refer to one clause—one paragraph in fact—of the Bill, clause 8 (a) (i).

The authority is here empowered to make the payments of a daily allowance of such amounts and for such period as may be prescribed towards the cost of those fees incurred by a contributor in respect of hospital treatment received by such contributor. It, therefore, appears that the Authority would be in a position at any time to say—we feel that the Funds are insufficient to continue to grant the relief which we have given hitherto and we shall have, for instance, to limit the period for any person to say, three months in the year. I think that this must be held to be reasonable. I certainly accept it as such, but I am not certain that there should be some understanding that there would be no alteration of the rate of relief or deduction of the period for which relief can be given more than once a year. The Authority can sit at any time and, of course, it might feel it necessary to make some sort of alteration of that kind, but in view of the fact that the contributor makes his contribution in respect of a whole year,

[Mr. Usher]

I hope that there can be some assurance given that alterations would not be made in lesser periods.

I welcome this Bill very warmly, Sir. (Applause).

THE MEMBER FOR EDUCATION, HEALTH AND LOCAL GOVERNMENT: Mr. Speaker, dealing with the point raised by my hon. friend the Member for Mombasa, he will, of course, realize that I can give no such assurance, for this Bill leaves the greatest possible latitude to the authority itself because no one will be able to say what funds that authority will have at its disposal. The majority—four out of six—of the members of that authority will, in fact, be answerable to the European Elected Members and I suggest that if they follow a policy which is out of line with the policy which the European Elected Members consider should be followed by them, the remedy will lie in the hands of the European Elected Members. But I do believe that to try and trammel an authority which is dealing with something on a purely financial basis with rules, regulations or assurances of rates or fees or period of fees given in advance would be entirely wrong. The initiative must rest with the people whom the European Elected Members appoint and believe to be competent to administer the Fund. I have no doubt, however, that they will take fully into account the point—the good point—raised by the hon. Member for Mombasa.

With regard to the hon. Member for Kiambu, Sir, I am very grateful for his support. He knows, as well as I do, that a number of the recommendations of the Select Committee are indeed recommendations to the authority that we are now appointing and that those recommendations will be brought to the notice of that working body as soon as it has taken over its duties. That, I think, is all I have to say, Sir, except to express my thanks for the general measure of support accorded.

The question was put and carried.

THE SPEAKER: I think that it would be a convenient moment now to suspend the sitting till quarter past eleven.

Council adjourned at 10.55 a.m. and resumed at 11.20 a.m.

THE ACTING ATTORNEY GENERAL: Mr. Speaker, before moving the Council into Committee, with your leave, Sir, and that of the Council I would ask that the Distribution of German Enemy Property (European) Bill be deferred so far as the committee stage is concerned until either tomorrow or some more suitable time. The reason for that, Sir, is that during the Adjournment, matters have arisen which we think should be further considered so far as amendments are concerned.

THE ACTING ATTORNEY GENERAL moved: That Council do resolve itself into Committee of the whole house to consider the following Bills clause by clause:—

*The Special Districts (Administration) (Amendment) Bill.*

*The Sisal Industry (Amendment) Bill.*

*The National Parks (Amendment) Bill.*

*The Hospital Treatment Relief (European) Bill.*

THE ACTING SOLICITOR GENERAL seconded.

The question was put and carried.

#### COUNCIL IN COMMITTEE

The Bills were considered clause by clause.

THE ACTING ATTORNEY GENERAL moved: That the Bills be reported back to Council without amendment.

The question was put and carried.

Council resumed and the Member reported accordingly.

#### BILLS

##### THIRD READINGS

THE ACTING ATTORNEY GENERAL moved: That the Special Districts (Administration) (Amendment) Bill be read a third time and passed.

THE ACTING SOLICITOR GENERAL seconded.

The question was put and carried, and the Bill read a third time and passed.

THE ACTING ATTORNEY GENERAL moved: That the Sisal Industry (Amendment) Bill be read a third time and passed.

THE ACTING SOLICITOR GENERAL seconded.

The question was put and carried, and the Bill read a third time and passed.

THE ACTING ATTORNEY GENERAL moved: That the National Parks (Amendment) Bill be read a third time and passed.

THE ACTING SOLICITOR GENERAL seconded.

The question was put and carried, and the Bill read a third time and passed.

#### ADJOURNMENT

THE SPEAKER: That, hon. Members, completes the matters on the Order Paper for to-day. Council will adjourn until 9.30 a.m. tomorrow morning.

Council adjourned at 11.25 a.m. until 9.30 a.m. on Friday, 11th May, 1951.

Friday, 11th May, 1951

Council assembled in the Memorial Hall, Nairobi, on Friday, 11th May, 1951.

The Speaker took the Chair at 9.30 a.m.

The proceedings were opened with prayer.

#### MINUTES

The minutes of the meeting held on 10th May, 1951, were approved.

#### PAPERS LAID

The following paper was laid on the table:—

BY THE ACTING DEPUTY CHIEF SECRETARY:

Government White Paper No. 2 of 1951—Report of the Committee appointed to examine the provisions for the use of Land for Public Purposes.

#### NOTICE OF MOTIONS

MR. SALTER gave notice of the following motion:

That this Council requests Government to take all necessary steps, as soon as possible, to enable the hearing of cases in the Supreme and Subordinate Courts of the Colony to be expedited and to provide further accommodation, and other facilities for the due administration of justice.

LT.-COL. GHERSIE gave notice of the following motion:

Having regard to the large sum being expended annually by Government in respect of the renting of office accommodation and dwelling houses for Government servants, it is the opinion of this Council that Government should immediately consider the allocation of funds either from Reserve Balances or from Loan Funds for the purpose of erecting its own buildings, thereby avoiding the uneconomic system of renting premises and at the same time assist in remedying the present congestion in regard to office and housing accommodation, the solution of which is one of the Colony's major problems.

## ORAL ANSWERS TO QUESTIONS

## QUESTION No. 21

MR. PRESTON:

In view of the prolonged delay in the construction of essential roads in the Kibony-Miwani area will Government direct the Road Authority to make an immediate inquiry as to the reasons for such delay and to establish if public funds allocated to roads in that area have been expended wastefully?

THE ACTING CHIEF SECRETARY: Since the plans for the development of road communications in this area were first discussed and the first estimates made, very considerable difficulties have been experienced which had not been foreseen. The result has been that not only has the work not proceeded as fast as was hoped and anticipated, but the original estimates of total cost have been found to be far too low.

The whole question of future plans regarding the completion of the road as far as Kibigori and Chemellil was discussed as recently as September last year by the Central Roads and Traffic Board which advised that decision should be held over for consideration of the Road Authority, which would be able to assess the relative importance of completing the plans for this particular road against the needs of other areas in the Colony.

The question has accordingly been brought to the notice of the Road Authority which will have all relevant material regarding the past history of the work on this road before it, when considering this matter. In these circumstances, the Government does not consider that there is any necessity for any such express directions to be issued to the Road Authority of the kind suggested in the question.

MR. PRESTON (Nyanza): Mr. Speaker, arising out of that reply, which I consider is not a very satisfactory one, I wish to give notice of a motion now.

## QUESTION No. 20

MR. PRESTON:

In view of many promises made regarding the construction of the Nandi Escarpment Road will Government please state—

(a) when the construction of this road will be commenced;

(b) what funds are now available for this purpose.

THE ACTING CHIEF SECRETARY: In With regard to the first part of the question, the Nandi Escarpment Road a part of the secondary network of the Colony's road system, which is to be reviewed by the Road Authority at its next meeting on 25th May, with the object of allotting priorities of construction and reconstruction. The Government, therefore, cannot yet say when construction on this project will commence, but plans and estimates are now complete.

(b) With regard to the second part of the question, it follows that no funds have as yet been specifically earmarked for this project.

MR. COOKE: Mr. Speaker, arising out of that answer, Sir, does Government realize the obvious truth that the longer they delay this the longer it will take. Will they take steps to expedite this matter?

MR. BLUSVILLE: Mr. Speaker, is it not true the Central Roads and Traffic Boards did in fact allocate some additional sum which undoubtedly would carry great weight with the Road Authority?

THE ACTING CHIEF SECRETARY: The sum of £50,000 was mentioned in connection with this road but I think I am correct in saying that no firm allocation was ever actually made for it and clearly I am quite sure hon. Members will agree—it is a matter which must be considered by the Road Authority now in relation to the other needs to which I referred.

## QUESTION No. 30

MR. MATHU:

Is it Government policy to encourage increased production of coffee for the economic good of the Colony? If the answer is in the affirmative, will Government please state what it is doing to achieve this end among Africans in the districts of South Nyanza, Meru, Embu, Nyeri, Fort Hall and Kiambu, giving the number of acres under coffee grown by Africans in each of the districts named above?

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: The answer to the

[The Member for Agriculture and Natural Resources].

first part of the question is in the affirmative. In order to encourage and foster coffee-growing by Africans, areas have been gazetted as suitable for this purpose in the South Nyanza, Meru, Embu, Nyeri and Fort Hall Districts; the question of the gazetting of an area in the Kiambu District is under consideration. Nursery facilities for the raising of coffee plants of suitable varieties have been provided in the gazetted areas and the plants have been issued free of charge to licensed growers. African staff has been increased to provide the necessary supervision and advice to growers on planting and cultural methods. Central pulping stations financed by African District Councils and by loans to co-operative societies of coffee growers have been established and the accounting work necessitated by the marketing of the crop on a co-operative basis and the subsequent payment of the growers for cherry delivered out by pulping stations is largely carried out by officers of the Agricultural Department.

The position as at the end of 1950 as regards acreage and number of growers in each district is as follows:—

	acres	growers
South Nyanza	270	789
Meru	865	3,408
Embu	85	363
Nyeri	79	310
Fort Hall — Nursery stage.		

It is expected that a rapid development in this crop will take place during the coming season in the Meru District.

MR. MATHU: Arising out of that reply, Mr. Speaker, could the hon. Member assure me that owing to the anxiety existing in the Kiambu District that the consideration that he mentions is going to take place would give results in a short time, or is the delay over the question of coffee growing in the Kiambu District to continue?

MR. HAVELOCK: Arising out of the original reply, Mr. Speaker, will the hon. Member assure me, especially as regards the Kiambu area, that as regards the land will not only be suitable according to altitude but will be in good heart as for an African coffee-growing area and that the growing of coffee will be under very strict control for the benefit of the country and so that the quality

of the coffee does not deteriorate, and lastly, Sir, for the protection of the established industry in the vicinity of that area that very strong measures will be taken by Government to see that theft does not occur.

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: Arising out of the first supplementary question put by the hon. Member Mr. Mathu, my reply is as I have already said that the question of gazetting an area in Kiambu is under consideration, I think the hon. Member is aware it is, to use a well-known Council phrase, under very active consideration.

As regards the supplementary question put by the hon. Member for Kiambu, the whole point of gazetting these areas and keeping this form of coffee growing under strict control is to start the African coffee-growing industry on the right lines and in the right places. As regards the dangers of theft, and we are well aware that there are dangers of theft, they can be dealt with under the Stock and Produce Theft Ordinance.

## QUESTION No. 31

MR. PRESTON:

Is it a fact that during the last 12 months or so Maize Control, due to inability of the Railways to supply trucks, had been compelled to make part by road large quantities of maize from producing areas to various destinations in the Central Province and if so, will Government please state:—

- Total number of bags of maize moved by road.
- Total cost of road transport of maize.
- Average cost of transport per bag of 200 lb. net.
- Total difference if the maize had been transported by rail?

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: Yes Sir.

The following are the figures for which the hon. Member has asked:—  
(a) 355,000 bags, 162,000 bags of the 1949-50 crops were moved between March and July, 1950, and 193,000 bags of the 1950-51 crop were moved between mid-November, 1950 and March, 1951.

[The Member for Agriculture and Natural Resources]

(b) £92,000.

(c) Sh. 3/23 as against average rail transport of Sh. 1/87.

(d) £65,000.

MR. NATHOO: Mr. Speaker, arising out of that reply, in view of the fact that the Railways are frequently unable to move commodities, will the Government consider the possibility of granting more T.L.B. licences to road transporters so that transport can be undertaken at more economical rates?

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: Sir, I would have to have notice about any question about granting more Road Transport licences, but as regards the movement of crops by road, I hope, Sir, that in future this particular movement will cease. It has ceased from 15th March and it was only on a very small scale for the first period. I have made arrangements with the Railway under which this should tend to cease.

MR. BLUNDELL: Arising out of the hon. Member's original reply, the hon. Member will be aware that representations have been made by district councils in the area over which this maize crop travels for an additional sum of money to recompense them for any wear and tear falling on the roads owing to the inability of the Railway to move the traffic. Will the hon. Member give an assurance that action is being taken by the Government in regard to these representations by the district councils.

MR. COOKE: I was going to ask the hon. Member the same thing. Sir, if he proposes to refund to the Public Works Department money to cover the damage to the main roads.

MR. HAVLOCK: Mr. Speaker, may I suggest, Sir, that both these supplementary questions refer to the Road Authority, and I have asked Government to state whether the Road Authority will be refunded, so that they may allocate the money as they see fit.

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: Mr. Speaker, there is another question on this subject which will be answered tomorrow which deals with the points raised by hon. Members opposite.

MR. BLUNDELL: Arising out of that answer—

THE SPEAKER: There is a limit! (Laughter.)

### SUSPENSION OF STANDING RULES AND ORDERS

THE ACTING ATTORNEY GENERAL: Mr. Speaker, I beg to move that Standing Rules and Orders be suspended in order to enable the Increase of Rent (Restriction) (Amendment No. 2) Bill to be read a first time.

This Bill, Sir, has received a great deal of consideration in my Chambers and elsewhere during the last few months, and it was not published before because those discussions were still going on. It was actually published in the Gazette on 24th April. I think that most hon. Members opposite must have had copies very shortly after that. It is most desirable, Sir, that this Bill should be taken at this sitting of the Council. I therefore hope that hon. Members will agree that the Standing Rules and Orders should be suspended for that purpose.

THE ACTING SOLICITOR GENERAL: seconded.

The question was put and carried.

### BILLS

#### FIRST READING

THE ACTING ATTORNEY GENERAL: moved: That the Increase of Rent (Restriction) (Amendment No. 2) Bill be read a first time.

THE ACTING SOLICITOR GENERAL: seconded.

The question was put and carried.

THE ACTING ATTORNEY GENERAL: gave notice that all subsequent stages of this Bill would be taken during the present sitting.

### MOTIONS

#### REPLACEMENTS ON COMMITTEES DURING ABSENCE OF MEMBERS

THE ACTING CHIEF SECRETARY: Mr. Speaker, I beg to move the following resolution standing in my name:

Be it resolved that the Hon. C. G. Uher, M.C., be appointed a Member of the Standing Finance Committee during the coming absence from the Colony and Protectorate of the Hon. S. V. Cooke.

[The Acting Chief Secretary]

As hon. Members know, Sir, the hon. Mr. Cooke will be visiting the United Kingdom to represent this Council at the Festival of Britain, which explains the reason for this motion. (Applause.)

THE ACTING SOLICITOR GENERAL: seconded.

The question was put and carried.

THE ACTING ATTORNEY GENERAL: moved:

Be it resolved that the Hon. T. R. L. Preston be appointed a Member of the Preservation of Law and Order Committee in the place of Major the Hon. A. G. Keyser, D.S.O., now absent from the Colony and Protectorate, during such absence.

THE ACTING SOLICITOR GENERAL: seconded.

The question was put and carried.

### CONTINUATION OF CENTRAL LEGISLATIVE ASSEMBLY

THE ACTING CHIEF SECRETARY: Mr. Speaker, I beg to move the following resolution standing in my name:

WHEREAS Article 3 of the East African (High Commission) Order in Council 1947, provides that Parts III and IV of that Order (which parts relate to the East Africa Central Legislative Assembly and to Legislation and Legislative Procedure) shall continue in operation for a period of four years, and shall then cease to have effect;

And whereas the Central Legislative Assembly will accordingly cease to exist on the 31st day of December, 1951, unless further provision is made;

Be it therefore Resolved that this Council prays that His Majesty may be pleased to amend the East Africa (High Commission) Order in Council, 1949, so as to provide for the continuance in operation of Parts III and IV of the Order for a further period of four years from the 1st day of January, 1952, and further to provide that (subject to the prior vacation of any seat under the provisions of section 21 of the Order in Council) the existing Members appointed under sub-paragraphs (i) and (iv) of sub-section (1) of section 19 of the Order in Council shall remain members of the said Assembly until the 30th day

of June, 1952, and shall then resign their seats to enable new appointments to be made.

I should explain Sir, that as hon. Members will appreciate the last seven lines of that resolution naturally refer only to the Kenya representatives.

Hon. Members know, Sir, that the East Africa (High Commission) Order in Council is presented in six Parts and three Schedules. Part (I) deals with matters of general interpretation; Part II establishes the High Commission; Part III establishes the Central Legislative Assembly; Part IV deals with Legislation and Legislative Procedure; Part V with Finance, and Part VI with various miscellaneous matters but we shall not be concerned with to-day. Set out in the three Schedules are the services to be administered and being administered by the High Commission and the matters on which the Central Assembly can pass laws.

Now, Sir, under this Order in Council no limit is set to the life of the High Commission itself, its Executive Offices or its advisory and consultative bodies which have been set up under it, but under Article 3, a limit of four years— which time expires at the end of this year— is set to the life of the Central Legislative Assembly, and naturally the immediately following Part which deals with the Legislation and Legislative Procedure with which the Assembly is concerned. That means, Sir, that if the present Order in Council should continue into 1952 without amendment, we should be left with the services set out in the Schedule to the Order with no central body empowered to legislate for those common services, no recognised means below the level of the High Commission itself, of associating the Government and communities of the three territories concerned with the administration of those services and, possibly even more important, no common forum in which matters pertaining to those services could be publicly discussed. I view, Sir, of the Government, which I believe will be shared by hon. Members of this Council, is that to allow such a situation to develop would be a most retrograde step.



[Mr. Havelock.]

which the Committee might suggest for consideration by the end of 1956, that the control of the expenditure is consonant with the desire of this Council to see the maximum benefit from its contributions; and further to make such suggestions as it may consider necessary to improve the efficiency of the self-accounting services.

Sir, I want to say straight away that it is not the intention of the unofficial Members to take a line of their own, a Kenya line, and in any way drive a wedge between the three territories. We have been in consultation with the unofficial Members of the other territories over the last three or four months and they have full knowledge of our intentions in this regard, and indeed of our disquiet, and I hope that the co-operation between unofficial Members of Kenya and the other territories will be strengthened by the amendment which I have moved and that we will be able to consult them on the problems which we feel are common to all.

As I said, Sir, it is not just a vague idea of passing the problem over that I wish to move this amendment on behalf of the unofficial side of this Council. For instance, some things which the Select Committee might consider—I suggest that it might be of great use that there should be a standing committee of this Council to study the question of common services and to keep us fully in the picture as to the activities of the Central Assembly, and indeed it might be, I am sure, of great use to our Members of the Central Assembly in giving direct advice. It might well be, Sir, that we have not sufficient Members of every Territory has not sufficient Members on the Central Assembly. It may well be the burden, especially on the Government's appointed Member, the hon. Member for Finance in this Council, finds it much too burdensome to carry the duties of the Central Assembly himself. It may also be that unofficial representation on the Central Assembly should be strengthened. Those are the lines on which I hope that this Committee may approach the problem and also, Sir, I hope that the Committee will not only think in the terms of the present Order in Council. It is possible—I do not say it is probable—but it is possible the

present set up of the Central Assembly is entirely wrong. It may be, it could be to the greater benefit of the three Territories, and indeed lead to closer consultation and more likelihood of agreement if there were no legislative body such as the Central Assembly. It may be our problems might be better resolved by having conferences rather than keeping the Assembly itself. It may be, it is only possible. That line of thought, too, I would indicate to the Select Committee.

I believe, Sir, that especially for the non-self-accounting services and especially the research services, the present advisory committees may not be on the right lines. I feel that our own Members concerned with these research services should be more closely associated with the activities of them. In fact a small executive committee, or a small advisory committee, if it must be advisory, consisting of the Members of the three Territories concerned might be the answer to that particular problem. For instance, in agricultural research if our hon. Member for Agriculture, the Director of Agriculture in Uganda and the Member for Agriculture in Tanganyika were the advisory committee, with, maybe, unofficial aid, at least they would be in such full knowledge of the picture that even this Council could get all the detailed information we require from them on the matter of agricultural research. The same applies, of course, to medical research, veterinary research, and so on. It is, indeed, Sir, I think, the research departments about which we have the greatest doubts—which we those particular centralized research departments—again I suggest "research", Sir, because that is for the Select Committee to make their minds up on—may be going rather too much into the air on pure scientific research and not studying the more practical and day to day problems about which we need such great help at the moment. It is true, I think, to say that there are very few people in the actual Central Assembly to-day who have the qualifications and the knowledge—it is not to their detriment that I say this as it is—to properly criticize such services as centralized research. It is not their fault. The provision has not been made for it. The Standing Finance Committee of the Central Assembly is the

[Mr. Havelock.]

presentation on that, anyway from the Kenya point of view—is it right? I understand it consists of all Unofficial Members plus two of the High Commission Members. Is it from our point of view the right type of Committee? We gave up that idea in Kenya some time ago. I feel it may be rather too big, too unwieldy a committee, to deal with the detailed questions the Standing Finance Committee has to deal with. Indeed would it not be better if our representation was more concentrated? The matter, Sir, of self-accounting services of course is very difficult. I personally feel that the advice and scrutiny of the territorial representatives, especially that of Kenya, on, for instance, the Railway Council, is as strong and possibly as good or better than any other committee which concerns itself with High Commission services. I see the hon. Member for Commerce and Industry is sitting back rather snug when I make that remark. (Slightly.) I cannot see the expression on the face of my hon. colleague, the Member for Uasin Gishu. It is not only a matter of personalities, though of course they strengthen our hand as far as scrutiny goes, and I think I must congratulate them on their work. I had to act for the Member for Uasin Gishu once, and it is certainly a burdensome job but I think the set-up there is a right one.

MR. COOKE: What about the Post Office?

MR. HAVELOCK:—The Post-Office Advisory Committee is one with which I will not deal. I do not wish to spoil either my own holiday, or the digestion of the hon. Member for the Coast. I have only indicated the lines on which the Select Committee may study this problem, but I do feel there is great apprehension, great disquiet, not only on the whole country, on the matter of expenditure on the High Commission services, and as to whether Kenya is getting the proper benefit from the money she expends, and therefore, Sir, I am sure that by moving this motion I am doing it with the support of the very great majority, in fact I may say almost all the people in Kenya. It may mean one thing or the other. It will mean our disquiet will be proved as

wrong and our criticisms as unnecessary, in which case we will feel much happier, or it will mean that there are some grounds for our disquiet, and that Kenya will therefore, benefit from the advice this Select Committee will be able to give.

Sir, I beg to move.

MR. COOKE: Mr. Speaker, I rise merely to try to clear up two points. I understood my hon. friend, the Member for Rift Valley to rather reflect on the efficiency of the High Commission, but perhaps I was wrong, and his criticisms were perhaps on the services rendered by the High Commission rather than the efficiency of the officers of the High Commission concerned, themselves, because to say as I am concerned, I have always regarded them as a very efficient people, men of efficiency and integrity.

Now certain remarks have been made about the Post Office. I am a member of the Post Office Advisory Board. The Post Office has inherited a legacy from the past and that legacy over the past—

MR. PATE: On a point of order, is the hon. Member for the Coast seconding the amendment?

THE SPEAKER: I do not know until he says so, or not.

MR. COOKE: I think we have all been at fault, Sir. The amendment has not been seconded yet.

THE SPEAKER: If you choose to rise and speak before it is seconded I cannot stop you. I have no power to say to you, "No".

MR. COOKE: Good! Thank you, Sir. (Laughter.) Well, Sir, with reference to the Post Office—

THE SPEAKER: But you must understand clearly you are speaking to the motion.

MR. COOKE: With regard to the Post Office Advisory Board, Sir, I was saying it inherited a legacy from the past and for that legacy, people on this side of the Council were to a great extent responsible and I think it is unfair to judge its work before it has cleaned up.—I would not say "mess" but—the chaos which it inherited.

Those, Sir, were the only two points I wished to make.

MR. BLUNDELL: Mr. Speaker, on a point of explanation, if indeed, when speaking, I criticized the efficiency of the individual officers of the High Commission, that was not my intention. My intention was to infer that the set-up under the High Commission did not satisfy us. I hope that meets the hon. Member for the Coast's point and makes him happy.

THE MEMBER FOR COMMERCE AND INDUSTRY: Mr. Speaker, I do not propose to extend the debate, particularly as my hon. friend, the Member for the Coast, that tribune of the people, has so ably made the point—

MR. PATEL: On a point of order, Mr. Speaker, when an amendment has been proposed, should it not be disposed of before—

THE SPEAKER: I cannot propose the amendment from the Chair until it has been seconded. No one yet has seconded the amendment.

MR. PATEL: I rise, Mr. Speaker, to second the amendment moved by the hon. Member for Kiambu.

THE MEMBER FOR COMMERCE AND INDUSTRY: Mr. Speaker, with humble duty I ask your guidance. I thought I was speaking on an amendment which had been seconded. I must give way to the Member for Eastern Area in that case.

MR. PATEL: I am seconding this amendment for the following reasons. Doubts and suspicions have been expressed in this Council on some occasions about the working of the Central Assembly and the High Commission and doubts and suspicions have also been expressed outside this Council, and it is necessary that an investigation should take place which will either dispel those doubts and suspicions for ever, or we may find out that there was necessity to take certain steps in order to meet the wishes of the people of Kenya. In that spirit, Mr. I propose to second this amendment.

At the same time, I would like to say that in my view certain remarks made by the hon. Member for Kiambu in proposing the motion, broadly gave an impression which is not in accordance with the correct state of facts. To give an instance, he said that in regard to research organizations, agricultural, veteri-

ary, etc., we should have Directors of Agriculture from the various territories associated in an Advisory Council, etc. Now a paper was circulated some time back to all the Members of this Council setting out all the committees, boards and councils which are working under the Central Assembly and the High Commission and on one of these Advisory Councils, the East African Advisory Council on Agriculture, Animal Husbandry and Forestry, amongst the members are the Member for Agriculture and Natural Resources, Kenya, the Member for Agriculture and Natural Resources, Tanganyika, the Directors of Agriculture, Tanganyika, Kenya, Uganda and Zanzibar, the Directors of Veterinary Services, Kenya, Tanganyika and Uganda, and so on. So we have a large number of experts on the various boards and councils.

MR. HAVLOCK: Too many.

MR. PATEL: Who can advise, in my view, very correctly about the research set-up. On that point, I would like to make it very clear that the machinery for the working of these various research organizations does exist, but the belief, the suspicions and doubts are expressed, particularly among the Unofficial Members in regard to the expenditure incurred in regard to these various organizations and I think it is necessary that a Select Committee of this Council should investigate these matters with a view to either satisfying ourselves that the expenditure is correctly incurred or that there is a necessity for controlling that expenditure.

I again state, Mr. Speaker, I am seconding this motion in that spirit.

I take this opportunity, Mr. Speaker, of thanking the hon. Acting Chief Secretary and the hon. Member for Rift Valley for paying tribute to the Members for Kenya on the Central Assembly and I am grateful indeed to them for making the very kind references to the Members for Kenya.

THE MEMBER FOR COMMERCE AND INDUSTRY: Mr. Speaker, I had just got to the point of referring to the remarks of my hon. friend the Member for the Coast, that tribune of the people and one of the best traditions of this Council, and I thought that in his usual valourous way he dealt with the very great difficulties the Post Office have had to cope with.

MR. HAVLOCK: On a point of order, the hon. Member for the Coast was speaking to the substantive motion and now the amendment is before the Council, Sir.

THE MEMBER FOR COMMERCE AND INDUSTRY: On a point of explanation, I was referring to what I knew passed through the hon. Member's mind. (Laughter.)

If I may be permitted to continue speaking to the amendment, I found myself in personal agreement with very much what was said, by my hon. Member for Kiambu and by my friend the hon. Member for Eastern Area. In fact, I felt that when those two hon. Members were in agreement, Sir, then we should indeed be wise to listen carefully to what they said. I would, however, make one point, Sir, and again while technically speaking to the amendment, I must assume that my friend, the hon. Member for the Rift Valley, if and when he speaks on the amendment, will either endorse or withdraw those sentiments that he expressed so succinctly on the original motion, and I would ask him seriously to consider whether he would, in referring to what is the greatest of the non-self-accounting services of this Colony and Protectorate, and indeed of Eastern Africa, I refer to the East African Railways and Harbours, whether he would wish to assert that their efficiency has, in fact, been reduced. That, I take it, was his assertion. If he said that their problems had increased, that their equipment in relation to the traffic handled had decreased, if he had said those things and if he had said, that as a consequence certain difficulties had arisen and inconveniences to the users of the railway, then, Sir, I would agree with him; but in spite of the fact that he stated there was no reflection on the efficiency of officers of—and I particularly asked him if he included the great self-accounting services and he said "Yes" in reply to me, Sir—I would say that after the achievement of the East African Railways and Harbours during the last very difficult period in dealing with floods, the like of which have not occurred in the whole fifty years of its history, and keeping in mind the main line working with very small interruptions indeed, then I am certain that

on reflection, the hon. Member will wish to make his point of view more clear.

Now, Sir, I think I can say that in regard to the newer services, as far as I, personally, am concerned, the proposals made on the amendment are extremely reasonable. I do, however, wish to place my views on record in regard to the Railway and to endorse the remarks made by my hon. friend the Member for the Coast in regard to the Post Office.

MR. BLUNDELL: Mr. Speaker, in rising to speak on the amendment, I only wish to do so in order to answer the charges or the suggestions of the hon. Member for Commerce and Industry. I think, Sir, if he will look at the record of my remarks when that is available I think he will see—I made an interruption, I think, and I answered in regard to the Railway—I think he will see that I made two points. The first point was that I said many people considered; I did not venture that as my personal opinion. Secondly, Sir, I was most careful to qualify that remark by reference to the difficulties under which I knew the Railway was now labouring.

MR. MACOSOCHE-WELWOOD (Uasin Gishu): Mr. Speaker, in rising to support the amendment, I have just one point which I wish to make which I think will clarify the point of view of Members on this side of the Council in moving this matter, and it is this—the main difference between the self-accounting services and the non-self-accounting services is that the self-accounting services have an immediate direction from the top in the form of the General Manager of the Railway or the Postmaster General. Now, in the research services, I think any of us feel there is, the hon. Member for Eastern Area said, there are a large number of qualified people sitting on Boards directing well. I do not believe myself that Boards of men, however qualified, are a satisfactory form of direction for research. I have the greatest admiration for scientists, but unless they are most carefully directed and to some extent looked after they may go off into any form of research which may or may not be useful to the development of the Colony. They may get side-tracked.

[Mr. Macnochie-Welwood] (Laughter.) When they are making research on plants they find something like a four-leaved clover that is particularly difficult or interesting to develop. That is the main reason why we want the matter investigated to see that the money spent on research is properly and wisely spent in the interests of the territories and that some form of immediate direction of research is set up. (Applause.)

THE ACTING CHIEF SECRETARY: Mr. Speaker, it, as seems to be the position, hon. Members opposite desire that a Select Committee should be set up to perform the functions set out in the amendment now before Council, then the attitude of the Government will be to support and not to oppose this amendment. (Applause.) But, in saying so, Sir, I would wish to make it abundantly clear that in not opposing the motion, it certainly must not be assumed that the Government associates itself with the criticisms made or I think they are—some of them—which have been made by the hon. Members opposite. (Shame.) It is in the spirit rather of the remarks of the hon. Member for Eastern Area that we are prepared to accept this amendment. I should perhaps also just remark that the function of such a Committee will, it seems to me, very largely overlap the functions of the Standing Finance Committee of the Central Legislative Assembly on which, of course, Kenya is represented. But, nevertheless, it seems to be the case, it is the desire that such a Select Committee shall be set up. Government will not oppose this amendment. (Applause.)

The question of the amendment was put and carried.

THE SPEAKER: If Council is agreeable, I will now put the question of the motion as amended.

THE ACTING CHIEF SECRETARY: I would like, if I may, to use my opportunity of replying to—

MR. PATEL: Mr. Speaker, I wish to speak up the motion.

THE SPEAKER: You have already spoken on the motion. In that respect, you can only speak to one question once, and the question when you spoke, which was before the Council, was the question of the motion. Afterwards you would

up your speech by seconding an amendment. That is certainly clear.

MR. PATEL: I only seconded the amendment. I did not speak on the motion. I was told the other day that I need not reserve my right to speak on the amended motion.

THE SPEAKER: I cannot help anything you have been told on any previous occasion. I can assure you that that is the rule that has been laid down in the Central Assembly and which has been laid down here on numerous occasions.

MR. MATHU: Mr. Speaker, I would like to speak on the motion as amended.

THE SPEAKER: That is not the case. Anybody who has not spoken before the amendment was proposed from the Chair could speak now to the motion, but if no other Member wishes to speak to the motion, I shall ask the hon. Member to reply.

MR. MATHU: Mr. Speaker, I would like to speak on the motion as amended and to support the remarks which have been made by the hon. Member of the original motion and those that have been made by the Mover of the amendment, and to say, Sir, that—

MR. SPEAKER: We have disposed of the amendment and the amendment has been disposed of by being carried and we now have a motion which has those words in it and you speak to that, if you follow that.

MR. MATHU: I agree, Sir.

Now, the first part of the motion, Sir, deals with the question of the extension of the life of the Central Assembly for a further four years. I would like to speak on that one, Sir, and say that I think that the activities of the Central Assembly, the High Commission, for the last four years justify the extension of the life of that Assembly, because I feel, Sir, that it is not possible to make judgment on the activities of any organization which has had such a short life as four years and, in spite of the fact that there have been criticisms against the workings of this set-up—some of them, I think, justified—I think it would be more justified if we criticized the set-up after a further period of four years, because during that period we ought to have known exactly whether it is a set-up which should be a part of the political and economic development of these East African territories.

[Mr. Mathu].

There is one point, Sir, I should like to say in conjunction with the composition of a Central Assembly and it is this—that the Africans in all territories, I think, feel that African representation has not been as strong as it should be and although we are not questioning, at the moment, the Order in Council which gives the various Governors of these territories power to nominate African representatives, we should like to suggest, Sir, that it is imperative that during this second life of the Assembly that the Governors responsible for the nomination of African representatives should think again and appoint Members who will strongly represent the views of the African community in these territories as the African people want.

The second point, Sir, which deals again with the composition, is that we feel that the Advisory Boards and Councils which are connected with the High Commission and Central Assembly that the Africans have not been closely associated with their workings and we would like to suggest, Sir, that during this coming life of the Assembly that this matter be remedied. I will, perhaps, be told that we have not got sufficient personnel who can do it, but I would say that that is not an argument the African in these territories would accept. All we want is to share in the responsibilities which are necessary in the running of the services under the High Commission and no more.

The second part of the first part of the motion deals with the question of extending the life of the Assembly until June, 1952, instead of their ceasing from writing after the 31st December of this year. I was doubtful about supporting that part of the motion and I am still not very happy about it, but I think there are reasons which have been advanced by previous speakers which convince me that I think I should not oppose that extension, that it would be for the good of the territories concerned if these six months were extended to give time to the constituencies of various territories of those people who are returned in the various legislatures by direct election.

The last part of the motion, Sir, deals with the appointment of a Select Committee to scrutinize the expenditure incurred in the services of the High

Commission, and to see whether they really benefit this Colony. There again, like my hon. friend the Mover of the original motion, the Acting Chief Secretary, I was doubtful as to whether it was a wise thing, because it meant duplicating the work of the Finance Committee of the High Commission in which this Colony has the privilege of being represented, but, on second thoughts, I think it would be a useful check that this Colony should have such a Select Committee to satisfy itself that things are going in the right way. Sir, I think that if we were able to speak for the legislatures in the neighbouring Territories—

I wish we were—we should, I think, rightly suggest—and I think the hon. Member for Kiambu mentioned this—that they too should set up Select Committees to deal with this matter with a view perhaps to having one joint Select Committee to deal with this matter, because I do not think that a piecemeal approach to these problems only from one Colony would give us the things we want. But, as I say, we can only hope that the other legislatures will take note of this and perhaps take the move that this Council has taken.

I do not think that there is anything more that I can usefully contribute to the debate and I, therefore, support the motion, Mr. Speaker. (Applause.)

THE ACTING CHIEF SECRETARY: Mr. Speaker, I do not think it is necessary for me to say anything more save to express my appreciation of the general acceptance which has been voiced by hon. Members of the main proposal in the motion. There has, during the course of this discussion, been a certain amount of criticism of some of the High Commission services. I remember that on occasions there have sometimes been criticisms of this Government which we have not always, on this side, been prepared to agree with; I am sure that it would be correct to say that the intention of hon. Members who have voiced certain anxieties, sometimes amounting to criticisms, has been to be entirely helpful in their handling of this matter and I am sure that what has been said will be accepted in that spirit by the High Commission and its officers. (Applause.)

The question was put and carried.



**THE ACTING CHIEF SECRETARY:** Mr. Speaker, it would be a great convenience to my hon. friend, the Acting Member for Finance, if either Council could adjourn for the 15-minute break now, or, if hon. Members would prefer it, if the Council would be prepared to remain here for possibly five or ten minutes after the usual hour for the break, so that he would not be interrupted in the middle of his speech.

**THE SPEAKER:** We had better remain for the five or ten minutes.

**Mrs. HAVILOCK:** It would be more convenient for us, Sir, if we could adjourn now.

**THE SPEAKER:** Council will adjourn until 11.10 a.m.

Council adjourned at 10.50 a.m. and resumed at 11.10 a.m.

### THE COST OF LIVING COMMISSION

#### THANKING OF MEMBERS

**THE ACTING FINANCIAL SECRETARY:** Mr. Speaker, I beg to move: That this Council takes note of the Report of the Cost of Living Commission and expresses its thanks to the chairman and members for their work in preparing it.

This Commission was appointed in November, 1948, and the report is the result of nearly two years' work. Originally nine Commissioners were appointed but during the period of their deliberations certain changes took place and when the report was finally ready for publication only five of the original Commissioners were available to sign it.

The terms of reference of the Committee were wide and the subject-matter of their deliberations was of the contentious kind which always has and always will give rise to great argument. It is a mistake, I submit, Sir, to suppose, as many people do, that all problems have an easy solution. Indeed, some problems may have no solution at all. I would not go so far as to say that this particular problem is in the insoluble class, but I would venture to express an opinion that no attempts at solutions which have so often been made do not suffer from the disadvantage of having as many opponents as they have adherents. One unfortunate and intractable feature of any consideration of the problem of cost of living is that its problems

cannot really be posed at any one time. They have an unfortunate habit of changing, even while they are under consideration, and what may be a reasonable solution to-day is not necessarily the right one tomorrow.

What the Committee set out to do was to suggest a method whereby the cost of living could be pegged at a given level. The period during which most of their deliberations took place was one of relative stability. In November, 1948, the retail price index of consumer goods was 183 (1939 being the equivalent of 100). A year later, Sir, it had only risen by two points and although the rise between October, 1949, and October, 1950, was 13 points, the rise was a gradual one and there was no kind of indication that the degree of instability of which we are to-day only too painfully aware was so near. The fact that the Korean war and the resulting international tension which has made large expenditure on armaments necessary has meant that raw materials have suddenly become scarcer, and any period of scarcity invariably has the result of causing the prices of consumer goods to rise, often in the most alarming way. The fact is, painful though it may be, that in a period of inflation, such as we are now experiencing, there is no datum line, which has any reality, to which an attempt to tie the cost of living can be made. Almost before the ink is dry in a minute produced with much labour and sweat to attempt to alleviate the positions with regard to commodity A, a rise in price in commodity B has undone all the weary effort. Last year, before the Korean war, Sir, had really made itself manifest the Government made what I might describe as an earnest attempt to attack the cost of living by reducing Customs duties on certain commodities which had an important bearing on the cost of living index. I can assure hon. Members that the decision was the result of many weeks of anxious work. At a cost to the Colony's revenue of some £200,000, it was calculated that the action taken would result in a reduction of the index by nearly five points. And so it did; but within weeks, increases in the prices of other commodities had more than wiped out the reduction. I do not for one moment suggest that this experience should lead us to adopt an attitude of

[The Acting Financial Secretary] *laissez faire*. On the contrary, the Government intends to continue to take every step within its power to keep the cost of living within bounds, but I should like to emphasize that the yoke is not easy and the burden far from light; and I give this example in corroboration.

The Report itself makes 17 recommendations. I propose to comment briefly on the more important ones, but I do not wish it to be felt that at this stage the Government's view is necessarily immutable—the very object of this Motion is to obtain the views of hon. Members opposite, as a result of which the Government will no doubt receive guidance which will be of the greatest value to it in its endeavour to follow a course which will have the optimum benefit to the community as a whole. I shall consider now the first four recommendations. They are, in brief, that export taxes be imposed on certain specific commodities, and that the proceeds of these taxes, together with what are described as "the special funds under the control of the Member for Agriculture" should be brought together into a common fund, and that this fund should be used "for the purpose of making payments designed to keep the prices of agricultural produce low by means of—eliminating—from those domestic prices any element in respect of development and generally to improve the position of marginal farming as well as to maintain stability over the whole field of primary product prices".

I should say at once, however disappointing it may be to some hon. Members, that I do not intend, during this debate, to be drawn into a discussion as to the merits, or otherwise, of export taxes. I am well aware of the arguments both for and against them.

The issue here is, that if we were indeed to introduce such taxes, then the proceeds should be used in an attempt to reduce the cost of production of those primary products whose market is a domestic as opposed to an overseas one. The proposal turns on the proposition that the agricultural industry should be regarded as a single entity and this concept the Government finds it impracticable to adopt. Nevertheless, there is much substance in the suggestion that developmental expenditure may some-

times properly be the subject of assistance by the Government. The Government has already recognized this and the Council has endorsed the Government's recommendations in agreeing to the appropriation of funds, £200,000 in 1951, to enable loans to be made for developmental purposes. Indeed, in the present sitting of this Council, Sir, approval has been given to a scheme designed to achieve the object of the Commission in this respect.

With regard to the reference made by the Commission to the "various funds under the control of the Member for Agriculture" I would merely say here that these funds arise as a result of special cesses, or deductions—I give the Hides and Skins Cess Fund, as an example. The proceeds of these special cesses are not the property of the Government for use in a manner other than that intended.

Recommendation 5 is that the implications of food subsidies be examined with a view to carrying out a policy of wage and price stabilization. In a restricted form, this question was the subject of a debate in this Council last February—it was then confined to the proposal that maize should be subsidized. The Motion was lost by a large majority. I should not be prepared to say, however, that the result of that debate means that the question of food subsidies can be regarded as being finally disposed of—(Hear, hear)—but I would venture to suggest that the present world prices militates against the introduction of good subsidies on a scale which would be likely to have an appreciable effect on the cost of living. (Hear, hear.) Price control is the subject of Recommendation 6, which is that it be re-established on all essential goods in the Cost of Living Indices which are in short supply. Members are aware that in the past six or seven months there has been a great intensification of price control. It is not as easy in principle. It is to the effect that the Statistical Department should be strengthened in order that further information may be made available for the purposes set out in paragraph 90 of the Report. This recommendation is the subject of discussion with the Director of Statistics, and specific proposals will be put to the Standing Finance Committee when the discussions have reached an appropriate stage.

[The Acting Financial Secretary]

Paragraph 94 of the Report deals with the encouragement of local industry and leads to the Recommendation (No. 12) that "a wider application of Customs drawbacks be made." In my substantive capacity of Secretary to the Treasury I am Chairman of a Committee whose function it is to consider representations from commercial enterprises that the development of specific secondary industries is being hampered by the application of the Customs Tariff. A large number of such applications has been considered by the Committee and in many cases recommendations that ex gratia refunds of customs duties be made in order to encourage and promote the growth of secondary industries have been favourably received by the Standing Finance Committee. (Applause.) The process continues.

Paragraphs 99 to 102 of the Report deal with the effect of transport on the cost of living with particular reference to the Railway. It is recommended that the policy of the East African Railways and Harbours be reviewed in the light of the Report. The argument, Sir, is that whereas the law under which the East African Railways and Harbours operates requires that the undertaking should be run on normal business lines, that is that services should be run at a loss, consideration should be given to the possibility of using the Railway as an instrument of policy with the object of reducing the cost of living. I should be reluctant to advocate the policy suggested, even if I were convinced that it would have any material effect on the cost of living. In the first place it is important to dispel the impression that the primary factor in railway policy is the building up of large reserves or the making of profits. (Hear, hear.) Section 25 (4) of the East African Railways and Harbours Administration Act places the provision of reserves last in the objectives to be attained, and while section 5 (c) makes it clear that the Railway is not a profit-making administration. There are only two real reserve funds—the Rates Stabilization Fund and the General Reserve. The Renewals Fund is, I would submit, not a true reserve and is, in fact, not sufficient at present-day prices to replace assets as they wear out. The Rates Stabilization

Fund will amount to about one and a quarter million pounds by the end of 1951 which is less than two months' revenue. It was designed to protect producers against circumstances such as those which arose in 1929 and 1930. It may well yet be required—but if it is, it may also indeed prove to be inadequate. The General Reserve, accumulated over 27 years, will amount to £575,000 by the end of 1951. It represents half a month's revenue! It may in fact be argued with great justification that by maintaining its rates substantially at the 1939 level the Railway has, in fact, made a considerable contribution to keeping down the cost of living. (Hear, hear.) What, indeed, are the effects of Railway rates on the prices of essential commodities? I give a few examples. As far as local produce is concerned, the retail price of vegetables in Nairobi may be said to be an average of about 20 cents a pound. The freight from Karatina, a distance of 99 miles is one cent a pound of 0.5 per cent of the retail price.

Butter from Murenda selling in Nairobi at Sh. 3 a pound attracts freight rates of one cent a lb. or 0.33 per cent of the retail price.

Milk from Konza at Sh. 3/36 a gallon is charged at 10 cents a gallon or less than 3 per cent of the retail price.

As for imported goods the following facts are interesting:—

Men's suits in Nairobi: Sh. 400 cash, rail freight .31, cents Mombasa/Nairobi, percentage of retail price 0.1 per cent.

Cotton cloth—Sh. 6 per yard, rail freight 03 cents Mombasa/Nairobi, percentage of retail price 0.5 per cent.

Men's shoes—Sh. 85 per pair, rail freight 22 cents Mombasa/Nairobi, percentage of retail price 0.3 per cent.

Woolen blankets—Sh. 50 each, rail freight 26 cents Mombasa/Nairobi, percentage of retail price 0.5 per cent.

Bicycles—Sh. 300 each, rail freight Sh. 2/96 Mombasa/Nairobi, percentage of retail price 1 per cent.

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[The Acting Financial Secretary]

Perhaps a more interesting example to some hon. Members—

Tractors—Sh. 9,400 each, rail freight Sh. 137/20 Mombasa/Nairobi, percentage of retail price 1.5 per cent.

Mr. BLUNDELL: Whisky!

THE ACTING FINANCIAL SECRETARY: Whisky—Sh. 21/50 per bottle, rail freight 21 cents Mombasa/Nairobi, percentage of retail price 1 per cent.

Mr. BLUNDELL: Shame!

THE ACTING FINANCIAL SECRETARY: Cigarettes—Sh. 2/60 per packet of 20, rail freight 01 cents Mombasa/Nairobi, percentage of retail price 0.4 per cent.

I do not think that it can be said that there is much room, if indeed there is any, for making a contribution to the problem of the cost of living by what would amount to a drastic alteration in the policy adopted by the Railway Administration.

I would refer finally to Recommendation 17: that the Labour Department adopt a policy of encouraging by all means within its power the payment of weekly wages. This matter was referred to by the hon. Member for Mombasa during the Budget debate on the 1951 Draft Estimates and while there is much to be said for the suggestion that it is a fact that in certain cases weekly wages have been tried but, as was stated by my hon. friend the Acting Chief Secretary in the debate to which I have referred, the experiment proved to be extremely unpopular and a great deal of discussion and negotiation would appear to be necessary before such a recommendation can be implemented. Nevertheless, the Government appreciates the force of the arguments behind the recommendation and there is no question of the problem being left because of its difficulties.

I apologize to the Council for having taken up so much of its time in moving this motion, but I felt, however, that Members would wish to have as full a statement as it is possible for the Government to make on this Report at the opening of the debate. In conclusion, I would remind hon. Members of the terms of this motion, which are to thank

the Chairman and Members of the Commission for their Report. There was no easy assignment—(Hear, hear)—and I know that all hon. Members will agree with me when I say that the inquiry has produced many valuable suggestions even if we do not all agree with all of them.

Sir, I beg to move. (Applause.)

THE ACTING SOLICITOR GENERAL: Sir, I beg to second and reserve my right to speak if necessary.

Mr. COOKE: Mr. Speaker, it is just three years since there was a general election in this country and in the course of the canvassing for the election, a number of candidates in their youthful exuberance made this question of the cost of living one of the principle planks in their platform, but I, Sir, as an old campaigner have learned that it is easy to promise but more difficult to perform and personally, I think, I kept more or less out of that controversy. Now, Sir, it is easy to criticize the Committee if not having produced a report which would be more acceptable to the people of this country, but nevertheless I think we owe them and their able chairman thanks for the great trouble and pains that they went to in preparing their report. (Hear, hear.) (Applause.) This, Sir, will not prevent my criticizing the report. (Hear, hear.)

It is one of the faults, Sir, of our constitution that we on this side of the Council will never be called upon—at least for many years—to assume responsibility. Therefore, we are in a very favourable position to be able to hurl criticisms at the gentlemen on the other side of the Council and, if those gentlemen were not of such a forgiving nature, I think they must now be taking a sort of sardonic satisfaction in the fact that they themselves were not represented when this report was written. We are rather in the position of the Communists in China in that we can dart over the Mongolian border, inflict casualties and get back to the other side without the injury sometimes to ourselves; that is, rather more or less, the position of the Elected Members of this side of the Council, but this, in my opinion, does not absolve Government from blame in the delay in discussing this report in this Council. The Committee sat, or began to

[Mr. Cooke]

in nearly two and a half years ago and it is now six months since their report was published. Now, Sir, I think that when a Committee of this importance sits, it is if I may use a popular phrase of a few months ago—flouting the authority of this Council if that report is not debated in the least possible time. I feel that perhaps some of us on this side of the Council were equally responsible because we ought to have urged upon Government to take action before it did and I think it is a pity, for instance, that the cost of living allowances were paid before this report was discussed.

Now, I myself am a great supporter of the cost of living allowances to Government officials, so I hope I will not be misunderstood in that respect, but I want to make it clear that if this Report had been discussed we might have found some means by which the community in general would benefit rather than one particular section of that community. I am going to mention later on the controversial subject of subsidies, by which I think we could have benefited the rest of the community.

Now, Sir, I think that we must take the blame in this matter. I regard the cost of living position as "Kenya's Number One" domestic problem, and it is up to us as the representatives of the people to see that that problem is speedily and properly solved.

The question of subsidies will later arise, but I would make this remark, that for good or evil, we are living in a planned economy and I do not see when we can stop planning once we start planning. I think it is wrong for any section of this community to arrogate to itself the right to say that we can plan this and that. We plan to give farmers, and quite rightly, higher prices for their produce, but we fail to plan to give the poor old consumer his right to a square deal. That, Sir, seems to me to be a misuse of the term "planning".

Now there is, I know, a great fear in this country, and I do not know why, that if we start subsidizing it is going to cost this country a larger sum of money, a greater sum than we are paying to-day. But, surely, it must be evident to everyone that if we pay a cost of living allowance, that must cost the taxpayer a very

large sum indeed, and it seems to me to be six of one, as I have said before, and half a dozen of the other, whether we tax the taxpayer in order to pay higher cost of living to all races in this country or whether we tax the taxpayer in order to reserve money—to accumulate money—to pay subsidies.

I may say with regard to subsidies that the Government of New Zealand, the new Government of New Zealand—Mr. Holland's Government, when it took over about two years ago started to do away with subsidies and started to do away with a lot of controls. Well, they have speedily got into difficulties and if I may read a brief extract from the *Economist* of March 10th, headed: "Inflation threatens New Zealand"; it is written that: "in an effort to prevent the wage increase from being passed on, it has discontinued" (that is the Government of New Zealand) "the removal of controls and has promised its subsidies on certain staple foodstuffs to be maintained and has issued regulations preventing more than 75 per cent of the wage increase from being written into the prices of a number of items still remaining under price control". And since then, the New Zealand Government has taken steps to peg the prices of her principal foodstuffs, to peg these prices to the consumers in New Zealand and she has also taken anti-inflationary steps, such as freezing one-third of the cheques paid to farmers for their wool crops.

Now, Sir, there seems to me to be three factors entering mainly into the cost of living in this country and all those factors were dealt with in this Report. I emphasize the word "main" factors because I know there are other subsidiary ones. The first, I think, is the cost of housing. The second, I would put, the high cost of transport, and the third, I would put, the high cost of food, especially local food. Now, I am not dealing with the first two, because I would be taking up too much time of this Council, but I should like to deal with this question of food subsidies and I would emphasize, Sir, that whether we spend the money on subsidies, or whether we spend it on cost of living allowances, the money comes from one and the same source.

[Mr. Cooke]

Now, there is another point, Sir, I wish to emphasize, people always say, "But, oh, Great Britain has had such experience of subsidies that she would do anything to get out of it now". Well, that may or may not be so, I do not think it is so. Judging from speeches made recently, but at any rate, I would say there is no analogy whatsoever between conditions in Great Britain and conditions in this country, especially as regards food subsidies. Now, England purchases from abroad—that is, from outside England—70 per cent of her food. Therefore, she is paying these large sums to foreign producers. We, Sir, I think, in this country do not import even 5 per cent and 95 per cent of the food consumed by the consumers in this country is produced by the farmers of this country. Therefore, in providing money for the subsidization of food we should not be sending money out of this country; it would not affect our balance of trade nor would it affect our national income. It would merely be a transfer of purchasing power from one section of the community to another, and so far as at any rate I can see it would have no influence on the national economy of this country. Now that seems to me, Sir, to be another strong argument in favour of subsidizing the food. My first argument was that in any case we have got to provide the money, the taxpayer has got to provide it, and my second argument is that the money, spent on subsidies, is retained and circulated in this country.

Now we hear a lot—if I may return to this subject of inflation—that the injection of all this money into the currency of this country will have an inflationary effect. Well, of course, it would in any case even if you pay cost of living allowances. We are injecting a lot of money into the economy of the country, but if that is so, I do not think personally the injection of a million pounds into a country whose national income is something of the order of £70,000,000 would have that very great effect, but even if it did have that effect there are many methods of dealing with it. South Africa which was in the very trough of depression two years ago took the matter in hand and, for instance, imposed credit restrictions on the banks,

and in one and another way they absorbed or prevented the inflation from having a very bad effect. They also, of course, strictly regulated the importation of consumer goods. I, at any rate, am not frightened of that boggy and I do depreciate very much people who say that inflation will come at any rate and we cannot stop it. Now, Sir, I will never be an advocate of such defeatism. I think it is a shocking defeatist state of mind to take up, I prefer, as I quoted in this Council once or twice before, the saying of a French general who said, "Well, Sir, if it is difficult it is already done. If it is impossible it will be done". And I do not believe, for one moment that it is impossible to prevent inflation of a really deleterious type in this country.

Now with regard, Sir, to the export tax which has been alluded to by my hon. friend, I am in two minds about the tax. I think that the Committee took a very courageous decision when they recommended it. I would remind people who say it is an attack on capital and that sort of thing that this country did not hesitate to attack the potential capital of the officials 20 years ago when they put a levy on salaries for two years. I myself was a victim of that levy to the extent of a couple of hundred pounds. I see no inclination on the part of anybody in this country to return that £200 million was that in any case we have got to provide it, and my second argument is that the money, spent on subsidies, is retained and circulated in this country. I think that it might be used for pulling money by, as suggested in the Report, to stabilize other agricultural enterprises, and it might indeed, as I think has been done in one or two other Colonies, take the form of a compulsory loan which would be repaid later to the people in question, but as to how that should be done I am at present in two minds, although I would not hesitate to support any reasoned suggestion to put on export taxes.

Now, Sir, in ending I would again say that we must get away from this boggy of the inevitability of inflation. My hon. friend, the Member for Commerce and Industry, who sat at the feet of Gamaliel—I mean of that famous economist, Lord Keynes—will, I am sure, be glad

[Mr. Cooke] to hear from me the views of Lord Keynes on this question of inflation. I do not want in any way to inhibit my hon. friend from getting up and opposing Lord Keynes' view, but I am sure he will forgive me if I express it here. Lord Keynes said: "Lenin is said to have declared that the best way to destroy the capitalist system was to debauch the currency. By a continuing process of inflation, governments can confiscate, secretly and unobserved, an important part of the wealth of their citizens. By this method they confiscate, but they confiscate *unofficially*." . . . Lenin was certainly right. There is no subtler, no surer means of overturning the existing basis of society than to debauch the currency. The process engages all the hidden forces of economic law on the side of destruction, and does it in a manner which not one man in a million is able to diagnose." I believe, Sir, the policy which we are pursuing at the moment is one much more likely to encourage inflation than any policy of subsidies which I would recommend. Now I would ask people to think wisely and think well before they make a decision in this matter. It is not a matter which will affect only the economy of the country. The decision which we will have to make before the Budget Session and in the next few months may profoundly affect the political future of this country too. Before I sit down I would like to congratulate the authors on their report and although I have criticized it I think they deserve "hot" thanks. (Applause.)

MR. HAVELOCK: Mr. Speaker, I rise early in this debate to make my position clear as a signatory to this Report and, Sir, first I would like to thank the hon. Mover and the hon. Member for the Coast for the kind remarks they have made about the Chairman and members of this Commission, in spite of the reservations which they made, and criticisms later.

I would like to point out, Sir, that when we started this task which I submit was a Herculean task and in which I do not think we could ever expect to satisfy all sections of the community, our Select Committee which started it was a very large and representative one, except, Sir, that there was

no representative of the producers of agricultural produce for domestic consumption on that Select Committee, and I believe that that was a weakness, a very grave weakness, right from the inception. Hon. Members on this side of the Council realized what a lot of detailed work and what a lot of time would have to be spent on this inquiry, and especially those representatives to which I have just referred. Most of them live a long way from the centre, Nairobi, and it would have been very difficult for them to have become members of the Committee. However, I say again, I think it was a great weakness. I also think, Sir, looking back, that it was a weakness that Government agricultural advisers were not on that Committee. It was a committee in the inception, and then, if you remember, it was turned over to a Commission when certain hon. Members of this Council, who were members of the Select Committee, ceased to be members of this Council and therefore could not carry on as members of the Select Committee. I believe that we might have been able to face the agricultural side with greater effect if we had had that advice.

I feel, Sir, before dealing with the Report in detail, or the recommendations, that we must be quite realistic about this matter of cost of living. It is obvious that the salaried man has, and is facing a certain burden, but I wonder if to some extent that burden is not slightly exaggerated. It always surprises me when I go to the cinema, which is not very often, to find that the expensive seats are always full and most of the cheap seats are empty. I am told that the sale of luxury goods in this city has by no means been reduced—in fact they go up. It may be, as the hon. Member for the Coast says, that it is the wealthy farmers and coffee planters—their, *hear*, who are buying these goods, but, as it happens, I think is you studied the figures that it would be impossible to say that it were only a small section of the community that had such a large effect on the luxury trade. I am told by retailers of clothing in this town, for instance, that it is very seldom that the cheaper goods are sold. It is usually the more expensive ones which are asked for. I am not saying that people are not suffering, but I believe we have got to

[Mr. Havelock] see both sides of the question and keep our feet completely on the ground.

There is another aspect, Sir, which I think we may not consider as much as we should, and that is the number of servants that so many people keep. During the hearing of the evidence by the Cost of Living Commission, it was although it is some time ago, it was definitely stated that all communities have a feeling that they must have a certain number of servants, and even the lower paid Asians, we were told, felt that they must have a servant because of the prestige value. Well, Sir, that aspect is another one that we must keep in mind. I am not asking people to lower their standard of living drastically, but their standard of living, if people have not I do think a number of people have not a realistic, shall I say, standard of living.

Now, Sir, if I may take the points rather on the same lines that the hon. Mover took them—the recommendations of the Cost of Living Commission, which appear on page 21. The first one, Sir, of course—and this is one about which, of course, as a signatory of the Report, I have had considerable trouble—is that matter of export taxes. It was obvious that I would have considerable trouble in view of small (b), which is "coffee".

I think the hon. Mover put the question of the export taxes very clearly indeed, and he brought out the point that the recommendation of the Commission in this regard was definitely based on the assumption that the agricultural industry could be looked upon as one entity, and the hon. Mover said that the Government could not accept that contention. Well, Sir, since the writing of this report I have had numerous discussions, both with my colleagues and with my constituents, and with the consumer elements in Nairobi, and in this particular matter I am afraid that I now have considerable doubts as to whether the Commission were wise in making this suggestion on that one particular point, that the hon. Mover stated, that it does seem to me now that it is impracticable to look upon the agricultural industry as one entity. It does seem so because, thinking it over, the whole of the economy of Kenya must be, or is based very largely on, the agricultural industry, and therefore if one tried to divorce that industry from other

economic activities it just would not work. It might elsewhere, but I cannot see it working here. Therefore, Sir, I think that this particular recommendation may be based on a misconception of the true position.

Now I would like to make it clear, Sir, here, that the recommendation of the Commission was only that these export taxes should be paid into a special fund. Again this was brought out by the hon. Mover, but I would like to re-emphasize it, because I know there is a doubt in the countryside that only for one particular purpose is this money to be spent. It was not to be spent in cash payments for reducing the cost to the consumer of agricultural products. It was not to be spent as a cash subsidy, it was not to be spent for developmental purposes, and in fact, as I saw it then, and see it now, that fund was to be used exactly as the fund, which has been created in the 1951 Estimates, which we debated yesterday, is to be used.

Therefore the mere fact of fund being created does not accept the principle of subsidies. Of course, the next recommendation of the Commission was that the implications of food subsidies be examined with a view to carrying out a policy with regard to wages and price stabilization. That recommendation, Sir, I dissent from later in the Report and I still feel that it is unwise for us to launch out on subsidies at the moment. I still believe, as I said in my dissenting note in this Report, that there is still some—not a lot—there is still some scope for increased wages, and that an increase in wages must mean that the employer, be he Government or private, must try to find means whereby less men will do the same work, or the same men will do more work. The implication of subsidies, to my mind, is a temptation to lead people into the attitude of: "Well, it's a gift from the gods, and let's just be exactly as we were before. Do not let us improve our efficiency or economy." On the other hand higher wages, Sir, sure, will direct people, the employers anyway, to try to persuade their employees to do more and produce more. Now, Sir, is not that right? There must answer to the cost of living? There must be more efficiency and more production, and that surely is the only real way in which fundamentally we can tackle the

[Mr. Havelock] problem of cost of living. Of course, we can tackle the problem of cost of living on certain sections of the population by taking money from one section and giving it to another, but that does not get at the root of the problem. The root of the problem is more efficiency and more production, and I believe subsidies will not tend to persuade people to adopt that action.

Recommendation No. 6, Sir, that Price Control be re-established on all essential goods in the cost of living indices which are in short supply has been criticised on the basis that it is not only the goods in the cost of living indices that should be price controlled. There are many other essential goods, essential to production for instance, which do not appear in the cost of living indices which also should be controlled and with that I entirely agree. I believe that was an omission by the Commission in not making that quite clear. But taking this matter of price control for the goods in the cost of living indices, we heard from the hon. Mover and we know that the price control system has been greatly strengthened, but are we quite sure that it has been strengthened rightly? I have had from the commercial community representations to the effect that the number of goods which cannot be looked upon as being completely essential have been price controlled and therefore, the profit that the commercial community can expect or should expect from these goods has been so reduced that they cannot play one against the other and help in reducing their profits, and therefore the cost to the consumer on the essentials. Surely, if we are going to price control essential goods, and we must do so to the basic minimum to make it as cheap as possible to the consumer, we must look at the commercial man's side of it as well and give him a chance to make up on the savings what he loses on the roundabouts and it is on the luxury goods he should make his extra profit to balance out. I believe there are certain items which either have been controlled by Government or the Price Controller is considering controlling, which should not be controlled because that would, or might do away with that profit factor which necessarily must help in reducing the price of essential commodities.

It has been said, Sir, that as far as Recommendation 8 is concerned, there is already adequate machinery to advise the Governor in Council on matters arising out of this Report. I am quite satisfied to leave that to Government to consider. I am not quite sure if there is adequate machinery, but I do not feel very deeply about it.

I was very pleased to hear, Sir, from the hon. Mover that Government is considering this matter of strengthening the Statistical Department so that the facts on which our policy must be based can be produced. Naturally, one must also see the other side of that and see that this will not cost us too much money, and I am glad to hear the Standing Finance Committee will consider it and I am sure they will throw it out if it does cost too much money.

There is one recommendation which I do not remember the hon. Mover referring to. That is Recommendation 11, that the policy of end tax instead of Customs duties be instituted where found suitable. I believe there may be considerable benefit in certain articles to be derived from the institution of such policy. It is obvious there are only a few commodities on which such an end tax could be placed instead of Customs duty. I underline that, "instead of Customs duties" because our hon. friends in the Treasury are quite happy to accept extra taxation if suggested without noncomitment reduction. But, for instance, motor-cars. I understand that the price control of a motor-car is based on the price landed at Mombasa plus the cost of Customs duty paid by the importer.

If an end tax is instituted instead of Customs duty there would be no case for the importer to demand a profit factor on the money outflow for Customs duties as is now the case. Admittedly it could be worked out on the duty paid by the importer, that the percentage profit allowed on that element only might be smaller than on the other elements in the make-up of the cost, but surely it would be better still if there was no profit factor at all on that money paid in Customs duty, and the only real way of adopting that and putting it into practice would be to have an end tax instead of a beginning tax, and I do hope the hon. Mover will comment on

[Mr. Havelock] that in his reply, as he did not do so before. Also he did not mention, as far as I know, the Recommendation 11, that the policy with regard to the licensing of manufacturers be reviewed in order to secure maximum rationalization. In that particular recommendation there is also, I submit, an omission, because it refers back to section 93 which does not only mention manufacturers, but also mentions retailers, and I think it is the retail angle which is a very important one—in fact I do not think it was very long ago, I think it was in this Council, it was mentioned that in Nairobi there seemed to be a very great number of grocers with a very small number of customers who are still able to make a very good living, and therefore there seemed to be something wrong somewhere.

I do not remember the hon. Member referring to Recommendation 13—I have skipped 12 because he has dealt with it very adequately—that goods in short supply in no circumstances be offered for sale by tender. I understand that the Government has adopted this policy to some extent, especially with a view to helping the agricultural community to get essential goods which are being disposed of by the Disposals Board, I suppose—to get them without too big a profit factor entering into it through the different stages that these goods might have to go through in the normal course of commercial activity. I think it is a very important one and very important especially at this moment when, I understand, there are quite a considerable number of goods—which will soon be offered for sale from Mackinnon Road and elsewhere.

The hon. Mover was very critical of the recommendations as regards the East African Railways and Harbours Administration. As with most of these recommendations, Sir, the Commission intended this, I think, to be a very long term one and not something that we would just rush into straight away. After all the wording of the recommendation is only that it should be reviewed in the light of this Report and see what would come out of it, but it did seem that in certain instances, as this Colony has not a great control over the policy of the Railway in certain instances, the cost of being might be quite seriously affected

if some pressure could not be put upon the Administration in this regard. For instance, if I may just suggest a number of people in this town and outside it feel that an answer to a number of questions of the cost of living and other questions will be in the building of a suburb outside Nairobi especially for Africans, to provide them with proper housing and economical housing, and that those employees will have in some way to be transported into Nairobi where they work. Well now, if the Administration cannot be prevailed upon to provide a cheap service of this sort for the workmen, a quick service and a regular one, that whole scheme which would have a great effect on the cost of living, I submit, in the future might have to be turned down.

As regards Recommendation 15, Sir, that comes on to the priorities which the hon. Member for the Coast mentioned. I understand he quoted these three factors in the order of their priority.

MR. COOKE: Not necessarily.

MR. HAVELOCK: He did not, I believe the order he put them in is the order of their priority, that is that the three main factors in the cost of living, in towns anywhere where the burden seems greatest, are rent, transport—then he said food, with which I disagree—but rent and transport. I feel that the Commission and again, of course, we must remember, as the hon. Mover said, conditions have been definitely altered since they made their report, but I feel that the Commission did not possibly stress sufficiently those two factors, rent and transport and I do hope that Government will put forward every effort to try and see how they can reduce the cost of rent of transport. I believe on both those factors that I believe on both those factors that I believe local government authority may be able to do more than central government, and indeed Recommendation 15 does and indeed Recommendation 15 does that bring that fact out—and municipal attention of civic and municipal authorities be drawn to the desirability of public management of local road transport in the light of paragraph 101, and I hope that that particular recommendation and also that they may apply that same recommendation to rents.

The hon. Member for Commerce and Industry, in his usual puckish manner,

[Mr. Havelock] has mentioned the word Socialism. Well, I agree it is something we have got to guard against, but on the other hand, I do not think that the running of transport services by municipal authorities is really nationalization. I am not very frightened of that because I have a number of friends who are Councillors in the City Council of Nairobi, and they tell me that the pressure they have from their constituents is just as great as the pressure we have, or even greater, and if the municipality were running a transport service it would have to be efficient, because their lives would be unbearable if it were not. But I do feel that that is a matter that Government should consider.

Now, Sir, another point that I noted down whilst other hon. Members were speaking which I would like to refer back again to is this matter of export taxes. I understand that some people consider that one of the effects of an export tax would be to sop up extra money. Well, I have already given my views on export taxes as recommended by the Commission, and now I will add to that and say that I think the only really practical and proper method whereby the use of export taxes to sop up money could be made is by export cesses. I prefer using that word, within the industry itself. The coffee industry, the sisal industry, the hides and skins industry—they have already cesses, they are not very large ones, but indeed we in this Council brought up the matter of the hides and skins exports cess only a month or two ago, and complained that we thought it was too high, so we have got to be careful of that factor, but I believe that with the agreement of the organized industries that they would accept—they very well might accept—slightly higher export cesses than they have now, to be paid into funds for their own use, either for stabilizing the prices in the future or for investigation and research I believe they might accept a higher form of export cess, and of course it is very much nicer to be able to implement a policy of this sort with the full agreement of those who are affected than it is to impose it. So therefore I would suggest that if the hon. Member for Finance has any idea of export taxes—and I hope he has not—but if

he has any idea of export cesses he should consider that and see if he could not at least cover Government's points of sopping up the surplus money by an agreement with the organized industries.

Now Sir, there is one point that I missed when I opened my remarks on this motion, and that was I hope hon. Members have noted how few were the signatories to this Report. Hon. Members will note that at the time the Report was signed. Unofficial Members only signed it. Now my hon. friend the Member for Education, Health and Local Government was an Unofficial at that time. Now what does that mean? Does that mean that the Government ran away from their responsibility, and the Unofficials were the only people who were prepared to take the risk to put their signatures to a report of this sort? I do submit it does mean this: that we were very short of Government advisers, and I am very sorry that we did not have more Government advisers and representatives at that time. Anyway, I will leave hon. Members to draw their own conclusions from those remarks.

Sir, one more point on subsidies arising out of what the hon. Member for the Coast said, and I have dealt with one side of it. I know that there are some very sound arguments which will be produced by hon. Members on this side against subsidies—but I will not attempt to quote them now, but the hon. Member for the Coast said that we should not be afraid of the amount of money in which we might be involved—as I understood him.

MR. COOKE: On a point of explanation, Sir, I said that most money would have to come from the taxpayers' pockets, and it would be the same thing, whether it went to subsidization or to cost of living allowances.

MR. HAYLOCK: The hon. Member, I presume, is thinking anyway of the £300,000 which we will have to pay out in cost of living allowances for Government servants, and I do not suppose that he feels that if we have subsidies that that £300,000 cost of living allowance should now be taken away. Well, he did, later in his speech, Sir, mention the figure of £1,000,000 which presumably is what he feels the subsidies might cost. I see the logic in his argument to some

[Mr. Havelock] that, if it comes from the same pocket to some extent, but I feel we have got to be extremely careful before we take a step of this sort if it is going to involve us in that expenditure, and also its effect on the total economy of the country going to be so great as to warrant that expenditure?

MR. COOKE: On a point of explanation, Sir, I did not mean to say that subsidies would cost us £1,000,000; what I tried to say was the cost of living allowance would very soon cost us £1,000,000, and of course by subsidizing food only that would not cost as much as £1,000,000. It might be two or three hundred thousand pounds. I was simply arguing on the subsidization of food, and nothing else.

MR. HAYLOCK: I am glad to hear the explanation of the hon. Member, because my own view—and the hon. Member must realize that the Commission did go into this matter to some extent, as it had to—my own view is the £200,000 or £300,000 which he mentioned is a very very small proportion of what it really would cost if we wanted the subsidies to make any real effect on the cost of living. As I say, Sir, other Members will deal with that question with other ways with very sound arguments. I am sure.

Alf I would say in sitting down is to again say thank you to the Members who have been polite about the Report and also to say that if other Members are thinking of being impolite, we do not mind at all!

I beg to support.

LADY SHAW: Mr. Speaker, I want to speak very briefly before this debate opens out any further on this question of subsidies, because I know there is a school of thought which believes that subsidies will include possibly the robbing of Peter to pay Paul as being almost certainly the whole answer to a very large part of their difficulties. I am not going to argue about the merits or demerits of subsidies, but I want to make people think of one thing for one moment, and that is what would happen if food were subsidized. It could only be subsidized in this country if rationing was introduced.

Now, we hear a great deal about other countries, such as the United Kingdom

and so on. What is the reason for the tiny allowance, for instance, of meat in England? This tiny allowance of meat is allowed because that is all the British Government can afford to subsidize, as my neighbour says. But whether it can afford it or not, it is not willing to subsidize any more. I have been told over and over again that there is no enormous shortage of meat, it is the British Government's inability to subsidize any more meat. As long as a food is subsidized in this country the quantity must be limited, and that means rationing. Now, it is possible that people may say "Well, you needn't ration it all, you can buy a certain amount on a ration card and buy the rest free". But that involves rationing. Now, every housewife in my submission, when she talks a great deal about the cost of living and when she talks about the subsidizing of food, should be asked whether she thinks she should get food subsidies and whether they would benefit her, and that sort of thing. But she should bear in mind very carefully this question of whether she wishes to pay a little more for her food, or whether she wants to pay a large amount very probably for an office, a rationing office, extra police to find out if the ration cards are being copied and so on, on the general inconvenience of ration cards; but apart from that, whether she is willing to undertake the enormous trouble of dealing with rationing when at present she has not got it.

MR. COOKE: It is not necessary to ration.

LADY SHAW: My neighbour says it is not necessary to ration. I should like to know what the hon. Financial Secretary says, whether he would agree to subsidies and an unlimited quantity of food for everybody. (Applause.)

MR. MACDONALD-WELLSWOOD: Mr. Speaker, I propose, in speaking to this motion, to dwell mainly on the agricultural implications of it, and, if occasionally I am not quite as dispassionate as I should wish to be, it should be remembered that I represent mainly an agricultural community and it is that community which, in the terms of this Report, is to subsidize everybody else in the Colony.

Sir, it seems to me of vital importance when we are considering this Report that we should try and understand, and

[Mr. Maconochie-Welwood] in this debate is given publicity, that the public should try and understand the problems of the urban community and the problems of the rural community. The Report, if I may say so, appears to consider entirely the problems of the urban community without recognizing that the rural community, to a great extent, suffers from the same difficulties and the same rise in the cost of living, although it may be on different items. Everybody in this world is apt to think that somebody else is making a large sum at their expense, and I think that is a view frequently held to-day, both by the urban and by the rural community. I, myself, until yesterday, firmly believed that the reason why many goods sold in Nairobi cost not only more than in England, but more than in England even when the purchase tax was added on, was entirely due to some profiteering system used by the Nairobi shopkeeper. I now learn that, in fact, it is nothing of the sort, but that British manufacturers are encouraged by the British Government to add an increased price for export to other countries which then has to be paid by the importer here; I mention this because it is typical of the misunderstanding that goes on here between the urban community and the rural community in both directions.

Throughout the Report there is a very firm belief that the main cost of living is the cost of food, and that is the point on which I particularly wish to speak. I think most economists will agree that where the cost of food is the most expensive item in a person's living it means that that person is living to the lowest possible standard, in fact, when the standard of living of a group increases, then the proportion that it spends on food becomes very much less.

Now, it is agreed in paragraph 47 that the European living standard of this Colony is very high. I would stress that. And for that very reason it is not in the European community that the cost of food is a major item in the cost of living. Obviously, in that case, the lowest income group here is the African, and it is the Africans' cost of living—mainly food costs, mainly maize—which we have to consider. But the vast majority of Africans in this Colony—and I would

challenge anybody on either side of this Council to contradict me—either grow their own food or are supplied with food in the form of rations by their employer. There is a very small minority of urban-dwelling Africans in Mombasa and Nairobi who have to buy food at the current high prices of maize.

At this point I was going to mention the effect of subsidizing maize without rationing, but that has already been done by my hon. friend the Member for Ukamba, and this would, in the Africa case, present enormous difficulties.

The true cost of living to most people in the urban areas is undoubtedly rents and transport. There is no need to dwell upon that, because it has been stated by every speaker, and where I criticize the Report, particularly, is in the case of rents, no attempt has been made to deal with the situation. Whether it could be dealt with, I am not prepared to say, but to say that that is one of the major items and to do nothing about it and then dwell on the least important item, which is food, seems to me a pity.

It is perhaps paragraphs 40, 43 and 47 of this Report which have caused some producers, who wish me to refer to it as "glimpses through the Iron Curtain". It is that side of the Report which sets up the idea that the agricultural community should be treated as a separate entity and shall—particularly those sides of the industry which are prosperous—shall subsidize the producers of domestically consumed stuff, purely for the benefit of the consumer. Why it should be imagined by the originators of the Report that the agricultural industry is prepared to be put into a sort of special type of enterprise which is never allowed any developmental profit, but is kindly allowed to beg for loans "not bearing much, if any, interest"—(paragraph 69)—furnished in the main from the fortunate exporters of the highly priced produce, I cannot think. Well, Sir, I submit that when that is the principal industry of the Colony and upon the prosperity of that industry the standard of living of the whole of the people depends, whether urban or rural), to place them at the disadvantage to every other enterprise which is allowed to make some profit for developmental purposes—some profit for the renewal of machinery—is an almost incredible suggestion. In other

Mr. Maconochie-Welwood enterprises it is generally recognized, that the ploughing back of capital for developmental purposes, or even for repairs and renewals and things of that sort, is not only not wrong but is positively laudable. The expression I mentioned, "ploughing back", surely comes from that industry to which I am referring, agriculture. But apparently that is not to be, these loans are to be granted in lieu of "developmental profits", as they are called. How those loans are to be paid back is completely obscured. Instead of making a gradual profit over and above the immediate cost of production, the unfortunate producer is expected to borrow money at this low rate of interest and how he is to pay it back is not mentioned at all. Nowhere in the Report does the fact appear that the main cause of the price rise in local foodstuffs is the cost of machinery and oil and things of that sort, and, as my hon. friend the Member for Ukamba has already mentioned, when price control is talked of it is only mentioned as necessary for those goods which reflect on the cost of living. Quite obviously, the most important items to keep down, if the cost of food is to be kept down, are those items which are imported from other countries and which are used in the production of that food. The uncertainty of African agriculture very largely rules out the advantage we have here from cheap land, and comparatively cheap, unskilled labour. That also should be remembered. I think there is a tendency for people to believe that the agricultural industry here can, and should, produce food cheaper than anywhere else because of these particular conditions of cheaper land and perhaps cheaper labour. I have brought here certain costs given to the producer in this country compared with other countries. In Kenya, the price for porters, 1st grade is Sh. 1/0/1 and in Southern Rhodesia, Sh. 1/4/6. Baconers, 1st grade: Kenya, Sh. 1/2/0, Southern Rhodesia, Sh. 1/3/3. Beef in Kenya, 1st grade, 85 cents; Southern Rhodesia, 99 cents. Milk, which is considered by far the most important item in most peoples' view of food, the price given in South Africa on the farm is Sh. 2/1/6 per gallon, in Australia (in Brisbane) it is Sh. 1/8/8 and that is the only one which is equivalent to the new price in Nairobi, which is also Sh. 1/8/8—all the others are

very much higher. United Kingdom, Sh. 2/8/2; Southern Rhodesia, Sh. 2/4/6.

Mr. COOKE: Wages are higher, too.

MR. MACNOCHIE-WELWOOD: Wages may be higher, but I have already explained that though wages are higher uncertainties are very much greater in Kenya, and I think it is important that people should realize that in this country there is not yet complete security from the point of view of the life of the stock and complete certainty of any other factor which concerns the cost of production.

Butter fat in Southern Rhodesia is Sh. 3/1/6 a pound, in Kenya it is Sh. 2/4/5, recently raised to Sh. 2/7/0. I am sorry to weary Council with figures of this sort, but I think it is necessary that they should appear on the record in order that it should be known that the Kenya producer is not in fact receiving the enormous prices which this Report would imply. (Applause.)

In the suggestion of export taxes, it is not apparently considered that the agricultural industry, which is to be regarded as a whole, is to pay the export tax when it is prosperous in addition to the ordinary income tax and surtax which is very high indeed for those industries which are making big profits. It is to pay a special tax as well. If this is the method to treat the most important industry of the Colony, I am staggered that any Commission should have recommended it. It is as though a country utterly dependent on one form of manufacture should select that form of manufacture for special tax as against any other else.

There is a suggestion, which I must also deprecate in paragraph 89, the suggestion that Committees should be set up apparently to advise Government on the fixation of price and to advise—as I saw in the newspapers last week—the Member for Agriculture on the prices to be given for domestic products. I cannot imagine anything more fantastic than the setting up of this sort of local Soviet who will be distinguished mainly for their complete and total ignorance of the circumstances of production or any thing to do with economics which a Minister—in this is the position which a Member holds in this country—of the correct prices in this Colony. (Laughter.)

[Mr. Maconochie-Welwood]

My hon. friend has asked me to brighten it up a bit, but how you can brighten up this dreary and depressing Report I cannot imagine! (Laughter.)

THE MEMBER FOR COMMERCE AND INDUSTRY: Could I ask the hon. Member if he would be good enough to yield. If he suggests that on the Consumers Committee the Chairman of the British Legion is to be Chairman, is it in fact a local Soviet? (Laughter.)

MR. MACNOCHIE-WELWOOD: I stand corrected! (Laughter.)

Briefly I would mention the suggestions as regards the Railway, although I am sure that will be adequately dealt with by my hon. friend the Member for Finance in his reply. As regards the Railways, I would just mention two points. In the past the Railways of this country were used as an instrument of Government policy until they fell into such chaos that they had to become what they are to-day, an administration which is separate from the general running of the Government. (Laughter.)

The second thing I would say is that the Tanganyika Railways have been used ever since as an instrument of policy by Tanganyika, and its Government, and all I can say as a Member of the Railway Council is that nothing could have been more lamentable in its effect on the Tanganyika Railways. Kenya and Uganda are paying very heavily for it. When those Railways were handed over it is common knowledge that they had no funds—no benefit fund, no sinking fund, they had not a fund of any kind that could have been used. As an example of using Railways as an instrument of Government policy, you have it there.

The fact, Sir, is that inflation everywhere makes it very nearly impossible for a small country to deal with the situation that exists in the world to-day. The Commission, when it sat, had my profound sympathy in its attempts to deal with it. It was sitting in the position of Canute trying to prevent the tide from advancing, and naturally there was little that could be effected.

The subsidy question in the United Kingdom has gone on for a long time

now, and it is gradually beginning to be the disaster which I always thought it would be. The moment that you can no longer hold wages, then the subsidies are merely an added millstone to be put round your neck, and in England to-day wages are rising despite everything that the Government are doing to prevent it, as indeed they must do now, and, in addition to this, they have this disastrous food subsidy which amounts to 22 enormous proportion of their total revenue. That, Sir, in my mind is sufficient argument against subsidies.

There is a feeling that I have mentioned before that all farmers here are making very large profits. The position is this, that the larger enterprises, of course, are making large profits in the same way as the larger manufacturers in industry are making large profits. It is the small man who must struggle. But how, if you put on export taxes, you ask me to make these smaller for the little man and bigger for the big man passes my understanding, because, if the big man can afford to pay them, the smaller man almost undoubtedly could not. What I suppose one really objects to, as an agriculturalist, in this Report is, to me, the futile attempt to abolish the capitalist system for the farmer and retain it for everybody else. It is just this sort of disastrous compromise which is continually being attempted in Great Britain to-day, with the resulting inflation from which we are all suffering. There is no middle path in this matter. If you are going to abolish capitalism, let us abolish it. But, I think we should abolish it for all the industries and not merely for the basically essential industry of agriculture, on which we live. I do not believe that that sort of—what shall I call it—financial massacre of the kulaks of this country—(laughter)—will really achieve in the long run a high standard of living for the civil servant or a high standard of living for anybody else.

There is one point in this Report which I would mention, because it is the only one that seems to be worthy of serious consideration, and that is the end tax. The end tax suggestion which I suppose means purchase tax, has something to commend it and might well be looked into, provided always it is not used, as

(1) Agreement

[Mr. Maconochie-Welwood]

it could be used, too much as a particular instrument of deflation.

When speaking of the Railway there was one other point I wished to make and that was that I entirely support the idea that transport from an area near Nairobi might help to solve the rent question but I would warn hon. Members that on the whole rail transport is not the cheapest way of doing it and that the other suggestion in the Report, which may be municipal road transport (or perhaps a private company) would be much more suitable.

With these words, Sir, I thank the Commission—(laughter)—for giving me the opportunity of ventilating the views which are going round among the agricultural community in this Colony on the subject of this Cost of Living Report. (Prolonged applause.)

#### ADJOURNMENT

THE SPEAKER: I now propose that Council will adjourn until Tuesday, 15th May, at 10 a.m.

Council rose at 12.45 p.m. and adjourned until 10 a.m. on Tuesday, 15th May, 1951.

Tuesday, 15th May, 1951

Council assembled in the Memorial Hall, Nairobi, on Tuesday, 15th May, 1951.

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

#### MINUTES

The minutes of the meeting held on 11th May, 1951, were confirmed.

#### PAPERS LAID

The following paper was laid on the table:—

BY THE ACTING DEPUTY CHIEF SECRETARY:

Government White Paper No. 3 of 1951—Government's proposals regarding the Report of the Committee on the Lands and Surveys Department.

#### NOTICE OF MOTION

THE ACTING FINANCIAL SECRETARY gave notice of the following motion:

WHEREAS (1) the Governor in Council has approved of the Municipal Board of Nakuru levying for the year 1950 a rate of two and one-half per centum on the unimproved value of land within the Municipality;

(2) under the proviso to sub-section (2) of section 96 of the Municipalities Ordinance (Cap. 136) the maximum contribution payable out of the general revenue in lieu of rates on Crown land may not exceed two per centum of the total unimproved value of the land;

Be it resolved therefore that this Council grants approval of the ex gratia payment made out of the general revenue to the Municipal Board of Nakuru of the sum of Sh. 12,413.

#### ORAL ANSWERS TO QUESTIONS

QUESTION No. 22

MR. PRESTON:

1. Is Government aware of the damage which is being done to the Colony's road system by the transport of maize by lorry from Nyanza?

2. What steps does Government intend to take to compensate (a) the



[Mr. Preston]

Mr. Road Authority, and (b) the District Councils concerned?

3. Who is paying for the transport?  
(a) Maize Control; (b) General Revenue?

4. When will the necessity for the using of road and not rail transport cease?

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: I. Government is aware of the damage to roads which occurred in 1950, when maize was transported from Nyanza by road during the rains. Similar movements of maize by road occurred early in 1951, during the dry weather and no apparent damage was caused to bitumen roads. Some damage was caused on earth roads in Nyanza due to rain during the time of this road movement.

2. The Government does not propose to pay any special compensation for damage caused by the road transportation of maize. Unavoidable heavy road transportation of various types is bound to occur from time to time for one reason or another, and the Government does not propose to create a precedent by paying compensation for damage to roads alleged to be caused by any particular road transport.

3. The Maize Control is bearing that portion of the cost of the transport which is equal to the cost of the package that would have been incurred had it been possible to transport the maize in question by rail instead of by road. The allocation of the balance of the cost is still under consideration.

4. By 15th March all road transport by Maize Control had ceased, with the exception of the movement of maize from the Ndawa Maize Control store in Elburgoin Forest to the East African Cereals Pool store at Nakuru, due to the Railway Administration being unable to provide sufficient rolling stock at Elburgoin or Njoro. This isolated movement of maize by road ceased at the end of the first week in April. There is now no road movement of maize taking place.

MR. BLUNDELL: Arising out of that answer, Mr. Speaker, is the hon. Member not aware that district councils are

entitled to close roads to traffic which is unsuitable for the standard of the road?

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: I am aware of that.

MR. BLUNDELL: Arising out of that answer, in the event of district councils keeping the roads open for unsuitable traffic such as this, with the consequent damage to themselves, does the hon. Member not consider that compensation should be paid?

MR. HAYECOCK: Before the hon. Member answers, Sir, will the hon. Member tell me if the vehicles which were used to transport this maize were licensed vehicles or not? Were they private vehicles with licences, or Government vehicles and therefore not contributing to the revenue of the Road Fund?

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: With regard to the first part of the question put by the hon. Member for Rift Valley, I feel the answer Government has given still stands good. (Sighs.) We cannot make a precedent by paying special compensation for special forms of traffic.

With regard to the second question put by the hon. Member for Kiambu, I am afraid I shall have to have notice of that.

MR. COOKE: Arising out of one of the former answers, can damage be called "unavoidable" if it is caused by heavy vehicles, which are overloaded, speeding along our main roads? The hon. gentleman used the word "unavoidable".

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: I am not aware that there are either speeding vehicles or overloaded vehicles.

MR. COOKE: You obviously never use the roads.

MR. BLUNDELL: Arising out of the hon. Member's supplementary answer to my question, if the decision of Government is going to remain as in his answer, would he think it correct then for district councils to close the roads under the Ordinance which now exists, in the event of unsuitable traffic using the roads?

## QUESTION No. 24

LT.-COL. GHERSIE:

In order to assist Kenya students who are studying by means of correspondence courses to obtain prompt results in respect of their examination papers, would Government please take steps to arrange for air-mail facilities being granted whereby examination and answer papers may be carried to and from the United Kingdom at reduced rates?

THE MEMBER FOR COMMERCE AND INDUSTRY: Correspondence course papers and students' examination and answer papers are admissible for transmission by second-class air mail. The rates for this service are less than half those applicable to first-class mail.

## QUESTION No. 28

LT.-COL. GHERSIE:

Having regard to the Report, dated 18th May, 1947, of the Select Committee appointed by this Council for the purpose of inquiring into the incidence of cruelty to animals in Kenya, and advising what steps, if any, should be taken for implementing existing legislation, and what, if any, further legislation is desirable, would Government please state when the draft Bill embodying the recommendations of that Committee will be placed before this Council?

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: I regret that this is not the first question on these lines which has been asked and that I must reply again that pressure of other and urgent legislation has precluded the introduction of a Bill embodying some of the recommendations of the Select Committee on Cruelty to Animals.

The recommendations of the Select Committee have been examined and a draft Bill has been prepared. Attention must, however, be given to the question of what is practicable, and one of the greatest difficulties which has been encountered is the extent to which further legislation in relation to cruelty to animals could be enforced.

Furthermore, some of the more important recommendations of the Select Committee dealt with the ritual slaughtering of animals which raises the very difficult question of the religious principles of various communities.

However, consideration of the whole question continues and I will do my utmost to have a Bill laid before Council within a reasonable period.

LT.-COL. GHERSIE: Mr. Speaker, arising out of that reply, having regard to the fact that the Select Committee reported in May, 1947—which is four years ago—would the hon. Member give a definition of "a reasonable period", as stated in the last paragraph of his reply. (Laughter.)

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: I will endeavour to do so before the end of this year.

## QUESTION No. 32

MR. PRITAM (Western Area):

Having regard to the present very unsatisfactory railway trucks position, will Government please state when additional goods wagons are expected to arrive and what steps in the meantime are being taken by the Railways to ensure that excepting priority goods, all users are accorded equal treatment in the matter of allocation of trucks?

THE MEMBER FOR COMMERCE AND INDUSTRY: The answer to the first part of the question is that of 1,308 units of additional goods rolling stock (excluding special types) ordered in 1947-48 for the East Kenya and Uganda section of the East African Railways and Harbours Administration, 550 units have been received, leaving a balance of 758 units still to be delivered. Of this balance 160 units are now in transit from the United Kingdom and delivery of the remaining wagons on order has been promised by manufacturers in the United Kingdom from this month onwards and before the end of the year.

The answer to the second part of the question is that every possible precaution is taken by the Railway Administration to ensure that all users are accorded equitable treatment in the allocation of wagons.

## QUESTION No. 39

MR. BLUNDELL:

Will Government state whether as a result of the building of the dam at Jinja:—

(a) Egypt and the Sudan have established any rights over the waters in Lake Victoria?

(Mr. Ihundell)

(b) Any Treaty, Exchange of Letters or Understanding exists between the countries riparian to the Lake and countries riparian to the Nile which may affect the rights of usage or diversion of the waters of the Lake by the Colony of Kenya?

(c) Any obligations to Egypt and the Sudan may have been established as a result of (b) above in regard to the major rivers which flow into Lake Victoria from Kenya?

(d) If the answer to (b) is in the affirmative, was such Treaty, Exchange of Letters or Understanding referred to the Legislative Council of Kenya for approval?

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: (a) The reply to this part of the question is, strictly speaking, that Egypt and the Sudan have not established any right over the waters in Lake Victoria as the result of the building of the dam at Jinja. At the same time Egypt does enjoy certain rights over the waters of Lake Victoria, which rights were defined and established by the Exchange of Notes in 1929 between the President of the Egyptian Council of Ministers and the British High Commissioner in Egypt. In his Note the President of the Egyptian Council of Ministers stated as a point on which agreement had been reached that, "save with the previous agreement of the Egyptian Government no irrigation or power works or measures are to be constructed or taken on the Nile river and its branches or on the Lakes from which it flows, so far as all these are in the Sudan or in countries under British Administration, which would, in such manner as to entail any prejudice to the interests of Egypt, either reduce the quantity of water arriving in Egypt or modify the date of its arrival or lower its level". In his Note in reply, the British High Commissioner, confirming the arrangements mutually agreed upon that: "His Majesty's Government in the United Kingdom have already acknowledged the natural and historical rights of Egypt in the waters of the Nile. I am

to state that His Majesty's Government in the United Kingdom regard the safeguarding of these rights as a fundamental principle of British Policy and to convey to your Excellency the most positive assurance that this principle and the detailed provisions of this agreement will be observed at all times and under any conditions that may arise."

(b) The building of the Jinja dam has not resulted in any Treaty, Exchange of Letters or Understanding between the countries riparian to the Lake and countries riparian to the Nile, such as may affect the rights of usage or diversion of the waters of the Lake by the Colony of Kenya. Such usage or diversion is controlled by the Nile Waters Agreement of 1929 referred to in my reply to the first part of this question.

(c) and (d). As the answer to part (b) of this question is in the negative, the answers to both parts (c) and (d) must of necessity also be in the negative.

MR. BLUNDELL: Mr. Speaker, arising out of that answer I am in some doubt as to what the hon. Member means by "strictly speaking". Does he mean by that that the actual cash participation by Egypt in the dam at Jinja will have strengthened her claims to the water?

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: I am not quite clear what you mean.

MR. BLUNDELL: I am a little bit in doubt as to the meaning of the words "strictly speaking". Does the hon. Member mean that the actual cash contribution of Egypt to the dam at Jinja will have strengthened her claims to the water, over and above anything that was laid down in the Letters of Understanding—the Treaty—of 1929?

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: The answer again, as far as I am aware, is in the negative.

MR. BLUNDELL: Mr. Speaker, further arising out of that answer, would the hon. Member tell me whether, in the exchange of Letters, was there no assessment of the position which might arise over the priority of abstraction of water between these countries and Egypt? According to the hon. Member's original

(Mr. Blundell)

answer, it appears as if the priority to the water lay with Egypt.

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: I think, as the hon. Member's question is a somewhat complicated one, if he will be good enough to let me have it in writing, I will endeavour to answer it.

## MOTIONS

## THE COST OF LIVING COMMISSION

## Thinking of Members (Continued)

MR. NATHOO: Mr. Speaker, in the first place I would like to congratulate the hon. Acting Member for Finance for having made such an excellent speech while introducing this motion.

I would, Sir, differ from the comments in the local Press, that the speech was a very poor one. I think, Sir, the hon. Member said quite a few things in a very excellent manner, without telling us anything, and that, Sir, I consider a very good speech indeed. (Laughter.)

Mr. Speaker, the report which is now before the Council, and for which we are thanking the authors thereof, was read before it was published, inasmuch as the Cost of Living Commission was the laughing stock of the country whilst it was sitting, and now the report has been published I consider that the Government is giving it a decent burial by thanking the authors of this report.

We know, Sir, that the problem of the cost of living is one which has baffled the countries throughout the world, but surely, Sir, the Government does not intend to sit back and, having replied to the various recommendations by the Commission, propose to do nothing in the matter. I agree, Sir, that some of the recommendations are unorthodox as the application to this Colony; but, Sir, when we look round to the adjoining territories and find that some of these measures have been accepted by them, and has resulted in a further stabilizing and strengthening in the financial position, Sir, I hope that the Government will reconsider its decision and, within the course of the next few weeks or months, they will bring forward to this Council measures to stop the rising tide of inflation.

I hope, Sir, the Government does not intend to wait till the next election, when perhaps the predecessor of my hon. friend the Member for Nairobi South comes back again and produces something more fertile from his brain!

MR. HOPKINS: Mr. Speaker, I should like first of all to congratulate my hon. friend the Member for Uasin Gishu on his really excellent speech on Friday. The very clear and comprehensive exposition he gave on the point of view of the agricultural community might make it appear that further speeches by those who, like myself, share his views and represent similar interests were superfluous. As, however, the hon. Financial Secretary, in moving the motion, made it quite clear that Government's attitude towards this report would be influenced by opinions expressed on this side of the Council, I feel that, in addition to signifying my agreement with all which the hon. Member for Uasin Gishu said on Friday, I should also give my own views on one or two of the more important recommendations which I feel to be somewhat dangerous. I would not, however, like it to be felt that because I disagree with some of the main recommendations in this report that I am not appreciative of the great deal of time, work and self-sacrifice which was entailed in its production.

Firstly, I would like to record that I disagree very strongly with the suggestion that all the different forms of agriculture should be lumped together and treated as one industry, so that those branches which are making a loss at the present moment, good profits could be subjected to an export tax for the benefit of the less prosperous branches of agriculture. The ultimate aim of this suggestion seems to me quite clearly to keep down the price to the consumer of a number of important agricultural commodities which though quite essential to the life of the Colony, have their prices fixed so low that in their production the farmer is just as likely to lose money as to make it. In spite of the fact that the price of these commodities are in Kenya lower than in any other part of Africa the public continues to complain about their high cost. Take, for instance, milk. I have heard quite a number of people complain that the price of milk is such that they are unable to buy sufficient for

[Mr. Hopkins], their families, but those very same people seem to think nothing of the fact that they are providing generous supplies of "Coca-Cola" for their children to drink at two or three times the cost of milk. Sir, I consider there is no more justification for this proposal to lump together the various branches of agriculture than there would be for a proposal to lump together all the different professions or all the different kinds of trade and then to tax the profits of the lawyer in order to subsidize the price at which the dentist can supply false teeth—(laughter)—or to tax the hardware merchant in order to assist the grocer. I oppose also the suggestion that there should be food subsidies, as I consider that in these days when the general trend of prices is always upwards, a comparatively poor Colony, like Kenya, would find it more very long that it was getting into financial difficulties which it could not easily overcome. Moreover, the reversal of the policy of subsidization would not only give rise to political repercussions but would most certainly cause distress to the poorer members of all communities. If, moreover, a commodity is subsidized, there is little incentive for the producer to overhaul his methods, make them more economical and bring down the price of production. In like manner, there is little reason why the consumer should not continue with his high consumption when it does not make much difference to his pocket if rises in cost are absorbed by subsidies. If, on the other hand, public opinion generally turned against extravagance—and everybody made a real and sustained effort to cut down their budgets, I feel sure that in a very short time producers, manufacturers and distributors alike would realize that they must overhaul their methods and apply more economy in order to enable them, with the reduced demand for goods, to compete in a buyer's market rather than to be able to sell everything, as they do now, in a market which is invariably favourable to the seller. Government should, I think, start by reducing some of its less essential services and the public should co-operate not only by accepting reduced services without complaint but also by every individual making an effort to cut down his own cost of living instead of merely going up service to economy. I fully realize, Sir, that there

are quite a number of people both in the towns and in the country who have drastically cut down their expenditure, but this spirit of sacrifice is not general in any area or in any community. Use it is and we are prepared to use its remedy, economy, which lies in our own hands. I do not believe that we are able to accomplish much in checking the rising costs of living, no matter how many commissions we appoint to solve the problem for us.

Sir, I think we owe our thanks to the Commission, even though they have not succeeded in solving our problem, as their exhaustive investigations have made it perfectly clear for those who wish to see that the only method of stemming the rising tide in the cost of living is for each of us to practice economy and self-sacrifice. If subsidies are introduced, or if salaries are increased, each time the cost of living rises by a given number of points, I am quite sure then that people will just not take the trouble to practice economy.

Sir, I beg to support the motion.

LT.-COL. GHERSIE: Mr. Speaker, a has been suggested (in certain quarters) that the Cost of Living Commission Report is out of date, but the fact remains that it contains a number of concrete recommendations which fully justify very careful consideration by Government. Certain of those recommendations, such as the reimposition of price control, and certain Customs reductions, have already been implemented to a certain degree, but there is one recommendation, Sir, to which I wish to refer and which occurs quite frequently in the course of this Report and I refer to food subsidies. One paragraph, Sir, says that the implications on food subsidies should be examined with a view to carrying out the policy of wage and price stabilization. Now, Sir, I do not propose to reiterate what has been already said in this debate or previous debates on this subject, but I am deeply concerned with the possible trend that the cost of living may take in the next few months, and the effect it may have on the general economy of the Colony.

Now, Sir, I visualize in the not too distant future the farming community, and perhaps in particular the producer of maize demanding, and probably quite

(Lt.-Col. Gherstie) further increase in the selling price of maize. Now, Sir, should that be the case it will not only affect the cost of living but it will affect the general economy of this country in many other ways. Now, Sir, what are the two basic factors in the economy of our Colony? The balancing of our annual budget and the endeavouring to increase the value of our exports vis-à-vis imports. If our production costs rise, private enterprise which is trying to compete with the imported article, will be adversely affected and those who are attempting to build up an export trade, such as the pig industry, would probably find their production costs are such that they cannot compete in the overseas markets. I have no doubt Government will give these recommendations very careful consideration but I would strongly urge particular consideration be given to the question of subsidization in respect of an increase in the selling price of maize.

Now, Sir, I have no intention of turning this debate into a town or country contest but, Sir, in view of certain remarks made by certain hon. Members, I feel I must hold the cudgels for the urban dweller. I think the hon. Member for Kiambu suggested that perhaps the problem of the cost of living was over-staggered. Well—I must join issue there because I have examined a number of family budgets and I can assure you, Sir, that a vast majority of those people cannot afford to visit a cinema—in fact I know of cases where to buy a pair of shoes—to make provision for the pair—required four to six months' provision in the family budget.

Now, Sir, there was a suggestion that payments of a more expensive quality were still being sold in urban shops. Well, Sir, we must appreciate that there are still a number of wealthy people in this Colony otherwise our income tax collections would not have risen to something in the nature of £3,000,000 per annum. Again, it is often economy by the more expensive garment as it lasts longer, and I think we have a very good case in shoes today. The cheap shoe resembles something in the nature of cardboard rather than leather. I think it was the hon. Member for Usin Gabu who said that the introduction of

subsidization in Great Britain had been calamity or wounds to that effect and that wages had still continued to increase. But I do suggest that had there been no subsidies, wages would have risen still further. Now, Sir, the object of introducing a subsidy is in any case to attempt to prevent the rise or control the rise of wages in some degree. It is the accumulated effect of the increase in the selling price of maize which is so embarrassing because it affects every section of the community whether it is the housewife, local industry or the producers of other products, and as the spiral curve increases, so more and more you have the readjustment of wages and accompanying economic disturbances that goes with it and with it the certainty that if we do have a period of deflation, it would be most difficult to convince the average employee of the necessity of reducing his wages.

Now, the hon. Member also referred—I will quote him if I may:

"I think most economists will agree that where the cost of food is the most expensive item in a person's living it means that the person is living on the lowest possible standard, in fact, when the standard of living of a group increases, then the proportion that it expends on food becomes very much less."

Precisely, Sir, and it is that person in the lower income groups that we are attempting to protect.

Now, Sir, I do not think it has ever been suggested that anyone in this Colony wishes the agricultural community to subsidize the rest of the community. I, personally, have always advocated that they should receive a fair and reasonable price for their produce and I realize, of course, that subsidies are not the final answer but it should be realized that subsidies are not a regular reality to the United Kingdom. Southern Rhodesia allocates a large sum as subsidies and I think we all regard with considerable respect those who control the economy of Southern Rhodesia. Well, Sir, I have been encouraged by the reply by the hon. Member when speaking marks of the fact, despite the fact that to the motion (that a subsidy was defeated in the last session of Legislative Council, the matter has not been finally disposed of.

[Lieut.-Col. Heale.]

Finally, Sir, I consider that the Commission on the Cost of Living have had a most difficult task. We have heard of the various changes of personnel of that Commission, we realize that the prices were continually rising and, in some instances—our own local produce—the price was put up overnight which must have completely upset their calculations and I consider that the Commission should be complimented rather than criticized.

**LIEUT.-COLONEL LE BRETON:** Mr. Speaker, in reading through this Report it does seem to me to be a pity that the Commissioners did not give time to a detailed consideration of the proportion of the cost of living consumed by the different items which enter into it, such as rent, transport, education, servants, food, drink, smoke, clothing, etc. Such an analysis it seems to me, if it had been done, would have given them more definite lines on which to work and would have helped them in making their recommendations, although, of course, I do realize that the proportions would vary considerably with the different communities concerned.

Now, to take those points in series:

**Rent.**—Now, rent chiefly affects the town dwellers for whom we have heard that the hon. Member for Nairobi North holds the card. Well, as Nairobi North is naturally dependent on the cost of construction of the houses, and the value of the land on which they stand, the cost of construction of a house, of course, depends very largely on the cost of labour actually employed in putting it up, on Kenya labour and on the cost of the materials which are made within the Colony, and, on the imported materials, it depends very largely on the cost of labour overseas, over which we obviously have no control.

Sections 9 to 15 of the Report deal with the well-known spiral of wages causing the cost of living, and the cost of living being boosted ever higher by the cost of wages. But with regard to the value of land, Sir, could nothing have been done to check the rising cost of town land in Kenya? In the rural areas, when the demand for farms tended to rise unduly, it was largely at the instigation of farmers that a Land Con-

trol Bill was introduced, one of the main original functions of which was to lay down the value of land until the pressure of demand had ebbed. Now, Sir, in the towns no such control was exercised. Therefore, rents, especially for the more lately constructed houses, is evidently rising.

**Transport.**—With regard to transport, the cost of transport concerns everybody and in the cost of transport I would include not only the running of motor-cars and lorries, but also the running of farm tractors and farm machinery. There is in the Colony an opinion that is widely held that too large a margin of profit is allowed to accrue to certain spare parts of motor-cars, tractors and farm machinery generally. How sound those grounds are I am not in a position to say, but instances have certainly been quoted of spare parts having been imported by individuals direct from England at a fantastically small fraction of the cost of those same parts when supplied locally. There is also a feeling that many items seem to change hands very many times from dealer to dealer in their transit from the coast to the consumer. Each dealer, of course, is entitled to put on his own percentage which the Price Controller passes, but these many changes naturally inflate the final cost of these articles very greatly. Such matters of price control should be investigated. With regard to complete units such as cars, engines, ploughs, etc., I welcome recommendation No. 10 with regard to the end tax which is explained more fully in section 30. This does seem to me to be an efficient means of reducing the first cost of these articles to the purchaser. I would also suggest that such end tax might be applied to tyres, which have very definite rates of sale, and which do form a very large item in the cost of transport. A significant reduction in the cost of petrol and oil would not only affect the car owner and the lorry driver, but would also reduce the cost of all goods that have to be transported any distance from the railway, and, in these days of mechanized farming, they would also reduce the cost of production of almost all European agricultural produce.

Some of the most prolific cereal farms in the Colony are situated in the Usini Gishu and the Trans Nzoi; which being

[Lieut.-Colonel le Breton]

so far from the coast means their freight charges are very considerable. I realize that diesel-oil and power petrol are at a fairly reduced rate, but railway rates on petrol do form still a large factor in the cost of farming in these districts. The hon. Acting Financial Secretary earlier in the debate told us the percentage of the cost of railage to the sale price of various commodities in Nairobi. They were 0.5, 0.3, 0.5 per cent, etc., and when they rose to 1.5 per cent in the case of whisky there was a cry of "Shame". Well, Sir, people perhaps do not realize that the railway charges £173 to send a 5,000-gallon tank truck up to Kitale. That is 69.2 cents per gallon, which on a retail price of Sh. 3/35 per gallon works out at 20.66 per cent. That, Sir, is a very, very different figure to those quoted by the hon. Acting Financial Secretary. I would suggest that this matter of railway freights on petrol should be linked to section 99 of the Report and to their Recommendation No. 14. Section 101 of the Report suggests that an improved bus service might enable town dwellers to dispense with a car. If that were so it would amount to a very, very great reduction in the cost of living. Recommendation No. 15 suggests that the civic and municipal authorities might provide such services. Well, Sir, there is a bus company already in existence which does supply such a service, and I would suggest if this company were given further encouragement perhaps the same result of an extended bus service, could be achieved at no cost or risk to the municipality. The present buses, while serving a very useful purpose, seem to me to be insufficiently powered either for the work they do, or for the altitude at which they do it. I understand also they are only granted a four-year permit; that certainly would not encourage them to sink their own capital in further expansion or re-equipment of their vehicles. Would it not be possible to offer an agreement on a more generous scale so that this expansion and re-equipment could take place in exchange for a permit for a longer period?

As regards education, I do not think there is anything much I can say about that.

Regarding servants, the hon. Member for Aberdare has suggested that people should economize, and I do think many people, to whom the cost of living is onerous, might reduce their cost of living by employing fewer servants. This on my schedule brings me to the question of food, which I think has been given rather undue prominence in this Report. I thoroughly agree with the hon. Members for Ukamba, Usini Gishu and Aberdare that food subsidies, although desirable, are far beyond the means of this Colony.

The hon. Member for Nairobi North has talked about the increase in price of maize. During the past year considerable resistance has taken place on the part of Government against this increase in the price of maize. Maize growers have been faced with many increases in their costs of production, and now Government have allowed the price of maize to rise accordingly. Well now, while, of course, one must admit that the higher price of maize does increase the cost of labour and therefore the cost of living, yet I think that the hon. Member that I have quoted does exaggerate the amount to which this is so. The Government's approved ration of *posho* is one and a half pints per boy per day, thus if the cost of a bag of maize is raised by 3 per cent, allowing for the normal wastage of 3 per cent in grinding it, this increases the cost of *posho* by less than 2.6 cents per pound or 3.9 cents per boy per day which amounts only to Sh. 1/16 per boy per month. I think many people consider that the increase in cost is very much greater than that.

**MR. COOKE:** What about the family man?

**LIEUT.-COL. LE BRETON:** The family man may perhaps have three boys in his establishment and three times Sh. 1/16 is less than Sh. 5 a month; that does not seem to me to be very much.

As the hon. Member for Usini Gishu has already covered most other points regarding food and agricultural products it now only remains for me to join in noting the Report and thanking the chairman and members for their work in preparing it. (Applause.)

**MR. USHER:** Mr. Speaker, we have heard from time to time in the course

[Mr. Usher] on this debate and outside this Chamber of the effect of world economy upon our own affairs, and certainly that is not to be exaggerated. Let us look at the United Kingdom and see what is happening there. Export prognostications suggest that the rising costs, which are the result of inflation, are likely to continue, at least until the end of this year. That is certainly the case, it is considered, with consumer goods. Therefore we must expect that result to be reflected here in Kenya. What do we find, however, in Kenya itself. Well, we certainly can control our economy to some extent. We have been told recently and upon the highest authority, Kenya is very well and prospering exceedingly. As a matter of fact let us see what is the state of affairs. The value of domestic exports in 1949 was £11,000,000. The value of domestic exports in the following year, 1950, was £17,000,000. Now what is happening this year. I can only get the figures for January and February but the value of domestic exports in January and February, 1950, was £2,000,000. For 1951, it is £4,451,000. I got those figures yesterday. Now, we can see how we are going. Now, I am not one of those who advocates a tax upon these exports, or any of them, and chiefly for the reasons given by the hon. Member for Uasin Gishu in a speech which unfortunately I did not hear though I have seen a report of it. If it were possible to pass on to the world an increased cost of say 3 per cent and to recover it to general revenue in that way then I should welcome such a step, but I doubt whether it is possible although I consider it should be explored.

Now, how are we going to deal with the real hardship that does exist—for I must insist that it does, in spite of my hon. friend the Member for Kiambu? I am not going to say that he is indebted to his imagination for his facts, but I do say perhaps he lives in a quarter of the world which does not know how the other three quarters live.

MR. HAYDOCK: Was the hon. Member present when I made my speech, Sir? I merely asked for a realistic standard of living. I did not say, "people were all living at a very high standard. I asked for a realistic standard of living."

MR. USHER: I accept the interpolation. Sir, I still feel that he was insufficiently aware of the trouble and distress that exists, particularly in the towns.

Now, everybody seems to be sympathetic with these people but the sympathy is the sympathy of the wallet. "I weep for you", the Walrus said, "I deeply sympathize";

With sobbs and tears he sorted out  
Those of the larger size,  
Holding his pocket handkerchief  
before his streaming eyes."

Our practical sympathy so far has extended only to one section of the community and it took the form of a tax of living allowance, and I can think of no worse way of dealing with the present situation, though it was necessary, I admit. Now do not please let it be thought that either I, like my hon. friend the Member for Nairobi North, that I wish to enter into any controversy between town and country. Far from it. What did Shylock say? "There be landlords and water-rats, water-thieves and land-thieves". There are a great many people that are getting a cut at the cake that should not be getting a cut at the cake, at least of such dimensions. Some play has been made with the effect of Customs duty on the cost of living. For people who prefer facts to fiddle-de-dee. I must say the effect is very small indeed. I have examined an average budget of a sensible man who has a wife and two families—(Laughter)—a wife and two children—he lives austere and his budget reveals some interesting facts. (Laughter.) One of these facts was that 57 per cent of his expenditure was upon local products—(Laughter)—leaving 43 per cent subject to Customs duty or not, as the case might be. Now, two years ago the Customs duty component of that 43 per cent was Sh. 35 and that, I do submit, is trivial. It is probably a little more, in spite of the provisions to-day. I have not been able to work it out accurately, but it might be Sh. 40, or even up to Sh. 45. But, there is another aspect of Customs to which I would like to call attention. That is the protective duties. I am not at all sure that the protective duties, which are justifiable in the first instance, are not kept on rather too long. A particularly bad instance to my mind is the protective duty upon soap, and I wish that could

[Mr. Usher] be looked into because we most of us feel that it is much better to buy our soap and have it posted out to us from home.

Now, Sir, the second most important thing to my mind after subsidies, which I am certainly going to support, is price control, and whatever may be the facts, whatever may be the difficulties of getting down to the real cause of it, it is an undoubted fact that the consumer is paying, in the shop where he buys goods, a very much higher percentage of profit or profits over landed costs than he should be paying. It is not sufficient that those who run price control should have integrity. They must have a great gift for investigation and they should examine this aspect of the cost of living with the greatest of care. Retail prices are simply extortionate and there is no contesting it.

Now for subsidies. I see that the hon. and gracious lady for Ukamba is not here. I should like, if possible, to have known from her why it was that she considered rationing a necessary component of subsidy. There may be some valid argument which I do not appreciate, but if it was an analogy from the United Kingdom, of course that analogy cannot be drawn. There the subsidy is upon articles which are not produced in the country, which are extremely costly and which the public purse cannot cover fully by subsidy and therefore has to ration. Subsidies, in my opinion, are bound to come sooner or later here, and the sooner they come the better.

May I also put in a plea for helping the family man with income tax allowances. Something must be done for him. His position is getting more and more pitiable, and in spite of the fact that it has been tried and said to have failed, I must again insist strongly on an examination of the possibility of introducing weekly wages. The only reason, so far as I understand, why they have not been introduced is that they were tried and were found to be unpopular. That is not a sufficient reason. I am very glad to hear from the hon. Member that there is going to be a strengthening of the Statistical Department, because that will enable us to get at facts which we now lack.

If I may be parochial for a very short moment, it has been said that the cost of

living in Mombasa, for instance, is the same as the cost of living everywhere else. That, I am convinced, is not so, and if it could be examined that matter would be proved. Food, services, transport, especially with Nyali Bridge and its tolls, are intolerably expensive. Milk is very much more expensive. I have been speaking so far, by the way, about Europeans, but the increased cost of milk and the cost of its distribution bears, of course, most hardly upon the Hindu community. Talking about milk, I should very much like to know what has happened to the Peppercall Report and whether Government would consider introducing legislation to control the distribution of milk not only in towns but territorially.

THE SPEAKER: Will the hon. Member be very much longer?

MR. USHER: Five minutes, Sir.

THE SPEAKER: Council will suspend business for 15 minutes.

Council adjourned at 11.05 hours and resumed at 11.20 hours.

MR. USHER: Mr. Speaker, during the break I have recalled a very interesting instance of gross profiteering within the controlled areas. There used to be quite a good sort of apple landed at Mombasa for 45 cents per lb. There is, of course, no duty on apples. They were marketed at Sh. 2/35 a lb. and various people wanted to know why, and the facts came out and an investigation ensued, and the apples disappeared and we shall never see one of those apples again.

There is also a matter which I forgot to emphasize in regard to subsidies, that is this. That as the subsidy would be applicable to goods which are 90 per cent of Kenya origin, they would be controlled in our own fiscal system. (Hear, hear.)

Sir, it seems to me that the great division of opinion between us is whether we should allow wages and salaries to follow prices, or to control by means of subsidies and try and reduce the cost of living.

Now, Sir, I am well aware that up to a point, if we reasonable and proper to let wages follow prices. In fact, we shall have to do so further, as I have indicated at the beginning of my speech. But if there must be a step to it, because if you cheapen money beyond a certain

[Mr. Usher] point, you bring an economy to disaster and, as has been seen in Europe, to Red' revolution, and when money becomes cheaper, as it is becoming, and probably cheaper than any of us have yet experienced, the smiles on the faces in Moscow will grow broader and broader.

Sir, there are, in difficulties of this kind, three old-fashioned remedies—restriction of credit, retrenchment and a wise monetary policy. These should be ensued both by the State and by the individual. Grave responsibilities rest upon hon. Members opposite and indeed upon ourselves, and especially upon those hon. Members who will be serving on the Executive Council. We have to make decisions now of vital importance and those decisions will be reflected in the coming Budget.

In old Rome, there was in times of emergency—and this is a time of emergency—a saying which I should like to repeat. "Let the Consuls look to it that no harm befall the Republic!"

Sir, I beg to support. (Applause.)

THE MEMBER FOR COMMERCE AND INDUSTRY: Mr. Speaker, first of all, I wish to pay a very genuine tribute to those Members of this Council who undertook a herculean task, which has indeed proved to be a labour of Hercules, in undertaking to produce the Report under consideration. In fact, Sir, they have undertaken labours which—three years ago I described as likely to be similar to those of Sisyphus who, as all hon. Members will be aware, started to push a large stone up a hillside and just as he was reaching the top the stone rolled back and he had to start again. That, Sir, is the measure of the task they undertook.

It is not the fault of the Commissioners that circumstances during the period of their deliberations and thought, have changed. It is not their fault, Sir, that whereas it was a reasonable assumption three years ago that by 1950 or 1951 we might be moving into a time when the idea of inflation, that were sweeping the whole world at that time, should have receded, and indeed, that we might have been entering into a period of deflation. That, Sir, has now come to pass. We are, indeed, entering into the second stage, or

rather the third stage of an inflationary circumstance which is affecting the whole world. Indeed, Sir, if we cast our minds back to 1939, we had then a monetary system (that was related to the productive capacity of the various partners in the system). During the war the world's economy was necessarily distorted by the needs of re-arming, the needs resulting from the destruction of arms and property alike, and then at the end of the war, we passed through a period of crying shortages, both for capital and consumer goods which spread over the whole world. That, Sir, was the second phase and as the bulk of consumer demand was met, and as capital investment caught up with productive need, a would, Sir, have been reasonable to assume, and the Commission rightly assumed that this period would pass and they would be able to make their contribution at the climacteric—at the crucial point—when inflation was giving way to deflationary conditions. And, indeed, Sir, the whole basis of their Report, as I see it, as an economist, is that they hope to accelerate that process. That, Sir, is a perfectly reasonable assumption. That Sir, was a perfectly practical objective. But what has happened? We have been faced with the third phase of the inflation. This has been due, as all hon. Members know, to a deterioration in the international situation, having two effects: First—and most important, large-scale stockpiling, and that is not confined to the United States or the United Kingdom; it is going on in every part of the world, and secondly, the current diversion of productive capital to further re-arming. That is the condition that our Commissioners when they reported were faced with. It seems to me that it is unfair to criticize them because their suggestion may not be related to those unexpected circumstances. That is why I can genuinely thank the Commissioners for their work without, at the same time, accepting all their recommendations as relevant to these circumstances.

Now, Sir, I propose to quote from the *Economist*. I propose to quote from the *Economist* of 17th March, which is exactly a week later than the quotation my hon. friend the Member for the Coast referred to in his speech, and this is what the *Economist* said in its usual highly succinct style. "There should be a real

[The Member for Commerce and Industry] attempt to get rid of all the artificialities and distortions that a decade of suppressing inflation has produced. In principle, prices should be allowed to find their own level." Now, Sir, naturally this does not represent the advocacy of runaway inflation. It recognizes a fact, that for the last decade or more every kind of distortion has affected the economy of the world and this Colony and Protectorate with other countries, namely the economic effects of war, the effect of destruction, the effect of loss of life, the destruction of productive capacity, and then at the end of the war a tremendous back-log of civilian demand further distorting the economy, further distorting the life of this country, and then, Sir, that third phase which is sufficient, and will indeed be sufficient in the case of weaker members of the world community to break their economies altogether. That is the position we are faced with. It is not a position that can adequately be dealt with merely by subsidizing maize or by making transport cheaper, or even by controlling the price of land. Before we can possibly attempt to provide the appropriate remedies, we must diagnose a situation which is as the *Economist* described it, one in which economies and currencies have been distorted for over a decade.

Surely, Sir, to deal with a situation such as this, it is not the answer to suggest further remedies that in their own way will inevitably further distort the economy without even controlling it in a very limited sense that might be considered successful, in the way that rationing and price control succeeded in doing in the United Kingdom, and indeed in this country during the war. We have to recognize, before we can apply approximate remedies, the basic fact that owing to this distortion the economy of the world and the currencies of the world must be on a new basis.

MR. COOKE: On a point of personal explanation, as the hon. gentleman is directing his attack on me, will he read Professor Hawtry's letter in the *Times* of last Thursday before he gets into depths from which he will not be able to extract himself.

THE MEMBER FOR COMMERCE AND INDUSTRY: I have not the slightest in-

tenion of attacking the hon. Member. I am making general observations. I am sorry the hon. Member should feel I am attacking him. I am not attacking anybody—I am merely trying to draw attention to facts which must be recognized as the essential diagnosis of the present situation before we can start applying remedies. Surely that is common sense. It is useless to say, "Give the patient a dose of Epsom Salts," when in fact the patient is ill in such a way that giving him Epsom Salts may result in his death or, at any rate, in his serious illness. The hon. Member, in common with us all, must recognize, facts which may be unpalatable to him, but which are none the less facts, and that, owing to the distortion of the economy in the last five years, it is useless to go on applying palliatives or politeness which may have the effect of aggravating the disease by further distorting the economy.

Now, Sir, having said this and, at any rate to my own satisfaction (laughter), having cleared up the position—I repeat, to my own satisfaction—I would now like to comment on a few of the suggestions made, because, after all, I owe it to hon. Members whom, by implication, I am criticizing—to deal with them. First of all, Sir, and here I would take as my starting point the quotation the hon. Member for the Coast drew from the very rich mine of thought of the late Lord Keynes, in regard to the debauchery of currency. Now, Sir, that quotation was taken from "The Economic Consequences of Peace," the best-seller that Lord Keynes wrote after resigning from the British delegation at the Conference of Versailles. Now, Sir, it is very interesting to study a little further what that quotation implies. Of course, the debauchery of the currency is dangerous; it is disastrous. Lord Keynes was referring to the effect of excessive reparations upon the German economy and he said that such levies would lead to Communism, as indeed it nearly did in Germany. But he referred to two ways, debauchery of the currency in two ways, and that is my excuse for drawing attention to this once more. Debauchery of the economy in his analysis meant first—inflation of currency; that was his first point. The second point, which is very relevant to this discussion, was the debauchery of the currency which could occur, Sir, through the artificial creation

[The Member for Commerce and Industry] of a second currency, that would indeed enable Germany to repudiate its external debts, while creating on the ruins of the old currency a false currency backed by subsidies, rationing, dockets, and all the rest of the controls the hon. Member advocates. Debauchery of the currency, therefore, can occur in two ways. That, Sir, is what the economist is referring to in the quotation I referred to. It is possible in England to-day to observe the rent of a house that is not rent controlled at a level that has no relation to the value of the currency, shall we say in relation to current prices at £30 a year, and also the rent of a house that is not rent controlled, owing to an arbitrary line being drawn—an identical house costing £80 to £100 a year. That represents a debauchery of the currency. Here, there is no relationship between what a pound will buy in relation to a controlled article, and what a pound will buy in relation to an uncontrolled article. That is, of course, an extreme case. That is what might very well happen here if subsidies were applied generally. You then get two currencies. The legal currency and the currency plus the docket and the coupon, and that is where the hon. Lady representing Ukamba was so right when she said that if subsidies are applied there must be some form of rationing.

MR. COOKE: Would the hon. Member answer the question, confining his attention to food subsidies later on?

THE MEMBER FOR COMMERCE AND INDUSTRY: I was going to defer my reply on food subsidies. There was very interesting thing that happened in England in 1940, the summer of 1940, of less importance than those events, we usually refer to but nevertheless significant in the light of the hon. Member's remarks. Lemons were controlled in price. Lemons disappeared. (Laughter.) Various other things were controlled in price; they disappeared. Canned fruits and meats were all controlled in price—they disappeared—and that is why, Sir, the points system of rationing was introduced into England. It was discovered that in the event of a price control being applied too rigidly then the commodities concerned disappeared from the market, and in fact were sold under the counter

higher than the official prices. That, Sir, is what is meant by debauching the currency in that limited connexion. To that extent, Sir, the pound-note plus the coupon became one currency—the pound note without the coupon was another. Now, Sir, the hon. Member, I know, will say that this does not apply to Kenya products. It only applies to things that are imported. Well, Sir, the greater proportion of eggs in England throughout the war were home produced—the greater proportion, about 80 per cent. It was found necessary to apply the rationing system to them because they were controlled in price. In the war of 1914 to 1918 when they were not controlled in price no rationing system was applied. We could go on to butter. According to the *Economist* of last week, the one thing standing in the way of derationing butter in the United Kingdom at the present time is the policy of subsidy. You might say, why is that? For a very simple reason, and the hon. Member for the Coast, and the hon. Member for Mombasa, and the hon. Member for Nairobi North know this very well. The reason why it is necessary to ration if you have subsidies is because there must be some ceiling placed upon the amount of money the Government and the people of the country can afford. If there is no restriction on consumption—I will sit down in one moment—if there is no restriction on consumption, then, Sir, there is no restriction on the amount of taxation required to keep those subsidies going. If the price is below cost, then, Sir, we is encouraging a high level of taxation, and in my submission, to that extent, Sir, subsidies are themselves inflationary.

LT.-COL. GILCHRIST: Mr. Speaker, on a point of information, would the hon. Member, as an economist having diagnosed the case, prescribe the correct medicine?

THE MEMBER FOR COMMERCE AND INDUSTRY: I am coming to that. I just wanted to deal with one or two of the points made. If I did not deal with them I would be—

MR. COOKE: Would the hon. Member deal with maize, wheat and meat and the various other commodities?

THE MEMBER FOR COMMERCE AND INDUSTRY: If the hon. Member is so anxious to hear me go on speaking I

[The Member for Commerce and Industry]

am prepared to go on for two hours, but I do not believe anybody else is. (Laughter.) I was merely dealing with a very important point, which is the question of the subsidy. I said that under certain conditions a subsidy is inflationary. Now, Sir, having attempted diagnosis and having done my best, at any rate, to clarify my own mind on the very difficult points involved, I would now like to make one or two constructive suggestions—(Hear, hear!)—and, unlike the hon. Member for the Coast for whom I have such a great admiration, unlike the hon. Member, I am not so self-confident, so certain of myself, as to suggest that the very inadequate remedies that I am going to suggest are sufficient to deal with a situation that no country in the world is succeeding in dealing with. Sir, I do not feel that the remedies a country such as this can propose, dependent as it is in regard to so much of its production, so much of its food, its consumer goods and capital goods, its petrol, its oil, its tractors—a hundred and one things—dependent as it is on the price level in the countries where these are produced on freight charges, on all kinds of things—I do not feel that we can put ourselves behind a Chinese wall in economic isolation. We have to recognize that factor as well. Now what in fact can we do? There is, in certain limited circumstances, a case for subsidies directed towards helping the very poor and economically depressed. Now that has nothing to do with politics, it has nothing to do with economic theory, it is in fact a social duty. There is a case, secondly, under certain circumstances such as those of war, for limited subsidies in respect of abnormal situations the end of which can be foreseen.

Now, Sir, there are many other things we can do. In regard to the towns an extremely good point has been made about better transport services; there is a direct contribution to the cost of living. Further practical suggestions have to do with a more direct sale of produce by the producers to the urban population. Many very sensible proposals have been made by bodies such as the East African Women's League, and by other bodies such as the various district associations, for the more direct sale by farmers of their produce to their markets in the

towns. Then, Sir, there is one very practical contribution that I propose to submit myself to this Council in August.

MR. COOKE: Let us have it.

THE MEMBER FOR COMMERCE AND INDUSTRY: I am coming to it. The hon. Member, who used to sit on the other side as Member for Nairobi North and has since crossed the floor, two years ago in this Council made a demand for a properly organized system and enforcement of weights and measures in this Colony. That was approved by this Council, and, Sir, in consultation with the Board of Commerce and Industry and the Chambers of Commerce and other interested parties, we have now drafted a Bill putting weights and measures on a modern basis. But, more important than that, when I introduce this Bill in the August session it will be found that penalties for defective weights and measures have been increased by as much as 600 per cent. and in some cases imprisonment will result without the option of a fine. Now, Sir, when I introduce this Bill in August I hope to be able to say—and indeed I will say with complete confidence—that it represents a very practical contribution intended to lowering the cost of living, and Sir, it is a contribution that will help the poorest most of all. While reputable firms in this Colony are many, reputable retailers of all races are many, there are those individuals who batter on the poorest of the people by deliberately using false weights and measures. I suggest that here it is something that goes right to the root of the problem, that takes it out of the realm of economic theory and finance and subsidies, and puts the matter on a basis of common honesty—(Applause)—and I suggest that this policy represents a further practical contribution to reducing the real cost of living in this Colony.

Apart from the hon. Member for the Coast, I am sure other hon. Members are weary—(Laughter)—and I do not propose to detain hon. Members any longer, and, Sir, I therefore have great pleasure in supporting the motion. (Applause.)

MR. BLUNDELL: Mr. Speaker, I rise to support the motion for the reasons which the hon. Member for Commerce and Industry gave; although I do not

(Mr. Blundell) agree with a great deal of this Report, nevertheless it does reflect a great deal of hard work by the persons who have produced it.

So much has already been said that I need not take very long. I should like to say that in regard to the suggestion for the agricultural industry I am in profound disagreement. I cannot agree that the agricultural industry, for instance, can be treated as a whole, but that does not mean that any farmer in my view does not understand the great weight that the present rise in the cost of living is bringing to bear upon persons who are not actually engaged in primary production. There are only three points with which I should like to deal.

The first is, export taxes. In this Report it is suggested that they should be used for developmental purposes within the industry, provided the industry is considered as a whole. But first of all I expect that the industry can be considered as a whole, and secondly, even if it could, hon. Members should be in no doubt that in the price factor for the main articles of food, which are approved by Government, there is no charge whatsoever for development, none whatsoever. The only development undertaken by the farming industry is out of savings. So that, in effect, if you accepted that recommendation you would not be able to use the export taxes for developmental charges, because they are not in the price structure.

Secondly, supposing, for instance, consideration is given to straight export taxes without using them for developmental charges, I am extremely opposed to them, because in my view it is merely penalizing one section of the community solely for a specific purpose, and if it was necessary to have taxes, then they should be on all fairly, and not on any one section of the industry.

The other points on export taxes have been covered by previous speakers and I shall not waste time on them.

The second point to which I wish to draw attention and with which I disagree very strongly, is the suggestion, as I read it, that price rises should be submitted for comment to a committee of numerous persons. I think the hon. Member for Uasin Gishu implied that

the chairman of that committee would be a member of the British Legion. Now, Sir, a curious factor in the times in which we live is that everybody is dissatisfied and an expression of that dissatisfaction in regard to some producer prices is reflected by the fact that the main cereal industries have already asked Government to allow them to have a committee to examine the case for prices. Now, I do suggest that we are moving to a world of fantasy, where before we can have a price rise which may be necessary to keep an industry going it has to go through a whole series of stepping stones of committees. The delay is already very serious and I myself should very much oppose an additional committee for the vetting of prices. That function is already, I think, sufficiently safeguarded by the present methods under which Government carries it out.

Lastly, Sir, the question of subsidies. I believe that you can make an attractive case for subsidies in the way of hon. Member for Nairobi North did, but my own belief is exactly—perhaps without quite the amount of knowledge and quite the force with which he put it—that of the hon. Member for Commerce and Industry. The truth of the matter is that within the next three or four years we are going to absorb into unproductive things something like £20,000,000,000 in the form of armaments. Now, that has two effects. It not only generates very much more money than formerly—but it also removes material for that money to purchase, which causes further inflation. I absolutely agree with the hon. Member for Commerce and Industry. If we allow subsidies today we shall merely eventually distort the very economy which we are trying to put straight and, I believe, unpalatable as it may be, that we must in a small economy such as Kenya, which is largely almost totally controlled by outside influences, I believe we must allow it to run without those distortions.

I have only one suggestion I should like to make generally. It is this: believe we are doing very considerable damage to the Colony by a low wage economy. (Hear, hear.) If Members will throw their minds back, they will remember that the hon. Member for Nairobi South once pointed out that

(Mr. Blundell) another world for inflation was poverty. In effect, if over the course of half a century you throw away productive funds in destructive methods such as this, a whole world is poorer. Now, it is my belief that we have not realized that in this Colony, and I also think that part of our troubles arise from the fact that we have too low a wage everywhere. If one looks at the balance sheets of many prosperous firms, I believe that there is the possibility of a rise in the wage structure locally. I believe that also applies, for instance, to African wages. Where there was a rise in the wage structure it would, of course, inevitably mean in time a rise in the primary producer prices, but it would also mean a greater efficiency in the use of labour. Now, labour is one of our natural assets and the more efficiently that asset. My own belief is that we are kidding ourselves if we think we can control the coming inflation by a temporary palliative of subsidies, and we have got to allow our wage structure to rise step by step with the distortion on a world-wide basis of our economic structure.

Despite my disagreement with the Report I am only too happy to thank the hon. Members, and I am also happy to think that the hon. Member for Agriculture may one day be the hon. Commissar for Agriculture.

MR. PRESTON: Mr. Speaker, much has been said, therefore there is little to say on this matter, because as one of the producer classes who in some circles I think are considered somewhat wicked, I would like to try and clear up one point which I think is a very important one. We are always hearing the tremendous profits of the farmer being referred to. Now, I would ask hon. Members to consider very carefully this point—that is the fact that of all the primary produce which is produced in Kenya and is sold to the housewife, I think if people take comparative lists of prices in England they will find—with, I think, three exceptions—that the price of locally produced commodities is cheaper than it is in England. And that is in spite of State assistance to the farmer in England. Now, if we take this to a logical step further, we come to the conclusion—

and we know full well that the average wage in England is somewhere round about £7 a week to-day, and that is being slightly generous, we come to the conclusion that a man and his wife and his family can live on £28 a month quite reasonably. What, therefore, is the answer? The answer is that in our system out here it is quite obvious that there must be other factors other than locally produced food which are affecting the cost of living very markedly. Now, I would ask hon. Members—those who live in urban areas—to examine their monthly bills, and I shall be very very surprised to find that any one of them spends more than a quarter of his month's expenditure on household food and necessary locally-produced articles. The answer, as has already been said, in many cases is due to the lack of public transport. I do not propose to labour that point. One of the answers to the public transport factor and the housing factor is to build up and to try and economize in use of land. If you can reduce the acreage on which you have the basic house you would reduce the initial cost of that house, which would help. Again, if you had new areas opening up with blocks of flats reasonably near the centre of the city, and possibly if they have to go further afield from their own shopping centres, that again would be cause for considerable reduction in cost of living.

Now, it has been said, Sir, that Southern Rhodesia manages to subsidize its agriculture very satisfactorily. Therefore obviously subsidy is a good thing. I must suggest, Sir, in that connection that Southern Rhodesia has the industries with which to pay the bill. You are going to try and subsidize agriculture in this Colony it is quite patent that the money for that subsidization is going to come from the very industry which you are trying to subsidize, in other words you are taking money from one pocket and putting into another, which, frankly, I can see serves no useful purpose.

Now, Sir, just very briefly on the question of this suggestion of export taxes, I could be no party to any such suggestion, simply and solely because if you are to be logical in this matter, and you say that everything must be taxed,



[Mr. Preston] because it is doing well, because a profit is being made, you must tax people on that commodity. We already have our system of taxation. You have got your income tax, and your surtax to cover anybody who is making a very large—a vast profit, therefore it would be manifestly unjust to try and tax certain sections of the community over and above the normal system. It would be just as logical to say, "We'll pool all the business men together and class them as 'business men and as an industry, and we will put a profits tax on them." It is just as logical to try and class the whole agricultural community, planters, farmers, and small growers, and say, "You're agriculture." It would be just as logical again to take all your professional men and say, "All right, at the end of the year we shall find out how much you have received in fees and we shall put a 'Fees Tax' on you at the end of the year."

Sir, this has been a long debate. We have a Report here and there is no question about it, an enormous amount of work and endeavour has gone into this Report, but it is of course now somewhat out of date. What I would like to suggest Government is that whatever is to be done to try and alleviate the situation be done speedily. By recent cost of living allowances we have in no way solved this problem, and in fact I doubt whether any of the married people with children are in a very much better position than they were before. There is very very considerable hardship in certain circles, and that hardship has got to be met and it has got to be met speedily.

Finally, Sir, as an agriculturalist, I would like to draw the attention of this Council to paragraph 23 in the Report, if I may quote it:—

"It may be said that the element of risk to capital which is invested in Colonial Development is very high. It has been well said that many of the most profitable farms and commercial enterprises, for example, have been built up on the losses of the original owners who have been obliged to give up the enterprise on the exhaustion of their capital. It is well known, too, that both the quantity of capital and the time required to develop

enterprises in Kenya are greater than would be the case elsewhere."

In the light of that, Sir, I do think we have got to realize that the agriculturalist, like everybody else, is entitled to his profits during the fat years. There have been a great many lean years behind agriculture, and if certain of the plantation industries are making apparently large profits at the moment we must not lose sight of the very considerable losses and the years of hardship that these industries endured, and for the absolute necessity for allowing them to be able to make sufficient to lay aside a reserve for future bad times.

I think, Sir, possibly we have made a great mistake in the past in allowing agriculture to subsidize other industries for too long a period. We have held down too long our agricultural prices below the world level. At the same time, the agriculturalist has been forced to buy his tractors, his oils, his spares and all his necessities at world prices, and as the hon. Member for Commerce and Industry so aptly said, we cannot build a Chinese wall or any other wall round ourselves and try and divorce ourselves from the rest of the world. It would be more logical to try and get our prices somewhere near the world prices and recover those sums of money that we need for the benefit of the Colony through the normal taxation, for development.

For many years certain cereal growers kept the price of their cereals down on the understanding that if times were bad, and when times got bad, they would receive a guaranteed price, but I do submit, Sir, that if times get bad, there may not be enough money in the Treasury to be able to carry out and to fulfil these promises. At the present moment one of our major industries in this Colony is subsidizing the public of Kenya—I am referring now to the tea industry, because prices are held down over 50 per cent of their crop, with the effect of depriving growers of tea of something like an increase of 100 per cent were they allowed to sell their crop in the world market. And that, Sir, is an instance of how agriculture has subsidized the other industries in this Colony, and I do submit, Sir, it would be very much wiser to allow the greater

[Mr. Preston] money producer in this Colony, which is agriculture, to try and get its prices near the world market and, if it is necessary, to take money off the industry, then it must be done in the normal way through the normal channel of taxation, but in no circumstances must you endeavour to put yet a further tax on any one industry or any one section of the community. You have your machinery in the normal taxation system, and that is the machinery which it is right and proper to use.

Sir, I would most earnestly ask the Government of this Colony to do everything they can within their power to try and consider and to reconsider the question of income tax relief or help with education for some of the more needy and lower-paid of the civil servants, who are carrying a very grave burden by virtue of their families, and to try and see that within this Colony we do not make having a family an unnecessary hardship, instead of something which it is the right of every man to enjoy.

Sir, I would like to join hon. Members in congratulating those Members who have contributed to this Report, although there are many items in it with which I do not agree.

LT.-COL. GIERSTE: Mr. Speaker, on a point of explanation, I did not wish to interrupt the hon. Member, but the point is whereas the average farmer is more or less self-maintained on certain basic foodstuffs, milk, butter, poultry, foodstuffs and so on, these play quite a part in the budget of urban dwellers.

MR. PRESTON: I do not think I referred to the question of whether the farmer was maintaining himself or not.

LADY SHAW: On a point of order, is that a point of explanation?

THE ACTING FINANCIAL SECRETARY: There is not a great deal that I would wish to say in dealing up this debate. It has, I consider, been the Government value in that it has enabled the Government to have a clearer opinion on this most complicated matter. It would not be untrue to say, I think, Sir, that the advice given to the Government has been hardly unanimous. One of the most important issues raised by the Commission

and discussed during this debate is some length is the question of subsidies. I would again, Sir, remind hon. Members of what I said earlier. It was that while the Government does not regard the question of food subsidies as necessarily being finally disposed of, the present period of instability militates against their introduction on a scale which is likely to have an appreciable effect on the cost of living. It was suggested by the hon. Member for the Coast that cost of living allowances could perhaps have been avoided by the introduction of a system of subsidies.

MR. COOKE: Reduced, not avoided.

THE ACTING FINANCIAL SECRETARY:

I would, with your permission, Sir, like to quote what he said: "There is, I know, a great fear in this country, and I do not know why, that if we start subsidizing it is going to cost this country a larger sum of money to be paid than we are paying today. But surely (he continues) it must be evident to everyone that if we pay a cost of living allowance that must cost the taxpayer a very large sum indeed, and it seems to me to be six of one, as I have said before, and half a dozen of the other, whether we tax the taxpayer in order to pay higher cost of living to all races in this country or whether we tax the taxpayer in order to receive money—to accumulate money—to pay subsidies". That, Sir, is what he said, and I would submit that the implication of that is that if the cost of living had been reduced to what it was at the beginning of 1948 by a system of subsidies that it would not have cost the Government more than the amount now paid in costs of living allowances. At least, Sir, that is what I understand by six of one and half a dozen of the other, I do not think, Sir, that that is true. We have, as hon. Members know, no control over the landed cost of imported goods which figure in the cost of living index, and although it is almost impossible to calculate what annual sum would be required if we attempted—

MR. COOKE: Mr. Speaker, on a point of explanation, I have emphasized over and over again that I was speaking about and over again I was speaking about locally produced food. I know all about imports and inflation, I know we cannot import control that. It is locally produced food I say you can subsidize.

THE ACTING FINANCIAL SECRETARY: I, too, am speaking about locally produced foods. I said we have no control over the landed cost of imported goods. What I was going to say, Sir, was that although it is almost impossible to calculate what annual sum would be required, had we attempted to peg the index at the level it was at at the beginning of 1948, even assuming that it could have been done which I doubt, then my guess is that the annual sum required might well now have become of the order of from four to five million pounds. In any discussion on subsidies of food, I consider it is most important to give due weight to the remarks of the gracious lady, the Member for Ukamba. I do not think her views can be dismissed quite as lightly as is the hon. Member for the Coast did in the interruption which he made during her speech, and I should like to endorse the opinion of my hon. friend the Member for Commerce and Industry that the introduction of food subsidies on a scale apparently envisaged by the hon. Member would most certainly have to be coupled with a rationing system, and hon. Members are only too well aware of what that would involve.

Now, Sir, reference has been made to Recommendation No. 15 of the Commission, which I did not refer to in opening the debate. The recommendation is that the attention of civil and municipal authorities be drawn to the desirability of local public management of local road passenger transport services in the light of paragraph 101. I would say on this point, Sir, that what I would say on this matter of public interest that transport services should be as cheap as possible. I am afraid I do not propose here to concern myself with an issue of principles of this kind.

The hon. Member for Mombasa referred to the recommendation regarding the payment of weekly wages. I would merely say here that the question of the weekly wages has already been receiving consideration by the Government and also by private employers, and that further investigation will surely be made, but there are, however, one or two important points to bear in mind: first the payment of a weekly wage presupposes a weekly contract, a change from the present system of monthly con-

tracts. The Government's policy, Sir, is to encourage longer contracts in the interest of continuity—that at least is a point which is worthy of consideration before we embark on a change of policy. However, Sir, consideration has been given by the Government and by private employers to providing facilities for giving advances on a weekly or a fortnightly basis in order to discourage borrowing. The payment of wages weekly is unpopular with the lowest paid African, as at no time is he ever in a position to make a purchase which might cost a substantial amount. These points, I submit, Sir, as being worthy of consideration, and indeed they will be considered.

One or two remarks, Sir, about the points raised during this debate concerning price control. Referring to Recommendation 6 on page 21 of the Commission's Report, the hon. Member for Kiambu expressed the view that on the one hand price control should be established not only on the essential goods in the cost of living indices but on other essential goods also, a view which the hon. Member for Uasin Gishu endorsed with special reference to imported goods which would be used in local production. The Price Control Department is at the moment engaged in a careful examination of this, I should like to assure hon. Members. The object is to re-establish price control on all essential goods in short supply or in threatened short supply. There is also, Sir, in existence, as hon. Members are aware, a Price Control Advisory Committee. The Price Controller presides over the Committee. It is a body set up by the Governor in Council, and consists of five members representing commercial interests and five members representing consumer interests. All important policy matters affecting price control are referred to this Committee for advice, as, for example, the question of what should be controlled and what should not, and it is part of the written rules under which the Committee operates that if the Chairman—that is the Price Controller—is unable to accept the advice offered by a two-thirds majority of the Committee then he must report the wishes of the Committee to the Government before he takes any action.

THE ACTING FINANCIAL SECRETARY: I do not think that there is anything further that I need add except to say that the Government has no intention of going back and doing nothing. On the contrary, as I said in opening, the Government intends to continue and I emphasize—

MR. HAVELLOCK: Would the hon. Member care to comment on the end tax?

THE ACTING FINANCIAL SECRETARY: I am sorry, I am afraid I forgot that.

MR. COOKE: Before the hon. gentleman sits down, would he comment on the fact that maize is at present subsidized to the extent of £140,000 and there is no rationing of maize. Could he give me an answer to that?

MR. HUNDELL: It was not asked in debate.

THE ACTING FINANCIAL SECRETARY: When hon. Members have finished interrupting, Sir—I am sorry, I forgot to refer to the question of the end tax, a matter to which the hon. Member for Kiambu referred. It is, I would remind hon. Members, that an end tax be instituted instead of customs duties where found suitable. He mentioned, I think, the question of cars. Now the argument in favour of such a policy, as the hon. Member has stated, is that the price to the end purchasers would be reduced without loss to the exchequer, because the price structure would not include an element of profit on the customs duty which the merchant under existing price control regulations, under existing price control regulations, now receives. Now, Sir, there is undoubtedly substance in this argument, and the Government recognize it, and are giving full consideration to it, but there are also modifying factors which it would be unwise, I consider, to overlook. In the first place, take the case of motor-cars. If we assume that the landed cost is 20 per cent the saving to the end purchaser will not necessarily be 20 per cent on the customs duty—it may be much less. I do not think I need say more on the point, Sir, than that.

With regard to the point raised by the hon. Member for the Coast while I do not know that I am necessarily bound to reply to it, I am fully prepared to do so. What I said with reference to the introduction of rationing, Sir, was that in

my view such a measure would be necessary if we were to subsidize on the scale apparently intended by the hon. Member for the Coast.

MR. COOKE: You do not know what scale I was suggesting.

THE ACTING FINANCIAL SECRETARY: I have a very good idea, Sir.

I do not think, Sir, that there is anything further I need to say now, unless there are any points I have not covered, except to say that we will not sit back; we do not intend to do that at all. We intend to continue to do everything within our power to keep the cost of living within bounds.

It remains, now, Sir, only for me once again to express on behalf of the Government our appreciation, which I am quite sure all hon. Members of this Council will share, of the work of the Commission, whatever individual views may be.

Sir, I beg to move.

The question was put and carried.

## SELECT COMMITTEE REPORT

### WAKF COMMISSIONERS BILL

THE ACTING SOLICITOR GENERAL: MR. Speaker, I beg to move: That the Report of the Select Committee on the Wakf Commissioners Bill be adopted.

Before, Sir, I deal with the Report and the recommendations of the Committee, I should like to take an opportunity of apologizing to the hon. Member for African Interests, Mr. Jeremiah, for the fact that his name does not appear on the cyclostyled copies which have been circulated. The Report, I am happy to say, was an unanimous one and it was signed by Mr. Jeremiah.

I do not propose to weary Members very long in commending this Report to the Council. For obvious reasons, the Committee met at Mombasa; by far the greater proportion of persons affected by this Bill live in the Coast Province. We held two meetings there in April and we took evidence, both written and oral.

The first proposal which I will deal with is the amendment to clause 3 of the Bill. It was urged that the definition of "Muslim" should be extended to include "every person professing Islam". The Committee did not consider that a sufficiently strong case had been made out to

[The Acting Solicitor General] justifying a departure from the existing scope of the Wakf Commissioners' duties to warrant an extension of the definition to include all Mohammedans. The Committee have, however, recommended that a proviso be added to clause 3, the effect of which will enable any Mohammedan, who is so desirous of making the Wakf Commissioners the trustee of his wakf and thereby ensuring that it will be administered under the supervision of and by the trustees.

The next clause I will mention is clause 4. It was brought to the Committee's notice that this clause was, in some respects, unduly restrictive, having regard to the fact that there are different schools of thought on Muslim Law, and we have accordingly recommended three amendments. I will mention at this stage that the hon. Member for Law and Order will move a small amendment to one of these proposed recommendations from a purely drafting point of view. We have recommended that paragraph (a) of sub-clause (1) of clause 4 be amended to include any person, whether he be related to the maker of the wakf or not and the suggestion that the words "or any other person" should be added at the end of that paragraph may result in ambiguity and an amendment will be moved merely to clarify the meaning which we intend.

Secondly, it was brought to notice that an Hanafi Mohammedan as well as an Ibadhi Mohammedan was entitled to make a wakf for his own maintenance and support during his life and paragraph (b) of the same sub-clause will accordingly be amended to give effect to that.

Finally, according to the personal law of some Muslims, there is no requirement that there should be a gift to a permanent charity, hence the necessity to make some modification of the provisions of paragraph (2) of clause 1, and this, it is proposed, should be done by the addition of the proviso recommended. Perhaps in some respects the most important amendments recommended are those to the clause which deals with the constitution of the Commissioners. It was most strenuously urged that no Wakf Commissioner

should hold office for life but that he should be limited to a period of five years and that all the Commissioners should be appointed by the Governor rather than that four should be appointed by the Governor, and that those should have power to elect others. It was further represented that the existing Commissioners should not necessarily continue to hold office, and that all Commissioners should be appointed from a panel of names submitted by Muslim organizations.

To a very large extent, the Committee have given effect to those recommendations. It was considered, however, to be essential to ensure some continuity in the Wakf Commissioners and to ensure that some, at least, should have a good knowledge of Mohammedan Law, and to that end we have recommended that the Liwali of the Coast and the Chief Cadi should be *ex officio* members of the Wakf Commissioners and that one of the members of the Wakf Commissioners should be a nominee of the Provincial Commissioner. The other five, we recommend, should be appointed by the Governor from a panel of names which would be submitted by the Provincial Commissioner after taking into consideration Muslim opinion thereon. We have also recommended that the members, other than *ex officio* members, should hold office only for five years, but should be eligible for re-appointment, and this has necessitated a consequential amendment to clause 8. We have also recommended that of the three persons—members—who shall be a quorum of the Commission, one shall be an *ex officio* member. This recommendation is also in furtherance of our view that a person well versed in Mohammedan Law should always be available to advise to the Commissioner.

I would mention here that an amendment will be moved to the new clause which we have proposed in order to cure what appears to be a slight anomaly in the drafting of it. As it now reads, it purports to require that all the eight members shall be appointed by the Governor, but as has been pointed out, two of those members are *ex officio* and therefore need no appointment. The amendment is merely designed to cure that.

[The Acting Solicitor General]

The only other amendment which I consider worthy of note is the deletion of clause 16. The Committee gave the most earnest and lengthy consideration to the proposal that this clause should be deleted. While, from a practical point of view the provision has much to commend it, since it would place in the hands of the Wakf Commissioners a power to ensure that uneconomical wakfs for the purposes of building mosques were not made. After hearing a considerable amount of evidence to the effect that the making of a wakf for the building of a mosque is one of the most fundamental and sacred rights of Muslims, a majority of the Committee considered that unless a very strong case could be shown for the necessity for such a provision, it ought not to remain a part of the Bill, and as no such case was in the opinion of the majority, shown, we have accordingly recommended that it be deleted.

We have, however, added the rider that if, in future, it is found that by reason of inadequate endowment, mosques are falling into disrepair, then favourable consideration should be given to amending the Ordinance to provide such a power.

Mr. Speaker, there is no other point I think that needs mention and I beg to move.

THE CHIEF NATIVE COMMISSIONER: Mr. Speaker, I beg to second and reserve my right to speak.

THE ACTING ATTORNEY GENERAL: Mr. Speaker, before any debate takes place upon the Report, I desire to move the amendments referred to by my hon. friend the Acting Solicitor General.

THE ACTING ATTORNEY GENERAL moved: That the seventh paragraph on page 2 of the Report be amended by substituting for sub-paragraph (a) thereof the following—(a) by substituting for the words "of the family" in paragraph (a) of sub-clause (1) the words "of any person including the family".

SIR CHARLES MORTIMER seconded. The question was put and carried.

THE ACTING ATTORNEY GENERAL moved: That there be substituted for sub-clause (1) of the new clause 6 which

the ninth paragraph on page 3 of the Report recommends the following—6 (1) There is hereby constituted a body to be known as the Wakf Commissioners of Kenya, which shall consist of eight persons, of whom—

- (a) one shall be the Liwali of the Coast Province who shall be *ex officio* a member;
- (b) one shall be the Chief Cadi, who shall be *ex officio* a member;
- (c) one shall be a Muslim appointed by the Governor on the nomination of the Provincial Commissioner of the Coast Province; and
- (d) five shall be Muslims appointed by the Governor from a panel of names submitted by the Provincial Commissioner of the Coast Province after taking into consideration Muslim opinion in relation thereto.

SIR CHARLES MORTIMER seconded.

The question was put and carried.

The question that the Report be adopted was put and carried.

#### DESTITUTE AFRICANS IN URBAN AREAS

MR. MERRI: Mr. Speaker, I beg to move: That this Council recommend to Government to appoint a committee to investigate the question of destitute Africans in urban areas with special reference to beggars in the streets of the major towns of the Colony.

The Colony, Sir, does take responsibility to look after the destitute of all races in that there is provision in the Estimates of the Colony of £5,500 for this year. That sum is expended on the advice of a committee which is presided over by the Accountant General of the Colony, and therefore what I say, Sir, is nothing new. It does not raise any new principle, the principle is already accepted by the Colony.

In 1949, Government appointed a committee, and the Government Notice Committee, No. 129, dated the 12th July, 1949, gives the following terms of reference: "To examine the scope and method of welfare for the relief of distress among the European and Asian communities, to make recommendations to Government as to the policy which should be pursued

(Mr. Mathu).  
 and the organization required to carry out such a policy, bearing in mind the part played at present by the voluntary organizations and the part which could be played by the local authorities. There again, Sir, the principle that I am advocating in this resolution has already in this respect been accepted by Government when it appointed this Committee to deal with the question of welfare for the relief of distress among the European and Asian communities, and what I am suggesting is that a similar committee should be appointed in respect of Africans who are in need of assistance. We raised this question, Sir, in the debate on the Draft Estimates for 1950, and also for 1951. We suggested, Sir, to that debate that Government should consider the question of setting up a committee for these destitute persons. The Financial Secretary, in his reply to that point, said that "As regards the point raised by the hon. Member, Mr. Mathu, my information is that it is not the function of the committee which operates from the streets of Nairobi. On the question of almshouses, I am not quite sure in my mind whether it is the responsibility of the Government or whether it is the responsibility of the local government. Certainly, if there is any pressure for an almshouse of that nature the Government is quite prepared to consider the proposition." I want to underline those words "The Government is prepared to consider the proposition." There is already an almshouse in Mombasa which is operated by the Municipal Council of Mombasa with the co-operation of the local organizations there. Now, the types of persons, Sir, that I am referring to as destitute persons, some of them are as a result of being born with physical disabilities or as a result of accidental deformity, like the amputation of legs or arms due to possible conditions of, as a result of, old age. I think the other of these cases require some other way. I think it is not being done at the moment. I think, Sir, that in addition to the assistance which is being given now to these destitute persons out of the 45 per cent that I have mentioned, it is important that the Government, the local authorities and the individual voluntary organizations in the large towns of the country should set up an

institution in which these people should be housed, so that in such an institution you will not only feed these people, they ought also to contribute to the expenditure in the way of light industry, such as training them to use their hands, if they have them, and to use them in such a way that what they do—making mats, or beds, and things of that kind—could be sold and obtain money.

In the speech that I have referred to of the Financial Secretary, he said that he was not quite sure whether it was the responsibility of—

#### ADJOURNMENT

**THE SPEAKER:** It is now 12.45 a.m. and Council will adjourn until 9.30 a.m. the following morning.

**Council rose at 12.45 p.m. and adjourned until 9.30 a.m. on Wednesday, 16th May, 1951.**

**Wednesday, 16th May, 1951**

Council assembled in the Memorial Hall, Nairobi, on Wednesday, 16th May, 1951.

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

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

#### MINUTES

The minutes of the meeting held on 15th May were confirmed.

#### ORAL ANSWERS TO QUESTIONS

##### QUESTION No. 34

**MR. USHER:**

Will Government please state, with reference to Question No. 38, replied to on 24th August, 1950, and to the motion adopted by Legislative Council on 15th December, 1950, what is the present position in regard to Nyali Bridge?

2. If the Government does not intend to purchase the existing bridge immediately or at all, will it undertake to reopen negotiations with the company with a view to subsidizing the bridge charges to the extent intended when the 1950 Budget was introduced, and to include the necessary provision for this purpose for consideration in the Draft Estimates for 1952?

**THE ACTING CHIEF SECRETARY:** (a) With regard to the first part of the question the Government has examined the prospects of purchasing the existing bridge from the Nyali Bridge and Development Co. and has decided that the financial implications compare unfavourably with those involved in building a new bridge. The Government has therefore decided not to purchase the existing bridge and intends to proceed with its original intention to build a new toll-free bridge.

(b) With regard to the second part of the question, the Government will reopen negotiations with the company with a view to subsidizing the bridge charges on the present bridge until such time as the new bridge is open for public use. It will be made clear to the company that any such negotiations or any

agreement reached as a result of them will be entirely without prejudice to the Government's right to build the toll-free bridge referred to in the first part of the answer.

**MR. USHER:** Sir, arising from that reply, the hon. Member will recall that last time the negotiations broke down because there was a difference of opinion as to what would be the result of the reduction of the tolls. Such a situation might conceivably arise again, and would the hon. Member consider, if such is the case, in any case putting in a token sum in the Estimates and leaving it subject to adjustment after the accounts had been taken after a period of time.

**MR. PATEL:** Arising out of that answer, Sir, I would like to ask the hon. Acting Chief Secretary what progress has been made for commencing in future the building of the new bridge.

**THE ACTING CHIEF SECRETARY:** In answer to the first of those questions, Mr. Speaker, I will certainly consider the suggestion put forward by the hon. Member for Mombasa. On the second question by the hon. Member for Eastern Area, that is, I understand, a matter which has received consideration by the Planning Committee, and I do not think it would be right for me to anticipate anything that the Planning Committee may have written on the subject in their Report which will shortly be available for publication.

**MR. PATEL:** Arising out of that answer, Mr. Speaker, is the Government aware of the very high prices of land in Mombasa for want of outlet to the mainland for want of a bridge?

**THE ACTING CHIEF SECRETARY:** I think Government is aware of all these troubles and that consideration has been given to them by the Planning Committee.

**MR. COOKE:** Arising out of that answer—putting it briefly—will Government show more toughness in its negotiations with the Company? (Laughter.)

**THE ACTING CHIEF SECRETARY:** I hope, Sir, there is no inference behind that question suggesting Government is not normally tough! (Laughter.) (Applause.)

## QUESTION NO. 38

MR. MACONOCHE-WILWOOD:

Will Government state the total percentage profit allowed on the landed cost of tractor, motor-car and agricultural machinery spares?

**THE ACTING SECRETARY TO THE TREASURY:** The total percentage profit allowed by Government on the landed cost of tractor, motor-car and agricultural machinery spares is determined by the trader in such goods in accordance with the provisions of the Defence (Control of Prices)—Regulations, 1945, in the following way:—

The trader is permitted to add to the landed cost a percentage of gross profit arrived at by multiplying the percentage of gross profit ordinarily taken on the sale of like or similar goods during the six months ended 26th August, 1939, by the appropriate factor as set out in the First Schedule to the Regulations. The appropriate factor is determined by reference to the percentage increase in the cost of the goods as compared with the cost of like or similar goods as near as possible before the 26th August, 1939. It will be seen from this that it is not possible to state the figure of actual total percentage of profit allowed on a particular item without knowing the 1939 cost and percentage of gross profit and the present cost.

**MR. MATHU:** Mr. Speaker, arising out of that answer, would the hon. gentleman define the appropriate factor in the schedule?

**MR. HANLICK:** Arising out of the original answer, would the hon. Member write to the original questioner in simple terms so he knows exactly what it is all about?

**MR. TINDLE:** Would the hon. Member, from the information in front of him, give the percentage of profit on tractors which in 1939 cost £300 with a profit figure of 33 per cent? Would he give us the figure now? I understood from the hon. Member's statement that if he knew the figure in 1939, he would know the answer now, so I am therefore suggesting that he should give us the percentage of profit on tractors which in 1939 cost £300 with a profit figure of 33 per cent.

**THE ACTING SECRETARY TO THE TREASURY:** Sir, I would like to answer the last question first. The question asked here is about spares. Tractors are not dealt with that way, they are dealt with in a different manner. (Laughter.)

## MOTIONS

DESTITUTE AFRICANS IN URBAN AREAS—  
(Continued)

**MR. MATHU:** Mr. Speaker, when the Council adjourned yesterday, I was referring to remarks made by the hon. Financial Secretary in the debate on the Draft Estimates for 1951, and suggested that the hon. Financial Secretary said that he was not quite sure whether the responsibility for looking after beggars and cripples or for instituting an almshouse fell on the Government, or whether it was the responsibility of the local authority. I suggest, Sir, it is perhaps true to say that it is a joint responsibility of the Government and the local authorities—both come into the picture. Not only that, there is a third party to this and I refer to voluntary agencies. They too help a great deal, particularly not mainly providing money but in helping with the administration of the money provided for helping these beggars and cripples, and in this regard, I should like to pay tribute to the various voluntary agencies, particularly the Salvation Army who shoulder tremendous responsibility in administering funds of this kind.

The question of these beggars, particularly in the large towns, I understand there is a legal difficulty and perhaps the hon. Member for Law and Order will enlighten us here. I understand, Sir, that section 178 of the Penal Code does not cover—rather, does not provide the necessary powers to detain these beggars and cripples if they are found in the streets, and with your permission, Sir, I should like to read this particular section:—

Section 178—

- (1) every person convicted of an offence under the last preceding section after having been previously convicted as an idle and disorderly person;
- (2) every person going about as a gatherer or collector of alms, or endeavouring to procure charitable

(Mr. Mathu)

contributions of any nature or kind, under any false or fraudulent pretence;

- (3) every suspected person or reputed thief who has no visible means of subsistence and cannot give a good account of himself;
- (4) every person found wandering in or upon or near any premises or in any road or highway or any place adjacent thereto or in any public place at such time and under such circumstances as to lead to the conclusion that such person is there for an illegal or disorderly purpose, shall be deemed to be a rogue and vagabond, and shall be guilty of a misdemeanour, and shall be liable for the first offence to imprisonment for three months, and for every subsequent offence to imprisonment for one year.

Now I thought that that might occur, but I understand there are some difficulties and it would be necessary to amend section 178 of the Penal Code so that magistrates may have power to order the detention of such persons. As I say, I stand corrected, but I would like to suggest that if that is necessary, then the sooner we get that particular section amended the better, so that the magistrate can order the detention of these people in an institution such as the one I am suggesting where you can keep them and look after them in a better way than the present way where they are roaming in the streets of the major towns of the Colony.

It may be argued, Sir, that the problem has not assumed such large proportions to warrant the appointment of a Committee of Inquiry such as the one I am suggesting. Now, it is true that if you have in mind the problem in some of our other countries, ours is only in its infancy but I suggest, Sir, that it is a social problem which we should tackle now when it is in a small way, and put right rather than adopt a policy of *laissez faire* in which we will find ourselves in years to come that the problem is such a huge one that it will be impossible to tackle.

Now, Sir, I think that a Committee such as this would be extremely useful in advising the Government not only in

respect to, say, the City of Nairobi, which is a big place but the whole Colony, so that there will be a co-ordination of policy in this matter. Then it would be possible for the Government and all those interested in this matter to tackle it and to see that it does not assume these dreadful proportions I am suggesting.

I do not think, Sir, there is very much else I should like to say except to commend this motion to this Council and to hope that if the motion is carried, the appointment of this Committee will not be delayed but will be done almost immediately so that we can avoid the creation of an evil that all of us would not like to see happening in this country and to give better and happier life for these unfortunate people who are put in a situation which is mostly not due to their own fault.

Sir, I beg to move.

**MR. COOK:** Mr. Speaker, I beg to second the motion, and in doing so I think that the African Members, particularly the hon. Member who has just spoken, are to be congratulated for this problem, which is one which not only affects the unfortunate people themselves but it also affects the good name of both this town and this country. The hon. Member has quite rightly emphasized the importance of some immediate action because, Sir, problems like this are susceptible of solution if taken at once but become more and more intractable. I think what Kenya is to go by—and we do not want Kenya to get the reputation—of being towns full of Africa hives—as some of our parts of Africa have—I myself took up this matter with Mr. O'Connor a few months before he left, and by a most extraordinary coincidence, walking down Government Road I saw the burly figure of Mr. O'Connor about three yards in front of me and there darted out from a side street a beggar, and I walked very rapidly to catch up with Mr. O'Connor to say, "I told you so," but he darted into a shop and from that day to this I have not been able to say anything to him about it.

Sir, I entirely support the motion.

**THE CHIEF NATIVE COMMISSIONER:** Mr. Speaker, this problem has only arisen, I think, in two major towns of

[The Chief Native Commissioner] the Colony—Mombasa and Nairobi—and in Mombasa, as the hon. Member moving this motion has said, there has been an almshouse for some years and it does deal very efficiently with the poor and destitute African of the town. There is a problem though in Mombasa, particularly on one or two days of the week, when quite a considerable number of beggars do come into the town, but that has not assumed, yet, any very serious proportion. The Government has taken action about Africans in Nairobi, police action, and there again so far the incidence seems to be fairly small. Nevertheless, the Government is of the opinion, and does agree with both the hon. Member and hon. Secunder that this is a potential problem, and one which we should examine and the Government is pleased to accept this motion.

The question was put and carried.

#### TRAFFIC CONTROL.

LADY SHAW: Mr. Speaker, I wish to move: That this Council is dissatisfied with the measures taken by the police to control the speeding of and other offences by heavy vehicles on the public roads of the Colony; and that the Commissioner of Police should be instructed to tighten up such control. Further, should the Commissioner be of the opinion that the present law does not meet his requirements for the purpose of exercising the necessary control, that Government should give immediate consideration to amending the law, in order to simplify the task of the police in this regard.

Mr. Speaker, nearly two years ago, in August, 1949, I moved a motion in this Council in somewhat similar terms, specifically referring on that occasion to the speeding of heavy vehicles and the fact that by their travelling at excessive speeds they were doing very great damage to the roads of the Colony and also causing great danger to the travelling public. On this occasion the then Attorney General, Mr. O'Connor, replied to me in this manner. He was referring to the Commissioner of Police and he said that "He could not carry out those most desirable objects without the requisite number of men and motor vehicles". With your permission, Sir, I

would like to continue this a little further: "This Council last year or some months ago voted a very considerable increase in the police establishment and voted supply for the provision of a considerably increased number of vehicles, but those increases take time to put into effect and time to recruit the individuals. The Traffic Department is still 25 per cent under strength and of 79 vehicles ordered for the Force only 31 have so far arrived". It continues in that strain, Sir, and I read it because I wish to point out that the claim made at that time for the reason for absence of controls was that there was an insufficient number of vehicles and men to perform the necessary duty. Now, Sir, if one can believe one's eyes, a very large number of police vehicles have come into this country. I am of opinion that some of their inefficiency may be impaired by the fact that they can be recognized as police vehicles almost as soon as they come over the horizon, but even so there is a very large number of them. There is also a very large number of added members of the Force, as we know to our cost, having voted for them in the Estimates.

Now, I am not criticizing the police in general terms, I know very well they have done a great deal of work in controlling traffic in Nairobi and in other towns and in dealing with parking and, indeed, they have done a great work in putting unscrivenable vehicles off the road. But that, Sir, is not the whole story. The speeding of heavy vehicles goes on with unabated fury. You have only to come up to Nairobi along two roads that I know very well, the Thika Road and the Athi Road, to see this menace—I do not feel I am exaggerating when I call this a menace—in daily action. Every day one comes up—or certainly every day before these recent rains changed the face of the country and the face of the roads—almost every day coming up these roads you would see overturned lorries, lorries in the ditch, people in smaller and lighter vehicles forced off the road by heavy traffic going at excessive speeds; and I do believe that it is absolutely necessary for the safety of the travelling public as well as for the preservation of this very valuable public asset, the roads, that real and proper control of this speeding

[Lady Shaw] should be exercised. I am not suggesting that police cars should go tearing up and down the roads every day, but I do most earnestly believe that a few prosecutions of drivers of heavy vehicles and adequate sentences imposed would make a very very considerable difference to this whole question. Many of the lorries travelling on most of the roads round Nairobi are plying regularly. They are milk lorries, sand lorries, and buses, etc., and they are not occasional travellers, so that the effect of a few prosecutions would have far greater results than the actual numbers prosecuted. I know that one of the difficulties faced by the Traffic Branch is that when they bring their cases to court the courts are so crowded with traffic offences that it is impossible to get a hearing for them, and a great number of cases have to be withdrawn—I know that happens. But at the same time the speeding of vehicles, a menace to which I am, referring, is a very serious one. I cannot help but feel that it is a very great deal more serious, for instance, than if one leaves one's car parked a little longer than one should, or if one leaves one's car parked at the wrong angle. I know that bad parking is a nuisance and causes a great deal of trouble. But I do not believe it is an actual danger to the public as I do believe that this speeding on the roads is a danger. I also believe that the actual loss to this Colony, both private loss and public loss, is a thing which can hardly be computed as a result of this speeding of heavy vehicles.

When I spoke on this subject in 1949 I mentioned the enormous cost of road maintenance and road construction, the enormous cost of the maintenance of private vehicles, tyres, spare parts, and so on. Now, what I said then must be true now. It is equally true—it is truer still, because in fact the cost of everything has gone up and therefore the loss incurred as a result of this speeding must be greater. I do not feel I need labour this point, Sir, I am perfectly certain everybody in this Council knows it is true.

I do wish to refer to one other question briefly of which I see a very great deal, also on these same roads. This also refers nearly always to heavy vehicles. Lorries plying up and down the

roads frequently break down, and perhaps their lights fail. The failure of lights is a thing which can happen to anybody occasionally, but only occasionally. Now, this encountering of vehicles on the road with no lights is a thing which one does every day. I wish to take the time of Council for a moment to tell them of an experience I had last February. When I was in Council last February I spoke to Mr. O'Connor about this unit vehicle question, and he said that he would speak to the Commissioner of Police. That very night I went out, leaving Nairobi about sundown and by the time I got down near Athi River it was very nearly dark. The first thing that happened was that I came upon a stationary vehicle with no lights—no back light of any description, on its right side of the road—it was quite visible until one was practically on the top of it. A little further on I met an enormous lorry with only one light—front light on the wrong side so that it looked like a motor-bike, coming from the opposite direction. I could not imagine what it was until I was abreast of this enormous creature. Beyond Athi River I then met one lorry with no lights whatsoever, travelling in the opposite direction. Before I turned off on the Mombasa Road I overtook a sand lorry and a milk lorry with no back lights. You may say that that is a coincidence. It happens daily, or nightly, anyway. The menace of speeding is more obvious, because one sees it more constantly, but the menace of unit vehicles is obvious to you if you happen to run into the back of one. There have been the most shocking accidents on no back light, result of the vehicles with no back light. I am told that it is extremely difficult to maintain the back light of the lorry owing to the vibration. Well, Sir, if that is true, and I believe it is true owing to the source of my information, then I think we have got to think again. I suggest that reflectors could be put on the backs of lorries in order to make them visible when they are at a standstill without lights. I do not suggest it still without being done to cars, because cars should usually have highly polished surfaces and back windows, so that you can see them when you come near, but with you a lorry you just do not see it until you are practically upon it, and it does not necessarily mean you are travelling

[Lady Shaw] enormously fast, either, I put forward that idea for the consideration of the Commissioner of Police.

I feel I owe no apology to this Council for coming back to the charge again, because I cannot but think that the Members of this Council, as indeed the members of the public, are dissatisfied with a situation which in this particular respect which I have mentioned has shown so very little improvement during the nearly two years since I last spoke on it. When I spoke on it I said the hon. Attorney General of that time said to me: "I hope the hon. Member will come back again if he sees no improvement after three months". Well, Sir, I have come back again after nearly two years.

I beg to move.

MR. HAVLOCK: Mr. Speaker, it gives me great pleasure to second this motion. I have been associated with the hon. and gracious Member for Ukamba on a number of occasions over this matter, not only on the occasion of her previous motion, but I think either she or I or both have raised this question at almost every Budget debate.

Sir, I also feel that I have a certain qualification to second this motion, because as a Member of the Road Authority I can advise the Council that the Road Authority itself is very worried indeed about this particular aspect. There is no doubt at all, and the Authority have taken the advice of their experts on this matter, there is no doubt that heavily loaded high speed vehicles are doing as much damage to our roads as a year as the floods did the other day, and I believe it is essential that the law should be tightened up and the implementation of the law should be very greatly strengthened in order to prevent it. We are, quite literally, throwing away hundreds of thousands of pounds a year on this particular matter, and it is not only a matter of danger to the public, which is a very important side of the motion, but it is also a matter of this public money wastage. On a number of occasions, Sir, there have been suggestions made by hon. Members on this side of the Council to help the police in this matter. I remember it has been suggested that governors should be

put onto lorries to see—[Laughter.]—you can take that either way—I understood that there was a certain amount of difficulty within the law as regards the setting of speed traps by police. I am not sure if that matter has been cleared up or not, but I seem to remember an hon. Member on the other side of the Council replying in those terms when this matter was brought up about a year ago. If the law does not allow the police to act easily and efficiently on this particular matter then I do ask, in accordance with the terms of this motion, that the law shall be reviewed so that the actual result which we wish to effect can take place.

Now, another question Sir, I was told the other day, on good authority, that if the police took action on all what they term according to the Traffic Ordinance are unserviceable vehicles, the road transport system of the country might break down, as there are so many unserviceable vehicles in use, and that there was an indication of that when the police took strict action some few months ago on the Thika Road, and there were so many vehicles they had to pull in for having perforated, no light, bad steering and so on, that they could not cope with them. They had not the space where to put the vehicles, but be that as it may, Sir, I feel that we have got to tighten it up and even if it does mean a certain amount of inconvenience to the public as far as road transport is concerned, then I am afraid the public should suffer that inconvenience in order to get the matter put on its right basis. We must first of all see that money is not wasted in damaging our roads, and secondly, see that the public, those travelling in such transport, and those on the roads and faced with such traffic, that both of them are protected against personal danger.

There is one other aspect, Sir, of this motion which I would like Government to consider. I do hope that when the police take action against heavily loaded, speeding vehicles that they will not consider that the military have any special dispensation.

LADY SHAW: Hear, hear. Not the Public Works Department.

MR. HAVLOCK: I think also it was mentioned in Council before, one district

[Mr. Havlock] this council up-country has adopted a very good system, I believe, and that is a large placard on the back of every lorry saying that this lorry belongs to such and such district council; if any member of the public is dissatisfied or sees a speeding, report that has had quite a considerable effect in that particular area and a number of members of the public have reported speeding of these particular district council lorries and that speeding has now ceased. I feel that for Government vehicles it might be quite a good method to adopt.

But, going back once more, Sir, to this matter of military vehicles, I especially ask for concentration on them because, of course, the damage that is done by the military apart from the public through speeding of heavily loaded vehicles is not in any way compensated for by licence fees and therefore, if we cannot get any money out of them to help us maintain our roads, at least we must take every possible step to see they do not do any damage to our roads through misuse of their vehicles.

Sir, I beg to second the motion.

THE ACTING ATTORNEY GENERAL: Mr. Speaker, the Government cannot accept this motion—[Shame]—but that does not mean that there is any complacency either on my part or on the part of the Commissioner of Police or his officers. Increased attention has been given, during the first quarter of this year, to prosecuting persons for speeding and for driving dangerously. In the first quarter of 1951 there were 101 prosecutions for these offences. The average number of similar prosecutions for the previous three quarters was only 69, so I think that those figures do show that the police are paying a great deal of attention to these matters.

MR. HAVLOCK: Not enough.

THE ACTING ATTORNEY GENERAL: Not only that, Sir, but where there is no police speed check, and in places where a police speed check is not actually in operation and the police either have it reported to them or they themselves see that vehicles are driving too fast having regard to all the circumstances and to the condition of the road, prosecutions are instituted

for dangerous driving, or for reckless driving, or for careless driving, according to the gravity of the offence.

Prosecutions in this class during the first quarter of 1951 show an increase of 52 1/2 per cent over the quarterly average of the previous year. So there again, I maintain that those figures do support what I have said.

The Traffic Department, I am happy to say, is now up to its establishments, both in personnel and in vehicles, and every effort is being made to curb these abuses of which the hon. and gracious lady has spoken in moving this motion.

So far as accidents are due to excessive speed, the number occurring during the first quarter of this year shows a 50 per cent reduction on the figures for the previous two quarters, and although the number of heavy vehicles registered in the Colony equals 40 per cent of the total registration, those vehicles are only responsible for, or involved in, 25 per cent of the total accidents. I submit with some confidence that these figures do show that the police are giving considerable attention to the matters complained about in this motion.

MR. HAVLOCK: Not enough attention.

THE ACTING ATTORNEY GENERAL: I would remind my hon. friend, the Member for Kisumu, that the Traffic Branch cannot concern itself only with speeding and as the hon. and gracious lady pointed out, there are a number of other offences matters, a number of other offences which cannot be left unchecked. I consider that one matter of which she has spoken, the low standard—low mechanical standard—of vehicles is a very serious matter indeed—[Hear, hear]—and the police are giving that also increased attention.

MR. HAVLOCK: And parking.

THE ACTING ATTORNEY GENERAL: I do not think that parking, although it is a great nuisance when you come into Nairobi and people are parked in places where they ought not to be parked and which is a great disregard for the parking regulations; I do not think really it is a cause of accidents or loss of life—[Hear, hear]—but other matters are of which she has spoken.

The standard of driving, I think, requires a great deal of improvement

[The Acting Attorney General] and the police are giving it attention; dangerous loading, and, of course, one matter to which the hon. and gracious lady referred, drawing up on roads where other vehicles probably travel quite fast at night, of unlighted vehicles. That, of course, is a grave offence and the police are paying attention to that.

I shall mention to Mr. Hoyle the matter of fixing reflectors on to lorries. I think, myself, it is an extremely good suggestion and we shall go into that.

All those matters of which I have spoken necessitate a good deal of attention from the officers of the Traffic Branch but I can assure hon. Members that the question of speeding is not being neglected.

So far as the law is concerned I am instructed by the Commissioner that it is adequate and that no difficulty arises in obtaining convictions for speeding. In 1950 there were 311 prosecutions brought and 240 convictions. Only 24 persons were acquitted, the other cases went over to be tried this year. I think those figures show that the number of convictions is quite satisfactory. It was thought at one time, and indeed following representations made in this Council during the 1949 Budget debate, that the punishments inflicted for this offence were not adequate, but the attention of magistrates has been drawn to this matter, and in my view, the punishments being inflicted are now quite adequate. (Question.) I submit it is incorrect to say there are few prosecutions when you have 101 prosecutions during the first quarter of this year.

MR. HAYLOCK: Not enough.

THE ACTING ATTORNEY GENERAL: So far as military vehicles and Public Works Department vehicles are concerned, I can assure the hon. Members opposite that there is no question of any dispensation and I certainly do not propose to grant them one.

Mr. Speaker, I beg to oppose.

LT.-COL. LE BRETON: Mr. Speaker, I am sorry to hear that the Government are not accepting his motion but I feel, nevertheless, that the Unofficial Members at some future date are likely to return to the charge and therefore my remarks may still be pertinent. I do

realize, Sir, that the wording of this motion refers to heavy vehicles, but the question of lights and reflectors has been mentioned and although I would like to deal with somewhat lighter vehicles I hope I shall not be considered out of order. Anyone who drives much at night must realize how absolutely invisible a bicycle is when one overtakes it. If only the riders of bicycles understood how miraculous it is that more accidents do not arise—

THE SPEAKER: Before the hon. Member proceeds will he please state how bicycles and other vehicles are relevant to the subject-matter of this motion.

LT.-COL. LE BRETON: I was speaking on the amending of the law and I was going to suggest reflectors should be compulsory on bicycles.

THE SPEAKER: The amending of the law is a subsidiary part of the motion and is subsidiary to the first part. I think you must be grieved out of order.

LT.-COL. GIERSTIE: Mr. Speaker, I only wanted one particular point clarified. It arises out of the remarks made by the hon. Member for Law and Order who was speaking a moment ago. I think he indicated that the staff of the Traffic Department was adequate. I had occasion the other day to visit the Traffic Department and I found an experienced traffic officer spending his time typing, and I understand more than one traffic officer wastes a great deal of time typing summonses—hours and hours are taken typing. I submit that that work should be undertaken by a clerk; and that the efficiency of the traffic officer need not be wasted. He should be out on the road, doing the job he is trained for. Traffic officers are a source of revenue—they obtain convictions, and we could afford to do with more traffic officers on the road.

MR. MACONCHIE-WELWOOD: Mr. Speaker, there is only one point that I wish to mention, and it is rather on the technical side of this motion. I hope that when the hon. Attorney General instructs the police to deal with speeding that he will also instruct them to do it reasonably. Most heavy vehicles have marked on them a limit of 30 miles per hour and in some cases 25 miles per hour, and I take it that is what this motion is aimed at: is dangerous driving rather than the

[Mr. Maconchie-Welwood] the act of speeding. It is practically impossible to-day with the modern heavy lorry to keep it below the speed limit written on the vehicle. This is a matter of fact. It is very easy in this Council to say it is entirely wrong for a heavy vehicle to proceed over 25 miles per hour or 30 miles per hour according to what is written on it, but the real point is a should not be driven dangerously. If it is carrying a heavy load and doing a number of trips it is built to travel at 30 miles per hour, and the law in fact is out of date in putting it at 30. I may be unpopular in saying this, but the law is quite unenforceable if it is intended to carry it out to the letter and reduce the speed to that written on the vehicle.

THE ACTING CHIEF SECRETARY: Mr. Speaker, I hope that hon. Members will not assume from the fact that Government naturally cannot accept a motion expressing dissatisfaction with its police force as meaning that we do not believe that there are improvements which can be introduced. The police have an extremely difficult task in handling these matters. We do believe very firmly that improvements have been introduced but I would like to assure hon. Members that the views which they have expressed in this debate to-day will be considered by my hon. and learned friend the Acting Member for Law and Order in consultation with the Commissioner for Police, and I hope that possibly the hon. and gracious lady, the Member for Ukamba, having given this matter the airing which it has had this morning, and having regard to the undertaking which has been given that these views will all be very carefully considered, may feel that her purpose in bringing the matter before Council has been met without pressing the matter further.

With regard to the remarks of the hon. Member for Nairobi North, I think, on a point of explanation, that my hon. friend's statement was not that the Traffic Department of the force was necessarily adequate but that it was now up to strength. He will investigate the second point which the hon. Member made on the suggestion that officers or an officer was being used to do clerical work which could be better performed by a clerk.

I do not think, Sir, there are any other remarks which I need add.

LADY SHAW: Mr. Speaker, I confess I am a little disappointed that Government will not accept this motion. When I spoke this morning I was under the impression that they would. I did not bring it in any spirit of light-hearted criticism but with an earnest desire to see an improvement in a matter which I do feel is of great importance to this country. I did not bring it, and I do not believe anyone in this Council believes I brought it, in order to criticize our very fine police force. What I think I said, and my motion said, is that I was "dissatisfied with the measures taken," which I feel is not quite the same thing as being dissatisfied with the police. (Hear, hear.) I wish to make it perfectly clear here and now, Sir, that in bringing this motion I brought it with a view to improving conditions and not to making light-hearted and unimportant criticisms of the police themselves.

Now, Sir, I feel that a great number of the points made by the hon. Attorney General in his reply do not really meet my case at all. I am absolutely convinced that if one analysed those figures he gave us about convictions for dangerous driving and speeding we would find almost all of them were in the towns. I particularly, in making my motion, spoke of the open roads. That is an entirely different matter. If those 101 cases, of speeding, have been taken up on the open roads, then all I can say is it is the greatest pity it is not 1,001, because the difference that has so far been made is negligible.

Another thing I want to make quite clear—in listening to the hon. Attorney General's reply I was almost under the impression I had asked the police to tighten up the parking rules. I did not. Perhaps I made it only by inference but I feel the offences—and that parking, serious offences—and that parking, although in parking may be a nuisance to the public, is not necessarily a danger—and therefore I wish the Commissioner of Police could give a little more attention to the dangerous driving, or the fast driving, speeding on the roads, rather than quite so much attention to the parking in towns, annoying though



[Lady Shaw] build parking may be. I want to make it quite clear that that was not my point, although the reply did a little sound to me as though it had been.

**THE ACTING ATTORNEY GENERAL:** On a point of explanation, the remarks I made about parking arose because of an interjection by my hon. friend the Member for Kiambu.

**LADY SHAW:** For that very reason I am extremely glad I took the matter up. The interjection may not have been reported, but the Attorney General's reply will be.

There is the fact also that where traffic offences occurred in the beginning of the year on open roads, the smaller number of offences may have been influenced by the fact that a large number of the open roads have been entirely impassable, and therefore the amount of traffic on them has not been quite so great as usual.

I am afraid I cannot agree with the point raised by the hon. Member for Uasin Gishu. If a man is told he has got to travel at 25 miles per hour, then he has got to travel at 25 miles per hour. If those speed limits on the lorries are wrong and incorrect they have got to be revised, and I would like to point out that my motion says that "if the present law does not meet his requirements for the purpose of exercising the necessary control, that Government should give immediate consideration to amending the law". Speaking of the Commissioner of Police: If it is necessary to amend that law because it is impossible to enforce, then it has got to be amended. At the same time I would point out that the roads in this country have most of them been built to a standard that cannot carry this traffic at these speeds, and if people provide themselves with lorries that have got to go at speeds for which the roads are unsuitable, and it is expensive to run those lorries at less than their optimum speed, then I am afraid that that is their pigeon (hear, hear) I have no sympathy with that matter.

Well, Sir, I do not feel I have anything more to say on this subject. I am deeply disappointed that Government is not going to accept this motion. I feel they could have done so and made their

position quite clear, and I wish to repeat that there was no criticism of the police. It was meant to be a helpful motion, Sir. It is a response, as it were, to a crying need in this country strongly felt by the general public and most strongly felt by me personally.

Sir, I beg to move.

The question was put and, on a division, negatived by 17 votes to 16. **Ayer:** Messrs. Blundell, Cooke, Gherrie, Havelock, Hopkins, Jeremiah, le Breton, Mufan, Nathoo, Patel, Preston, Salim, Salter, Shary, Lady Shaw, Mr. Usher, 16. **Nayer:** Messrs. Anderson, Carpenter, Davies, Hartwell, Hope-Jones, Hobson, Hume, Hunter, Mathu, Sir Charles Mortimer, Messrs. Ohanga, Padelley, Pike, Sir Godfrey Rhoads, Messrs. Roddan, Thornley, Vasey, 17. Did not vote: Mr. Macdonough-Welwood, 1. Absent: Messrs. Cavendish-Bentick, Chemallan, Pitman, Rana, 4.

**GOVERNMENT WHITE PAPER  
No. 1 OF 1951**

**INCREASES IN PENSIONS**

**THE ACTING DEPUTY CHIEF SECRETARY:** Mr. Speaker, I beg to move. That this Council approves the proposals contained in Government White Paper No. 1 of 1951 for a complete revision of the arrangements under which increases in pensions are paid to pensioners of the Government.

Sir, the paper was laid on the table on the 10th May. It contains the main features of the Government's new proposals and those are all that we are concerned with at the present time. The details will be contained in a Bill which will be introduced at the August Session of Council, if the proposals in the present paper are approved to-day. I will, therefore, Sir, very shortly go through the proposals in the present paper.

Pensioners, at the present time, are divided into two groups. Firstly, there are the pre-revision pensioners, that is, the people who retired before salary revision became effective, and whose salaries and therefore whose pensions were not affected by salary revision. Secondly there are those who retired after salary revision became effective. Their salaries were revised, and therefore their pensions were correspondingly increased. Under the present arrange-

[The Acting Deputy Chief Secretary] ment (there is no provision for any increase of pension to a post-revision pensioner. The arrangements apply only to the pre-revision group, and even in regard to that group they apply only to a limited extent, for the reason that the pension increase fades out as the pension increases, and therefore those pensioners at the top of what we might call the pension range get no benefit from the present scheme. Moreover, a number of pensioners who enjoy an income other than a pension, for that reason get no benefit, or get a reduced benefit, from the present scheme. This particular feature of the present arrangements, as Members will remember, has come to be called the "means test" and has been subject to a great deal of criticism in this Council from time to time. Further details of the present scheme will be found in paragraph 3 of the White Paper, which gives some examples of the amount of increase which is paid at particular pension rates.

The increase in the cost of living in the year 1950 and 1951 has made it apparent that pensioners, both pre-revision and post-revision, are facing financial difficulties. This applies particularly to the pensioners in the middle and upper groups who, as I have said, get no benefit at all from the present scheme.

Now, Sir, the new scheme is contained in paragraph 6 of the paper, and it deals differently with the two classes of pensioners, the pre-revision pensioners and the post-revision pensioners. The pre-revision group are given what has been called a "temporary adjustment increase", in recognition of the fact that their salaries (and therefore, their pensions) were not increased as the result of salary revision; it is suggested that this adjustment shall be 7½ per cent of the pension. On top of this increase both groups are to get a temporary cost of living allowance, equal to half the cost of living allowance applicable to serving officers. The paper explains that the rate of half is proposed because it is reasonable to assume that pensioners can, by reason of the fact that their whole time is at their disposal, effect economies of one kind and another, which are not open to the Government officer who is still in service and whose time is taken

up by his Government work. Moreover, it is also reasonable, the Government thinks, to assume that most pensioners will have completed certain obligations, such as the education of children, which still remain with most or many serving officers.

An essential feature of the new scheme is that there is no "means test". That is to say, income other than the pension will be completely ignored for the purpose of the new scheme.

Under the present arrangements an officer can qualify for pension increase at the age of 50. The proposal in the present paper is that the new scheme shall apply only when the officer or rather the pensioner, reaches the age of 55, this is because 55 is the normal retiring age. If an officer chooses to go before he reaches the age of 55, then that is his own affair, and it is reasonable to suppose that he has taken the financial implications of retirement into account. Naturally there will be no limit in the case of officers who retire on medical grounds; it is proposed that the scheme shall apply to them irrespective of age.

The estimated cost of the new scheme is set out in paragraph 8 of the paper. It is estimated to cost £60,000 a year as opposed to £22,000, which is the approximate cost of the present scheme.

Well, Sir, I think it is unnecessary for me to go through paragraph 6 of the paper in more detail, because I have no doubt that Members have read it. I will do my best to deal with any points which Members may wish to have explained.

Sir, I beg to move.

**THE ACTING SOLICITOR GENERAL** seconded.

**MR. COOKE:** Mr. Speaker, I would like to congratulate the Government on bringing this matter up in this form because it will enable the Council to study cause it will enable the Council to study the White Paper, to give its opinion on the principles and then, as I understand, if those opinions are favourable, the principles will be embodied in a Bill to be moved next August.

Sir, I attended a meeting last night of the Kenya Pensioners Association and I would like to express their gratitude to the Government for the measures they have taken. The proposals are not

[Mr. Cooke]

entirely what the pensioners would have desired because they have not gone far enough but we do realize that in the financial position that this country and, indeed, the rest of the world, is in to-day we, like other people, must be reasonable in our requests.

Now, if course, a flat rate of 7½ per cent increase in a country whose cost of living has risen by 100 per cent is really not a great contribution to the salaries of the pensioners. I notice another 7½ per cent, as it were, added through cost of living allowance but even that 15 per cent is not a very overwhelming contribution when the cost of living has risen, as I said, by 100 per cent.

Now, there are two matters, Sir, which I have been asked to bring to the attention of the Council and with which, I, personally myself, entirely agree. Now, the first relates to retroactivity or to back dates. It is now nearly ten years since the pensioners requested Government to give them some relief and relief was given, back-dated to 1944, but that only involved pensioners on a low scale salary, and while I refer to the pensioners on the low scale of pension, I think, Sir, that they should not be the people who receive all the sympathy in matters like this because many of the low salaried pensioners are those who have retired with a trade of some kind and after they have been pensioned, they can make further money in their trade or profession. But a great many of the higher paid pensioners have no trade and have no means of livelihood after they have retired.

Now, again regard to retroactivity, they feel that because Government has taken so long to see reason, as it were, that they should not be penalized for that lengthy period that has elapsed. During that period, a number of pensioners, especially in Great Britain, have been compelled to live on their meagre capital in order to sustain their existence at all and those people, if they do not get this retroactivity, will be very considerably penalized. We all know, of course, and it is emphasized in this paper, that something like 774 pensioners have received an increased pension since the 1st January, 1944, so that my proposal of paying back pay would not affect those 774 people who have already been

back-paid to 1944, but it would affect 413 pensioners of all races. Now, that is not a great many and it would not involve a great outlay on behalf of the Government. It is impossible for me, of course, to calculate what the outlay would be because I have not got the figures in front of me but possibly my hon. friend who has just spoken may have those figures.

Now, I want to make that point particularly strongly, Sir, because I felt the same thing when the pay and salaries of the hon. gentlemen opposite were increased. I then made that point—in fact I have made it twice in this Council—that those gentlemen should not be penalized because Government takes a long time to make up its mind and, in fact, I did plead that they should have retroactivity from the 1st November last year. That was not granted but they did get the retroactivity when the pay was revised in accordance with the Holmes Report to 1946. So the principle of back pay has been established clearly by this Council.

Now, the other point I make, Sir, is not one which I make so strongly but which is a point of some importance. When pensions are increased to those pensioners who have served in more than one Colony, they have their pensions from each of the Colonies in which they have served, aggregated—put into one lump sum and on that lump sum, the rate on which they will receive their pension, is calculated. Now many feel that it is unfair that a man who has served, say, in Kenya and also Tanganyika and Uganda, instead of receiving increases based on the pensions that he receives from each of those countries, receives an increase on the aggregate of the three pensions. I give a simple example of a man who served, we will say, in Kenya and Uganda. Supposing his pension from Kenya is £300 a year and his pension from Uganda is £200 a year—instead of receiving his increase on the Kenya pension of £300, which of course would be at a bigger percentage because the percentage increases as the pension decreases as it were, and receiving an increase of the £200 a year on his Uganda pension, what happens is the two pensions are added together to become £500 a year and he receives an increase on that £500 at a lower rate.

[Mr. Cooke]

of course, at 7½ per cent. So we feel that it is unfair that that rule has been brought in. I know the reason given by Government for the enforcement of this—in fact, it is mentioned in this White Paper—and that is, that a man who has served all his time in one Colony would be at a disadvantage in comparison with the men who have served in two or three colonies. Well, that is perfectly true, Sir, but I think it is a question of "Friend, I do see no way." The man who has happened to have served all his time, for instance, in Kenya, and gets a pension based on his Kenya salary from Kenya is not in any way damaged, because the man from Uganda and Kenya has his increases based on a pension paid by those two colonies. So you are not helping the man in Kenya by doing this disservice to the man who has served in two or three other colonies. It is not really a reasonable point of view to take up.

Well, Sir, those are the only two points which I, specially had to make, and in making them I will say again that the pensioners are grateful to Government for at least giving this important matter their active consideration, Pensioners, I think, play a fairly important part in this country. There are several hundred of them settled here; and we might say that they have a stabilizing effect both on the economy and on the politics of this country! (Laughter.) Therefore, I think they deserve a great deal of sympathy—and this I am asking to be displayed to them to-day.

Sir, I support the motion. (Applause.)

MR. HAVELOCK: Mr. Speaker, I only wish to make one point on this. I have been worried, looking at it, and seeing the expense that it is going to cost the Colony. I do not really see, in equity, how we can get out of it. On the other hand, this will mean if we abolish posts or reduce Government in any way because of the extra cost per head with the cost of living allowance which has been given to them lately, presumably it will be more expensive for them to be reduced as the pensions have gone up. When we too abolish a post, I presume the man gets the pension, he will get more—according to this Paper. The only point I wish to make is that this particular situation will not deter me from

pressing harder and harder, now—and up till the Budget debate—for reductions in Government posts.

THE ACTING DEPUTY CHIEF SECRETARY: Mr. Speaker, with regard to the first point by the hon. Member for the Coast, I am afraid the Government could not accept the suggestion that this arrangement should be made retroactive. The hon. Member—at least I did not hear him—state the date with effect from which he thinks it should operate, but whatever date he had in mind, I am afraid the Government could not accept any earlier date than January, 1951, as proposed in the Paper. In this connexion I would invite the attention of the Member to paragraph 2 of the Paper which sets out the history of the matter, and shows that this question of pension increases was discussed very fully in this Council in 1949 on two separate occasions. Firstly, on the Report of a Select Committee, and secondly, on a Bill which was introduced after the Select Committee's Report had been debated. The Council then arrived at a definite settlement of the matter, which is incorporated in the legislation then passed. It is the new circumstance which has arisen since that date, in the year 1950-51, that is, the big increase in the cost of living, which has justified a cost of living allowance for Government servants, that in the Government's opinion has necessitated a complete review of the pension increase arrangements. Therefore the Government thinks there would be no justification at all for taking the new increases back beyond the year 1951.

MR. COOKE: Mr. Speaker, on a point of explanation, it was on the matter of principle which the Government three years ago fought against. That is the means test, and the pensions to officers above a certain pension. The matter of principle has not changed in those three years.

THE ACTING DEPUTY CHIEF SECRETARY: Sir, those questions of principle were debated and settled by this Council. We do not feel that it can be said that those decisions were wrong. What we do say is that the circumstances which have arisen subsequent to those debates justify the introduction of an entirely new scheme based on different principles.

[The Acting Deputy Chief Secretary]

Regarding the second point, Sir, the Member himself has explained the reasons for paragraph 6 (viii) of the Paper. The Government feels that it is reasonable that a man whose service has been, say, half in Kenya and half in Uganda should be in the same position for this purpose, as he is for the pension itself, as the man whose whole service has been in one of those territories. That seems to us to be reasonable and equitable. However, Sir, we shall be quite willing to listen to and consider any representations which the Pensioners' Association may come to make on that point before the legislation is drawn up.

There is nothing else which I need say, Sir.

The question was put and carried.

#### EXPEDITION OF WORK OF THE SUPREME AND SUBORDINATE COURTS OF THE COLONY

Mr. Speaker: Mr. Speaker, I beg to move: That this Council requests Government to take all necessary steps, as soon as possible, to enable the hearing of cases in the Supreme and Subordinate Courts of the Colony to be expedited and to provide further accommodation and other facilities for the administration of justice.

Sir, I hope that, since the administration of justice is a subject which affects the interests of the community as a whole in this Colony, this is a motion which will prove not controversial and indeed will commend itself to every hon. Member of this Council.

It was during the recent visit of the Right Hon. the Lord Chancellor of England that he told us that an efficient and expeditious system of administration of justice in any country was one of the principal essentials to its well-being. Now, Sir, our system of justice is founded upon that of the King's Courts in England, a system which has evolved throughout the centuries, and is one in which we as a nation take pride and satisfaction. We have for carrying out that system in this Colony men of great ability, experience and industry. But despite these high qualities, the system is at present in danger of breaking down. I do not wish it to be thought, Sir, for one moment, that anything I say is any criticism of those who admini-

ter the system. Far from it. Indeed, there is no member of the Judicial Bench, or of the staff who assist them, who has spared himself in endeavouring to remedy or ameliorate the present situation. I can only say, Sir, that the burden at present imposed upon the members of the Judicial Bench and their staff is truly intolerable. The plain fact is, Sir, that the judicial machine in this Colony has become clogged, and unless immediate action is taken the wheels will cease to turn with sufficient speed to produce even half the output required, I think, Sir, in this connexion, I might refer to the words of the then Member for Law and Order in the debate on the Judicial Department estimates last December, when he said: "The work of the courts has vastly increased, particularly on the civil side, with the result that Judges and magistrates are all, or nearly all, working at very 'high' pressure, too high pressure."

Now, Sir, I do not want to go into a lot of figures, but I feel in order to support this motion I should refer to some figures briefly, with your permission, Sir, that have been given to me in order to show the truly serious and grave state into which the administration of justice has fallen at the present time. In the year 1946, in the Supreme Court, there were 751 civil cases filed, there were 674 decided, and 539 remained pending at the end of that year. In 1950, the number of civil cases filed in the Supreme Court of the Colony had risen to 2,342; 1,784 were decided and 1,747 remained to be decided. In this year, Sir, it is estimated that at the end of it there will have been filed 2,700 civil cases, 2,197 it is estimated will have been decided, and 2,250 remaining still to be decided. That is only so far as the Supreme Court is concerned. In the Magistrates courts I can only say that civil cases in 1946 were 3,704 filed, 3,215 decided and 1,694 remaining to be decided. That figure, Sir, has risen to an estimate in 1951 of 12,000 filed, 11,293 decided or estimated to be decided, and 7,000 estimated at remaining to be decided at the end of this year.

Now, Sir, those figures speak for themselves. The criminal cases are equally serious and if I may just take three figures, the cases remaining to be decided, the criminal cases in the

Mr. Salter].

Magistrates courts of 1946 were only 41. Although you may think that is not a big figure, in 1950 they had risen to 1,578 and at the end of this year it is estimated there will be no less than 2,500 criminal cases awaiting to be decided in the subordinate courts.

Now, Sir, the deductions to be made from these figures may be stated as these: first, that the civil cases only in the Supreme Court decided during the years 1946 to 1948 inclusive approximate the number of cases expected to be undecided at the end of the present year. Secondly, Sir, whilst approximately three times the number of civil cases are decided to-day than were decided in 1946, in approximately three times the number will remain to be decided.

Now, Sir, the state is this, that if a litigant wishes to have his case heard in the Supreme Court, he will probably have to wait at least ten months from the date when the case was filed until it comes on for hearing, and it may well be—and indeed will be unless active steps are taken—that that time lag will increase to over 12 months in the very near future.

Now, Sir, I have said that there is no possible criticism to be made against those who administer justice in this Colony. Indeed, Sir, it can be seen from the figures that I have quoted that three times the number of cases were decided during the last year compared with five or six years ago, and yet there has been no increase on establishment of only one Judge. It is true that increases have been made in the number of resident magistrates, but there again, Sir, the increase has been wholly insufficient to cope with the work which has to be done. The present establishment, as I understand, Sir, provides for five, only five, permanent Judges of the Supreme Court, which includes His Honour the Chief Justice. There are 21 resident magistrates on the establishment to do the work throughout the Colony, and I do submit, Sir, and I hope Government will agree, on examination, that the minimum required to carry out the work will be at least seven Judges of the Supreme Court and, say, 25 resident magistrates. In addition, Sir, I would urge that consideration, and immediate

consideration, be given to the question of powers to be conferred upon the Chief Justice here to appoint Commissioners of Assize to alleviate the burden. Again, it is necessary, in my submission, that where vacancies occur on the Judicial Bench, temporary vacancies, unavoidable perhaps through illness or because a Judge is away on leave, that those vacancies be immediately filled by an acting Judge, so that the work can carry on and that the arrears do not pile up in the way they have been.

Now, Sir, of course if there are to be increases in the Judicial Bench, there must as a necessary corollary be increases in the staff of the courts to enable them to carry out their duties. Again in the debate on the estimates under this section last December, the then hon. Member for Law and Order said: "The subordinate staff of the courts is also inadequate to cope with the increased and ever-increasing demands made upon it. There are serious but at present inevitable delays in obtaining records and sometimes therefore delays in hearing appeals, and there is little doubt in my mind that we shall have at some future date to come before the Council and ask for substantial increases in certain directions". Sir, I submit that that time has now come. "In particular, I think that the staff of typists will have to be increased and the standard of interpretation and the number of interpreters will probably have to be improved and augmented. There is a certain provision for that in next year's estimates and I suggest that it will probably occur that higher salaries will have to be offered to attract persons of higher attainments to that branch."

Sir, I would like to associate myself with the words of the hon. Member for Law and Order and I do submit that what is required immediately is an increase of shorthand typists, or Palantype writers, in Nairobi alone to bring up the number to 12 instead of the present two. It may be that we shall require a further two if there is to be a resident Judge in Western Kenya. And I would suggest, Sir, that we have a typists' pool of at least ten additional typists to cope with the work. I know that sounds a lot, but if one considers the numbers which are allocated to the

Mr. Maconochie-Welwood]   
 the greatest difficulty   
 under cross-examination of understanding   
 what is being said to them. That, of   
 course, applies even more to the primitive   
 people such as the Kipsigis and the   
 Masai, and I do commend to the   
 hon. Attorney General's attention the   
 importance of this point.

Apart from that there is very little   
 that need be said. I am sure that the   
 whole of this Council will agree with   
 the vital necessity to improve the working   
 of the courts. Hon. Members opposite   
 might possibly have assisted by making   
 fewer laws, ourselves also, but unfortun-   
 ately we have, quite rightly, nailed our   
 colours to the mast and appealed to the   
 courts in everything that it brought up   
 here, and I for one could not withdraw   
 that, but those appeals to the courts make   
 more and more work and the complicated   
 legislation which is considered   
 necessary to-day necessitates more and   
 more space for the courts and nothing,   
 in my opinion, should come before that.

Mr. Speaker, I beg to second.

Mr. PRISTON: Mr. Speaker, in rising   
 to associate myself with my hon. and   
 learned friend the Member for Nairobi   
 South in his remarks, I would like to   
 add my plea for more resident Judges   
 and in particular in Kisumu, where we   
 have the enormous population of   
 Nyanza which is greater than any other   
 portion of this Colony. With the   
 tremendous growth of litigation and the   
 difficulty of obtaining witnesses through   
 their having to travel vast distances in   
 these very scattered areas, the appoint-   
 ment of a resident Judge in that par-   
 ticular area could, I think, do a great   
 deal of speeding up of justice, and, as   
 my hon. friend the Member for Usasin   
 Gishu has said, it is one of the funda-   
 mental principles of British justice that   
 it may be speedy.

Again, Sir, with regard to the build-   
 ings, I would welcome anything that   
 would tend to add to the dignity which   
 we have always maintained with our   
 judicial system in England, and it is very   
 hard to conduct the proceedings of the   
 court with appropriate dignity in some   
 rather broken-down court-house.

Sir, I do hope that this motion will   
 receive the support it deserves from both   
 sides of this Council.

I beg to support, Sir.

Mr. PATEL: Mr. Speaker, I rise to   
 support the motion moved by the hon.   
 Member for Nairobi South. I thoroughly   
 endorse the remarks made by him in   
 support of the motion and I do not   
 think I want especially to add anything   
 to what he has said; but I would   
 especially like to make a plea on behalf   
 of Mombasa in regard to accommoda-   
 tion. The position in Mombasa is very   
 bad. I was promised at one time in this   
 Council from the other side that steps   
 would be taken to see that either the   
 present court building in Mombasa   
 would be extended or some other   
 method would be found for additional   
 accommodation, but so far nothing has   
 been done, and the position in my view,   
 Mr. Speaker, is very serious. There are   
 only three rooms for the courts. We   
 have there now three magistrates, the   
 resident Judge, the Chief Cadi and so   
 on, and it is very difficult to carry on   
 the proper administration of justice. I   
 would, Sir, invite one of the members   
 from the other side to go round that   
 court building and see how it looks. It   
 is awfully bad, one might say, from all   
 points of view, and it is necessary that   
 early steps should be taken to provide   
 better accommodation in Mombasa.

I also endorse the remarks made by   
 the hon. Member for Nairobi South in   
 regard to appointments of acting Judges   
 when a Judge has gone on leave, or for   
 other reasons he is not in a position to   
 act. From that point of view, I think   
 Mombasa has suffered more in the past   
 than any other place, or any Judge   
 was a shortage of Judges or was away on   
 account of sickness Mombasa had no   
 resident Judge, and it became difficult   
 even to have the ordinary work of the   
 chambers, etc. attended to, and it is   
 very essential that in these events proper   
 attention should be given to keep a   
 resident Judge always at Mombasa. It is   
 necessary that the three resident magis-   
 trates and the resident Judge should   
 always be available at Mombasa if the   
 administration of justice is to be done   
 properly.

With these remarks, Mr. Speaker, I   
 wholeheartedly support the motion.

THE ACTING ATTORNEY GENERAL:   
 Mr. Speaker, the Government accept   
 this motion—(Applause)—and I think my

[Mr. Saller]

Judiciary in the High Courts of England, then, Sir, our claims, I submit, are very modest.

Now, if I may pass to the question of revenue. The increases in staff asked for do not, in my submission, place any great burden upon the financial resources of the Colony. The revenue from this Department in 1947 was £31,502. In 1950 it was £77,000 and it is estimated that the revenue at the end of this year will be £90,000 approximately. So that in fact it would be a good investment, and indeed, Sir, I will go further, and say that because of the shortage in the number of resident magistrates, particularly in the Traffic Department, to hear the traffic cases, 100 traffic cases recently had to be dropped because there was nobody to hear them, and therefore, Sir, assuming that a certain percentage of that hundred would have been convicted, there was a loss of revenue from the fines which one might have expected to have been imposed.

Now, Sir, I have dealt with the question of numbers of the Judiciary, and their staff. But, Sir, there again it follows on that we must have proper accommodation to enable those men to carry out the job. At the present moment, we have, as I say, Sir, in Nairobi five Judges of the Supreme Court, of whom one is the Chief Justice, and six resident magistrates. This is in Nairobi alone. There are available five courts, properly so made and constituted, and three in which magistrates sit. One of those courts, Sir, is occupied by the Court of Appeal for Eastern Africa, so that the Supreme Court and the magistrates have only seven courts where 11 are required. Now, that, Sir, is, I am sure Members will agree, a most unsatisfactory state of affairs. In addition, there are no rooms for the accommodation of witnesses, there are no rooms in which witnesses may be interviewed or conferences may take place. I know, Sir, it will be said, "Very well, when the offices of the Secretariat are able to move from their temporary accommodation"—which has lasted about 10 or 11 years now—"to other premises, the matter of accommodation will improve." That, of course, it perfectly true, but meanwhile, Sir, the matter is urgent and I would commend for the consideration of

Government that it might be possible for some of the offices at present sited in the Law Courts, to be moved—if it is possible, for instance, for the Immigration Department to emigrate; let them go, if possible, somewhere else, because it would provide for two extremely good and useful rooms for the hearing of cases in the courts.

That is only a brief summary of the present difficulties, but I do hope, Sir, that immediate recommendations may be made to the appropriate authority for the appointment of additional members to the Judicial Bench and necessary staff, and, if that recommendation is accepted, Sir, I do hope that immediate financial provision may be made to carry it out, if necessary, by special warrant. I believe, Sir, that it is only this way that the interests of the public will be served and that the proper standard of the administration of justice will be maintained.

Sir, I beg to move. (Applause.)

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

MR. MACONACHIE-WELWOOD: Mr. Speaker, in seconding this motion I have very few points to make, as the case has already been put so well by my hon. friend the Member for Nairobi South. One point I should particularly like to stress is the importance of accommodation in the courts which has already been mentioned. We spend a great deal of money on buildings of various sorts, many of them of vital importance, such as educational buildings and hospitals, and so on, but I do submit that even education itself comes second to the administration of justice. Without speed in the administration of justice there can be no true justice. I am told that in the courts certain other serious defects do exist through lack of personnel, and I would particularly stress the question of interpreters. I was horrified to learn recently that there were not adequate interpreters in Kipsigis, Nandi, Masai and also in Afrikaans. The last thing I want to suggest is that this country should be in any way bi-lingual but I have come across cases of elderly Afrikaans-speaking people who understand the proceedings of the court and were not always able to do so and a number of them who are able to speak English up to a point,

Mr. Maconachie-Welwood

and speak English, find the greatest difficulty in cross-examination of understanding, that is being said to them. That, of course, applies even more to the primitive people such as the Kipsigis and the Masai, and I do commend to the hon. Attorney General's attention the importance of this point.

Apart from that there is very little that need be said. I am sure that the able of this Council will agree with the vital necessity to improve the working of the courts. Hon. Members opposite might possibly have assisted by making fewer laws, ourselves also, but unfortunately we have, quite rightly, nailed our colours to the mast and appealed to the courts in everything that is brought up here, and I for one could not withdraw that, but these appeals to the courts make more and more work and the complicated legislation which is considered necessary to-day necessitates more and more space for the courts and nothing, in my opinion, should come before that.

Mr. Speaker, I beg to second.

MR. PRESTON: Mr. Speaker, in rising to associate myself with my hon. and learned friend the Member for Nairobi South in his remarks, I would like to add my plea for more resident Judges and in particular in Kisumu, where we have the enormous population of Nyanza which is greater than any other portion of this Colony. With the tremendous growth of litigation and the difficulty of obtaining witnesses through their having to travel vast distances in these very scattered areas, the appointment of a resident Judge in that particular area could, I think, do a great deal of speeding up of justice, and, as my hon. friend the Member for Uasin Gishu has said, it is one of the fundamental principles of British justice that it may be speedy.

Again, Sir, with regard to the building, I would welcome anything that would tend to add to the dignity which we have always maintained with our judicial system in England, and it is very hard to conduct the proceedings of the court with appropriate dignity in some rather broken-down court-house.

Sir, I do hope that this motion will receive the support it deserves from both sides of this Council.

I beg to support, Sir.

MR. PATEL: Mr. Speaker, I rise to support the motion moved by the hon. Member for Nairobi South. I thoroughly endorse the remarks made by him in support of the motion and I do not think I want especially to add anything to what he has said; but I would especially like to make a plea on behalf of Mombasa in regard to accommodation. The position in regard to accommodation in Mombasa was very bad. I was visited at one time in this Council from the other side that steps would be taken to see that either the present court building in Mombasa would be extended or some other method would be found for additional accommodation, but so far nothing has been done, and the position in my view, Mr. Speaker, is very serious. There are only three rooms for the courts. We have there now three magistrates, the resident Judge, the Chief Cadi and so on, and it is very difficult to carry on the proper administration of justice. I would, Sir, invite one of the members from the other side to go round that court building and see how it looks. It is awfully bad, one might say, from all points of view, and it is necessary that early steps should be taken to provide better accommodation in Mombasa.

I also endorse the remarks made by the hon. Member for Nairobi South in regard to appointments of acting Judges when a Judge has gone on leave or for other reasons he is not in a position to act. From that point of view I think Mombasa suffered more in the past than any other place. Whenever there was a shortage of Judges or any Judge was away on leave or was away on account of sickness Mombasa had no resident Judge, and it became difficult even to have the ordinary work of the chambers, etc. attended to, and it is very essential that in these events proper attention should be given to keep a resident Judge always at Mombasa. It is necessary that the three resident magistrates and the resident Judge should always be available at Mombasa if the administration of justice is to be done properly.

With these remarks, Mr. Speaker, I wholeheartedly support the motion.

THE ACTING ATTORNEY GENERAL: Mr. Speaker, the Government accepts this motion—(Applause)—and I think my

[The Acting Attorney General] hon. friend the Member for Nairobi South is aware of the anxiety which I myself feel in this matter, and I can assure him that the Acting Chief Justice and the Acting Registrar of the Supreme Court feel as I do. The rise in the work which comes the way of courts has been rapid and there is no doubt that we are now faced with a situation which should not be allowed to continue for longer than can be helped. We must look into the matters raised as early as possible.

The first matter which must receive attention is that of accommodation. My hon. friend the Member for Nairobi South has pointed out the lack of accommodation in Nairobi. The Law Courts, of course, which were built purely as law courts, now have to house a large number of Government departments and that has been made necessary by the burning down of the Secretariat building on the Hill and, as my hon. friend pointed out, there are now seven courts available for a combined total of 11 Judges and magistrates. Sometimes two Judges sit together in the Supreme Court exercising its appellate jurisdiction or sometimes a Judge or magistrate may be on leave and the overlap may not therefore be so big. On the other hand, with the permanent Court of Appeal for Eastern Africa sitting in Nairobi almost continuously, one court is nearly always used by the permanent Court of Appeal. But it is no use asking for additional Judges and for additional magistrates—until this question of accommodation is settled. It is not only a question, Mr. Speaker, of providing a court or courts for the Judges and magistrates to sit in. They have got to have chambers to do their work when they are not actually on the bench, and extra staff has to be provided. That staff has to be accommodated. That staff has no question about it it is most desirable, in my opinion, that we should have extra shorthand writers. The total of two which we have now is quite inadequate, and it would be done far more quickly and the Judges and magistrates would be able to get through more work, but as I say, a prerequisite to all this is that additional accommodation. Now Sir, it could be provided, of course, by moving departments, certain department, out of

the Law Courts building, but somewhere has got to be found for those departments to occupy and it is not an easy matter. Accommodation in Nairobi is difficult to obtain, and it is a matter which we will have to go into extremely carefully. But the Government do realize the seriousness of the position and will give the matter very early consideration indeed.

In the Draft Estimates for 1952 provision has been asked for two more Judges and four magistrates. That, of course, is a matter which must be dealt with in the usual way when the Estimates are considered as a whole. I can only express the hope that it will be possible for those posts to be included in the estimates of the Judicial Department for 1952 and that this Council will approve those posts in the course of the Budget debate. As regards any steps which can be taken immediately, the Government has under consideration the introduction of a Bill which will enable the Governor to appoint Commissioners of Assize. If that Bill becomes law it will be possible to appoint Commissioners, perhaps, to take some of the country circuits, the Mombasa circuit, or the Railway circuit, and that will free, we hope, Judges to sit here in Nairobi to do civil work. It is, of course, the civil work which I understand is being most delayed because one naturally feels that one has to deal with criminal cases as early as possible. People cannot be kept awaiting trial on quite serious charges. If that Bill does become law I feel that it will do something to alleviate the position in the near future—in the comparatively near future. But that again, of course, will involve additional expenditure. The Commissioners will have to be paid and it may well be that we may have to find extra staff to assist them.

I must point out, of course, that if that Bill does become law and if additional staff is obtained it may also involve, almost certainly involve, increases in the Legal Department, because Crown Counsel will have to be found to appear before these Judges. As it is now, with a permanent Court of Appeal sitting here in Nairobi nearly all the time and going down to Mombasa, we are heard pressed very often for Crown Counsel to appear before the courts, and if a resident Judge is appointed for the

[The Acting Attorney General] first, perhaps to sit in Kisumu nearly at the time, that again will require additional staff in the department of which I am temporarily the head.

The matter of interpreters is also causing some concern. It is not easy to get hold of good interpreters, especially a knowledge of the native languages, but that is also a matter which is already and has been for some time receiving consideration.

With regard to more accommodation being required in Mombasa, that is a matter which I will look into. I can assure my hon. friend the Member for Nairobi South that whenever there is a vacancy in the ranks of the Judges named by a Judge going on leave or anything of that sort that we do take early steps to appoint an acting Judge, but I will bear in mind what he has said.

As I said, Sir, the Government accepts this motion, and I would like to assure the Council that all these matters which have been raised are matters which are causing concern and which I myself promise will receive very early attention.

MR. NATHOO: Mr. Speaker, I have been actuated to take part in the debate on the motion before the Council by the remarks of my hon. and learned friend the Acting Member for Law and Order. He says that the main difficulty of this problem is accommodation. Now, Sir, there are only two ways in which we can solve this difficulty—either to find finance to build more buildings for the Government to relieve the situation, or to resort to the not so economical and not so pleasant procedure of renting a building. I hope, Sir, there is no other solution of this difficulty, and that the Government will make up its mind at an early date as to what policy they will pursue. (Hear, hear.)

MR. SALTER: Mr. Speaker, I should like to express my gratitude to the hon. Acting Member for Law and Order for his remarks and for accepting this motion on behalf of the Government. There are only two points which I should like to make, one of which has already been mentioned by my hon. friend with regard to accommodation. I do feel, Sir, that it would be deplorable that further delay should have to occur because there is no accommodation to

house increases in personnel. I know the difficulties, Sir, and I know that the hon. Member for Law and Order knows them too, but could not consideration be given to the erection of even temporary buildings of the wooden but type if necessary, to carry on in the meantime, rather than retard the interests of the public in this matter? (Hear, hear.) I am sure, the hon. Member knows that the matter has already become urgent to a particular member of the public when his case is filed in the court. If he has to wait ten or twelve months further than that, then indeed it becomes a very serious matter indeed.

With regard to the question of expenditure, Sir, I have already mentioned the very considerable increase in revenue which has occurred from this department since 1947, and I do feel that if increases are necessary in, for instance, the Legal Department, they can well be met out of that increase in revenue.

Sir, I do not think I have anything more to say.

The question was put and carried.

#### RENTING OF OFFICE ACCOMMODATION AND DWELLING HOUSES FOR GOVERNMENT SERVANTS

LT.-COL. GIERSE: Mr. Speaker, I beg to move: Having regard to the large sum being expended annually by the Government in respect of the renting of office accommodation and dwelling houses for Government servants, it is the opinion of this Council that Government should immediately consider the allocation of funds either from Reserve Balances or from Loan Funds for the purpose of erecting its own buildings thereby avoiding the uneconomic system of renting premises and at the same time assisting in remedying the present congestion in regard to office and housing accommodation, the solution of which is one of the Colony's major problems.

Sir, during the present session, in answer to a question of mine, we were informed that Government and the services operating under the High Commission were expending annually the sum of £69,842 by way of rent for accommodation, both office and housing, occupied by Government servants. The actual figures were: office accommodation, £36,870; and housing, £32,972.

[Lt.-Col. Ghiesie]

There was a further figure disclosed by Government in answer to another question to the effect that Government and the High Commission were paying to Government servants an annual sum of £82,477 in respect of house allowance to officers occupying their own houses or renting houses under their own arrangement, and that this latter amount was after deductions had been made in respect of the rent which the officer himself is required to pay.

Now, Sir, I realize it is Government's policy to encourage Government officials to erect their own buildings, and I have no quarrel with that policy, but, apart from the low rate of interest at which Government servants are permitted to borrow, it would appear that they are allowed 7 per cent as an allowance against the capital value of the property, so much so, that this is costing the Colony the large majority of the £82,000 odd, and it should be understood that this is over and above the amount of 7½ per cent which is deducted from the officer's salary for house rent.

Now it must be admitted, of course, that in the figure of £82,000 there is a certain element which is in respect of those Government officers who are leasing property on their own undertaking. But, Sir, to obtain a really clear picture that last figure should have been placed in two categories: (a) Government officers occupying their own premises; and (b) Government officers who are renting premises under their own arrangements; and the latter figure should be added to the £69,000; and the total would then have disclosed the actual annual liability that the Colony is paying for the renting of premises other than the premises owned by Government servants.

Now, Sir, I have no precise knowledge of the rates of interest that landlords are receiving from Government by way of rent, but I would suggest it is something in the nature of 8 per cent or 10 per cent per annum. On those rates of interest, Sir, the landlords will be having their property paid for over a period of 10 or 12 years.

Now, Sir, I propose to confine my remarks at the moment to the £69,842, but I would like to emphasize that this

figure does not reflect the real annual commitment of the Colony in this particular regard.

Now, Sir, I do not wish to confuse hon. Members with a mass of figures and with your permission I will take the figure £69,842 as £70,000. If this figure is capitalized at 7 per cent it will provide capital of a million pounds. Now, Sir, I think it is fair to suggest that a figure of 31 per cent will be sufficient to cover the raising of a loan and interest charges. This would amount to £37,500. Then if you take the balance of 31 per cent to create a sinking fund for the redemption of capital, namely the sum of £32,500, our annual commitment would then be £70,000 per annum. Now, Sir, if we again take that figure of £32,500 over a period of 30 years it would provide for capital redemption a sum of £975,000. I hope that is perfectly understood! (Laughter.)

Now, Sir, apart from the economics, that is in relation to what Government are paying annually by way of rent, they could at some future date be owning property of their own at no cost to themselves. Of course, Government's occupation of office and residential accommodation in Nairobi is one of the major factors in the shortage of accommodation to-day. I say advicently in Nairobi because I realize that the whole of the private accommodation occupied by Government is possibly not situated in Nairobi, but I do suggest that the vast majority is in the vicinity of Nairobi, where the congestion is more acutely felt.

Now, Sir, it also affects, of course, or influences the cost of living, because as we reach the position where the supply of accommodation approaches the demand, rents will fall and key money will disappear.

Now, Sir, I mentioned in the motion reserve balances and loan funds. On the assumption that I might be informed that these funds are earmarked for some other purpose, I would remind the Government that they own twenty or thirty acres of very valuable land on either side of Lugard Avenue, and which I understand to-day is valued at something approximating £100,000 per acre. It would therefore only be necessary to realize less than half of that area in

[Lt.-Col. Ghiesie]  
order to provide the capital funds required.

Now, Sir, I have been as brief as possible and I am sure the hon. Member for Finance thoroughly understands the figures that I have submitted, and I merely suggest that the substance of the motion is sound economically, and I am sure that all hon. Members will agree that that is perfectly obvious. I can only commend, Sir, the motion to the Council and hope that Council will accept it. (Applause.)

MR. COOKE: Mr. Speaker, I beg to second the motion.

Sir, by a happy coincidence the hon. Member for Law and Order in speaking to the last motion, emphasized the importance of housing and, indeed, when he was speaking I fell into a sort of a dream, and I almost thought my hon. friend was proposing the motion which has been so ably proposed just now!

Sir, we have only got ourselves to thank for the position that we are in to-day, because it is due to the crazy financial policy which has been pursued by the other side of the Council during the past five years. Now, the hon. Mover of the motion and myself, Sir, have ceaselessly over those past five years, both in the Press and on the platform, advocated what is advocated to-day, but we are making our appeal, I am afraid, to a number of very obstinate people on the other side of the Council; and I am afraid that on this side certain gentlemen have conditioned—and indeed connived at that policy, so we must share some of the blame ourselves. But "it is never too late to mend", as the old saying is, and therefore, Sir, I heartily second and support the motion.

MR. HAVELOCK: Mr. Speaker, I would like to make my position clear on this motion. Nearly everything that the hon. Mover and the Second said I support. I am sure he has made out a very clear case of the uneconomic way in which we are proceeding at the moment. On the other hand, we do know that the Planning Committee have only been given a certain amount of money to allocate to such projects as this, and I believe that they have made every effort to give the priorities the right allocations, or rather the allocations the right

priorities. Also, of course, we are not in full knowledge of what their allocations have been, because the Planning Committee Report has not yet been laid and given to Members. But I feel, Sir, that the economic case that has been made out by the hon. Mover is so strong that it is definitely up to Government to try to find more money over and above what has been allocated to the Planning Committee in order to meet this problem, and it is on those lines that I would support the motion.

The hon. Mover mentioned the matter of the land in Lugard Avenue, and that Government could get money from selling that land, and indeed, that particular question I know has been discussed with Government at other intervals. It has been said it would be difficult, you cannot sell the land until it is vacated, and we have got to get the money first and to build the offices before the land can be vacated. But on the other hand that is surely such a short time between the building and completion of the building, the spending of the money on building the Lugard Avenue land, and vacating the Lugard Avenue land, that some arrangements can be made that some arrangements can be made that surely to obtain the cash, even from a private bank; it would still be worth while.

The motion mentions loans and loan funds. I do not think the hon. Member has touched on that to a great extent. We have been told too often that we have a loan ceiling. I think it has been made clear, in a number of the Council's debates on this side of the loan ceiling, we are not satisfied with that loan ceiling; we believe the loan ceiling is too low. Again I would like to stress what I have said before, we think it is the duty of Government to go ahead with trying to get the loan ceiling raised, even if it is only as regards local loans, as regards only as regards locally. It is surely obvious that there is a lot of spare cash raising the money is one of this sort of awaiting investment, of this sort of investment, in a loan of this sort, a secure loan guaranteed by the Colony. I secure loan guaranteed by the Colony, I remember mentioning, Sir, some time ago, in the Budget, I think it was, the fact that we have in our Post Office Savings Bank invested by Kenya investors alone, but not other territories, some £2,500,000, which is reinvested by the Post Office Savings Bank in places like Salisbury, British Guiana, and all

[Mr. Havelock]

over the place, all over the world. There may be some legal difficulty in that, but surely the security in Kenya is good enough and surely that money itself could be invested in such a thing as the Mover mentioned? The money is there, the security is there. I am sure it would be better devoted to our own interests and economic need—and I stress that it is an economic need, rather than to invest it in these extraordinary places all over the world.

I therefore support this motion with that one caveat, that I do not believe that the money which has already been allocated to the Planning Committee should be reallocated to this, but on the other hand I believe that every possible step should be taken to find more money for this particular scheme.

THE ACTING CHIEF SECRETARY: Mr. Speaker, speaking on behalf of Government, I, too, find myself in some difficulty in dealing with this motion. I would not wish to challenge any of the remarks which were made by the hon. Mover. I would not even like to confirm or deny the correctness of the somewhat detailed arithmetic that he gave us in the course of his speech. We do, naturally, Sir, realize that if all the capital which we needed for all our purposes was available, it would be to our advantage to take steps immediately if, indeed, we had not done it before, to provide the capital necessary to build all the office accommodation and all the houses for our staff that we require. Unhappily, Sir, as your Members know, that is not the position. There is a limit to the funds which are available for development of this kind, and it was because of the existence of that limit—I will not argue now whether the limit is too low and could be made higher, I know that hon. Members have different opinions on this subject—but it was the fact that there is a limit to the funds available for development that necessitated the appointment by this Council of the Planning Committee some two or more years ago. That Committee has been engaged during that period on the frightfully difficult task of advising this Council how best capital as it is available can best be spent in the interests of the country. I have no doubt that the arguments which have been advanced today by the hon. Mover have

been considered very fully by that Committee in their deliberations. The Committee's Report, already in draft form, will very shortly be published. After its publication, it will be debated in this Council. No doubt, when that time comes we shall hear the views of hon. Members as to whether the allocations recommended in that Report are right or in their view could be bettered; and it seems to me that the occasion of the debate on that Report should be taken by the hon. Mover if he feels that the amount of the capital earmarked for the construction of Government offices and Government buildings is insufficient. The position therefore is, Sir, that, as hon. Members know, the Planning Committee has had at its disposal all the available capital, and agree as I do with almost everything which the hon. Member has said, it seems to me that to accept this motion as it is worded and for Government to undertake immediately to consider the allocation of money as to the disposal of which this Council has asked the Planning Committee to advise it, would really be a negation of the functions given to the Planning Committee by this Council. And, though it may be considered to be a technical objection, I do not feel that Government could accept the motion, on the eve of the publication of the Planning Committee's Report. We do not yet know what the recommendations are, and I do not see how—Council could accept a motion which suggests that the Government should consider, at this late date, taking away from that Committee some of the money, at any rate, the disposal of which they have been planning.

On the question of finding more capital, my hon. friend the Acting Member for Finance is perfectly prepared to consider every possible way and all possible means of increasing the funds available for capital development but I ought at this stage, perhaps, to make this point. Even if more capital can be found than we have previously been informed of, I was under the impression that it was the desire of this Council that the Planning Committee, even after it has produced its Report, should remain in being to advise Council on what should be done with any extra money which might be provided for capital development, and I would ask

[The Acting Chief Secretary] hon. Members to consider, having regard to the terms of reference of that Committee, set up by itself—by this Council—whether it would really be right for Government to undertake, as required by the terms of the motion, and without any reference to that Committee, to earmark any particular amount of the capital available for this or any other purpose.

For those reasons, Sir, I do not feel that the Government could accept this motion as it is worded, but I do give the hon. Member an assurance that we do not challenge the substance of his case, we do not argue with him on the facts, and we will do all we can to try and see if more capital cannot be found for our developmental needs.

LT.-COL. GHERSIE: Mr. Speaker, I appreciate the remarks from the hon. Acting Chief Secretary and I do realize that this motion is coming rather on the eve of the publication of the Planning Committee's Report, but I would like to emphasize that my motion asked Government to consider and I did put up an alternative method of obtaining finance, always assuming it would not be available from reserve balances or loan funds. However, having received the assurances from the hon. Member that this matter will receive, I hope, active consideration after the Planning Committee's Report has been published, I am prepared with the consent of my Secondor and with your permission, Sir, to withdraw the motion. (Applause.)

THE SPEAKER: I take it that Council accepts that this motion be withdrawn.

The motion was by leave withdrawn.

#### REFERENCE OF CLAIM BY THE SINDHAB HOTEL, MALINDI, TO THE STANDING FINANCE COMMITTEE

MR. COOKE: Mr. Speaker, I beg to move: That the claim of the Sindhab Hotel, Malindi, for expenses incurred in connexion with the late Mrs. Menezes of Malindi be referred to the Standing Finance Committee.

Sir, the Members may recollect that last February I made the modest suggestion in a question which I asked that on this matter, which is the subject of my motion today, should be referred to the Standing Finance Committee, but owing

I am afraid, to the obdurate and obstinate attitude of one or two Members of the other side of the Council, I have been compelled to bring this motion today.

Now, Sir, the facts, happily, are not in dispute. In Malindi, on the coast, in a town where, I may say, thousands of people go every year to escape the languour of the highlands, to enjoy themselves amongst the sportive waves of that sunny seaside, there existed, Sir, the position that in August, 1950, there were something over 300 visitors there. Now, Sir, the medical officer there, of whose efficiency I and no one else casts any reflection, on a Bank Holiday, absented himself from his duties and took a friend to Mombasa, without, so far as I know, obtaining the permission of his senior officer who resides at Kilifi. I think, to be fair, that he tried to ring up that officer but could not get on.

Now, Sir, in the town there was this unfortunate lady, Mrs. Menezes, suffering from a very serious ailment and she had been attended by this medical practitioner, and on the morning that he left Malindi, this lady's illness was less acute than it had been before. But, I understand, Sir, from medical authority, that she was suffering from an ailment, that she was subjected to quick relapses. Now, while this medical officer was absent, this woman was seized with a relapse, and there was attend to her attendant at Malindi of the well-known Sindhab Hotel at Malindi and these happened to be two nurses resident in that hotel for the holidays, and the proprietor of the hotel asked them to have a look at this woman and they said that she was suffering so seriously that unless she was attended to at once by a medical practitioner and conveyed, if possible, to Mombasa that there would be little hope for her life. So the probable little hope for her life, who were under no priors of the whatsoever to this lady, obligation whatsoever from Mombasa and chartered a plane from Mombasa. Unfortunately, she died the next day.

Now, my contention is this, Sir, and I will emphasize, I am casting no reflection on the capacity of the medical officer in question, that when the Government posts an officer, and more especially a medical officer to an important town like Malindi, they are



[Mr. Cooke]

under the obligation to post a man in whose reliability they have the utmost confidence, and if that man in any way does not live up to that, even if only for a day, that Government on the principle that they are liable for their agents' acts, are liable for the ensuing unfortunate episode that took place.

Naturally we conclude that when Government is considering the posting of an officer to a place like Malindi, where accidents to the children of Europeans and other races who go there for their holidays are quite likely to occur—there may be snake bites, or near drownings, or other accidents of that nature—and it is implicitly, I think, assumed that anyone posted, any officer posted, to that district would be a man who would have a strong sense of his obligations to the general public. Had this officer been summoned to Mombasa, had it been an unavoidable visit, there might, and indeed would, have been some excuse, but he went into Mombasa for the sole purpose of bringing a friend of his to Mombasa and absented himself for the whole day from Malindi. Now, I am not saying that any one of the Government servants should not take a holiday on a public holiday, but it is a different thing from shutting the office and going out and playing a game of golf or a game of tennis and being within easy reach of emergencies, there is a great deal of difference in that than shutting the office and going 80 miles away and leaving no reliable person in your place. Now, I, Sir, as an old Government official myself, contend that in the days when we were Government officials—and I hope still—people had a sense of duty, they were not gallivanting over the country on any excuse. They would remain at their post rather than be looking for enjoyment and that is an obligation which I think, especially in outstations, is one which all Government officials should accept.

THE MEMBER FOR COMMERCE AND INDUSTRY: Would the hon. Member describe that as the "Golden Age"?

\* MR. COOKE: Yes, I think, on reflection, I would! At any rate we were not so annoyed with telephone messages and various other inconveniences of the modern age!

Sir, that is the gravamen of my charge. It is not that this man in any way neglected his medical work, I mean it is not that in any way he was inefficient in his medical treatment, I think the people of Malindi appreciated his patience and his skill, but that he did make this mistake, that he left Malindi when this patient of his was in a very serious condition, or might at any moment have lapsed into a very serious condition. He left the station when there were several hundred visitors there who might at any time require his services. He left the station, so far as my information is correct, without the permission of his senior officer and in that way created a condition of affairs in which this woman had to be sent into Mombasa. And I think my request was a very modest one.

I do not see why the hon. gentlemen on the other side of the Council should take it upon themselves to be judges in their own cause. We are much more humble on this side of the Council. We merely ask that this matter should not be judged by us, or to be judged by them, but should be sent to the Standing Finance Committee for its opinion.

Now, the Standing Finance Committee, of which I am a member, has been dealing with matters of a similar nature for years on end, and matters which come before the Standing Finance Committee are not necessarily matters which have the recommendation of the Government, not always, though they usually have. I submit, Sir, that this is a matter which has every right to be referred to the representatives of the people.

Sir, I beg to move.

MR. USHER: Sir, I beg to second and in doing so I merely wish to say that it seems a pity really that a department should virtually be the judge in its own cause in such a case. The circumstances are peculiar, perhaps not likely to recur, and the Standing Finance Committee has, as one of its proper functions, that of judging whether, if liability does not exist, an ex gratia payment should not be made.

I beg to second.

THE ACTING CHIEF SECRETARY: Mr. Speaker, I do not propose to discuss myself the merits of this particular case.

Reference of Claim to—

[The Acting Chief Secretary]

that will be done by my hon. friend the Director of Medical Services later in this debate, but I do, Sir, want to say that the matter was very fully and carefully considered, not only by the Department concerned, but also by the Treasury earlier this year, and the claim that an ex gratia payment should be made was fixed after that examination, to be without merit. Council was so informed as the reply which was given to a question on the subject by my hon. friend the Member for Education, Health and Local Government. The Government's attitude is still exactly the same now as it was then as the result of the further consideration that has been given to the matter since this motion was put down. Nevertheless, we do feel that if, in a matter of this kind, hon. Members on the other side of the Council wish that further consideration should be given to it in the Standing Finance Committee, one of its own Standing Committees, then we feel that it would be wrong on our part in a matter of this kind, to object.

Therefore, Sir, the issue which is before Council to-day, that is, reference of this matter to the Standing Finance Committee, will not be opposed by Government; but as on the merits of the case the Government does not consider that a case has been made out for compensation, it does not propose to support this motion. The Government, therefore, Sir, will abstain from voting on this motion.

Might I, with respect to the hon. Member for the Coast, make one further point. I do suggest that hon. Members should think carefully before they accept a principle of this kind. I think I am right in saying that a matter of this kind in the United Kingdom would be disposed of by Treasury Minute, that is to say, the Lords Commissioners of the Treasury would decide the matter finally and I believe that that Treasury Minute would always be accepted by Parliament. I believe, also, that hon. Members might well find a principle of this kind, by which any person in the country who is aggrieved by a decision of his sort can feel that by adopting this device through the medium of his Member the matter can, more or less, automatically get placed on

the agenda for a meeting of the Standing Finance Committee—I believe hon. Members might well find the consequences embarrassing. Therefore, Sir, I suggest that careful consideration should be given to this issue after hearing what my hon. friend the Director of Medical Services has to say on the actual facts and merits of this particular case.

THE DIRECTOR OF MEDICAL SERVICES: Mr. Speaker, I should like to add a few observations to the remarks which have been made by my hon. friend the Acting Chief Secretary. The facts of the case are substantially as the hon. Member has stated. The unfortunate patient in this case, was treated by the Indian medical officer at Malindi and had been treated for some days prior to the occurrence which took place on the Bank Holiday. She was suffering from an intestinal complaint which was correctly diagnosed by the doctor in question, and I think there can be no doubt was correctly treated by him with injections of penicillin. Following a short course of penicillin the patient's condition by the Monday morning of the morning of August Bank Holiday, had very greatly improved, and the doctor considered that it was safe for him to leave the station for a few hours and go into Mombasa. We accordingly informed the patient and her relatives that he would be going into Mombasa but would return the same evening. At the same time he notified the District Commissioner that he was going away, and as he was unable to get in direct contact with his superior medical officer who was at Kilifi he called into his house and left the message with the medical officer's parents, who happened to be staying there, that he was going to Mombasa, so that, although technically he had not received permission, as the hon. Member has said, in fact he did everything he could to let everybody concerned know that he was going into Mombasa. Now the hon. Member has tried to make an important point—that the patient was dangerously ill when he left.

Now the particular condition from which the patient was suffering is usually amenable to the treatment that was given, and complications of the kind that subsequently took place are extremely rare. The case is so rare that I do not think any doctor treating a case of this

[The Director of Medical Services] nature, would seriously consider the possibility of such a complication as acute peritonitis. This complication is so uncommon that in the course of a good many years of active practice I have never seen a similar case, so that I think that any doctor with the knowledge of the case that he had before him at that time would have considered that it was perfectly safe to go away for the day, provided that he was coming back the same evening and would be able to give further treatment if required on his return. Unfortunately, the patient suddenly had this very unusual complication while the doctor was away, and as a result of that the friends of the patient chartered a plane and took her into Mombasa where she subsequently died.

Now, Sir, it has been suggested also by the hon. Member that it is wrong for a doctor under circumstances such as this to leave his station. With that, Sir, I am unable to agree. Any district medical officer, in the course of his duties in his district, must of necessity frequently leave his station, often for long periods. He has a large district to look after and the district work for which he is responsible, as I have said many times in this Council, is just as important as the work of his hospital, and he frequently has to be away for several days at a time, completely out of touch with his hospital. Whenever he goes away he has to leave sick people in that hospital, any of whom may perhaps at some future time while he is away develop unforeseen complications, but until we can afford to have two doctors in every station that, Sir, I submit is a risk which must be taken. Now it may be argued that in this case he was in fact going into Mombasa for personal reasons, but I do not think that that really affects the principle at all. Provided there is not likely to be an accident while he is away which could be foreseen, I think a medical officer is just as much justified as any other member of Government service to go away for an occasional weekend or to go away on a bank holiday.

The question of whether Government should pay for the aeroplane is, of course, entirely another matter, but perhaps it should be mentioned at this stage

that if the friends of the patient had been able to get through to Mombasa on the telephone to the Government surgeon he would almost certainly—and he has stated subsequently that he would—have come out to Malindi, and that that would have been a much better course than sending the patient into Mombasa by plane. He could have come out and done the operation.

Finally, Sir, I must say how very much I deplore this very unfortunate accident, but I do not agree that the doctor in question was negligent in this case in the light of the facts at his disposal at the time. Nor can I admit that Government is responsible for the cost of the transport or for the surgeon's fees as is claimed.

Mr. COOKE: Mr. Speaker, with regard to the comments of the first speaker, the hon. Chief Secretary, he made a point that in England the Lords Commissioners would have dealt summarily with a matter such as this. Well, I am glad to learn implicitly at any rate from him that we are rather more of a democratic country than England apparently!

Now with regard to his criticism that anyone could run to the Elected Members to ask them to adopt certain devices, I think he put it a little too pungently. The business of the Elected Members is to listen to the complaints of their own constituents, analyse them, and, if they think there is any substance in those complaints it is indisputably their duty to bring those complaints to the notice of the authorities. That, Sir, has been the tradition of the House of Commons, and I think we cannot go wrong if we live up to that tradition. I must here and now, in case similar matters of this nature occur in the future, strongly dissent from that particular view which is taken by my hon. friend the Chief Secretary. I am grateful to him for allowing this matter to be submitted to this side of the Council and I give him my thanks for doing so.

I was a little surprised at the remarks of my hon. friend the Director of Medical Services. I think he and I must regard a sense of duty from a different angle. I do not mean to be unpleasant, but we are, I think, looking at it from a different angle. As I said most strongly in my remarks when I was moving this

[Mr. Cooke]

motion, we cast no reflection whatsoever on the efficiency of this doctor, but I say he failed, in my opinion, in his duty at this particular moment. It is an entirely different thing if he is taken away from his district when duty calls. Then naturally he has got to look after the interests of one lot of patients and balance the interests of another, but in this case no such thing happens. He left his district without getting the permission of his senior officer. It is far more than on a technicality that I say he should have got his senior officer's permission. He rang up and conveyed this matter to the parents of the medical officer who was absent on his lawful occasions, and if the medical officer had been there he might have made very strong reservations. He might have inquired: Have you any patients who are likely to have a relapse? Or he might have said: Are there many visitors at this moment in Malindi? He might have asked a hundred and one things before he gave his consent. Therefore, Sir, I cannot accept that explanation of my hon. friend the Director of Medical Services. But I am quite content to leave it to the votes of this Council. If they vote against me that is the end of the matter, but I do hope they support me, because all I have asked is, not that the matter should be decided here and now but that it should be referred to the Standing Finance Committee for its decision.

I would say this: I shall not myself be present at that Standing Finance Committee because I shall be absent from the country at the time, so I hope that Members will consider this motion in the spirit in which it is presented to them and that my colleagues on this side of the Council will support my modest request.

The question was put and carried.

MR. HAVLOCK: Mr. Speaker, as the hon. Member for Nyanza will be unavoidably absent to-morrow, would the Council be prepared to take the motion standing in his name now instead of in its place on the Order Paper?

THE SPEAKER: If we can get through it I have no objection.

THE ACTING CHIEF SECRETARY: That would be acceptable to the Government, Sir.

ROADS—KIBOS-MIWANI DISTRICT

MR. PRESTON: Mr. Speaker, I beg leave, Sir, to move the motion standing in my name: In view of the dissatisfaction of the residents with the state of the roads in the Kibos-Miwani district and the importance of these roads to the transport of sugar, this Council request Government to request the Road Authority to review the allocation of funds to this district and to make an inquiry with a view to establishing whether wasteful expenditure on these roads has occurred.

Sir, there is a very long history behind the troubles regarding roads in this part of the world. It goes back to 1940, when the sugar industry and other residents, mainly in the Indian-owned farms in that area, made representations for some form of road system which would help them to get their produce in the first place through from the sugar factory and, secondly, their ordinary farm produce into Kisumu, Sir, I do not intend to take up the Council's time any more than can be helped in this matter, and I am most grateful to Council for allowing me the opportunity of moving this motion now instead of in my proper turn.

Sir, it is quite a simple motion. We are not asking that the Road Authority be directed to do anything. I am not asking for any funds. I am merely asking, Sir, that the situation may be looked into by a very good inquiry by the Road Authority, and at the same time that they should investigate as to whether or not funds that have been previously used in this area have been wastefully and ill-advisedly used. Sir, the sugar industry, which is a very valuable industry to this Colony has been very greatly handicapped for a number of years now by the lack of reasonable roads or reasonable communications between the factory and the plantation, and between the factory and Kisumu, and in spite of this matter having been referred to by myself on various occasions in this Council, and in spite of the fact that a question was asked in October, 1950, by myself, today we find still nothing has been done. The situation is unchanged. It is now some months since I accompanied the hon.

[Mr. Preston] Member for Agriculture and Natural Resources out to a sugar factory where, I may say, we were most impressed by the work these people were doing under the very greatest of difficulties, and I only wish the hon. Member were here today to support what I have to say.

Sir, if I might briefly outline the position as it stands today, it is not so long ago that a committee of the Nyanza District Council went out to investigate the whole question of roads in this area. They reported, Sir, if I might quote, referring to the Miwani Sugar Mills, Ltd.: "It is of the opinion that this concern is endeavouring and succeeding in developing a large sugar industry on good and most progressive lines and that, through its support (by cane purchase) of some 60 independent local Indian farms, which are said to be producing some 50,000 tons of sugar cane annually, it is both directly and indirectly turning the Miwani-Kiboi area into a highly productive district. . . . At present this company has no direct road connexion either with Kibigori or Kisumu or with the numerous cane-supplying farms at Kiboi, although the construction of a road to effect this was promised over two years ago". Although several substantial grants have been made to the Public Works Department over a number of years the Road Committee who went out to inspect this area found that the Indian farms road running north from Miwani station, which was constructed by the Public Works Department, and for the maintenance of which that Department annually receives a sum of money from the Council, was in a deplorable condition and showed no signs of maintenance. The promised through road between Kiboi station and the Songhor-Kibigori—about 18 miles—has to date been roughly formed as far as the Great Oroba River (Miwani) only, all bridges have been constructed, but the timber decks of some of these are already rotten. Some concrete culverts have been installed, but these are apparently insufficient as the installation constitutes reinstallation of flood-damaged previous ones.

Sir, I do not think there is any need for me to continue or labour the point. All I would ask, Sir, is that it is a

perfectly simple request—the Road Authority be asked to review the allocation of funds to this district and to make an inquiry with a view to establishing whether wasteful expenditure on these roads has occurred or not. It is not asking for any specific funds. It is not asking something very difficult.

Sir, I beg to move.

MR. NATHOO: Mr. Speaker, rising to second this motion, I would endorse all the remarks made by the hon. Member for Nyanza, and I would say this, that the problem has existed not from 1940, but ever since the day most of these Asian farmers took up residence in those areas. Throughout these years representations have been made to Government. And although at this stage I must pay great tribute to the hon. Member for Agriculture for giving all the encouragement he could to the sugar industry to produce more, I must say that this support from other quarters of Government has been conspicuous by its absence. And, Sir, I would press on the Government at this stage, when the cost of sugar from overseas is rising every day, that it is our bounden duty to take all steps to encourage the growing of more sugar in the Colony. (Hear, hear.) (Applause.)

MR. HAVLOCK: Mr. Speaker, on a point of order, the hon. Member when moving the motion altered the word "instruct" to "request", Sir.

THE SPEAKER: "REQUESTS" the Government.

MR. HAVLOCK: "requests the Government" to request the Road Authority, Sir.

THE SPECIAL COMMISSIONER FOR WORKS: Mr. Speaker, I am grateful to the hon. Member for giving me an opportunity of explaining the position with regard to this road, because I think that the information will be of interest to the Members of this Council.

First of all, Sir, may I say that this is an inherited project which I and the new Roads Branch of the Public Works Department found awaiting for us when we came into the Department. I would also like to say at the outset that the need for good roads in this area is fully appreciated, I am quite sure, by all

[The Special Commissioner for Works]

parties. This is a case, Sir, again of inadequate planning in the first stage and the reason for the inadequate planning is well known to this Council. We had no facilities given to us at that time to investigate those problems as they should have been investigated. We had no means at that time to make soil tests and to work out the problem as we like to do, and as we are now equipped to do at the present time.

The original estimate was made as long ago as 1944, when the work proposed was to a much lower standard than is now considered necessary. For example, in the original estimates there were to be installed six new bridges, with a number of "Irish" bridges, and the murrum was only to be 12 feet wide. Since that time the six bridges have in fact been built, and some 80 culverts have been installed, and it is now considered with modern knowledge that the width of the murrum should be much greater and the depth which should be provided should also be greater. The original estimates, I think, provided for some 3 inches to 9 inches of murrum, whereas we know that in an area such as this, with very poor black cotton soil in the road, something like 12 inches is more like what should be put in.

From 1947 up to the end of 1950, funds allocated to this road scheme total £14,500. This excluded establishment charges, but did include £940 for fencing through a veterinary area through which the road was intended to pass. During that period, Sir, there was an actual expenditure of £13,220 which with the overheads added represented a total overall expenditure of £15,500, of which £50 was spent on fencing posts for the fencing, which has not yet been put in.

Again, Sir, in addition to the inadequate planning, we had at that time very inadequate facilities for carrying out road work satisfactorily. Much of this road work had to be done by hand. Murrum had to be carted long distances, and only small lengths could be done at a time. In other words, this project, which should have been completed rapidly, was spread over a number of years and that in itself meant that the work could not be satisfactorily concluded and maintained while under

construction. This area, as hon. Members know, is at the foot of an escarpment, where the drainage is heavy in the rainy season, and much damage was caused from time to time during construction.

Now, Sir, with regard to the problem of what to do about this scheme, I must explain that it was put up to the Central Roads and Traffic Board last year for consideration in September. That Board knew at that time the future road policy of the Colony would come under the control of a Road Authority, and the Central Roads and Traffic Board, having no money immediately at its disposal, had no option but to refer the matter for early consideration by the Road Authority as soon as it was created. Now, the position is that this project will be put before the Road Authority at a very early meeting. The facts of the case have been drawn up, and the amount of money which we consider at the present time is necessary to complete this scheme has been estimated. If it would be of interest to hon. Members I would say that to complete the road to Kibigori will cost another £25,000 and to extend it to Chemelli, as has been asked for, will cost another 19,000 making a total figure required now of some £34,000. It is a problem that the Road Authority has to discuss, and, I may again add, will discuss at one of its early meetings.

I hope, Sir, with that information in front of the Council it may be able to consider the motion in its proper light.

MR. PRESTON: Mr. Speaker, the rapidity with which this debate has gone has startled me. I am greatly indebted to the hon. Member for Special Works for the information which he has given us, Sir, I quite realize this is an inherited problem, but I do not see why it should be passed on as a perpetual heritage to the Road Authority, or any other body that springs up in the next 20 years. I quite realize the need for planning, Sir, but they have had a great many years to plan—not the Road Authority, no. How do they manage to plan other roads? Other roads were made in this period without all this planning, and staff, and everything else, quite satisfactorily. I am very very surprised to hear, Sir, that we have already expended £750 a mile, if I heard the hon. gentle-

[Mr. Preston] man correctly, and so far as I can see we have only got two miles of road to show for it.

No, Sir, I am very sorry, I cannot withdraw this motion. It had been suggested to me that I should before it was brought into Council, but I do feel that we have suffered far too long delays and procrastination and every other impediment to the better interests of the sugar interests in this Colony.

Sir, I beg to move. (Applause.)

The question was put and carried.

#### ADJOURNMENT

THE SPEAKER: That concludes the business for to-day. Council will adjourn until 9.30 a.m. tomorrow morning.

Council rose at 12.55 p.m. and adjourned until 9.30 a.m. on Thursday, 17th May, 1951.

#### Thursday, 17th May, 1951

Council assembled in the Memorial Hall on Thursday, 17th May, 1951.

The Speaker took the Chair at 9.30 a.m.

The proceedings were opened with prayer.

#### MINUTES

The minutes of the meeting held on 16th May were confirmed.

#### SESSIONAL COMMITTEE REPORT

THE ACTING CHIEF SECRETARY: I beg leave to report that the Sessional Committee has appointed the following Members to constitute the Select Committee to consider the services operated under the East Africa High Commission:—

The Member for Agriculture and Natural Resources,

The Member for Commerce and Industry,

Sir Charles Mortimer,

Mr. W. B. Havelock,

Mr. L. R. Macdonochie-Welwood,

Lt.-Col. S. G. Ghepax, O.B.E.,

Mr. I. E. Nathoo,

Mr. S. M. Shattry,

Mr. E. W. Mathu,

and the Committee suggests that the Select Committee should select its own chairman.

#### CONTRIBUTION IN LIEU OF RATES—NAKURU MUNICIPAL BOARD.

THE ACTING FINANCIAL SECRETARY: Mr. Speaker, I beg to move:  
WILLKIAS—

(1) The Governor in Council has approved of the Municipal Board of Nakuru levying for the year 1950 a rate of two and a half per centum on the unimproved value of land within the Municipality:

(2) Under the proviso to sub-section (2) of section 96 of the Municipalities Ordinance (Cap. 136) the maximum contribution payable out of the general revenue in lieu of rates on Crown land may not exceed two per centum of the total unimproved value of the land:

#### [The Acting Financial Secretary]

Be it resolved therefore that this Council grants approval of the *ex gratia* payment made out of the general revenue to the Municipal Board of Nakuru of the sum of Sh. 12,413.

This amount, Sir, represents the difference between the contribution in lieu of rates at the rate of two per cent on the unimproved site value and the amount which would be payable if the rate were two and a half per cent. The motion is quite normal, Sir, and I beg to move.

THE ACTING ATTORNEY GENERAL: Seconded.

The question was put and carried.

#### BILLS

##### SECOND READING

#### The Increase of Rent (Restriction) (Amendment No. 2) Bill

THE ACTING ATTORNEY GENERAL: Mr. Speaker, I beg to move: That the Increase of Rent (Restriction) (Amendment No. 2) Bill, 1951, be read a second time.

Mr. Speaker, the measure now before the Council is the result of many months of careful sifting and consideration of suggestions made by various persons interested in Rent Control. There is no major amendment in this Bill concerning policy except that contained in clause 14 of the Bill, the new section 33c which seeks to give the Governor in Council power to empower the Chairman or any Deputy Chairman who is qualified to be the Chairman who has the same qualifications as the Chairman, to exercise, sitting alone and without any other members of the Board any functions or powers which the Governor in Council may specify in the Order. Certain other suggestions as to policy have been considered by the Government at the highest possible level. I will not deal in detail with them, but I will say something more about them at a later stage.

Now, Sir, the new section 33c has been introduced to satisfy a substantial body of public opinion who felt that it might be better to have matters concerning Rent Control decided by a magistrate and that the Boards should be abolished. This, of course, could have taken us back to the position before 1949

when the present law came into force and when these Boards with their powers were established as a result of recommendations made by a Committee of which I had the honour to be Chairman, and upon which a number of Unofficial Members sat. It is felt by the Government that if this step is taken, that is to say, to send Rent Control matters back to the magistrates, that we would lose the advantage of the opinions of the lay members of these Boards, since they would not be available on certain matters such as the assessment of rent, where their opinions are of value because of their wide experience of rental values and other matters of that sort. Where, however, the matter is purely one of law and that experience would not be needed, then the Governor in Council might well consider making an Order empowering the Chairman or the Deputy Chairman to sit alone.

Now, Sir, of course the strongest argument in my opinion against doing away with the Boards and sending Rent Control back to the courts is what was revealed in the motion moved yesterday by my hon. friend, the Member for Nairobi South. He has told you of the delay in trying civil matters in the courts and, of course, as matters are at present and until they improve, that delay will also affect Rent Control cases. So that if, for no other reason, although I submit that the reasons which I have set out and of which I have spoken before deal with this particular matter are very cogent, but if for no other reason, the decision of Rent Control matters should remain with the Boards.

The rest of the Bill, Sir, makes amendments in certain respects of the present law which experience in the working of the law as it stands has shown to be desirable and if these amendments do become law—if these amendments suggested in this Bill become law, I think that a good number of the difficulties which have previously been experienced will disappear, but I wish to make it perfectly plain, Sir, that I personally shall be extremely surprised if we here succeed in enacting a perfect Rent Control law. They have not been able to do so in England and when you have a Judge of the eminence of Lord Justice Scrutton, a commercial Judge of great eminence, saying that he views

[The Acting Attorney General] having to decide any Rent Control matter with great trepidation, as I say, I shall be very surprised if we have produced the perfect law here; but we can do our best to do so and we have had the benefit of suggestions from the past chairman of the Rent Control Board, Sir Charles Belcher, and of other people who have been very much concerned with Rent Control matters.

As I have said before, other questions of principle have been raised by persons and by bodies and they have received the consideration of the Government, and it has been decided not to deal with them in this Bill, but I have been authorized to give an undertaking, by my hon. friend the Member for Commerce and Industry, who is really the Member responsible for this matter but who has asked me to move the second reading of the Bill as it concerns a number of fairly technical legal matters, that these matters of principle will be further considered by the Government and will be further examined after consultation with the appropriate bodies. I understand, Mr. Speaker, that the Board of Commerce and Industry is to consider these matters further and to make recommendations, but I do not know, of course, whether those recommendations will concern the decontrol of any class of premises, whether dwelling houses or business premises. I would like to point out, however, that if it is decided to decontrol any class of premises, that the Governor in Council has power to do so by an Order as the law stands at present, so that there would be no need for any further Bill in that respect. I should like to say this, Sir, that although the views of the Government on certain matters of principle are not shared by the Law Society, I and the Acting Solicitor General who have been concerned with the preparation of this legislation, have been greatly assisted by the sub-committee of the Law Society who have been appointed specially to deal with this matter. They, in the true tradition of the Bar, said "although we do not agree on matters of principle not being included in this Bill, we will assist you in every possible way with the drafting of it"; and that sub-committee—Mr. Nazareth, Mr. Hunter and Mr. Mackie Robertson—although they are very busy men, gave

to my hon. friend the Acting Solicitor General and myself a great deal of time and assistance and I wish to thank them publicly for having done so. (Applause.)

Now, Sir, all the amendments in this Bill have been considered by the Board of Commerce and Industry and recommended to the Member for Commerce and Industry and he has accepted those amendments.

Having made those general remarks, I propose now to turn to the details of the Bill and I hope that I will not weary the Council, but at the same time, I do feel that this is an important matter which has aroused great public interest and that Members ought to have the opportunity of raising any matters with regard to details if they wish to do so during the course of this debate.

With regard to clause 2, paragraphs (a) and (b) of that clause which provide new definitions of "business premises" and "dwelling house" have been made necessary because the present definitions contain the word "cutlirage". Now, Sir, that word is a word which is used in more than one English Act, but the Boards here have found some difficulty in interpreting it, in dealing with Rent Control matters. These new definitions, which do not contain that word, have met with the approval of the Board of Commerce and Industry and I can only say that they appear to be as straightforward as it is possible for anything which is concerned with Rent Control to be straightforward, and I hope that the definitions will not now prove difficult to interpret in practice.

Paragraph (c) of that clause amends the definition of "standard rent" by placing the provision which deals with what the Board must assume that the landlord will pay, at the end of the definition. It seems that there is no reason really why for the purposes of the definition "standard rent", those matters should not be taken into account when the "standard rent" of furnished premises is being calculated. But paragraph (c) of that particular provision has been removed because it was not thought that the Board should have the discretion to determine what other reasonable outgoings the landlords should be responsible for. The clause also provides for a new definition of a tenement house. This is intended to change the

[The Acting Attorney General] law so that a tenement house is defined as a building containing a number of dwelling houses in excess of a number fixed by the Member for Commerce. The present definition in the present law, provides that a tenement house is a house occupied by persons in excess of a number fixed by the Board. The new definition will, we hope, make it clear that the criterion of a tenement house is that of a common service, say, water, or light. A common service need not be provided for all the tenants. Under the present law that, of course, is quite clearly indicated but we have taken the opportunity of making it clear in the definition. Paragraph (f) of that clause amends sub-section (2) of section 2 of the present law. Under the present law where the Board is unable to obtain sufficient evidence to enable it to ascertain the rent at which premises were let at a material rate the Board may fix the standard rent by comparison with similar houses in the same neighbourhood. Under paragraph (a) sub-paragraph (ii) of the definition of standard rent the Board has in certain cases to fix rent—standard rent—by reference to the market cost of construction of the premises and the market cost of the land on which the premises stand—the market value of the land. We now seek to extend that useful provision of which I have just spoken to those elements—the market cost of construction and the market value of the land—so that where those two elements cannot be ascertained the Board may fix the rent by reference to the rent of similar houses in the same neighbourhood.

Clause 3 of the Bill amends section 5 of the present Ordinance and the two most important amendments appear in paragraphs (a) and (d) of the clause. Paragraph (a) makes it clear that the Central Board and the County Board may make an order for the recovery of possession of premises or an order for the recovery of rent or arrears of rent, or both. There is some doubt under the present law whether those orders can be made separately. The powers contained in paragraph (f) of sub-section (1) of the section have also been enlarged to permit orders for the recovery of possession to be made whether the premises are occupied by a tenant or by

some other person, and for recovery not only of arrears of rent but mesne profits and service charges.

Now, Mr. Speaker, a most important amendment is made under paragraph (d) of the clause. That adds a new paragraph (a) to section 5, sub-section (1), and perhaps I had better relate very briefly the reason for this suggested amendment. On all sides word has reached me that there is a new—I do not know whether it is really new, Mr. Speaker, but I must use the unparliamentary words—a new ramp, amongst landlords. The process is as follows: You want to get rid of your tenants, so as to collect more key money, so you allow your premises to fall into disrepair quite deliberately. It does not matter about your tenants, how uncomfortable they are, what conditions they are living in, when it has reached the pitch where the premises are practically uninhabitable or insanitary, a demolition order is made. That demolition order is enforced, your tenants go out—they have to go, you have a right to get them out because of the demolition order. You then rebuild your premises, you ask for vast sums of key money and your new premises are paid for by key money and there you cannot lose. We hope to put a stop as far as we can to this trick by the amendment which we now propose. We are asking that a new paragraph (a) be added to that sub-section which will enable the Board to order where premises have been demolished as a result of a demolition order and the tenants turned out, that the landlord must grant a tenancy of the rebuilt premises to his former tenant if the tenant applies. There have been representations made by hon. Members on the opposite side that this provision should be made retrospective to the 1st January, 1951, and I understand that an amendment will be moved in the Committee stage for that purpose. We have considered this matter very carefully, and we will have to deal with it also with the very greatest care because we must be careful that bona fide contracts made between January, 1951, and the date of the commencement of this law date of the commencement of this law are not interfered with. It has also been suggested that the period of one month within which a tenant must apply to the Board for an order, one month from

[The Acting Attorney General] the date of the notice to quit, is insufficient. I myself cannot agree with that view because I think that one month is sufficient for a tenant to make his mind up, whether he wishes to apply or not, but I am myself going to move an amendment so that the one month will not run from the date of the notice but from the date of the service of the notice.

Clause 5 of the Bill, Sir, amends section 9 of the principal Ordinance to make it perfectly clear that after making any investigation which the Board is empowered to make under that section, the Board may make such an order as the justice of the case may require. Now, a certain amount of alarm has been felt lest that discretion which we seek to place in the Board is too wide, but I would point out that we have also made provision for an appeal from such an order, either on a question of law or on a question of mixed fact and law.

Clause 6 makes a number of amendments to section 16 of the principal Ordinance. Paragraph (f) of sub-section (1) of that section is amended so as to make its provisions clearer. With regard to paragraph (h), the penalty provision has been removed from the paragraph itself and has been placed in a separate sub-section. If this new provision becomes law a court may not only punish a landlord by ordering him to pay the tenant compensation for damage suffered because the landlord has failed to give him an option to re-enter the premises or because he has failed to give up possession to a tenant who has exercised an option, but the court may also order any person occupying that dwelling-house to vacate it so that the former tenant who has exercised the option may enter the dwelling-house.

Sub-section (7) which will be re-numbered sub-section (8) has been amended by deleting the words "on the ground that he requires any premises for his own occupation". That section as it stands at the moment provides that where a landlord has obtained an order for possession or ejectment under the section on the ground that he requires any premises for his own occupation, and it is subsequently made to appear to the Central Board, etc., if the order was obtained by misrepresentation the

Board may order the landlord to pay damages, and that he will also be liable to a fine. We think, Sir, that a landlord who has obtained possession by misrepresentation or fraud should be liable to those penalties whatever the reason was that he gave to the Board for requiring possession.

Clause 9 amends section 25, sub-section (1) of the principal Ordinance so as to ensure that the section covers not only cases where it can be proved that the landlord himself did the act complained of, but where he has hired some Myrmidon or has put some relation of his in to do something which will deprive the tenant of the common services to which the tenant is entitled. For instance we envisage that the landlord may place upon an untrustworthy or dishonest agent the obligation to continue to provide any of the common services referred to in the clause. If this clause becomes law it will place upon the landlord the strict duty of ensuring that these services continue to be provided.

Clause 11 amends section 29 of the principal Ordinance. At the present moment, under that section, the penalty for a tenant or a sub-tenant, who holds over where he has been granted a short lease, under the provisions of the section is Sh. 100 a day. It was represented to us, and I think with reason, that where the rent is a very low rent, that Sh. 100 a day may be far too high, and we, therefore, seek to provide in this clause that the penalty shall be a sum equal to five times the standard rent of the premises.

Clause 12 amends section 31 of the present Ordinance, which, it is hoped, will make its provisions very much clearer, and sub-clause (3) of the new section seeks to make it plain that the Supreme Court has not, as a result of the enactment of this Ordinance, lost its jurisdiction to deal with matters arising between landlords and tenants. Doubts have previously been raised about this and indeed one matter has lately been argued before the Court of Appeal. That matter is still *sub judice* so I shall say no more about it. But, in the course of the argument during the hearing of that appeal, it was pointed out that if the Supreme Court has got such jurisdiction, that sections 16 and 17 of the present

[The Acting Attorney General] law ought to include some reference to the Supreme Court as well as to the Boards and the court; the court, of course, is a First Class Magistrate's Court. For instance, in paragraph (b) of sub-section (1) of that section, it is provided that no order for the recovery of possession of premises, or for the eviction of a tenant therefrom shall be made unless in the opinion of the Central Board or the Coast Board, etc. If, of course, the Supreme Court has powers to deal with matters of possession, there should be reference to them in that paragraph and in certain other paragraphs, and I therefore propose to move an amendment in the Committee stage to provide that this should be so.

Clause 14 provides for certain new sections to be added which deal with the service of documents, the right of the Board or any person authorized by the Board to enter premises and to inspect them, and also the power of the Governor to empower the Chairman or the qualified Deputy Chairman to exercise the powers or functions of the Board; I have already dealt with that in the course of my opening remarks.

I hope, Mr. Speaker, I have not wearied the Council. I have spent some time on this Bill because I do consider that these Rent Control matters are of importance. In the past there has been a great deal of comment and criticism of the Rent Control law and as my hon. friend, the Member for Kiambu, once remarked in this Council, it all depends on the point of view, but I hope that this Bill will do a great deal to improve and to make more easy the task of Rent Control Boards.

Mr. Speaker, I beg to move.

THE ACTING SOLICITOR GENERAL  
seconded.

MR. SALTER: Mr. Speaker, I do not wish to speak in any detail on this particular Bill. I have had the opportunity of discussing it, both with the hon. Mover and with the hon. Member for Commerce and Industry. I know their views, and I know their difficulties concerning this rather tedious and tiresome piece of legislation. But, Sir, I do not wish it to be thought, therefore, that I am being at all unduly critical when I say that this particular amendment, or rather

this particular amending Bill does not really cover enough—(hear, hear)—for many people, and indeed, it is a feeling which is growing in this Colony, that this Ordinance must be tackled not only piecemeal in amending Bills of this kind, but as a matter of principle. It is, of course, reassuring to hear from the hon. Mover that an undertaking has been given that these matters of principle, not only are being, but will be further considered. But, Sir, the time, I feel has come when this should be tackled and that the whole Ordinance should be reviewed. There are important matters of principle well known to the hon. Mover and to the Member for Commerce and Industry.

There is first of all the fundamental principle as to whether this Ordinance should be continued at all. In England, of course, it started, I think, in 1917 and they have never been able to get rid of it. But, it applies there, Sir, not to business premises, but only to private dwelling-houses and so on, and it is a very material question to be decided, and I hope soon to be decided, whether it should continue to apply to business premises. The hon. Mover has referred to the feeling that the present Control Boards—it is questionable whether they should continue or not. Many people think that there should be a separate court as part of the courts to decide these things. I am aware, Sir, that that means an increase, perhaps, in the Judiciary, but I pray that argument in support of what was said in the motion yesterday for an increase in the Judicial staff.

The hon. Mover said that there is a difficulty about having that referred to a court because we might lose the advantage of the opinion of the lay members with regard to the assessments of rents. But surely, those opinions, I am sure they are valuable, can always be given as a matter of evidence before a court.

Now, Sir, a third matter, and that is the question of revaluation of premises, which again involves a principle. Perhaps the time has come, and indeed I would urge that it has, that many of these premises should be valued with some reference or some relation to present currency values. There are cases, indeed I hear of them every day, of individuals who invested a small amount of capital,

[Mr. Salter] their only capital in, house property before the war. It is their sole source of income and yet the rents which they receive from those investments now, bear no relation to the present values of currency at all and indeed they scarcely provide an income sufficient for the person to live on. It has been said, Sir, that if you raise those sort of rents, I know this is an argument in favour of landlords, but why should not it be, if you raise those rents, you will, to some extent kill the evil of key money because if a landlord does not receive a reasonable return for his investment, of course you are going to encourage the evil of key money or what may be more pleasantly termed "good will".

Now, Sir, I do feel that these are matters which must be tackled quickly and I hope that this Committee which is sitting now will produce a complete revised Ordinance and not introduce amendments like this from time to time. I am voicing, I know, Sir, the feeling of the Law Society of Kenya in saying that I believe that it was their hope that this particular amendment could be postponed until a more vigorous review of the Ordinance had taken place.

Now, Sir, there is one matter with regard to the bill itself which has been mentioned by the hon. Member and that is the amendment which is under clause 3 with giving the right to a tenant to apply to the Board when a demolition order has been made, for an order that the landlord may be required to grant a new tenancy. Sir, I know, in principle, it is very undesirable to make any Bill or Ordinance retroactive. I fully subscribe to that principle, but on the other hand, there is in this particular case some argument for it. I would not like it to be considered as a precedent, but there are a number of people, and representations have been received from those people in Nairobi, who have been served with a demolition order and that order has now expired in time, in the sense that they are required, and have been required to quit their business and dwelling premises since the 1st May. Those orders were served, I will not say they were rushed on or anything of that kind, but they were in fact served between the 1st January and the debate to-day, the introduction of this amending Bill, so that those tenants are completely unprotected by the very

clause which seeks to protect them, and they are, indeed, at the mercy of any unscrupulous landlord—I do not say that the landlords are unscrupulous—but they would be at the mercy of any unscrupulous landlords who would say, "Very well, we will give you a tenancy provided you pay us a large sum of money by way of goodwill", and perhaps carry out the ramp which the hon. Member referred to. So, Sir, in this particular case, I would desire to move in the Committee stage of this Bill an amendment to that clause which would enable those people to be protected. As I say, Sir, I hope it will not be regarded as a precedent, but I do feel that less than justice would be done if that particular amendment were not made.

Sir, with these words I beg to support. (Applause.)

MR. MADAN: Mr. Speaker, I rise to support the motion. I also have had an opportunity of discussing certain aspects of this Bill with the hon. Member, but I do not think that he need despair that this particular piece of legislation is not perfect; as long as we have advocates practising in the profession of law it will not only be very difficult, but impossible, to produce any legislation which is perfect.

It is gratifying to know, Sir, that the hon. Member has given us an indication that other matters which do not appear in this Bill and which are related to the question of policy are being considered. As the previous speaker has pointed out, they are matters of great importance. But, Sir, I would say that I would not like to see the Rent Control Ordinance being abolished, because I think it is a good piece of legislation and it has done the communities of all races in this Colony a great deal of good and conferred much good upon tenants. I shudder to think what would have happened if legislation like this were not in force and the landlords, to whom reference has been made, made great profits out of their tenants. Of course what the landlords do is to take from their tenants what some people are audacious enough to call "goodwill". I do not think, Sir, that that is an appropriate term.

I should like, Sir, to express my gratitude to the hon. Member for introducing the new sub-clause (o) to section

[Mr. Madan]

5. When demolition orders began to be made after the first day of January this year, I approached the Member and pointed out what the results would be. I should like to say that, as always, he was very sympathetic and listened to me and promised to do what he could to alleviate the distress of the poor tenants. In this connection, Sir, I think it would be appropriate if I also expressed the gratitude of the tenants, and my own, to the Medical Officer of Health in the City Council to whom also I made representations in this connection and who was also very sympathetic and agreed to take the necessary steps to ensure that any demolition which took place would be carried out on a progressive basis, so that as little inconvenience as possible would be caused to the tenants. And, if an amendment such as has been indicated by my learned and hon. friend the Member for Nairobi South is accepted by this Council, I personally think that that will remedy the situation, Sir.

I would like also to suggest, Sir, that the time has come when Government should seriously consider that new houses, the construction of which is commenced after a certain date, should be fixed at a reasonable time in relation to the circumstances. Such houses should be decontrolled because if you do that, not only will it add a fillip to the building of new houses and help to relieve the shortage of accommodation, but it will not cause any hardship among the people who enter such houses, inasmuch as it is possible for tenants before they go into premises to enter into the proper leases to safeguard their interests. And, that seems to me, Sir, to be the only way to increase living accommodation and to relieve the present shortage. At the moment, people are not at all keen to build houses because the returns which they get on the assessments made by the Rent Control Boards, are considered inadequate. In some cases they work out at 5 per cent per annum. It is easier and more lucrative to invest money on mortgages, they have better security and, what is perhaps more important from their point of view, no interference from the Rent Control Boards.

I would also strongly support the suggestion that the existing valuations or

assessments, which have been made, if possible, should be revised so that the return on those houses is brought into a fair relation to the increase of the costs of other matters. For some people, as it has been said, it is their only source of income, but their rate of income stands stagnant at the 1939 figure, and that I feel, Sir, is not fair. I think the market value for land should be fixed at a date far later than 1939, perhaps a date between 1939 and 1951, when prices were reasonable, not inflated prices as we have now, but reasonable prices and prices at which people did invest their money to erect buildings. That is the price, Sir, I think should be brought into force in this connection. No doubt, the hon. Member for Commerce and Industry would be able to give us the right date, with his usual accuracy.

Sir, I have great pleasure in supporting this Bill and I do hope that not a further amendment, but perhaps what would be better, a review of the whole Ordinance, will be brought before this Council as soon as possible. (Applause.)

MR. USHER: Mr. Speaker, after all that has been said recently in regard to rent as a component in the cost of living problem, I heard with something like dismay the suggestion from my hon. friend the Member for Nairobi South that possibly this sort of legislation should not be carried on at all. Having said that, however, I must say that I have always felt that this Ordinance was rather heavily weighted in favour of the tenant and the two or three remarks that I have to make will be rather in favour of the landlord.

In the first place, Sir, it is with some disappointment that I see there has been no substantial alteration to the definition of standard rent. For, it is not only that land values have in some cases, in many cases, trebled since 1939, but also that the cost of the landlords' repairs has greatly increased and the result of the fact that he is getting so low a rent as that prevailing on the prescribed date militates against his keeping the premises in a proper state of repair. The kind of point I have to bring up, Sir, relates to the proviso to section 15, sub-section (2) of the Ordinance in regard to the passing on of rates.

THE SPEAKER: Is that being amended?

MR. USHER: No, Sir, it is an omission that I felt might be commented on.

THE SPEAKER: You think that the Ordinance should be further amended.

MR. USHER: That is the way I am trying to get out of it, Sir. (Laughter.) I merely want an assurance from the Member—

THE SPEAKER: Strictly speaking you should move an amendment against the second reading in order to get these points in. They should be got in by way of reason of amendments to the motion to read the Bill a second time, otherwise we are limited to the matter in the Bill not to the matters in the principal Ordinance.

MR. USHER: Might I explain, Sir. Perhaps, you could help me in this matter. I have had a little correspondence with the hon. and learned Mover in regard to this section, and all I wanted from him was a contradiction of something that I had heard in regard to a ruling.

THE SPEAKER: We have time on our hands. (Laughter.)

MR. USHER: It will not take much time.

The point is that I have been told by one of my constituents that there has been a ruling in the Courts in Nairobi to the effect that if a landlord gives notice late of his intention to recover an increase in rates due to revaluation, he will not be able to recover retrospectively. It certainly seems to me that the law is clear and I should like, if possible, that assurance could be given in this Council.

The third point I have, Sir, is in regard to clause 6, old section 16, subsection (1), paragraph (e), sub-paragraph (f). I have had it brought to my notice on quite a number of occasions in which it seemed to be reasonable that the landlord should be able to recover possession for near relatives, and I am wondering whether the restriction, the extreme restriction of this clause is desirable. I am wondering if the benefit should be extended to ascendants and descendants, how high and how soever and to brothers and sisters, and I hope the Committee, Sir, will take this matter also into consideration.

Sir, I beg to support the Bill.

MR. NATHOO: Mr. Speaker, I would like to congratulate the hon. and learned Member for Law and Order for having introduced this Bill during the present Session and agreeing to some of the amendments which we had brought to his notice. But, there is a feeling in the minds of those who at the present moment have helped with this Ordinance, the Central Rent Control Board and the Coast Rent Control Board, that the time has now come when a complete review of the whole Ordinance should take place so that quite a few of the anomalies which still exist could be reviewed; and whilst welcoming the changes which have been introduced by the hon. Mover, it is felt that the Government has not gone far enough in this direction. We know, Sir, how difficult it is to have everything in the law and have laws which are sufficient to meet all cases. If in England, after all these years, they have not been able to find the right answer it is surely not reasonable for people out here to do so. But, Sir, with the advice and assistance of those who have been closely connected with the administration of this law, I am sure that Government, if it took the initiative, could achieve something which would meet with the general case.

Sir, I beg to support.

MR. COL. GHERSI: There is only one short-point I would like to raise and would like some further information on the subject. It refers to clause 3, paragraph (c).

I am just wondering if it does give sufficient protection to the tenant. It provides that on application, after an order to quit, that he may apply for a new tenancy. I cannot imagine a landlord pulling down the building over the head of a tenant without giving due notice to quit but what would be the position if a landlord, having received the notice to demolish, did not in fact give the tenant an order to quit and therefore the tenant did not give notice within the prescribed months. Would he lose the right of a new tenancy? In other words, what I am suggesting is that perhaps it should be compulsory on the part of the landlord to give the tenant notice to quit after he has received a demolition order.

I support the motion.

THE MEMBER FOR COMMERCE AND INDUSTRY: Mr. Speaker, like Agg. I feel a certain necessity to tread lightly amidst the galaxy of legal talent this house has been able to call on in this Council, but my principal object in speaking is to thank my hon. friend the Attorney General, who is a veritable *jurid* in these matters, for taking the responsibility of moving the second reading of this Bill. I also want to pay a very sincere tribute to the work he has done in preparing what is an interim amending measure. I do want to make it quite clear that while I am not qualified to argue the rights and wrongs of somewhat obscure legal points, I am sure, in my own mind that, providing we can get a general measure of agreement which, in a somewhat incomplete form, this Bill represents, we must go on without delay and try and remove further anomalies in the law that remain, and consider—which is more difficult—those very important matters of principle which have been mentioned during the debate. The Committee that has been giving its services, with the advice of the Law Society, the Board of Commerce and Industry and the Chamber of Commerce—this Committee will go on considering these matters, their continuity of effort only limited by the fact that the members are all busy men and so cannot meet in the way of officials who are, in some cases, less busy men. (Laughter.)

One other point, Sir, my learned Friend has advised me that the amendment proposed by the hon. Member for Nairobi South is acceptable. (Applause.)

Having made the point clear that this is an interim Bill, it only remains to say that the same people who have worked to remove, I think most effectively, certain glaring anomalies in the present Ordinance, will go on working with a view to further improvement and to consider those points of principle involved in the present form of the Ordinance. The reason why we introduced this Bill, which is incomplete and not wholly adequate at this stage, was to remove those anomalies on which those to whom I have referred, were agreed should be very removed forthwith. It is not an attempt to deal at this stage with the whole problem.

THE ACTING ATTORNEY GENERAL: Mr. Speaker, I have listened with a great deal

of interest, of course, to what has been said in the course of this debate and I shall deal one by one with certain of the points which were raised. My hon. friend the Member for Nairobi South has supported the view taken by the Law Society that Rent Control matters should go back to the courts, and he says that it does not really matter if we lose the benefit of the advice of the lay members of the Rent Control Boards because that may be supplied, that experienced advice may be made available by evidence. Now, Sir, I feel this about it being made available by evidence, I am perfectly certain that my hon. friend has appeared in cases in which an expert, or a number of experts, indeed, are called by both sides. Such cases are known, Sir, as the battle of the experts and the plaintiff will call one high-powered expert to say that, in his opinion, such and such is the case and the defendant obtains a higher-powered expert and he suggests the contrary is the case. Now, Sir, that is what, if I may use the term, very often provides a headache for the Judge who is having to decide these matters. I am not saying for one moment that these experts do not genuinely believe and have the utmost faith in the advice which they have given and the opinions they are expressing—(laughter)—but it seems to me that parties to a case can always get hold of an expert to contradict what the other expert is saying, and I think that that is the danger which we have to think about before we part with the very great assistance which is now afforded by the lay members of these Boards.

Now, Sir, the question of the upraising of the rents. That is a most vexed question because, on the one hand you have this tremendous problem of the cost of living and if the rents of people living in this Colony are raised the burden may well become quite intolerable on some tenants; but on the other hand there is the point of view of the landlord. He has got to meet the cost of living and he has got to maintain the premises and to repair them, and all I can say, Sir, is it is a problem which is going to be very difficult indeed to solve. The matter is of course going to be considered again and I only pray that those deliberations will produce some acceptable answer to the problem.



**[The Acting Attorney General]**

My hon. friend the Member for Mombasa mentioned two matters. He asked whether there has been some ruling in the Courts that a landlord who is late in serving a notice on the tenant, if there has been some rise in the rates, loses the advantage of that particular section. I cannot answer that question at once, Sir, but I will look into the matter and let him know.

With regard to the suggestion that the Board may have the power to eject tenants where the landlord wishes to have his dwelling-house for the occupation not only of his wife and minor children but for other relatives, I can assure him that great difficulties may arise in a matter like that. I shall say no more but I can myself very readily visualize them. That also is a matter which I have no doubt the Committee will consider.

I am grateful to my hon. friend the Member for Central Area, Mr. Madan, for the kind things which he has said about me. I would like to say that my hon. friend the Acting Solicitor-General has really borne the brunt of the preparation of this Bill. He is now carrying out the duties not only of Legal Draftsman but of Solicitor-General, and I know from my own experience that means quite a fullish day's work for anybody and he is responsible for the bulk of the work with regard to this Bill.

Mr. MATHU: He is a *Jundi*.

**THE ACTING ATTORNEY GENERAL:** My hon. friend the Member for Central Area, Mr. Nathoo, has asked that this Ordinance be completely reviewed. Well, I think my hon. friend the Member for Commerce and Industry has pointed out that this is an interim measure to remove the more immediate difficulties and no doubt consideration will be given to what my hon. friend has asked.

With regard to the matter raised by my hon. friend the Member for Nairobi North, as regards the difficulties which may arise under the new paragraph (a) of sub-section (1) of section 16, I would point out to him that the notice is given by the court which makes the demolition order. The matter is not, therefore, in the landlord's hands and I do not think he need have any fears about the position which he visualized might arise.

It only remains for me, Sir, to thank my hon. friend the Member for Commerce and Industry for the kind words which he also has said about me. I only wish, Sir, that I did think that I was a *jundi* on Rent Control matters. That is the highest praise I can imagine any lawyer having paid to him. I only wish it were true about myself.

Mr. MATHU: On a point of order, Mr. Speaker, is the word "*Jundi*" parliamentary?

**THE SPEAKER:** I have never found any ruling against it yet.

**THE ACTING ATTORNEY GENERAL:** I can only end, Sir, by commending this measure to the Council.

The question was put and carried.

**THE ACTING ATTORNEY GENERAL** moved: That Council do resolve itself into Committee of the whole Council to consider the following Bills clause by clause:—

*The Police (Amendment) Bill.*

*The Distribution of German Enemy Property Bill.*

*The Hospital Treatment Relief (European) Bill.*

*The Increase of Rent (Restriction) (Amendment No. 2) Bill.*

**THE ACTING SOLICITOR GENERAL** seconded.

The question was put and carried.

**COUNCIL IN COMMITTEE**

The Bills were considered clause by clause.

*The Distribution of German Enemy Property Bill*

New clause:—

**THE ACTING ATTORNEY GENERAL** moved: That a new clause giving the power to exempt certain property be read a first time.

**THE ACTING ATTORNEY GENERAL:** The purpose of adding this clause to the Bill, Mr. Speaker, is that it has been represented that it may be desirable to exempt from the provisions of the Ordinance certain mission property. This clause merely gives the Governor power to order to exempt it.

The question was put and carried.

**THE ACTING ATTORNEY GENERAL** moved: That the new clause be read a second time.

The question was put and carried.

The question that the new clause be added to the Bill was put and carried.

*The Hospital Treatment Relief (European) Bill*

Mr. USHER: Clause 8, Mr. Chairman. During the second reading I raised the question of the propriety of allowing the Authority the powers that it has in clause 8 (a) (i)—that is to reduce the amount of relief payable—and/or the period for which it might be paid. I had intended at one time to move an amendment, but I have had some discussion which now appears to make it unnecessary. I should like to say, Sir, that my reason for pressing this matter is that the system has been described as an insurance scheme, and surely an insurance scheme assures to the party insuring the benefit of that insurance for the period for which he pays his premium. Now, I know the parallel is not exact and I know that the Authority may find itself in difficulties from time to time.

At the same time I would remind the hon. Member who introduced the Bill that he visited Mombasa and persuaded a very large meeting there that the scheme was an excellent one, and at the end of a very eloquent speech he was asked a certain question, and the question was this: "What happens if the Authority finds itself in financial difficulties?" And his answer, which I have not got verbatim, was to this effect: It will do the natural thing. If it makes a loss one year it will recoup the next year. And, of course, in fixing the amount of relief to be given, the Authority would naturally have regard to the available bed space in the Colony and to other factors which would determine the amount to be given.

Now, Sir, I should be very grateful to the hon. Member if he would be good enough to commend this idea of mine that no alteration should be made within a year to the consideration of the Authority.

That, Sir, is all I have to say.

**THE MEMBER FOR EDUCATION, HEALTH AND LOCAL GOVERNMENT:** Mr. Chairman, I think the only difference between

the hon. Member and myself is that I think it would be wrong to tie the hands of the Authority in legislation. That was the mistake that was made in the previous Bill. That does not say we do not agree with him in principle, and we shall certainly convey his ideas to the Authority when established.

I trust that will meet his point, Sir.

Mr. USHER: Thank you, Sir.

*The Committee adjourned at 11.05 a.m. and resumed at 11.20 a.m.*

*The Increase of Rent (Restriction) (Amendment No. 2) Bill*

Clause 3.

Mr. SALTER: Mr. Chairman, I have to move an amendment to clause 3 (1) (d) (i). The amendment I would propose, Sir, is that there be substituted for the new paragraph (i) of sub-section (1) of section 5 of the principal Ordinance to be inserted by paragraph (d) of clause 3 the following:—

"(i) on the application, made within one month of the date of the service of a notice to quit given consequent upon any demolition order made on or after the 1st January, 1951, of any person who, immediately prior to the date of such order was a tenant of any premises affected by such order, to make an order requiring the landlord of such premises to grant to such person a new tenancy of any premises or of any part thereof in any case in which the construction of such premises is commenced by such landlord on the site of the premises affected by the demolition order within three years of the date of the demolition order on such terms and conditions as the Board may, due regard being had to the cost of the erection of such premises, consider fair and reasonable;

Provided that where any such notice to quit has been given before the date of the commencement of this Ordinance an application under this paragraph shall be made within one month of the date of the commencement of this Ordinance."

Sir, the object there is to make that particular sub-section retroactive to 1st January, so as to cover the cases where the demolition orders have been served,

(Mr. Salter)

tenants have been evicted as the result of such order, and to enable those tenants to have the rights of applying to the Board for a further tenancy. Now, Sir, it does of course rest with the Board to say whether or not they are going to grant such an application, and no doubt the Board, in saying whether or not they will grant them that application, would have regard to the question of any contract having been entered into as between the landlord and the tenant or any other person, and therefore, Sir, the date of 1st January, 1951, is inserted in the third and fourth line and the proviso enables a tenant who has already been served with a notice to quit to apply within a month of the commencement of this Ordinance.

There is one other matter, Sir, and that is that it will be noted under that sub-paragraph as amended it is provided that the application can be made to grant a person a new tenancy where the construction of a premises is commenced within a certain period, namely within three years of the date of the demolition order.

Sir, I beg to move the amendment.

THE ACTING ATTORNEY GENERAL: Mr. Chairman, the Government accepts this amendment, not without some misgiving because it is a very complicated measure as it now stands, but so many representations have been made on behalf of these unfortunate tenants, and so strong have those representations been that this clause should be made retrospective in operation, that my hon. friend the Member for Commerce and Industry has agreed on my advice to accept it. It is one of these enactments which may cause difficulty to the Boards who endeavour to carry out its provisions. I can see breakers ahead, Mr. Chairman, but I think it is only right that we should make some attempt to curb these practices which have been going on, and that that attempt should be made retrospective in character so as to assist tenants who have had these demolition orders suddenly served upon them as a result of a rumour that the law might be amended.

The question was put and carried.

The question that clause 3 as now amended stand part of the Bill was put and carried.

THE ACTING ATTORNEY GENERAL: Mr. Chairman, perhaps I ought to point out that the amendment which I said I was going to ask for myself with regard to the date of the service of the notice is incorporated in my hon. friend's amendment.

THE ACTING ATTORNEY GENERAL: Mr. Chairman, I beg to move: That clause 12 of the Bill be amended as follows:—

That there be substituted for sub-section (3) of section 31 of the principal Ordinance which clause 12 of the Bill will amend the following sub-section:—

(3) If a person takes proceedings under this Ordinance in the Supreme Court—

(a) the provisions of sections 16 and 17 of this Ordinance shall apply in relation to such proceedings as if the Supreme Court had been specifically mentioned therein; and

(b) if such proceedings could have been taken in the court or before the Board he shall, if successful, only be entitled to recover costs on the subordinate court scale.

Mr. Chairman, I think I dealt with that amendment at some little length when I moved the second reading of the Bill, and I do not propose to say anything more about it at the Committee stage.

THE CHAIRMAN: It should read like this:—

There shall be substituted for sub-section (3) of section 31 of the principal Ordinance the following sub-section:—

(3) If a person takes proceedings under this Ordinance in the Supreme Court—

(a) the provisions of sections 16 and 17 of this Ordinance shall apply in relation to such proceedings as if the Supreme Court had been specifically mentioned therein; and

(b) if such proceedings could have been taken in the court or before the Board he shall, if successful, only be entitled to recover costs on the subordinate court scale.

The question was put and carried.

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

THE ACTING ATTORNEY GENERAL moved: That the Distribution of German Enemy Property Bill and the Increase of Rent (Restriction) (Amendment No. 2) Bill be reported back to Council with amendment and the Police (Amendment) Bill and the Hospital Treatment Relief (European) Bill be reported back to Council without amendment.

The question was put and carried, Council resumed and the Member reported accordingly.

## BILLS

### THIRD READING

THE ACTING ATTORNEY GENERAL moved: That the Increase of Rent (Restriction) (Amendment No. 2) Bill be read a third time and passed.

THE ACTING SOLICITOR GENERAL seconded.

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

### The Police (Amendment) Bill

THE ACTING ATTORNEY GENERAL: Mr. Speaker, I beg to move that the Police (Amendment) Bill be read a third time and passed.

Mr. Speaker, in moving this motion I propose to take what is perhaps not a very usual course, and that is to make some remarks about this Bill. Since the Bill was read a second time, I have had the advantage of conferring with the Commissioner of Police, hoping that by doing so I might be able to throw light upon some of the matters which were raised in the course of the debate on the second reading. One of those matters was, I think, the question of examinations, as to whether promotion should not be based on the results of examinations which should be taken by African members of the Force in the same way as other members. Mr. Speaker, the position is that the Africans sit one examination before becoming Assistant Inspectors, and that examination is taken while they are in the probationary stage for that rank, and before they are confirmed in that rank. The Asians and Africans take the same examination and they have to attain the same pass marks, but they are promoted, of course, each in their own sphere. Now, I am very

happy to say, Mr. Speaker, that it is not only these examinations and not only pass marks which count when the promotion of an African member of the Force is being considered. I think that that would be the worst possible system. (Hear, hear.) I understand that pass marks only count about 50 per cent when these promotions are being considered. The matters which also receive attention are the sense of responsibility of the particular policeman, his activity as a policeman, his sense of integrity and other virtues which, in my submission, go a long way further to build up a reliable and responsible and competent policeman than merely the passing of marks in an examination. (Hear, hear.)

The provision for Senior Inspectors in the Estimates and the actual promotion of African members of the Force to that rank is, in my respectful submission, a very great step in the right direction. This Bill, as I have said before, only seeks to make that position strictly legal by amending the Ordinance. If this Bill did not now become law, the matter would arise as to whether those members of the Force who have been given the rank of Senior Inspector (African) could retain it. They might have to revert, and if anything could be said to be likely to cause dissension among the African members of the Force, that I think would be the chief one. The Commissioner informs me that so far as he knows there is no dissension in the Force, because of this Bill. If any dissension exists, it certainly has not manifested itself, and there is this, that Inspectors are given every opportunity to place any matters about which they may be dissatisfied before the Commissioner and not only are they given every opportunity, they are indeed encouraged to do so. Certain Senior Inspectors have requested the reconsideration of providing for the rank of Chief Inspector in the Estimates, and have asked that the question of promoting certain of them to those ranks should be considered, and they have been informed that the matter of creating Chief Inspectors is under consideration and has been under consideration and, as I have said, the Commissioner proposes to ask in the Draft Estimates for 1952 that those ranks should be created.

[The Acting Attorney General]

Sir, since the second reading, I have been approached by my hon. friend the Member for the Coast, who has taken a great interest in this matter, and he has made the suggestion that consideration should be given by the Commissioner to asking that financial provision should be made before the 1952 Estimates for the creation of these posts. The Commissioner has considered the matter, and is quite willing to make those proposals to my hon. friend the Member for Finance. He feels that it will assist in removing any suspicion which may exist, and he will take steps to do so as soon as possible.

Now, Sir, I think if there is one thing which ought to dispel any suggestion that any keeping back of the African members of the Force is caused through any sort of bias on the part of the authorities it should be dispelled by the figures which I now propose to quote. I think when this Council have heard those figures they will be satisfied that the rate of development of the African Inspectorate during the recent years is a clear indication that they have not been forgotten when promotion has been considered. With your permission, Sir, I should like to quote from these figures, which have been supplied to me by the Commissioner of Police. In 1945, there was a total of 58 African Inspectors, made up of 48 Assistant Inspectors and of 10 Inspectors. In 1948, that number had been increased to 83, made up of 73 Assistant Inspectors and 10 Inspectors. In 1949, 115 was the total, made up of 105 Assistant Inspectors, and 10 Inspectors. In 1950, there were 96 Assistant Inspectors, 15 Inspectors and 1 Senior Inspector. In 1951, the total was 157, made up of 120 Assistant Inspectors, 34 Inspectors and 13 Senior Inspectors, and it is proposed before 1952 that the total shall be 186, which is a most considerable increase, composed of 120 Assistant Inspectors, 47 Inspectors, 17 Senior Inspectors and 2 Chief Inspectors. I can only say, Sir, that I submit most strongly that upon hearing those figures and upon hearing what I have said in the course of my speech, that my hon. friends who opposed this Bill on the second reading should remove their opposition and vote for it on the third reading.

My hon. friend, the Member for Central Area, Mr. Nathoo, suggested the desirability of the Commissioner of Police taking the African Members of this Council into his confidence. The Commissioner has asked me to say that he will be very glad to do this, and that if any Member of this Council is concerned over any matter concerning the Force, he will be only too pleased to see him and discuss it with him.

Mr. Speaker, I beg to move that this Bill be now read a third time and passed. (Applause.)

THE ACTING SOLICITOR GENERAL  
SECONDED.

Mr. COOKE: Mr. Speaker, I regret that I have to oppose the third reading of this Bill, or shall oppose the third reading of this Bill unless I can get an assurance from the hon. Member for Finance that he will approach the Standing Finance Committee to have this item of Chief Inspector put into this year's Estimates. Now, Sir, I say "regret", because when the second reading came up I supported the Government and in order to free myself from the charge of inconsistency I may say that since that I have gone further into the matter, and I find, Sir, that it appears—I say it appears—that the hon. Member for Law and Order misinformed this Council in the Committee stage of the Estimates in December last. Now, in that stage my hon. friend Mr. Jeremiah raised the point of Chief Inspector, and he urged that Chief Inspector should appear in the Estimates. My hon. friend the Acting Chief Secretary, then the Member for Establishments, got up and he said he was prepared to agree with this suggestion, which had been made, although he did not particularly like it. Now, this brought my hon. friend the Member for Law and Order to his feet, and I will just read out briefly what he said with regard to that suggestion, and he said this: "Mr. Chairman, I suggest that this is quite an inappropriate occasion to alter the ranks of the Police Force, which are not laid down in the Ordinance". Well, my hon. friend, it appears to me—and this, of course, may be susceptible to an explanation which does not appear to me at the moment—my hon. friend the Member for Law and Order seemed to have been unaware at the moment that

[Mr. Cooke]

that the post of Chief Inspector was already embodied in the law. He—certainly quite unwittingly, I know—he took that point as other Members when he took that point of view. I therefore say that a mistake was then made, which should now, Sir, be rectified. I think if I had known at that time—I cannot speak for the rest of my colleagues on this side of the Council—but if I had known what was the correct position, I would have supported the suggestion of my hon. friend Mr. Jeremiah. From the beginning to the end I think there has been a big muddle in this matter, and I think it is a pity the present position has been reached. I think it is unfortunate, Sir, that when a matter—which concerns so intimately the Africans of this country—when it concerns them, that the Africans are not approached beforehand to ask them what their opinion on such a suggested legislation is. If that, Sir, had been done I do not think we would have fallen into the difficulty I now allege we have now fallen into. But only that, Sir, in the debate a few days ago we found there had been a mistake in the amending Bill, and although there is such a rank as Assistant Inspector, that rank had not been shown on the left-hand side of the Bill. Now, Sir, that seems to me to be an oversight which is very difficult to excuse. I therefore, Sir, earnestly ask my hon. friend the Member for Finance, or my hon. friend the Chief Secretary to give us an assurance—and it can easily be done—that this matter would come before the Standing Finance Committee and that the post of Chief Inspector shall appear, even though it only appears as a token vote.

Sir, I oppose the third reading as it stands at the moment.

Mr. NATHOO: Mr. Speaker, there are just a few points; Sir, that I wish to make.

The first is that of my hon. friend the Member for Law and Order, who said that there is no discussion in the Force as a result of this Bill. I should like him to say whether he means to reflect on our integrity in the matter, because if he suggests that what we represented in the second reading was not as a result of the representations made to us by the members of the Force, then I would like

that this Council be informed on that issue, because I should not like it to be on record that we have here made representations with anything but the spirit of sincerity and the highest integrity that is required by a Member of this Council. I would also say, Sir, that he knows that some of the African Inspectors had made representations to the Commissioner of Police that they should be promoted. Now, I did refer to those representations because I saw the correspondence and because it was because the African Members were not satisfied that action was going to be taken that we took up the matter during the second reading of this Bill. There seems to be some inconsistency on that issue, Sir.

The second point which I want to raise is that he says that if this Bill does not become law, those who are on the rank of Senior Inspector may have perhaps to fall back to become Inspectors. But I cannot understand that, because how can they? There have been Senior Inspectors within the law, and I suppose there will continue to be. If not, I say that it is what we are suggesting, they should be promoted to the rank which was recommended by the Salaries Commission, and which appears in the Ordinance, namely, Chief Inspectors.

The other point, Sir, I should like to make, is that I am going to oppose the third reading of this Bill, as I did the second reading, and I do that because I am convinced that this matter could have been arranged in a way that would have removed not only the opposition of the African Members, but would have removed any feeling of ill-treatment of the African members of the Force of the ranks that we are discussing to-day.

Before I sit down, I should like to say that I have had a discussion with the Commissioner of Police yesterday, and I am satisfied that he means the best for the Force, that anybody else could mean in charge of the Force.—(Applause)—and I do not have any feeling of suggesting that we are not going to move forward, I think we are going to move forward, but I am not talking of the future, I am talking of a situation that has been existing during these three or four years, and which we think should be put right now.

Further, I would like to say that the Police Force of this Colony is fortunate to have as a Commissioner a man with

(Mr. Mathu)

such experience, not only in Africa, but other places in Europe and elsewhere, and we think that if he is given encouragement by the Government and by this Council we shall see almost a revolution in the Police Force in years to come, and I should like to pay tribute to him now and to say that he has our support in measures that he would like to take to improve that Force. This one, I say, we must agree to disagree, and I say we shall oppose the third reading.

Mr. PATEL: Mr. Speaker, on this matter I adopt the same attitude as the hon. Member for the Coast has taken up. There should be an assurance from the other side that there will be provision made for Chief Inspectors' posts (African) during this year. But there is one point, Sir, which I do not understand, and that is that there is no post provided if you see in section 4 in the Ordinance, it is my fault, I should have pointed this out before.

THE ACTING ATTORNEY GENERAL: On a point of explanation, Mr. Speaker, perhaps I ought to have cleared this up before. There is an omission in the printed Bill which is before the hon. Member. That rank is provided for in the Ordinance. It is my fault, I should have pointed this out before.

Mr. PATEL: I see, thank you.

THE ACTING FINANCIAL SECRETARY: With regard to the point raised by the hon. Member for the Coast, I must regret, Sir, that I cannot give the assurance which he asks for. I have no objection whatever, to giving consideration to this matter, Sir, but I cannot at this stage give any assurance that I am prepared to go to the Standing Finance Committee. In saying this, Sir, I think hon. Members will appreciate that time and time again most of them have in the past expressed disapproval of the Government's asking for additional provision in the middle of a financial year.

Mr. COOKE: This is an exceptional case.

THE ACTING FINANCIAL SECRETARY: They are always exceptional, Sir. However, Sir, I am afraid I could not give an assurance in the terms asked for by the hon. Members, much as I regret it.

#### THE ACTING ATTORNEY GENERAL:

Mr. Speaker, in the words which were once used by my hon. friend the Member for Trans Nzoia, "I am amazed," amazed at the attitude which has been taken up by my hon. friend the Member for the Coast and my hon. friend the Member for African Affairs, Mr. Mathu, and after the figures which I have just read out to the Council, after the undertaking which the Commissioner of Police has authorized me to give, after the explanations which I have tried to give most carefully to the Council, that there still should be opposition to this measure. When my hon. friend the Member for the Coast read an extract from Hansard, in which he said that the Member for Law and Order misled the Council he looked very hard at me. Well, Sir, I can only say that it was not I who did it, but I am perfectly certain that if the hon. Member who made that statement was here that he would probably be able to offer some explanation. If it is a mistake, it is only human to err, and perhaps he did err, but I cannot see how that affects the present matter before this Council.

Mr. COOKE: On a point of explanation, Sir, it most certainly does in my contention, because the Chief Inspector would have gone into the Estimates as requested by the hon. Member for African Interests, Mr. Jeremiah, if I at any rate, and probably other members on this side of Council, had not been misled. That is the point. And having been misled, the only way to rectify it is to put it in now.

THE ACTING ATTORNEY GENERAL: I am grateful to my hon. friend for explaining that point. I have already dealt with the mistake in the amending Bill, and I am sorry that the document in his possession has by some mistake an omission in it.

Now, Sir, I turn to the remarks made by my hon. friend the Member for African Affairs, Mr. Mathu. I can only say that I am sorry that he could have thought that I, standing here in this Council, could even consider throwing any doubt on what he said during the second reading of that Bill. If I did say anything which gave him that impression, I withdraw it unreservedly, and I do assure him that it was never my intention to throw any doubt on what he said. What I said was—and I have been

[The Acting Attorney General]

rather careful about this, I have a note of it—the Commissioner informs me that he is not aware of any dissension in the Force and that if there is any dissension it is not overt. I never attempted to impute that what my hon. friends the Members for African Interests, Mr. Jeremiah and Mr. Mathu, had said was not true. They may well have sources of information which the Commissioner does not know of. But at any rate, if there is any dissension on this matter, I do submit that the Commissioner can go no further to attempt to clear it away than he has. I do once more plead with Council, and I ask them this, that if this Council says it does not approve of provision being made in the Police Ordinance for this rank, how can we go on putting it into the Estimates and provide for financing this rank? I do ask them to reconsider the whole matter very carefully and to vote for this Bill on the third reading.

The question was put and carried and the Bill read a third time and passed accordingly.

THE ACTING ATTORNEY GENERAL moved: That the Distribution of German Enemy Property Bill be read a third time and passed.

THE ACTING SOLICITOR GENERAL seconded.

The question was put and carried and the Bill read a third time and passed accordingly.

THE ACTING ATTORNEY GENERAL moved: That the Hospital Treatment Relief (European) Bill be read a third time and passed.

THE ACTING SOLICITOR GENERAL seconded.

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

THE ACTING ATTORNEY GENERAL moved: That the Wafu Commissioners Bill be read a third time and passed.

THE ACTING SOLICITOR GENERAL seconded.

The question was put and carried and the Bill read a third time and passed accordingly.

#### VALEDICTORY

TRANSFER OF MR. J. B. HOBSON, K.C.

THE ACTING CHIEF SECRETARY: Mr. Speaker, I beg your leave to pay the indulgence of hon. Members to say a few words, before these sittings of Council are adjourned, on the subject of the pending transfer on promotion of my hon. and learned friend the Acting Member for Law and Order. As hon. Members know, Sir, my hon. and learned friend will be leaving Kenya before Council sits again to take up the post of Attorney General, Nyasaaland, to which he has been promoted and I would like, Sir, on behalf of the Government and my colleagues in this Council, to offer to him our warm congratulations on this advancement. (Applause.) My hon. and learned friend has served this Government for little short of three years as Solicitor General and on two occasions as Acting Member for Law and Order and I feel, Sir, that I can best express the feelings of my colleagues and myself by saying how warmly we associate ourselves with the tribute which was paid to my hon. friend by Mr. O'Connor less than three months ago in his own valedictory remarks to this Council. Mr. O'Connor said of my hon. and learned friend—"no man ever had a more loyal and self-effacing colleague than he is". We, Sir, feel the same about him as his Chief, did three months ago. It was a matter, Sir—and I think that this affords a further measure of our appreciation of his services—of great satisfaction to all of us when, a short time ago, my hon. and learned friend was admitted to the distinguished ranks of King's Counsel as a recognition of his high standing in the honourable profession to which he belongs.

I happen to know also that the feelings which I have expressed on behalf of my colleagues here, are shared in a very large measure by heads of departments and others outside this Council who have come in contact with my hon. and learned friend in their work. He has in a remarkable degree always been approachable by and extremely helpful to all these officers.

I would like to conclude, Sir, by expressing our very best wishes to Mr. Hobson and to Mrs. Hobson for

[*The Acting Chief Secretary*]

their future happiness in Nyasaland and, perhaps, to express also the hope that we might see them both back again here in Kenya one day soon. (Applause.)

*MR. HAVELOCK:* Mr. Speaker, firstly, Sir, I wish to apologize on behalf of the hon. Colonel Blundell for his absence to-day and I know, as a personal and—I may say—intimate friend of the hon. Member, Mr. Hobson, Mr. Blundell would have liked very much to have said the words I am going to say on behalf of the European Elected Members, but he could not, I am afraid, have been here to-day.

Sir, it is an unhappy situation, I feel, that we should be losing and have lost two such valuable friends, good friends and valuable officers in the one department in such a short period of time. It is really rather peculiar that the Colonial Office workings should, so arrange that we should be bereft as we are in this way. However, be that as it may, Sir, I feel, and I am sure all hon. Members on this side of the Council feel, just as the hon. Chief Secretary has said, that the hon. Member, Mr. Hobson, fully deserves the promotion from, may I say, official second-order to official mover.

Sir, I would like also to mention the other side, apart from the work in this Council. We are losing in this Colony by the departure of Mr. and Mrs. Hobson two very good friends whom we will greatly miss at social functions which they have always graced with such effect, especially—may I say—Mrs. Hobson.

Sir, since the hon. Member and Mrs. Hobson came to Kenya I know that they have learnt to love this country very deeply, and there is nothing that endears people to us on this side of the Council more than the knowledge that people do love this country so deeply. I hope—we have said this before to others—but I hope very, very sincerely that we may see Mr. and Mrs. Hobson back here as retired, or in another capacity, but we hope to see them back because they love the country and we love them.

Sir, I just wish to conclude in almost the same words as the hon. Chief Secretary in wishing, both Mr. and Mrs. Hobson, the best of luck, the best of

success, a happy time in Nyasaland and a speedy return.

*MR. PATEL:* Mr. Speaker, on behalf of the Indian and Arab Members it is my pleasant duty to associate them with the remarks made by the hon. Acting Chief Secretary and the hon. Member for Kiambu concerning my hon. and learned friend the Acting Member for Law and Order. In my experience I have always found him extremely polite, ready to understand the other man's point of view and always willing to discuss at an interview with an impartial mind any subject which was put forward before him.

We in Kenya will be losing a very valuable friend, but it is for the time being a gain for Nyasaland.

I, on behalf of the Indian and Arab Members, wish my hon. and learned friend the Acting Member for Law and Order, a very successful career in Nyasaland, and to Mr. and Mrs. Hobson both the best of luck in the future.

I also would like to join with the previous speakers in wishing that we will one day find that he returned to this Colony in some other capacity.

*MR. JEREMIAH:* Mr. Speaker, on behalf of my colleagues and the African people, I wish also to join in the remarks passed by my hon. colleagues who have spoken. I have known the hon. the Acting Attorney General for some time now, and it is with regret that we are going to miss him. However, as he is still going to work in an African country I think our loss is their gain and therefore I am not very much regretful.

I would like to express best wishes to Mr. and Mrs. Hobson in their future life and to hope that any time they think Nyasaland is not suitable, Kenya will still be here for them to come back to and they will be very much welcome.

*THE ACTING ATTORNEY GENERAL:* Mr. Speaker, I would ask your permission, Sir, to be allowed to tender the most grateful thanks both of my wife and of myself to my hon. friend the Acting Chief Secretary and to those hon. Members on the other side of the Council who have said such kind things about us, and who have been good enough to wish us farewell and who want us to come back one day.

[*The Acting Attorney General*]

Sir, when I first came to Kenya for a short stay it was in 1939 and I came here as a member of the Uganda platoon of the Kenya Regiment to attend the annual camp at Mbagathi. I recollect that we were known by the Kenya members of the Regiment as the Foreign Legion. In the course of that camp, for committing, in my opinion, some minor peccadillo, I was ordered, at a time when I ought perhaps to have been enjoying myself, to wash out greasy cooking pots in cold water. While I was endeavouring to carry out this rather unpleasant task I was called to attention by the Orderly Sergeant. When I stood to attention I was asked by the Orderly Officer whether I was happy in my work. Whatever I may have thought then—I forget what answer I made to that question—I can only say that from the time I came to work in this Colony in 1947 as Solicitor General, I have been extremely happy in my work. (Applause.) That, Sir, is because of the very great assistance that I have always been given, not only by my hon. friends in the Secretariat, and by the heads of departments and by other civil servants, but also by the loyal and efficient and able help of the other members of the Attorney General's Chambers. No man could have wished

for greater help and greater goodwill than has been shown to me during those four years by my colleagues in those Chambers. But that is not all, Sir. My wife and I have been shown the greatest and most generous friendship, not only by my fellow civil servants but by the settlers of this country and the Unofficial Members of this Council. We have made great friendships and we can never be too grateful for all that has been done for us, and for the affectionate friendship that has been shown to us in this country.

We have had our passports stamped with re-entry permits and I shall be very surprised if we do not come back here, one day before we leave Africa.

Again, Sir, thank you all so very much for all that has been said, and my wife, I know, would like me to express her thanks as well. (Applause.)

#### ADJOURNMENT

*THE SPEAKER:* Hon. Members, that concludes the business of the session and the Council will adjourn until Tuesday, 14th August, at the hour of 10 of the forenoon.

Council rose at 12.10 p.m. and adjourned until 10 a.m. on Tuesday, the 14th August, 1951.

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Third Session—Third Sitting

Volume XLII

8th May, 1951, to 17th May, 1951

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