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# KENYA NATIONAL ARCHIVES

## PHOTOGRAPHIC SERVICE

Description of Document LEGISLATIVE COUNCIL DEBATES. VOLS. XLVI AND XLVII.

Covering Dates 12th Feb., to 7th March, 1952 and 1st April, to 8th April, 1952.

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COLONY AND PROTECTORATE OF KENYA

# LEGISLATIVE COUNCIL DEBATES

OFFICIAL REPORT

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COUNCIL INAUGURATED  
JUNE, 1948

VOLUME XLVI

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1952

FOURTH SESSION — SECOND SITTING

12th February, 1952 to 7th March, 1952

## ADDENDUM

*Add at the end of column 182—Papers Laid—26th February, 1952, the following:—*

### BILLS

#### FIRST READING

On the Motion of the Attorney General, seconded by the Acting Solicitor General, the following Bills were read a first time:—

The Essential Services (Arbitration) (Amendment) Bill.

The Wheat Industry Bill.

Notice was given that the Bills would be taken through all their stages during the present sitting of the Council.

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. SHARIF MOHAMMED SULTRY

*Nominated Unofficial Members:*

*Representing the Interests of the African Community:*

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

*Representing the Interests of the Arab Community:*

HON. SHARIF ABDULLA SALIM

*Acting Clerk to Council:*

I. H. Bütter

*Assistant Clerk to Council:*

E. V. Borrett

*Reporters:*

Miss R. Sealey  
Miss E. Fraser



COLONY AND PROTECTORATE OF KENYA

LEGISLATIVE COUNCIL DEBATES

FOURTH SESSION—SECOND SITTING

**Tuesday, 12th February, 1952**

Council assembled in the Memorial Hall, Nairobi, on Tuesday, 12th February, 1952.

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

**DEMISE OF THE CROWN**

THE ACTING CHIEF SECRETARY: Mr. Speaker, it was with the most profound sorrow that we all learnt last week of the passing of His Late Most Gracious Majesty, King George VI. I will now ask you, Sir, to guide us, as to our duties.

THE SPEAKER: Honourable Members, this, of course, is our first meeting in the reign of Her Majesty, Queen Elizabeth II.

Neither the Standing Orders nor even the Royal Instructions give any direction as to how we should proceed on the demise of the Sovereign, and the accession to the throne of his successor. Research by the Clerks at the Table has failed to reveal any established practice of the Council, but of course Standing Order No. 1 enables us to have recourse to the practice of the House of Commons in cases where the Standing Orders have made no provision or where we have no established practice. Accordingly, I shall take the Oath of Allegiance to Her Majesty, Queen Elizabeth II, and hon. Members will then be good enough to approach this Table by way of the Official side of the Clerk's table, take the oath here, pass behind the Chair and sign the book on the Unofficial side of the Clerk's table. That will avoid unnecessary delay, and Members who are not in progress to or from this Table should remain seated.

**RETAKING OF OATH OF ALLEGIANCE**

The Speaker, followed by Members of the Legislative Council in order of precedence, took the Oath of Allegiance to Her Majesty Queen Elizabeth II.

**INTRODUCTION OF NEW MEMBERS**

The Oath of Allegiance was administered to the following new Members of the Legislative Council:—

R. A. Hammond, Esq., O.B.E., Director of Veterinary Services, and W. J. D. Wadley, Esq., Director of Education.

**MOTION**

THE SPEAKER: In order to remove any possible doubt as to procedure, may I say that the Motion on the Order Paper is an Urgency Motion, under Standing Order No. 29, paragraph 3, but it is obviously unnecessary for me to ask ten Members to rise and support it.

**LOYAL ADDRESS TO HER MAJESTY THE QUEEN**

THE ACTING CHIEF SECRETARY: Mr. Speaker, I beg to move: That it be resolved that the following message be addressed to Her Majesty's Secretary of State for the Colonies:—

That the Legislative Council of Kenya, being in session at Nairobi this 12th day of February, 1952, begs that you will convey to Her Most Gracious Majesty, the Queen, an expression of its profound grief and sense of loss at the passing of His Late Most Gracious Majesty, King George VI, of blessed memory, and of its deep sympathy with Her Majesty, the

[The Acting Chief Secretary] Queen: Her Majesty, the Queen Mother, and the Royal Family, in the grievous affliction which they have sustained.

The example of public service displayed by the late Sovereign's untiring endeavours for the welfare of all his people, and his whole-hearted interest in the fortunes of the inhabitants of the Colony of all races and communities, will be held in proud and grateful remembrance by them.

The Legislative Council presents its humble duty to Her Majesty, with an assurance of its loyal devotion to her person and throne, and prays that under the blessing of Divine Providence she may long be spared to rule over them in peace and prosperity, and will throughout her reign, promote the happiness and protect the liberties of all her people."

Sir, it simply is not in me to express in words or to write into the terms of a resolution what has been in all our hearts during these last few days, and which we should all, every single one of His Late Majesty's most loyal subjects, throughout the length and breadth of this land, dearly love to be able to convey to Her Majesty, the Queen, the Queen Mother, the Princess Margaret, the Queen Mary, and all the other members of the Royal Family. I can only say that we desire in this resolution to give expression to the deep sense of personal loss that we all feel in the passing of one who, in his life of high endeavour and devoted service to the millions of his subjects throughout the world, won the undying affection and gratitude of us all. We are all deeply conscious that in never sparing himself in the exercise of his great and manifold responsibilities he showed a complete disregard for his own personal interests and, in particular, for his own physical strength to endure. We desire to thank God for the splendid example of his life which we can but try to follow and to ask that His blessed comfort may be vouchsafed to those near and dear to him, and especially to his wife and daughters.

We desire also to convey to Her Majesty, the Queen, so recently amongst us, and who, with her gallant consort, charmed and cheered all those

of us who had the high privilege of seeing her and joining in the welcome which the Colony sought to give her, an assurance of our loyal devotion to her person and to the throne, and that we will ever hold towards her the deepest feelings of reverence and affection.

It was, indeed, a wonderful privilege for us in this land to have been able to provide the setting for those last few happy and restful days at the Lodge before ascending the throne, which Her Majesty has so graciously acknowledged in the message addressed to the Governor which was published in the newspapers this morning. Above all, we pray that God's blessing may continuously rest upon Her Majesty and that it may be His will that she shall reign over us for many happy and prosperous years.

Sir, with all humility and a very full sense of its inadequacy to express what is in our thoughts at this time, I beg to move the resolution standing in my name.

MAJOR KEYSER (TRANS NAIROBI): Mr. Speaker, I beg to second the Motion, and on behalf of the European community of Kenya, to express our great grief at the death of His Most Gracious Majesty, King George VI.

The Crown has always held for us a particular significance, especially in the sense that it unites us with the Mother country and with the other members of the Empire. His Late Majesty was an example of devotion to duty which must serve as an inspiration to us here, where our duty as citizens calls for special qualities. Many of us had the privilege of being presented to him, either on his visit to the Colony or in the United Kingdom, and were able at first hand to appreciate his wonderful charm and friendliness.

Our sympathy in her great loss goes out to Her Majesty the Queen, the Queen Mother, the Queen Mary, and all the Royal Family. The age of chivalry may have passed, but there is a latent chivalry in the heart of every Briton which, at a time like this, is aroused through loyalty and devotion to our young Queen, and we look forward with confidence to the second Elizabethan age.

Sir, I beg to second

MR. MADAN (Central Area): Mr. Speaker, I beg to associate myself, with my hon. colleagues here and the entire Asian community, with the Motion moved by the hon. Chief Secretary.

It is not possible for me, Sir, to state adequately the profound feelings of sorrow which the Asian community have experienced on the sad passing away of His Gracious Majesty. The Asian community feel that a great protector and fountain of justice has been removed from over their heads so sadly and so prematurely. The Asian community offer their humble but sincere sympathy to Her Majesty the Queen, Her Majesty the Queen Mother, and the Royal Family, in the great loss which they have suffered.

It is my submission that, if you look through the pages of the entire history of the world, you will not find another sovereign who did so much for the welfare of his people of all races, and who brought together so many people under one beneficial rule by his wisdom, his guidance, and his anxiety for the well-being of his subjects.

Sir, I consider it a privilege to assure Her Majesty of our complete and full loyalty, and the Asian community feel themselves proud to be able to call themselves British subjects. It will always be the humble prayer of the entire Asian community that Her Majesty may long rule over us to promote the prosperity and well-being of all her subjects.

MR. SHARIF (Arab Elected Member): Mr. Speaker, on behalf of the Arabs of the Colony and Protectorate of Kenya, I wish to say with all sincerity how deeply grieved we Arabs have been on learning of the sudden death of the late Most Gracious Majesty King George VI. We all felt it like the death of a beloved father, as indeed His Majesty was, being the head of a great family of nations whose people he very much inspired by his own example of unselfish devotion to duty and the welfare of his subjects. His death, coming at a time when the whole country had gone gay and festive due to the presence of the Royal visitors, our late King's daughter and her husband, was indeed a great blow particularly to the Arabs of the Protectorate who were hoping for a chance to express their

loyalty to the Royal couple. Fate has turned our joy into sorrow and our young Princess into our Most Gracious Queen, Queen Elizabeth II, as a Princess has already won the hearts of the peoples of the Commonwealth and the American continent, and is a Queen, we are sure that we have in our late King's daughter a most gracious and fitting Queen. And we take this opportunity before this Council to assure Her Majesty of our unflinching loyalty to her and her Government.

Long may she reign over us.

MR. MATHU (African Interests): Mr. Speaker, I should like to associate myself and the African community with the sentiments expressed by previous speakers on the Motion moved by the hon. Acting Chief Secretary.

Last Sunday we had a meeting of the African Members, and we passed this Motion without the knowledge that we were going to move the Motion already before the Council, and with your permission I should like to read it—

"We, the African Members of the Kenya Legislative Council, meeting in Nairobi, to-day, 10th February, 1952, most humbly offer our deepest sympathy on behalf of the African community to Her Gracious Majesty, Queen Elizabeth II, and the Royal Family, in their great loss to the death of His Late Majesty, King George VI, which we, all her loyal subjects, share. May God give them courage to bear the heavy blow with fortitude, and grant that Her Gracious Majesty, the Queen, and her husband, and their family, live long in happiness and prosperity."

Mr. Speaker, that short minute endeavours to convey most inadequately what would be the feeling of the African community in regard to the passing away of His Late Gracious Majesty, King George VI.

Since the time, Sir, of Queen Victoria, who issued a Royal Charter to the Imperial British East Africa Company in 1888, the African community of this Colony have been extremely loyal to the throne of the British people who have reigned over us for these last 50 years, and I think that loyalty has been deepening during the course of time, particularly when the African community has

(Mr. Mathui) had the highest privilege from time to time of being presented to His Late Majesty and the Royal Family at Buckingham Palace in 1946, and in 1948, and it has been deepened more particularly during the last visit of our Gracious Queen to this Colony. I think I should be voicing the feeling of the African community when I say that that loyalty will continue to be paid, as we are under the reign of Her Gracious Majesty, Queen Elizabeth II.

Before I sit down, may I say that our wish and the wish of all the communities here is that she may be spared to reign long over us in order to promote the welfare and the prosperity of all her subjects in this Colony and the rest of the Commonwealth.

Mr. Speaker, I beg to support.

The question was put and carried.

THE SPEAKER: We shall now stand in two minutes silence as a mark of respect to our Late Sovereign, His Majesty, King George VI.

Council stood in silence for two minutes.

ADJOURNMENT

THE SPEAKER: As a further mark of respect for our Late Sovereign, we will now suspend business until, after the funeral and re-assemble again at 10 a.m. on Tuesday, 19th February.

Council rose at 10.45 a.m. and adjourned until 10 a.m. on Tuesday, 19th February, 1952.

Tuesday, 19th February, 1952

Council assembled in the Memorial Hall, Nairobi, on Tuesday, 19th February, 1952.

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

The proceedings were opened with prayer.

MINUTES

The minutes of the meetings of 20th December, 1951 (Evening Sitting), and 12th February, 1952, were confirmed.

PAPERS LAID

The following papers were laid on the Table:—

BY THE ACTING CHIEF SECRETARY:

The Report of the Standing Finance Committee on Schedules of Additional Provision Nos. 7 of 1948, 7 of 1949, 4 and 5 of 1950, 1 and 2 of 1951.

East African Railways and Harbours Draft Estimates of Revenue and Expenditure, 1952 and 1951 revised.

East African Railways and Harbours Estimates of Revenue and Expenditure, 1952 and 1951 revised.

BY THE FINANCIAL SECRETARY:

The Financial Statements for 1950 and Report thereon by the Director of Audit.

Schedule of Additional Provision No. 9 of 1949.

Supplementary Estimates of Expenditure, 1952 (No. 1 of 1952).

BY THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES:

The Game Department Annual Report, 1950.

The Marsabit Mountain (Grazing Control) Rules, 1952 (Crown Lands Ordinance, Cap. 158).

BY THE ACTING DEPUTY CHIEF SECRETARY:

The Trade Testing Rules, 1951 (The Employment Ordinance, Cap. 109).

BY THE MEMBER FOR EDUCATION, HEALTH AND LOCAL GOVERNMENT:

Tuberculosis Survey of the Kenya African.

BY THE SECRETARY TO THE TREASURY: Treasury Memorandum on the Report of the Public Accounts Committee on the Colony's Accounts for 1948.

NOTICE OF MOTION

MR. SAUFER (Nairobi South): Mr. Speaker, I beg to give notice of the following Motion:—

This Council notes with concern that the High Commission has not met the request of the Kenya Government, arising out of Question No. 4 of October, 1951, by the hon. Member for Trans Nziwa, for a public inquiry into the causes of delay in clearing goods from the Mombasa Port; to apportion the responsibility for such delay and to make recommendations as to how the matter could be put right. As the action taken by the High Commission in convening a Conference of Experts, of which no oral evidence from the public was taken, does not meet the wishes of the public of Kenya for a full investigation, this Council resolves that the Kenya Government should now establish a fact-finding committee to inquire into the whole matter and the Government of Uganda should be invited to associate themselves with this inquiry.

MAJOR KEYSER: Mr. Speaker, I beg to give notice of the following Motion:—

Having regard to the assurance given by Government, during the recent Budget debate in Legislative Council that a committee would be appointed to inquire into the efficiency and economy of all Government departments, and having regard to the fact that consultation between Government and Unofficial Members has not resulted in any agreement as to the personnel of such a committee or the Terms of Reference, this Council resolves that an Efficiency Economy Committee should be appointed without further delay by Government comprising not more than three persons independent of Legislative Council and Government to carry out such an investigation with the following Terms of Reference:—

"To inquire into the efficiency and economic working of Government Departments, both centrally

and in the districts, with special reference to a reduction in the expenditure of each department by means of more efficient organization, methods and allocation of work, and individual output; and bearing in mind the need to maintain essential services at an efficient level to recommend that economies and reorganization should be made and the reports should be made available to Unofficial Members on request."

ORAL ANSWERS TO QUESTIONS

QUESTION No. 36

L. I. COL. GHERSIE (Nairobi North):

In view of the decision of the port authorities to increase penalty rates to Sh. 5 per day per ton on goods warehoused in port transit sheds, what steps does Government propose taking to ensure that merchants do not pass on the amount of the penalty to the consumer on scheduled items?

THE FINANCIAL SECRETARY: The cost price to the importer of price controlled goods is prescribed by Government Notice No. 110 of 1945 issued under the Defence (Control of Prices) Regulations, 1945. An importer is not permitted under this notice to include port rents in computing the cost price to him of the goods. It follows that the increase in penalty rents will not be passed on to the consumer.

MR. BLUNDELL (Rift Valley): Mr. Speaker, arising out of that answer, am I to assume, then, that articles which are not price controlled will possibly rise on the basis of Sh. 5 per ton?

THE FINANCIAL SECRETARY: The hon. Member did not really need to ask that question. The answer is obvious.

MR. BLUNDELL:—I thought I should like to hear it from you.

MR. HAVELock (Kiambu): What is it? THE FINANCIAL SECRETARY: Sir, I underestimate the intelligence of the hon. gentleman. If the goods are not price controlled, there is no control over the price.

THE SPEAKER: The hon. Member for Agriculture and Natural Resources.

MR. BLUNDELL: Mr. Speaker, may I ask another supplementary question?

THE SPEAKER: I have already asked for the Member for Agriculture and Natural Resources. You were not very quick.

MR. BLUNDILL: Arising out of his original answer I did ask the hon. Member whether Sh. 5 would be muted. It might be placed upon the cost. He has not really answered that.

THE FINANCIAL SECRETARY: I think, Sir, I made it fairly obvious as I thought the previous answer made it obvious that if goods are not price controlled there is no control of price. Therefore, the question of whether the Sh. 5 will be put on the goods or not is largely a matter for the consumer to decide as to whether he is prepared to purchase them at the higher price.

THE SPEAKER: The hon. Member for Agriculture and Natural Resources.

## MOTION

THE INCREASED PRODUCTION OF CROPS (ORDINANCE) 1952 (Continuation of)

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: Mr. Speaker, I beg to move: BE IT RESOLVED that the Increased Production of Crops Ordinance 1952 shall remain in force until 31st day of December, 1952.

As hon. Members are aware, this Ordinance terminates at the end of each year (or at the end of whatever period this Council renews it) unless we renew it, as we have done almost annually since its inception.

At the moment, it remains in force until 31st of March this year.

We had intended, and hoped, to introduce the Agricultural Ordinance, on which there has been a good deal of discussion over a very long period of time, at the end of last year, but owing to lack of agreement on one or two of its clauses, it could not be introduced until now. Obviously, it is not the type of legislation that one would wish to introduce into a dying Council. It is therefore our intention to introduce this Bill after the General Election in the middle of this year. In the meantime, we must, I submit, prolong the life of the Increased Production of Crops Ordinance, in that already quite a number of persons are drawing against the minimum guaranteed returns under that Ordinance. Therefore, Sir, I beg to move that the existing

legislation should remain in force until the 31st day of December, 1952.

THE DIRECTOR OF AGRICULTURE seconded.

MR. COOKE (Coast): Mr. Speaker, I am worried, as my hon. friend knows over one aspect of this matter. Could I get an assurance from my hon. friend that this guaranteed minimum return is not leading to inefficient farming in this country?

I know, Sir, the experience in England has been, and indeed the President of the English Farmers' Union said so in a speech the other day—or perhaps a few months ago—that these guaranteed returns had a tendency to make a farmer more careless, than he otherwise would be, in his farming activities.

Now, Sir, take for instance the question of wheat. The guaranteed minimum return for wheat is Sh. 100 an acre, and that is a large sum of money. I think that the price of wheat at the moment, or the export parity of wheat is Sh. 50 a bag. Therefore, a man need only produce two bags to an acre, and he cannot very well lose over it because he gets his guaranteed minimum return of Sh. 100 no matter what happens.

Now, Sir, contrary to what many people may think, I am as keen as anybody here to see that the farmers of Kenya get not only a fair but a generous reward for their endeavours and their labours, but it would be wrong, Sir, and I think definitely wrong, if we encouraged uneconomic farming by giving too high a reward to these farmers.

Now there are certain farmers, if I may use the term which my hon. friend the Member for TRANS NZAÑA does not quite like, who are farming rather marginal land, and there is an encouragement to farm that marginal land if the risk of loss is not very great. I merely make that point in order to get an assurance, if my hon. friend would give me it, that every reasonable precaution will be taken through production committees and others and through Agricultural Officers to see that this privilege is not in any way exploited. (Hear, hear.)

MR. BLUNDILL: Mr. Speaker, I hope the hon. Member for Agriculture would agree, if I were to move a small amendment to the Motion which was put before the Council.

(Mr. Blundill)

I think, Sir, we are unwise to move this Motion yearly to end on 31st December, 1952, and I am going to suggest to the Council that we should have it as 31st March, 1953. I do so because, in effect, the present Motion—we could not implement it if we decided to wind up at the end of 1952, the Increased Production of Crops Ordinance, we could not implement it at all, because a great number of crops are not fully harvested by then. In addition to that, our price structure, definitely and clearly, runs from March to March each year. I think, therefore, it would be better to accept that fact and tie up this Motion with the actual march of the seasons and the growing of crops and, therefore, Sir, I hope the hon. Member will feel that he can meet me.

I beg to move that the words "31st day of December, 1952" be substituted by the words "31st day of March, 1953".

MR. MACONOCHE-WELWOOD seconded.

MR. BLUNDILL: Are you finishing off now?

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: Mr. Speaker, dealing first with the point made by the hon. Member for the Coast, I would say that the dangers which he had—

THE SPEAKER: We are discussing an amendment which has been moved and you will have the opportunity to reply on the main debate later. I look it when you rose you intended to speak to the Motion which has been moved by the other side.

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: Mr. Speaker, as far as the amendment is concerned, I welcome it, and would be very pleased to accept it. I think it is much wiser to bring this Ordinance into force for a complete year, because, under the Ordinance, amongst other things, various moneys have been guaranteed as a result of crops sold, and by the end of December some of the crops would not be sold, and for that reason, Sir, amongst others, I welcome the amendment. I apologize that I did not spot that there was the wrong date, before it appeared on the Order Paper.

THE SPEAKER: Do you agree to the proposed amendment?

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: Yes, Sir.

THE SPEAKER: I do not think there is any necessity for me—

MAJOR KEYSER: There is a question I should like to ask about the amendment which, perhaps, a Member could answer from the other side. That is this, I took it, Sir, and I think most people in the country have taken it, that if the Increased Production of Crops Ordinance ceased on 31st December, 1952, that all crops planted during 1952 under that Ordinance would still, until they are reaped, be reaped under that Ordinance. It is quite obvious you cannot have a definite date on which the Ordinance is going to cease when crops have been planted under the conditions of that Ordinance. Now, Sir, if we make it 31st March, 1953, what will be the position of crops that are planted at the beginning of March or during late February, 1952? It means that the Ordinance will then have to apply to those crops to the end of 1953. I think that, Sir, is a legal point which perhaps the hon. Solicitor General could reply to. But I do maintain, Sir, that a crop which is planted while an Ordinance is in force must come under that Ordinance until it is reaped and marketed. (Hear, hear.)

The question was put that the words proposed to be left out stand part of the Motion and carried.

MAJOR KEYSER: The old technique of not answering, Sir.

MR. MACONOCHE-WELWOOD (Usain Gishu): Mr. Speaker, I rise briefly to try and allay some of the alarm of my hon. friend the Member for the Coast on the subject of the minimum guaranteed return.

There seems to be a sort of idea in his mind that the guaranteed minimum return will make it easy for farmers to take great risks with marginal land. Now, on that particular point I do not think he is aware that in any particular crop the guaranteed minimum return applies all over. That means that a man who plants say 150 acres of wheat on good land and chooses, as the hon. Member suggests, to plant another 50 acres of marginal land, suffers a very considerable risk because if the marginal land fails completely he will still get no guaranteed minimum return whatsoever

[Mr. Macnochie-Welwood]—upon it, if the 120 acres of other land produces, let us say, four bags an acre—

MR. COOKE: Mr. Speaker, will the hon. gentleman give way on a point of explanation? I was thinking almost entirely of the man who has only marginal land on which to plant wheat, and no other land. There is a feeling abroad that a number of people are farming on marginal land and marginal land only.

MR. MACNOCHIE-WELWOOD: I realize that that was the hon. Member's main point. I was coming to that. If he thinks that a man is sufficiently foolish to plant crops on marginal land knowing that the guaranteed minimum return will give him only barely the cost of putting that crop in (which is the fact) I doubt if the guaranteed minimum return is carefully worked out to see that you cannot make a profit on that land if you take the guaranteed minimum return. I think that is a point that the hon. Member is missing of.

The other point I should like to make is, I hope the hon. Member for Agriculture, in his reply will give the amount paid out in guaranteed minimum returns over the last five or six years, because I think that figure alone will show how very little the public purse is, in fact, affected by guaranteed minimum returns.

MAJOR KEYSER: I should like to say a word about the matter raised by the hon. Member for the Coast. It is a point that to anybody who is not cognizant of the workings of the district production committees, it is understandable they should have the doubts that he has expressed, but, Sir, I do think that the production committees in the country have worked in a most conscientious manner. I served on one for some time and I know, Sir, the infinite pains that they went to in order to see that the public purse was protected and that crops were not planted on land which had not been properly prepared or was not in a fit state to grow crops that would cover the guaranteed minimum return, and, Sir, the result of that very conscientious work by those production committees has been that the public purse has been called on to contribute very very little towards the guaranteed minimum return, and I say this, Sir, because I do think there should be no doubt at all in the minds of the

public of the very excellent work that has been done by these production committees at a very great cost of time to themselves. (Applause.)

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: Mr. Speaker, I also would like to allude to the remarks made by the hon. Member for the Coast. I think he possibly has in mind that there have been cases in which it would appear that certain persons have probably, to some extent at any rate, assisted by the minimum guaranteed return facilities, farmed on other people's land on rather a big scale, more or less gambling on wheat. Now I will not deny that that has happened. I have spoken in very strong terms on that subject at the Annual Committee of Production Committees' Conferences, and I have given specific instructions that that practice, if abused, is to be discouraged, in fact stopped, as far as we possibly can. Sir, I would like to give the hon. Member an assurance that what I think he has in mind has not been overlooked.

Beyond that, Sir, I would again like to endorse what the hon. Member for Trans-Nzoia has said in regard to the work done by the production committees. We have now very large sums of money outstanding each year, public funds representing drawings against guaranteed minimum returns, and luckily we have not yet had a bad infestation of locusts or any other tragedy and the money that has been lost, or the amount of money that is not recovered, is amazingly small, and the amount of good that this particular investment does in the way of developing this country I think cannot be underestimated.

Sir, I beg to move.

THE QUESTION WAS PUT AND CARRIED.

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: May I ask, was the amendment accepted before or not because I am afraid I am not quite clear?

THE SPEAKER: I am prepared to put the vote all over again if you wish it.

MR. HAVELOCK: You put the question and you ruled that the "Noes" had it.

THE SPEAKER: In that case I will be bound if that was so. I have been startled into saying "no" by the stentorian voice of my hon. friend, who should have voted "aye".

MAJOR KEYSER: I voted "aye". Sir.

THE SPEAKER: I heard a stentorian "no" which may have startled me out of my wits at the time, but I certainly did not go on and insert other words. Any point of order should have been raised at the time. I said the debate will now continue on the original Motion. That must be on the record. If you have any doubts of there not being a majority in favour of the whole Motion as it stands, I am quite prepared to put the question over again.

THE ACTING CHIEF SECRETARY: My understanding of the Motion which you put to us was that the words which it was proposed to leave out should stand part of the question.

THE SPEAKER: And it is carried by the "ayes" that ends the matter.

THE ACTING CHIEF SECRETARY: I thought it was carried by the "noes".

THE SPEAKER: Why did you not rise at once and insist on a division? Otherwise if the "noes" have it and no further action is taken the only thing I have got left is "Be it resolved that the Increased Production of Crops Ordinance 1942 shall remain in force until the . . . ." I put the question and you all answered, as far as I know. I will put it again to make sure.

MR. COOKE: Is this one of the Motions where you say "no" when you mean "aye". (Laughter.)

THE SPEAKER: It is so.

MR. HAVELOCK: It was!

THE SPEAKER: If it was carried by the "noes" that time I am surprised no one called for a division when there was so much opinion at variance.

THE FINANCIAL SECRETARY: I think certainly the understanding—

THE SPEAKER: The best thing is to rescind this Motion and move it over again.

THE FINANCIAL SECRETARY: What I was about to ask you, Sir, is—to get it perfectly clear—when you put the question in the form of, that the words proposed to be left out stand part of the question, and the "noes" succeeded in negating that particular form of question, does that mean we have to move a further amendment that certain words be inserted?

THE SPEAKER: Not to move a further amendment, but I have to put a further question.

MR. HAVELOCK: I understood the question that you put was that the 31st day of March, 1952—

THE SPEAKER: I never mentioned the 31st day of March.

MR. COOKE: The hon. Member obviously meant "aye" when he said "no", Sir.

THE SPEAKER: That is the conclusion I formed in my own mind. That is why I said we will carry on with the Motion as it stands. We have had the Motion as it stands replied to and I think we have now put the question on it. The matter therefore has been carried and therefore concluded.

## BILLS

## FIRST READING

On the Motion of the Attorney General, seconded by the Acting Solicitor General, the following Bills were read a first time:—

The Military Units (Amendment) Bill.  
The Public Officers (Change of Titles) Bill.

The Trade Unions Bill.  
The Public Health (Division of Lands) (Amendment) Bill.

The Diamond Industry Protection (Amendment) Bill.

The Trading in Unwrought Precious Metals (Amendment) Bill.

The Local Government (Kitale European Hospital Rate) Bill.

The Liquor (Amendment) Bill.

Notice was given that it was intended that these Bills should be taken through all their stages during the present Session.

## BILLS

## SECOND READING

*The Hindu Marriage, Divorce and Succession (Amendment) Bill*

THE ACTING SOLICITOR GENERAL: Mr. Speaker, I beg to move: That the Hindu Marriage, Divorce and Succession (Amendment) Bill be read a second time. This Bill makes a very small, but to a portion of the community at any rate, not an unimportant amendment to the Ordinance. Under the Subordinate



[The Acting Solicitor-General] Courts (Separation and Maintenance) Ordinance a court can, on the application of a wife whose husband has deviated from the straight and narrow, obtain an order relating to maintenance, and the custody of children. Section 15 of that Ordinance limits the application of it to persons married within the meaning of the Matrimonial Causes Bill; that is, a monogamous marriage. Section 4 of the Hindu Marriage, Divorce and Succession Ordinance provides that the Courts Ordinance shall apply to Hindu persons whose marriage is, under section 3 of the Ordinance, deemed to be a valid marriage, but section 3 only seems to be a valid marriage a Hindu marriage which is performed in the Colony. It therefore deprives many Hindu wives of the advantages of the Subordinate Courts (Separation and Maintenance) Ordinance. This result, it has been represented, was never the intention of the Select Committee at whose insistence clause 6 was inserted in the Bill, and the purpose of this short Bill is to amend section 4 of the Hindu Marriage, Divorce and Succession Ordinance so as to provide that it shall apply as well to a Hindu marriage performed outside the Colony, as it does to one which is performed inside the Colony.

Sir, I beg to move.

THE ATTORNEY GENERAL, seconded.

MR. USHER (Nombasa). Mr. Speaker, I feel that a Bill with such excellent objects and reasons should receive a welcome on behalf of the Hindu Community.

I beg to support. (Laughter.)

The question was put and carried.

#### The Ferries (Amendment) Bill

THE ACTING CHIEF SECRETARY, Mr. Speaker, I beg to move: That the Ferries (Amendment) Bill be read a second time. Sir, the purpose of this short and simple Bill is to bring the Ferries Ordinance into line with the Road Authority Ordinance. Under the latter Ordinance the Road Authority is statutorily responsible for ferries. Under the principal Ordinance now being amended the Director of Public Works is that statutory authority.

THE DIRECTOR OF PUBLIC WORKS seconded.

MR. USHER: Mr. Speaker, I rise to ask one question in regard to this Bill, and that is what would be the effect of it upon an agreement subsisting at present between the Director of Public Works and a company operating a ferry? I am referring particularly, of course, to the new agreement between the Director of Public Works and the Kenya Bus Company in respect of the Ikonji Ferry.

THE ACTING SOLICITOR GENERAL, Mr. Speaker, I think the question of the hon. Member for Mombasa is answered by the provision which is contained in clause 4 of the Bill which inserts a new section whereby the benefit and burden of all agreements entered into with any person in pursuance of the provisions of the Ordinance prior to, and subsisting at the commencement of, this Ordinance are hereby vested in the Road Authority.

THE ACTING CHIEF SECRETARY: If that point has been answered to the satisfaction of the hon. Member, I do not think there is anything further I need reply to.

The question was put and carried.

#### The Road Authority (Amendment) Bill

THE ACTING CHIEF SECRETARY, Mr. Speaker, I beg to move: That the Road Authority (Amendment) Bill be read a second time.

Again, Sir, the need for this legislation is the same as for the immediately previous Bill that has just been read a second time. In addition, however, clause 3 of this Bill purports to make it unnecessary to publish the Road Authority estimates in the *Official Gazette*. It is felt, Sir, that the fact that those estimates are laid on the Table of this Council and can be given full publicity in the Press can be given a copy by paying to the Government Printer the sum of Sh. 2 gives sufficient publicity to these estimates. Another effect of clause 3 will be to save quite a lot of expenditure both of money and of paper.

I beg to move.

THE DIRECTOR OF PUBLIC WORKS seconded.

The question was put and carried.

#### The Municipalities (Amendment) Bill

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

The objects and reasons of this Bill, as printed, adequately explain the purpose. In 1950, when the Road Authority was established and the Ordinances were amended to provide for the financial requirements of the Road Authority, by inadvertence the Road Authority was made, by law, responsible for certain subventions to local authorities which obviously must come out of general revenue and not from the Road Authority Fund. I refer to the subventions towards salaries of Town Clerks, the salaries of Medical Officers of Health, the salaries of Engineers, and the Government's proportionate share of Public Health expenditure of local authorities. It is now desired to correct that error and put the responsibility where it rightly belongs.

In the Committee stage, Sir, subject to your concurrence, I propose to move a small further clause which has nothing whatever to do with the main subject of the Bill. (Laughter.) The clause was put forward too late for inclusion in the printed Bill. It is a very small matter, and it will save the time of the Council and expenditure on paper on the part of the Government Press, which is a matter very close to the hearts of hon. Members—(hear, hear)—if we get it through in the Committee stage.

I beg to move the Bill. (Applause.)

THE ACTING SOLICITOR GENERAL seconded.

#### The Matrimonial Causes (Amendment) Bill

THE ATTORNEY GENERAL, Mr. Speaker, I beg to move the second reading of the Matrimonial Causes (Amendment) Bill, which is designed to remove certain anomalies of a procedural character from this branch of the law. The Bill follows almost word for word the Law Reform (Miscellaneous Provisions) Act, which was passed by the United Kingdom Parliament in 1949. When speaking on that measure in the House of Commons, the then Attorney General of England described it as "a useful little Bill" and

went on to explain that it made no important alterations in the substantive law relating to matrimonial causes, but removed certain difficulties in connexion with the jurisdiction of the courts and similar allied matters.

Now one such difficulty is dealt with by clause 2 of this Bill, because under the law as it stands at the moment in this Colony, any wife who seeks a decree against her husband who happens to be domiciled abroad is unable to bring her suit in the courts of Kenya, even though she might have been residing in this Colony for many years and intends to reside in this Colony permanently. The reason is that, by legal fiction the wife takes the domicile of her husband and since jurisdiction in divorce cases is based upon domicile, it would normally follow that a wife who sought a divorce from her husband must proceed to his country to institute divorce proceedings there, with all the expenditure and inconvenience which would thereby be involved. This Bill will remove this difficulty by enabling a wife in the circumstances I have described to bring her proceedings in the courts of Kenya provided, of course, she has certain residential qualifications which are set out in clause 2 of the Bill.

The next clause deals with quite a different matter, namely, the legitimacy of children who are born of a voidable marriage, which has been annulled by a decree of nullity. A decree of nullity has retrospective effect, making a voidable marriage void *ab initio*. In consequence, any children who are born before that decree is made are, apart from statute, illegitimate. This clause will remedy that defect in the law and will make all such children legitimate in the same way that they would be legitimate if their parents had been validly married in the first place.

Perhaps the most interesting clause in the Bill, certainly the most interesting from the point of view of the lawyers, is clause 5, which repeats the rule in *Russell v. Russell*. Those hon. Members whose memories go back to the early twenties will no doubt recollect that *case célèbre* in which the husband brought proceedings against his wife and, having failed to establish a matrimonial offence in respect of named co-respondents, brought a suit in which he alleged a matrimonial

[The Attorney General]

offence in respect of an unnamed co-respondent, alleging in support of that plea, that a child had been born to his wife which he could not, in the circumstances of which he gave evidence, have been the father.

The learned trial judge admitted the evidence of the husband on that point—technically known as evidence of "non-access"—despite the objections by the Counsel for the wife, who put forward the view that it was against public policy to allow either of the parents to a marriage to give evidence tending to hasten the divorce which had been born during wedlock. The matter was taken to the Court of Appeal where the three judges of the Court of Appeal affirmed the judgment of the trial judge and held that the evidence of the husband was admissible.

From thence the case went to the House of Lords where the noble Lords were in disagreement, three of them holding the view that the evidence should not be admitted, and two dissenting judgments holding that it should be admitted. So that by the course of the case the issue was considered by no less than nine judges, three of them ruling that the evidence was inadmissible and six of them ruling that the evidence was admissible, but as the three who ruled that it was inadmissible sat in the House of Lords, their view prevailed, because lawyers—unlike politicians—prefer quality to numbers. (Cries of shame—laughter.)

But speaking for myself, Mr. Speaker, I would say that I have always regretted that Lord Sumner, in his very powerful dissenting judgment, did not succeed in persuading the majority to his view when he delivered his judgment in the House of Lords. He said in delivering his judgment that no doubt it was a case which would excite feelings of sympathy, commiseration and chivalry; but he went on to say that the questions that had to be decided were questions of pure law upon which, he said, it was impossible to demagogue and about which it was useless to be perturbed. In the lucid judging commentary he put forward arguments which have always seemed to me to be logically unanswerable. I must confess when I re-read the case the other day, I was still very firmly of that

opinion. Therefore, for my part, Mr. Speaker, I welcome the fact that the legislature in the United Kingdom has, after an interval of thirty years, adopted the view put forward by Lord Sumner, and, if this Bill is passed to-day, that the legislature of Kenya will likewise adopt that view.

That, I think, Mr. Speaker, covers all the salient points that arise on this Bill, and I venture to think that the majority of the Members, perhaps all Members of this Council will agree with the description which I said was given to it by the Attorney General of England—a useful little Bill. If anyone should cavil with that as being an understatement, I would remind him that understatement is a well-known English failing, and one to which Attorneys General are particularly prone.

Accordingly, Mr. Speaker, I beg to move. (Applause.)

THE ACTING SOLICITOR GENERAL

MR. SALTER: Mr. Speaker, whilst this Bill is naturally welcomed, and I give it full support, as section 2 at any rate does remove a good many hardships in this Colony on the question of domicile, nevertheless, I have been asked by some people to say that fears have been expressed about basing divorce proceedings upon residence rather than, as hitherto, on domicile only. I have no doubt that the matter has been most carefully considered, both in the United Kingdom and, indeed, in this Colony; but I think if the hon. Mover could tell us that there would be no difficulties in, shall we say, international circles about a divorce in this country, or in the United Kingdom, being recognized in other countries where it is based on domicile and not on residence, it would be of assistance. I am feared we might become—it has been expressed, but I do not say it is a great fear—like one of the States in the United States of America, and it has given some alarm that a person, say, who is divorced in this Colony and whose divorce proceedings have been based on residence in that way, might find difficulty in having that divorce recognized in a country where they continue to regard it as being based on domicile.

THE SPEAKER: It is now 11 o'clock and Council will suspend business for 15 minutes.

Council adjourned at 11.09 a.m. and resumed at 11.25 a.m.

THE SPEAKER: The Motion before the Council is that the Matrimonial Causes Bill be read a second time.

THE ATTORNEY GENERAL: Mr. Speaker, there is only one point which has been raised which calls for a reply, and that is the point which was raised by the hon. Member for Nairobi South when he inquired whether a decree granted under clause 2 of this Bill would be recognized by the Courts of other countries abroad, both British and foreign. As I mentioned, Mr. Speaker, in explaining this Bill, it follows word for word the provisions of the Law Reform (Miscellaneous Provisions) Act of 1949 passed by the United Kingdom Parliament; I have read all the Hansard debates on that Bill, and at no time did anyone suggest that there were grounds for apprehension that any decree granted under the corresponding provision of that Act would not obtain recognition in any other Courts in the world. I feel quite certain if there had been any grounds for misgiving on that point someone would have raised it during the course of that debate. Consequently since a decree granted in the Kenya Courts under this Bill would have the same validity as a decree granted under the corresponding provisions of the United Kingdom Act, I think it is quite clear that my hon. friend need have no ground for apprehension on that score. Furthermore, I would add that the text of this Bill has been submitted to the Secretary of State's legal advisers and they likewise have raised no query of that kind. Lastly, may I say that the text was also submitted to the Law Society of Kenya, and they expressed no misgivings of the kind to which my hon. friend has referred.

Accordingly, therefore, Mr. Speaker, I suggest that if this Bill is passed any decree that is granted under that clause will be recognized by all properly constituted Courts wherever they may be in other parts of the world.

The question was put and carried.

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

- The Hindu Marriage, Divorce and Succession (Amendment) Bill.
- The Ferries (Amendment) Bill.
- The Road Authority (Amendment) Bill.
- The Municipalities (Amendment) Bill.
- The Matrimonial Causes (Amendment) Bill.
- THE ACTING SOLICITOR GENERAL seconded.
- The question was put and carried.

COUNCIL IN COMMITTEE

The Hindu Marriage, Divorce and Succession (Amendment) Bill

Clause 2

THE ACTING SOLICITOR GENERAL: Mr. Chairman, I beg to move: That clause 2 be amended by substituting for the words "is deemed to be a valid marriage under section 3 of this Ordinance or whose marriage, if contracted outside the Colony, is a valid Hindu marriage" the words "is deemed, under section 3 of this Ordinance, to be a valid marriage, or whose marriage would be so deemed if it had been contracted in the Colony".

THE CHAIRMAN: I will save as much time as possible, and put it that the Committee agrees with the proposed amendment.

The question of the amendment was put and carried.

The question that clause 2, as amended, stand part of the Bill was put and carried.

The Ferries (Amendment) Bill

Clause 4

MR. USHER: Mr. Chairman, may I ask for a little elaboration on the point I raised upon the second reading. I am not quite sure how in fact this evolution of authority is going to work. If it is a fact that the Roads Branch of the Public Works Department will act as an agent of the Road Authority how in fact will the duties of the hon. Director of Public Works now be carried out?

**THE ACTING CHIEF SECRETARY:** Mr. Chairman, the answer, I think, is that the officers of the Public Works Department—in fact the Public Works Department—will function as an agent of the Road Authority.

The question that clauses 1, 2, 3 and 4 stand part of the Bill was put and carried.

#### *The Municipalities (Amendment) Bill* Clause 1

**THE MEMBER FOR EDUCATION, HEALTH AND LOCAL GOVERNMENT:** Mr. Chairman, I beg to move a small amendment to clause 1: that there be substituted for the words "the Municipalities (Amendment) No. 2) Ordinance, 1951" which occur in clause 1 the words "the Municipalities (Amendment) Ordinance, 1952".

The question of the amendment was put and carried.

The question that clause 1 as amended stand part of the Bill was put and carried.

#### *Clause 2*

**THE MEMBER FOR EDUCATION, HEALTH AND LOCAL GOVERNMENT:** Mr. Chairman, I wish to propose an amendment, but I believe it is the practice that we take that after clause 2.

**THE CHAIRMAN:** I do not want to keep altering the procedure for everybody's different views, but the general view is that new clauses are taken after the other clauses of the Bill.

The question that clause 2 of the Bill stand part of the Bill was put and carried.

#### *New Clauses*

**THE MEMBER FOR EDUCATION, HEALTH AND LOCAL GOVERNMENT:** Mr. Chairman, I think, Sir, subject to your ruling, that the procedure is to move the second reading of the new clause—that the new clause as circulated to hon. Members be read a second time. That is, that after clause 1 that there be inserted a new clause: "That in paragraph (c) of subsection (1) of section 95 of the principal Ordinance there be substituted for the words 'under the provisions of this Ordinance' the words 'under the provisions of this or any other Ordinances'". Now, Sir, clause 95 protects the revenues of municipal local authorities in that the

Registrar of Titles must refuse to register any transfer of land that is submitted to him until the document is accompanied by a certificate from the town clerk to say that certain specified dues for which the owner of the land is indebted to the local authority have in fact been paid. Those dues are specified under sub-sections (a), (b) and (c) of section 95.

Under (a) are included all charges for services rendered by the Council in refuse removal, sewerage and the like; (b) all rates due to the Council; and (c) all sums, if any, due on account of any expenses incurred or advances made by the Council under the provisions of this Ordinance. Now, Sir, there are debts accruing to local authorities which are incurred under the provisions of other Ordinances than this one. It is desired to protect the revenues of the Council by the inclusion of those debts in the provisions of this section. Therefore the amendment is proposed to cover that point.

I beg to move, Sir,

The question was put and carried.

The Acting Clerk read the marginal note.

The question was put and carried.

The question that the new clause stand part of the Bill was put and carried.

**THE ATTORNEY GENERAL** moved: That the following Bills be reported back to Council with amendment—The Hindu Marriage, Divorce and Succession (Amendment) Bill and the Municipalities (Amendment) Bill—and the following bills be reported back to Council without amendment—The Ferries (Amendment) Bill, the Road Authority (Amendment) Bill, and the Matrimonial Causes (Amendment) Bill.

Council resumed and the Member reported accordingly.

### BILLS

#### THIRD READINGS

**THE ACTING SOLICITOR GENERAL** moved: That the Hindu Marriage, Divorce and Succession (Amendment) Bill be read a third time and passed.

**THE ATTORNEY GENERAL** seconded.

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

**THE ACTING CHIEF SECRETARY** moved: That the Ferries (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 accordingly.

**THE ACTING CHIEF SECRETARY** moved: That the Road Authority (Amendment) Bill be read a third time and passed.

**THE DIRECTOR OF PUBLIC WORKS** seconded.

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

**THE MEMBER FOR EDUCATION, HEALTH AND LOCAL GOVERNMENT** moved: That the Municipalities (Amendment) Bill be read a third time and passed.

**THE ACTING CHIEF SECRETARY** seconded.

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

**THE ATTORNEY GENERAL** moved: That the Matrimonial Causes (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 accordingly.

### ADJOURNMENT

Council rose at 11.40 a.m. and adjourned until 9.30 a.m. on Wednesday, 20th February, 1952.

**Wednesday, 20th February, 1952**  
Council assembled in the Memorial Hall, Nairobi, on Wednesday, 20th February, 1952.

Mr. Speaker took the Chair at 9.50 a.m.

The proceedings were opened with prayer.

### MINUTES

The Minutes of the meeting of 19th February, 1952, were confirmed.

### PAPER LAID

The following paper was laid on the Table—

**BY THE ACTING CHIEF SECRETARY:**

Estimates of Revenue and Expenditure of the East Africa High Commission Non-Self-Contained Services for the year 1952.

### BILLS

#### SECOND READING

*The Military Units (Amendment) Bill*

**THE ACTING DEPUTY CHIEF SECRETARY:** Mr. Speaker, I beg to move: That the Military Units (Amendment) Bill be read a second time. The main Ordinance, which is being amended, was enacted in 1939, and makes provision for the raising and the administration and control and discipline of military units in Kenya.

Section 8 of the Ordinance at present reads as follows:—

"Any member of a unit shall, for the duration of the present war and twelve months after the termination thereof or for such shorter period as the Governor may at any time determine, be liable for military service in the performance of the functions of such unit as specified in section 4 of this Ordinance."

Some of the units which were raised under this Ordinance are still in existence, and are likely to be permanently required. It is therefore necessary to replace section 8 of the Ordinance, and insert it in the Bill, in order that members of those units shall be permanently liable for military service in performance of the functions of the units.

Sir, I beg to move.

**THE ACTING SOLICITOR GENERAL** seconded.

MR. BRUNDILL: Mr. Speaker, I should like to ask the hon. Member, in his reply, to give an assurance that soldiers will not be affected by this change; in other words, that the attestation time of the soldiers concerned allows the alteration which will allow the Military Units Ordinance to carry on without affecting them. I should not like to think that soldiers are affected under the form of the present Ordinance, believing their term of service would end with the present Ordinance, and that we should arbitrarily alter it. I think they are attested in another form, but I think we would like an assurance from the hon. Member.

THE ACTING DEPUTY CHIEF SECRETARY: I can give the assurance the hon. Member wants.

The question was put and carried.

#### The Public Officers (Change of Titles) Bill

THE ACTING DEPUTY CHIEF SECRETARY: Mr. Speaker, I beg to move: That the Bill entitled "An Ordinance to Provide for the Change of Titles of Public Officers" be read a second time.

Sir, the purpose of this Bill is evident from the title, and it is sufficiently explained in the Memorandum of Objects and Reasons.

I beg to move.

THE ACTING SOLICITOR GENERAL: seconded.

The question was put and carried.

#### The Trade Unions Bill

THE ACTING DEPUTY CHIEF SECRETARY: Mr. Speaker, I beg to move: That the Trade Unions Bill be read a second time. I propose in the first place to state shortly the Government's attitude towards trade unions; to give a brief account of the origin and history of the present Bill; and finally to refer briefly to some of the more important provisions of the Bill where they differ from those of the existing Trade Unions Ordinance, Chapter 117.

It is well known that the trade union movement has proved a powerful instrument in other parts of the world in securing a better condition of employment, including pay, for workers. The individual employee is usually compara-

tively poor and badly informed, and he is therefore at a great disadvantage in negotiating alone with his employer. This is particularly the case in Kenya, where the majority of employees are Africans, who have not for very long enjoyed the benefits of education. But a combination of workers is obviously in a much stronger position, and the Government therefore considers the trade union movement should be encouraged and fostered, in order to provide the means of friendly negotiation between workers on the one hand and employers on the other.

But, Sir, that is only one side of the picture. It is obviously possible, if a trade union is badly or irresponsibly advised, for it to do great harm to the industry concerned, to the workers in the industry, and to the community at large. It is well known that this has actually happened in other countries where the trade union movement has grown rapidly without adequate supervision and guidance. It has happened to a small extent in Kenya. The Government therefore considers it imperative, while encouraging and fostering the trade union movement, to make arrangements for a measure of supervision and control over them. This is one of the objects of the present Bill, and I shall not attempt to deny that in many respects this Bill provides for more detailed supervision and control than the existing Ordinance. That is deliberate and intentional, and the Government believes that it is in the best interests of the unions themselves and the workers and the community as a whole.

The existing Trade Unions Ordinance was enacted in 1937, and it cannot be said that since that time the trade union movement has made very great progress in Kenya. There are at present only nine employees' organizations which have registered as trade unions, and they contain altogether only some 10,000 employees. There are more than 400,000 persons in paid employment at any one time in Kenya, and it is therefore plain that only a very small proportion of workers in employment are members of trade unions. This does not, of course, mean that there is no means of negotiation or consultation between employees and employers outside the trade unions. There are in many industries workers

(The Acting Deputy Chief Secretary) associations of one kind or another, which (sometimes with the assistance of the Labour Department, but often on their own) have consultations and conduct negotiations with their employers.

Now, Sir, I will turn to the origin and history of the present Bill. Some two years ago the Labour Commissioners for East Africa, at one of their periodical conferences, reviewed the trade union movement and legislation governing it, and they made a series of recommendations.

Those proposals were based on practical working experience over a number of years, and they are the origin of the present Bill. A draft was prepared on the basis of those recommendations, and was examined by the Attorneys General of the Governments of the various Territories, and by the Governments themselves. The draft was then submitted for examination by the Labour Advisers to the Colonial Office. This advice was most valuable. The Labour Advisers of the Colonial Office are experts in this field, and are able to bring to bear on our particular problems experience derived from Europe and from many other Colonial territories.

The original draft of the Bill was subjected to a series of revisions. The Bill was examined in Kenya by the Labour Advisory Board; by the Board of Commerce and Industry, which referred it to a Legislative Sub-committee which went through the Bill very carefully and finally it was examined by the African Affairs Committee. It was also examined in the Colonial Office at a conference of Labour Commissioners towards the end of last year at which Mr. Carpenter, our Labour Commissioner, was present. It is therefore true to say, Sir, that this Bill has already been subjected to the most careful and exhaustive examination, both here and in the United Kingdom, by well informed people representing all points of view. I am aware, that some criticisms of the Bill were made at the recent meeting of the African Affairs Committee at which, unfortunately, I was not able to be present. I shall revert to that point later on in my speech.

The Bill has also been discussed with the trade unions in Kenya, and the Labour Commissioner will later on say

that he is having further discussions with the trade unions in a few days.

Now I will turn to the Bill itself. I do not propose at this stage to discuss its provisions in detail because I think that can be done more appropriately at the Committee stage, either by a Committee of the whole Council; or if the Bill is referred to a Select Committee, by the Select Committee.

The main provisions of the Bill are already contained in the existing Ordinance, Chapter 117. But the new Bill differs from the existing Ordinance, in three main respects. Firstly it makes provision in various sections for matters which were not covered in the existing Ordinance, but which experience has shown ought to be regulated by law. Instances of this kind will be found in Part 4, Registration; Part 5, Rights and Liabilities; Part 6, Constitution; and Part 8, Forms and Accounts.

Secondly, the Bill provides for organizations of workers below the trade union level, and not possessing the powers and responsibilities of a trade union. These are the staff associations, employees' associations and employees' organizations, with which Part 2 of the Bill deals, and the probationary trade unions which are referred to in sections 11, 12 and 22 (2). The Labour Commissioner and I, and this was also the opinion of the Conference of Labour Commissioners at home, consider that these parts of the Bill should prove very valuable. It is most desirable that workers should gain experience in a modest way and learn the art of negotiation, the management of funds, and other matters with which a trade union is concerned at the staff association or employees' association level, before forming a fully fledged trade union. Numbers of such employees' associations exist now, and our view is that they should be fostered and encouraged.

Thirdly, the Bill provides in many of its sections for an increased degree of supervision mainly by the Registrar of Trade Unions. Members probably know that at the present time, the Registrar General is also Registrar of Trade Unions.

At the meeting of the African Affairs Committee which I referred to, some criticism was made of these provisions which provide for greater control, on the ground

[The Acting Deputy Chief Secretary] that the tightening of control might discourage the formation and growth of trade unions. We believe that they will have exactly the opposite result, and that they will ensure that trade unions are properly and reasonably conducted, that the interests of members are probably looked after, and that the funds are used for purposes, which are really for the benefit of the members of the union. There is no intention whatever to use these provisions, or any provisions of the Bill, to stifle the trade union movement. The intention is exactly the opposite.

I referred to the possibility of the Bill going to a Select Committee. The Bill has already been very carefully and closely examined by a number of different bodies, but if there is a general wish on the other side of the Council, or in any section on the other side of the Council, for a Select Committee, then the Government will have no objection at all to that course. We are anxious that every opportunity should be given for the fullest examination of this Bill. If, therefore, it appears from the debate on the second reading that there is a desire for a Select Committee, I will, in my reply, move that the Bill be referred to a Select Committee.

Finally, Sir, I should say that at the Committee stage I shall be moving one or two amendments to the Bill.

Sir, I beg to move. (Applause.)

THE LABOUR COMMISSIONER: Sir, I beg to second, reserving my right to speak.

MR. JIRIMAH (African Interest): Mr. Speaker, on standing to speak on the Bill, I have only very little to say and that is mainly to criticize the provisions of it. The hon. Member said that the majority of employees who would be affected by the Bill will be Africans, and, therefore, Sir, everyone can see how the Bill is framed because most of the employers are going to be non-Africans. My criticism, Sir, about the Bill is that it is too strict in supervision and control, and as I understand that it does not compare with the provisions of other trade unions in other countries, I think, Sir, that it needs some criticism.

It has been thought or alleged that the present trade unions have not been properly carried on, but has not been alleged

that most of their moneys subscribed have been, perhaps, squandered by their executive officers. But, Sir, I think to introduce a Bill of this nature to have such strict control is, in my view, not giving the people the freedom of trade unions, but making them a union of Government. If that is the case, Sir, I think we are not quite fair in saying that it is a trade union to help the workers. It is a measure which has provided for strict control and supervision. I wish to move an amendment during the Committee stage.

MR. USHER: Mr. Speaker, there are one or two features of this Bill which I find somewhat disquieting and I hope that my fears may be allayed by the reply of the hon. Member. This will prove, I believe, a popular measure, but we ought to be careful that the popularity shall not be merely with those who will benefit from the trade unions by way of office and those who having slight qualifications and, perhaps, little desire to work, still wish to associate themselves with others in order to bring pressure upon employers in general.

May I invite attention to clause 16? Now, I may be wrong about this but it appears to me that there is no provision—

THE SPEAKER: I hope the hon. Member will refrain as far as he possibly can from discussing details of the Bill on the debate for the second reading.

MR. USHER: Mr. Speaker, I really was not intending to discuss clause 16 in detail, but merely to draw attention to it because it appears to me that no provision exists there for preventing the formation of agglomerations of people without any specified trade, and I feel, Sir, if I may say so, that that is a matter of principle. I may be wrong about that. It may be possible for the Registrar to refuse these things, but if we were to get such a union as the Transport and General Workers Union in England, I think it would be a very great pity, at least at this stage. (Hear, hear.) It is possible that my point could be met by an amendment to the definition of trade union. But what I am anxious to secure is that a trade union should be a trade union and a union of people who are in some way qualified at something and not what is called at home a trades union. That is the first point.

[Mr. Usher]

My second point regards the application of funds. I will not mention the clause, Sir. (Laughter.) It does seem to me to be improper that at least a percentage only of the funds should be allocated to the administration of a trade union, and that other worthy purposes, such as are enumerated somewhere in the Bill, should not thereby be starved.

My third point, Sir, concerns picketing. I am profoundly distrustful of the provisions that allow of so-called peaceful picketing. (Hear, hear.) I do not wish to go back upon the past, but I would ask hon. Members all to consider whether we have yet arrived at a stage when such a system can be properly allowed. (Hear, hear.) May I say, before I sit down, in illustration of my first point, that in Mombasa we have a branch of the Transport and Allied Workers Union, and I am credibly informed that a short time ago a perfectly good Government servant applied for membership and was very properly refused, but he was a persistent man, and it did not prevent the enrolment of his four year old daughter. (Laughter.)

MR. MAIHU: Mr. Speaker, I should like to make some remarks in regard to the second reading of this Bill, and the first point which I want to touch on is the principle provided in this Bill of subsidiary associations and organizations which are below the trade union level.

Personally, I think that it is not a right move in starting these small associations because I think the workers have more than a burden in considering two different forms of movement at one and the same time. In fact, the impression that has been made on me by the officials of the trade unions, who have had discussions with me about this Bill is, to quote their own words: "That they will slow down the trade union movement". I think it is quite true that it will slow down the trade union movement, and it diverts the minds of the workers, to associations which are not up to the standard of trade unions. It may be added that it is right to start in a small way, as the hon. Member has said, to learn peaceful negotiation with the employers, but, at the same time, I think it would be a waste of energy and effort on the part of the trade unions to start, I think, not on the proper lines. Personally my wish,

and I think it is the wish, as I say, of these trade unions, is that they should straightaway go ahead in studying the trade union movement.

That brings me to the point which is provided in the Bill of what they call probationary trade unions. Now, a Registrar, on application, can tell a trade union that: "You are not going to be registered right now, but what I shall do is to give you some time to remain on probation so many months, then when I know that you can do the job, I shall consider registering you". There again, I think it is a slowing down process, giving a feeling of frustration to these workers who want to come and organize themselves in order to help in the development of the industries of this Colony. Now that is actually quite a good point, but the Registrar can say: "We are not going to register you, you are not up to standard, and I am going to refuse registration straightaway". There again, I think that is not going to encourage the trade union movement in the way that the hon. Member has said. I do not think that unless these would-be trade unions have committed any crime we should anticipate that they are not going to function properly, and therefore, refuse their registration. There again, I have quoted the remarks on this matter from the trade unions themselves, and we are very concerned about it.

The other point which I should like to refer to, Sir, is the question of supervision, guidance and control which have been referred to by my hon. friend the Member. I agree that you want some guidance, you want some supervision and you want some control in developing human associations such as the trade unions we are discussing this morning, Sir, but I think, as my hon. friend, Mr. Jeremiah, has said, this control has gone too far. One of the most important principles that the trade union movement has demonstrated in the whole world is that they form important bases of democracy. They train workers to run their affairs in a democratic manner and if you, Sir, study this Bill, as I am sure you have, you will find that it is either the Member for Labour or the Registrar himself who has to give the final word in every detail. There is no finally allowed to the trade unions in this matter.

MR. COOKE: Court of Appeal.

Mr. MATHU: And if they cannot exercise the freedom of decision, final decision, in their affairs, I say that we are not helping them to develop as democratic institutions, and the Registrar and the Member or those who are given the authority in this Bill seem to be the real trade unions themselves; and that, Sir, is a point that has been brought out in a memorandum that has been handed to me by the trade unions themselves, and I do know, Sir, if this Bill goes to a Select Committee, I hope it will, because I should like the trade unions and other people to be given a further opportunity of giving their detailed views on these provisions. In brief, Sir, I think the control is too strict, and we would like, if this Bill is referred to a Select Committee, to request that these trade unions be given breathing-space in the running of their affairs.

Finally, Sir, I should like to quote from this memorandum I got from the trade unions which sums up their impression, their attitude to the whole Bill. "For the above reasons we confidently feel that this Law has been enacted in order to kill the trade unions movement, and control for associations of democratic institutions of workers."

I do not agree with them that it is going to kill the trade union movement, that I do not agree with it, it is not going to kill the trade union movement, but it is definitely going to discourage and stifle their activities to an extent that you might find in the end that they are so weak and not as strong as we would like. So, Sir, although, as I say, I am going to support the second reading of this Bill, I shall request that it be referred to a Select Committee of this Council, so that we can have a further opportunity of scrutinizing it and hoping it will, to an improvement which will properly encourage the trade union movement of the people.

Sir, I beg to support.

Mr. BUSEDILL, Mr. SNAKER, I should like to rise to support the Bill subject to one or two points of principle which the hon. Member for Mombasa has raised, and to say that if, indeed, the Bill does provide a considerable amount of discipline for the running of trade unions, I think that is necessary in the stage of development which this country has

reached. And, what is more, I believe that it is to the great advantage of the workers themselves that there should be clear-cut rules and regulations under which the officers of the union will administer the charges and funds given to their care. I believe that is a rightful necessity, and for this Council at this stage to do anything which would weaken the provisions of the Bill in that respect would, in my submission, be a great handicap for the workers themselves. For those reasons, therefore, I personally endorse many of the more restrictive clauses in this Bill.

Speaking for the European Elected Members, Sir, we would have hoped that the Bill would have gone straight through its second reading in order to expedite matters to-day without it going to Select Committee.

Subject to those remarks, Sir, I support the Bill.

THE LABOUR COMMISSIONER: I would like to clear up one or two points made by hon. Members on the other side.

One of the principal contentions made by my hon. friend Mr. Jeremiah was that the Bill, generally, was too restrictive, and my hon. friend added that in other countries there were not these restrictive measures, there was not this sort of control, and he did not really see why it should exist here.

Sir, there is a misconception in the minds of quite a number of persons in this matter. The trade unions at home are divided into two categories, registered trade unions and unregistered trade unions. While in the United Kingdom, Sir, there is no obligation on the part of any union to register; yet the greater majority of unions, in fact, do register in order to avail themselves of certain privileges, and if they do register, they then have to submit to the same sort of control as we see in our present Ordinances to-day, the one that is operating widely known or not realized—the submission of accounts and all that sort of thing; the obligation to have a registered office; all that occurs at home.

The Registrar General at home is responsible for the regulations of trade unions. They, too, are not allowed to be registered if one of their main purposes

[The Labour Commissioner]

is unlawful, or if their constitution is unlawful, so that it cannot, I think, be maintained that our legislation here is specially restrictive to Kenya. That is not the case at all. In point of fact, since the unions are divided into two classes, the "registered" and "unregistered", at home that is one of the main reasons why we have categorized "staff associations", "workmen's associations" and so on specifically, because we cannot classify them as "unregistered unions" by reason of the fact that here they have to become registered.

My hon. friend, Mr. Jeremiah, said that this Bill did not allow of sufficient freedom and the unions themselves would become government bodies, in so many words. Now, Sir, I think that the way in which this Bill, if it is passed into law, is administered will provide sufficient answer for that criticism. There will not be a measure of control which can be criticized. Any control that is exercised will be helpful and will be more by way of guidance than by the giving of instructions.

There has been a certain amount of criticism by trade union officials; I have had a number of meetings in the past few weeks with representatives of trade unions, and we have discussed the provisions of this Bill very closely. The various points brought up by the African representative Members were also voiced by the trade union leaders, and I think that on the whole, I can say that the arguments which were advanced, the discussions that took place, to some extent allayed their fears, that, at any rate, this measure was not designed to kill the trade union movement, but rather to guide it in the proper way.

My hon. friend the Member for Mombasa said that he found certain disquieting features. He suggested, there was no provision for the prevention or formation of a conglomeration of persons forming themselves into a trade union and he would like to see unions confined to a trade. Now, Sir, without going into the detailed provisions of the Bill, I think at the Committee stage I can show that there is a certain provision for a conglomeration of the associations of certain types of persons who are not necessarily of the same craft but there is a measure

of control in that respect, also the section to which he referred does, in fact, in my opinion, deal with his difficulty.

As to the application of funds, he suggested that some provision should be made, that only a percentage of funds should be allowed to be allocated by a trade union to the Administration. Well, Sir, that sort of thing is normally carried out by the trade union itself. It is true that in an infant movement the members of a union have not that same power of control or interest to carry out such work. Nevertheless, I think it is very difficult to lay down arbitrarily that a certain percentage should be allowed for this or for that, particularly at the beginning of a union's life where most of its funds—when its funds are small, and quite naturally most of them would be devoted in the first place to administration before any further funds were built up.

My hon. friend, Mr. Mathu, suggested that the encouragement or the recognition of lesser bodies than trade unions would in fact jeopardize the trade union movement. He expressed the feeling that trade unions, or that that sort of body should not have to go through an intermediate period and wastes time in doing so, but should go straightaway and form themselves into a trade union. Now, Sir, there is nothing in the Ordinance which prevents any association or any organization from applying to become a trade union if they wished to. There is nothing in the Ordinance at all to impose upon themselves the restrictions and discipline of a fully fledged trade union, then they are at liberty to do so. But we have made provision for these lesser bodies because of necessity. The sort of work they carry out does not require the keeping of expensive books and does not really require returns being made from time to time to the Registrar, it does not require a registered office and does not require a number of other things that a fully fledged trade union is required to do.

It is a fact that there are a large number of these associations and organizations to-day. They are mostly on a personal basis, having direct communication and consultation with their own employers. There is nothing to prevent any one of the members of such an association being at the same time a

[The Labour Commissioner] member of the union, and there are many cases to-day of members of staff associations who are in fact members at the same time of trade unions. I think the contention that a staff association and that sort of body is inimicable to trade unions is quite wrong.

Most of the so-called—what have been called restrictive provisions in the Bill have been inserted because at the moment the members of the unions are unable, have not the experience, to see that the policy of their unions is carried out in the way they would wish. With more experienced unions, that is the case. Here in Kenya and in many other places where the unions are young, members do not exercise that influence and we have put in the Bill provisions and given the Registrar powers of inspection of accounts and the like, merely because the members themselves have not yet, and are most likely to for some time, exercise those powers of supervision which they undoubtedly exercise at home in the United Kingdom and elsewhere. I think they are quite reasonable ones, and the unions themselves will come to appreciate the assistance and the guidance, which Assistant Registrars or officers appointed under the Bill will exercise in the running of their business.

Finally, Sir, again I would like to stress the point that the Bill is not designed to kill trade union movement, it is not designed to stifle it. It is designed to assist the movement along a proper and orderly manner of conduct.

The trade union movement so far has not gained for itself a brilliant reputation in Kenya, and I think that the measures contained in this Bill will help it to regain some of its lost prestige.

**THE CHIEF NATIVE COMMISSIONER:** Mr. Speaker, I would like to make just a few remarks about this Bill. Hon. Members will appreciate that I do not know very much about it. I do not know very much about its actual details but I would like to say something about its principles. Mr. Speaker, it seems to me that the additional limitations and restrictions that are put into this Bill have been put there because we have had experience of the efforts of trade unions to develop under the present Ordinance as it now stands and we have seen that the Ordinance is capable of abuse and

that in trade unions, as in other activities now I think going on in this country, there is a tendency for opportunists, for self-seekers, for people who are not, I believe genuinely interested in the welfare and well of the workers to take the reins themselves and make what they can out of what they think is going to be a good thing. And, I believe, Sir, that this Bill will not do anything to prevent the formation and, in fact, it will assist and help the formation of honest trade unions, whose activities the hon. Mr. Mathu himself described. He said that "Africans wanted to associate and to help in the development of industry". Now that is a positive as well as a merely negative function.

If they really wish to help in the development of the industry, it means that the workers and the employers will have obligations to each other to develop that industry. I believe that associations made under this new Bill, we are now discussing, will assist in that development.

The hon. Mr. Mathu said, and he has said to me before, that he thinks that the complication of this matter by the formation of staff associations and employees' associations and organizations is retrograde, and will complicate and make it difficult for the African to understand. My answer to that, Sir, is that I believe we should have started with those organizations first and gone on from them to the formation of trade unions. But we have got trade unions and we want to work back from them. We have before in this country, perhaps, started at too high a level, but that is no reason why we should not start getting down to the lower level now. I believe that those associations will themselves give a good training ground for those who later come on and form proper trade unions.

I do believe most sincerely that this Bill—if the objects of an association of people are honest and worthy and, as the hon. Mr. Mathu said, are aimed at developing the industry properly—then I believe this Bill will help. If, on the other hand, the objects of the association are merely entirely selfish and will in any way assist these self-seeking people whom I have described to play upon the gullibility of the ignorant

[The Chief Native Commissioner] masses, then I hope this Bill will do a good deal to prevent them doing so.

Sir, I beg to support. (Applause.)

**THE ACTING DEPUTY CHIEF SECRETARY:** Mr. Speaker, I think the speeches by my colleagues have covered all the points raised by Members on the other side, except that raised by the Member for Mombasa regarding section 52, which refers to picketing. Peaceful picketing is permitted under the present law. We believe, after very careful examination indeed of this section, that it is adequate to prevent any abuse. However, there will be an opportunity for examining the section in detail at the time the Bill goes to a Select Committee.

It is plain from what the hon. Mr. Mathu said that there is a desire among the African Members for a Select Committee on the Bill, and I therefore move, Sir, that the Bill be read a second time and referred to a Select Committee. (Applause.)

**THE SPEAKER:** The hon. Member cannot very well amend a Motion before the Council in that cursory manner; there must be a separate Motion later for reference to a Committee.

**THE ACTING DEPUTY CHIEF SECRETARY:** I am sorry, Sir, if I have got the procedure wrong.

The question was put and carried.

Mr. Speaker, may I now move the Bill be referred to a Select Committee?

**THE SPEAKER:** You may.

**THE ACTING DEPUTY CHIEF SECRETARY:** I beg to move that the Bill be referred to a Select Committee.

**THE CHIEF NATIVE COMMISSIONER** seconded.

The question was put and carried.

#### *The Public Health (Division of Lands) (Amendment) Bill*

**THE MEMBER FOR EDUCATION, HEALTH AND LOCAL GOVERNMENT:** Mr. Speaker, I beg to move: That the Public Health (Division of Lands) (Amendment) Bill be read a second time.

It will be within the knowledge of hon. Members that under the Public Health (Division of Lands) Ordinance,

the Board thereby established has the power of control over subdivisions of land not exceeding 20 acres outside the municipalities and townships. One of the statutory provisions is that before considering an application the Board shall refer the application to the relative district council. It then comes back to the Land Department to be considered by the Board itself. This procedure often involves delay to the great inconvenience of the public. Anything that can be done to obviate unnecessary delays in a matter of this kind should be welcomed. Now a special committee was set up some time ago under the chairmanship of my hon. friend, the Deputy Chief Secretary, to go into the administration of the Land Department and to make recommendations on any methods by which the Administration could be improved in efficiency and expedition. One of their recommendations dealt with the operation of the division of the Lands Board. The recommendation was to the effect that where the local authority and the Commissioner of Lands were in agreement that any application should be approved, approval should be accorded without the necessity of reference to the Board itself, the Commissioner merely reporting to the Board at its next meeting what had taken place.

That recommendation has been accepted and this Bill purports to carry it into effect. However, the district council and the Commissioner of Lands are of the opinion that an application should be rejected, as a safeguard to the public, the Bill will provide that that particular case shall be referred to the Board for final decision in order that no private interests shall be prejudiced without very full consideration.

Mr. Speaker, I beg to move.

**THE DIRECTOR OF AGRICULTURE** seconded.

**MR. NATHOO (Central Area):** Mr. Speaker, in rising to support the Bill may I congratulate the Hon. Member for Lands for putting into effect at least one of the recommendations of the Committee, in order to expedite the work which up to now in many cases was unduly and without any reason held up. And I do hope, Sir, that during his tenure of office he will go into the other recommendations of the Committee and see that

[Mr. Nathoo] wherever possible measures should be introduced to remove the delay which it is at present costly.

I beg to support.

MR. HAVELOCK: I welcome this Bill as a member of the Public Health (Division of Lands) Board.

I would like to ask the hon. Mover to confirm that certain transactions may be referred to the Public Health (Division of Lands) Board by the Commissioner in spite of the fact that the transaction may be agreed to by the Commissioner and by the local authority. The reason why I would like that assurance is that, specially round Nairobi, there are so many of these developmental transactions going on and enormous estates being split up and so forth, which may be agreed to by the local authority and indeed by the Commissioner, but are of such great importance to the planning of the suburban areas round the city that I think that in those cases the Board should be consulted on that aspect.

Sir, I beg to support.

THE MEMBER FOR EDUCATION, HEALTH AND LOCAL GOVERNMENT: Mr. Speaker, I can readily give the assurance sought by the hon. Member for Central Area, that I will examine all the recommendations—I will re-examine them. I say, all the recommendations made by that special committee, and will consider how far they can be put into effect if they have not already been carried out.

The hon. Member for Kiambu has raised an interesting point which I think is rather a matter of administration than of law. As I conceive it, the way in which the procedure will work is that the Division of Lands Board will lay down broad principles to guide the Commissioner of Lands in his administration of the Board. If any proposal conflicts with those broad principles the Commissioner of Lands will raise his objections and the proposal will go before the full Board.

However, if the Bill is passed as it now stands, and I hope it will be, I will ensure that by administrative action the Commissioner of Lands is made aware of the point that has been raised and will be requested to observe the general idea in his administration of the Board.

THE SPEAKER: Before I put the question, I would like to call the attention of the parties, the officers responsible for the production of this Bill, to Standing Order No. 64, which provides that where a Bill amounts the whole or part of a section of an Ordinance already in existence, the relevant part of such section set out in full should be placed in it, in the copy.

I quite agree that this is a very convenient form of amendment, but it does not set out, it simply gives a reference to the sections concerned. It does not set them out as has been the usual practice in the past. I only call attention to it, I have no intention of enforcing it by not putting the question as we have proceeded so far. I will now put the question.

MR. COOKE: Could the Deputy Speaker, Sir, be asked to rebuke himself by making this mistake?

THE SPEAKER: I rebuke myself and all the staff for not looking at the Bill very thoroughly in the first place. But at the same time I cannot very well rebuke myself without acknowledging the fault of myself and others.

THE MEMBER FOR EDUCATION, HEALTH AND LOCAL GOVERNMENT: All I have to say, Sir, is that I was not in any way concerned with the production of the Bill. I saw it myself only a very few days ago, and I think that the general purport and intention is clearly expressed, even though the form may not be precisely in compliance with the Standing Orders.

MR. HAVELOCK: On behalf of the Unofficial Members, I would like to say that we welcome your ruling, the fact that you have drawn the attention of the hon. Members to the rule. It is a matter that we have raised before, Sir, and we do hope that hon. Members opposite will follow procedure on that line.

THE ATTORNEY GENERAL: Mr. Speaker, I gladly give the assurance that the hon. Member has asked for. It will be remedied in future.

The question was put and carried.

*The Diamond Industry Protection (Amendment) Bill*

—THE MEMBER FOR COMMERCE AND INDUSTRY: Mr. Speaker, I beg to move that the Diamond Industry Protection (Amendment) Bill be read a second time.

[The Member for Commerce and Industry]

The Memorandum of Objects and Reasons states quite clearly why it is necessary to introduce this Bill. I would like to add that the Bill has been considered in detail and in general by the Board of Commerce and Industry and has their support.

If hon. Members have any points to raise, I will be pleased to answer them, but I feel that, at this stage, I need not detain this Council further.

I beg to move.

THE SECRETARY TO THE TREASURY seconded.

MR. JEREMIAH: Mr. Speaker, I rise to support the Bill, but I would like the hon. Mover to explain to me what clause 3 means—(laughter)—sorry, Sir, clause 3 (2): "Nothing in this section shall confer on any person any right in law to a monetary reward".

Now, Sir, when someone reports some thief and that thief is convicted, will he have no right to the reward in law? I know that this Bill claims that he should have the right to an award, but I should like to have an explanation of clause 3 (2), Sir.

THE MEMBER FOR COMMERCE AND INDUSTRY: I think I can deal with the point raised by my hon. friend. It is a usual provision in Bills of this kind that when information leading to successful prosecutions is laid a reward is paid, but the person getting that reward has not got legal right to bring suit against the Government if he does not. It is a very usual thing. (Laughter.) It is one of those clauses which Gilbert had in mind when he was writing one of his ballads in which he was dealing with a somewhat similar situation. I think that I should now have made the point absolutely clear to my hon. friend, that those who in fact lay successful information will get a reward, but that they have no legal right to sue the Government for it if they do not get it. (Laughter.)

The question was put and carried.

*The Trading in Unwrought Precious Metals (Amendment) Bill*

\* THE MEMBER FOR COMMERCE AND INDUSTRY: Mr. Speaker, I beg to move: That the Trading in Unwrought Precious

Metals (Amendment) Bill be read a second time.

Again, Sir, the object of this Bill is similar to that of the Bill that has just been considered by Council. Again, Sir, I submit, that the Memorandum of Objects and Reasons is fully explanatory, and again I would add that the Bill that has been considered has the support of the Board of Commerce and Industry. For the information of my hon. friend, there is too a similar clause in this Bill. At the Committee stage, Mr. Speaker, I will wish to introduce a short amendment which has been deposited with the Clerk to give a new definition of "unwrought precious metals".

Mr. Speaker, I beg to move.

THE ACTING SOLICITOR GENERAL seconded.

MR. BRUNDLELL: Mr. Speaker, I missed the point I am going to raise, in the previous Bill, but, looking at the Order Paper, I can see I can raise it on this one. Whether it is the result of public school training or not I do not know, but I have a natural antipathy towards the clauses of this Bill and, in order to save my conscience, I should like to know, arising out of the Memorandum of Objects and Reasons, what roughly speaking was the improvement in the successful prosecutions in Tanganyika as a result of their moving similar legislation?

THE MEMBER FOR COMMERCE AND INDUSTRY: Mr. Speaker, I cannot give the exact figures to my hon. friend, but I do not think that is what he was seeking. We are informed—and naturally we have considered the Tanganyika experience in this matter—that there was material improvement in the suppression of the nefarious trade that goes on. I quite agree with my hon. friend, I do not like the method involved in obtaining these prosecutions and, I myself, was very reluctant—as were my friends on the Board of Commerce and Industry—to recognize the necessity of this type of legislation. However, Sir, after consideration and examination, we were persuaded that legislation of this kind was necessary to put down what is, after all, a very undesirable form of criminal activity and one which is deleterious to the whole economic life of these territories.

I beg to move.

The question was put and carried.



**The Local Government (Kilale European Hospital Rate) Bill**

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

The European Hospital at Kilale is under the control and authority of the Trans Nzoia District Council. In order to help in the support of the Hospital, and to relieve the patients in the Hospital of some part of the fees which they have to pay for their attention there, the Trans Nzoia District Council has imposed upon all European males within their area a rate at present of Sh. 20 a year. Dwellers in the Municipality of Kilale derive just as much benefit from the European Hospital as do dwellers in the district round about, but they, themselves, are not included in this charge. It is desired that the Europeans dwelling in the Municipality shall also be called upon to pay an adequate contribution towards the support of their own hospital, and, with the consent of the Municipal Board of Kilale, this Bill has been introduced to allow the Board to levy upon all European males living within the Municipality a rate which will correspond to the rate imposed by the Trans Nzoia District Council upon the residents in its area.

I beg to move.

**THE DIRECTOR OF MEDICAL SERVICES** seconded.

The question was put and carried.

**The Liquor (Amendment) Bill**

**THE ACTING DEPUTY CHIEF SECRETARY:** Mr. Speaker, I beg to move: That the Liquor (Amendment) Bill be read a second time. The Objects and Reasons of this Bill are fully stated. Briefly, the objects is to make it possible to issue for airports a special type of liquor licence similar to that which can already be issued to railway stations.

Sir, I beg to move.

**THE ACTING SOLICITOR GENERAL** seconded.

**MR. NATHOO:** Mr. Speaker, there is only one observation I would make on this Bill, and that is I am told by people

in other countries that when licences of this nature are given at the airports, quite often they are open to grave abuse by the general public. I do hope, Sir, that some safeguard is given, so that the object for which the Bill is introduced—that is to say, for airport facilities for bona fide passengers—is the only object for which this Bill is designed, and not for the public who want a "quick" one at any time of the day or night.

**MR. USHER:** I would just like, Mr. Speaker, to clear up one point: Is it to be understood that this very excellent measure would not cover the provision of refreshment for a traveller's friends?

**THE ACTING DEPUTY CHIEF SECRETARY:** Mr. Speaker, with regard to the point raised by the hon. Mr. Nathoo, that possibility was of course foreseen, and it was gone into with the airport authorities and with the Police, and we satisfied ourselves it would be practicable to prevent any abuse of the facilities which the Bill provides for.

I am afraid I am not able to answer the question raised by the hon. Member for Mombasa. I will consult the law officers on the point, and give him the answer later on. I am afraid I do not know whether it would cover the friends of a traveller or not.

The question was put and carried.

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

The Military Units (Amendment) Bill.  
The Public Officers (Change of Titles) Bill.

The Public Health (Division of Lands) (Amendment) Bill.

The Diamond Industry Protection (Amendment) Bill.

The Trading in Unwrought Precious Metals (Amendment) Bill.

The Local Government (Kilale European Hospital Rate) Bill.

The Liquor (Amendment) Bill.

**THE ACTING SOLICITOR GENERAL** seconded.

The question was put and carried.

**COUNCIL IN COMMITTEE****The Trading in Unwrought Precious Metals (Amendment) Bill****New Clause**

**THE MEMBER FOR COMMERCE AND INDUSTRY** moved: That the following new clause be read a second time.

2. That in the definition of "unwrought precious metal" in section 2 of the principal Ordinance there be substituted for the words "article of commerce" the words "article of industry or of the arts".

The question was put and carried.

The question that the new clause stand part of the Bill was put and carried.

**The Liquor (Amendment) Bill****Clause 3**

**MR. USHER:** Mr. Chairman, Sir, perhaps some hon. and learned Member would be able to answer the question I raised on the second reading.

**THE ATTORNEY GENERAL:** Mr. Chairman, I think it is only in order to move an amendment to the Provisions Bill, I will give the hon. Member an answer to his inquiry afterwards.

**MR. USHER:** I am at a disadvantage in this because I have not had the answer which I required, and I am doubtful what amendment to suggest.

**THE CHAIRMAN:** Speak against the clause. If you are dissatisfied with the clause, speak against it. You may move its deletion if you like. I do not mind.

**MR. USHER:** Might I suggest, Sir, this might be a reasonable point at which we could make the break, to give me a chance to consider.

**THE CHAIRMAN:** I am quite agreeable to that. An extra few minutes will not be inconvenient, I dare say, to many hon. Members!

The Committee will now suspend business until 11.15.

*Committee adjourned at 10.58 a.m. and resumed at 11.25 a.m.*

**MR. USHER:** Mr. Chairman, I had the advantage of some conversation with the hon. and learned Attorney General on the subject and I do not wish to pursue the point I have raised and I apologize for taking up the time of the Council in Committee in doing it. (Applause.)

The question that clauses 3 and 4 stand part of the Bill was put and carried.

**THE ATTORNEY GENERAL** moved: That the following Bill be reported-back to Council with amendment—The Trading in Unwrought Precious Metals (Amendment) Bill, and the following Bills without amendments—The Military Units (Amendment) Bill, the Public Officers (Change of Titles) Bill, the Public Health (Division of Lands) (Amendment) Bill, the Diamond Industry Protection (Amendment) Bill, the Local Government (Kilale European Hospital Rate) Bill.

The question was put and carried.

Council resumed and the Member reported accordingly.

**BILLS****THIRD READING**

**THE ACTING SOLICITOR GENERAL** moved: That the Military Units (Amendment) Bill be read a third time and passed.

**THE CHIEF NATIVE COMMISSIONER** seconded.

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

**THE ACTING DEPUTY CHIEF SECRETARY** moved: That the Public Officers (Change of Titles) 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 accordingly.

**THE MEMBER FOR EDUCATION, HEALTH AND LOCAL GOVERNMENT** moved: That the Public Health (Division of Lands) (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 accordingly.

**THE MEMBER FOR COMMERCE AND INDUSTRY** moved: That the Diamond Industry (Protection) (Amendment) Bill be read a third time and passed.

**THE SECRETARY TO THE TREASURY** seconded.

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

THE MEMBER FOR COMMERCE AND INDUSTRY moved: That the Trading in Unwrought Precious Metals (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 accordingly.

THE MEMBER FOR EDUCATION, HEALTH AND LOCAL GOVERNMENT moved: That the Local Government (Kitale European Hospital Rate) Bill be read a third time and passed.

THE DIRECTOR OF AGRICULTURE seconded.

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

THE ACTING DEPUTY CHIEF SECRETARY moved: That the Liquor (Amendment) Bill be read a third time and passed.

THE SECRETARY TO THE TREASURY seconded.

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

### MOTIONS

REFERENCE OF SCHEDULES OF ADDITIONAL PROVISION TO STANDING FINANCE COMMITTEE.

THE FINANCIAL SECRETARY. Mr. Speaker, I beg to move: That Schedules of Additional Provision Nos. 8 of 1948, 8 and 9 of 1949 and 6 of 1950 be referred to the Standing Finance Committee.

This, Sir, has been regarded by this Council as a formal type of Motion. I do not, therefore, wish to spend the time of the Council going into detail.

I beg to propose.

THE SECRETARY TO THE TREASURY seconded.

The question was put and carried.

REPORT OF STANDING FINANCE COMMITTEE ON SCHEDULES OF ADDITIONAL PROVISION.

THE FINANCIAL SECRETARY. Mr. Speaker, I beg to move: That the report

of the Standing Finance Committee on Schedules of Additional Provision Nos. 7 of 1948, 7 of 1949 and 4 and 5 of 1950 and Nos. 1 and 2 of 1951 be adopted.

Hon. Members will remember that this paper was laid on the Table by my friend the hon. Acting Chief Secretary at yesterday's sitting of the Council.

Sir, I beg to move.

THE SECRETARY TO THE TREASURY seconded.

MAJOR KEYSER. Mr. Speaker, I would like to draw the attention of this Council to the last paragraph of this report in which it says that "that Committee," referring to the Standing Finance Committee, "at its meeting on 12th December, 1951, examined the Schedules and recommended approval of the expenditure contained therein".

Well, Sir, I do submit that it is a little bit of a farce that money which was expended in 1948 should be brought before this Council for approval in 1952. And I do think, Sir, that this procedure, in addition to certain matters that have arisen during the life of this Council with regard to recommendations for expenditure in this manner by additional provision, recommendations from the Standing Finance Committee, do call, Sir, for a whole revision of the work of the Standing Finance Committee. I submit, Sir, that when the Standing Finance Committee decides that money should be spent on some particular undertaking that, at the next Session of the Legislative Council, that proposed recommendation should be put to this Council. I think, Sir, it is a complete farce waiting for four years before this Council approves expenditure on items which have probably already been destroyed by time. I hope, Sir, that the hon. Member for Finance will give consideration to a complete revision of the methods under which the Standing Finance Committee works and to the production of some rules and regulations to govern their deliberations. (Applause.)

MR. COOKE: As a Member of the Standing Finance Committee for many years, I would like to support what my hon. friend has said. Of course, Sir, this is not the first time this matter has been raised in this Council. It has been raised time after time and we have got implied promises at any rate from the other side

[Mr. Cooke]

of the Council that there would be a hastening up in the presentation of these reports to this Council, but nothing material really seems to have been done. I, Sir, would also like to support what my hon. friend has said.

THE FINANCIAL SECRETARY. Mr. Speaker, I listened, with interest, to the hon. Member for Trans Nzoia and for the Coast. The hon. Members will, of course, notice that these additional provisions on Nos. 1 and 2 of 1951 are also included in this list which does show that some speeding up has taken place. However, Sir, in another Motion which is down—in my name a little later in the Session, there is a suggestion for a new procedure which, I hope, will meet the wishes of hon. Members opposite. I do not want, with your permission, Sir, to anticipate that particular debate, so I would conclude by saying that I hope we shall be able to have a full debate on the question of financial procedure when we deal with that particular question. I hope that that will deal with the hon. Member for Trans Nzoia's question. (Applause.)

MAJOR KEYSER: Thank you, Sir.

The question was put and carried.

### MOTION

#### COLLECTIVE PUNISHMENT

MR. MATHU: Mr. Speaker, I beg to move: That this Council is of the opinion that collective punishment is inequitable and requests the Government only to punish the actual offenders in appropriate cases.

Mr. Speaker, I do not pretend that I am going to say anything new in this Motion, because most of the things that I am going to say are already known, but there is a danger that when an accepted principle has been in operation for generations, the temptations are that people tend to forget it, and so I may say, Sir, it is only to remind hon. Members of the principle of punishment which has been accepted throughout the world and to request them to bear with me, even if it would appear all very ordinary and all very usual.

Sir, punishment is meted out to those who have offended against the law of the land after due trial by competent courts, and after being found guilty. The court

acquits those they find innocent, although brought before them, and this is an accepted principle and it is equitable. Society cannot allow people to offend the laws the society have approved and it is, I think, accepted that the three main aims of punishment are, that those who have offended society should be punished with a view to preventing them repeating it again by imposing fines on them, by imprisoning them and, sometimes, by hanging them. It is also the aim of punishment sometimes, that punishment should be retributive, and society fines them and puts in prison those who have offended against the law. At other times, the aim of punishment is to reform the offender and hence the setting up of approved schools for reforming, in the form of training and trying to appeal to the co-operation of the offender. These forms of punishment are, as I say, accorded by the courts and as they are, they are definitely equitable and justifiable. Society does not punish or sentence without trial, but in Kenya, we have, in some cases, a departure from this established principle of the administration of justice. In our Statute Book we have certain laws which enable those in authority to punish persons without due trial by competent courts, and I shall refer to them briefly.

We have, in our Statute Book, the Collective Punishment Ordinance, No. 54 of 1930, Chapter 98 of the Laws of Kenya; secondly, we have the Stock and Produce Theft Ordinance, No. 59 of 1948, Chapter 206 of the Laws of Kenya, and finally, we have the Police Ordinance, No. 79 of 1948.

Now the Collective Punishment Ordinance was enacted over 20 years ago. It is so indubitably racial that one wonders how it ever entered in our Statute Book even in 1930. It is an archaic piece of legislation; it applies to Africans only; its ten sections are so inequitable that this Council would be acting towards the interests of this Colony if it repeated it forthwith.

Section 2 empowers the Governor to impose fines on all or any inhabitants of any village, area or district, or members of any tribe, sub-tribe or community, if he is satisfied; after inquiry that they had done or failed to do certain things such as prevent the escape of a criminal; that they have suppressed evidence in any

(Mr. Mathu) criminal case; that they have failed to restore stolen property suspected to have entered within the limits of their area.

Section 3 provides that persons living in a particular area can be punished wholesale, if persons are found wounded or unlawfully killed in their area. Could there be anything more inequitable?

Section 9 provides that there shall not be any appeal. Once the order has been given it must be obeyed, and here again, Sir, you see there is no equity at all.

Finally, as far as the Collective Punishment Ordinance is concerned, section 10 provides that the Governor shall report to the Secretary of State every order he makes under this Ordinance. The Secretary of State, Sir, it appears, only to take note and to file the papers.

The second Ordinance that I want to refer to is the Stock and Produce Ordinance. This was enacted in 1948, and it provides for the recovery of fines from Africans for theft of stock and produce and a levy on the property of the offender or his family, sub-tribe or tribe villages where such stock or produce may be found. No one would dispute the equity of levying on the property of the offender, but why should his family, who have not taken direct part in the actual crime, be punished? Why should the village, the whole village be punished? Why should the whole tribe or sub-tribe, or any section of it be punished, who have not taken any direct part in the committing of the offence? That is where, Sir, inequity abounds.

The Police Ordinance, which was enacted in 1948—as a whole it is not my intention to question it, but I want to question specifically section 53. The Police Ordinance, as I say, was enacted in 1948, and section 53 appears to be non-racial in character, in its aim and application, it seems it is only applied to the African community. I have watched very carefully, Sir, the circumstances in which the Government invokes this section, and in every case only the African community suffers.

During the last Nairobi general strike, I thought the city was in a disturbed or dangerous state and that the Governor would proclaim it as such to that the cost of the additional police officers shall be borne by the inhabitants of the city.

This would have affected all the Nairobi citizens, and it is true that even if that happened—I should have still maintained it would have been inequitable—but at any rate it would have indicated that this section 53 was intended to operate so that all the inhabitants of a particular area are brought to justice.

Now section 53 of the Police Ordinance was invoked in the case of the Suk disturbance in 1950, and in the case of the disturbance which occurred in the Fort Hall district in conjunction with the compulsory inoculation of African cattle.

No one could have wished the disturbances in Suk to take place. On the other hand, I hold the view that it could have been possible to punish the offenders only and not apply the inevitable principle of collective punishment on the whole community.

In Fort Hall, section 53 has been applied and by Proclamation No. 26 of the 27th November, 1951, a magistrate was appointed to make an inquiry to apportion the cost of the additional police officers to all and sundry whether they took part in the demonstration or not. Here, I submit, Sir, that the rest of the world holds that criminal responsibility is on the person committing the offence unless insane or a minor, and with your permission, I should like to quote from the Penal Code to support that principle.

Section 13, Chapter 4, reads:—

"A person is not criminally responsible for an act or omission if at the time of doing the act or making the omission he is through any disease affecting his mind incapable of understanding what he is doing, or of knowing that he ought not to do the act or make the omission."

But a person may be criminally responsible for an act or omission, although his mind is affected by disease, if such disease does not in fact produce upon his mind one or other of the effects above mentioned in reference to that act or omission."

My point for quoting that is this, that unless there is some misconception or some doubt as to the sanity of the African community, surely all who have not committed the offence cannot be punished, because they cannot all be

(Mr. Mathu)

Nearly 400 African women were imprisoned in November last in connexion with the cattle inoculation disturbances at Fort Hall. Their homes were split up; the work in their *shambas* was held up; their cattle died in hundreds and they are now to have the further punishment of paying for the additional police officers which by Proclamation No. 26 of 27th November, last year is going to be increased and to be maintained there for four months, unless the Governor revokes the order before that time. Not only that, their neighbours, who took no part in the demonstrations, will have to be punished, because if they have to pay for the additional police officers it is a form of punishment, a form of fine, and I consider this most unjust. I do not think that the district I refer to Fort Hall—deserves any more punishment. It is not justice to punish a person twice for one offence, and with your permission, Sir, I should like to quote from the Penal Code, again, Chapter 4, section 21, to show that even in our own laws we accept that principle that we cannot punish an offender twice for the same offence.

It reads: "A person cannot be punished twice either under the provisions of this Code or under the provisions of any other law for the same act or omission, except in the case where the act or omission is such that by means thereof he causes the death of another person, in which case he may be convicted of the offence of which he is guilty by reason of causing such death, notwithstanding that he has already been convicted of some other offence constituted by the act or omission."

I submit, Sir, that in Fort Hall, the latter part of that section which I quote does not apply.

I should like to say, Sir, that punishing any person twice for the offence is very inequitable and it is my request in the form of this Motion that practices of that kind should be discontinued.

The gist of my arguments, Sir, is that punishing persons by fine and/or imprisonment when they have not committed any crime is certainly inequitable and contrary to all justice. This is clearly so, especially when those who are so punished are not brought before the courts. They are not given an opportunity

to defend themselves, and, in fact, the Collective Punishment Ordinance provides for no appeal, and surely this cannot be held to be in line with what we hold to be the British way of life in this connexion.

Those who receive the punishment, and who know for certain that they are innocent because they know for certain that they have not committed any crime, are embittered against authority and the possibility of co-operation is reduced to a minimum if not destroyed completely, and this, Sir, I submit is a very important matter. Surely the aim of society is to win the majority of its people on its side, so that they can co-operate in all measures which are calculated for the good government of the country. It is not the aim of society to produce a majority of hostile persons in the country.

I suggest, Sir, if the African community is to co-operate effectively, and this is certainly my desire, with the Government, we must remove these unjust practices, and to this end, I wish to appeal to hon. Members of this Council to support my Motion, and to recommend that the Collective Punishment, the Stock and Produce Theft Ordinance be repealed together with section 53 of the Police Ordinance. It is, Sir, I think quite true to say that my Motion is very innocuous and I believe very constructive, in that it wishes to impress upon hon. Members of this Council, whose authority it is to make the laws of the land, to remove these pieces of legislation which do not make, in my view for good government and for the co-operation of all people.

Sir, I beg to move.

MR. OHANGA (African Interests): I beg to second and reserve my right to speak later.

MR. CHEMALLAN (African Interests): Mr. Speaker, I rise to support this Motion very strongly. Perhaps this form of punishment known as collective punishment, Sir, was appropriate in days in this country, when for instance such crimes as cattle raids were committed collectively by warriors with the backing of elders and the old authorities—although this was never regarded as an offence of course. But to-day, and for many years back, I think, offences of this kind have ceased to exist, and it is now a fact that they are entirely committed by habitual

[Mr. Chemallan] criminals whether they be individuals or groups of individuals.

It is my submission, Sir, that after all these years of British rule in this country, I believe that punishments of this kind should be abolished; and that any punishment given should only be borne by those who are directly responsible for the crime. I believe, Sir, that the laws of a country must move with the advancement of that country, and I am very much opposed to laws made separately for separate communities.

I should like to refer, Sir, to recent very unfortunate disturbances which happened in the East Suk location in the Baringo district. During the affray, Sir—I am not debating the affray, but I am referring to it because as a result of it the whole tribe was punished collectively during the affray, Sir, both Government and the tribes suffered tremendously and, of course, the Suk themselves suffered even more.

When the report of the Commission of Inquiry into the Affray at Kollaa was issued, Sir, Government issued a statement, and one of the paragraphs in this statement reads as follows:

"Of the tribesmen concerned in the affray, 29, including the leader, Lukaa, were killed at Kollaa, and an estimated number of 50 were wounded; 22 have since been convicted of murder and 115 others have been convicted on lesser charges and sentenced to varying terms of imprisonment. Of the 22 men who were convicted of murder, 7 were executed, in 7 cases the death sentences were commuted to imprisonment, 4 (being under 18 years of age) were ordered to be detained during the Governor's pleasure, 2 were acquitted on appeal, one had his conviction reduced to manslaughter, and the twenty-second man has until October 7th, 1951, to enter an appeal."

Now, these figures which I have just read, Sir, give us facts the dead, the wounded, the executions and the imprisonments; surely they are enough never to repeat the same, and on top of all that to impose upon the whole of that tribe a collective punishment—a levy—I do not think it is fair at all, Sir.

It is true, Sir, that the doings of the leader of the disturbances had an influence to affect the whole country, but it is rather impossible, Sir, that the Suk tribe, which has a population of over 6,000 people, could have really had knowledge of the workings of a man like Lukaa. Moreover, the East Suk tribe is a conservative one, it leads a nomadic life which very easily divides them into isolated groups and communication from one group to another group can also be very easily isolated.

Therefore, I think if Government had really done justice to the whole case, those people had had enough punishment by the fact that those who died, those who were sentenced to death for the offences they had done, were really enough.

There is one other punishment which was imposed on the tribe besides a tribal levy, and that was road-making. Well, I can see no reason why such a punishment should have not been imposed upon them, because the road-making is entirely for their own benefit, to a certain extent, and if that had been the only punishment imposed upon them besides those who paid for the troubles I would not see any reason at all to grumble.

I know very well, Sir, that the origin of an Ordinance like the Collective Punishment Ordinance resulted from our pastoral districts, and I know very well that very many of these pastoral districts have suffered a great deal at the hands of these individual criminals, and by the fact, Sir, that we punish the whole community for just a few fellows who have committed the offence, it is not the way to deter those few criminal individuals. It simply encourages these criminals to do it, the whole community whenever they wish to do so. The only thing to do is to punish those fellows who are affected by the crime, and not the whole community.

I am told, Sir, by those people who know very well about these ingenious professional cattle thieves, that whenever they wish to punish a cattle area, where perhaps their trade has been failing, often perhaps due to the vigilance of the chiefs and the people, they go out and

[Mr. Chemallan]

walk into that particular district with dried cattle hooves. They might have stolen some cattle in an opposite area, and just to punish that particular area they will put the cattle hooves in that area, whereas the cattle may have gone in the other direction. Now, these traces of these dead hooves certainly bring trouble into that particular area, because after all, they are only traces, and no cattle have been driven into that area. If the cattle have not been recovered in the opposite area, is it true that they should pay for them. Why should they pay for that?

Now, it is instances of that nature which show the loopholes and the faults and abuse of this law, and I do not think I can do better than simply support all the discrepancies which my hon. friend Mr. Mathu has pointed out, in his speech.

Sir, I appeal to this Council to see reason in our Motion and to support it.

Sir, I beg to support:

THE ATTORNEY GENERAL: Mr. Speaker, I rise to oppose the Motion which has been moved by my hon. friend Mr. Mathu, with the characteristic vigour and forcefulness and, may I add, fairness which I have come to expect from him in debates in this Council. For my part, I am glad to have the opportunity afforded by the Motion which he has moved of stating the case in favour of collective punishment, and particularly I am glad to have the opportunity of putting this very controversial subject into what I venture to think is a better and truer perspective than he himself sees it at the present time. The Chief Native Commissioner who will speak later in this debate will deal primarily with those aspects of collective punishment in Kenya which raise questions concerning tribal traditions and native customs in this Colony with which he is immeasurably more familiar than I am. Therefore, I think it would be appropriate, Mr. Speaker, and I rather think would prefer it if I were to confine my submissions on this Motion to the principles of jurisprudence involved in the application of collective punishment.

I have said, Mr. Speaker, that it seems to me that it is necessary in the first place to ensure that this subject and its implications are placed in a better and truer perspective than it is at present amongst those who are supporting this Motion. And by a better and truer perspective, I mean primarily, a better historical perspective. In our system of English jurisprudence—and at the moment I am not speaking only of the jurisprudence as it exists in this Colony—there is nothing new historically in recognizing the principle of collective responsibility and along with it the corollary of collective punishment for breaches of collective responsibility. From the very earliest times in the history of English jurisprudence collective responsibility and collective punishment has been recognized, and, indeed, it is no exaggeration to say that until the English Common Law began to take the shape which it has to-day, in the fifteenth and sixteenth centuries the foundation upon which the structure of law and order was erected was that of collective responsibility.

It was the custom in those early times for the inhabitants of a particular district to enroll themselves into what was known as a "frank pledge", which means that each man in that district took a free pledge, or a frank pledge to be responsible for the conduct and behaviour of his neighbour, and if anyone in that group should commit an offence or break the law, then it was the duty of the rest of those who had bound themselves by their pledge to secure his production in court or to pay a collective fine. That principle was based upon the responsibility of kinship for maintaining law and order in the district. It was then called, and is so described in the text books as "kinship" but kinship corresponds to what we should call to-day, the clan system or the tribal system. Now that system was developed and extended until it covered practically the whole of the administration of the criminal law in those early days. One particularly good and outstanding example of the system is to be found in what was known in those days as "murdrum", or the "murder fine". If the body of a murdered person was found in a particular district, then a fine, a collective fine, was imposed upon all those who were bound in pledge

[The Attorney General] to secure peace and order in that district. So important was this system regarded by the authorities, and now I am speaking of the very origins of this English jurisprudence to which my hon. friend referred, so important was this system of English jurisprudence regarded in those days that twice a year, sheriffs held courts known as Courts Leet to ensure that every adult male had taken his frank pledge and had thus accepted his share of collective responsibility for maintaining law and order in the section of the community in which he lived. That system, Mr. Speaker, flourished for the best part of four centuries. It began to fall into disuse only when new ideas of Government were introduced in Tudor times. It has continued—this I mention in passing only by the way of historical interest—it has continued in formal fashion even up to modern times and I think I am right in saying, though I speak only from recollection, as I have no means of verifying the facts here, that a Court Leet was held at Eton within the last few years. The change from this system of collective responsibility to which I have referred was first discernible when the pleas of the Crown were extended making individuals responsible and answerable for crimes. There was a shift from the responsibility of the inhabitants of a district to that of individuals and so crime came to be dealt with by accusations against an individual instead of by complaints against the community. The change—and here I would ask particularly for the attention of the hon. Mover of this Motion—the change was gradual and took centuries to complete; it came about as society itself changed and became more complex and the individual, instead of the tribe, became the unit of society. The change was inevitable and it was also desirable, as the organization of the tribe or the clan gave way to the individual. But we should always, Mr. Speaker, remember this, that the presence of collective responsibility in those early days in the history of English jurisprudence, taught the people of England the most important of all lessons for a law-abiding people; a law must be obeyed because it is the law. It is a lesson, Mr. Speaker, which was well learnt by the people of England centuries ago, and it is a lesson which they have

always sought to pass on to the best of their ability, wherever they have gone, to the people who live under the British flag.

Now, Mr. Speaker, I may be asked why I have detailed the Council with this historical survey, or perhaps I should call it an historical sketch, because it is quite inadequate and incomplete, for a subject of such interest and covering such a wide field and such a long period of time. I have no doubt the hon. Mover of this Motion is now asking himself why I should have troubled the Council with a historical sketch of English jurisprudence, describing it as it flourished centuries ago, and he may well ask what bearing has that upon the jurisprudence which is applied in this Colony to-day. It has this value, Mr. Speaker, that it demonstrates and emphasizes that it took not years nor decades, but centuries for this change to take place from a system of collective responsibility, and with it, collective punishment, to the highly developed, precise, detailed legal procedures under which Governments operate in the United Kingdom to-day. And yet some people assume—and perhaps the hon. Mover of this Motion assumes—that although this process which has taken so long in England, in a country which can claim to have produced some of the greatest jurists of any age, men such as Bracton, Coke, Lillston and Blackstone, it can be accomplished in this Colony in less than a lifetime here. It is necessary to put this controversial subject in its true perspective. If the hon. Mover asserts that that can be done, that is because he declaims in decades whilst I slip in centuries. It is unreal in my submission, Mr. Speaker, to suggest that you can have a legal system which develops and advances independently of, and at a different pace from, the social system, any more than you can have an economic system that is moving independently and at a different pace from the social system. The two go hand in hand. History proves it. Where kinship is strong or a clan system or a tribal system is strong, there inevitably you get a reflection of that fact, that element, in the legal system of the community.

My hon. friend Mr. Mathu has talked as if this system of collective punishment were applied only to this Colony, but my

[The Attorney General] researches, Mr. Speaker, have disclosed that the same principle is applied in every Colonial dependency in Africa. There are provisions for collective punishment to be found in the laws of Nigeria, the Gold Coast, Sierra Leone, Nyasaland, North Rhodesia, Tanganyika, Uganda, and Somaliland. There is only one exception so far as I am aware—and it may be it is not a true exception, but merely that my researches have not ascertained the correct facts—and that is, the small colony of Gambia which, anyway, is an unimportant exception, if indeed it is one at all. Therefore, Mr. Speaker, so far from it being unusual for a collective punishment to be included in the jurisprudence of this Colony, it would be most exceptional if that were not so. The wonder is that, notwithstanding the very strong tribal tradition which still exists in this Colony, we have gone so far along the road of a modern system of jurisprudence that collective punishment, although it is still an element in our jurisprudence, is so rarely invoked. So far as the records for the last ten years—I think it is—disclose, there has been only one case of a collective fine imposed under the Collective Punishment Ordinance; and so far as the Police levies are concerned, there have been, I think, five in the last ten years, and that is including the levy that was imposed at Fort Hall last November. I think there can be no doubt, Mr. Speaker, that if that levy had not been imposed at Fort Hall, we would not have been debating this subject once again.

The Police levy at Fort Hall was imposed after the most careful consideration and there is no doubt, Mr. Speaker, that that levy as subsequent events have shown has promoted the common good of the vast majority of the inhabitants of Fort Hall. At the beginning of November, as my hon. friend, Mr. Mathu knows, there were the makings of trouble and disorder in that district. One or two agitators, who have since been successfully prosecuted, began to incite the people to break the law with regard to the inoculation of their cattle. They must have known that what they were urging the people to do was not in the interests of these people, because they were intelligent and educated men, yet they persisted in it. They must have

known further that by adopting the tactics which they did, they would rouse the tribal instincts of the people whom they were addressing. The inevitable happened, as my hon. friend knows quite well. Within a matter of a day or so, hundreds of women assembled unlawfully in the district protesting against something which they did not fully understand but which those who had incited them to disobey the law did understand. Their numbers increased to thousands, and the thousands combined

I repeat, combined—to defeat the law and to break the peace. I need not elaborate upon that because my hon. friend, Mr. Mathu, knows it well and he did his best—and it was a good best—(hear, hear)—to try and persuade those people to go peacefully about their ways and return home. I would like to say now that in my humble opinion he showed by the action that he took qualities of leadership which are only too rare. (Applause.) The hallmark of leadership is to be able to talk to people and tell them something which is unpopular even though you know it is true; and that is what he did. Unfortunately my hon. friend had not left the scene very long after addressing these people for two hours or more when another agitator, whom I am glad to say is now in prison, undid in as many minutes the good work which he had achieved. Altogether there must have been over 10,000 people at one time or another involved in those demonstrations, and at least 12 cattle crushes were burned. My hon. friend will agree that when that stage was reached reason and patience and persuasion were no longer any use. It was necessary at that stage to move in extra Police to restore law and order in the interests of the vast majority of the people in that district. The decision to move in extra Police was taken late one night and the Police were in position next day. They arrested, as my hon. friend has said, several hundreds of the demonstrators. But although those arrests ran to hundreds they were a mere fraction of the thousands who were involved in the disturbances. And may I say in parenthesis to relieve him of anxiety, on one point which he made very fairly and very forcibly in his speech—the women who were arrested and who were sent to prison will not be punished a second time

[The Attorney General] by having to contribute to the expense of this levy force. The Magistrate who was appointed to inquire into and decide the appointment of the cost of this levy force has imposed it only on men, and rightly so, for reasons which will be elaborated by my hon. friend, and therefore there will be no second punishment imposed upon those women who were sent to prison; the others who have been exempted are those who actively assisted the Police and the authorities when they were trying to put an end to the disturbances.

As a result of the levy force being left there, there has been intensive police patrolling all round the district, which has prevented the outbreak of further disturbances. The inhabitants will have to pay—not all of them—but those men living in those locations which are referred to in the magistrates' findings—will months period during which the levy force is there. There is no doubt at all, Mr. Speaker, and I feel certain the hon. Mover would not dispute this, that if those extra police had not been moved into the District and left there, the disorders would have got worse, there would have been damage to crops, damage to property, and inevitably, as the position deteriorated, injury to life and limb. It had reached the stage, when that levy force was put in, that no amount of talking or persuasion could restore the situation. And now—and here I speak of what I know—the inhabitants of that district are enjoying—and I emphasize enjoying—peace and quiet and orderly government, and if it costs them 12. 6d. per month, Mr. Speaker, it is cheap at the price. And mark this too, Mr. Speaker—that the poor do not have to pay. The Ordinance provides that the people pay only according to their means; therefore if you have not the means you do not have to pay. Neither do those who, in the difficult time, assisted the authorities have to make any contribution. What, Mr. Speaker, could be fairer in the administration of this law than that? There is no doubt, of course, that the payment will hurt some, but there, as I think, Samuel Butler said: "The pain must always precede the pleasure." Neither is there any doubt, Mr. Speaker, that the pleasure of orderly government and the relative quiet and

peace in that neighbourhood to-day is welcomed by the vast majority of the people who are living there; and most of those people, I firmly believe, Mr. Speaker, would agree that, if 1s. 6d. per month has to be paid for the happier state of affairs that prevails to-day as compared to the state of affairs that prevailed there last November, then, so far from such payment being inequitable, it is a payment which is well worth while. And above all, Mr. Speaker, I would emphasize this: the levy force which has been placed in that area has restored what is fundamental in any civilized government—law and order. Not only those who are paying towards the cost of the levy force, but thousands and thousands of others who, I firmly believe, are sound and loyal in heart, have benefited from the presence of that force. In other words, Mr. Speaker, the justification for that levy force is that it has promoted the common good, the greatest good of the greatest number in that district. That Mr. Speaker, is the touchstone by which the acts of all governments should be judged, and judged by that standard, Mr. Speaker, in my submission, the Administration and the police alike, are entitled to the support and the approval and the highest commendation from this Council. (Applause.)

MR. OHANGA: Mr. Speaker, I should like to say a few words in support of the Motion which I have had the honour to second this morning. To begin with, there are two points I would like to make clear. They are points which I myself admire and with which I agree on the part of those opposing the Motion. First, I think it would be said, and said quite fairly, that where collective punishments have been applied in certain areas they have all been legal, or the action was taken on a legal basis. Now that, I agree with, because the decision taken to inflict collective punishment upon a community is based on one Ordinance or another, which has been duly passed by this hon. Council. To that extent I am satisfied that the actions, as taken by the Government, are legal, and I have no complaint on that point there are safeguards; that where a levy force or a collective punishment of another form is likely to be inflicted some inquiry has to be made at the highest

[Mr. Ohanga] level possible—that is, it will be ordered by the Governor. Some of those inquiries are instituted before the punishment is inflicted. I am quite sure I would be satisfied that that is right, but what seems to me in connection with the safeguard to be inadequate, is the type of inquiry that is likely to take place. In my experience there have been two which I know of already. Reference has been made to the Fort Hall difficulties. We had some difficulties in 1948 in Nyanza of a similar kind and an inquiry was made before any fines were imposed. But I think the Commissioner or officer who might be entrusted by the Court of Inquiry has not got a very easy task. Usually the inquiry has to be undertaken with a very specific object: to establish a case for imposing what is considered should be good, and I am quite sure the Commissioner takes up his duties not with a very open mind, but with a certain bias. He is working for a known object. That is, you could tell from the beginning what is likely to be the outcome of the inquiry. I dare say that the safeguard which at the moment we have is not adequate.

Now, after those two points, I have nothing that would make me feel happy at all about collective punishment, but I, like everybody else in this country who is law-abiding and who enjoys peace, agree that all wrong-doers, all criminal-minded people, must be punished to the full, but apart from that, any form of punishment which could be applied generally or collectively so as to affect people who are not convicted offenders, I should find very very difficult to support. That is why I maintain that, in support of the arguments that have been very ably put by my hon. colleague, the Mover of this Motion, collective punishment, as it operates at the moment, punishes not only the offender and the criminal, but also the innocent, the law-abiding and the peace-loving citizens, and it is that point, Sir, which makes my mind very disquiet. I feel that although it may be difficult to accept certain portions, certain applications of this Motion, at least something should be done to limit the areas upon which collective punishment is likely to operate. The hon. Mover has himself dealt with at least three different Ordinances enacted

during different periods under this Government in this country.

#### ADJOURNMENT

THE SPEAKER: Order, Order. It is now 12.45 and Council will adjourn until 9.30 tomorrow morning.

Council rose at 12.45 p.m. and adjourned until 9.30 a.m. on Thursday, the 21st February, 1952.

Thursday, 21st February, 1952

Council assembled in the Memorial Hall, Nairobi, on Thursday, 21st February, 1952.

Mr. Speaker took the Chair at 9.40 a.m.

The proceedings were opened with prayer.

#### MINUTES

The minutes of the meeting of 20th February, 1952, were confirmed.

#### ORAL ANSWERS TO QUESTIONS

QUESTION No. 32

1. COL. GILBERT:

Having regard to the resignation of the Nairobi Citizens' Cost of Living Vigilance Committee, will Government please state:—

1. The object with which the Committee was set up and its terms of reference?

2. What action, if any, was taken by Government on recommendations submitted by the Committee?

3. If no action was taken in regard to 2 above, the reason therefor?

4. Was the Committee consulted in regard to the increase in price in various locally grown foodstuffs which have been sanctioned by Government in recent months?

5. Why has Government not carried out its promise to publish costings in support of recent price increases in regard to locally grown foodstuffs?

6. Why have the Chairman of Committee's letters dated 10th December and 10th January, addressed to the Member for Finance, submitting recommendations to combat the rise in the cost of living not been replied to?

THE FINANCIAL SECRETARY: Here, Sir, the hon. Member's question calls for considerable detail, and I must apologize for taking up the time of the Council, but the hon. Member has expressed a wish that his answer must be given orally.

THE SPEAKER: There is a way out of it, and that is to circulate the Paper to have time.

THE FINANCIAL SECRETARY: The hon. Member has asked that the answer be given orally.

1. The object and terms of reference of the Nairobi Citizens' Cost of Living Vigilance Committee as set out in General Notice No. 1254, published in the Official Gazette of the 15th May, 1951, were "to consider matters affecting the cost of living and to advise the Government on any matter on which it is felt that action is required".

2. The following are the main recommendations of the Committee, and against each the action taken by Government.

#### RECOMMENDATION:

(i) That there should be some sort of Government shops in all African locations and any other places where many African employees are housed in one area.

Action.—The Committee was informed that there were 42 shops owned by the City Council in the locations, in addition to 181 privately owned and 1,310 stores in the African markets, from which were sold a comprehensive variety of commodities in use by Africans; that a careful watch was kept on the distribution of sugar; that there were four City Council dairies at which milk was sold at 30 cents a pint, and a meat shop for Africans at which meat was sold at a fixed price.

(ii) That the public should be informed through the Press of the reasons leading to any change in the price of local articles.

Action.—The Government has announced in the Press the reason for price increases, in local articles, viz. maize and maize meal, wheat, flour and bread.

(iii) That the Committee should be given an opportunity of examining the position before a commodity was brought under price control.

Action.—The Committee was informed that this would result in duplication because the Price Controller is advised by an Advisory Committee set up by the Governor in Council, which is equally representative of consumer and trading

[The Financial Secretary].

interests and which is specially invested with this function.

(iv) That existing restrictions on the import of goods from non-sterling sources be relaxed.

Action.—The Committee was informed that the policy regarding the issue of licences for imports from non-sterling sources is dictated by the necessity to safeguard sterling and the balance of payments.

(v) That customs duty on all agricultural machinery spares and tractor spares be abolished.

Action.—The Committee was informed that all such spares identifiable as for agricultural machinery and tractors were already free of customs duty.

(vi) That customs duty be abolished on children's clothing and footwear; khaki drill; sewing threads; sewing machines; cotton head cloths; and infants' foods; and customs duty be reduced on American; flannelette; toilet paper; toothpaste and tooth brushes; brushes, brooms and soap.

Action.—The Government has not been unmindful of the effect of customs duty on the price of consumer goods and has kept the possibility of making reductions in the duty under constant review. In connexion with the 1951 Budget Estimates the Government abolished duty on certain made-up garments and on kerosene and halved the duty on khaki drill and blankets and abolished excise duty on tea. In connexion with the 1952 Budget Estimates the Government has removed the surcharge on soap and abolished the duty on certain infants' foods. The Government has to take into account the effect of abolition or reduction of duty on the Colony's revenue and the need to consult the Governments, of other East African Territories with regard to any action affecting the Customs Tariff. The Committee was informed of the above position.

(vii) That Maize Control should be abolished.

Action.—The Government has set up a Board of Management of the Maize and Produce Control, the

terms of reference of which included consideration of the form of organization or organizations which will most economically and efficiently serve the public interest in the collection, storage, distribution and marketing of maize. The Committee was informed that their recommendation had been forwarded to this Board of Management.

(viii) That the 40 per cent customs duty on margarine be abolished.

Action.—The Committee was informed that the duty was 22 per cent *ad valorem*. The purpose of the duty is primarily the protection of a valuable and necessary local industry.

(ix) That a minimum of 400 tons of margarine be imported in 1951.

Action.—The Government have ascertained that the U.K. Government is willing to permit the export of 200 tons to Kenya and import licences have been issued.

(x) That vegetables be price-controlled by fixing a maximum sale price to the consumer.

Action.—Maximum producer, wholesale and retail prices for vegetables were fixed in October, 1950. Since then Government have given careful consideration to various methods of fixing prices and it is possible that following upon the setting up of an approved organization for marketing vegetables the Government may be able shortly to accept this recommendation.

(3) Does not arise in view of the answer given to (2).

(4) No. For instance the price of maize meal is dependent on the price of maize, the fixation of which is the statutory responsibility of the Governor in Council.

(5) The Government has published costings in support of recent price increases of locally grown foodstuffs, viz. maize and maize meal, wheat, flour and bread.

(6) The Chairman of the Committee's letter dated the 10th December, 1951, was replied to by letter No. Pr.C.29/1/257 dated the 18th December, 1951. The

(The Financial Secretary) Chairman's letter of the 10th January, 1952, was also replied to by letter No. Pr.C.29/1/268 of the 22nd January, 1952. The delay of 12 days in answering the letter of the 10th January was due to the change in the position of the Member for Finance, and the need for myself to go into the matter personally before replying.

LT.-COL. GHERSIE: Arising out of that reply, Sir—which is rather lengthy—of course I shall have to ask one or two supplementaries, so I should like to crave your indulgence.

On the subject of Mairé Control, may I ask the hon. Member, is it not a fact that the Chairman of the Committee actually submitted a memorandum on the actual Schedule of Prices, and also asked to have an interview with the Chairman of the Ibbotson Vigilance Committee, and that this request was completely ignored?

THE FINANCIAL SECRETARY: Does the hon. Member wish me to answer them one at a time?

THE SPEAKER: I take it it is supplementary to Question 4. Is that right?

LT.-COL. GHERSIE: Yes.

THE FINANCIAL SECRETARY: I can only say, Sir, as far as my recollection goes. If the hon. Member will wait, I will tell him the details on the file, which I have got with me.

The request from the Chairman of the Committee was either to meet the Committee, or that their representations should be passed on to the Committee, and they were told that that request had been complied with. They did, I think, misunderstand the position inasmuch as they thought the Board of Management was the Mairé Control itself, instead of realizing that the Board of Management was what is known as the "Ibbotson" Committee.

LT.-COL. GHERSIE: That is not a correct answer, Sir, because it is specifically asked for an interview with the Chairman of the Committee, Sir William Ibbotson.

THE FINANCIAL SECRETARY: Mr. Speaker, I am sorry I cannot agree that that answer is completely incorrect. If the hon. Member cares to give me time I will turn up the letter and quote to him,

but they did say, "Our representations should be made to the Committee," unless my memory is very much at fault that was the position.

LT.-COL. GHERSIE: I will accept that in the meanwhile, but I have got correspondence which shows—

THE SPEAKER: You are now verging on debate. First of all I did not like this question, but when I saw it on the Order Paper, I did not think it would lead to such results as this otherwise I would have asked you about it. You cannot, on the basis of a question down on the Order Paper, put cross-examinations and then expect to have supplementaries afterwards. They are supplementaries to what?

LT.-COL. GHERSIE: The supplementary would be arising out of the recommendations made.

THE SPEAKER: They should be arising out of the answer. If you are dissatisfied with the answer, you put another question.

LT.-COL. GHERSIE: I submit—

THE SPEAKER: I am only making suggestions to help you. I am not saying anything.

LT.-COL. GHERSIE: I submit there are certain recommendations made by this Committee on which no action has been taken by Government.

THE SPEAKER: You must not address the Chair. It is simply a question of question and answer between the hon. Member for Finance and you.

LT.-COL. GHERSIE: In consequence of the recent rise in Customs on liquors and tobacco, was there not another recommendation that there should be a date stamp on all goods in bond at the coast so that it would prevent the merchants taking an unfair profit on stocks they held in shops?

THE FINANCIAL SECRETARY: I will certainly go into that. The foregoing were the main recommendations. If the hon. Member wished me to deal with every recommendation that the Committee has made, I should have kept the Council for an hour.

It is a matter of opinion which are the main recommendations. If the hon. Member will submit the particular recommendations which he wishes me to answer, I will give him the answers and

(The Financial Secretary)

I think it would be a good thing if they were published in the Press. (Hear, hear.)

LT.-COL. GHERSIE: I will not take up the time of the Council, Sir, but my point is that many recommendations (laugher)—

THE SPEAKER: I must ask the hon. Member not to disregard the authority of the Chair in the way he has just done. I must point out that you are not entitled to get up and make a verbose speech or anything of that kind. It is simply a matter between you and the Member for Finance. You put this extraordinarily long interpretation, almost in Continental fashion, on the Order Paper and then expect the English rules to apply. Well, it is practically impossible.

MR. COOKE: Arising out of the unsatisfactory reply of the hon. gentleman, and in view of the alarm and despondency that prevails in the whole country, will Government have a high-powered review on the whole position with regard to inflation and with regard to the cost of living problem?

THE FINANCIAL SECRETARY: Mr. Speaker, I can only say that Government, though the hon. Member may not consider it a "high-powered" case, the Government is continually reviewing the position in regard to inflation. I cannot, Sir, make a speech which would refute the implication of the Member's supplementary question. Therefore, I will sit down merely by saying that Government is continually reviewing the position.

MR. COOKE: We shall have to move a Motion, then, as soon as possible.

#### QUESTION No. 34

MR. BLUNDELL:

Will Government state what action, if any, has been taken up to date to implement the recommendations in regard to the introduction of a voluntary record of employment which were made in the Report of Sir Bertrand Glancy on the Registration of Persons Ordinance, 1947?

THE ACTING DEPUTY CHIEF SECRETARY: Government accepted the recommendation in the Glancy Report that a voluntary record of employment should be introduced and Ordinance No. 13 of 1951, amended the Registration of

Persons Ordinance to give effect to this recommendation.

Fifteen thousand voluntary record of employment cards have been distributed by the Labour Department and Labour Officers have been instructed to emphasize to employees that these cards are available and the advantages of making use of them.

MR. BLUNDELL: Arising out of that answer, Mr. Speaker, Is the hon. Member in a position to inform me how many of the 15,000 voluntary records of employment have been used?

THE ACTING DEPUTY CHIEF SECRETARY: Mr. Speaker, I am not in a position to inform the hon. Member at the present time. I will try and find out later.

MR. BLUNDELL: Arising out of that answer, May I ask the hon. Member to give me an assurance that the same publicity will be given to this, as has been given to the registration of persons in the form of finger-prints.

THE ACTING DEPUTY CHIEF SECRETARY: Yes.

MR. BLUNDELL: Mr. Speaker, arising out of that answer, may I ask the hon. Member how much is the Vote which has been taken by the publicity given to finger-prints and necessity for registration thereon in comparison with the Vote for publicity given to this.

THE ACTING DEPUTY CHIEF SECRETARY: Obviously, Sir, I would require notice of that question.

THE SPEAKER: The debate on the Motion moved by the hon. Member for African Affairs—

MR. HAVELOCK: Mr. Speaker, Question No. 38, Sir, I think, is on the Order Paper.

THE SPEAKER: I beg your pardon.

#### QUESTION No. 38

MR. HAVELOCK:

1. Especially in view of the public concern at the cost of *posho* to the consumer, will Government expedite the Report of the Committee sitting under the Chairmanship of Sir William Ibbotson which is investigating the cost of distribution of this article?

2. Will Government state the earliest date at which the Report of this Committee can be made?



[Mr. Havelock]

3. Will Government give an assurance that the Report of this Committee will be laid on the table of this Council or made available to the public in another manner?

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: 1. Government is taking steps to expedite the Report of the Committee sitting under the Chairmanship of Sir William Jibbotson, but a great deal of time has had to be spent by the Committee in the taking of evidence and in the carrying out of their investigations over a wide area of the Colony.

2. Under the Committee's terms of reference their Report has to be submitted to Government not later than 31st July, 1952, but it is hoped that it may now be possible for the Report to be completed earlier than that date.

3. It is the intention of Government that the Report shall be laid on the table of this Council.

#### MOTIONS

##### COLLECTIVE PUNISHMENT—(Contd.)

THE SPEAKER: Council has before it the question that was moved that this Council is of the opinion that collective punishment is inequitable and requests the Government only to punish the actual offenders in appropriate cases. The debate will be resumed.

MR. OHANGA: Mr. Speaker, I think I was dealing with the point that collective punishment as applied to Africans in this country has certain effects injurious to the feelings of the innocent Africans who are law-abiding.

I just want to add a few more words on that point this morning. Collective punishment is, if I may say, the traditional form of punishing people in this country when the offender is not known. Whenever a person was found dead within the vicinity of a group of villages and they continually desired from the revealing of the name of the person concerned, they were punished collectively. That was a principle which was held not only among Europeans but among Africans and, I think, other people in the world too. But we cannot run away really from the truth that collective punishment does put a stigma on the innocent, law-abiding individual who has nothing at all to

do with the crime. It stigmatizes him and makes him a disgruntled fellow and unwilling to co-operate with everybody for the good of society and for the good of mankind. Being in a position of disgruntled state, he is demoralized to a certain extent, in that not only will he be unable to contribute constructively to the success of society in the activities for the development of their affairs, but his efforts will be wasteful and he, himself, will be almost a useless fellow through the action of the authorities who impose on him a punishment for which he is not responsible. It takes away his civic responsibility and altogether takes away his sympathies from those things we consider to be desirable.

Now, Mr. Speaker, if the maintenance of peace and order in the country were considered to be the responsibility of every law-abiding individual, it cannot be left to a certain group of people, be they the police or any other group of men who might be charged with that responsibility. We shall need the co-operation of everybody in the country from the smallest to the biggest in dealing with criminal activities wherever they may be found. That being so, it is very, very important that while punishments are being meted that fact should not be forgotten, and a punishment which will be awarded in such a way that it takes away that particular factor, in my opinion, does more harm to the community than good. It seems to me that these care the citizen who is law-abiding takes care he does not himself step into other people's ways to offend them. He tries to maintain peace and order within his own activities. At the same time, he contributes through taxes to the maintenance of law and order with those who are responsibly charged with that duty and that being so, it is very important we should try to keep him with us all along to make quite sure we get all the support and co-operation that he is capable of giving.

Now there are four features of collective punishment, as we know it to-day in this country, which I think cannot be adequately defended in this Council.

The first is that collective punishment in the form that we know it is primitive; it is a thing that is not worthy of the position and the condition which we find ourselves in in Kenya to-day. The person that should be punished is the person who

[Mr. Ohanga]

committed the crime, but not that a whole group of men should be stigmatized and demoralized for the offence of one. I have not yet heard any real defence for that one.

The second is that it is oppressive. It oppresses the innocent and the poor, who being thought of collectively and herded into it are treated as criminal offenders, and that feature, I think, is a very objectionable one and cannot be defended.

The third is that collective punishment is inequitable, and listening very carefully to the speech of the hon. Member for Law and Order yesterday, I did not find very much in what he said that would convince me that there is anything equitable in the application of this law. Although justice may be done in that the criminal is punished, a great deal of harm and oppression is meted to the innocent in the herd with the criminal-minded people.

The fourth and last is that collective punishment in this country is absolutely discriminatory. That has been pointed out by my hon. colleague, the Mover, and I shall not elaborate, support for this, I think, came from the hon. Member for Law and Order when he answered by saying that this is a form of punishment which obtains mainly in colonies in Africa. I do not know if I misheard him, but I thought, he said it was only to be found in colonies in Africa. To that extent it is discriminatory. In this country it operates only to deal with Africans and African societies; to that extent again it is discriminatory.

Because of these four very objectionable features which cannot be defended, I think it is time we did something to try and relieve the feelings of the people.

With these points, Mr. Speaker, I beg to second.

MR. MACOSOCHE-WELWOOD: Mr. Speaker, I rise to oppose the Motion and in doing so, I am quite prepared to agree that collective punishment as such is a thing that none of us like. It is a thing that Government has always avoided wherever it has been possible to avoid it. But a Motion of this sort needs to be opposed very strongly, and the position of collective punishment to be very carefully set out, because Motions of this kind can do a great deal of harm to the good name of the Government of this

country outside this country, where people do not understand the circumstances.

The hon. Mover has said very fairly that the law does not lay this down as a racial law, nor is it, but I think the point that requires elucidation is the reason why the law is invariably applied to the Africans and not to other races in this country. And the reason for that is that the African to-day is still, in the vast majority, leading a communal life and where a communal life exists, communal responsibility must be taken for certain types of crimes. May I explain it in this way?

The hon. Mr. Chemallan mentioned communal punishment of families for stock theft. Now the hon. Member knows, as well as I know, that in the pastoral tribes of this country stock theft is not looked upon so much as a crime as a rather laudable display of manhood. That is still so in many of the pastoral tribes and everybody here knows that it is so. I am not blaming them for that attitude. It is only a short time ago that that attitude existed in the United Kingdom—two hundred years ago—on the borders, but the fact remains that that condition still exists here to-day.

As a result, stock theft is untraceable because the tribe concerned will not give evidence against a man who is, after all doing what traditionally a young Moran of his tribe has always done in order to prove his manhood. Under these circumstances, there can be no choice but for Government to use the principle of collective responsibility. Were it not so, stock theft would not be stamped out. There is only one other way in which it has been stamped out in other countries and that was the death penalty, which I feel would hardly be acceptable to hon. Members.

I will not reiterate what the hon. Member for Law and Order has already said as regards the gradual evolution of law, but that is the crucial point. In fact, though it has been suggested that this law is primitive, it is primitive, it has to be primitive. I hope that I will not give unnecessary offence if I say that the majority of the inhabitants of this country are still primitive, and it is necessary that it should be said in this Council, if this Council is to be a useful body, it can never be so

[Mr. Macnochie-Welwood]

unless facts, and true facts, such as that are stated. In a primitive community the infinitely gentle and tolerant law of England is often impossible to apply, and one of the major reasons for that is that we have evolved that tolerant and gentle law through the fact that the people of the United Kingdom as a whole have gradually come to be almost universally on the side of the law. (Hear, hear.) When police action is taken in that country, when criminals are pursued, an infinite amount of assistance is given to them by the ordinary public. The question of the public siding with the criminal does not exist.

Now, in this country, this does not exist. In this country the vast majority of the African inhabitants are not on the side of the police. I do not say they are all opposed to the police; I know that is not so, but they are not actively on the side of the police. They will not help with information in many cases, and they will not help the police in the execution of their duty. If we are to civilise this country, and its civilization is essential for the economic development and for the improvement of the African Peoples, it is just necessary that life and property should be the first care of Government and if, in the process of the protection of life and property, it is sometimes necessary, as in collective punishment, that certain individuals shall suffer, then in the interest of the general well-being of the African people, they must suffer.

The hon. Member suggests that in Suk, for example—I think it was the hon. Member—people were punished twice, that is to say certain people were executed for the Kollaa affair, certain people were killed there, and then a levy was put upon the tribe, and he deems that an injustice, but I would put it to him in this way: that if a certain section of the community, one definite section, requires a greater police force than other more law-abiding sections, surely there is no question of its being a second punishment. It is an inevitable result of the actions of the individuals of that community and it should properly fall upon that particular community until they have learnt to keep the King's peace, that they should pay for more police officers, so that peace should be kept rather than that the whole body police

of the country should have to suffer for their offence. (Applause.)

DR. RANA (Eastern Area): Mr. Speaker, with your permission, Sir, I intend to move an amendment to the Motion moved by the hon. African Member.

Before I move an amendment I want to make it perfectly clear, Sir, that as far as the principle of collective punishment is concerned, I am in favour of retaining that principle. I have to use the words "That this Council is of the opinion that collective punishment is inequitable"—the word "inequitable" I had to use it in order to satisfy you, Sir, so that you may not be able to rule me out by moving the amendment—and to request the Government to appoint a committee to review the various Ordinances on collective punishment with a view to removing any undesirable clauses".

Sir, I have listened with great interest to both sides of the debate, and being one who comes from that country where we used to have always collective punishment, and knowing that collective punishment is biological, I should say, not even among the human beings but only among the animals and insects, of all over, applied in particular cases, when the law and order of the country has to be kept.

Sir, it is well known, the usual saying, if somebody's child does some mischief, it is always the father and mother who are accused. Well, I mean to say, because the father and mother never did anything. Take the ordinary insects. If somebody is bitten by a bee, the only thing is to go and get the whole hive and burn it. That is human nature. Under the circumstances, as far as the principle of collective punishment is concerned, Sir, I must say it is not only in Africa, but I dare to say in India we had it when one village against another village used to attack, destroy the houses and crops, and under the circumstances, in order to detect the crime and get the criminal, it becomes difficult for relatives and other people to come forward and give the authorities certain news. But listening to the hon. African Members and knowing that sometimes this law is unreasonably applied in the way that when the District Officers or some inexperienced officer who does not want

[Dr. Rana]

to take that trouble in actually putting the finger on the spot of the criminal—(cries of "Shame!")—he may possibly go beyond the power and use the law against the whole other side—which I do not know. I have had no experience, nor have I heard of any case. I am only giving an instance which might be possible.

Under the circumstances, I hope the hon. Member of the Motion would accept my amendment, Sir, so that any undesirable clauses should be removed in order to make it more equitable and in order to do justice. It is only with that intention, Sir, that I move my amendment. But I want to again repeat that as far as the principle of collective punishment is concerned, I am in favour of that that must be maintained. With these few words, Sir, I would like to hear from the hon. Member of the Motion whether he accepts my amendment and also the views of other hon. Members before I reply.

MR. NATHOO: In seconding the amendment moved by the hon. Member for Eastern Area, I would only like to say, Sir, that since some of the Ordinances were enacted as far back as 1930, I do feel, Sir, that the time has now come when a review should be made to see if these Ordinances are still necessary in the same strict measures as they were in 1930. If they are not necessary, amendments should be made in them.

Sir, I beg to second.

THE SPEAKER: It is proposed—Dr. Rana, I cannot move this as a separate Motion; it must be moved formally as an amendment. The first words, as you have written them down here, agree with the words of the Motion up to the word "Government". They are identical.

DR. RANA: That is quite true, Sir.

THE SPEAKER: It is proposed to omit all words after "Government" for the purpose of substituting other words. The other words which are proposed to be substituted are "to appoint a committee to review the various Ordinances on collective punishment with a view to removing any undesirable clauses".

MR. MATIU: Speaking on the amendment, Sir, as the wording of the amendment is made, I have no objection to it,

only to say that if the hon. Member of the amendment would stand by the words of the amendment I do not see how he can say that he accepts the principle of collective punishment, when he accepts the word "inequitable". (Hear, hear.) But otherwise I think that if you agree, Sir, I have no objection to the terms of the amendment.

THE CHIEF NATIVE COMMISSIONER: Mr. Speaker, I am afraid the Government could not accept this amendment. In the first place, because the Motion still contains the word "inequitable", and Government does not consider that the—

THE SPEAKER: The only question we are discussing at the moment is a new question proposed by the Chair, namely, whether this Motion should be amended or not. I hope the hon. Member will not discuss anything other than that, because he will still have the opportunity of speaking again on the main Motion, if we ever get to it, if it is not killed.

THE CHIEF NATIVE COMMISSIONER: No, Sir, I had no intention of going any further than that, but Government cannot accept the amendment.

THE ATTORNEY GENERAL: Mr. Speaker, I would like to rise to oppose this amendment and to add a few words to what the Chief Native Commissioner has just said. I think, Sir, with respect, that the Chief Native Commissioner was not intending to go back to the commencing words of the Motion to discuss the principle of the inequity or otherwise of collective punishment, but to point out what, indeed, is obvious, and what indeed has already been underlined by the hon. Member of the Motion, Mr. Matiu, that this amendment, if it were carried, would be a contradiction in terms; because the first part of the Motion still stands—namely, that collective punishment is inequitable; and therefore it must follow that all Ordinances which impose collective punishment should be repealed and abolished. It would not be a question of reviewing them with a view to removing objectionable clauses, because in order to comply with the principle which, on this assumption, would have been approved, namely that collective punishment is inequitable, all the Ordinances dealing with the collective punishment would have to be repealed. Therefore,

[The Attorney General] for that reason, if for no other, the Government could not accept this amendment.

But there is another reason, an equally strong reason, why the Government cannot accept this amendment. Although the hon. Dr. Rana has moved that a committee should be appointed with a view to removing undesirable clauses—(hear, hear)—he has given no indication whether, nor has anyone else who has spoken in support of this amendment, that there are any undesirable clauses in these Ordinances since it is admitted that the principle of collective punishment is a sound principle. No one has suggested that if there is to be collective punishment the Ordinances which we have got on our Statute Book are not properly framed, and properly drawn with a view to applying that principle. I quite agree that it is not sufficient merely to say that Government approves of the principle of collective punishment. Government must go further and be able to say that this principle, as applied by the Laws of this Colony, is applied in such a way that it is not abused and that there are adequate safeguards against abuse.

The hon. Mover of this Motion mentioned three Ordinances which apply the principle of collective punishment. The first is called by that very name, *Collective Punishment Ordinance*, and in that Ordinance a safeguard is provided by section 8. The Governor may impose "fines on all or any inhabitants of any village, area, or district or members of any tribe, sub-tribe or community, if, after inquiry, he is satisfied, etcetera", and then section 8 goes on to say that such an inquiry shall be conducted by "a magistrate or other judicial officer, in the same manner, as far as may be, as an inquiry under the law relating to criminal procedure". In other words, there is there an adequate safeguard to ensure that the principle of collective punishment is only applied in appropriate cases. There is yet a further safeguard provided by section 4 of the Ordinance, which provides that the Governor may, either by the order imposing the fine or by a subsequent order, direct that the whole or any part of the fine recovered under the provisions of the Ordinance shall be repaid to the persons paying such fine provided that they

shall have kept the peace and been of good behaviour for such period as the Governor may determine. So far as the main Ordinance dealing with this matter is concerned, therefore, there are sufficient safeguards against abuse and it is not sufficient, I submit, for Dr. Rana to move his amendment without directing attention to any particular clause of this Ordinance, which he says should be amended. It is not sufficient for him to get up and say there should be a committee. He should point to definite clauses and say how they are defective. He has not done that nor indeed do I believe it is possible for him to make out such a case.

MR. MATHU: How about section 9, about collective punishment?

THE ATTORNEY GENERAL: I think my hon. friend is referring to the obligation to refer to the Secretary of State.

MR. MATHU: No, Sir—that it provides an appeal. Do you think that is fair?

THE SPEAKER: I must call Mr. Mathu to order. There are proper ways and means which we have even laid down in our own rules for interruption of the person who has the floor of the Council, and to make an interjection only and not to get the other Member to give way properly is out of order.

MR. MATHU: I am sorry, Sir.

THE SPEAKER: I am very glad you accept the view that I take, but we might have these things in the correct Parliamentary way instead of in this what I might call Ralferty Rule style.

THE ATTORNEY GENERAL: The other two Ordinances to which my hon. friend referred were the Stock and Produce Theft Ordinance and the Police Force Ordinance. In regard to the first of those two, there again there is a safeguard in that the warrant cannot be endorsed by the Provincial Commissioner for execution against the property of the family or the tribe unless the Provincial Commissioner is satisfied that it will be justifiable to levy the fine in that manner and, furthermore, if he thinks it desirable, he can call upon the head of the family or the headman of the village to show cause why the warrant should not be endorsed, or may hold such other inquiry as he thinks proper. That again, Mr. Speaker, shows that this Ordinance

[The Attorney General] is not to be applied arbitrarily but only with those safeguards which are provided by that section.

Finally, so far as the Police Ordinance is concerned, the levy is not strictly speaking a fine. It is payment for additional police, the cost of the additional police that have to be posted to the disturbed area. There is ample provision in the Ordinance to enable the Magistrate to inquire into the apportionment of the cost of the extra police and to exempt those persons who, because of their conduct or because of the assistance they have rendered to the authorities, should be exempt from contributing towards the cost. That is provided for in a proviso to the section to which my hon. friend referred which provides that the magistrate may exempt any person or class of persons or section of such inhabitants from liability to bear such portion of such cost as he may determine. There again, Mr. Speaker—

DR. RANA: On a point of order, Mr. Speaker, in order to save the time of the Council, if neither the Government nor the hon. Mover of the Motion is willing to accept my amendment, I will withdraw my amendment. (Laughter—applause.)

THE SPEAKER: That is not strictly relevant as a point of order. An hon. Member who is speaking is not to be interrupted on false points of order. That is quite out of order. You should have waited until the hon. Member had spoken and concluded his speech, then you had the right to speak. You have not got the right to interrupt him "on a point of order" when there is not a point of order at all. There was no question referred to the Chair whatsoever.

DR. RANA: I apologize, Mr. Speaker, but my idea was to save the Council time.

THE SPEAKER: I quite agree that the motive is most laudable of saving time. (Laughter.) I nevertheless have my duty to perform. Is it your wish that this question, the Motion before the Council, should be withdrawn? It is withdrawn.

THE CHIEF NATIVE COMMISSIONER: We are now, Sir, I presume speaking to the original Motion.

In the first instance, Mr. Speaker, I should like to say how very much I appreciate—the Government as a whole appreciates the manner in which the hon. Mr. Mathu put forward his arguments. Collective punishment, as the hon. Member for Uasin Gishu has said, is not a particularly pleasant thing—we do not like it and we prefer the principle of individual responsibility.

Now, Sir, we have heard yesterday from my hon. and learned friend the Member for Law and Order the historical background of the principle of applying collective punishment. We have heard that the system operated in England for some 400 years and it operated during the time when the sense of collective responsibility was greater in the social set-up in England and stronger than the sense of individual responsibility. So long as that state of affairs continued, so long was this principle of collective responsibility and therefore collective punishment required and available.

As individual responsibility emerged, so did the principle of the pleas of the Crown lying against the individual. Now, this happened in England and went on for some 400 years and I think that very fact, Mr. Speaker, shows that its application to Africa is not in the least a dictation or racial matter. We have heard that it is discriminatory, and discriminatory presumably in a racial sense. That I absolutely deny; it is not. It is a principle which is only applicable to societies which have that collective sense of responsibility rather than an individual one. If, in the circumstances in which we live here, that particular society is mainly an African one, that is an accident, and is not a matter of racial discrimination.

Now, Sir, we have to discover whether or not there is a sense of collective rather than individual responsibility in the African society or in any of the societies in which we live here, and I submit, Sir, that there is very strong evidence to show that that sense does exist. We know perfectly well that tribes and clans and sub-groups of clans exist in Africa and have this strong collective feeling.

As a result of the existence of tribes living side by side, there is still unfortunately a certain amount of inter-tribal affray. If my hon. friend Mr. Chemllan will go to the borders, I think, of part of

[The Chief Native Commissioner] his constituency and notice the feelings that sometimes exist and flare up between various pastoral tribes amongst his constituents. I think he knows well that those feelings exist, and occasionally come to the surface.

Again, inside the constituency of my hon. friend Mr. Ohanga I know perfectly well that there are still a number of police posts necessary in order to keep the tribes from unfortunate clashes. Those clashes very often occur as a result of the theft of stock by one tribe from another. I think it is not more than five or six years ago when I personally had to go to Sondu, which is in his constituency, with a large number of police when I expected at any moment that one tribe was going to go for another tribe because there had been continual stock thefts between them.

Now, in the same way, we know that there are African clans, and I think anybody who studies the reports and appeals of African tribunals will know that there are many instances of clan affairs which occur particularly over boundaries, and that I think particularly in—again—the hon. Mr. Ohanga's constituency.

We also know that the sense of family responsibility amongst Africans is peculiarly strong. I would suggest that the whole system of bride price, the principle of clanism, the fear of the members of a clan as a result of an oath taken by a member of their clan, all tends to show that there is a strong sense of clan, family and tribal responsibility alive.

Also, we have well-known systems of communal and collective activities, communal thatching, communal building, communal wedding, harvesting, clearing of ground and so on, and so well as those activities known to them are actually given particular names by the various tribes. All those things, I think, are well-known facts.

Now, Sir, this social characteristic can be used to good effect or to ill effect. When it takes the form of communal work it is, I suggest, an extremely good thing, and something, I think, that our own European community has perhaps lost by our insistence upon the rights of, possibly at the expense of the responsibility of the individual.

Now, the hon. Mr. Mathu and the hon. Mr. Ohanga said that collective punishment was inequitable. But do hon. Members really hold that if a group with this sense that I have tried to describe, with this sense of being members of a group and having a group responsibility, if they suppress evidence, if they refuse to say when they know why so-and-so's body was found, why he died, how he died, or if, as they know very well, stock is possibly landed in their *boma* by a member of the group, if they completely suppress evidence on that matter, is it inequitable that they should bear some responsibility for the crime? I submit it is not.

Now, as far as murder is concerned, I know that a few years ago there was a collective punishment which was levied upon a part of the Meru district where a tribal policeman's body was found. Nobody, of course, would say anything. Now, I do not think that we can compare the sort of behaviour of people living in remote areas in Africa to the sort of behaviour of people living in the back streets in Manchester. My hon. friend the Member for Usin Gishu has pointed out, one is a comparatively primitive society, the other the society in which this sense of individual responsibility is fully developed, and the individuals generally exercise that civic responsibility that my hon. friend Mr. Ohanga talked about. But in those more primitive societies they do not.

Now, Sir, again over stock I have mentioned the fact that stock may be found in somebody's *boma* that is not the *boma* of the actual thief, but we all know, I think we all know and recognize that family ownership of stock is a very strong feeling amongst many Africans in this country, and the knowledge of the people in a *boma* of the actual animals who live in that *boma* is profound. I mean, the names of the animals—each animal has its own name, even the children know them. Therefore, again, to accept as reasonable the suppression of evidence and the idea that nobody knows how on earth this animal got here, I think, is the application of modern Western ideas to a society where those ideas do not in fact obtain.

We have heard, Sir, suggestions that the application of collective punishment in the case of the Suk was inequitable

[The Chief Native Commissioner] Now, I would only say to that, Sir, that Lukas Kicheh was wandering about in Suk for some two months. The people of Suk—all of them—kept their mouths closely shut. I just do not believe that the people of Suk were not well aware of what was going on—so well aware were they, in fact, that large numbers of them—men, women and children—followed Lukas, and unfortunately Kollia occurred. Those people, I consider and submit, must be held collectively responsible for what was, in fact, collective action.

We come to the case of Fort Hall. I would like to say how much I sympathize with the hon. Member of this Motion in that matter. The hon. Mr. Mathu, as my hon. friend, the Attorney General, has already said, took enormous pains to try to persuade those poor misguided people—the women there—not to carry on with their disturbance. Unhappily he did not succeed, because other people came along and undid the excellent work that he had tried to do, and of course it was an enormous disappointment to Mr. Mathu—as it was to everyone concerned—and I would like personally, Sir, and on behalf of Government, to say how much we appreciated Mr. Mathu's action—a most courageous action at that time—(applause)—but there, Sir, we had for ten to fourteen days demonstrations of women—sometimes up to 3,000 women—and on one occasion even the men—I think this was near the beginning of the disturbances. The men themselves followed the women to the District Commissioner's *baraza* and sat in the background, and those women came and discussed with the District Commissioner matters of stock. I may be wrong—I do not think I am—when I say stock and matters of stock, and all matters concerning stock, are matters, as far as the Kikuyu are concerned, for the men, and not for the women. These women were, in fact, breaking the Kikuyu custom themselves in discussing stock, and the men who pushed them on to do this knew it was not women's business. I suggest these men did so as part of the concerted effort to disrupt the forces of law and order in this country.

The hon. Mr. Mathu suggests many hundreds of animals had died as a result

of the inoculation of stock. Only 45 animals out of 8,775 that were inoculated were reported as dead. If you double that figure—and I do not say more than 45 did die—if you double that figure, you still have an extraordinarily small proportion. I submit there was no case whatever for the sort of disturbance that arose.

Now, Sir, as the hon. Attorney General has said, the men will pay something like Sh. 6 a head in certain locations—in certain groups within those locations only—for that disturbance. The women are not being punished. The women were the dupes of the men. They will not be punished twice, and I think it is perfectly right the men themselves should be punished, and I think this Council will agree with me that a levy of Sh. 6 per head—which omits particularly those who assisted Government and the powers of law and order to try to retain the situation and improve it—I do not think anyone would feel Sh. 6 contribution was too heavy.

Now, Sir, I think it is ostrich-like for us to imagine that the people of Fort Hall and those locations or the people of Suk did not know what was going on. Those who attempted to stop it have, as I have said, been expressly exempted from collective punishment. What we must have is the individual sense of civic responsibility emerge and grow and be exercised. The fact, Sir, that I have referred to these communal and family methods of thatching and so on that go on, and I hear now—and I am given to understand—that recently, I believe in the Kiambu district, this very system—this very sense of collective responsibility and collective action—has been made use of by those people who call themselves adherents of the proscribed society, I think, called *Mau Mau*. They are using that very thing, and they are saying: "We will not help under our ordinary tribal responsibilities—we will not help people who are not members of this proscribed society." So I do not think anybody can get away with it and say there is no sense of collective responsibility among Africans.

Now, Sir, I hold, and Government holds, and the Government of Britain held for 400 years, that, while there was the sense of collective responsibility rather than a sense of individual

[The Chief Native Commissioner] responsibility, if that collective action results in the breaking of law, then the Government must retain the powers of acting collectively and punishing collectively those who collectively break it. The application of these Ordinances is done with the greatest care, as my hon. friend the Member for Law and Order has said. It is done with the greatest care—it is done after inquiry—and I do not know whether I shall be in order in saying this—but personally and on behalf of Government I resent the suggestion that has been made in this Council that District Officers, in order either through idleness or fear or for some other reason, prefer to apply for collective punishment rather than seek out the individual offender. That, Sir, I must emphatically deny. (Hear, hear.)

I believe, Sir, that the bulk of the Africans enjoy the benefits of law and order, but I know that unhappily, largely through ignorance and the gullibility often of the indigenous population, they are able easily to be led astray by a few people who put the wildest ideas into their heads. I, Sir, and Government would welcome the emergence of a strong sense of individual responsibility amongst Africans, and I do know, and do appreciate, the frustration that is often felt by the educated African who has emerged from the collective community to which he once belonged, and now has that sense of individual responsibility. I know how much these old-fashioned, perhaps, methods—how much they frustrated him—but neither those educated Africans nor we, Sir, can, I think, afford to go about with our heads up in the clouds and our feet well off the ground. We must stick to the facts and the facts are that, in many parts of this country, a primitive society does exist, and methods which have to be applied to primitive societies have to be applied. Of course, they will be less and less applied as the African emerges with his sense of civic responsibility. I can only say that I would welcome speech in that emergence, but I would say this much to the Africans, that when the sense of individual responsibility and individualism emerges, for goodness sake do not do what has occurred in many Western societies, and that is the sense of communal responsibility some-

times goes, and the individual considers all he has as rights, and no obligations.

Sir, I beg to oppose.

Mrs. Staw: Mr. Speaker, I rise to oppose this Motion because it is a matter that largely affects the peoples of all races living in my part of the Colony, and because, in my view, there is no other way to discourage this type of lawlessness except by collective punishment. Certain sections of the community are at the mercy and suffer yearly from collective crimes, and I submit, Sir, for such crimes the community have no redress except by collective punishment.

Every year in Nyanza thousands of pounds' worth of damage is done by such crimes as arson, causing grass fires, and cattle running. Apart from the more serious types of arson, by which we fortunately are not troubled in Nyanza, as in some other parts of this Colony, the loss and damage caused by grass fires costs the stock farmer—both European and African—thousands of pounds in loss of grazing, burning of fence posts, tree plantations, buildings, sheds, as well as the loss of working days, while he and his labour spend many anxious hours fire-fighting on his own and his neighbour's lands during January and February every year.

To turn to stock running, I am afraid between the Kipsigis and Kisii reserves, where I live, I cannot agree with the hon. Member, Mr. Chemalili, that this form of national sport is on the decrease. In fact, this last year there has been a big increase in stock running in our part of the world, and not only is the stock farmer in constant danger from diseases such as East Coast fever which are introduced when his fences are cut and the stock run through at night, by the introduction of unclean cattle on to his land, but as well as that many Kipsigis and Kisii have lost their lives by being murdered in this national game.

For both these crimes of fire-raising and stock running it is quite impossible to affix individual responsibility and way in which to bring home to the perpetrators of these crimes their fault, except through collective punishment.

Taking another serious aspect, in the past Government had recourse to collective punishment in the interests and the

[Mrs. Shaw]

(protection of the peaceful citizens—both Europeans and Africans—in Nyanza Province. I refer, Sir, of course to the Police levies which were imposed as a result of the Laibon disturbances in 1930. Everyone will agree it is Government's responsibility to protect the life and property of all citizens living within this Colony, and in this instance the life and property of both European settlers and the Kipsigis tribe themselves were endangered by the lawless activities of young Moran instigated by the Laibon; as in this case no individual responsibility could be attributed, there was no other course for the Government to take but to impose collective punishment, and I submit, Sir, that, although I am perfectly certain Government only resorts to collective punishment in the last instance, there may be other occasions in the future of this Colony when that would be the only way to restore peace, order and good government.

I beg to oppose.

MR. JEREMIAH: Mr. Speaker, I rise to say a few words in support of the Motion moved by my hon. colleague, Mr. Mathu, and I must begin by paying a tribute to the way he gave his speech, and the way he expressed himself despite the feeling we all share over this Ordinance.

I can understand, to some extent, Sir, the reasons which prompted the gentlemen of those days to introduce such an Ordinance. They must have been put into great difficulty through cattle thefts, and so on, but I must submit that, their anger overcame their sense of justice, because I submit that any crime committed by anyone should not affect those who did not commit it.

I submit that it is the person who commits the crime who should suffer. Now, to inflict punishment on innocent people, in the hope that they will try to prevent crime, in my view is totally wrong, because people who do not commit it—crime—the people who are law-abiding—are not committing crimes. The crimes are committed by the habitual criminals or habitual offenders. If you also punish the innocent, then you make that man feel more frustrated, and perhaps become not co-operative, because what is the use of co-operating if, by doing so, he has still got to be punished?

Collective punishment might have been justifiable during those primitive days, but to think that our present Government would consider, or intend to retain and prolong the law concerning collective punishment, which is primitive, is, in my view, a shame. I submit, to carry on primitive practices at the later part of the 20th century is, in my view absurdity itself.

The hon. Member for Law and Order spoke about the insignificance of the punishment inflicted on the people concerned, and especially he spoke of Sh. 6 a head for four months in Fort Hall, during the time the police force is posted there, but I think to say that the amount is insignificant shows a lack of knowledge of the African conditions. Sh. 6 would help to raise the standard of living of the people which, in most cases, is below subsistence level. He also mentioned the people there are more happy. I wonder if anyone can be happy at all for being punished because he did not commit an offence. That is what is taking place there. People who did not commit offences are being punished. I agree that if it was not for the police there disturbance might not have died soon, but the police force which has been posted there, or posted to any disturbed areas, are not of new creation. They have been in existence, and have been provided for, and I do not see why an extra fund should be found from innocent people to maintain the forces. An extra expenditure which, no doubt, might occur, could be paid from the general revenue of the country, otherwise from the punishment imposed upon the actual offenders.

Now, collective punishment affects men, women—old and young—and children, because although it has been mentioned that collective punishment affects only the men, I say it is not so, because if the men are fined, the money that is taken away from them is the money they would have used for their women. If it were cattle it would have been used for the benefit of the whole family. It affects everyone. For Government to adopt such methods, Sir, in this is quite wrong, in spite of the level of the people they live. I think any Government should not try to adopt primitive methods because there is primitiveness. What a civilized Government should do is to help the people to be civilized, and also to help them by

[Mr. Jeremiah]

applying the civilized methods which, in my view, are the better methods. I therefore, Sir, submit that "to punish innocents is a punishable crime", and as no hon. Members would wish to associate themselves with criminal action, it is my submission that we should, with one voice, strongly express an opinion that collective punishment is inequitable, and ineffect. Government that only the offender should be punished in appropriate cases.

Sir, I beg to support.

Council adjourned at 11 a.m. and resumed at 11.25 a.m.

Mr. MATHEI: One of the parliamentary procedures that I like about the British Parliament is that there is disagreement in debate, but there is friendliness in both at the same time. (Applause.) That is the attitude I shall adopt in making the replies to the speeches that have been made, particularly of my opponents. I have no wish for anything but the determination of the facts that I have presented to this Council and the responsibility that I wanted this Council to exercise in this matter still stands.

Sir, my hon. and learned friend, the Attorney General, did give very concisely, I thought, the historical background of British jurisprudence in order to put my own case, as he said, better than I had done, in giving a better perspective, well I grant him that, I think he did it, but as I have said in my early remarks I did not want to introduce something very new. We know all that, and hence my omission of going into the historical background, particularly when I am speaking to very respectable ladies and gentlemen of this hon. Council. I must give them credit for the intelligence, you see, which they have. (Laughter.)

Sir, the point of my hon. friend in putting across this historical background, was to illustrate or demonstrate the gradualness which has been responsible for the evolution of the law as we know it to-day. Now, Sir, that was nothing new, it is a thing that I have heard in lectures in universities that I have attended in Britain and the universities I have attended in South Africa. It is not because I accepted that, particularly when problems dealt with affected the

African. It is a defending line of those who have in their power the progress of the people. Take it easy, and that is what we tell our children, "My boy, go slowly, you know the time will come when you will ride a bicycle—do not get into a car now". It is commonplace that is not a thing which any African leader will accept. If there is capacity for the African to absorb the new institutions from Britain and if the African absorbed the British way of life, why take it gradually? I submit that an African has absorbed it, he has absorbed more than any other people I know in the world in 50 years and he has stood firm and Mathari is not full of Africans, thank heavens, and I think the hon. Director of Medical Services will know that. Therefore, the story of 2,000 years evolution will not be accepted by us, Sir. It has taken 2,000 years to bring the British people to the standard they are now in many ways. Now for goodness sake do not tell us it will take 2,000 years unless you go from this country, but as long as you stay here you stimulate us every day we work and we move with the times and we cannot stop the tide, and I want to dismiss that by saying it is an argument which does not stand examination.

The other point that my hon. friend the Member for Law and Order raised is that this law is not only applied to Kenya, it is applied in other Colonies in Africa. He mentioned the Gold Coast, Nigeria, Sierra Leone, and so on, Well, that is all right. But why should we do what other people do. Surely we must be more advanced and give them a lead, if we know that they are behind the times. Surely, my hon. and learned friend would not want us to copy them. We are probably more progressive. We should remove these laws which are practised by other Colonies, who are not as advanced as we are. That is my submission. I do not agree with the hon. Member that in asking us to maintain the pieces of legislation because they are done elsewhere is and become a proper thing. We must give a lead, and because I have faith, as I have said in this Council before, for the future of this country, and because Nigeria does it, the West Indies does it, and all the rest of the other parts of the world, we are not going to do it. Let them see we are not keeping a form of primitive practice, because they are doing it.

[Mr. Mathu]

The other point which I want to mention which was raised by my hon. friend is this, that, and it was raised by my hon. friend the Member for African Affairs, because there still remains a communal life among the African community in Kenya, therefore we should continue to give them encouragement for this collective responsibility. Now, my hon. friend the Chief Native Commissioner gave an unfortunate anthropological survey of the family life of the African people, saying that individualism is just starting but all that they have is communalism. Well, that again, I have heard in lectures in British universities, but I do not think that I have always agreed with them, because I live among my own people, and I do not think that I am taking second-hand information in regard to the speedy breaking up of the social structure of the African people, as a result of the culture contact between Western civilization and the breaking up of social life in Kenya to-day is progressing more speedily than anywhere that I know, and, therefore, the emphasis put on collective responsibility is, I think, put more extravagantly than the facts justify.

Now, my hon. friend, in order to illustrate his point, said that in an African home the children round about the home in the neighbourhood know the names of the stock, cows and goats and so on. Well, that is not peculiar to African society, as he would know if he visited any farm in Aberdeenshire in Scotland, he will be given the names of the Aberdeen cattle which the local families have given to the cattle, and the families know these names so that there is no peculiarity as far as the African is concerned.

My hon. friend the Attorney General did say that as a result of the evolution of the law, the people started to respect the police and so on and so forth. Well, I agree with him but he knows very well that this Council has voted more money—to my knowledge—during the last eight years that I have been on this Council—for the police force than any time in the history of Kenya and very little has been done by this Council willingly. I say that even when the Kenya police were put in African areas not so very long ago, nobody could say that the African community have agitated against their being there. They

have not even resented this, and to minimize the co-operation that the African has given to the police by some hon. Members of this Council, is contrary to the facts, because by large the African community has been extremely co-operative to the police force, and I would say here that I would like to pay tribute to my own community for doing so. It is not only to their interests, but all they have been protected by 99 per cent of the African policemen. (Applause.)

My hon. friend, the Member for Uasin Gishu dwelt, as he very often likes to dwell, on this word "primitive". He has a liking for it, and if he were, Sir, to make a dictionary, I do not think there would be any other word. And, therefore, the language would be so primitive that nobody would be able to speak it. (Laughter.) It is true, there is something in what he says, I am not disputing it. On the other hand what is the need for labouring it? If we give the African community the opportunities we require—education and health services and so on—and as he says he has the responsibility as the representative of the British community, we have to civilize the African—not by inhuman methods and brutalize him that is the way to antagonize him and to give him a spirit of non-co-operation, and I say this, Sir, with all sincerity.

Now, Sir, another point I want to make clear to the Council as firmly as I can. He says in opposition to my Motion that a Motion such as this would bring a bad name or disrepute, because I think those were the words; to the Government of this country by people outside this country and I would like to say, Sir, right now that if I should be responsible for spoiling the name of this Government to any outside Government, I would rather not exist. What I must say truth must be told and the truth is that here are pieces of legislation to which we take objection and they must be repealed, and I, as a responsible person and a citizen of this country, would do nothing to harm the good name of the Kenya Government outside this Council. And I want to make that definitely clear. Sir, he talked about the question of racialism in formidably this law and went on to use the same arguments as were used later by my hon.

[Mr. Mathu]

friend the Chief Native Commissioner about Africans leading a communal life. I have commented on that one, so I do not want to repeat myself.

Now, Sir, one point about his remarks is this, that he does not think that the tolerant attitude which is taken by the British people in their own life, particularly in respect of the Law, should be extended to a primitive people. My teaching has been different and my teaching has been this. That by doing good, even to your enemy, you are making him your friend, and I say that by giving these people civilized methods, you are investing in something that we cannot weigh in the scales—a feeling of friendliness, a spirit of co-operation among the people concerned, and when you use primitive methods, I say you are doing the direct opposite.

Now a few of the words that I have not replied to by my hon. friend the Member for African Affairs. He says, like my hon. friend the learned Member, that it took four hundred years in England to remove collective punishment, and by implication, I suppose, it is likely to take four hundred years in Kenya. I would like to suggest to him that that will not be done in Kenya. It will take a very much shorter time, while you are here permanently, as long as you are here physically, you cannot keep us down. But this morning, because I see when the Motion is put to the vote, I am certainly going to lose, but I am going to be a very happy loser because the sincerity is so great in this matter that I do not regret wasting—if you call it wasting—the time of this hon. Council.

He says, it is not discriminatory, it is not racial, but I say it is. If he studied the Collective Punishment Ordinance and Stock and Produce Theft Ordinance specifically, he will find it is.

The Police Ordinance, section 53—I did admit in moving this Motion, it is not racial in character, but by application, it is applied only to the African community, and when I cited the case of the Nairobi strike, which we had not very long ago, there was no levy on all the community, and those who were innocent were not punished. No one has commented on my point.

He talks about inter-tribal affairs. In 1917, I was quite young, and I think it was the first time I had seen the Europeans dressed and Africans dressed in different ways than I had seen before. I saw them with guns moving about round my village because it was the time of the 1914-1918 War between the British and the Germans. Surely the Africans in Tanganyika and Kenya were not responsible for the conflict between 1914 and 1918. My fellows lost their lives in that war. Surely that is a much greater thing than two tribes in Nyanza throwing spears to one another.

THE CHIEF NATIVE COMMISSIONER: On a point of order, I think the last application of the collective punishment principle was the imposition of reparations on the German tribes in 1917.

MR. MATHU: If my hon. friend will stand down, he will stand again on a point of order presently.

Again, in recent times, I happened to be in very close touch with the tribes in Europe in 1938, and I happened to be moving to Germany myself, when I had to hurry back through Belgium and France when Hitler had got to Czechoslovakia. That led to a world war. Were we responsible for that? What is happening now in Korea? Africans again? In Indo-China—Africans again? No, Sir, let us not talk about inter-tribal affairs. It is so small and insignificant when there is destruction caused by the Western civilization throughout the world.

In England, very often, we read in the papers that the Welsh want a separate Government, the Scottish people want a separate Government from Westminster. (Laughter.)

THE SPEAKER: The hon. Member, of course, is entitled to reply to the points made by the other speakers, but he is not entitled to introduce entirely new matter which, I am afraid, he has been doing for the last few minutes.

MR. MATHU: As usual, Mr. Speaker, I bow to your ruling.

I am very near to the end of my reply now, Sir.

One more point that my hon. friend mentioned about communal responsibility, planting, harvesting and all that, economic matters. I would like to mention it came to pass in other com-

[Mr. Mathu]

munities in this manner. You have partnership in business, you have cooperative societies in business and there are individuals who combine to form companies. Shall we punish them collectively or their combines in that way?

THE MEMBER FOR COMMERCE AND INDUSTRY: The hon. Member referred to the Companies Ordinance. He has heard of the collective responsibility of directors, no doubt?

MR. MATHU: I entirely agree with the hon. Member, that is the very point we are raising. The directors in my own case are the criminal fellows who have committed the crime. They are the ones we want to punish. I know very well the directors are not supposed to be criminals nor all the shareholders. In this case you want to punish the shareholders and the directors together. (Laughter.)

Now, Sir, a few points about Fort Hall. The first is the question of double punishment and this has been answered. I think, very ably by my hon. friend, Mr. Jeremiah. I do not want to say anything more except to say that the Police Force has already been financed by those very taxpayers through direct taxation. This is further taxation and that is why we object.

The question of the deaths of cattle. My hon. friend quoted a figure which was given in this Council before in reply to a question which I had asked, and the reply was given by my hon. friend the Member for Agriculture and Natural Resources. He used the very cautious word reported number of cattle. What about the unreported number that died? That was not a low figure, and I say they were there.

Now, Sir, in case I may appear discourteous to the hon. and gracious lady, the Member for Nyanza, may I say that I do not disagree with her—that it is very bad—arson and raising of fires and burning of fences is criminal. I entirely agree with her, and any persons who commit those crimes should be punished very severely. What I do not agree with her is that every other person who was not in actual way concerned with causing the actual fire should be punished, and that is where I disagree with her, and that is where I disagree with the hon. Council.

On the question of "national sport", I am glad to hear we have a "nation" among the African people here. The sport however should not be indulged in. It is not a sport that should be encouraged, but the sport I say is, whoever takes part in the sport and gets over the hurdles he should be put inside, but not that someone who is watching miles away from the veranda should be put inside.

I am coming to the end of my reply. I hope I have covered a number of points, except that I ought to have said how glad I was that the hon. Member for Eastern Area tried to get us out of a difficulty, and the remark of the hon. Member for Central Area—who is not here—those I am grateful for. I am grateful to the Government speakers in saying a few good words about my efforts, but those are the efforts that were done most sincerely and with a complete and clear mind that I was doing the right thing, and tomorrow and the next day when these things happen, I shall endeavour to contribute in a very small way to the keeping of law and order in this country. (Applause.)

To the hon. African Members, I should like to say how glad I am they have stuck to their guns because they know, as do we, that our cause in moving this Motion is genuine, sincere and an honest one, and for the opposition I say also, thank you for giving us an opportunity to know where your minds are in the matter of importance to the African people such as this.

Mr. Speaker, I beg to move. (Applause.)

The question was put and on a division, negatived, by 25 votes to 7 votes. (Ayes: Messrs. Chemallan, Jeremiah, Mathu, Nathoo, Ohangia, Salim, Shatry, 7. Noes: Dr. Anderson, Messrs. Blundell, Carpenter, Major Cavendish-Bentick, Mr. Davies, Lt.-Col. Gherisc, Messrs. Hammond, Hartwell, Havelock, Hope-Jones, Hopkins, Major Keyser, Mr. Macnochie-Welwood, Sir Charles Mortimer, Messrs. Padley, Pike, Salter, Lady Shaw, Mrs. Shaw, Messrs. Tylor, Thornley, Usher, Vasey, Wadley, Whyatt, 25. Did not vote: Dr. Rana, 1. Absent: Messrs. Madan, Patel, Pritam, 3. Failed: Messrs. Cooke and Roddan, 2. Total: 38.)

## FREE MOVEMENT OF RICE AND GHEE

DR. RANA: Mr. Speaker I beg to move the Motion standing in my name: That in the opinion of this Council there should be free movement of rice and ghee in the Colony and Protectorate of Kenya.

Sir, it is with a sense of complete frustration and disappointment that I have ventured to move this Motion, and I must say that the entire blame I attach to the Government or those who are responsible for keeping this type of control. Since I had the honour to come into this Council, and as one of the consumers since the rationing was brought in at the beginning of the war, the Asian community has constantly year by year been begging the authorities to arrange, as far as the supply is concerned, an equitable distribution of these commodities, and I regret to say that all kinds of promises were made. Even once a few Indian Members were sent to Uganda and Tanganyika to arrange for the supply and no action was taken. As late as 1950, the Asian merchants and the consumers again requested the hon. Member for Commerce and Industry to appoint a committee to go into the whole affair in order to decontrol the distribution of the ghee and the supply, and I understand that he recommended the decontrol of the ghee, and even his recommendation had no effect.

Now, Sir, in any part of the world I know controls are essential sometimes in emergencies, but to-day it is nearly seven years since the war ended, and still I do not consider there is any control which has been either completely removed, particularly on essential things, or any improvement has been made as far as supply and distribution is concerned. These controls are brought in with a view to save the consumer, and to some extent to keep in view the interests of the producers, and I submit, Sir, that this control of a commodity which is so essential for the Asian diet, that neither the consumer has benefited—on the other hand he is being fleeced as much as he could be—nor the producer, and it is only that person who is indulging in the black market who is benefiting.

Sir, I will give the quantity which we are receiving or we have been receiving lately for some years—an amount of 12

to 15 ounces a month of ghee to be given to each Asian. Now, Sir, I ask you in fairness, can any human being ever get on with 15 to 16 ounces a month, and with all the cost of these so-called controllers and all the rest of it. Not only that, but the funniest part is that most of the Asian, I think we four of us and some of the African Members, are good examples that we have not suffered in nutrition in any way. That shows the supply is there in the country and in the Colony, or it is being brought from outside territories by some illegal means. Now those who are taking that risk naturally have to satisfy so many other Government agents on the way before they reach the proper destination, and also they have no sympathy with anyone except themselves. I submit, Sir, that as the Government has failed to create any sources of supply—nor do I completely blame them on that issue, because Kenya by itself could not be in a position to supply the full quantity required for the consumption in the Colony. Also, I know, Sir, that I have been always told that Uganda and Tanganyika does not allow the movement of the ghee into this territory, which has always surprised me. I for one was very happy when the High Commission was created and all the economic advantages, but in a small matter of distribution, of an essential foodstuff, they have not been able to succeed. I do not know whose fault it is, but the fact is there. The ghee is being brought from Moshi openly in the lorries because the prices in Kenya are far more than in Tanganyika. It is being brought from Uganda, and still there is neither any check nor, as far as I recollect, has the Police Department for the Government ever succeeded to get anybody, and consumers have to pay through their noses.

Further, the reason why I have brought this Motion is, Sir, that Mombasa is the worst victim, as far as these food controls are concerned. I may submit that the cost of living of the European, Asian, and, I will submit, the African, is far more than what it is in Nairobi or up-country. We have to depend practically for most of our foodstuffs from up-country, whether it comes from Moshi or Uganda. Naturally the person who is taking the risks cannot

[Dr. Rana] deliver it in Mombasa for the same amount of charges as he will be able to do in Nairobi or up-country towns.

Further, I know some of the Asians are lucky who are living in the Highlands and some of the European settlers, who are clients, will kindly give them butter, what we require, and ghee, while we Mombasa people unfortunately, even if we want to buy, we cannot ask one of our friends on my right hand if he will be willing to oblige me. I cannot get it, not only up-country, but also at Mariakani and small places on the Coast, for African people. We are not allowed to bring it to Mombasa. Now, Sir, I submit that there is a limit to everything. It is not a question of the hardship that it is creating, but I think it is a very vicious circle, and an indirect way of the rise in the cost of living. I hope that at least as far as this commodity is concerned it will be decontrolled, because I firmly believe that a ration of 12 to 15 ounces is neither good for anybody, nor can it serve them any purpose. Whether people like it or not they have to buy it, and they are paying three times more in price, and I would be very glad to hear from the hon. Member for Commerce and Industry if he is the responsible person—the one putting the responsibility on the Member for Agriculture, which is the first news I had of it, Sir. (Laughter.) Furthermore, I will be very frank. There is an impression among the Asian community that this control is purely being kept—which I will honestly say, and sincerely say, that I do not believe it is—to protect the interests of the creamery and dairy owners. This is the prevalent idea, that the Government is purposely doing it. As I have said, I do not subscribe to that opinion, nor do I believe in it, but the fact remains that the Government has neither tried to get some ghee from overseas places or adjoining territories, nor have they in any reasonable way attempted to create a certain supply. I would submit they have not even gone to collect the supply where it is available in all the districts, except by keeping this control, which is neither doing any good to the country nor to the people who consume this quantity, and I would submit and I hope that when the Government will give a reply we will be assured of something

that we can in the near future look forward to and have this commodity.

Regarding the rise, I must say the position is very much easier. It was the same some years ago, when the Government removed the control and allowed imports from overseas. Now the position is not so bad as it was originally, but there is one defect in it, and that is of the movement. If any Arab or Asian or European happens to own a *shamba* somewhere near Kilifi or Malindi or Kwale district, where this commodity grows, he is not allowed to bring it to the town, and it is being bought again, as I say, and I would submit, Sir, that there should be some serious attention paid to these controls. I had any power I would remove practically 90 per cent of the controls. They have never done any good to this country, except to certain individuals, but these two goods, which are most essential features in regard to the Asian community—and I am voicing not only the views of the Muslim members, which I have the honour to represent, unfortunately my colleagues the Indian members are not here, they are equally victims as far as ghee is concerned. Not only that, even with the edible oils; of which they use a great deal, there is the same difficulty and the same adulteration.

Furthermore, before I conclude, Mr. Speaker, I may tell you—and it may be news to some of the hon. Members opposite, that there have been two or three rats in certain tins of ghee which has been brought to Mombasa, and sometimes one-third of the tin of ghee has fat on the top and one-third was water. That is the way the control is acting and very nicely distributing this wonderful commodity. There are many other things which I could quote, but I do not want to waste the time of the Council, and I hope that these few words which I have said—they are, as far as my knowledge and information goes, perfectly correct, and I hope to come to some finality when the reply comes. (Applause.)

MR. NATHOO: Mr. Speaker, in rising to second the Motion moved by the hon. Member for Eastern Area, there are one or two points which I think I would like to clarify right at the beginning of my speech. There are two kinds of control, one the interterritorial control, and one



[Mr. Nathoo] the control which is within the Colony. Now, I have been associated, Sir, with the Board of Commerce and Industry, and in that capacity I have had occasion to sit on the Committees which dealt with most of the controls within the territory, and at all those meetings the one thing which clearly stood out was the fact that unless and until there is free movement between the three territories, it would be not only difficult but it would be dangerous to remove the control within the Colony.

Now, Sir, to a certain extent I would like to divert from my hon. friend the Member for Eastern Area when he said that these controls serve no useful purpose. I have maintained, Sir, although I may be wrong that although the production of commodity is very low compared to its actual consumption, at least the poorer sections of the community are able to buy that limited quantity of ghee at a price which is within their pockets, and that if the control is removed, I can say here and now, Sir, and I should be very surprised if I am wrong, when this thing does happen, that the price of ghee in the open market will be the price of butter converted into ghee, which is the ceiling level of the black market prices at present ruling in the country.

But, Sir, there is one fact which came to my notice a few days ago, and which shocked me and I would like to mention it here, to get a clarification from the hon. Member for Commerce and Industry whether there is any truth in that statement. In the *Kenya Daily Mail*, Sir, of a few weeks ago, a statement purported to have been made by the Indian Merchants Chamber, appeared, in which they said that the Kenya Government had influenced the neighbouring two territories in not removing the control on those two commodities as far as the movement was concerned. I am sure, Sir, that the notice of the Member for Commerce and Industry was drawn to this statement, and I was surprised, Sir, that up to this moment no attempt has been made by Government to refute that statement, if it is untrue.

There is, Sir, another aspect of the case which I should like to mention and that is the question of supplies within

the Colony, with the limited supplies of ghee and rice. Now, rice is in a much easier position, but even with sugar and other commodities, I should like to pay a tribute, Sir, to the organization which is working at present, working under the most difficult and aggravated conditions. I would like to pay them this tribute, but with the limited supplies they have had in their hands, they have made a very good job of it, and but for that I am quite sure that the lower group incomes would not have been able to buy any of these commodities which are controlled as regards the prices and in distribution. And, Sir, I would like to urge upon the Government that in order to go anywhere near the removal of the controls within the territories the first essential step is to get an agreement from the neighbouring two territories to free movement of these commodities. Rice is easy, Sir, so I am sure there would not be any difficulty in getting them to agree, and with the position of ghee in all three territories, I think, Sir, not very much difference would be made as to the supplies in each territory if control was removed. Once again I would urge upon Government to take all steps to get these controls interterritorially removed, so that we begin moving towards that goal of having all the controls removed from this territory.

Sir, I beg to second. (Applause.)

MAJOR KNYSER: Sir, may I ask some information from the other side? Could we be told exactly what the present control of both rice and ghee in the Colony is, because I think it is extremely difficult for Members, Sir, to follow this debate unless they do know what that control is.

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: Mr. Speaker, I have a good deal to say on this Motion, and I would like to—as a preamble—allude to two things. First of all, that I have a great deal of sympathy with Dr. Rana in his attempts to get something better done about ghee, but I will explain to him some of the difficulties with which we are faced; secondly, to thank my hon. friend Mr. Nathoo, for so kindly, in seconding, very heartily answering this debate on my behalf—(laughter).

I will deal with rice first, as that is the commodity over which there seems

[The Member for Agriculture and Natural Resources]

to be at the moment the least complaint. Of course, during the war and shortly after the war, it was impossible to get rice imported, and rice distribution was fought with great difficulties, and the amount available was totally insufficient. It is now easier to import rice, it is imported in considerable quantities, and despite all we hear about the cost of living it is interesting to note that the local rice is selling at 50 to 55 cents a lb., Tanganyika rice is selling at about 57 cents a lb., and imported rice is not selling at less than 80 cents a lb. In spite of this, we have some difficulty in getting rid of the locally grown rice because consumers seem to prefer the rice at 80 cents a lb.

However, be that as it may, as my hon. friend the Member for Trans Nzoia has asked what the position is, I will give it to him. The position as far as rice is concerned is that there is no restriction whatever on the internal movement in the Colony and Protectorate, either for imported or locally produced rice. There is, however, an arrangement to which Dr. Rana has alluded, whereby the growers of local rice are asked to sell—made to sell, in fact—the paddy to the Produce Control through certain agents, and I have a list of those agents here, which I can supply to the hon. Member for Eastern Area if he wishes to see it.

Now, the reason we do that is because we do want to increase rice production, that is, reasonably cheap rice in this Colony, and in order to do so we have to guarantee to the peasants a reasonable price, and unless we can have some organization under which we buy—paddy from these peasants, they will not get a fair price for the rice, and I submit that it was because of the interested parties who are trying to get this rice, as they did in the past, rather cheaply and sell it rather expensively (possibly, not as locally grown rice if they can get away with it) that these objections over this organized buying arose.

The African producer at the moment gets 20 cents a lb. for pure, and 18 cents a lb. for mixed, paddy on the spot, and we are hoping, if we can get over certain difficulties which arise out of land tenure problems, and political problems,

to possibly raise the average to-day of only just over 4,000 of paddy a year grown in this country up to 8,000 or 9,000 in the very, very near future. Our rice production is increasing quite fast.

So, Sir, in short, as far as rice is concerned, importations are allowed, they appear to be popular; I think they are probably profitable to the importers and the consumers appear to like that. Rice better than the locally grown rice, there is no great shortage, if any, of rice at the present time, the price I submit, is fairly reasonable, and the movement of rice is in no way interfered with in any way whatsoever.

Now, Sir, turning to ghee. Ghee is a much more difficult problem. As far as we can gather, the minimum consumption of ghee in this Colony is probably about 6,500,000 lb. a year. That is based on about 3 lb. of ghee a month per head. That is not very much—I beg your pardon, 4 lb. per head. The figure we had been asked to work on in the past was 3 lb. per head on about 4,752,000 lb. of ghee per annum, but I am quite certain the consumption is considerably more than that. As against this total figure, the total issues of ghee that go through ghee control are as follows: 1948-49, 951,000 lb., that, you will see, is only about one-sixth; 1949-50, about 950,000—about the same; last year, 1950-51, about 970,000 lb. Of those total issues the following quantities, roughly speaking, represent local production, that is, ghee produced to our knowledge in this Colony. The ghee production of this Colony in 1948-49 was about 750,000 lb.; 1949-50, 871,000 lb., and 1951-52 it will be well over 900,000 lb. I quote those figures to show hon. Members that we are hoping, and trying very hard, to develop in the Nyanza Province, to develop as an accessory to pure cereal farming, a prosperous ghee industry.

Now, that quantity of ghee produced locally is only one-sixth of what I submit is probably consumed in the Colony, and it may be said then, why have a control which deals with so small a fraction of the amount of ghee that is required. Well, I think my hon. friend Mr. Nathoo has answered that question. The reason why we have acted as we have hitherto is because we can at least ensure that one-sixth does reach the consumer at a reasonable price and the

[The Member for Agriculture and Natural Resources] of plant and equipment, and would entail very considerable difficulties in packaging and distribution. I have not yet had their reply, but when I get their reply and when I get a reply from the Provincial Commissioner, Nyanza Province, to certain suggestions I have made in connexion with the safeguarding, as I call it, of the Nyanza industry, I am quite prepared, and I think Government is quite prepared, to consider the abolition of control. Whether it will have the effect that the hon. Member opposite anticipates remains to be seen.

I am quite prepared to do that and also to allow in supplies from South Africa and elsewhere if people wish to import such supplies.

Now, Sir, I am not prepared to accept this Motion as it is worded. Free movement of rice exists and although at the present moment there is not free movement of ghee, steps are being taken, of which I think the hon. Member is aware, to try and do something to ameliorate the ghee position. I know this has been said very often, but the figures I have given show the magnitude of the problem, and I cannot accept the Motion as it is at present worded. I am rather hoping that possibly—mind you, this is only a tentative suggestion in view of the explanation I have given—the hon. Member might possibly be prepared to withdraw it.

There is one last point I have not made which I should make before winding up. That is that we have tried on more than one occasion to see whether we could not induce the Tanganyika Territory to also remove control of ghee. In Uganda there is no control, in this Colony there is a control as I have explained, but in Tanganyika the Government have declined to even consider removing their ghee control. I am quite prepared to try again, but that is the position as it stands to-day, and there is a good deal in what Mr. Nathoo said, that is that it is not so easy to remove the internal control in this Colony if there is not a removal, an interterritorial removal of control in practice. (Applause.)

The other thing I wish to say is that we have recently been having very long discussions with the Kenya Co-operative Creameries on a number of subjects connected with the production of cheese, butter and the delivery of whole milk, and I have asked them to see to what extent they could assist in increasing the local supplies of ghee or of clarified butter, whatever you call it, in short to see if they could make ghee on a fairly big scale, what the price would be and what plant and equipment they would require. To do so on anything like a big scale would mean a considerable amount

of plant and equipment, and would entail very considerable difficulties in packaging and distribution. I have not yet had their reply, but when I get their reply and when I get a reply from the Provincial Commissioner, Nyanza Province, to certain suggestions I have made in connexion with the safeguarding, as I call it, of the Nyanza industry, I am quite prepared, and I think Government is quite prepared, to consider the abolition of control. Whether it will have the effect that the hon. Member opposite anticipates remains to be seen.

I am quite prepared to do that and also to allow in supplies from South Africa and elsewhere if people wish to import such supplies.

Now, Sir, I am not prepared to accept this Motion as it is worded. Free movement of rice exists and although at the present moment there is not free movement of ghee, steps are being taken, of which I think the hon. Member is aware, to try and do something to ameliorate the ghee position. I know this has been said very often, but the figures I have given show the magnitude of the problem, and I cannot accept the Motion as it is at present worded. I am rather hoping that possibly—mind you, this is only a tentative suggestion in view of the explanation I have given—the hon. Member might possibly be prepared to withdraw it.

There is one last point I have not made which I should make before winding up. That is that we have tried on more than one occasion to see whether we could not induce the Tanganyika Territory to also remove control of ghee. In Uganda there is no control, in this Colony there is a control as I have explained, but in Tanganyika the Government have declined to even consider removing their ghee control. I am quite prepared to try again, but that is the position as it stands to-day, and there is a good deal in what Mr. Nathoo said, that is that it is not so easy to remove the internal control in this Colony if there is not a removal, an interterritorial removal of control in practice. (Applause.)

THE MEMBER FOR COMMERCE AND INDUSTRY: Mr. Speaker, my hon. friend has left very little for me to say. There are, however, three points that I wish to

[The Member for Commerce and Industry] Now Sir, in the light of what my hon. friend, the Member for Agriculture has said, and in the light of what has happened in regard to rice may I suggest that my hon. friend, Dr. Rana, withdraws his Motion. I can remember over the last three of four years many questions asked about the supply of rice, my hon. friend, Dr. Rana, has made it quite clear that he is satisfied there has been a very big improvement in that regard, he has made one or two criticisms, naturally, because nothing is perfect, to which my hon. friend has replied, I think, very much to his satisfaction. I would only repeat, as my hon. friend did, that this Motion might, if the hon. Mover and seconder think fit, be withdrawn. In the light of what we have been able to report in regard to rice, and what we hope to be able to do in regard to ghee—after all, my hon. friend, Mr. Nathoo has pointed out the various difficulties that may arise and certain advantages flowing from the controls—I feel that having ventilated the subject, which has been a very valuable thing both from the point of view of Government and from the point of view of gentlemen on the opposite side, the Motion has served a very useful purpose.

Well, Sir, in the light of that statement which I entirely endorse—and this is a matter upon which we have both made recommendations and are prepared to do so in the future—I think it is unnecessary to say that the statement in the paper referred to is at any rate misleading. In fact, for the purposes of the record I should like to say there is no truth whatever in the statement made.

To deal with one other point—that is the recommendations made by the Subcommittee of the Board of Commerce and Industry to which my hon. friend referred—my hon. friend, the Member for Eastern Area will remember—and my hon. friend, the Member for Central Area, is quite familiar with the recommendations—that the timing of the implementation of those recommendations was dependent on the situation in regard to supply, and there was no question of those recommendations being turned down, nor of any difference of view within the Government. My hon. friend, the Member for Agriculture, has made it quite clear that the production of ghee, the supply of ghee, is the decisive factor in the position, and he has explained that not only has production increased—admittedly, inadequately—but also that negotiations are in train by which the supply may yet be further increased. Therefore there cannot be any suggestion that the recommendations as such of that sub-committee were turned down. They were merely applied in the way that that very responsible body, the Board of Commerce and Industry, would have wished them to be applied, in the light of the supply position, and my hon. friend remembers perfectly well that that was one of the fundamental points in these recommendations and one that I personally, in forwarding those recommendations to my hon. friend, made perfectly clear.

Now Sir, in the light of what my hon. friend, the Member for Agriculture has said, and in the light of what has happened in regard to rice may I suggest that my hon. friend, Dr. Rana, withdraws his Motion. I can remember over the last three of four years many questions asked about the supply of rice, my hon. friend, Dr. Rana, has made it quite clear that he is satisfied there has been a very big improvement in that regard, he has made one or two criticisms, naturally, because nothing is perfect, to which my hon. friend has replied, I think, very much to his satisfaction. I would only repeat, as my hon. friend did, that this Motion might, if the hon. Mover and seconder think fit, be withdrawn. In the light of what we have been able to report in regard to rice, and what we hope to be able to do in regard to ghee—after all, my hon. friend, Mr. Nathoo has pointed out the various difficulties that may arise and certain advantages flowing from the controls—I feel that having ventilated the subject, which has been a very valuable thing both from the point of view of Government and from the point of view of gentlemen on the opposite side, the Motion has served a very useful purpose.

On the point of adulteration, I suggest that there is one simple remedy, which is that those who receive ghee in the form described by my hon. friend, adulterated possibly—I believe he mentioned there were dead rats in it—there is one simple remedy: that is to go to the police. That is what they are there for. Give the information and we will prosecute those who in fact are doing such criminal work, which the poorest consumers suffer from most.

With these words, Mr. Speaker, I oppose the Motion.

MR. HAVELOCK: Mr. Speaker, Sir, having listened to the debate on both sides of the Council, I would like to move an amendment to the Motion which I hope would meet the views of both the hon. Dr. Rana and Government. As I understand it, Sir, from the speech by the hon. Member for Agriculture, he is very prepared to immediately consider the advisability of the free movement of ghee. Rice, I think the explanation he has given satisfied the hon. Mover of this Motion that no action need be taken in that regard. To cut the matter short, Sir, I would like to put the amendment now,

[Mr. Havelock] and hope that it would satisfy both sides of the Council.

Sir, I beg to move that all the words after "Council" should be deleted and the following words substituted: "Government should seriously and immediately consider the advisability of allowing the free movement of ghee and should report to this Council by the middle of April, 1952." I especially put the middle of April, 1952, because I understand this Council will no longer exist after that date.

I beg to move.

MAJOR KEYSER seconded.

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: Speaking to the amendment, Sir, Government would be quite happy to accept the amendment, and we do in fact accept that amendment, and I will do my best to report back to Council in April what the position is. We are most anxious to do what we can, because we do realize the situation as regards supplies of ghee does affect the Asian community very adversely.

MR. NATHU: Rising to speak on the amendment, I would like to impress upon the Government the need not to lose sight of the fact that it is on the interterritorial movement which everything depends to a very large extent. In supporting the Motion, I hope, Sir, we are not letting that issue be lost sight of.

THE MEMBER FOR COMMERCE AND INDUSTRY: Speaking to the amendment, Mr. Speaker, naturally we will not lose sight of that. I would, however, underline what the hon. Member himself said, speaking earlier, that of course we can only make representations. We cannot control the actions of the other Government.

MR. JEREMIAH: Mr. Speaker, speaking to the amendment, I only regret, Sir, finding that the word "rice" has been omitted. We have been told that rice is free movement, but very much the reverse is the case. Producers have been asked to sell into particular channels—surely that is not free, because the rice is not moving where the producers want—it is controlled. The word "rice" ought to be included.

MR. SHATRY: Mr. Speaker, supporting the views expressed by my hon. friend, Mr. Jeremiah, I would like to put one question to the hon. Member for Agriculture and Natural Resources about the rice produced in Tana. I understand last year over 25,000 bags of first-class quality rice was produced in Tana River, and we have never seen the distribution of this rice, and I would like to know how this rice is distributed on the Coast.

THE SPEAKER: The hon. Member puts me in great difficulty, because he is raising something new which, if the amendment were not carried and we went back to the original Motion, would be in order, but as I understand it the amendment which we are now discussing is to put in the words about the free movement of ghee, and nothing about rice at all, so I hope the debate will not be continued on rice at this moment.

MR. MAITHU: Speaking on the amendment, Sir, in view of what my hon. friend, Mr. Jeremiah, and my hon. friend, Mr. Shatry, have said in regard to rice, whose views I share, I must oppose the amendment so that we will have an opportunity of continuing the debate on rice if the amendment is defeated.

MR. BLUNDELL: Mr. Speaker, may I suggest a way out of the impasse would be obtained if I moved a further amendment to add the words "and rice" after the word "ghee".

THE SPEAKER: If that were seconded, that would do. I thought that the object of the amendment was that the Movers of the Motion had agreed more or less that the Government statement on rice was sufficient for them and they were only still pressing the question of ghee.

THE MEMBER FOR COMMERCE AND INDUSTRY: On a point of order, Mr. Speaker, do we not have to vote on an amendment as originally proposed before voting on the amendment as amended?

THE SPEAKER: No. At present there is no seconder for introducing the word "rice" and I cannot propose it even yet.

MR. JEREMIAH: I will second the amendment.

THE SPEAKER: It is proposed to insert the words "and rice" in the proposed amendment.

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: Could we have the amendment read out so that we know what we are discussing, because I have no idea.

MR. USHER: On a point of order, could the hon. Mr. Jeremiah second that? I thought he had already spoken.

THE SPEAKER: I have not got a record. I am not sure. Mr. Jeremiah, you were unable to rise and second. Mr. Usher was right.

MR. USHER seconded the amendment.

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: Speaking to the amendment to the amendment—

THE SPEAKER: The amendment to the "proposed" amendment.

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: The amendment to the "proposed" amendment, I am afraid Government cannot possibly accept this last amendment, and for these reasons. The object of this Motion, as I understand it, was that my hon. friend, the Member for Eastern Area, Dr. Rana, wished to draw attention to the difficulties which his community were meeting in securing adequate supplies of what, to the Asian community, are basic foodstuffs—ghee and rice. As regards rice, I have explained, and I believe Dr. Rana agrees, that the situation, although possibly not perfect, is immensely improved, and that rice supplies do not present to-day a very grave difficulty.

Now as regards ghee, I agree with my hon. friend that the position is not satisfactory, and I explained to him that what we were doing was to try to some extent to remedy the situation. On the basis of my explanations it has been suggested by hon. Members of this Council that I should be bound down to continue my explorations and report back to Council on supplies of ghee to the Asian community in April. That I am quite prepared to do, and would be only too happy to conform to that suggested Motion. Thereafter, however, all sorts of side issues have been raised, really connected with peasant cultivation of rice. On the subject of peasant cultivation of rice, I am quite prepared to discuss the subject in its proper context, and against

the proper background, but, Sir, I am not prepared, by virtue of a snap Motion of this kind, to find myself committed to smashing all the work we have put in to trying, on some sort of plan, to increase the production of rice in Kenya in the proper places by the proper people. (Hear, hear.) For that reason I am not prepared to accept—and I am sure Government is not prepared to accept—the amendment that is now proposed to the first amendment that was proposed a few minutes ago.

MR. BLUNDELL: With your permission, Mr. Speaker, and with the leave of the Council, I would be quite happy to withdraw the amendment to the amendment. I only moved it in the hope we could get out of the difficulty we were in.

THE SPEAKER: Is it the wish of the Council that the amendment to add the words "and rice" be withdrawn? It will have to be put.

The question was put that the words "and rice" be inserted after the word "ghee" and on a division, negatived by 26 votes to 7 votes. (Ayes: Messrs. Chemallan, Jeremiah, Maithu, Nathoo, Ohanga, Salim, Shatry, 7; Noes: Dr. Anderson, Messrs. Blundell, Carpenter, Major Cavendish-Bentlinek, Mr. Davies, Lt.-Col. Gherie, Messrs. Hammond, Hartwell, Havelock, Hope-Jones, Hopkins, Major Keyser, Mr. Miconochie-Welwood, Sir Charles Mortimer, Messrs. Padley, Pike, Dr. Rana, Mr. Salter, Lady Shaw, Mrs. Shaw, Messrs. Taylor, Thomley, Usher, Vasey, Wadley, Whyatt, 26. Absent: Messrs. Cooke, Madan, Patel, Pritam, Roddan, 5. Total: 38.)

The question that the words proposed to be deleted stand part of the Motion was put and negatived.

The question that the words proposed to be added stand part of the Motion was put and carried.

The debate was adjourned.

#### ADJOURNMENT

Council rose at 12.50 p.m. and adjourned until 9.30 a.m. on Friday, 22nd February, 1952.

Friday, 22nd February, 1952

Council assembled in the Memorial Hall, Nairobi, on Friday, 22nd February, 1952.

Mr. Speaker took the Chair at 9 a.m. a.m.

The proceedings were opened with prayer.

#### MINUTES

The minutes of the meeting of 21st February, 1952, were confirmed.

#### PAPERS LAID

The following paper was laid on the Table:—

By THE SECRETARY TO THE TREASURY:  
The Report of the Select Committee on Cost of Living Allowances for Government Servants.

#### ORAL-ANSWERS TO QUESTIONS

##### QUESTION NO. 31

LT.-COL. GHERSIE:

In view of the unfortunate, if not disgraceful incident which occurred at the Mackinnon Road Military Camp on 7th August last, when two African Assistant Veterinary Officers sent for the purpose of destroying pets appeared so lacking in the knowledge of what constitutes humane killing that the Military officer in charge at Mackinnon Road was so disgusted that he stopped the proceedings and arranged to despatch the animals by shooting, will Government please state:—

1. Whether it is satisfied with the training afforded veterinary students at Makerere Veterinary School?
2. Whether the use of potassium cyanide is considered a normal and humane method for the destruction of dogs and cats?
3. What steps have been taken to ensure that in future only fully qualified persons are entrusted with the destruction of pets, when undertaken by the Government Veterinary Department?

THE DIRECTOR OF VETERINARY SERVICES: In reply to the preamble to the hon. Member's question, the incident

referred to arose out of a request by the Military Authorities that a number of unwanted dogs and cats should be destroyed before the Mackinnon Road Camp was closed.

The Veterinary Officer in Mombasa offered to carry out the destruction of these dogs in an electric lethal chamber which is available in the Mombasa Veterinary Office. This suggestion was not accepted by the Military Authorities concerned, and alternative arrangements, under which, destruction would be undertaken at the camp by African Assistant Veterinary Officers, were therefore made.

The Assistant Veterinary Officers were provided with a large shed in which to undertake their unpleasant task. Interested spectators had free access to this room, and others were peering through the windows, so that the work of destruction had unfortunately to be carried out *coram populo* in an atmosphere which would inevitably have caused embarrassment to the Assistant Veterinary Officers.

One cat and two dogs were destroyed before the activities of the Assistant Veterinary Officers were interrupted by the Commanding Officer.

The answers to the specific questions asked by the hon. Member for Nairobi North are as follows:—

1. Government considers that the training afforded to veterinary students at the Makerere Veterinary School is satisfactory. The period of training is six years.

2. Potassium cyanide is one of the most rapid and fatal poisons, and this drug has for many years been widely used by the veterinary profession for the humane destruction of dogs and cats. The objections to the use of prussic acid are esthetic rather than humanitarian, since its use is attended by symptoms of asphyxia, which present a distressing picture to observers who may be unfamiliar with the reflex movements associated with sudden death.

3. The Veterinary Surgeons Ordinance, 1951, prohibits any person other than a registered or licensed veterinary surgeon, from the practice of veterinary surgery.

[The Director of Veterinary Services]

The destruction of pet animals, being an operation which is usually performed by veterinary surgeons, is included under the definition of the practice of veterinary surgery, and may therefore only be undertaken by a registered surgeon or a licensed veterinary surgeon.

Persons holding the diploma in veterinary science conferred by Makerere College are eligible, under the Veterinary Surgeons Ordinance, 1951, to be licensed as veterinary surgeons.

LT.-COL. GHERSIE: Arising out of the answer to Question No. 2, would not the hon. Member really agree that poisoning by cyanide is not the normal method.

THE DIRECTOR OF VETERINARY SERVICES: It is one of many normal methods.

LT.-COL. GHERSIE: Arising out of that answer, Sir, if I produced letters from practising veterinary surgeons showing it is not a normal method, but that it is a most painful method, would you agree, Sir?

THE DIRECTOR OF VETERINARY SERVICES: I would not agree, Sir.

#### MOTIONS

##### BOUNDARIES—TSAVO NATIONAL PARK

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: Mr. Speaker, I was going to ask your indulgence not to read out this long resolution. I do not propose to read out this very long resolution which hon. Members have before them. It is almost, I think a formal resolution.

When the boundaries of the Tsavo National Park were discussed at the time when it was originally decided to create this Park, there were various differences of opinion as to where the exact boundaries could best be aligned, and there were certain areas adjoining the boundaries that had been utilized hitherto where it was in some doubt whether we could rightly add these to the Park.

The areas concerned are one area south of the Tsavo River, and two areas on the Tanganyika boundary. Sir, since those days, these discussions and examinations have been proceeding and, both in the

interests of the Park and in the interests of other persons—that is to say, the interests of Africans—Government has come to the conclusion that these particular areas should be included within the Park boundary. For that reason, Sir, we are now coming to Council to adjust the boundaries in accordance with these decisions.

I can give Council an assurance that these examinations have been going on for a very long period of time, and I am personally very pleased that such a decision has at last been made.

I beg to move.

THE DIRECTOR OF AGRICULTURE AND NATURAL RESOURCES:

(The Motion standing in the name of the Member for Agriculture and Natural Resources was—

##### ROYAL NATIONAL PARKS ORDINANCE (Cap. 215)

WHEREAS the Governor considers it expedient that the boundaries of the Tsavo National Park as described in Proclamation No. 17 of the 2nd April, 1948, shall be altered to include the areas described in the Schedule hereto:

AND WHEREAS the Trustees of the Royal National Parks of Kenya have consented to such alteration of the said boundaries:

BE IT RESOLVED THEREFORE in accordance with section 4 of the Royal National Parks Ordinance that this Council do consent to the alteration of the boundaries of the aforesaid Tsavo National Park to include the areas of land described in the Schedule hereto.

##### SCHEDULE Area No. 1

Commencing at the intersection of the centre line of the Mbololo River and the eastern boundary of the Mombasa-Nairobi Railway Reserve;

thence due west by a straight line to a point due north of the north-western-most corner of the Tella Temporary Native Reserve;

thence due north by a straight line to its intersection with the centre line of the Tsavo River;

thence downstream by that centre line to its intersection with the eastern boundary of the Mombasa-Nairobi Railway Reserve;

thence generally southerly by that Railway Reserve boundary to the point of commencement.

Excepting and excluding the following areas:—

(a) Those sections of the existing Mombasa-Nairobi Railway Reserve which fall within the above-described perimeter. These Railway Reserves shall be deemed to extend to a distance of 100 ft. on each side of the centre line of the existing railway line and to include all station and siding areas;

(b) those sections of the existing Mombasa-Nairobi main Road Reserve with fall within the above-described perimeter. This road reserve shall be deemed to extend to a distance of 100 ft. on each side of the centre line of the existing carriage-way.

(c) military pumping stations which fall within the above-described perimeter;

(d) approximately 40 acres granted to P. Hield at Tsavo.

#### Area No. 2

Commencing at the westernmost corner of the Coast Native Land Unit, section XXX (Kisigau Native Reserve);

thence south-westerly by a straight line to the highest point of Kavuma Hill;

thence south-westerly by a straight line to the westernmost corner of the Kwale Administrative District;

thence north-westerly by the Kenya-Tanganyika interterritorial boundary to its intersection with the parallel of 3° 45' south;

thence due east by a straight line to a point due south of the north-western corner of the Teita Temporary Native Reserve;

thence by a straight line to the point of commencement.

#### Area No. 3

Commencing at a point on the Kenya-Tanganyika interterritorial boundary, being the south-westernmost corner of the Tsavo National Park;

thence due north by a straight line by the existing boundary of that portion of the park for a distance of 73,920 ft.;

thence due west by a straight line to a point on the existing boundary of the park 5,280 ft. distant from the eastern boundary of L.R. No. 7331;

thence due south by a straight line to its intersection with the Kenya-Tanganyika interterritorial boundary;

thence south-easterly by that interterritorial boundary to the point of commencement.)

MR. MACONOCHE-WELWOOD: Mr. Speaker, in rising to support the Motion, I would like to ask the hon. Member if he would request the Game Department to draw up maps, available for sale to the public, of these Park Areas and National Reserves, for the benefit of licence-holders who might buy them. I believe this would prevent a great deal of illicit shooting in Parks and National Reserves, where the plea of ignorance is often made.

MR. JEREMIAH: Mr. Speaker, I rise, Sir, to say a few words on this Motion. Sir, the National Park, when it was created about five years ago, now, I think, or even more, has in some places caused great hardship, to those who had to be moved from places they were occupying.

Sir, the Tsavo National Park is a very large area and, in my view, half of it is almost empty and not full of wild life. To add again a piece of Crown land to the National Park, unless that Crown land is very far removed from African land units or from places occupied by Africans, I think it would be unwise, because the land which at present is Royal National Park—that is, Tsavo—in my view is quite adequate for several years. Also, the Crown land which is held under the Crown was mainly held as a reserve for future generations.

This proposed addition to the National Park is mainly concerned with the Teita district, where the overcrowding in the African land units is very well known. It is my hope, Sir, that any addition to the Tsavo National Park will not encroach upon the land in occupation by the Africans. In some places, if it is necessary to add the Crown land to the National Park in places already in occupation, I suggest that exemption should be made

(Mr. Jeremiah) to such an area, in order to enable people to live in them.

With those remarks, Sir, I support the Motion.

THE CHIEF NATIVE COMMISSIONER: Mr. Speaker, I can give the hon. Mr. Jeremiah my personal assurance that I have been into these proposals concerning the National Park with great care, bearing in mind the possibility of African settlement and the requirements of Africans in those areas. Now, the First Schedule shows an area which runs, as my hon. friend the Member for Agriculture has said, along the south side of the Tsavo River roughly between the Mzima springs and Tsavo station. That is an area which was looked at by the African Settlement Board some years ago and which was turned down as really quite useless for African settlement. It is of great importance to the Park I know, because it holds the main route of entry of the larger pachyderms which move from the right-hand side of the railway to the left, that is from east to west. I had at one time thought that it might be possible to irrigate that area but I have come to the conclusion, after taking advice, that this is quite out of the question. I think that the interests of the Africans living in the Teita land unit are quite happily looked after in that the southern boundary of that Schedule One of your paper to-day, Sir, is going to run two miles north of the area occupied by the Teita and the Teita Temporary Native Reserve.

Now the Second Schedule refers to the area which lies to the south of the confluence of the Bura and Mwatiti Rivers. Both the Member for Agriculture and I made certain, in deciding where this boundary should go, that those rivers and any possible settlement that might take place around those rivers in the years to come was safeguarded and that this boundary ran well south of any area there which might be used for African settlement. I am happy, Sir, that these Schedules do not affect, and I support strongly the proposals that they should be added to the National Park. (Applause.)

MR. HAVELOCK: Mr. Speaker, there is one question, or assurance, I would like

Government to give me if they would. To my own cursory examination, and layman's examination, of the areas mentioned in these Schedules, it seems to me they may well be as heavily mineralized as any other in the country and I would like Government to give me an assurance that as they are being put into the National Parks, there will be no inconvenience caused to prospectors who may wish to enter that area in search of minerals which are so vital to the economy of the country.

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: Mr. Speaker, the reply to Mr. Jeremiah has already been given by my hon. friend the Member for African Affairs.

We have been particularly careful not to bring these boundaries even in the immediate vicinity of any land which we consider might at some very future date be of use for African occupation, so much so that I insisted on one boundary being moved two miles before we brought it to this Council.

As regards the point made by the hon. Member for Usasin Gishu, we are having maps prepared. The reason they have not yet appeared is that I have not yet quite got settled the exact boundaries of what are going to be Reserves, National Reserves or controlled areas. When we get those then we will have the National Parks, the National Reserves, the Game Reserves and the controlled areas, all clearly marked on a map which, I think, is needed.

As regards the point made by the hon. Member for Kiambu, I can only give him the assurance provided for in the law. I think if he will look in the National Parks Ordinance, he will find that the point has been covered. It was raised at the time we passed that Ordinance.

The question was put and carried.

#### FREE MOVEMENT OF RICE AND GAME— (Contd.)

THE SPEAKER: We will now continue with the Motion which was moved yesterday and amended afterwards. If no other Member wishes to speak to the Motion, I will ask the hon. Mover to reply.

DR. RAMA: Mr. Speaker, Sir, first of all I am grateful to you for putting this item on the agenda.

I feel that I have failed in my duty to reply to some of the hon. Members, who have very kindly given their support. Sir, I accept the amendment, and I want to express, not only my thanks, but the thanks of the whole community for the assurance which has been given by the hon. Member for Agriculture and Natural Resources regarding the serious view which he is going to take of this commodity and will do something to provide the Asian community with ghee. Furthermore, Sir, I would like to request him, and if I am permitted to say so, that as our Deputy Governor, the Acting Chief Secretary, has been appointed the Chief Secretary of Uganda which is a neighbouring territory. I hope he will give the co-operation to the hon. Member for Agriculture and Natural Resources and remove this obnoxious control which, in my opinion, is neither good to Uganda or Kenya, and that will be an extra source of supply from at least one neighbouring territory.

Further, though, Sir, the word "rice" has been mentioned, and I said, and I repeat, that that commodity is now in a fairly reasonable quantity available in the Colony. I further congratulate the hon. Member for Agriculture for the encouragement and interest he has taken for local rice to be grown in the Colony, but I would submit the point raised by my hon. friend Mr. Jeremiah and the Arab Member, as far as the movement is concerned, that he will give them some time to put their views, which I know are not to the interests of the consumer, nor to the producer.

With these few words I want to thank the hon. Member for Kiambu, the hon. Member who seconded him, and to the Government for accepting my Motion in an indirect form to give us some sort of relief in the matter.

With these few words I beg to move. The question on the amended Motion was put and carried.

DELAY AT MOMBASA PORT—FACT-FINDING COMMITTEE

MR. SALTER: Mr. Speaker, I beg to move the Motion standing in my name as follows:—

"This Council notes with concern that the High Commission has not met the request of the Kenya Government, arising out of Question No. 4 of October, 1951, by the hon. Member for Trans Nzoia, for a public inquiry into the causes of delay in clearing goods from the Mombasa Port; to apportion the responsibility for such delay and to make recommendations as to how the matter could be put right. As the action taken by the High Commission in convening a conference of experts, at which no oral evidence from the public was taken, does not meet the wishes of the public of Kenya for a full investigation, this Council recommends that the Kenya Government should now establish a fact-finding committee to inquire into the whole matter and that the Government of Uganda should be invited to associate themselves with this inquiry."

Sir, perhaps I might mention there is one slight, but important, amendment to the Motion as I have now read it from that of which I gave notice the other day and it is in the last word of the fourth line from the end—the use of the word "recommends" instead of "resolves".

Now, Sir, this Motion falls into two parts. The first part deals with the concern at the High Commission's failure to meet the Kenya Government's request for a public inquiry into the causes of the delay at the Mombasa Port, and the second part deals with the recommendation that the Government should now establish a fact-finding committee and invite the Government of Uganda to associate itself with such committee, because the action of the High Commission does not meet public wishes.

Now, Sir, the first part again, in my submission raises two issues and both are important. The first issue I submit is a constitutional issue. The second is a factual issue, namely, as to the need for a public inquiry and the second part of the Motion, of course, is the corollary to that.

Now, Sir, with your permission I would like very shortly to give a background, an historical background, to this matter. It was on 1st October last year that the Association of Chambers of Commerce and Industry in Eastern Africa passed a resolution which called upon the High Commission to initiate

(Mr. Salter) a committee of inquiry with an official majority into the Port, Customs, Clearing and Railway facilities at Mombasa and Dar es Salaam and to make recommendations.

Now that resolution, Sir, was passed to the High Commission with copies to the East African Governments. And, again if I might refer to the proceedings in this Council, on 31st October, as recorded in column 23 under Question No. 4 of Hansard, the hon. Member for Trans Nzoia asked this question:—

"In view of the widespread dissatisfaction prevailing in the Colony due to the congestion at the port and the divergence of opinion as to where the responsibility for this lies, will Government appoint a committee to inquire into the delay in clearing goods from the port, to apportion responsibility for such delay and to make recommendations as to how the matter could be put right?"

The hon. Acting Chief Secretary replied:—

"As the operation of the port concerns departments which come under the purview of the East-Africa High Commission the Government will request the East Africa High Commission to consider appointing such a committee."

The hon. Member for Trans Nzoia said:—

"Mr. Speaker, arising out of that answer would the hon. Member tell us, is it the view of Government that they have not the right to appoint a committee such as is proposed?"

The reply of the hon. Acting Chief Secretary was:—

"I think, Sir, the question of the legal rights of Government in a matter of this kind will depend upon the scope of the inquiry. There would be no question that Government would have a perfect right to establish a fact-finding committee about anything in Kenya, but I can conceive of circumstances in which the right of the High Commission, as established by Order in Council, might be involved."

The hon. Member for Trans Nzoia then said:—

"Mr. Speaker, arising out of that answer, in view of the fact that the Port of Mombasa is of no direct concern to Tanganyika Territory—it is situated in this Colony—and is of vital importance to the economy of Kenya and Uganda, does Government not consider the members of such a committee should be nominated by the Kenya and Uganda Governments and not by the High Commission, who should only nominate the Chairman?"

The hon. Acting Chief Secretary said:—

"Mr. Speaker, I would think that the considerations which the hon. Member has drawn attention to will be very much in the minds of the High Commission if such a committee were appointed, and I do not doubt they would be taken fully into consideration in appointing such a committee."

Sir, I apologize for taking up the time of the Council in referring to that but it does give the background. And one assumes it was the fact, as I understand it, that, following the answer by the Acting Chief Secretary, a request was made by Government to the High Commission for such an inquiry. On the 24th January this year, the High Commission considered that request, and the request also from the Association of Chambers of Commerce and Industry, and, on the 25th January, they issued a statement which was published in the *East African Standard* on that date. That statement, again with your permission, I would like to refer to, as it seems most important to this debate. It was published as follows:—

"The High Commission considered the request for an inquiry into the operation of the Ports of Mombasa, and Dar es Salaam made by the Legislative Council of Kenya and the Association of Chambers of Commerce and Industry in Eastern Africa.

In view of the fact that discussions are to be held in Nairobi on February 11th and subsequent days under the Chairmanship of the Commissioner for Transport on short and long term proposals for East African ports and transport systems and the question of berthing of ships, and that the

[Mr. Salter]

representatives noted below will attend these talks, and in view of the fact that this will be a high level technical conference, the members of which have an expert knowledge of transportation, the High Commission considered no further action was necessary.

The High Commission noted that it will not be possible for the conference to hear oral evidence but that any organization and person may submit written memoranda for consideration by the conference, provided such memoranda is sent to the General Manager, East African Railways and Harbours, Nairobi, to be in his hands not later than February 9th."

Then there followed the composition of the high level technical conference:—

"Sir Reginald Robins (Chairman), Commissioner for Transport, East Africa High Commission; Mr. A. Dalton, General Manager, East African Railways and Harbours; Mr. W. Graham, Head of the Shipping Division, Ministry of Transport; Mr. P. F. Millerson, Ports Adviser, Ministry of Transport; Mr. Mundy, London Office of the I.L. and P. O. Steamship Companies; Mr. Cayzer, London Office of the Clan Line and other Cargo Lines; Mr. Angus Ward, Consul-General—United States of America (or representative); Mr. Arthur K. Lewis, President; and Mr. Maddock, Vice-President of the Robin Line of the United States of America, and Mr. Shields, Farrell Lines Shipping Company of the United States of America."

Now, Sir, it is to be noted that instead of an inquiry which had been requested, committees were to be held. Instead of a high level technical conference of experts was to be appointed. It is, I think, necessary, to refer again to the composition, which I have just read out, Sir, of that high level conference. It is to be noted that the only people of local knowledge were the Chairman, the Commissioner for Transport, and Mr. Dalton, the General Manager of the Railways. One asks, where were the representatives of local merchants and business houses? Where were the representatives of the ordinary consumer and producer? It

does look, Sir, as if the High Commission had taken pains to exclude any but the shipping companies and the Railways, and thus, in my submission, to promote and foster suspicion in the minds of the public. One would have thought that the High Commission could have said also that, "although we have excluded you from this committee, nevertheless we will hear your oral evidence, so, at least, your views can be represented to us". Not a bit of it, Sir! The public were invited, under certain conditions, to submit memoranda. That was the way in which the High Commission dealt with this very serious request from the Association of Chambers of Commerce and Industry—throughout East Africa and, perhaps even more important, the request by this Council, and Members of the Government.

It is difficult, in my submission, to recognize any similarity between what was asked for and what, in fact, was done. That, Sir, brings me to the constitutional aspect of this matter.

It is an aspect, which, I feel, raised points of difficulty, but one looks, of course, at the East Africa High Commission Order in Council to see what were the powers granted to the East Africa High Commission, and, of course, it is quite clear that the High Commission were granted power to take over the administration of (*inter alia*) the East African Railways and Harbours Administration. Again one asks, why? What was the underlying principle whereby they assumed those powers of administration? I submit, Sir, that the recital, or one of the recitals, to that Order in Council shows the principle which underlies this delegation of powers from the territories to the Central Authority.

If, again, I may refer to that, it reads as follows:—

"Whereas it is desirable and expedient in the interests of good government to make provision for the control and administration of certain matters and services of common interest to the inhabitants of the Colony and Protectorate of Kenya, the Trust Territory of Tanganyika and the Protectorate of Uganda and for that purpose to establish an East Africa High Commission and an East Africa Central Legislative Assembly for those territories".

[Mr. Salter]

I submit, with all deference, that, as a matter of constitutional principle, as well, Sir, as practical procedure and policy, the High Commission would be wrong in exercising its powers of administration except in accordance with the wishes, and, in some cases, the advice and consent, of the territories concerned. To do otherwise, in my submission, would not be desirable or expedient in the interests of good government, and if I am wrong, Sir, I hope that the hon. Attorney General will enlighten us as to what the true position is. I have said "advice and consent" because one can draw an analogy from other parts of the Order in Council, namely that part which deals with powers of legislation. Sir, I merely mention this by way of analogy, preserving clearly, I hope, the distinction between legislation and administration. But, looking at the powers given for legislation, it does appear that laws, some laws, can be passed with the advice and consent of the Central Legislative Assembly, and some with the advice of the Legislative Councils of the territories, but all those laws must be passed for the peace, order and good government of the territories concerned. And, I submit, that a measure which offended the wishes of the territories concerned, or a particular territory would not fulfil that object.

Passing to the Port of Mombasa itself, it is, of course, obvious that the Port of Mombasa provides a service which is of common interest to the inhabitants, both of Kenya and of the Protectorate of Uganda. Those inhabitants, Sir, through the Association of the Chambers of Commerce and Industry of East Africa, made a request to the High Commission, and the inhabitants of this Colony made their request also through the Government of this Colony—the appropriate channel, in my submission. The High Commission said, "in effect: "Well, we have considered your request. We have decided to take certain action, and we consider no further inquiry is necessary".

Now, Sir, when that action in no way, as in this case, meets the request made, it would have been proper, in my submission, for the High Commission to ask the people concerned, and the Government of this Colony in particular, and to consult with them about it. It may be that they did, but on this side of the Council,

we have no such information. One would have thought if they were not going to meet the request, they would have said: "Well, we are having this conference; we would like to hear whether that meets you, or whether it does not", and, no doubt, they would have been told that such a high-level technical conference would not have met that request, and there might have been consultations; there might have been advice tendered, and possibly consent obtained on one or the other side. That, in my submission, would have been the proper constitutional way to handle the matter. Therefore, as it was not done in that way, but there was just a blunt refusal to consider any further action as necessary, I submit that this Council—to come to the first part of my Motion—should be concerned, and it should, in my submission, record its concern, lest further incursions, at some other time, are made into the rights of the inhabitants of this territory, whose representatives in this Council we are. (Hear, hear.) So much for what I might call the constitutional aspect of this Motion.

May I now pass very shortly to the second part, the factual issue, namely, whether or not there was, or is, a need for this committee of inquiry. I do not think the merits need any emphasis. I have no intention, Sir, whatsoever of referring to possible causes of delay in the Port, or to suggest for consideration any remedies. Those are matters, Sir, which would be proper for the committee to consider—the committee which has been requested. There are many causes of delays and, no doubt, there are many remedies which can be suggested, but it is for that very reason, Sir, that a committee of inquiry is essential.

Passing, again, to the need for such an inquiry, it is important to consider that the public of this territory, of this Colony, have asked for it. They, or members of them, have valuable suggestions to make. They may not be technical experts, but they have got very vast practical experience of the handling of goods into and out of the Port of Mombasa, of the working of that Port, and the railway concerned, and to refuse their co-operation is, in my submission, to promote suspicion and dissatisfaction, and possibly a feeling of resentment and frustration.

[Mr. Salzer]

There are many reasons, Sir, of fact why this inquiry should be held, but I feel that the reasons which I have shortly mentioned in themselves are sufficient to justify such a committee. And so, Sir, we pass to the second part of the Motion, and that is the recommendation that Government will set up this committee. I do solemnly and seriously urge Government to do so and to do that which the High Commission have failed to do. If the High Commission will not do it, then this Government should do it, in my submission, and we have been told by the hon. Chief Secretary in his replies to the hon. Member for Trans Nzoia that the Government have a perfect right so to do.

In doing that, in setting up such a committee, they will demonstrate first that their requests to the High Commission must be treated with the serious consideration which is to be expected, and that decisions must be taken; if necessary, only after consultation and with advice and, what is more important, with consent. They will demonstrate, Sir, the principle that it is just as important that justice should seem to be done as that it should be done. They will allay suspicion in the minds of the public that matters are being kept from them, and they are being shut out from taking part in a matter of such great common interest to them. They will go far to remove the fears in the minds of the public that their legitimate wishes are not being respected.

MR. SPEAKER: I beg to move.

MR. USHER: Mr. Speaker, I beg to second.

It is now getting on for a year since individuals and bodies have voiced their dissatisfaction with conditions arising from port congestion at Mombasa. May I at the outset crave the indulgence of the Council, and ask them to accompany me away from this Council Chamber to a much pleasanter place. I refer to the cricket field at Muggleton. May I read, Sir? Hon. Members will remember that there took place there the famous and very extraordinary cricket match of Dingley Dell versus All Muggleton. The wickets were pitched and the first two batters for All Muggleton—that is, I

think, Mr. Dumkins and Mr. Podder—took their stand. Now may I read:

“Nor was Podder behindhand in earning gatlands wherewith to garnish himself and Muggleton. He blocked the doubtful balls, missed the bad ones, took the good ones, and sent them flying to all parts of the field.”

Sir, that is exactly what has been happening here. It is not with the good balls but with the bad ones and the doubtful ones that we are here concerned. I should like, Sir, if I may, to go a little more into the practical aspects of this matter than my hon. and learned friend—laughter—whose masterly marshalling of argument had my deepest admiration. (Applause—hear, hear.) Certain specific points, not mentioned for the first time, were put before the conference to which he has alluded by the circumstances of port working. For instance, the establishment of warehouses in Nairobi and Kampala; whether that is a practicable suggestion, I am not here to say; whether they could be set up; whether the staff could be found; whether they could be adequately guarded, are matters which should be inquired into. I may say now that I do realize that that is a part of the recommendations; or it is implicit in the recommendations, of the conference.

The second thing was that landing contractors, perhaps, could increase their staff. I do not know whether hon. Members are aware, but at present, as far as my information goes and my observation, only one ship is worked at night. Then, of course, you get the question of whether accommodation for the goods could be provided and whether, if accommodated in transit sheds, they could be moved.

That also is a matter for inquiry. The question of road transport has been dealt with by Sir Reginald Robins in a recent debate in this Chamber—in the Central Assembly, that is—and I know that he is willing to look into such a proposal.

The provision of temporary sheds in the Port area and leasing of go-downs have also to be considered as a possibility; whether they are practicable possibilities, I am not here to say. I do know that the yard space in the Port is

[Mr. Usher]

available and that might not be a possibility.

Of course, we all know of the necessity for the extension of the deep-water berth. But, Sir, there are other things as well. These are the doubtful balls. Some of them may be bad balls. What about customs procedure? Is that adequate? We have a new customs Act to be brought before the Central Assembly. I understand, at its next session. Then there is the question of clearing agents, and whether they are all sufficiently conversant with their duties and the regulations, to be doing their job properly. There is the question of—I am afraid I must call it nothing more than trading—in transit sheds. That is a custom of this country. (Cries of “Shame!”) There is fragmentation of cargo, the unduly high proportion of D. and D.O.s, that is, the Discharge and Delivery Orders, upon a single Bill of Lading. That again is part of the trading custom of this country. Can it be modified or can it be changed?

All these, Sir, are questions which need very deep consideration and hardly any of them appear to have had the consideration of the conference. In the meantime, Sir, of course, the conference did recommend, and it is a very serious and grave recommendation, the regulation of the cargo coming into the Port of Mombasa. That is to say, in other words, a serious curtailment of the trade in this country. It will, of course, give a breathing space to those who have to operate the Port, and for that they will no doubt be thankful. But it is a temporary palliative and no more.

Sir, I do not know what sort of a committee should inquire into this matter. If we refer to the debate in the Central Assembly, we find that Sir Alfred Vincent made a reference to the Ports Committee, which is a committee of the Transport Advisory Council. Its constitution is three members from each of the territories and, as Sir Alfred Vincent said in the course of that debate, the names command our respect. Not least—I would say that of the Chairman, who is at present amongst us to-day in the person of the hon. Member for Commerce and Industry.

Now, I understand the functions of that Committee to have been finance—to

advise upon finance—and policy, but perhaps not administration. And it may be that therein lies the answer to the question why the Ports Committee itself has not addressed itself to all these questions. (Hear, hear.) Perhaps the hon. Member to whom I have referred may be able to enlighten us upon that.

On the other hand, Sir, I would not wish to exclude the possibility of setting up that portion of the Committee which represents Uganda and Kenya as a suitable one to inquire into the various matters which I have adumbrated.

Sir, may we, before I sit down, refer again to Dingley Dell versus All Muggleton. I should like to quote again:

“... when Dumkins was caught out, and Podder stumped out, All Muggleton had notched some fifty-four, while the score of the Dingley Dellers was as blank as their faces. The advantage was too great to be recovered.”

Sir, I do not wish to go into the question as to whether Dickens had ever seen a cricket match, or whether this is an example of his humour. Nevertheless, I do fear that unless something is done, and done quickly, we shall be in the unfortunate position of the Dingley Dellers. I can see, Sir, another picture, altogether; going back in time I can see a mediaeval castle, and outside it a great throng of people from the countryside, unarmed, coming peacefully, wishing to lay their troubles before the lord of the castle. But I see that he does not let down the drawbridge and invite parley: instead he prepares his men at arms to get their bows and arrows, put the lead in the cauldron. Is that not, Sir, what the High Commission is now doing, preparing, in other words, to let loose upon people who are merely asking for help, the sharp arrows of their argument and the molten lead of their contempt?

Sir, we have all of us, I think, a great respect for the operation of the Railways and other transport services. What we wish to see is some co-ordination between all the various components in this complex of varying activities, which all go to make up port work. An inquiry, Sir, should be held to restore our con-



[Mr. Uther] fidence, and it must be comprehensive and it must be integral.

Sir, I beg to second. (Applause.)

THE ACTING CHIEF SECRETARY: Mr. Speaker, I did not rise immediately because I thought that there might possibly have been other views which hon. Members on the other side might like to put forward before I got up to indicate the Government's attitude towards this Motion and to answer points which have already been made. But I am quite ready and have plenty of arguments to put forward suggesting that there is not at the moment, having regard to the examination into the situation at the Port, which has already been made by the conference of experts to which the hon. the Mover has referred, any need for an inquiry of the kind suggested. I think, Sir, that I should first of all make the point that the hon. Members who have spoken must be under some misunderstanding of the position when this question was discussed at the High-Commission meeting last month. The position then was that the High Commission had before it a request from this Council and also from the Associated Chambers of Commerce and Industry of Eastern Africa, that there should be this inquiry into the general administration of the Port at Mombasa.

When the High Commission came to consider those requests the members were informed that quite by chance this conference, of which we have already heard, was to meet the following month—that was this month—to go into the whole question of shipping priorities and short and long-term proposals regarding the capacity of the East African ports and transport systems.

MAJOR KEYSER: Mr. Speaker, would the hon. Member tell us when the decision to hold this conference was made. What date was it decided.

THE ACTING CHIEF SECRETARY: Mr. Speaker, I am afraid I cannot—I will inform the hon. Member afterwards—as I do not know on what date the decision to hold the conference was decided, but I High Commission, which considered this matter arrangements had been made for the conference to be held.

Now, Sir, we have heard the names of the men who attended that conference. I would only refer to four of them, just to show the truly high level of really expert opinion which was gathered together for this purpose. Mr. Graham is the head of the Shipping Division of the Ministry of Transport and Mr. Milbourne is the Ports Adviser in the Ministry of Transport and in that capacity has, I suppose, visited a great many of the biggest ports in the world and is, I suppose, certainly one of the very highest and top-grade experts in the matter of the administration of ports. Now, Sir, I am going to suggest that when men of that calibre are coming out to Kenya for this sort of purpose it is quite ridiculous and stupid to talk about the High Commission showing contempt for the views of this Council and for the views of the Chambers of Commerce in a matter of this kind. (Cries of "Question!") I do not think there can be any question about it. They took the view which this Government fully shares that it was a very fortunate coincidence indeed—(laughter) (ordered by the American Lines!)—it was not ordered by the American Lines.

MR. BLUNDELL: Dictated by them!

THE ACTING CHIEF SECRETARY: It was convened on the initiative of the Ministry of Transport.

I repeat that it was a most fortunate chance that this Conference was being held when it was, and I am going to show very shortly, by reading to you some of the recommendations and the advice which resulted from it, why any reasonable people will, I believe, come to agree with me in holding this view.

MR. HAVLOCK: Have they been published?

THE ACTING CHIEF SECRETARY: As hon. Members know, the examination of the situation has now been completed by this Conference, which has submitted its report, and I will deal later with some of the details of that report, as it has been suggested to me that some hon. Members and a number of people in the country are not as aware as they would like to be of the results of this Conference.

MR. HAVLOCK: Has it been published?

THE ACTING CHIEF SECRETARY: It has been published, and it has been discussed in the Press. But I refuse to accept any suggestion that there was any sort of suggestion of contempt on the part of the Governors of these three territories in considering this matter, when they reached the decision that they did reach; and I should think that they would be surprised to be told that an examination of this kind by those sort of people had left the public in Kenya cold. It certainly has not left me cold, and I believe that an investigation into what are principally technical matters concerning the running of a port can be very much better handled by experts who are technically expert in such matters, than by any local body, not having that expert knowledge of a technical nature, that the High Commission could possibly have found within these three territories. The only experts on which the High Commission could have called would have been members of the Transport Administration and the Ports Services because, in fact, they are the only people who are technically competent to understand and advise upon such difficult and complex matters.

Now, Sir, the hon. Mover and the hon. Member for Mombasa have avoided giving any details of the need for an inquiry of this kind, but surely when this Council is invited to set up a committee of inquiry, Council should be told what are the circumstances under which they are asked to reach that decision.

MR. SALTER: They have done.

THE ACTING CHIEF SECRETARY: We have heard very, very little of the reasons for it.

It is suggested in the terms of this Motion that what is required is a fact-finding inquiry. Well, Sir, I am going to submit that the facts are known to everybody who has had the opportunity of studying them. The problem that faces the Administration is not the problem of finding what is going wrong—what are the facts. They know them. The problem which is facing them is to know what are the right and proper solutions to the facts as they know them.

And I would like, at this point, Sir, just very briefly to set out the back-

ground against which the present situation should properly and fairly be viewed. Up until the end of 1950, the situation at the Port was generally satisfactory. There were, at that time, no serious delays. There were, at that time, no African Working Party in London decided that it was no longer necessary to hold regular monthly meetings, and they decided that meetings would only be called at the request of the Chairman when a particular situation arose which required them to meet.

In the early part of 1951, a very considerable backlog of cargo was built up in the European ports. There were several reasons for this. Shipping was required on a big scale to bring coal to the United Kingdom. Shipping was required on a big scale to take food to the continent of India, where there was famine. Strikes were also in evidence in the London ports. Those and other factors were responsible for this backlog in the European ports.

Round about April, shipping was available to start transferring that backlog over to the East African ports. That meant the bunching of shipping—large numbers of ships coming at much the same time to the East African ports with full cargoes. Not only that, but those ships—the great bulk of them—arrived outside Mombasa in the months of April and May, when the worst possible weather conditions were at that time prevailing. That meant, as hon. Members will appreciate, that the actual time available for the working of the Port was restricted, and that very considerable difficulties through track ways and other troubles were created for the Railway Administration.

MAJOR KEYSER: Was it snowing?

THE ACTING CHIEF SECRETARY: Conditions were bad—shall we leave it at that?

Thereafter the situation began to improve. Immense efforts were made by the Port Authorities to deal with the situation, and conditions continued to improve up until October of the same year, and I might, perhaps, remind hon. Members that it was in July that the then President and Vice-president of the

**[The Acting Chief Secretary]**

Nairobi Chamber of Commerce were taken down to the Port and shown all that they wished to see as to how the situation was being dealt with by the Port Authorities.

Hon. Members may also remember that, as a result of that investigation, they expressed themselves as very well satisfied with the colossal efforts which were being made to deal with the situation. That takes us up to October.

I could go on for a long time, Sir, in explaining to hon. Members in detail what has happened since October, but I will content myself with recording the fact that, through circumstances entirely outside the control of the Port Authorities or the Railway Administration, there have again been inevitable delays, which have been getting worse. The reason for this is that shipping in excess of the capacity of the Port to deal with it has continued to arrive at Mombasa, notwithstanding the advice which has been regularly telegraphed to London by the Imports Cargo Advisory Committee, which has had the situation constantly under review. Telegrams have been sent by the Committee to the Authorities in London regularly reminding them each month of the total capacity of the Port, which is some 86,000 tons a month, and pointing out that the advice they were receiving of shipping which was expected at the Port in the immediate future could only result in tonnages ever growing in excess of the maximum capacity (86,000 tons per month) of the Port to handle it. This has been steadily going on since last October.

The progressive result can only be ever-increasing delays in clearing the ships which come to the Port. Those, Sir, are the facts which require no committee to establish them. (Hear, hear.)

I should, perhaps, at this stage, also remind hon. Members, when talking of the capacity of the Port, as being 86,000 tons odd a month, and the efforts of the Administration to get the very maximum out of that capacity, that tonnage being handed over the deep-water berths per lineal foot of quay, which in 1930 was 263.1, was no less than 412.31 in 1951, and I am informed by the Administration that an improvement even on that latter figure is evident now in 1952.

I would also at this point remind hon. Members that, last October I think it was—or towards the end of last year—the same Mr. Millbourn who was present at the Conference earlier this month, and when the situation was beginning again to get bad, himself inspected the Port and the arrangements which were in operation to deal with the situation.

Members will also probably remember the account which was published in the Press of his reactions to that examination. They were—and it is no exaggeration to say so—extremely flattering to the Administration.

There, Sir, are the facts which we are told require a committee to elucidate—(cries of "Not")—them: Well, they are certainly important facts which require no elucidation.

I would like to come at this stage to the consideration which was given to this situation by the Conference earlier this month. That Conference, which submitted its report—I think on the 12th February—noted that it had given the fullest consideration to the situation, and that it had considered most carefully the memoranda which had been submitted to it on the invitation of the Transport Administration. Memoranda were submitted to it in so far as Kenya is concerned by the Associated Chambers of Commerce for Eastern Africa, the Nairobi Chamber of Commerce, the Mombasa Chamber of Commerce and on behalf of the Farrell Lines and Mitchell Cotts. As a result of this consideration they wrote, after noting the long-term proposals of the Administration for improving the facilities of the Port, as follows:—

"The Conference fully endorsed and strongly supported these proposals, and was pleased to learn that the Chairman of the High Commission, Sir Philip Mitchell, and the Commissioner for Transport, Sir Reginald Robins, were leaving immediately for London for discussions with the Secretary of State for the capital finance to carry out immediately the minimum essential works, and ensuring that the necessary materials for this purpose are made available."

MAJOR KEYSER: Two years too late!

**THE ACTING CHIEF SECRETARY:** When updating, Sir, with the short-term proposals which, I think, are probably uppermost in the minds of hon. Members this morning, they wrote as follows:—

"For some years the ports of East Africa and the rail systems which serve them have been severely strained to deal with the volume of traffic offering. In spite of the limitations enforced by circumstances outside the control of the Administration, remarkable results have been achieved—(hear, hear)—but there is no margin to meet unusual or exceptional circumstances, with the inevitable result that severe congestion has arisen from time to time."

They go on and give advice as to what are the best short-term proposals that can be put into operation to remedy this, and they have advised that the shipping companies should do their utmost to regulate the arrival of shipping, so that it does not all come bunched up together in a way in which no port in the world could hope to handle it expeditiously. There is no question of any reduction being involved in the regulation of shipping. (Cries of "Oh!") Are you trying to tell me that there is any question of reduction in shipping coming in when, instead of having 20 or 30 ships in one week of the year, those same 20 or 30 ships arrive over the period of one or more months in the same year? (Hear, hear.)

There is no question of any overall reduction in shipping arrivals involved. It simply means that there is a need which has been recognized for the companies themselves so to arrange the movement of their ships as well as they can to avoid sending them all to the same port at the same time.

On questions in regard to measures for the speedier handling of cargo, this is what the Conference noted. It noted that:—

"Owing to various causes, delays were occurring in the passage of certain consignments through the transit sheds, and strongly recommended that the shipping companies should discontinue immediately the present practice of splitting bills of lading, and that the Administration should only accept one delivery order against one bill of lading. The Conference further recom-

mended that there should be a substantial increase in the minimum freight charge per bill of lading."

The Conference had some very useful advice and help to offer on the question of mechanization of cargo handling. It was informed that some mechanical cargo-handling appliances, including fork-lift trucks, were on order, and that delivery was expected shortly, and the representatives of the American Steamship Lines emphasized the value of mechanical appliances, and offered to place the results of their experience in the use of such appliances at the disposal of the Port Authorities. They also offered to assist in obtaining the necessary appliances and to afford technical assistance in their use.

I suggest, Sir, that a Conference which can produce that sort of assistance, and promise of assistance, by people who are in a position to implement their promises, is far, far better and far, far more helpful than any inquiry by a local body of people that we could establish in East Africa.

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

**THE ACTING CHIEF SECRETARY:** Mr. Speaker, I only wish to dwell for a very little longer on the report of this Conference. When dealing with the question of lighterage, this is what the Conference had to say:—

"The Conference gave consideration to the present lighterage facilities in the Port of Mombasa and approved the plan of the Administration for the building of a new lighterage quay with its attendant transit sheds and cargo-handling equipment. It also noted that, as the completion of each of the deep-water quays at Dar es Salaam came about, a number of lighters at present in use at that Port would be available for use in Mombasa.

It would appear that there is a need at the present time for a number of additional lighters in Mombasa and the Conference recommended that steps should be taken to acquire these as quickly as possible."

On the question of rail capacity:—

"The Conference was satisfied that the track capacity was ample to meet present requirements and could be

[The Acting Chief Secretary] readily and substantially increased, but noted that the rolling stock was only just sufficient to meet the present needs with some difficulty, and that there was no margin to meet exceptional circumstances or to deal with the increased traffic which it is desired to move through the Port. It was further noted that the Administration operated under a severe handicap in that at one end of the system is a port receiving and forwarding traffic seven days a week, whereas up-country loading and unloading of wagons usually ceases during the week-ends and on public holidays.

Now, Sir, I have dealt at some length with the report of that Conference because I think it is important that hon. Members should not imagine that there has been any stupid concealing of facts from anybody over this matter. The facts of the situation were laid fully before the Conference, and they have dealt with them as I have tried to show in the quotations which I have made from their report.

Now, Sir, to deal specifically with one or two of the points made by the hon. Mover when moving this Motion—I would like to point out to him when he says that the High Commission, under the authority given to it by Order in Council ought—and it is said that it did not on this occasion—to have consulted the Government of Kenya before deciding not to appoint the particular type of inquiry, which this Council had recommended. Well, Sir, I would invite the attention of the hon. Mover to the fact that the Government of Kenya is present in the High Commission in the person of the Governor himself. The Governor of Kenya is a Member of the High Commission, and there is no question but that the views of this Council, the recommendation of this Council, and the recommendation of the Associated Chambers of Commerce and Industry for Eastern Africa, were very carefully considered by the Governor, both in his capacity as Governor of Kenya and as a Member of the High Commission. I would also suggest, as these constitutional matters have been brought under discussion in this debate, that although there is no doubt whatever

that this Council has a perfect right, as instanced by the debate that we are now having to discuss matters of this kind, I do suggest to hon. Members that a much more useful and sensible forum for a discussion of this kind to take place in is the Central Legislative Assembly, to which the High Commission is responsible. In the Central Legislative Assembly are representatives of Kenya just as there are representatives of Kenya in this Legislative Council, and I very much wonder why it is that those representatives of the same people that we all here represent, have not taken the opportunity, if they feel as unhappy about this situation as do some representatives opposite of Kenya in this Council, why they have not taken the opportunity of having a discussion of this kind in the Central Legislative Assembly where the Commissioner for Transport is available to answer on matters about which he, too, is an expert. I feel—although I repeat that we have a perfect right to be discussing these matters here to-day, there is no question about it—that it would be much more sensible that this sort of problem and these sort of anxieties should be discussed in the Assembly where the Commissioner himself, technically expert in these matters, is available to give answers and to join issue with the critics. (Applause.)

The hon. Mover, in describing the decision of the High Commission, said that there was no similarity between what was asked for and what was done. Well, if there is any marked dissimilarity, it seems to me that it is in the personnel whom the High Commission thought would be the most competent to handle a matter of this kind as compared with the personnel who would be available for appointment to a committee of inquiry to be composed of citizens of Kenya. The view of the Government, frankly, is that that was a perfectly sensible and a perfectly proper decision. The High Commission knew perfectly well, when it was considering this matter, that the information about the assembly of this Conference was not available to hon. Members of this Council or to the Associated Chambers of Commerce and Industry for Eastern Africa at the time when they made their requests. They had a perfect right to consider, as they no doubt did consider, that had that infor-

[The Acting Chief Secretary] motion been known to hon. Members opposite and the Associated Chambers at the time they made their requests, they too would have welcomed the opportunity provided by the presence of these experts here in Kenya to conduct this examination. And I do state most strongly that to accuse the High Commission in such circumstances of contempt and utter disregard of the wishes of the Government of Kenya and the Associated Chambers of Commerce, is truly unfair and entirely unjustified on the facts.

Well, Sir, I think that I have already detained hon. Members long enough on this matter, but before I sit down I would suggest to them that inquiries which are so very popular at times in this country, are not a panacea for all evils. This is particularly so when, as in this case, there is no dispute as to facts. Everybody knows who has studied the situation that the rapid development which is going on in this country bids fair to outstrip the transport arrangements which can be made available to deal with them. It is because of that very serious possibility that the Governor has, himself, gone to London with these long-term proposals as Item No. 1 of the agenda for the discussions which he is now having with the Secretary of State.

We have heard what the Conference thought about the immediate short-term remedies which can be applied to improve the present situation. I do suggest, very seriously, to hon. Members now, in conclusion, that the public interest would be far better served in view of the examination which has already been conducted into this matter by the Conference, if those hard-pressed and over-worked men doing Herculean tasks at Mombasa can be allowed to get on with the splendid work that they are doing—

MR. SALTER: We are not stopping them.

THE ACTING CHIEF SECRETARY:—rather than that they should be checked in that work by yet again being set to the task of preparing memoranda, preparing their answers and all the other preliminary work which they would have to do if yet another fact-finding inquiry should be set up. It is because

the Government, which has given very careful consideration to this matter, sincerely believes that that is what the best interests of the country require that, Sir, we are unable to accept the recommendation contained in this Motion. (Applause.)

MAJOR KEYSER: Mr. Speaker, so far no answer has been given to the excellent speech made by the hon. Mover, and I do hope, Sir, that a Member from the opposite side will attempt to answer the points which he has raised.

I would like, Sir, to deal with some of the points raised by my friend, the hon. Chief Secretary. He referred to facts. He said: "These are facts and these are indisputable facts." And I also want to give a few facts and draw certain conclusions from those facts, because I do think that the greatest value of examination of facts is that one should draw some conclusion from them. Now, Sir, the hon. Member has told us that, until 1950, everything went very nicely and that after 1950, the congestion began to appear at the Port. In fact, that in 1951, it appeared—and he said that one of the greatest difficulties that the Port had to contend with was the very great rush of ships that occurred—in fact it was almost convoys arriving. At one time I thought he was going to tell us that it was snow and frost at Mombasa that stopped the ships coming in or the port plants being used, but he stopped himself there, I think. But I would like, Sir, to quote the figures of steamships which entered the ports of Kenya—and I presume they only entered Mombasa. I do not know what other port of Kenya ocean-going steamships enter, so it must refer to the Port of Mombasa—the ships that entered for each quarter of 1950 and 1951 and the tonnages represented.

The first quarter of 1950: 79 ships, 136,000 tons; second quarter, 82 ships, 122,000 tons; third quarter, 85 ships, 152,000 tons; fourth quarter, 86 ships, 145,000 tons. That was in 1950. For 1951: first quarter, 79 ships, 121,000 tons; second quarter, 84 ships, 131,000 tons; third quarter, 78 ships, 138,000 tons; the fourth quarter and last one is not given, but as the fourth quarter started in October, and we all know that the congestion had started before and that the action taken to-day had also started in

[Major Keyser]

October, perhaps it is not quite so relevant as the previous figures.

Now, Sir, the average amount of tons per quarter in 1950 was 139,000 and the average tons per quarter in 1951 was 130,000. So, Sir, those figures refute the conclusion drawn by the hon. Member from his facts. Well, he shakes his head. I say, Sir, they are very telling figures.

Now, Sir, I will refer to a few more facts. On the 1st October, the conference of the Associated Chambers of Commerce took place in Arusha, and the resolution asking for an inquiry was passed. On the 31st October, in this Council, I asked the question which is the subject of the Motion to-day, and on the 24th January, 1952, the High Commission considered the question of a Commission, and in February of 1952 the Conference which was referred to by the hon. Member was held in Nairobi. Now, Sir, the facts which I am going to produce from those figures are: that during October, the Central Assembly, the High Commission and the Railway Authorities appeared to be not at all worried about the situation that was occurring. In fact, Sir, the General Manager of the Railways almost daily produced a paper in the local Press to show that the congestion of the Port was entirely due to the negligence of the commercial community. Yet, Sir, the hon. Member tells us that when the High Commission came to consider the question of a committee of inquiry on the 24th January, 1952, that, by chance—

MR. BRINDLE: Fortunate chance—

MAJOR KEYSER: Fortunately, by chance, a Conference had already been arranged and when I asked him the date, again, Sir, by chance, and fortunately for himself, he could not tell us the date on which the Conference—it had been decided to call the Conference—and the deduction I am going to make from these facts I have put before this Council is that there was no suggestion of a Conference at all until the question was asked in this Council as to whether a committee would be considered or not, and that subsequent to that date, they put their little heads together and said: "Let's get out of this somehow. How can we do it?" And they decided on this

marvellous Conference being called of the representatives of shipping lines and the Railway Authorities and bringing in, it is true, the Ministry of Transport people, who knew very little, I presume, about local conditions, leaving out the local experts on the handling of the Port.

Now, Sir, I consider that in the circumstances, that is a perfectly justifiable conclusion from those facts for me to draw.

With regard to the composition of this Conference, it does consist chiefly of representatives of shipping companies, of the East African Railways and Harbours, as I said, two representatives of the Ministry of Transport, but why, Sir, if a conference of that sort is going to be held, why should the local people, who are interested in the Port, be excluded? I cannot for the life of me understand why that should take place, and the hon. Member has not given us any reason as to why they were excluded. Is it that they are considered to know nothing about it? Quite obviously the vast numbers of representatives of shipping companies are interested in their own particular side of making money out of shipping, and I do think, Sir, that they are interested parties, but they should not have been given the vast representation they were given on that Conference.

He also says, Sir, that the control of shipping that is suggested will not result in less ships being made available to come to East Africa, but I say, Sir, that will, because as soon as you begin to try and space your shipping, even in the way that is suggested, quite obviously the total amount of ships are not going to be available, because you cannot just go down to the Port of London and say: "I want that ship to sail on a certain date", and have it. I think it is going to be extremely difficult to get the requisite amount of shipping if you are going to space it.

The two hon. Members opposite, who are obviously particularly interested in this, keep shaking their heads, Sir, and they rather frighten me. I keep on feeling their heads are going to flop off in a minute, they are shaking so violently.

The hon. Member did ask why this matter was not aired in the Central Assembly, and I quite agree with him.

[Major Keyser]

It is a very pertinent question. And, I have, for a long time, Sir, thought that the Central Assembly lacks the stimulating criticism that hon. Members opposite are made available in this Council—(applause)—and that if the Central Assembly had that stimulating criticism many of our troubles would not have occurred. I can think of innumerable troubles that have occurred for lack of that criticism. It is astounding to me, Sir, to read the Hansard here of the East African Railways and Harbours Estimates and to see, not only the lack of criticism of the administration of the Railways and Harbours, but constant praise of what they are doing and enumeration of the enormous difficulties they had. We all admire the manner in which the Railway is administered, but in this respect and in certain other respects that we have criticized in the past, they have failed. We are not asking for this inquiry in order to start a man-hunt, or a witch-hunt, or whatever you like; we are doing so because we believe that criticism of this sort and the fixing of responsibility for neglect of steps being taken at the right time—that is our main criticism, that steps to remedy the situation were not taken at the right time, and this sort of criticism and inquiry into the steps that should have been taken will possibly prevent a recurrence of this unfortunate situation arising in years to come.

Now, Sir, the Commissioner for Transport, in his speech in the Central Assembly, admitted that this congestion had started in 1947, and I have shown, Sir, by my figures, that the shipping had been even almost each quarter for approximately two years. The hon. Chief Secretary did read out some of the findings of the Conference, and holds them up as the most wonderful and ingenious contrivances in order to get over our present difficulties. He talked about these fork wagons, or something. Any porter at Victoria could have told you how to use them, and their effect on shifting cargoes. It did not need a conference of high-powered steamship directors to do that. The question of lighterage. Surely—I remember the day when we had no and are not the responsibility of the Railway hon. Members here who remember that, remember that all passengers were

landed by boats and all shipping cargoes were landed by lighters. I also remember in 1926 arriving in a ship in Mombasa when the deep wharves were being built and the captain of that ship saying: "There is a white elephant for you." I said, "Why?" He said: "Because lighterage in Mombasa will always be cheaper than wharves." Now then, that was the view, at that time, of an expert on his sort of thing. He was an old captain who had done some thirty years at sea and knew Mombasa inside out, yet, Sir, the Commissioner for Transport, in his speech in the Central Assembly talks about the wonderful ingenuity that has been used by the East African Railways and Harbours in combating the difficulties that have arisen; yet, Sir, he forgot to institute lighterage in 1948 when the congestion had already begun, according to these figures, in 1947, and we still, Sir, have not got a lighterage system to assist the deep wharf system there. So my criticism is, Sir, until action was taken here, and until we began to afford the Central Assembly and the High Commission, and the East African Railways and Harbours, and with the assistance of our stimulating criticism, nothing was done at all, and that is why, to-day, Sir, I support the Motion as strongly as I possibly can—

MR. MACONOCHE-WELWOOD: Mr. Speaker, I rise to support the Motion, and, mainly, I have only one important point—I deem it to be important—that is the refusal to hold this inquiry has not produced the effect that the hon. Member has suggested, to lighten the work of the Railway. It has the reverse effect, because the Railway, in fact, in this matter, I believe, have very little to hide, and I believe a public inquiry, the results of a public inquiry, would have been to the interests of the Railway and to the interests of the High Commission.

I myself, as a Member of the Transport Advisory Council, urged this matter on the Railway management and the Commissioner, for that reason and no other. We have been told repeatedly how well the Railway has handled things, and I think it has, but I think there are many factors in the Port that have not been put before us and that could come to light, and are not the responsibility of the Railway and require to be made public. (Hear, hear.)

[Mr. Maconochie-Welwood]

If the Legislature requests a public inquiry on what amounts to a nationalized industry, it is surely the height of unwisdom to refuse that inquiry. The Railway is continually accused of being intransigent and arrogant, and indeed I must admit that though it is efficient, it must occasionally make mistakes, and it is usually very reluctant to admit that such a thing does occur. Nevertheless, it does occur and it is to our interests to see that those matters are thoroughly investigated.

The Central Legislative Assembly has been raised again as the proper forum for this debate. Well, no doubt it is, but hon. Members opposite must realize that the power of the Unofficials of this country is weakening in the Central Assembly. Mombasa is a matter that supremely concerns this territory and, only slightly less so, Uganda. It has nothing to do with Tanganyika, and the Central Assembly always have this weakness, to see it, that if the Commissioner for Transport wishes to put over a certain attitude, it is easier for him there to apply the rule, whereas here it is infinitely more difficult for Government to get away with it.

There is another reason why I deplore the fact that this fact-finding inquiry was refused, and that is, I believe it is the object of Government to make the Central Assembly work and the High Commission work. They are already objects of suspicion in the territories, both of them, because, naturally, territorial legislatures are very jealous of their privileges and if, arbitrarily, a request is refused by territorial legislatures, it can only in fact weaken the position of the High Commission and the Central Legislative Assembly. That seems to be a matter of the utmost importance and worthy of the consideration of the High Commission before it came to this most unfortunate decision. There is deep suspicion of the Central Legislative Assembly and, every now and again, instances are put before us—there is another Bill, it is out of place to mention here, which will come before us, where again the High Commission will deem its privileges are infringed. For that reason, if for no other, it is extremely unwise for the High Commission to refuse a public inquiry with the representatives of the people of this country

and Uganda, as was requested by my hon. friend the Member for Trans-Nzoia.

THE MEMBER FOR COMMERCE AND INDUSTRY: Mr. Speaker, I propose to deal with a certain number of specific points raised by my hon. friend the Member for Mombasa and then attempt to deal with further points raised by other hon. Members.

MR. HAVLOCK: Attempt.

THE MEMBER FOR COMMERCE AND INDUSTRY: My hon. friend mentioned a number of specific points, some of which, as he rightly said, as my hon. friend the Chief Secretary has mentioned, were the subject of the recent inquiry held in Mombasa.

First of all he referred to easing the congestion in the Port by transferring certain Customs procedures to bonded warehouses in Nairobi and Kampala. That is a matter which was recommended by the Committee of Inquiry and is being gone into as an urgent matter by the Customs Administration with a view to seeing whether it can be done. Now, Sir, that is a very practical suggestion indeed, and one that I know, from what has been said in the various commercial bodies with which I am in close touch, would be very much welcomed by the commercial community, and would be one to which they would extend the fullest co-operation.

MAJOR KEYSER: Yearly?

THE MEMBER FOR COMMERCE AND INDUSTRY: I was dealing with the points the hon. Member raised. There was the point my hon. friend made about the handling contractors and an increase in their staff. That point, too, has been put since the conference by representatives of the commercial community, and I am reasonably certain that on that matter the Administration would be prepared to give the closest examination to the suggestion.

In regard to transit sheds, there is, of course, a shortage of space, and, Sir, as a most urgent matter during the last few months, the cliff, below which the transit sheds are built behind the deep-water berths, is being cut back a very considerable footage. That, Sir, is not a particularly easy task. It is in hand at the moment and will allow room for an

[The Member for Commerce and Industry] additional row of transit sheds and, equally important with the transit sheds, will allow for a large increase in the stacking space. Sir, the action being taken in that respect was noted and endorsed by the conference and it is a matter which the Transport Advisory Council, and, of course, the Harbour Committee, has considered and endorsed.

Then, Sir, the clearing sheds. I was surprised to find that my hon. friend the Member for Mombasa—for so many clearing agents carry on their work under difficult conditions in Mombasa—felt they perhaps were not making the contribution they should do. I know my hon. friend's criticism was moderate, and, of course, no concern is perfect in its operations, but, Sir, I do know, and I know my hon. friend will wish to agree with me, that many of the firms of clearing agents in Kenya are making the very greatest efforts to do their job to the best of their ability.

MR. USHER: I quite agree.

THE MEMBER FOR COMMERCE AND INDUSTRY: I am glad my hon. friend agrees.

I am, of course, aware there is room for improvement and they are doing their utmost to achieve that end.

Then there is the fragmentation of cargo. That is a very big cause of delay in the Port. One gets a cargo, and there well may be in one particular parcel as many as twenty or thirty separate directions to split that cargo up, and deliver it to many places. That in itself does not sound very much to those who are not familiar with the Port. I do not claim the greatest familiarity with it, but I have seen what such a procedure means in terms of breaking bulk, and breaking bulk is a matter that takes time, and it also means that people are employed doing the job, and one of the recommendations of the conference and one that is endorsed, so far as I know, by the commercial community, is that that fragmentation should cease and that cargo should be despatched so that it does not require so much subdivision.

On the question of phasing shipping. There are two aspects to this problem

that I think should be made clear. First of all, at the present time, there is a backlog in the Port. This requires that for a period up to about three months it will be necessary to restrict arrivals. This will not mean—and this is important—that less will be taken out of the Port and railed up-country, for the reason that, during that period, goods already in the transit sheds and stacking grounds will gradually be taken away, in addition to the restricted cargoes coming in. The net result is that the goods cleared from the Port will not be less in quantity although less new cargo will be landed during the three-month period.

Then, Sir, we come to the second phase and this is of greater importance than the first one. Assuming that the Railway and Port Authorities succeeded in dealing with the backlog within a period of three months, and we are informed they have every hope of doing so, then it will not be a question of drastically restricting the number of ships coming in, but of phasing their arrival.

Now, Sir, it is perfectly true what my hon. friend the Member for Trans-Nzoia said. If you take a period of a month, shall we say of a year ago when ten or twelve, or thirteen ships all arrive, and then owing to the phasing programme in one particular month only five or six ships arrive, quite clearly, during that month, less cargo will arrive in the Port. But, as my hon. friend well appreciates once the initial phasing period is over, taking a period of twelve months which is the way to judge the capacity of a port it does not mean less will be coming into the Port over that period than when cargo arrived irregularly. Here, with your permission, Sir, I am going to quote a few figures to illustrate my point. Now, Sir, during 1951, and I have the figures up to the end of the year, 1,686,605 bill of lading tons were passed through the Port. Now, my hon. friend mentioned that the congestion first became a problem—admittedly one that was serious at one time and then less serious at another—as long ago as 1947 and the latter part of 1946. He also mentioned that during that period—and I do not dispute his figures—the number of ships actually cleared at the Port did not, either in number or tonnage, go up by any great amount. Well, Sir, the fact is that in

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1946, 816,605 dead weight tons of cargo were dealt with by the Port. The figure I gave for 1951 is almost exactly double that of 1946. Sir, nobody will dispute that in view of the limited equipment that has been available during that period to the Port and Railway Authorities that is not an achievement of merit.

MR. BLUNDELL: Would the hon. Member give way?

MR. SPEAKER, might I draw the hon. Member's attention to the fact that the figures quoted by the hon. Member for Trans Nzoia were for 1950 and 1951? In order that we can see the argument clearly, could he give us them?

THE MEMBER FOR COMMERCE AND INDUSTRY: I thank the hon. Member. I was coming to that. I want to make the point in general, then I will come to the particular. I am not trying to refute what the hon. Member said, but merely to put an interpretation on it which I think the hon. Member will accept when I have finished.

MAJOR KEYSER: SIR, I do not know where the hon. Member gets his figures from. I get my figures from the East African Economic and Statistical Bulletin of 1951 issued by the East Africa High Commission. Now, Sir, the figures of the tonnage for 1946 given here, the total tonnage of shipping—and there is a relation, I think the hon. Member will agree; between the total tonnage of shipping and a cargo—for 1946, 198,000 and for 1951—well, it does not give the total; it is considerably greater than 1946, I agree, in 1951. But, Sir, I was quoting the speech of the Commissioner for Transport in the Central Assembly where he said that in 1947 they were aware that congestion was occurring.

THE MEMBER FOR COMMERCE AND INDUSTRY: May I finish my argument?

I am not contradicting the hon. Member's figures, and I will try to explain the point. The figures that I am referring to are bill of lading tons, they do not refer to the tonnage of shipping, and I am going to explain why there is that apparent discrepancy in figures. Let us assume, for the sake of argument, that 100,000 tons of dead weight of shipping

is cleared in a year. Now, let us assume that the average cargoes in those ships for Mombasa—most of those ships, remember, go to other ports as well—is 50 per cent of capacity. Well, Sir, we will assume that that means, in terms of bill of lading tons, 500,000 tons of bill of lading tons cargo. Now, let us assume in the next year that only 90,000 dead weight tons of shipping arrive in the Port, but 90 per cent of the cargo is for Mombasa. Well, it is quite clear then that the amount of bill of lading tons passing through the Port will be approximately—I am not guaranteeing that my arithmetic is correct—60 per cent to 70 per cent more than when more ships arrived but only partly unloaded at Mombasa. That is one of the reasons why, without any great increase in the actual tonnage of shipping—and that is why I am not refuting the hon. Member's figures—there has been a large increase in the amount of bill of lading tons handled, that is, tons of cargo passing through the Port.

Sir, it may be said that this merely means a fortunate concentration of cargo but, it also means good management on the part of the shipping companies and on the part of the Cargo Advisory Committee in Mombasa, which is an entirely unofficial body made up of representatives of the shipping companies and big importing firms. During the period from 1947 to the end of 1951 to which the hon. Member for Trans Nzoia referred, the change in handling occurred roughly before the end of 1949, and the beginning of 1950, and that is why the hon. friend is incorrect when he says there has not been any great improvement in the last year or 18 months. The reform in procedure that I refer to was made as soon as shipping and handling facilities in other parts of the world at the end of the war were reorganized. When, for instance docks at Antwerp came into operation, when the London docks were refitted, when new ships came into service—that reform was made as soon as it was possible. Sir, I take my figures, of course, from the figures supplied by the Railway and Harbours Administration. They are not my own figures. We have every reason to know by experience that these figures are correct.

Sir, I am sorry to have taken up the time of the Council dealing with this

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point, but I do feel that it is necessary to do so, because I am trying to place the facts before hon. Members, as I see them, without in any way, without in any way—and I wish to emphasize this—failing to understand the difficulties experienced by the commercial community, and their very natural interest in this matter, an interest that will go on, I hope, with salutary results. Having said that, Sir, I do wish again to emphasize what my hon. friend the Chief Secretary said, there has not been a refusal of an inquiry, an inquiry has been held, and as hon. Members—particularly those who have experience of ports, particularly those who have the special opportunities through representing a constituency, where a port is part of it, or an area where a port is the most important feature, or of the economic life of that region, Members such as these and other Members with commercial experience—will appreciate that valuable recommendations have been made by this Conference. I am not now dealing with the constitutional point, which my hon. friend has dealt with and which I believe another hon. colleague may deal with later, I am dealing with the practical recommendations, because that is all I am qualified to speak on. I believe that valuable recommendations have been made to deal with a most awkward and difficult situation. I do not feel that this Council is the place to pay tributes or to flatter, but I do believe this is a body that is interested in the facts, and that hon. Members will consider those facts in reflecting on their Motion.

Now, Sir, I would like to deal with a point made by my hon. friend the Member for Uasin Gishu. I have the greatest respect for his views, and I have reason to know that very valuable contributions are made by him on the Railway Committee and on the Transport Advisory Council. He has said that the Administration has very little to hide. Those were his words, I believe—I took them down as he said them. Now, Sir, that is true, and I suggest that in the information they have given as a result of this inquiry recently held—admittedly not exactly the inquiry that was asked for by the Association of Chambers of Com-

mence or by this Council—I believe that they have shown that they have certainly nothing to be ashamed of in terms of their achievement.

Sir, I believe that other figures must be placed before hon. Members, and they have to do with the second aspect of the congestion, and that is the capacity of the Railway to deal with the cargo after it has gone through the Port.

Now, Sir, it is perfectly true the Railway is working on a very, very narrow margin. Indeed, as my hon. friend the Member for Uasin Gishu well knows. On the score of whether the Administration could have done more to get steel, railway wagons, railway engines, locomotives, new rails of heavier capacity, steelwork for heavier bridges, all of which increase the capacity of the railway, it is very easy in 1952, to say they should in the light of current development. I hope hon. Members will remember when they refer to the vast development that has taken place in Kenya, very largely through the enlightened efforts of private capital investment in this territory—(hear, hear)—when they take that into account, Mr. Speaker, at this stage, and speak of the very great development of this territory and the necessity for vision on the part of the Railway Administration, I hope they will remember what they have said when at times they feel it is necessary to take a more pessimistic view. Sir, it is possible that the Railway did not envisage the degree of capital investment—which is the key to the problem and has largely caused the great economic development in this country in the last few years. Who did? Who, in fact, could have envisaged in 1945-46 that in the next five to six years almost more private capital would be invested in Kenya than in the rest of the dependent Empire. Was it for any particular official, or was it for any hon. Member opposite, to make forecasts such as that? I myself made forecasts in 1948 in regard to the capital investment, if it continued along the lines it appeared likely to do, I did not find that hon. Members were exactly receptive to some of the forecasts made. I am not suggesting that my forecasts were correct, all I am suggesting is that by and large we felt that a high level of capital investment would go on, because there

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was confidence in this country, which all hon. Members welcomed. We all have confidence in Kenya but some have said that on occasion they were tired of having that point hammered home. My point is that if there has been any under-estimation on the part of the Administration in what would be required to deal with this great degree of economic development in these territories, then I think we all have shared the same error of judgment, and I doubt whether any hon. Member of this Council can say that they, five or six years ago, envisaged the degree of development that would take place. It was almost impossible for any human being to do so, without at that time being called a super-optimist, and one who was living in cloud-cuckoo land—I have heard those words, Sir, used in this Council.

Now, Sir, you may say that six years is a long period and at any time in the last three or four years, if the Administration had placed their orders for the goods wagons, the locomotives or the steel, those orders would have been coming forward to-day. Well, Sir, that unfortunately is not the case. Delivery dates have become more and more long term. One of the effects of rearmament—and after all, it absorbs steel just as blotting paper absorbs ink—is to put forward promised delivery dates by as much as 18 months and two years. In other words, goods that were ordered in 1948 and 1949 that should have been arriving now, owing to the requirements of the rearmament programme are not likely to arrive for another 18 months, or in some cases two years. Is that the fault of the Administration? Of course it is not. They placed their orders when several of those orders represented the very greatest possible faith in the future of this Colony. I have heard criticisms that they were too bold and, Sir, to-day—

MAJOR KEYSER: Where?

THE MEMBER FOR COMMERCE AND INDUSTRY: I have heard criticisms in many places—not in this Council, that is why I did not say so.

MR. HAVELOCK: Irrelevant!

THE MEMBER FOR COMMERCE AND INDUSTRY: Well, Sir, I agree that the opinions of voluntary bodies and the societies could not possibly be as relevant as the opinion of this Council. However, Sir, to make my point, I am not saying that the Railway Administration envisaged all the development in Kenya that has taken place. Of course they did not, neither did we, neither did anybody. What I am saying is that as soon as they realized the trend, then, Sir, within the limits of the finance available, in a time of rising prices, not by five per cent, or ten per cent in 18 months, but in some cases by as much as 30 per cent or 40 per cent. In a time when prices were rising, they did the best they could within the limit of the finances available.

MAJOR KEYSER: By calling a conference!

THE MEMBER FOR COMMERCE AND INDUSTRY: Would the hon. Member like me to give way?

MAJOR KEYSER: I only wanted to know whether he is going to say, Sir, that when they realized the situation, one so serious, they then called a conference.

THE MEMBER FOR COMMERCE AND INDUSTRY: No, Sir, I will deal with that point. I am now talking, not about conferences.

MR. HAVELOCK: Just talking!

THE MEMBER FOR COMMERCE AND INDUSTRY: Well, Sir, if the hon. Member is not interested in the facts, I cannot help him, but I can assure him that the facts are of interest to the public of this Colony.

MR. HAVELOCK: You are a fact-finding Committee! (Laughter.)

THE MEMBER FOR COMMERCE AND INDUSTRY: Mr. Speaker, if I may conclude this aspect of the argument, my case is—hon. Members are free to accept it or reject it—that in the light of what has happened, the Administration made every provision within their power to meet the situation that has arisen. As regards the present Conference, very valuable recommendations have been made, which I am sure will command the co-operation of the commercial community. In regard to the very 'natural

[The Member for Commerce and Industry]

anxiety of the commercial and business community, and the farming community, about the difficulties we are experiencing at the present time, I have full understanding of their point of view. What I am saying is this, that surely it is common sense to let the effect of these recommendations be seen, let us know what the results will be. I do not believe that they can solve the whole problem—the only final solution to the problem is the long-term programme that has been approved already by the Transport Advisory Council and by the Harbours Committee, the construction of additional deep-water berths, the construction of additional lighters, the acquisition of additional transit sheds, the building of additional clearing grounds, the clearing back of the cliff, not a matter of a few yards, but many yards. All these developments, and they must be continuous, will, we hope, be adequate to meet with the needs of a developing economy.

Mr. Speaker, the basis of the submission against this Motion that is in the name of my hon. friend is that we are faced with a situation where our capital equipment in spite of the best efforts of those responsible for administering a most important part of it is not adequate to deal with the results of a very large measure of commercial, agricultural and industrial investment to which the rapid development of this country is largely due. This is a situation that arises in every developing country in the world. It arose in the United States, not so very long ago, when ports, including New York, had the greatest difficulty in dealing with both export and import cargo. It has arisen in Canada from time to time, it has arisen in South America, and yet when money in advance of public opinion is found to build a railway it is often referred to as a white elephant.

My hon. friend, the Member for Trans Nzoia, referred to what, a man, who at that time would be considered to have expert knowledge of ports, said he thought of the deep-water berth in Mombasa. It is always difficult to strike a balance between vision and immediate requirements, working in advance of the probable in terms of the possible is

always difficult. It is hard to strike that balance between vision and what, at the moment of criticism, is referred to as head-headed common sense and not as wasting money on capital investment that is unlikely to be useful and may prove a white elephant and a loss to the taxpayers and business world of the community. Now, Sir, in Kenya, we are fortunate in having vision in the business world, and amongst those who are best qualified to judge, and Sir, I am sure that what hon. Members opposite would be glad to wish good fortune to the Commissioner for Transport and the Governor in their efforts in London at the present time to obtain the funds by which the progressive development of port and railways can be maintained. We have got to have capital in very large amounts, very large amounts indeed. As hon. Members opposite know, the money market in London is not easy. That is due in part—

LADY SHAW: On a point of order, Mr. Speaker, I am not for a moment suggesting this is not very interesting, but is it—any of it—to the point? The Motion itself is: "This Council notes with concern that the High Commission has not met the request of the Kenya Government for a public inquiry. I perfectly agree, if the hon. Member on the other side had been permitted to state these facts at a public inquiry it would have been extremely useful, but it does not appear to me to have anything whatever to do with the Motion. I would like a ruling on it.

THE MEMBER FOR COMMERCE AND INDUSTRY: I bow, Sir, to any ruling you may wish to make. Before doing so, I do submit with respect that I be allowed to present my case.

THE SPEAKER: Transport is very much with us this morning. I do think that the hon. Member who has the floor at the present time is relevant in dealing with the matters which he has been dealing with in the last quarter of an hour. (Laughter.) After all, the claim originally was for a public inquiry into the cause of delay in clearing goods from the Mombasa Port. Now when an hon. Member moves a Motion containing those terms, he adopts that as a basis of fact for himself. It is equally open to other

[The Speaker] hon. Members to controvert that basis of fact on which his corollary will afterwards depend. For those reasons, I hold that the hon. Member speaking is quite in order. (Applause.) But perhaps I might add this: that as economics is generally supposed to be the dulllest of all sciences to listen to, the hon. Member will not overdo it. (Laughter.)

**THE MEMBER FOR COMMERCE AND INDUSTRY:** Sir, I will with all respect bear that in mind. I have, Sir, very little more to say, but it is essential, if we are to consider the demand for a public inquiry and before pressing that demand in the terms of this Motion, to know what the facts are. I have done my best to give them as far as I know them. I have expressed the view that it might be better to await the results of what must be delicate negotiations in raising additional capital before taking the risk of giving the mistaken impression that the Port is inefficient or that the Railway is not properly run. I doubt whether a demand for an inquiry now will have the effect of making the task of those who must raise the capital any more easy, and I believe that every hon. Member in this Council wished to see that capital provided on the best possible terms. For these reasons, Mr. Speaker, and many other reasons which I would like to place on record, but I believe the patience of hon. Members is almost exhausted—

**MAJOR KEYSER:** Have courage!

**MR. HAVELOCK:** Go ahead! (Laughter.)

**THE MEMBER FOR COMMERCE AND INDUSTRY:** I have courage—(laughter)—but I do not feel it would be fair to the hon. Member to burden him with more facts at this stage. For these reasons, Mr. Speaker, I oppose the Motion.

**MR. NATHU:** Mr. Speaker, I am sure, Sir, I am vindicating the feelings of all Unofficial Members on this side of the Council in saying that we have nothing but admiration for the way in which the Railway has done its work under trying circumstances. We are not disputing the fact at all, Sir, that they have done their work very well. What we do feel, however, is this: that whilst this inquiry ordinary laymen and ordinary consumers was going on, the point of view of the

has been completely lost sight of. We feel even when this Committee for which we are asking is appointed it is quite possible they may come to the same conclusions which this expert Committee has come to and that our difficulties will not be lessened by holding this inquiry, but at least we will have the satisfaction that all aspects have been gone into and that whatever blame is apportioned, and whatever difficulties we are facing are inevitable, and we must bear them in silence and do what we can to ameliorate them. I do not think on this side of the Council there is any question we are attempting to blame the Railways or the Administration for lack of vision, or lack of a programme, or inefficiency. What we do feel, however, I think is expressed in the remarks of the hon. Member for Nairobi South, when he said "it is not only enough that justice be done but it should be seen that justice is done"; and I do not see, for that reason, why Government cannot accept the Motion and have a committee appointed. (Applause.)

**LT.-COL. GHERSIE:** Mr. Speaker, in rising to support the Motion I find myself in the utmost difficulty in trying to understand the reluctance, and thereby the mentality, of certain of the authorities and certain individuals in refusing or trying to obstruct the introduction of an independent committee of inquiry. We had a very interesting address from the Member for Commerce and Industry submitting certain facts and figures, but we are perfectly aware of the position. We realize the facilities at the Port are totally inadequate to handle cargoes coming into the Port, but what we do suggest is this: there may be lack of efficiency, or room for more co-ordination between the Railways, Customs and Port Authorities. Now, Sir, if there is no room for improvement, surely the authorities concerned would welcome an inquiry of this nature, in order that the public should know the true position. Resisting an inquiry of this description may create suspicion and create the idea in the public mind that there is something to hide. Responsible bodies have asked for this inquiry—the Chambers of Commerce, the Electors' Union—and quite frankly I would like to warn Government—and I hope they will impress this on the High Commission—that the

[Lt.-Col. Ghersie] public will not tolerate this dictatorial attitude any longer, and they are only awaiting now the result of this debate to see what further action they will take, and it will be drastic action, if necessary.

I would like to reply to just one or two points made by hon. Members on the other side, and one in particular that was made by the hon. Chief Secretary. I think he said emphatically that tonnage reaching the port was not to be reduced. Only two evenings ago I attended a meeting of the Chambers of Commerce here in Nairobi at which the General Manager of the Railways who was addressing that Conference was present. He said most emphatically that the tonnage would be reduced from something in the nature of 80,000-90,000 tons a month to 50,000 tons.

**THE ACTING CHIEF SECRETARY:** On a point of explanation, perhaps I might say that I certainly was not thinking of this matter—I thought I had made it clear—over a period of one month or even two months. I was intending to make the point that there would be no reduction over a long term in the shipping that was coming into the Port. I was trying to draw the distinction between regulating and reducing.

**LT.-COL. GHERSIE:** I would like to add this in order to emphasize the real object of this Motion. During Christmas and the New Year I happened to be in Mombasa on a holiday, and I took the opportunity quite unofficially to visit the Port and spend two days there. Whereas on any layman one could see the facilities were quite inadequate to cope with the traffic or cargo coming into the Port, it was also fairly obvious that the sheds, although congested, even if empty could never cope with the cargo coming in. On the other hand, there is a great deal of cargo that has lain there for some length of time. It may be the merchants are to blame. It may be the Customs are delaying matters—one does not know—but the fact remains the blame may be apportioned to someone; so much so that on one occasion when I was there the cranes which would normally work until 11 o'clock at night had to cease operation at four o'clock in the afternoon, so even the limited facilities of that Port were not functioning correctly. That is

why we wish for an inquiry—to try and apportion the blame, or to try and speed things up to get more co-operation and co-ordination among the services which are existing there to-day.

With those words, Sir, I support the Motion.

**MR. NATHU:** Sir, I am going to be very brief indeed in supporting this Motion, and I rise because of the remarks which have been made by the Government benches in opposition. We admit, Sir, that the Port Authorities or Railway Authorities have nothing to hide, and they would not feel that if an inquiry was set up they would be showing up badly. That, I think, is a very important point. If there is nothing to hide, and it is a public institution, why should there be any reluctance on the part of the Government in allowing this setting up of a committee of inquiry? That, I think, is the major point and the only point I am going to make in support of the Motion.

**MR. HAVELOCK:** Mr. Speaker, I will not keep the Council long. In fact I can see, as I judge it, if I do speak for very long there will not be many hon. Members left. Sir, this matter is a very important one. The whole object of this Motion is based on the fact that we, as representatives of the people of Kenya, are extremely concerned at the way things have gone at the Port of Mombasa and, Sir, I would like, in that respect, to refer shortly to a remark by the hon. Member, the Chief Secretary, when he said that the hon. Member for Trans Nzoia, in his original question, asked for an inquiry into the administration of the Port. Those were the words of the hon. Chief Secretary. I want to make it quite clear that was not what the hon. Member for Trans Nzoia asked for. The hon. Member for Trans Nzoia asked for an inquiry into the delay of clearing cargo from the Port, which is a very different thing, and brings into and under the inquiry all manner of things, especially the activities of the commercial and private communities themselves. Also, Sir, going on from that point, I think it was the hon. Member for Commerce and Industry, whose example I will not follow—as I said before, I will be very short—who said that the proposals by this high-level specialist Conference were



[Mr. Havelock] very valuable, and that we should go ahead with them and see if any real benefit resulted in adopting their suggestions as a first step. I think the hon. Chief Secretary, too, mentioned that he thought—presumably he thought—that nearly all the things that could be done to rectify the position had been recommended by this Conference. Now, Sir, this Conference sat for two days. I have records of the minutes of the discussions by the Chairman of this Conference with the representatives of the commercial community, and it is quite obvious that this Conference could not, within the time available to them, take into consideration all the factors. They could not possibly get all the details that are required to make the requisite number and type of recommendations to deal with the short-term as well as the long-term—short-term, I underline—difficulties of the Port. After all, Sir, the Conference report—the short-term proposals are, if I can read out the headings: Regulations of Imports, which we have dealt with—and I would like to come back to that in a second; Measures for Speedier Handling of Cargo; Mechanization of Cargo Handling; Lighterage; Rail Capacity; and Passenger Ship Priority. Can anybody say that these are the only factors that affect the delay of clearing the goods from Mombasa Port. I would suggest there are very many other important factors, and it is only by a committee of inquiry of the type that is visualized in the Motion that the other important facts can be brought to light, some of which have already been mentioned by hon. Members to-day.

So, Sir, I do not think that hon. Members opposite have taken sufficient interest and been sufficiently impressed at the great danger, the very red light, that has been shown at the recommendation that has been accepted for this phasing, not regulation but phasing, for the next three months of cargo ships into Mombasa Port. It is acknowledged that some 20,000 tons will have to be cut from the cargoes that will be brought into the Port during those three months—40,000 tons is a lot of cargo and a lot of money, and I am surprised that the hon. Member, who seems to be relegated to the fringe of Government benches this morning, himself is not extremely

worried at the fact that even only 60,000 tons is going to be knocked off from imports, and therefore, seriously affecting the revenue for 1952.

THE FINANCIAL SECRETARY: Might I ask how the hon. gentleman knows that I am not worried? Is it that my face is so mobile and expressive?

MR. HAVELOCK: The answer to that question, I think, is obvious. It was only after a considerable delay, Mr. Speaker, when you were asking the hon. Mover to reply, that I got up to speak. Obviously the hon. Member cannot be very worried, otherwise he would have got to his feet as well.

THE FINANCIAL SECRETARY: Not at all.

MR. HAVELOCK: I am not going to deal at any length with the constitutional aspect of this question. I think the hon. Mover dealt with it very thoroughly, and I admit I am disappointed that the hon. Attorney General has not yet taken advantage of speaking in this debate to answer the points made, because they are very interesting points. I would only like to say this. It may be repetition of what the hon. Member for Uasin Gishu said, but this Council, when faced with problems of this sort, and what we, the Unofficial Members, consider has been dilatoriness in facing the issues and taking steps to rectify important urgent matters of the sort we are discussing—that this Council will never give up its right to use the opportunity for debate, and, indeed, to use the privilege of the Unofficial majority which has been granted to the people of Kenya in order to force their viewpoint either on the High Commission or on the Colonial Government.

Now, Sir, another point which has not been sufficiently stressed, and one which worries me considerably, and I know worries the commercial community of this country is, it is right—is it proper—that the representatives of shipping companies should have such a very, very great power in the regulation and phasing of the cargoes to Mombasa Port? I understand this matter has been discussed in other places, but I do not think that the commercial community is satisfied, and is there still not a danger

[Mr. Havelock] of a type of rationing being inflicted upon this country by the representatives of the shipping companies?

THE SPEAKER: This debate now stands postponed. It is a Private Member's Motion. Will it be taken on Tuesday?

THE ACTING CHIEF SECRETARY: I think perhaps it would be best for the convenience of hon. Members that we should conclude this debate before starting with any other business on Tuesday morning.

#### ADJOURNMENT

Council rose at 12.45 p.m. and adjourned until 10 a.m. on Tuesday, the 24th February, 1952.

**Tuesday, 26th February, 1952**  
Council assembled in the Memorial Hall, Nairobi, on Tuesday, 26th February, 1952.

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

#### MINUTES

The minutes of the meeting of 22nd February, 1952, were confirmed.

#### NOTICE OF MOTION

THE SECRETARY TO THE TREASURY gave notice of the following Motion—

Be it RESOLVED that, with the exception of the recommendations in paragraphs 30 and 31, the Report of the Select Committee on Cost of Living Allowances for Government Servants be adopted.

#### PAPERS LAID

The following papers were laid on the Table—

By THE ACTING CHIEF SECRETARY:  
Proceedings of the East Africa Central Legislative Assembly (First Session, 1952): First Meeting, Second Assembly).

By THE SECRETARY TO THE TREASURY:  
Kenya Savings Bank—Report on the Audit of the Accounts for 1950.

#### SESSIONAL COMMITTEE REPORT

THE ACTING CHIEF SECRETARY: Mr. Speaker, I beg to report that the Sessional Committee has appointed the following Members to be members of the Select Committee on the Trades Unions Bill:—

The Acting Deputy Chief Secretary (Chairman);  
The Chief Native Commissioner;  
The Labour Commissioner;  
Mr. Usher;  
Mrs. Shaw;  
Mr. Madan;  
Mr. Shatry;  
Mr. Ohanga; and  
Mr. Mathu.

I also have to report that the Sessional Committee has appointed the Financial Secretary to be a member of the Select Committee on Standing Rules and Orders.

## MOTION

## DELAY AT MOMBASA PORT—FACT-FINDING COMMITTEE—(Contd.)

THE SPEAKER: We were debating the Motion of the hon. Member for Nairobi South on the congestion at the Port, when we adjourned, and Mr. Havelock was speaking.

MR. HAVELOCK: Mr. Speaker, when I finished speaking, Sir, I was dealing with the matter of the Imports Cargo Advisory Committee—I think that is the right description—and questioning whether this Committee, on which there was very strong representation of shipping interests, was the right one to regulate—what, in effect, is to regulate—the imports of cargo into this Colony. I would like to go further on that point, and suggest that, should short-term recommendations—either those of the Conference, which have been discussed in this Council before, or recommendations from this Committee, which we are discussing under this Motion, which I am sure will be appointed—if any short-term recommendations of this sort are accepted and, by the acceptance of them the potential throughput of cargo in the Mombasa Port is thereby increased, have we really got any justification, or any guarantee, that this Imports Cargo Advisory Committee will see to it that the actual cargo—the actual imports—are stepped up as soon as possible, in view of any recommendations and any adjustments that are made.

Now, Sir, hon. Members opposite have been stressing that they have all the facts. They say there is no need for a committee of this sort—they have the facts. I would like to suggest that we have not got the facts, and mention one or two facts that I would like to know about—and I am sure, also, the public of Kenya would like to know about. Is it a fact, Sir, that the Mbaraki Jetty could be so constructed, at fairly reasonable cost, and in a fairly short time, to allow for ships to off-load at that jetty, which they cannot do to-day without a lighter in between them and the jetty? The extension of the jetty might make a considerable difference in allowing ships to draw up to it. I do not know. I want to know the facts.

Is it a fact, Sir, that all formalities that are possible are completed while the

ships are in the stream, and that therefore there is absolutely no delay at all when the ships do come alongside the Port, or is it a fact that there is a considerable delay very often? Even when ships have been lying in the stream for two or three weeks, when at last they come alongside the Port there is still a considerable delay while formalities are completed.

Is it a fact that clearing and forwarding agents have been given every facility, or is it not? Is it a fact that agents are pulling their weight or not? Is it a fact that the stacking of cargo in the sheds is unsatisfactory, or is it not? I have been told it is unsatisfactory, but I do not know.

Is it a fact—it has been suggested—that the Railway could transport more goods at the expense of the passenger service, and is it right that that should happen? Is that a fact or is it not?

Is it a fact that wooden lighters are uneconomical? We have been told they are only last for one year. Under these stringent circumstances, would it be uneconomical that they should only last for one year? Is it a fact that the Railway workshops could construct a form of lighter that could be used down there, provided, they got the steel—or any other workshop in this country? Is it a fact that the Economic Co-operation Administration would not help us in the procuring of lighters? I do not know, but surely those are the facts the public of Kenya wishes to know.

Sir, Government speakers have been saying on the opposite benches that they understand this—that they understand that. In a matter of this importance, which vitally affects the development of the Colony, and the finances of the Colony, Government should not only understand, but they should know what the facts are, and I suggest, Sir, that it is not only wise for Government to accept this Motion, so that a fact-finding committee can be set up—not only wise, but it is their duty that they should accept it.

Therefore, Sir, I beg to support.

THE ATTORNEY GENERAL: Mr. Speaker, I rise to speak on this Motion, and I am moved to do so, in part at least, by the stimulating criticism—as the hon. Member for Trans Nzoia so aptly

## [The Attorney General]

described it—which has been provided by some of the speeches of hon. Members opposite and, in particular, by the speeches of the hon. Member for Nairobi South and the hon. Member for Kiambu and, last but by no means least, the useful and lucid—and persuasive—contribution which was made on Friday last by the hon. Member for Usasin Gishu.

The speech of the hon. Member for Nairobi South was of the smooth and glossy variety which a layman may admire—and rightly admire—as being the hallmark of a skilled advocate. Its chief merit, Mr. Speaker—I hesitate to use the word "virtue"—is that it glosses over those awkward bumps which would otherwise spoil the smooth contour of his argument. After stating that the High Commission had been given powers with regard to the ports and harbours, he went on to say that those powers shall be exercised in accordance with the wishes, and in some cases he said in accordance with the advice and consent, of the territories concerned. As a broad statement of political principle, Mr. Speaker, no one would take exception to that statement. The dictum that governments and bodies such as this exercising governmental powers must exercise them in accordance with the will of the peoples, is one which reflects accurately the political philosophy of these times.

But, having said that, Mr. Speaker, the hon. Member for Nairobi South omitted to say—this is where the glossiness comes in—omitted to deal with the laws which prescribe the proper constitutional machinery for ascertaining the advice and consent of the peoples of these territories. He omitted to make any reference, Mr. Speaker, to section 28 of the Constitution of the High Commission, which lays down as plainly as anything can be laid down in the English language, that it is lawful for the High Commission to make laws with regard to railways and ports, with the advice and consent of the Central Assembly, and section 28 goes on to say that if the High Commission makes such laws with regard to the ports and harbours, with the advice and consent of the Central Assembly, those laws can amend or repeal or suspend the territorial laws of any particular territory.

Not only that, Mr. Speaker, but the section provides that if any territorial law should be in conflict with such a law in the Central Assembly, or to use the words of the section itself, "should be repugnant to such a law", why, then, the territorial law shall be null and void. It is clear, therefore, Mr. Speaker, that there can be no complaint on constitutional grounds if the Central Assembly should pass legislation dealing with the Ports and Harbours, even though that legislation might be at variance with the wishes of any particular territory, or even without or in conflict with the law of any particular territory.

The hon. Member for Nairobi South, as I have said, omitted all reference to that very relevant provision of the Order in Council setting up the High Commission, or, as I call it, provision in the Constitution itself of the High Commission, and it was left to the hon. Member for Usasin Gishu, as I shall mention later, to remedy to some extent that omission.

But, having said all that, Mr. Speaker, I hasten to add this, that no one would question for a moment that this Council is entitled to debate any matter concerning the Ports and Harbours and the Railways—this Council may debate and discuss such subjects whenever it likes and at any time that it likes. So also may the Legislative Councils of the other territories of Uganda and Tanganyika debate such subjects. But the only point that I ask hon. Members to keep in mind, and to keep clearly in mind, is that the proper constitutional machinery for ascertaining the collective will of the peoples of the territories under the Constitution is the Central Assembly, and if the Central Assembly, or perhaps, more accurately, I should say if the High Commission, with the advice and consent of the Central Assembly, passes legislation dealing with the Ports and Railways in due form, then the resulting enactment is binding on, all law-abiding citizens, even though some of them may disagree with its terms.

I am not forgetting, Mr. Speaker, that the hon. Member for Nairobi South said that he referred to the legislative powers of the High Commission only for the purpose of drawing what he called an analogy between the principle—that Government—the exercise of legislative powers—and the principle that should

[The Attorney General]

govern the exercise of administrative powers. The argument, as I understood it, ran thus: the High Commission may make laws with regard to certain matters—the Ports and Railways—with the "advice and consent" and therefore by analogy, the High Commission can only exercise administrative powers with "advice and consent". But, as I have already shown, Mr. Speaker, his analysis and examination of the legislative aspects of the High Commission activities was inadequate and incomplete, so much so that it was inaccurate, since it never went on to say that the advice and consent under the Constitution had to be ascertained through the machinery of the Central Assembly. Since, therefore, the analysis of the major premise in the argument was faulty, so we cannot expect that the argument by analogy relating to administrative action is likely to be any sounder than was his major premise. For if the major premise is wrong, naturally the conclusion is false.

But, again, I would hasten to say, Mr. Speaker, to avoid any possibility of misunderstanding, that no one questions for a moment that a territorial government, or as I prefer to call it, a member government of the High Commission, is not entitled to make requests to the High Commission for administrative action. Not only is this territorial government entitled to make such a request, but so, also, are the member governments from the other Territories. Furthermore, Mr. Speaker, I readily conceive that a member government may make such a request of its own Motion, or at the instigation of the territorial legislature, or at the instigation of a Chamber of Commerce, or at the behest of any representative body in its territory, and any such request made by a member government to the High Commission must naturally receive the most careful and anxious consideration by the High Commission. It will be wrong if any request coming from a territorial government—and would offend constitutional propriety—if a request coming from such an authority were not carefully considered by the High Commission. But to say that because the High Commission must consider a request from a member government, therefore it must grant that request, is clearly wrong. To hold that that was

the position would mean that any one member government could make a request to the High Commission and could say as a matter of right, and as a matter of constitutional right, "You shall accede to that request irrespective of what the other two member governments might think"—the argument answers itself as being palpably false. The truth, of course, is Mr. Speaker, that, as in the case of legislative powers, the will of the Central Assembly prevails over that of the territorial legislatures because, under the Constitution, it is the manner of ascertaining the collective will of the three territories. So also in administrative matters, the will of the High Commission prevails because, under the Constitution, that represents the collective will of the three territorial executives of the three territories concerned.

It is, in my submission, Mr. Speaker, a confusion of thought to assert that the existence of powers in the High Commission is the same thing as the manner in which that power is exercised.

The real complaint of hon. Members opposite in this matter is not that the High Commission have acted unconstitutionally in the sense that they have gone outside their powers or have acted without their powers, but that—that is to say, in the view of hon. Members opposite—they have exercised those powers in an unwise manner. Well, such a complaint, Mr. Speaker, whatever else it may be, is not a complaint which raises an issue of an infringement of the Constitution.

And now, Sir, may I pass for a moment to the speech of the hon. Member for Trans Nzoia. His speech, of course, Mr. Speaker, was perhaps of a rougher and more solid variety than that one with which I have just been dealing.

MR. BLUNDELL: Tougher.

THE ATTORNEY GENERAL: Tougher. Certainly, it was strong meat!

But I can assure him that although it would appear to us to be somewhat solid and tough, the flashes of wit which illumined it did not escape our attention. I particularly enjoyed the little anecdote. I hope I can remember it correctly—

MAJOR KEYSER: Get it right.

THE ATTORNEY GENERAL:—in which he told us how in the good old days he sat on the waterfront in Mombasa yarning to an ancient mariner, when it started to snow, or it began to freeze, and then he told us how he saw some white elephants there, and even, I think, maintains—

MR. BLUNDELL: Pink!

THE ATTORNEY GENERAL: He even, I think, maintains that there is still a white elephant at Mombasa, although some of the hon. Members opposite asked that there should be more white elephants. (Cries of "Shame!") It is, I think, perhaps a pity that the hon. Member for the Coast is not present because I would like to hear him on the question of the colour of the elephants at the coast.

MAJOR KEYSER: Spotted!

THE ATTORNEY GENERAL: But when the hon. Member turned to the tougher part of his speech, he said this: "The hon. Member—referring, I think, to the hon. Acting Chief Secretary—"did ask why this matter was not aired in the Central Assembly, and I quite agree with him. It is a very pertinent question", he said. Then he went on to say some things about the Central Assembly which I think, perhaps some people, including the Members of that Assembly will think were the very opposite of pertinent—if you know what I mean, Mr. Speaker. He went on to say, Sir, he thought that the Central Assembly lacks the stimulating criticism which are made available to the hon. Members opposite in this Council and that if the Central Assembly had that stimulating criticism many of our troubles would not have occurred. (Hear, hear.) He then said: "I can think of innumerable troubles that have occurred for lack of that criticism". Mr. Speaker, the hon. Member for Trans Nzoia should be more careful of what he says about the Central Assembly.

MAJOR KEYSER: Why?

THE ATTORNEY GENERAL: He might find himself there one of these days.

MR. BLUNDELL: But the stimulating criticism will go with him.

MAJOR KEYSER: I will take it there. (Laughter.)

THE ATTORNEY GENERAL: But until he does, let me tell him what his representative, the person for whom he voted, said about this particular matter.

When this question of appointing this committee was being discussed in the Central Assembly, it will be seen by hon. Members opposite, if they will look at column 56 of the 1952 Hansard of the First Session of the Second Assembly that this is what he said: "In the announcement which was made in the High Commission the other day"—that was the announcement of setting up this committee of experts to inquire into the matter—"I was extremely pleased to see that experts and practical men as well are coming out here to discuss the delays of ships at ports". And furthermore, Mr. Speaker, let hon. Members opposite observe this, not only that speaker who represents the hon. Unofficial Members opposite, but each individual representative of the several groups opposite, not one of them during the course of the debate in the Central Assembly suggested in any way whatsoever that this Committee did not meet the wishes of the Kenya Legislative Council.

So now, Mr. Speaker, may I pass to the speech of the hon. Member for Kiambu. He said that he was only going to deal very shortly with the constitutional aspects of this matter, and indeed I think I have already disposed of the point, or the major point which he made, which was, inasmuch as I can see that it is within the province of this Legislative Council to debate and discuss any matters with which the High Commission are concerned. But he did go on to say something which needs qualification, because he said that: "This Council will never give up its right to use the opportunity for debate and indeed to use the privilege of the Unofficial majority which has been granted to the public of Kenya in order to force their viewpoint either on the High Commission or on the Colonial Governments".

Mr. Speaker, the words "to force their viewpoint" are strange words coming from a good constitutionalist and a good Unofficial, and I am prepared to concede that in the heat of the debate he did not intend to go further than to say that he claims to force his viewpoint on the High Commission within the limits and provisions of the Constitution.

Lastly, Mr. Speaker, may I turn to the speech of the hon. Member for Uasin Gishu. He concedes, and he said in

[The Attorney General] terms that the Central Legislative Assembly is the proper forum for this debate. Then he went on to say that, unfortunately in his view, the representatives of this Legislature in the Central Assembly were not strong enough to establish the viewpoint of those whom they represent. He went on further to say that he believed it was the policy of this Government and this Legislature to make the High Commission work and to make the Central Assembly work; and said that that was made more difficult, if not impossible, if requests were refused arbitrarily by the High Commission. Mr. Speaker, that argument is a strong argument, and a persuasive argument, and it loses none of its strength because of the moderation with which it was stated. The hon. Member's arguments, so far as they concern principle are, I find, very persuasive, but, Mr. Speaker, it is only where he seeks to apply them to the facts of this matter that I begin to diverge from his standpoint, and although I would not hope or expect at this stage of the debate to persuade him that the alternative suggested and adopted by the High Commission was in all the circumstances the best course to adopt, in order to achieve speedy and practical results, although I could not hope to persuade him to that point of view, yet I ask him to believe that the decision which was made in this matter was not made arbitrarily, but was made after mature and careful and anxious consideration by the three heads of the three Governments concerned, who, no less than himself, have the welfare of the peoples of these territories at heart, and who seek no other aim than to promote their prosperity and economic advance.

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: Mr. Speaker, listening to this debate it seems to me that both sides of the Council have precisely the same object in view, but the divergence of opinion is really largely a question of this fact-finding committee which is requested by hon. Members on the other side. Throughout this debate I rather wonder whether sufficient stress has been laid on the simple position, as we all know it, that it is in fact the development of this country has entirely outstripped the port facilities. We all know that, and no amount of fact-

finding committees or anything else are going to alter that position. To put the matter right would entail the provision of a very large sum of capital, probably £30,000,000 to £40,000,000, taking the railway as a whole, and the East African ports as a whole, in Mombasa alone. It would probably mean pushing the cliff back to get more transit sheds in, a very major work. It would involve the movement of 8 million cubic feet behind berths 7 and 8 and the movement of 14-15 million cubic feet behind berths 5 and 1, and plans have been made for this major work.

Now, the wording of this Motion suggests that it was originally asking for a public inquiry into the causes of delay in clearing goods and to apportion responsibility for this delay and to make recommendations as to how this matter can be put right. I would submit we have had quite a number of such inquiries and the real cause for much of the delay in clearing goods is evident—that we have outstripped, by our rapid development, the facilities available, and when you come to apportion the responsibility, well, that is the main factor. I think everybody at the same time agrees that the Railway and the Port Authorities, within the limits of the have done— I think almost every speaker has paid his compliment to them—a most remarkable job. Throughout the war they moved what we never thought would be possible, and since the war they have not only kept up those movements but they have increased them. There has been a certain amount of difference in the figures given and I am not going to weary the Council with a whole series of further figures. My hon. friend the Chief Secretary did quote the figure of 86,000 tons as being more or less the Port's agreed capacity. He overlooked the fact that in addition to that, if you add bulk oil and coal, about another 60,000 tons to 70,000 tons would have to be added to that figure. In point of fact, as regards imports in 1950 we averaged in 1950—we achieved in 1950 total imports of 1,525,000 tons and in 1951 1,687,000 tons. We are in fact doing 31 per cent more than was allowed for and is generally recognized as the Port's facilities. That being the case, naturally, despite the fact that—I think it is universally admitted—the

[The Member for Agriculture and Natural Resources]

and the Port Authorities have done a wonderful job. Naturally the public are not as conversant with the facts as hon. Members of this Council are, and are dissatisfied because they do see congestion in the Port, and they naturally do want to try and find out what is going wrong, and I do submit, Sir, that in England, in America and in other mature countries, when this position arises, what is usually done is precisely what has been done in this case. The Government concerned, or the authority concerned, directs that there should be an inquiry, and the inquiry would be of persons who are conversant technically with the difficulties that arise in the handling of cargoes in ports and on railways, and that having had the reports of the experts, that can then be discussed and laid on the Table of any Council of Assembly or Parliament, or responsible authority, who are concerned with that particular port or railway. I do submit, Sir, that that is the first step to take, and that a public inquiry of all sorts of interested parties completely unconnected with the technicalities of handling cargo and dealing with ports is probably likely to be rather a waste of time, and rather expensive. It is for that reason, Sir, and not because we do not wish to do everything we possibly can to ameliorate the position, that the High Commission and the Government Members of this Council have taken up the attitude that they have.

It is suggested furthermore in these terms of reference, that in convening a conference of experts, no evidence was taken from the general public. That, Sir, I can say—

MR. SALTER: No oral evidence.

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES:—oral evidence that is I believe true. But as far as calling for witnesses before this Commission, probably they did not have them in person, but they did not ask for memoranda. I understand they did cross-examine people on the memoranda submitted and the details which came before this Conference, arising from the memoranda, were gone into in great detail.

Various suggestions have been made from Members on the other side that

one of the reasons why they want this fact-finding committee is because some of the facts which may have a considerable effect on the situation have not been taken into account or may not have been taken into account by this Conference.

It has been suggested, for instance, that ships are delayed when they come from the stream alongside the deep-water berths with formalities before unloading takes place. It has been suggested, for instance, that the question of stacking, block stacking and so on in the Port is subject to considerable improvement and has not been thought out properly. It has been suggested that the Railway could transport more goods at the expense of passenger traffic. I am coming to the most serious difficulty in a moment. But I can give hon. Members an assurance, because I have seen the report of the Conference, that all those questions have been gone into in the greatest possible detail.

Furthermore, the big hold-up is not the Railway, it is the difficulty of getting cargo through transit sheds.

Now, probably the one subject which has caused the public more concern than any other, because I believe in their heart of hearts those who are implicated are fully aware that the real trouble lies not in inefficient Railway administration but in insufficient facilities, the real cause for anxiety lies in the question of a whatever you may call it, regulation of cargo by the shipping companies, and the fear that, in order to make things easier, the shipping companies, and possibly the Port Authorities, will diminish the amount of cargo that is coming into this country, sensibly over a period of time will probably have rather any adverse results on the economy of this country. But, of course, that is not what is intended at all. In effect, the delays that occurred are occasioned by the bottle-neck in transit sheds and port facilities, and all that is intended is to accomplish it to maintain cargo coming through this bottle-neck at the absolute maximum as it is to-day, and this month, the month of January, has been running an all-time record, but instead of keeping that cargo until it can come through the bottle-neck, in the bottoms of ships lying at anchor in Mombasa at vast expense, to so regulate the traffic that, although the port facilities are

(The Member for Agriculture and Natural Resources) worked to the utmost, we do not incur extra costs by ships lying at anchor in the Port indefinitely.

It will have no difference to the amount of cargo that is brought into this country, or is handled by the Port. It is merely an attempt to try and prevent ships and demurrage being charged on ships lying at anchor if it can possibly be avoided. I submit, Sir, that is quite a reasonable—when it is understood—it will be realized that that is quite a reasonable submission and should in no way have an injurious effect upon the economy of the country.

Various points have been made about lighters, actually the Railway are constructing lighters, and I am informed that since 1948, they have spent £500,000 on lighters on the East Coast and quite a considerable sum of money recently on a number of lighters at the Port of Mombasa, and they are fully bent on increasing their lighterage in the Port of Mombasa.

Now, Sir, bearing in mind that practically all the points that have been raised by hon. Members opposite have, in fact, been examined by experts, that a report does exist, and some of the Members who were at that Conference, notably at any rate two, as the world authorities on ports and shipping, and one of them in particular was not, as has been suggested, unfamiliar with Africa, has been here on previous occasions, and has been the consultant for Durban, has been consultant... when they got into difficulties, has been the consultant for

Port when that was being built and was dealing with Colombo Port when that was being built. I would suggest that it was far wiser instead of appointing another fact-finding committee and interfering with the working of the Railway, as it will do to some considerable extent, as they are trying to take out all the different subjects which may be asked for by persons representing various interests, that it would be far wiser to await the debate on this report by the High Commission, whose responsibility it is, and Government would be only too pleased to lay that report on the Table of this Council so that if hon. Members wish to debate the report, they are at liberty to do so.

I suggest at this stage, immediately following on this Conference, to appoint what you call a fact-finding committee, probably a large number of persons representing different, as I repeat, interests and possibly races and the going down to Mombasa and delving into all sorts of things of which they have, possibly, limited knowledge, will interfere with the working of the Port and like many other such committees, is more than likely to lead us nowhere. I think it is far wiser for us to take up the position from where we are left with this Conference report and try and implement both the short- and long-term recommendations of the Conference and thereby, where it is possible, improve the working of the Port. And I, on behalf of Government, give hon. Members this undertaking, we are just as anxious as hon. Members opposite, to do everything that is humanly possible with the facilities at our disposal, to improve the working of the Port at Mombasa. We believe, and I also think that our belief is shared by hon. Members opposite, that most of the delays that do occur are not the fault of an inefficient Railway Administration. On the contrary we believe that the Railway Administration have, as I repeat, throughout the war and since the war, done a wonderful job of work; and that is borne out by everybody and experts who come to this country and examine the position here. We want to leave them to continue that good work and not to impede it more than we can possibly help with a whole host of inquiries of the nature that are being asked for by hon. Members opposite.

We have before us, or rather the country has, or the High Commission has and this Council will have, the report of the Conference which has recently been into the situation, quite recently amongst whom there were quite disinterested people, who are very big experts on this particular subject. And we submit, Sir, that the proper thing to do, and we will should be debated in the High Commission Assembly, a copy of which will be laid on the Table of this Council and if hon. Members are dissatisfied with anything that is therein, or feel that any points that they feel represent matters which impede the working of the Port have been omitted, they can surely raise

(The Member for Agriculture and Natural Resources) if they have read this report. I believe, Sir, by doing that—not standing back on a sort of vague demand for a fact-finding committee—we shall be doing far more service to the country. (Hear, hear.)

May I just add one little story which has nothing to do with this particular inquiry. About two years ago I was discussing certain difficulties that were arising even then in the working of this Port and the Port of Dar es Salaam with a very well-known expert in London. He was explaining that they had a very similar inquiry by expert persons into Liverpool. That he was going out to conduct an inquiry into a port in the Far East and he said, laughingly: "Of course, the trouble in the East is, we get a report in a few months on Liverpool, and we know what it is going to cost and we can adopt it or not as we see fit. But when you go out to the East you never can have a clear inquiry of that nature, you are generally forced to have all sorts of persons who know nothing about the working of a port, forming committees representing all sorts of people and all sorts of interests and that generally delays any action that could be taken to improve the working of the port by anything up to two years. But, of course, that only happens in the East," I said to him: "You do not know Kenya." (Laughter—applause.)

MR. HAVELOCK: Mr. Speaker, would it be a convenient time to adjourn now, Sir, two minutes to eleven?

THE SPEAKER: Well, no, that would mean everybody would get a second wind. I think it is the correct thing to do not to look at the clock so closely as all that, because once he has risen to speak then he has started his right of reply, then we go out and refresh ourselves and then we come back strong and ready to listen to him.

MR. SALTER: Mr. Speaker, most of the points which were raised on Friday have already been answered by hon. Members on this side. But in view of the speeches this morning, and in connection with one or two of the points made on Friday, I do wish to reply specifically. I think the speeches, both of the hon. Chief Secretary and the hon.

Member for Commerce and Industry must have commended our admiration in view of the very poor material which appeared to be at their disposal—(laughter)—and the manner in which they said so little in so many words. (Laughter.) The hon. Member for Commerce and Industry treated us to an interesting and learned economic survey of the potentialities of this Colony which I confess puzzled me a little in its relevancy to this particular Motion. You, Sir, were kind and ruled that he was in order. Indeed, Sir, as I listened to those speeches I began to wonder whether this Council had really moved into the Port of Mombasa and whether further congestion was likely on account of the very large shoot of fed herrings that had entered. (Laughter.)

THE SPEAKER: Order. It is now 11 o'clock. (Laughter.)

Council adjourned at 11 a.m. and resumed at 11.24 a.m.

MR. SALTER: Mr. Speaker, when we adjourned I was dealing with what I might call the more fishy aspect of the matter. (Laughter.) But may I come back now, Sir, to the Motion itself in view of the very wide field that has been covered during this debate. After all, Sir, we are only asking that two things should happen, first an expression of concern at this refusal to appoint a committee of inquiry, and, secondly, we are saying, "Please now do that which we want".

Now, the hon. Chief Secretary in his reply, in his speech, said that he thought we must be under some misapprehension, or that there was some misunderstanding of the position. Well, Sir, I do not think we are under any misapprehension. I think the position is perfectly clear. If there is some misunderstanding, I do submit that the blame cannot be laid at the feet of the Members of this Council.

May I just recall very shortly two facts. The first is that it was as long ago as 1st October, 1951, that this resolution was passed by the Association of Chambers of Commerce and Industry of Eastern Africa, and it was then sent to the High Commission. Secondly, it was also in October that this question for the appointment of a committee of inquiry was raised in this Council. Now what has happened; what did happen? As far as we know nothing happened at

[Mr. Salter] until the end of January this year. Perhaps that is not altogether surprising, because nothing very much has happened to relieve the situation at the Port of Mombasa since 1947, when Government recognized the serious position which was about to arise.

But passing on, if I have interpreted the hon. Chief Secretary correctly, it was a fortunate coincidence that caused something to happen in January. He told us that the Members of the High Commission were informed, quite by chance, that a Conference was going into the whole of this question. Are we then, Sir, to believe that it was only a coincidence that helped the Members of the High Commission to give any answer at all? Why could it not have said, shortly after October, at any rate: "Well, you have asked for this committee of inquiry, by all means go and have it and be satisfied." Where was the difficulty? Was the problem so complex that the Members of the High Commission gave no answer in three or four months time, and then only by a fortunate coincidence? Now, the hon. Chief Secretary has told us, or told me, in particular, that I have avoided, or I was avoiding, when moving this Motion, giving details of the reasons why this inquiry should take place. I would like to draw his attention to the fact, Sir, that there was never one single suggestion at the time when these questions were asked by my hon. friend the Member for Tians Nziia last October, there was never one single suggestion that the committee of inquiry was not necessary. On the contrary, if I might again turn to the hon. Chief Secretary's reply, he said: "The Government will request the East Africa High Commission to consider appointing such a committee." I fail to understand why the matter should now be raised as to the need of such an inquiry when Government itself never once questioned it and, indeed, said that they would request the East Africa High Commission to appoint that very thing. We know, of course, that ever since 1947 the Government—and the Members of the High Commission—subsequently have been fully aware of the need to investigate the congestion and delays in this Port, and, indeed, the hon. Commissioner for Transport in the Central Legislative Assembly said so, and

even explained the delay in obtaining finance, or rather obtaining some statutory enactment to enable him to raise finance for two years.

We know, also, that such a congestion in the Port of Mombasa is contributing very largely to the high cost of living in this country, because the goods delay, the higher the prices of the greater delay they reach Nairobi, and the more the consumer has got to pay for it. Furthermore, Sir, we know that the members of the public want it and demand it, and I submit, Sir, that Government cannot, like Galileo, "care for none of these things". I said, Sir, that the merits of the demand for a committee of inquiry needed no emphasis. I said that I would not go into the details which it would be appropriate for a committee of inquiry to investigate, and I do not intend to do so. Reference has been made to the report of this Conference. It came into my hands a few minutes before the adjournment this morning.

Looking at it quickly, it does appear, Sir, to tell us nothing that we did not already know. It refers to lighterage; it refers to the creation of deep-water berths; cliffs being cut away; palatization of the Port, which I understand has now been tried for a matter of two days with indifferent success, but it has not told us many of the things which, indeed, would not be known to high-level technical experts in that Conference. It does not mention very much about the co-ordination of work in the Port between the various branches, between the stevedores and yard masters, the Railways and so on. It does not tell us much about delays in Customs, which we know occur. It occurs through somewhat finicky details in filling up forms and obvious mistakes and so on, and so forth. It does not tell us a lot of those things and those are matters which are known to every business house here, which has dealings with the Port of Mombasa.

It was said that although they did not take oral evidence, nevertheless, they read memoranda. We all know the difference, Sir, between reading memoranda and hearing the person make his point in person. (Hear, hear.) Also, Sir, that this report was produced in a matter of 24 hours. This Conference produced an answer in 24 hours to

[Mr. Salter] something which nobody else has dealt with since 1947 and when no answer had been given by Members of the High Commission in three or four months.

The public, I know, will be forgiven if they look upon this report as something which looks rather like a piece of whitewash. There has been no investigation, in my submission, into the ordinary everyday practical difficulties of running this Port. There was a recommendation that shipping should be regulated, and indeed that would mean that some restriction and some control, as a necessary corollary must follow upon actual cargoes which are going to be brought to this Colony and such, we were told, might have to happen.

That there would possibly be a control of the kind of imports which were to be brought into this Colony over a limited period of time, and that such control would have to be based upon a performance in 1951. Sir, that information was given to the Nairobi Chamber of Commerce by one of the Members of the Committee and one can well imagine the storm which arose as a result of that piece of information.

And, Sir, I should like Members to know this, you should have seen with what fury the Member for Commerce and Industry entered the lists on that occasion. He rode hard against the Member of the Conference who had given that information and he at last toppled that technical gentleman from his high-level horse. One cannot help contrasting the demeanour of the Member for Commerce and Industry—I will give way.

THE MEMBER FOR COMMERCE AND INDUSTRY: Thank you.

Mr. Speaker, I was seeking information and having obtained the information, naturally I was satisfied to a very considerable extent with the replies given. (Applause—laughter.)

MR. SALTER: Given by a technical gentleman when he was on the ground as a result of my hon. friend's onslaught. One cannot help contrasting the demeanour of the hon. Member for Commerce and Industry on that occasion, when his horse was under his own whip, and not, as on Friday under the whip of the Government. (Applause—laughter.)

THE MEMBER FOR COMMERCE AND INDUSTRY: Mr. Speaker, as I said, I was seeking information. Having obtained the information, I was then trying to transmit it, amongst others, to the hon. Member.

MR. SALTER: I will now pass, Sir, to the constitutional aspect of this Motion.

I must, in the first place, express some embarrassment and perhaps some regret that the hon. Chief Secretary should have introduced the question of the Governors of the various Territories being Members of the High Commission. I had not intended to make any reference to that fact. I understand his point to be this; that it could not be said that the Government of Kenya had not been consulted because the Head of that Government, in the person of His Excellency the Governor, was a member of the High Commission. Well, Sir, I would like to say this, with all deference and with all respect, that it seems to me most unusual and, indeed, most embarrassing that His Excellency should be both a partial advocate and an impartial judge in his capacity as Chairman of that body. It must indeed be a somewhat Glibberian situation.

I have always understood that any Governor of any territory, in matters of administration, would be guided by the advice given to him by the senior members of his government, and I absolutely refuse to believe that such advice would be rejected in a matter of this kind. Therefore, if one accepts that, one must think only one of three things: either the other members of the High Commission out-voted him, which I think is improbable, or the advice cannot have been given to him with the fullness and with the adequacy, perhaps, that it might have been, or again it may well be that he was more impressed by advice he received from other quarters—possibly, the Commissioner for Transport.

But the hon. Chief Secretary went on to say that—and, indeed, this was supported by the hon. and learned Attorney General—that it would have been more appropriate had this matter been debated in the Central Legislative Assembly.

Now, Sir, to-day we received a copy of the Hansard report of those proceedings and, with your permission, I would

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like to quote from a passage in the speech of the Commissioner for Transport, which appears at the bottom of column 39 and the top of column 40. He said:—

"Let me quote a specific example which has received great prominence recently, the Port of Mombasa. I am not going to go into all the arguments and the details in regard to the recent congestion at Mombasa. Those matters will be examined at another time and in another place. I would only say this, that the short fact is that the facilities at Mombasa are insufficient to meet the demands at the present time and as far as we can foresee. But that position was realized by the Administration in 1947. That is, over four years ago."

It will be observed, Sir, that those proceedings in the Central Legislative Assembly took place four days after the decision to appoint this Conference, and yet there is no other mention, except that the criticisms would be examined at another time and in another place. I would like, upon that, to pass to what the hon. and learned Attorney General said. He has, of course, given us a polished—"smooth"—(laughter)—that word to exposition on the law governing the creation of the powers of the High Commission. I am glad that he accepts as a principle—and, indeed, it would be impossible to suppose he would not accept it—that the Administration should be in accordance with the wishes of the people concerned, or who are being administered.

In effect, that is the only point that I am making. He, in fact, of course, referred to that section of the Order in Council—section 28—which deals with the powers of legislation, and he was good enough, a little later on, to say that I had, of course, referred to that section only by way of analogy. I did not refer to the section itself, but merely to the general principles under which legislative powers were granted. It will be noted, nevertheless, and without becoming too technical on the subject, that section 28 (1) (6) does not provide that certain laws—I agree not in connexion with the Railways—can only be passed with

the advice and consent of the Central Legislative Council.

Now, Sir, again applying the general principle, I do submit that, although the High Commission has got certain powers, and can exercise those powers if necessary against the will of Legislative Council or Central Assembly, the only point I am making is that such powers, if so exercised and not in accordance with the wishes of the territory, would not be laws for the peace, order and good government of the territory.

I was a little surprised to hear my hon. and learned friend refer to a passage in column 56 of the Commissioner for Transport's speech in the Central Legislative Assembly, and not go on and complete the context. He referred to that passage on page—I think it was 56, I am sorry, it was not in the speech of the Commissioner for Transport. It was in the speech of Sir Alfred Vincent—one of the Unofficial Members of that Assembly. He referred to the passage when Sir Alfred had expressed his pleasure in seeing that experts and practical men, and so on, would comprise this Conference, and were coming out to discuss these questions; but he did not go on, as I would have liked him to go on, to column 57 and the top of 58, where this passage appears. He said:

"And yet, with all the criticism which I have heard about the Port of Mombasa, I do not think I have ever heard it once suggested that the very Committee set up to advise the Transport Advisory Council on these matters should have all these complaints referred to them in order that they might advise the people who are complaining, and the Transport Advisory Council. And I, therefore, do hope, Sir, that this committee of experts which is termed in the newspapers 'The Ports Inquiry Committee', as it were, will not get bogged down on little details which our own committee should do themselves. I believe they are fully competent to deal with the position which has arisen at Mombasa, except perhaps in the larger questions of delays of steamers and also on the question of palatization of the port. Nevertheless, we have these committees, we have this exceedingly able

[Mr. Salter]

body of men and yet we do not use it. That is a thing I cannot understand."

The hon. Member for Agriculture and Natural Resources appeared, in his address this morning, to be more sympathetic with this Motion than against it. He seemed to stress that this congestion was not the fault of the Railway. Nobody on this side of the Council has ever suggested any such thing. We believe the Railways are labouring under very difficult conditions, and they are making the best of those conditions. Nevertheless, as the point has been raised, it should also perhaps be interesting to observe in the speech of the Commissioner for Transport in the Central Legislative Assembly that, at column 83 on 30th January this year, he said:—

"Now, of course, no railway will always be able to take traffic away from a port at the same rate that it can be off-loaded from a ship, otherwise no port in the world would spend enormous sums of capital in transit sheds."

THE FINANCIAL SECRETARY: Would the hon. Member finish that particular paragraph?

SALTER: ... in transit sheds, but the fact is that there was and there is a considerable rail transport capacity available during the latter part of that congestion."

I think I have dealt with the various points that have been raised in this debate by hon. Members opposite. I want to make it quite clear that we are not complaining against this Conference having been held. Indeed, some good, I suppose, must come out of it. All we are saying is that that is not what we asked for, nor is it sufficient in our submission to deal with this question—the subject of this Motion. This subject has become a matter of 'The gravest public concern. The public have requested a committee of inquiry, and they cannot understand what opposition there can be to that request. They do not object to this Conference, as such. They merely say—and it is admitted—that the Conference was not the sort of inquiry that was asked for.

It may well be that when a committee of inquiry is held, as I hope, as a result

of the resolution of this Council it will be held, it will be found that the real solution to the problem of the Port is a long-term policy, is the long-term policy covered by certain recommendations of that Conference, and indeed well known to members of the public. But that is not what they want and that is not what they are satisfied about. The eminent members of commerce and industry in this Colony wish to put forward their own recommendations, recommendations which concern 'short-term' as well as long-term policy recommendations which are based upon knowledge and experience over many years of trade and commerce in this country.

Now the hon. Member for Agriculture and Natural Resources has suggested that such an inquiry might well be entrusted to the hands of perhaps one or possibly two eminent and impartial and independent experts. That, Sir, would not, again, be my question. I do not think that anybody wants a large committee to investigate these matters, but they do want a committee which represents the public, and before whom the public can represent their views.

Now the High Commission have failed to do that. This Government has got the power to appoint such a committee, and they have asked the High Commission to do so, and have been refused. And we say: "Well then let Government exercise its own power. Do not worry any more about the High Commission. You have done your duty in referring the matter to them. You have been courteous and been completely correct in the matter. Now, then, do what you are yourselves empowered to do. Invite to investigate this matter with you the Government of Uganda, who, with ourselves, must be mostly concerned. Do not," we ask you, "deny the rights of people here to have the committee which they want." Sir Reginald Robins, the Commissioner for Transport, again in his address said that he hoped that certain procedure could be brought about to obviate delays in dealing with certain matters—column 77. He was dealing there with the question applying to the various legislatures with regard to raising loan money. He hoped that one day there would be a simple procedure. He ends up that particular column, the second paragraph, by saying,

[Mr. Salter] as I mentioned yesterday. "The preliminary to that requirement is the removal of suspicion in East Africa."

Now there can be little doubt that instead of removing suspicion in East Africa, the action of the High Commission in this particular case has promoted and fostered suspicion. It has, in fact, lost a great deal of public confidence, and I hope that this Government is not going to do the same. On the contrary, I hope that it will gain strength and confidence in doing that which is right. (Prolonged applause.)

The question was put and on a division carried by 19 votes to 16 votes. (Appl.) Messrs. Blundell, Chemallan, Cooke, Lt. Col. Gherrie, Messrs. Howelock, Hopkins, Jeremiah, Major Keyser, Messrs. Maconochie-Welwood, Mathau, Nathoo, Onghana, Dr. Rana, Messrs. Salim, Salter, Shatty, Lady Shaw, Mrs. Shaw, Mr. Usher, 19. Nones: Dr. Anderson, Mr. Carpenter, Major Cavendish-Bentinck, Messrs. Davies, Hammond, Hartwell, Hope-Jones, Sir Charles Mortimer, Messrs. Padley, Pike, Roddion, Taylor, Thornley, Vasey, Wadley, Whyatt, 16. Absent: Messrs. Madan, Patel, Pritam, 3. Total: 38.)

#### PROCEDURE

THE FINANCIAL SECRETARY: Mr. Speaker, before I move the Motion standing in my name, I would be grateful, Sir, if you could give a ruling upon a particular point of procedure dealing with Committee of Supply. It is the wish of Government that in the course of our parliamentary development this Council shall follow the House of Commons procedure and see that all matters dealing with expenditure are dealt with in Committee of Supply, as all matters dealing with the raising of revenue are dealt with in Committee of Ways and Means. I would be grateful, therefore, Sir, before I propose this Motion, if you would give me your ruling, Sir, so that if necessary I can amend the Motion in accordance with any ruling you give.

MR. HAVELOCK: Mr. Speaker, may I speak to the point of order?

THE SPEAKER: You may.

MR. HAVELOCK: Mr. Speaker, under the rule, I submit, that it is not in order

under our present rule which reads as follows: "The following shall be the procedure adopted for the consideration of the Estimates of Expenditure for the ensuing year".

We are asked to-day, Sir, to consider Estimates of Expenditure for the current year. There is another point on this, Sir, which I would ask you to consider. Should you rule that it is right that we shall debate this Motion as it stands, I would ask you to rule whether the time spent in debating this Motion to-day will have any effect on the time limit under the later rules in our Standing Rules and Orders on the time that we are allowed in discussing policy on the one hand, as to going into Committee of Supply, and details on the discussions on the other, that is, the ten days whilst we are in Committee of Supply.

THE SPEAKER: Hon. Members have not said everything that they might have said about this rule, and hon. Members should recollect that the present Rules came into force in 1950, and in order to deal with the Budget for that year. Now, I understand that there was quite considerable discussion before these Rules or Standing Orders were eventually proposed to the Council, and then agreed to by this Council. They have replaced the present Standing Order 43, paragraph 6, and 43, paragraph 6 came into force in November, 1948, so I am informed, and of course on that basis you dealt with the 1949 Annual Estimates, and in the following year, 1949, you dealt with the Annual Estimates for 1950.

Looking through both versions of these Supply Rules, I think that they indicate that there was an intention throughout that the old procedure should go, that is the old Standing Finance procedure should go, and that matters dealing with finance should be dealt with in the Committee of the whole Council. In short, I seem to see in these Rules, the statement in these terms: that no financial matter shall originate except in a Committee of the whole Council. That is the view that I form on looking at them over the whole four years, and during that time. I quite agree that during the past four years, there have been several attempts, some of them successful and some not, to avoid going into Committee of the whole Council,

[The Speaker] but here the Government come forward with an estimate, no matter what its substance may be, in form an estimate, and I think that it should be dealt with in the Committee of the whole Council, whether you call it "Supply" or not. But the present Rules, I agree with the hon. Member for Kiambu, are a bit difficult to apply as they stand. I do not think that the time limits, for example, have anything at all to do with the matter, as it seems to be clear on those Rules that the time limit simply refers to a debate upon the Annual Estimates only. But the other ordinary Rules are quite useful and should apply.

#### TO RESOLVE INTO COMMITTEE OF SUPPLY—TO CONSIDER IN

##### SUPPLEMENTARY ESTIMATES OF EXPENDITURE, 1952 (No. 1 OF 1952).

THE FINANCIAL SECRETARY: In that case, Sir, I would wish to move: That the Council do resolve itself into Committee of Supply, understanding that that being Committee of the whole Council, and on the lines, Sir, you have ruled.

I move therefore: That Council do resolve itself into Committee of Supply to consider the Supplementary Estimates of Expenditure, 1952 (No. 1 of 1952).

MAJOR KEYSER: Sir, on a point of order, under rule 24 of our Standing Rules and Orders, it says that when a question for debate has been proposed, debated and disposed of it shall not be incumbent for any Member, without special leave of the President, to raise a question substantially identical therewith within a period of six months. May I speak to that, Sir?

Sir, as is well known, the subject matter of this Motion was debated in the Committee of Supply in November last, in the debate on the Draft Estimates for 1952.

THE FINANCIAL SECRETARY: Before the hon. Member, Sir, gets under way, would he allow me just to correct him on one point? That is that he will see that there are, at any rate, two items which have never been discussed before. I think that is relevant to his argument.

MAJOR KEYSER: Well, Sir, had he put the Motion in two parts, then there might have been some point to his argument—

(hear, hear)—but as it is all in one, Sir, I submit that it is out of order.

Now, Sir, I was saying that this matter had been debated in November—some two months ago. Now the point is, Sir, that it would be in order to be debated if it had been done, Sir, with the leave of the President, and, Sir, I would like to refer to the Additional Royal Instructions, 1948, section XV (1), which states that:—

"Subject to the provisions of these Instructions, the Legislative Council shall consist of—

(i) The Governor, who shall be President; and

(ii) a Vice-President and Speaker";

Now, Sir, in my submission, the appointment of President of this Council is confined to the person of the Governor according to those regulations. It is true that section 25 of the same Additional Royal Instructions states that:—

"The Governor or, in his absence, the Speaker, or in the absence of both the Governor and the Speaker, such Member of the Legislative Council as the Governor may from time to time appoint, or in default of such appointment, or in the absence of the Member so appointed, the Member present who stands first in the order of precedence shall preside at the meetings of the Legislative Council."

Now, Sir, that is a matter of presiding at the Council and it does not mean that the person who is presiding at the Council takes the position of the Governor as President of this Council. The Governor is President of the Council whether he is in the country or out of it and cannot be replaced by anybody else. The whole point now, Sir, of my point of order stands or falls as to whether His Excellency the Governor, before leaving, gave permission for this Motion to be introduced.

THE SPEAKER: Has the hon. Member considered that as the Motion which the hon. Member for Finance is trying to move is one that can only be moved with the consent of the Governor under clause 28 of the Royal Instructions, therefore, if the Governor is the person responsible for lifting the six-months rule, he must automatically have agreed to do so.



**MAJOR KEYSER:** In that case, I do submit the hon. Member who knows the rules of procedure very well, should have made that statement at the beginning.

**THE FINANCIAL SECRETARY:** With due respect and submission, Sir, had I been allowed to get along with my Motion I would certainly have said so. I was also, with all due respect, going to argue it on a further point on which I think it would be very useful to obtain your ruling, because we are now laying down procedure. That is this, Sir. With all due respect to the hon. gentleman opposite, this Motion is that Council do resolve itself into Committee of Supply to consider the 'Supplementary Estimates' of Expenditure, 1952 (No. 1 of 1952). Now, Sir, there is in that, I submit, no reference to the detail whatever. If the hon. Member had raised this point of order, when we got into Committee of Supply, on the particular items to which he objects, then, Sir, I think there would have been consideration of the six-months rule, and at that point we could undoubtedly have informed him that the leave of the President, the Governor had been obtained. But, Sir, I do submit, that it is unnecessary at this stage to make such a statement, because the question under consideration is not the details, but whether the Council is prepared to resolve itself into Committee of Supply, and I suggest that the objection should come, therefore, at the time when we move in Committee of Supply in regard to certain items, if hon. Members opposite feel they do not wish to discuss them again.

**MAJOR KEYSER:** Sir, the point that you raised, as to whether His Excellency the Governor had given permission for this or not, is still in my mind the real issue here. The hon. Member interjected once and I gave way to him. He has now interjected again and he has still not told this Council whether His Excellency did give permission.

**OFFICIAL MEMBERS:** He said so.

**THE SPEAKER:** With great respect I would only say that it seems to be well understood that when any financial matter is moved by an *ex officio* Member of this Council, the Governor's consent is automatically implied. That has been the case throughout in the past.

There is no question, as I say, if the Governor consented to the financial resolution being introduced, as he must have done; therefore if it were necessary for him to suspend the six-months rule he must be said to have done it. That is all. But going further—I disagree with the construction the hon. Member has attempted to put forward. He quoted first of all, I think, clause XV of the Royal Instructions, which states that the Council shall consist of the Governor as President, a Vice-president, and Speaker, and so on, and so it goes on, but it says: "Subject to the provisions of these Instructions". Now clause XXVIII is a provision of these Instructions and provides definitely for presiding in Council, and on my construction of Rule, or Standing Order No. 34, special leave of the President is equivalent to special leave of the Speaker presiding in Council. That is my ruling. But if hon. Members are under any misapprehension about it, I can assure them care has been taken to obtain His Excellency's consent. Please proceed.

**THE FINANCIAL SECRETARY:** Mr. President, I beg to move that the Council do resolve itself into Committee of Supply to consider the Supplementary Estimates of Expenditure, 1952 (No. 1 of 1952). Now, Sir, I am sure you will rule me "out of order" if I attempt to cover anything in the nature of detail in this debate moved in Committee of Supply, so I will only attempt to deal with the reasons why this new procedure on the part of Government has been adopted, and put it before this Council for its consideration and, I hope, adoption.

Until 1948, Sir, the Government of Kenya had a majority and in the light of the policy debate which took place in the Legislative Council it could, in fact, frame its estimates and submit them for criticism and discussion in the Legislative Council with the full assurance that the necessary Supply would, of course, be granted. In 1948, Sir, two things occurred. First, the Unofficial majority entered into this Council and the Government therefore could no longer speak with absolute assurance of Supply, and, on the second hand, the then Financial Secretary, Mr. Troughton, and myself were sent down by this Council to Southern Rhodesia to examine the

[The Financial Secretary] financial procedure and make recommendations to this Council. It was fairly obvious that once the financial procedure of the Committee of Supply had been adopted—and it was fairly obvious that once an Unofficial majority had entered into the Council—that gradually the functions of the Standing Finance Committee should become more and more restricted to matters of emergency, and that gradually there must be adopted, from the Government's point of view, the hard way of putting all major supplementary expenditure before this Council, in public, so that the Colony could see in full what was happening during the year. That, Sir, is the procedure which the Government suggests should now be adopted. If it is followed—and I trust hon. Members opposite will agree to it—it will mean that the old practice of expenditure being undertaken on Standing Finance Committee recommendations, with Schedules of Additional Provision very often put before the Council long after the expenditure had been incurred, will disappear, and that in future, except on matters that are so urgent that they cannot wait for this Council to sit and give its decision, all major expenditure that was previously taken to the Standing Finance Committee will be brought to this Council for its consideration, and I hope approval. I believe, Sir, that this is a very great step forward. Whereas one may on this side—and one does, disagree with certain aspects of the hon. Members opposite—aspects of the hon. Members' opposite opposition—I would not like the hon. Member for Ukamba to think I was referring to their physical aspects—nevertheless no one will disagree with the value of criticism, in the light of public debate, upon expenditure. No one will disagree with the fact that Government must justify its expenditure. That we should have to justify it in detail is, we believe, where this Council is tending to go wrong, but that we should certainly have to justify it in public is, in our opinion, important. This procedure will therefore mean, in short, Sir, the gradual disappearance of the Standing Finance Committee except to deal with emergency expenditure, and the gradual emergence into this Council of a series of supplementary estimates, to enable the schemes that are put forward

by various Members of the Government during the course of the year to be discussed, debated in the Council and, if they are approved, brought into operation, rather than waiting until the Budget debate of the following year.

Sir, I beg to move.

**THE ACTING SOLICITOR GENERAL** seconded.

**MAJOR KEYSER:** Mr. Speaker, I beg to oppose the Motion. I oppose it for two reasons; first of all, because this Council has already, only two months ago, spent a very considerable amount of time in debating the main items which will come under the purview of this Committee now. The details of them, and, Sir, all the arguments in favour and against those items—the main ones—there are two, I agree, that were not debated before, that are new ones, and I think it is a very great pity that the hon. Member did not divide his Motion into two. But most of those items were debated in this Council two months ago, and this Council decided that they should be omitted from the Draft Estimates. Now, Sir, the hon. Member comes back to this Council and, I presume, implies that hon. Members on this side of the Council did not know what they were doing when they voted against the vote on those particular items, and I should like to assure him, Sir, that we knew full well what we were doing. We disagreed, Sir, of the total sum which Government proposed to expend for 1952, and Sir, this is my second point: we submitted to Government's suggestion that they had always told us that they knew best on what items should be included in the Draft Estimates, and that if it was a question of any items being cut out, or any economies being effected, that they were the people who knew best where those economies should be made. We therefore suggested to Government that they took back the Draft Estimates, that they cut them by a certain amount, and brought them back to Council.

**THE SPEAKER:** Had the hon. Member moved an amendment to that effect, that the whole total Vote should be cut, that amendment would have been out of order as infringing the initiative of the Official side in matters of finance.

**MAJOR KEYSER:** Mr. Speaker, I was coming to the argument—

**THE SPEAKER:** All I am asking the hon. Member to do is not to keep raising the past debate, but what is to happen now. The Motion is that we now resolve into Committee of Supply.

**MAJOR KEYSER:** Mr. Speaker, may I with all respect submit that surely—my main point is that it is only two months ago when we debated this whole point. Can I make that point, Sir, without reference to any previous debate? I think it is extremely difficult for me to do so.

**THE SPEAKER:** You need not go into everything that was in the debate.

**MAJOR KEYSER:** My point is, Sir, that Government has come back again asking this Council to renege certain posts which were abolished in the debate on the Draft Estimates, and it is not as far as I know, making any suggestion as to any economies that are going to be effected. Therefore, Sir, I oppose this Motion.

**THE ACTING CHIEF SECRETARY:** Mr. Speaker, the Government has got to govern. When we concluded the debate on the Budget and hon. Members will remember that I did give due warning that there might have to be some come-back to this Council, the Government were faced with certain decisions by this Council which it considered were seriously, very seriously, frustrating to it in the execution of its duty, which it is quite unable to cast aside and hand over to anybody else. That, Mr. Speaker, very shortly, is the reason why we have come back to Council now with this Supplementary Estimate. I suggest, Mr. Speaker, that constituted as we are, it is a very serious matter indeed for this Council to deny to the only Government available to govern the country what that Government regards as absolutely essential Supply. Hon. Members of this Council have a duty to watch over the expenditure of the Government throughout the year. That is a very important duty, and Council can never shut its eyes to it. This Council also has the heavy responsibility of deciding on the policies which the Government shall pursue. Hon. Members have the whole year in between one Budget and another to introduce into this Council any Motion that they choose in which policy can be discussed. Those, Sir, are the responsibilities and the duties of this Council. When those policies have

been established it is the duty of the Government to carry them out, and it is the duty of the Government to come to this Council for authority to spend the money necessary to execute their duties. I am going to suggest now, Mr. Speaker, very seriously indeed to hon. Members, because I think that it is something which should be said: if, when that point is reached and the Government—the only Government possible under our present Constitution—is instructed to carry out policies and is then to be denied the essential tools which it considers necessary to give effect to its duties, then, Mr. Speaker, if that attitude is to be carried any distance, Government is going to become utterly and completely impossible. If that should happen, chaos would result, and I cannot see that any responsible person could disagree with me when I say that a situation of that sort, if it should be reached, would make every thinking person understand that a constitution having an Unofficial majority was impossible in practice. These are serious things, Mr. Speaker, to say. I truly believe that if we go on as we are going on it is possible that that sort of situation might be reached. The Government have every bit as strong a desire, I would assure hon. Members, to keep down the cost of government to the lowest possible figure. The objective of all of us is the same. We have disagreed over the detail. That would be all right if the Government, having stated its case, could say to hon. Members opposite—“Over to you, Gentlemen. Do better with smaller funds”. Unfortunately, that is not possible under the terms of our constitution. I believe, Mr. Speaker, that if hon. Members persist, as the hon. Member for Trans-Nzoia has now suggested, that he is going to persist, in this obstinate attitude at this stage, they may well do serious damage to constitutional development in this country. (Hear, hear.)

Mr. Speaker, I beg to support.

**MR. BLUNDELL:** Mr. Speaker, I rise to oppose the Motion. I was surprised, Mr. Speaker, that the hon. Member for Finance when moving his Motion did not deal rather more largely, somewhat on the lines of the hon. Chief Secretary, with the reasons for placing this Motion before us, but I assume that the White

[Mr. Blundell]

Paper which he laid in a well-known weekly newspaper on Friday of last week caused him to think that such amplification of his statement was unnecessary.

Sir, I am surprised at hon. Members opposite bringing this Motion before Council in the short and abrupt manner in which they have done so. Actually, during the debate on Committee of Ways and Means, certain proposals were put before the Members of the Standing Finance Committee to replace exactly the posts which are now before us if this Motion is passed. All Unofficial Members of Standing Finance Committee left the hon. Members opposite in no doubt whatsoever that their attitude to these posts would be that of one of denying them unless savings could be shown to cover them. Government was in no doubt as to our attitude on that matter.

**THE SPEAKER:** The hon. Member will be out of order in attempting to in any way attach a condition, to insist upon a saving; when a grant is being demanded of you, as at present, you cannot attach a condition to that and say, “Yes, we will vote for it if you will do something about something else.” That is specifically prohibited by the Supply Standing Order.

**MR. BLUNDELL:** Mr. Speaker, I accept your ruling, Sir, but I was not attempting in any way to attach a condition to this Motion. Sir, I was merely refreshing the minds of hon. Members opposite as to the attitude which hon. Members on this side adopted when these proposals came before them in the Standing Finance Committee.

**THE SPEAKER:** Whatever attitude you may have adopted, you cannot express it here unless it is in compliance with the Standing Orders.

**MR. BLUNDELL:** There is in this matter a basic difference, a basic difference which has to be resolved between the two sides of this Council, and that is a matter to which I wish to devote a few words.

Our view on this side, it is perfectly simple, was clearly expressed—albeit at some length—during the debate on the Budget, that expenditure is too high. The view of hon. Members opposite is that

the expenditure which is placed before this Council is that of the most considered opinion, and must be accepted as the absolute minimum upon which the country can be run. This resolution before us does not in any way help to resolve that basic difference, and it is because that basic difference still exists that I for one am opposing this Motion.

Now, Sir, we hear a great deal about Government by agreement; but Government by agreement cannot work when both sides are determined to be irreconcilable—(hear, hear)—I am glad to hear hon. Members saying “Hear, hear”, because I stressed both sides, and hon. Members opposite are in the habit of only considering their own side. Now, Sir, what is the effect of the amount which is before us? It is £19,000 and £19,000 only. In respect —

**THE FINANCIAL SECRETARY:** rose—

**MR. BLUNDELL:** No, I will not give way, because I am going to cover the hon. Member's point. It is, I think, £19,000 in respect of these posts which have already been before us, plus certain additional posts which the hon. Member for Finance is bringing forward.

**THE FINANCIAL SECRETARY:** On a point of order, Sir, the reason why I did not go into detail is because the Motion is merely to resolve itself into Committee of Supply. The hon. Member has expressed surprise that I have not done so. I would like your ruling as to whether indeed I am entitled to refer to details.

**THE SPEAKER:** It is only the general principle behind the vote that can be referred to in this debate. As leave has been given by the President to introduce this Motion, in spite of the six-months rule, it is of course a considerable waste of time to indulge in recrimination over the past. We might just as well get down to whether or not we shall proceed.

**MR. BLUNDELL:** Mr. Speaker, I do not intend to waste time upon recriminations over the past, and I think the hon. Member's interruption really was unnecessary. The point I wish to stress, Sir, is this: we are not denying the hon. Member these posts, we have made it perfectly clear that provided—although you have ruled, Sir, that I cannot say these provisions—(laughter)—we have made it perfectly—

THE SPEAKER: If he will cut something else you will vote for it. It cannot be done.

MR. BLUNDELL: We have made our position perfectly clear, Sir, and I must stress to hon. Members opposite that there is no question, provided they will see reason, there is no question—(laughter)—of our denying these posts.

Secondly, Sir, I must take the hon. Member for Development up. It is in my submission ridiculous to stand up in this Council with a Budget of £16,000,000 and tell us that the whole of the Government will fall into chaos, to raise the bogey of constitutional catastrophe, if we fail to move into Committee of Supply over these posts. The hon. Member—although, Sir, you have ruled that I may not mention it—he knows perfectly well how he can achieve these posts if he wants them.

That being so, Sir, I am opposing the Motion. (Applause.)

MRS. SHAW (Nyanza): Mr. Speaker, I would like to oppose this Motion on the grounds given to you by the hon. Member for Rift Valley, before he was ruled out of order—(laughter)—and I should like to say that if we were really to believe in Government's earnest to effect savings, I for one would be glad to see at least one of these posts re-established. (Applause—laughter.) But as we cannot really, on the evidence before us, believe in that desire or in that earnest of Government's to effect those things that we are not allowed to mention. (Laughter.)

OFFICIAL MEMBER: Unmentionables!

MRS. SHAW: So, I feel that on a matter of principle I have no other course than to join with my colleagues in opposing this Motion. (Applause.)

MR. HAVELOCK: Mr. Speaker, I hope all hon. Members, both Government and Unofficial, will appreciate the courage and sincerity of the words of the last speaker. It is not a matter, to my mind, for levity. The hon. Member, as other hon. Members know, is in a very awkward position, but he puts principle—(hear, hear)—before any specious argument. I suggest, Sir, that hon. Members opposite might take a leaf out of her book and do the same. (Hear, hear.)

On this matter of principle, the principles of what is established, Sir, I do not want to repeat all that went on before, but may I suggest, Sir, as the President has given permission that this Motion can be taken within the six-months rule, that presumably it also means that hon. Members can reiterate what went on less than six months ago.

THE SPEAKER: I hope not! (Laughter.) It is far too fresh in our memories.

MR. HAVELOCK: Anyway, Sir, I would like to state here that surely the hon. Members opposite must admit that Unofficial Members on this side of the Council established, without question, their desire for economy within the Government and they established it. The only way they could do so was by aiming at certain individual posts within the 1952 Estimates. If the hon. Members will only stand on principle and accept the matter of economy, then all this matter can be cleared up.

The hon. Chief Secretary said that it may be found that an Unofficial majority is impossible in practice. I would say it may well be, unless Government is prepared to co-operate and Unofficials as well. I suggest the Unofficials are prepared to co-operate, and that the Motion before us today shows that Government is not.

Sir, I oppose the Motion.

MR. NATHOO: Mr. Speaker, listening to both sides of the Council, I, like the hon. Member for Nyanza, find myself in a very difficult position as to what is happening. Mr. Speaker, I share the views of the hon. Member for Nyanza when I say that Government has our sympathy in trying to move some of the votes which they are doing, but until and unless the question of principle which has been raised by more experienced speakers and legislators on this side of the Council is settled I am afraid we cannot have any other alternative except to oppose the Motion.

LADY SHAW (Ukamba): Mr. Speaker, I want to take up two points—I think one, really, that was mentioned by the hon. Member for Development. He has been reproaching us on this side of the Council for our attitude to Government over financial matters, because he says we are making Government impossible. He has mentioned that Government is in the

[Lady Shaw] and therefore cannot force its measures upon us. Now, Sir, this Unofficial majority works two ways, as far as I can see; whenever Government does not wish to take responsibility for a measure it is able to divest itself of that responsibility by picking up two or three votes on this side of the Council and putting that measure through. We are then told that it has been passed by a vote of this whole Council, when this side of the Council stands pat and will not have anything to do with Government's suggestions, we are then told that we are making Government impossible. Perhaps the whole set-up is impossible and Government's position is impossible, but they cannot have it both ways. You cannot hide behind a few votes on this side of the Council and then say that it has been passed by the whole Council, and then refuse to accept the findings of a unanimous vote on this side of the Council.

MR. MATHU: Mr. Speaker, I should like to make some points, Sir, in this debate.

The first is the constitutional point raised by my hon. friend the Member for Development. The constitutional point is this, that an Unofficial majority may be found impossible to work in practice, and Unofficial Members of this Council are making Government impossible to run, because of the attitude they have adopted in financial matters. Now, Sir, may I say that the introduction of this Motion seems to suggest to me, I may be very dull in these matters, but it seems to suggest to me that Government wants to make the constitutional position more difficult for the Unofficials. By a majority vote these matters were dealt with and dispensed with only a few months back. Now, they come back, very soon, too. It is true that my hon. friend the Member for Development did give a warning that the Government may come back, but it has come back too soon. (Laughter.) When the matter is so fresh in our minds, now surely he cannot expect a responsible Council to reverse a decision which it made only recently, reverse it now having been passed by a majority vote. If we did, Sir, I think it would be demonstrating what I might call for lack of a better term "political immaturity", and I do think that there

is no such intention, either on the part of Government or on the part of ourselves that we can reverse a decision so quickly.

Sir, on the constitutional issue, I think it would have been better for the hon. Member for Finance to come back, say to the new Council in July or August this year. I do not think we can fall to pieces only in two or three months. I do not think the Government could become chaotic in two or three months, and they could come to the new Council then, because we do not commit the new Council, whatever decision we have taken in the last two or three months, but a Council who has taken that decision, to reverse that—I do not see how that can be admitted.

The other point is this, that I do not think there is in the mind of any Unofficial Member here that Government should come to a standstill. Now, the hon. Member for Finance is only asking us for about twenty-four thousand pounds, and surely that would not be the only sum that would keep the Government running. I do not think so. It is such a small figure in comparison with the money at the disposal of the Government. Although, as I say, I have some sympathy in certain respects in regard to this Motion, I feel on principle I cannot support it.

THE FINANCIAL SECRETARY rose—

MR. BLUNDELL: It will not take long!

THE FINANCIAL SECRETARY: Mr. Speaker, contrary to murmurs from the hon. Member for Rift Valley, it is quite likely that the reply will take some considerable time.

MR. HAVELOCK: Talk it out!

THE FINANCIAL SECRETARY: The hon. Member for Kiambu, Sir, referring to the hon. Lady for Nyanza, said that this Council must grant the lady courage and sincerity. This side of the Council willingly grants it, Sir. He said that this was no matter for levity. I agree with the hon. Member, this is no matter for levity, for in my opinion the refusal to enter into Committee of Supply will prove to have been one of the grave constitutional errors of this Colony during the past ten years. (Hear, hear.) But let me say this, Sir, if we are to talk about courage and sincerity. It would have

[The Financial Secretary] been remarkably easy for me to say to my colleagues, "Don't let us take this to this Council, let us follow the suggestion of the hon. Member, Mr. Mathu, let us save it for the new Council", where the hon. Members opposite are well aware that the chances are that we will be in the majority. "Let us take it to that Council, with the full knowledge that we can carry it through." That would have been the easy and the simple way, but this side of the Council took no easy and no simple way, it took no cowardly way out. After hours and hours of discussion in Government, it has been decided that these posts—and we are talking about posts, not sums of money—that these posts are vital to the security of this country in many ways.

MR. BLUNDELL: Make savings for them. (Hear, hear.)

THE FINANCIAL SECRETARY: The hon. gentleman opposite talks about sums and fails to recognize the form of procedure we are going through, and that is, we are talking about posts, because we consider that these posts are vital to the security of Nyanza, vital to the security of the Rift Valley, vital to the security of the Central Province, because we consider that we took what is much the harder way, we came to this Council and we hoped that this Council would allow us to go into Committee of Supply and place before them the argument in detail as to why these posts should be re-established.

The hon. Members opposite have a very easy method of sneering at the Government Front Bench, of doubting its motives, of saying this and that, but they have not in this anything on which to base any doubt of the courage and sincerity of my colleagues. On that, Sir, it is important that we should realize that if we refuse to go into Committee of Supply and discuss all these estimates, we are indeed striking a very hard blow at very many of the services, posts which are wanted in these estimates. (MAJOR KEYSER laughed.)

The hon. Member for Trans Nzoia laughs. Well, Sir, it may be that there is some matter for laughter in the fact that the Provincial Commissioner of Nyanza and the District Commissioners of Nyanza have no confidential steno-

graphers, that the managing directors on behalf of the shareholders of this country of that Province have in fact been robbed of their confidential stenographer.

The hon. Member for Rift Valley, I think it was, said there was a basic difference between his side and the Government side. There is a basic difference, Sir, that I am prepared to admit. The basic difference is that whatever the agreement of policy—and time and again there is agreement of policy in this Council—there is disagreement on the point of fact that the Government should be left to do the detailed job of governing.

MAJOR KEYSER: They cannot!

THE FINANCIAL SECRETARY: If the Government is to be told, "this post you cannot have, that post you cannot have, unless—" then there must be a complete overhaul of the services that are wanted. (Hear, hear—applause.) And I repeat the challenge to hon. Members that has been often given from this side, tell us what services you are prepared to do without.

LADY SHAW: The Press Office.

THE FINANCIAL SECRETARY: Are you prepared to do without the Press Office?

(Cries of "Yes!")

Hon. Members say "Yes". The Government on this side believes that with the unrest that there is—

MR. BLUNDELL: You cannot have your cake and eat it.

THE FINANCIAL SECRETARY: —that the Press Office is one of the most vital organisms of Government. Hon. Members opposite, Sir, when they feel that they are getting hampered in any argument, have developed a technique of what I might call collective interruption. I suggest, Sir, that they endeavour to suffer for a few moments the attacks that we have to suffer for many hours in exactly the same spirit as we endeavour to take it.

Now, Sir, the hon. Member for Trans Nzoia in fact boiled the whole of his argument down to one word, why, why have we come back now, why have we come back so soon? Sir, unless some final decision is taken on these posts, fairly quickly, we shall lose the services

[The Financial Secretary]

of all these people of experience. We shall have to pay them in some cases compensation for abolition of posts. But what is really worse, we should lose their experience, and if a new Council reinstated them in June or July, we should have to start all over again. And even though—and I repeat this with all the emphasis at my command—even though the Government knows that it is going down to defeat by the combined vote of the opposition, nevertheless the Government insists that it states its case—(hear, hear)—that it places on the shoulders opposite, the responsibility for the failure of certain services, and as long as the country is aware of that, then the Government must rest content for having done what it can. Hon. Members opposite speak very glibly of being responsible to the people, they are responsible to their constituents.

THE SPEAKER: I take it you will be some time?

THE FINANCIAL SECRETARY: Yes, Sir.

#### ADJOURNMENT

THE SPEAKER: Well, it is now 12.45, and Council will stand adjourned until 9.30 a.m. to-morrow morning.

Council rose at 12.45 p.m. and adjourned until 9.30 a.m. on Wednesday, 27th February, 1952.

Wednesday, 27th February, 1952

Council assembled in the Memorial Hall, Nairobi, on Wednesday, 27th February, 1952.

Mr. Speaker took the Chair at 10 a.m.

The proceedings were opened with prayer.

#### MINUTES

The minutes of the meeting of 26th February, 1952, were confirmed.

#### COMMITTEE OF SUPPLY—TO CONSIDER IN—(Contd.)

##### SUPPLEMENTARY ESTIMATES OF EXPENDITURE, 1952

(No. 1 of 1952)

THE SPEAKER: We were debating the Motion to resolve into Committee of Supply. Mr. Vasey was speaking.

THE FINANCIAL SECRETARY: Mr. Speaker, I would like to begin my remarks this morning, Sir, by taking again the wording of the Motion we are discussing: "That this Council move into Committee of Supply to consider the Supplementary Estimates". Move into Committee of Supply to consider the Supplementary Estimates. We are not being asked to vote Supply. We are being asked, in fact, to discuss and to consider the detail in Committee, if we get into Committee; and if we get into Committee, the hon. Members opposite can vote against any item in detail that they wish.

MAJOR KEYSER: On a point of order, Mr. Speaker, is not the Motion to consider the Supplementary Estimates of Expenditure for 1952 (No. 1 of 1952)? My point about the order is that the hon. Member missed out those particular words, so the Motion is attached to a particular Estimate of Expenditure.

THE SPEAKER: That is more in the nature of an interruption of the hon. Member who has the floor, and not so much in the nature of a point of order, with which I am concerned—so far, anyhow.

THE FINANCIAL SECRETARY: The point I am trying to make, Sir, is that the Motion is to move into Committee of Supply to consider. The only Supplementary Estimates before the Council

[The Financial Secretary] are the Supplementary Estimates No. 1 of 1952 but, as I was saying, if we go into Committee of Supply, hon. Members opposite can vote against any item in detail that they wish. They could still, if they so wished after hearing the various arguments put forward by Government, they could reject every item. That Government would have to recognize as their considered right, provided they had given the Government the chance to go into Committee of Supply and discuss the detail, and put forward the Government case for the posts in question.

It is the refusal to go into Committee of Supply—the refusal to discuss—that is out of line with all parliamentary procedure. In the House of Commons, moving into Committee of Supply on the initiative of the Government is automatic, because it has been recognized as the right of Government that its Estimates and the policy that they represent shall be debated by the Parliament in Committee of Supply. The Opposition, though in a minority, criticizes bitterly the detail of the policy, but it does not cut Supply in detail. It does not, for instance, move that the staff of the Colonial Office shall be reduced by ten clerks, one porter and one messenger.

MR. HAVELOCK: On a point of order, the hon. Member is replying to the debate. Would you rule, Sir, whether this is a new matter the hon. Member is raising or not?

THE SPEAKER: What do you allege is new?

MR. HAVELOCK: I allege the whole of the argument he is bringing forward at the moment is entirely new, and was not raised during the debate.

THE FINANCIAL SECRETARY: Sir, on a point of order, may I call the hon. Member's attention to the fact, Sir, of my opening speech, where I think he will find that I referred to general parliamentary procedure, and that is what I am endeavouring to illustrate now, I submit.

THE SPEAKER: I do not think that that is new matter.

THE FINANCIAL SECRETARY: Without that procedure assured, Sir, parliament must break down. Let me again try to make it clear to hon. Members opposite

that we are not asking them to pledge themselves to grant one item of the Supplementary Estimates. We are asking them to agree to the ordinary parliamentary procedure of discussing detail. Are they afraid of that? Are they afraid of the facts of the position that has arisen that Government will place before them? Are they afraid that those might be so persuasive, so incontrovertible, so definite in their proof of necessity that a good many items would by weight of reason have to be restored, because people in the country want them restored? Is that what they are afraid of? (Cries of "No!")

I admit, Mr. Speaker, it takes a great deal of courage to admit one has changed one's mind, but, in the light of new arguments, there may be good grounds for taking those steps. I repeat that we are only asking for the right to discuss these items. This, for hon. Members, is the test of the new parliamentary procedure in this Council, that Supplementary Estimates can be debated in public—the hard way for Government, rather than the old method of using the Standing Finance Committee—but if the Government is refused the right to go into Committee of Supply, then the new procedure must be withdrawn stillborn, and the old method of working through a Standing Finance Committee continued.

Whilst Government would recognize the need to justify its expenditure in public in Committee of Supply, it cannot run the risk of being defeated on a Motion to discuss the details in Committee of Supply, giving it no chance to put forward its request in detail. There are two items in the present Supplementary Estimates which are urgently wanted—surveyors and a reorganization of the forestry. I am not going, Sir, to go into detail, but we are being denied the right even to discuss the necessity of those. (Applause.)

MR. HAVELOCK: Just an excuse.

THE FINANCIAL SECRETARY: That, Sir, is the position: that if the Council refuses to go into Committee of Supply, then this Supplementary Estimate procedure must be withdrawn. It will be with great regret that Government takes that step, for we believe that the new procedure would have been of great

[The Financial Secretary] benefit to the country. Expenditure would have been debated in public before it was incurred, and not afterwards, but there is a limit to the risks—

LADY SHAW: Would you give way?

THE FINANCIAL SECRETARY: Unless it is a point of order, Sir, no. Hon. Members opposite have had quite a lot of say in this matter. (Cries of "Afraid!")

The position is, Sir, that there is a limit to the risks that Government can run in those matters because, Sir, I believe there is some misunderstanding already as to the position. I would like to repeat again what I said yesterday. I did not say that the refusal of Supply was the grave error—that, I believe, is unwise enough, but that the refusal to go into Committee of Supply would prove to have been one of the grave constitutional errors of this Council.

Now, hon. Members opposite indicated that their opposition to going into Committee of Supply was because the expenditure was too high and, indeed, the hon. Member for Trans Nzoia showed that—it was still smarting because Government had refused to cut the Annual Estimates by, I think it was, £650,000. The hon. Member for Kilambu referred to principle. I listened very carefully. I heard the rumbling repetitions of Trans Nzoia intemperance and Rift Valley rumbustiousness, but I did not hear any principle except the principle of "not a penny here unless you cut a penny there"—the principle of the bargain counter and the bargain basement, Sir, not the principle that is really under discussion, which is the principle as to whether we have the right to go into Committee of Supply or not.

The fact that the expenditure in their opinion is too high is no good reason for refusing to go into Committee of Supply, and I would remind hon. Members opposite that in the final issue at that debate good sense prevailed. We went into Committee of Supply on the Annual Estimates and, after days and days of argument, the total that could be cut was something like £116,000.

MAJOR KEYSER: Not "could"—"was"!

THE FINANCIAL SECRETARY: The hon. Member for Rift Valley referred to something that had happened in the Standing Finance Committee. Now, Sir, what is sauce for the Rift Valley goose can be sauce for the Government gander.

MR. BLUNDELL: Mr. Speaker, on a point of order, when I referred to what had happened in the Standing Finance Committee, you ruled me out of order.

THE FINANCIAL SECRETARY: No, Sir.

MR. BLUNDELL: I was ruled out of order, and I would ask why it is that I was ruled out of order when I referred to what had taken place in the Standing Finance Committee and the hon. Member can bowl sweetly and speedily on his way, referring to what has taken place in Standing Finance Committee.

THE SPEAKER: If that is the case—first of all we must establish that it is the case.

THE FINANCIAL SECRETARY: Mr. Speaker, on a point of order, I would respectfully suggest that a review of what was said, through which I went fairly carefully, would show that you called the hon. Member to order for making a condition.

MR. BLUNDELL: Can I speak to the point of order I raised?

THE SPEAKER: Can I have a copy—you have all got copies and I have not got one.

MR. BLUNDELL: Mr. Speaker, may I carry on?

Mr. Speaker, I must make it absolutely clear—and the record will, in my view, show that I am correct. I did not make any condition; when I referred to the Standing Finance Committee I made it perfectly clear that I was refreshing hon. Members' minds opposite on what had happened in the Standing Finance Committee. But nevertheless, Sir, you ruled me out of order and I fail to see why I was ruled out of order and the hon. Member, as I say, can go bowling along referring to the same thing.

THE SPEAKER: The hon. Member for Rift Valley said this:—

"During this, the debate on the Committee of Ways and Means, certain proposals were put before the

[The Speaker]

Members of the Standing Finance Committee to replace exactly the posts which are now before us if this Motion is passed. All Unofficial Members of the Standing Finance Committee left the hon. Members opposite in no doubt whatsoever that their attitude to these posts would be the same as denying them unless savings could be shown to cover them. Government was in no doubt as to our attitude on that matter."

I then rose and said this:—

"The hon. Member will be out of order in attempting to go—in any way to attach a condition, to insist upon a saving when a grant is being demanded of you as at present. You cannot attach a condition to that and say 'Yes, we will vote for it if you will do something about something else'. That is specifically prohibited by a Standing Order."

That is all I ruled; any references to Standing Committee are not out of order. What was out of order was the attempt, even in Council before we got into Committee, the attempt to attach a condition to a grant.

MR. BLUNDELL: Mr. Speaker, I apologise for pursuing my point, but I did not, in those phrases which you have read out, attach any condition. I was merely stating in front of the Council what was the position which had happened in front of the Standing Finance Committee.

THE SPEAKER: And all I said was that you could not attempt to do it and I took it is an attempt to do it. I cannot see it in any other light.

THE FINANCIAL SECRETARY: Well, Sir, the hon. Member drew the attention of hon. Members in this Council to something that had happened in Standing Finance Committee. Now, Sir, I repeat, what is sauce for the Rift Valley goose must be regarded as sauce for the Government gander and hon. Members opposite—many of them—are aware that of the cut of £116,000, the Standing Finance Committee has already had to restate some £15,000 for paper for the Government Printer, on the grounds that (a) it was necessary; and (b) it would bring in some additional revenue of

£20,000. If that is not a case of already having changed one's mind in the face of reasoned argument, I should like, Sir, to know what is it.

Now, Sir, the hon. Members opposite have spoken about Government by agreement. The Government is not asking for the return of all the cuts, although not convinced of the wisdom of those cuts. It is, indeed, only asking for those posts to be reinstated which it believes to be essential and is, indeed, only asking for the possibility of the discussion of the return of those posts at this stage. The hon. Member for Rift Valley referred, in one of his quieter passages, to a White Paper that I had laid—I think that was the term he used—in a popular up-country paper. The hon. gentleman must not be envious, Sir, if Government proceeds to go to the country, to the whole country, which it regards as its constituents, and explains its case. I think there is little doubt that Government will continue to use every avenue that is possible and open to it to restate the case on these particular points.

(Opposition cries of "Most improper!")

Now, Sir, the hon. Member for Rift Valley referred to savings. I would like to say, Sir, that there are a number of posts proved for the Estimates in 1952, which, although essential in the Government's view, are unlikely to be filled because suitable people are not immediately available. This means a margin of saving will be included to cover the items there will be savings inside the Estimates I can give the Council an assurance that there will be savings inside the estimates already passed.

THE SPEAKER: The hon. Member is now, I am afraid, introducing matter which was not in the debate as opened.

THE FINANCIAL SECRETARY: Thank you, Sir. I bow to your ruling. I was merely anxious to point out that there were statements which I had hoped to make in Committee of Supply which would have shown that Government was prepared to go a long way to meet the position. (Laughter.) But, Sir, as it looked extremely unlikely from the attitude of the hon. Members opposite that we should get into Committee of Supply, I was endeavouring to show that there was an attempt by Government to agree.

[The Financial Secretary]

Now, Sir, again we come to the question of hon. Members opposite who said that there must be opposition to this particular Motion to go into Committee of Supply because the expenditure was too high. Now, Sir, by what do we judge that expenditure is too high?

MAJOR KEYSER: Who said that?

THE FINANCIAL SECRETARY: I am quoting the exact words. By what do we judge by expenditure is too high? Too high, for a young and developing country that can now, with great effort, can consolidate its position? Are we spending too much on education and can now reduce it by £100,000? Are we spending too much on roads and buildings and shall we reduce that expenditure by £150,000. Are we spending too much on medical services and shall we reduce them by £100,000? Shall we say no more £ for £ grant, no more for development? Are we spending too much on agriculture and veterinary services and shall we reduce them by £100,000? Are we spending, then, too much on the police and shall we reduce the police force by £100,000? Are we spending too much on administration in the field and shall we reduce that by £50,000 to £100,000?

Those things can be done, gentlemen, they can be done by a reduction of services, by the closing of police stations, by the refusal to go, shall we say, so fast with our own programme; by the refusal to assist in the building of hospitals, by the closing of schools. These, hon. Members, are not economies. Let us use the blunt words. They are reductions in service expenditure.

LADY SHAW: Hear, hear.

THE FINANCIAL SECRETARY: The hon. Member for Ukamba says "hear, hear" and I assume that the reduction in services is what she wants. But when you have covered police, administration in the field, education, agriculture, veterinary and medical services—

MAJOR KEYSER: Secretariat!

THE FINANCIAL SECRETARY: —and the Labour Department, you have in fact, covered practically the whole of Government expenditure, for Government ex-

penditure is services provided to the people.

MAJOR KEYSER: Khaki drill!

THE FINANCIAL SECRETARY: I think I am right in saying that a committee is reviewing the High Commission Services. But, if the expenditure is too high, then let us realize there can be no major economies without reduction in services, and let the hon. Members tell us what services we are prepared to do without.

MR. BLUNDELL: We have done it.

THE FINANCIAL SECRETARY: You have done it, not to the tune that you have said. But to the south of us, whilst we talk about expenditure being too high, to the south of us, right down to the Cape, the budgets of government are higher than ever before. Why?

MR. HAVELOCK: Southern Rhodesia?

THE FINANCIAL SECRETARY: Because the whole of Africa is a live, a vital and developing continent; because the life of the progress of the people and the cost of defence. That is why budgets are higher to-day. The Public Accounts Committee see that that expenditure is not wasted. But unless we are prepared to reduce the services that represent Government expenditure, police, agriculture, education, veterinary, medical services, let us not say that expenditure is too high. Is it really that we fear, as we move further along this road of development that as the Planning Committee Report is implemented, there may be a need for increased taxation?

MR. HAVELOCK: Yes.

THE FINANCIAL SECRETARY: Is that really our fear? Is it because we fear that our Estimates of Expenditure are exceeding our possible revenue—despite the fact that year after year the great impact of development upon this country has enabled us to end the year, even with large contributions to capital development, with a surplus?

LADY SHAW: Why have taxes?

MR. HAVELOCK: How about your Estimates?

THE FINANCIAL SECRETARY: That is the position. Leave the export tax out of the situation altogether. They equal in

[The Financial Secretary] the balance. We still, having made a large contribution to the capital development, ended last year with a surplus. Is that to say that expenditure is too high?

MAJOR KEYSER: Customs taxes.

THE FINANCIAL SECRETARY: Is it, at the moment of opportunity, that people of this Colony, through their representatives, fear the cost of the price of our developing greatness? Is it necessary to say to hon. Members of this Council, it is necessary to remind them of those words: "Pray God, our greatness may not fail through craven fears of being great"—(applause)—something which I have heard the hon. Member for the Coast quote time and again? Believe us, these, gentlemen, are the years of our opportunity, this is when we should be striding forward to put money into the development of our country, consolidating our position, making as available as possible as many experts as possible to assist in the development of the land, of our own natural resources and of our people.

This is not the time for murmuring fears that expenditure is too high. There is always place for criticism of the rightness or the wastefulness of any expenditure. There is no place in this modern world for the fearful heart and the backward State. To conclude, Mr. Speaker, what have we asked hon. Members opposite to agree to? That we should go into Committee of Supply to be given what we believe is our right to state our case for needed expenditure. Mr. Speaker, if we are refused that right it is not over the 16 Members on this side of the Council that the victory will have been scored. It will have been scored over the people whom we represent—the Europeans, the Asians and the Africans of this land, in whose interests the Members of the Government work, and for whose prosperity, security and advancement they believe that the posts—not the amount of money—the posts in these Estimates are essential.

Sir, I have done. I have kept Council rather long. I may have been a little more bitter and hard than I usually am, but it is because I feel bitterly the position into which my ex-colleagues on the other side of the Council have allowed themselves to fall—

MR. BLUNDELL: Are you entering the Church?

THE FINANCIAL SECRETARY:—and the grave mistake that they have made in their attack on this particular procedure, but the decision must rest with the hon. Members opposite. I say to them—out of the years that I have served with them: "Think well before you deny the Government the chance to state its case". Hon. Members opposite are in a position, if they unite, to defeat the Government. That is an exercise of responsibility they must make, but whatever the result of the vote on this debate, Government has fulfilled its task to the people of this country in requesting the Council to discuss the details of extra expenditure for the posts it believes vital to the good government of the Colony.

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: Mr. Speaker, I would, before the question is put—I gather you, Sir, are rising to put the question—have the temerity, if I might, to raise what I consider is a point of order. I would have done so this morning but I felt that I would have been interrupting my hon. friend, the Member for Finance, in the middle of his speech, which would have been discourteous and, I think, possibly unwise. But, Sir, I do submit that there is a point of order, and a point that affects the Constitution of this country and the procedure of this Council which arises from the vote which we are about to take. We are endeavouring to devise new Standing Rules and Orders, which are designed to make it possible for Government to work with an Unofficial majority. It is a stage in our evolution, and hon. Members opposite and I, in no less a degree, have endeavoured to achieve constitutional evolution on what we think are sound lines during our lifetime in this country. In any Parliament, Government must have the sole right—and it is so provided, Sir, in our existing Rules and Orders, and will be so provided in the new Rules, which are being designed by a Committee of this Council—that the Government has the sole right to come to the Legislature with proposals for expenditure, increases in expenditure, and so on, and, Sir, if this Unofficial majority is going to be used to deny Government that right, then, Sir, I fear that the work many of us have

[The Member for Agriculture and Natural Resources]

endeavoured to achieve over many years past may indeed be doomed to failure. I am not arguing Sir, about the expenditure itself. We are in the middle of a debate which has occasioned certain acerbities, and which is really a prolongation of the debate on the Budget. But that, Sir, I think, is a secondary consideration, but I do not honestly think that to embark on a precedent of denying what is any civilized Government's right is secondary! I think that to ask that this Council should go into Committee of Supply must in any Parliament, more especially in this Parliament, where we are trying to work with an Unofficial majority, be treated as formality. That is my point of order. I want to submit that that is a formality and that all this debate should take place on a succeeding Motion. Sir, I am sorry to raise this point, but I have been a Member here for a very long time, and I really honestly believe, Sir—I submit to your ruling—that if we refuse to accept this Motion in the way which it has been put, we may regret it. I would suggest, Sir, that possibly—I believe I even have the right to ask—that Council, might possibly be adjourned for 15 minutes before this vote is taken in order possibly, Sir, that hon. Members might consult with you, or perhaps could consult with each other.

THE SPEAKER: Do you wish me to rule now? Do you want a ruling on your point of order now?

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: I raised this as a point of order. If I could have your ruling in 15 minutes—

THE SPEAKER: The point, as I understand it, is whether this Motion is to be treated as a formality.

THE CHIEF SECRETARY: If your ruling could be given after the adjournment, if you would be good enough to agree to the adjournment now, it would be convenient for all of us.

THE SPEAKER: This is a most unusual procedure. No Member wishing to speak on this point of order?

MAJOR KEYSER: We are willing to adjourn, Sir, if hon. Members opposite wish it.

THE SPEAKER: The Council will now adjourn until 10.50.

Council adjourned at 10.40 a.m. and resumed at 11.20 a.m.

THE SPEAKER: When we adjourned, I was asked to rule upon a point of order and as far as I can understand the point of order it relates to the Government's right to propose expenditure in this Council. Those are the words that the right hon. Member for Agriculture used, and he went on really to inquire, "is not this Motion, after all, a formality?" Well, I would have thought hon. Members would have followed the ruling that I made yesterday morning when this Motion was first moved. Certainly the Motion is novel. We have not done Supplementary Estimates in this manner before. We are, therefore, approaching the matter from a new angle, and before the hon. Member for Finance moved his Motion, he rose and asked for guidance on the matter, and then points of order, at the same time, were taken by the hon. Member for Trans Nzoia and the hon. Member for Kiambu. I came to the conclusion yesterday morning, and I still am of this opinion, that the effect of the various alterations of the Standing Orders, which have been made during the last four years, is to establish, in fact, a principle that no financial matter, neither a charge upon the revenue of public funds, nor a charge upon the taxpayer can originate in the Council, but must be done in a Committee of the whole Council. It looks to lots of persons unacquainted with parliamentary forms, that this is doing much the same thing, with the same people, and things of that kind. But, there is a difference. It is most important that all charges should originate in a Committee of the whole Council, therefore the Motion at present before the Council is, if you like to call it so, a formality, though I do not. It is a procedural Motion, and it gives an opportunity for debate under the principle that the redress of grievances precedes Supply.

Now, all this was discussed in 1948 when the matter was first raised, I think, on the Salaries Commission Report and the debate thereon when we went into Committee of the whole Council to deal with that matter. Then, as I say, we

[The Speaker]

altered our Standing Orders in 1948 by the introduction of what was then called Order 43, Rule 6. We altered them again in 1950 in order, again, to make the various rights, existing between the Government and the Council, clear, so it was hoped, but what are these rights? It does not go so high, in my opinion, as to say that this procedural Motion must be nixed. Nothing of the kind. But, the procedural Motion is none the less a procedural Motion, and if it is lost to-day, it can be moved to-morrow and if it is lost to-morrow it can be moved the next day too, and so on *ad infinitum*. That is the effect of having an Unofficial majority—an irresistible force—up against an immovable object on the other side. (Applause.) But, it remains a procedural Motion.

What is more common in parliamentary practice is to move amendments to such a motion or order, to express different views in Council that may be operating at the time, in the body, about the matter which will eventually be dealt with in Committee in detail. Now I do not want to say there that you must do nothing but detail in Committee. That, in my view, is wrong. But, you are precluded, if you move an amendment, you are to some extent controlled by Standing Order No. 32, but so long as an amendment which is moved to this Motion will avoid the effect of Standing Order No. 32, it will get past the Chair. What the vote upon it will be, that is another matter. I think it is putting it too high to say that an adverse vote on this Motion is refusing the Government a right to go into Committee of Supply. That was not the word used by the hon. Member who took the point of order, but I remember it being used in the hon. Member for Finance's speech. He rather put it as high as that. I do not think that an adverse vote on this Motion matters such a great deal as all that, because as I say, the Government could put this Motion down again the following day, being merely procedural, in order to get on, but it is the right of Members to hold up procedure, of course, from time to time, in order to try and extract by the back door, round the other way somewhere, some arrangements between ourselves and the immovable objects. You have got to do

something of that kind, and that is quite appreciated, but I do think my duty is to look after the rights of Members—that is, of Council as a whole, and for Council to behave, as far as it can, reasonably.

So, therefore, I think I can now leave it to hon. Members to exercise their votes in the way that they wish on this Motion. They will be realizing, of course, that if you continue to vote against this Motion, then all you are attempting to do is that you are attempting to usurp the financial initiative of the Government.

When the 1950 Standing Rules and Orders were passed—I was away at the time, but I was given to understand that they represented more or less an agreement between the Unofficial Members and the Government as to how financial matters were to be dealt with thereafter, and I cannot understand why we have all got so hot under the collar over this Motion now, when there are Standing Rules and Orders for Committee of Supply, by which, if you wish, every penny can be refused. But, a mere vote, of saying "No" to-day does not refuse Supply, because Supply can be asked for again to-morrow.

I hope I have not said it more than three times, otherwise I shall be accused of treating you as a common jury. (Applause.)

MAJOR KEYSER: May I make a short statement, Sir?

Mr. Speaker, I would like to have voted against this Motion if only to express the disapproval of Members on this side of the Council to a lot that has been said in the debate from the other side of the Council, and I would say especially the speech in reply of the hon. Member. But we are, Sir, at the same time, impressed by the appeal that has been made by the hon. Member for Agriculture and Natural Resources. Sir, you have also, of course, given us a very good reason as to why we should not oppose this Motion, which is that if we want to turn down Government's request for this Supply, we can show it in a more definite manner in Committee of Supply. Therefore, Sir, we will not oppose this Motion to go into Committee of Supply.

THE SPEAKER: I will formally put the question in order to conclude the matter:

[The Speaker]

That Council do resolve itself into Committee of Supply to consider the Supplementary Estimates of Expenditure for 1952.

The question was put and carried.

THE SPEAKER: Is it your wish to move into Committee forthwith?

#### COMMITTEE OF SUPPLY

Council went into Committee of Supply to consider the Supplementary Estimates of Expenditure, 1952 (No. 1 of 1952).

THE CHAIRMAN: Council will now proceed as in Committee. You must take it that I have metaphorically left the Chair, and resumed the Chair as Chairman of Committee.

I take it you will move under the consideration now, or do you wish to move that they be approved?

THE FINANCIAL SECRETARY: I respectfully submit that we move the approval of the items one by one.

THE CHAIRMAN: All right then.

#### HEAD 2—1

THE ACTING DEPUTY CHIEF SECRETARY: Mr. Chairman, I beg to move that Head 2—1, new item 1, Secretary for Education and Labour be approved.

Mr. Chairman, I will try to explain to the Committee why I and the Government are convinced that this post is essential to the proper working of the Government.

Members are aware that the Deputy Chief Secretary is a Member, in the sense that he is a Member of the Government in charge of a group of departments, and of the functions with which those departments are concerned. The Deputy Chief Secretary's functions are Defence, Education, Labour, Administration of the Public Service, together with a number of miscellaneous subjects, such as the Government Press, museums, scientific expeditions, consuls and the Liquor Law which, though individually small, taken together make up a substantial total.

In addition to dealing with the large number of files which are put up to the Member on all these subjects, he is a Member, as the Council knows, of the

Legislative Council, the Executive Council and Standing Finance Committee. In addition, he is frequently a member of select committees or other bodies of that kind. It will be remembered that in the course of the debate on the 1952 Estimates I said that during the time I had been acting, I had been a member of seven or eight select committees and chairman of a number of them.

In addition to that, Members of this Council and members of the public frequently want interviews with the Member in charge of a subject in which they are interested. A great deal of time, as some Members on the other side are very well aware, is taken up in that way; it is a common thing for me to spend the best part of a morning or an afternoon discussing some matter in which an Unofficial Member of this Council or some other person is interested.

Now, Sir, going back to the way in which the files come to the Member: a document, a letter or despatch, or telegram or memorandum or question in Council with which the Member is concerned arrives. It is put onto a file and it is submitted to a person called an Assistant Secretary. The Assistant Secretary is a high grade civil servant, but he may be a man with not very long experience of the public service, and possibly with no previous experience of the Secretariat. That means he may have no background knowledge of the subject with which the document deals, or of the relevant files. If there is a post to the Member, and the thing next goes to that Secretary. If he is able to dispose of the issue, he does so. If he is not able to dispose of it, he ensures that it is submitted to the Member for a decision in a complete form with all the necessary devilling done, all the related files there, all the necessary preliminary consultations completed. If there is no Secretary to the Member, then, of course, the file has to come straight from the Assistant Secretary who as I have already explained may be a person without very extensive experience of this kind of work, to the Member. I have had some experience of working without a Secretary to the Member, and without any criticism at all of the people who have done the work of Assistant Secretary. I can say that I have had to do a great deal of



[The Acting Deputy Chief Secretary] detailed work of the kind that I have referred to, which has necessitated my working far beyond the normal hours of work. I do not object to that at all, nevertheless I am stating as a fact that that has to be done.

So that the first function of the Secretary to the Member is to sieve between the Assistant Secretary and the Member himself, and in that way to relieve the Member of work.

The second main function of the Secretary to a Member is co-ordination between the various Assistant Secretaries and possibly other people who may be submitting cases to the Member. Of course, he will often find it necessary to co-ordinate and consult with people who come under other Members. That is a very important function.

Thirdly a person of the Secretary-to-Member level can be extremely useful in helping, advising and guiding Assistant Secretaries who are new to this type of work. It is inevitable, under our organization and with the manpower available to us, that we shall have Assistant Secretaries in Members' offices who are new to that type of work and need guidance and assistance.

Fourthly, it is necessary for the Member—or at any rate it is very desirable—for the Member to get out of Nairobi and go to the places where the work with which he is concerned is going on.

MR. COOKE: Hear, hear.

THE ACTING DEPUTY CHIEF SECRETARY: Now, I must confess that although I have acted as Deputy Chief Secretary on several occasions since the year 1949, I have not found it possible to do that. (Cries of "Shame!") I have never found it possible to do that, because I have had so much work in the office which had got to be done. I had to decide whether it was wiser to allow that to get into arrears when I went on safari, or to stay in the office and do it. Although my personal preference was to get out on safari, my judgment told me it was my duty to stay behind in the office and do the paper work. If there is a Secretary to the Member—I am quite certain other Members will share this view—it does enable the Member to get out on the spot and see what is happening to the subjects with which he

is concerned, and for which he is responsible.

There is a further point which I think is important, although it does not so much concern me at the present time. I think it must be presumed that future constitutional development in Kenya will be in the direction of having something on the lines of a ministerial system. People who are not professional civil servants will hold ministerial portfolios. We are already going some way in that direction. Bearing that in mind, it is very important that we should develop posts similar to those of Permanent Secretary in the United Kingdom and in the Dominions, such as Southern Rhodesia and Ceylon. A new Minister will then have a person who is intimately acquainted with the work of the group of departments that the Minister is responsible for, who can advise him and assist him with the paper work. I consider that most important from the point of view of future constitutional development in Kenya.

There is one final point. It may be said, admittedly you want somebody of the Secretary-to-Member level to be a sieve between you and the Assistant Secretaries, but you do not need a man of the £1,635 per year calibre. I submit that I and my colleagues are really in the best position to judge what type of man is required for the post. All other Members have a Secretary of that level. Experience has shown that a man of some seniority in the Service and with some experience, both of outside administrative work and of Secretariat work is required for a Secretary-to-Member post. My opinion is—and I know that this is shared by other Members of the Government—that this is the right salary for the type of man required.

I therefore beg to move, Sir, that the provision of this new post of Secretary for Education and Labour, which replaces the old post of Assistant Chief Secretary, be approved.

THE FINANCIAL SECRETARY: Mr. Chairman, I would like at this time, Sir, with your permission, to say what I tried to say in another debate. There are a number of posts approved in the Estimates for 1952 which, although essential in the Government's view, are unlikely to be filled because suitable people are not

[The Financial Secretary] immediately available to take them. This means a margin of savings will be available to cover the items included in these Estimates, including the one we are now discussing. I can give the Committee, therefore, an assurance that there will be savings inside the Estimates already passed to meet the items now proposed and that, excluding any additional expenditure voted during the course of the year by the Legislative Council and/or the Standing Finance Committee, these sanctioned Estimates will not be increased further than the amount already voted. Furthermore, I can give the Committee an assurance that, where posts have not already been filled, or posts are filled by a time later in the year, all Members will review the position with regard to those particular posts, and the possibility of doing without them.

In all cases, heads of departments have already been asked to see if they can possibly effect economies in the administration and methods of their departments. Those reports will I trust reach Government before long. I make that statement, Sir, which I wish to make in the main debate, to show that Government is indeed prepared to go a long way to see that these essential posts, in their opinion, do not add any expenditure to the Colony's Estimates.

The question that Head 2, sub-head 1, item new, £1,790 for a Secretary to Education and Labour, be now approved was put and on a division negatively by 18 votes to 15 votes. (Ayes: Dr. Anderson, Mr. Carpenter, Major Cavendish-Bentline, Messrs. Davies, Hammond, Hartwell, Hope-Jones, Sir Charles Mortimer, Messrs. Padley, Pike, Taylor, Thornley, Vasey, Wadley, Whyatt, 15. Noes: Messrs. Blundell, Chermalan, Cooke, Lt.-Col. Gherrie, Messrs. Havlock, Hopkins, Jeremiah, Major Kesser, Messrs. Macnochie-Welwood, Nahoo, Othanga, Dr. Rana, Messrs. Salim, Shuter, Lady Shaw, Mrs. Shaw, Messrs. Usher, Mathu, 18. Paired: Messrs. Roddan and Salter, 2. Absent: Messrs. Madan, Patel, Pitam, 3. Total: 38.)

#### HEAD 2-1 (2)

THE CHIEF NATIVE COMMISSIONER: Mr. Chairman, I beg to move that sub-head 2-1 (2), new provision for Press Office, the item enumerated on the

paper under Press Office, total £3,403, be approved.

Mr. Chairman, this provision was, I know, taken out of the Estimates which were put before this Council in November last. It has been brought before this Committee again to-day because Government considers that provision of this service is quite vital. I do not, Sir, wish to go into this increased detail to-day again, because I do not want to stir up the time of the Committee and we have, I know, been through all this once before. But I would like to say this, Sir, that to my mind, and in the eyes of Government, the provision of a Press Office has three main quite vital functions, first of all, the functions of the Press Office is to supply the Press of all races with Government and Colonial Office material, but, particularly, Government material considering the action of Government and its reasons for taking that action. Secondly, the function of this Office is to assist the African Vernacular Press, and the third one is to help, so far as possible, in getting Kenya a good Press overseas. (Applause.) That I know, Sir, was not given great emphasis by the Committee which sat and decided that there should be a Press Officer, and as a result of which a Press Officer was appointed only a very few months ago. But we have discovered that it is possible to make contacts with the Press at home through their journalists and people coming out here, and it seems to me to be quite vital that we should endeavour to continue the excellent work that has begun in that respect, and see that Kenya gets a decent wind in the English Press.

Now, Sir, we have just had, and we all know, a Royal Visit, and we also know—I think it has appeared in many journals in this country—we also know that the Press Officer at the Press Office here has dealt with that extremely well. Letters, articles have appeared in numerous journals, in this country, giving voice to their appreciation of that work. I think I have here something like 14 articles and letters written to different journals here and I would like to draw the attention of this Committee to one rather interesting feature which has come to my mind in this connection; that is that every single European and Asian

[The Chief Native Commissioner] journal in this country except two, have actually published either letters or articles saying how vital this Press Office is. Now, Sir, if the Press does reflect the opinions of the general public of this country, well, then, there it is. We have the *Kenya Weekly News*, which considers that the provision of the small amount here is too little. We have the *Sunday Post* thinking that the axing of this service may cause irretrievable damage. We have the *Mount Kenya Observer* which deplores the abolition of this Office. The *Asian Press* takes the same line.

Well, now, Sir, that is the opinion of the Press—and I do not want to take up the time of the Committee by reading long excerpts. I am merely giving you the meat that is in those articles. Of course, if hon. Members would prefer it, I will read out long extracts, but I am sure they do not want me to do so. Now, Sir, it has been argued that the ability of the Press Officer to deal at present with journalists, make arrangements and so on, is merely an administrative function and it is not really very important. I would suggest that it is one, not the only one, but one of his functions which is the most important, and a function which, if we are to get that decent Press in Britain and overseas, is particularly important.

Now, Sir, he not only has to do that but he has to advise the African Press. I spoke on this subject, Sir, last November or December, and I am quite confident that the present Press Officer has dealt extremely well with the leaders, the editors of the African Press here, he is giving them advice, he is doing his best to get them a Press, and he has already, in a few months' time, done a lot to help them, and I am perfectly convinced that he will continue to do if he is allowed to. (Applause.)

In that respect, Sir, I would say this—I am quite convinced that whether we like it or whether we do not like it, we shall continue to have a Vernacular Press as opposed to a Swahili Press in this country; and it is, I know, we are all agreed, quite vital that that Press is guided along decent lines. That is not to say we want to muzzle or control the Press, but we want a Press of a decent

standard, whether it is in English, Swahili, in any language you like, including the Vernacular.

Now, Sir, the other function, as I said, in opening this speech, the other function is to inform the Press of Government's activities. I had, about five years' personal experience of the difficulty of this, and my heart bleeds, if I may say so, Sir, for any Press Officer who has to do it. But it is something which can only be done by a Press Officer, and if you take him away it just will not be done. I know to my personal sorrow there has been a good deal of criticism over the lack of Government's publicity, and that, I would suggest to hon. Members, can never be improved merely by getting rid of the Press Office.

Now, Sir, I believe that every single member of this Committee, on both sides of the Committee, want those three things. They want decent publicity by Government, good publicity by Government, in our own papers. I am perfectly certain they want a good Vernacular Press, and I have no doubt whatever that they want a decent Press in England about this country.

Now, Sir, it is quite impossible for these things to happen unless we have a Press Office to deal with them, and see at least that they have a chance of happening, and so on those lines I beg to move. (Applause.)

THE CHAIRMAN: Do you wish to deal with this item by vote, or will the Committee take the vote on the total Press Office, £3,403?

THE CHIEF NATIVE COMMISSIONER: I had moved £3,403.

THE CHAIRMAN: It is contrary to Standing Orders to do so, but still, it will save time.

THE ACTING CHIEF SECRETARY: Mr. Chairman, silence is a great virtue on occasions. It is a virtue which perhaps does not have been before in quite such evidence as it strikes me it has been since 11.30 this morning. I would be interested, Mr. Chairman, to know whether on this item, I am to understand that there is to be no argument, no questions asked, and no further opportunity for discussion. Mr. Chairman, this Committee of Supply is a deliberative assembly, which is intended to discuss these matters. I should be interested to know, as the

[The Acting Chief Secretary] Leader of the Government—I can only speak on this particular item at the moment—if any hon. Member would be prepared to reply to my question as to whether the Government is to be allowed to discuss the Motion, and I mean discuss, the Motion which has been put by my hon. friend the Chief Native Commissioner.

MAJOR KEYSER: As far as we are concerned, Sir, the Government can discuss it as much as they like. We, Sir, have no comments to make.

The question that Head 2-1 (2), Press Office (£3,403), be approved was put and on a division negatived by 18 votes to 15 votes. (Ayes: Dr. Anderson, Mr. Carpenter, Major Cavendish-Bentick, Messrs. Davies, Hammond, Hartwell, Hope-Jones, Sir Charles Mortimer, Messrs. Padley, Pike, Taylor, Thornley, Vasey, Wadley, Whyatt, 15. Noes: Messrs. Blundell, Chemallan, Cooke, Lt.-Col. Gheraie, Messrs. Havelock, Hopkins, Jeremiah, Major Keyser, Messrs. Maconochie-Welwood, Mathu, Nathoo, Ohanga, Dr. Rana, Messrs. Salim, Shatry, Lady Shaw, Mrs. Shaw, Mr. Usher, 18. Paired: Messrs. Roddan and Salter, 2. Absent: Messrs. Madan, Patel, Pritam, 3. Total, 38.)

#### HEAD 2-2 (1 6)

THE CHIEF NATIVE COMMISSIONER: Mr. Chairman, I beg to move that Head 2-2, Administration General Staff, item 1 (6), District Officers, provision—17,105, be approved.

This, Sir, is Ash Wednesday and I feel rather in an Ash Wednesdayish frame of mind.

I shall now try and endeavour to persuade hon. Members that we do require these nine District Officers. In the Estimates that were put before this Committee in November and December last year, these officers were called District Officers, Community Development, and a good deal was said about their being District Officers proper. Well now, we have dropped the term "Community Development" because one realizes how much that puts people in mind, quite wrongly, but in mind of long-haired people who go about like Fabians or something, of which some Members of this Council do not approve. So we now call them

just District Officers. Their functions, I think, are four.

First of all, their function is to educate people in good citizenship. Their second function is to develop, amongst Africans, a good public opinion.

MR. BLUNDELL: Are you going to give us one?

THE CHIEF NATIVE COMMISSIONER: I am sure I should be delighted to do so. Their third function is to encourage among Africans better living conditions in every way, whether in terms of agriculture, housing or whatever it may be. The fourth one is to educate the people amongst whom they live in the utilization of leisure.

Those functions, I am sure hon. Members in their hearts agree, are four thoroughly sound and good functions and things which should be carried out. They have films, film strips, at their disposal; they have the Information Office material to reach to the African people to whom they are addressed. They have, first of all, to undertake the production, distribution and so on of district newspapers. They have the paraphernalia for propaganda, for publicity—for failure of a better term—I do not like "propaganda". They have films, film strips, at their disposal; they look after wireless sets; they run literacy classes; they are in charge of information rooms and they run training courses for all the outstanding people in the district. In that sense they are simply a projection of the Jeanees School, which I hope hon. Members have been to see. I have asked them to several times. I hope they all know something about it now. These officers run these training courses in the district just as the training courses are run in the Jeanees School. On development schemes within the districts that have been fixed and settled by the district teams, I will use the term, they soften up public opinion. They go in and they try to persuade the people and explain to the people what is the idea behind a development scheme of that particular area. They are, in fact, the particular propaganda publicity agents of the district team in a particular area. I believe their main value—is this is rather a hobby horse of mine—I believe their main value is their contact with individuals. We used to be able, in the olden times, when District Officers had not got

[The Chief Native Commissioner] to much routine work to have a good deal closer contact with the individual than we now do. I believe, if we are to get the people generally behind us in improving their own conditions, in looking after their own country, and so on, we have got to go to the individuals. These officers, because they are free from the routine of the ordinary administrative officer, these men have the time and opportunity, and training, and nowadays the paraphernalia of publicity, to do this job. They can get into an area within a district, put the Government's case, explain the reasons for this and that, point out mistakes that are being made, get to know the people who are prepared and ready to go ahead, and help them personally to do so. They can work through these individuals, they can work through groups. They can work through co-operative societies, farmers' societies, Young Farmers' Clubs, they can work through the schools; they can work and do a lot through Boy Scouts; they can work amongst the women in the women's groups, and they can, in this way, I believe, make a very positive effect upon the minds of the people.

Now, Sir, I do ask that hon. Members on both sides of the Council would take this matter seriously. Everybody must realize, and I do speak with the utmost sincerity—people must realize that there is a lot going on in this country which is endeavouring to show Africans that the Government of this country is against their interests.

Now, Sir, it is quite essential to my mind that we do something to counter that movement which goes on amongst individual Africans. There are people all over the place in this country who are trying their very utmost to see that the general African public are, to put it bluntly, thoroughly anti-Government. We have seen the results of those activities, and if you take the trouble to read your newspapers, or to go about this country, you will know the manifestations which are the result of those people and the work, and I suggest to this Council, Sir, that those manifestations are serious, very serious—(applause)—I also suggest, Sir, that these men, who I am now asking this Council to vote money for, are one most impor-

tant means of countering this kind of thing. (Hear, hear—applause.)

Now, Sir, I can only talk on behalf of my administrative officers. They simply cannot understand, Sir, how this Council can cut away, take away from their hands the very implements they have to do their job. (Hear, hear—opposition cries of "Oh!") I do not want to plead, I do not want to do any sob stuff, that is not my normal method. But I do sincerely ask the Committee to realize that—although this may amuse the hon. Member for Trans Nzoia, who I believe has always taken a very serious view of security—

MAJOR KEYSER: I still do.

THE CHIEF NATIVE COMMISSIONER: Good, I am glad to hear it. This is a very important matter of security, and security does not only rest with the police. Security rests, Sir, in the minds of the people. (Applause—hear, hear.) If they know what is being done, understand what is being done, they will back you. It is using very ancient methods to think that you merely tell people what to do and they do it, because they do not.

Now, Sir, I have said quite enough. I know that many people hoped in this country—and I am beginning to agree—that this is the work of District Officers proper, and that these mentioned should be District Officers proper, on no doubt, the District Officers' scale of pay. Now, Sir, I am perfectly prepared to come to this Council in November or December and ask that our establishment of District Officers shall be raised next year so that these men can be replaced by District Officers proper, or those of them who are not considered able enough or particularly suitable enough to come into the District Officer's job. But, Sir, I must say that we must go on with this work now. Time is not always on our side. We cannot wait until September, 1953, before we get these men. We have a number of them, a few might be taken into the Administration proper, the others I do not think can, but I do want most earnestly to be able to carry on with this work until that time when we get our extra establishment into the 1953 Estimates, and get our men out in September, with the other cadets. Meanwhile, we cannot let this thing drop. I

[The Chief Native Commissioner] do most earnestly ask hon. Members to support this, which I think is a quite vital service.

I beg to move. (Applause.)

THE ACTING CHIEF SECRETARY: Mr. Chairman, it seems that silence is being maintained, and I am going to suggest that the behaviour of hon. Members opposite is tantamount to a boycott of this Council. (Applause—hear, hear.) I am going to suggest that their behaviour amounts in fact to an abdication of responsibility.

THE CHAIRMAN: The hon. Member would be out of order in Committee in raising a general matter of this kind. When we get to the Report stage, no doubt all sorts of things can be done again in Council, but it is not advisable to do it now. I am afraid for the time being your admonition must be kept inside and that the hon. Members opposite must be allowed to stew in their own juice. (Laughter.)

The question was put and negatived by 18 votes to 15.

The question that Head 2-2, item 1 (6) (F.105), be approved was put and on a division negatived by 18 votes to 15 votes. (Ayes: Dr. Anderson, Mr. Carpenter, Major Cavendish-Bentinck, Messrs. Davies, Hammond, Hartwell, Hope-Jones, Sir Charles Mortimer, Messrs. Padley, Pike, Taylor, Thornley, Vasey, Wadley, Whyatt, 15. Noes: Messrs. Blundell, Chemallan, Cooke, Lt.-Col. Gherisc, Messrs. Havelock, Hopkins, Jeremiah, Major Keyser, Messrs. Macnochie-Welwood, Mathu, Nathoo, Ohanga, Dr. Rana, Messrs. Salim, Shatry, Lady Shaw, Mrs. Shaw, Mr. Usher, 18; Paired: Messrs. Roddan and Salter, 2. Absent: Messrs. Madan, Patel, Pritam, 3. Total: 38.)

#### HEAD 2-2 (1)-(10)

THE CHIEF NATIVE COMMISSIONER: Mr. Chairman, I beg to move that sub-head 2-2, item No. 1 (10), 4 District Foremen, be approved.

This item, Sir, again was one which was discussed very briefly by hon. Members in the Committee. I think, in November or December, and the hon. Members in their wisdom decided that we should reduce the number of district

foremen for whom provision was asked by four, and we have the temerity, Sir, to bring this matter again before this Committee, because again Government considers that these men are quite vital to the ordinary working of the district, which has got to go on.

Now, Sir, the only arguments that were put up, I think, before in this Committee in December last year, were that these men should be Africans—and I do not know whether, Sir, I should be in order in saying this, but I am going to try—I did suggest to Standing Finance Committee, possibly unwisely, before the end of the year, that if these men should be Africans, then perhaps this hon. Council would provide the money to take on four Africans. I was told, Sir, that that was quite impossible. Well, now, I am going to ask, Sir, that we take on these four European men again. As I said in the Council here last year, I do not believe that there are at the moment the Africans who are ready to do this job. I only wish there were. Now, Sir, some African Members may think I am talking with my tongue in my cheek, but I am not. I am perfectly sincere about this, I wish there were, but I do not believe there are.

These men are working in the districts where they are building. They work on roads and bridges, they maintain machinery and they design and build houses, tribunal halls, they are training themselves Africans in semi-skilled employment; they require the knowledge of a variety of materials; they know, they stay in one district, therefore they get to know local materials and are, generally, rather better than handymen, but men with experience of simple buildings, as I say, the maintenance of machinery—they maintain boreholes, they undertake blasting work, and so on, and they are doing work which, if this central organization of Government was to undertake, would cost infinitely more. I could take up the time of this Council and quote figures, but I quite appreciate once again, that hon. Members do not wish to be bored by such details. They do not wish to hear such things.

Well, now, Sir, I only ask once again that those men be replaced and this work, which in particular affects Africans, it provides them with roads, with housing, with tribunal halls, and so on,

[The Chief Native Commissioner] in their own districts, shall be allowed to be got on with.

With those few words, as my hon. friend from Mombasa would say, Sir, I beg to move. (Applause.)

**THE CHAIRMAN:** If the Committee agrees, I propose to put the two items, District Foremen and their Cost of Living Allowances together as one sum, £4,122.

**THE FINANCIAL SECRETARY:** Mr. Chairman, Sir, I would like to rise in support of my colleague, the hon. Chief Native Commissioner, on this particular point, because it is of economic importance. These district foremen have created efficient district organizations which are far less costly than central organizations, and which, with the cost of our development programme having now reached some £4,500,000 per year, that is, the volume of practical and executive work in the African areas, has grown beyond all previous experience. If these district foremen are not present, then the work will very often have to be done by the Public Works Department, small minor works that can be done cheaply, efficiently, and economically on the spot by the district foremen, will have to be dealt with at a higher cost by the central organization. A failure to replace these foremen will in my opinion entail a higher level of expenditure in the long run.

Therefore, I support my hon. friend. (Applause.)

The question that Head 2-2 (1) (10) (£4,122) be approved was put and negatived by 18 votes to 15 votes. (Ayes: Dr. Anderson, Mr. Carpenter, Major Cavendish-Bentinck, Messrs. Davies, Hammond, Hartwell, Hope-Jones, Sir Charles Mortimer, Messrs. Padley, Pike, Taylor, Thornley, Vasey, Wadley, Whyatt, 15. Noes: Messrs. Blundell, Chemallan, Cooke, Lt.-Col. Gherrie, Messrs. Havelock, Hopkins, Jeremiah, Major Keyser, Messrs. Maconochie, Welwood, Mathu, Nathu, Ohanga, Dr. Rana, Messrs. Salim, Shatry, Lady Shaw, Mrs. Shaw, Mr. Usher, 18. Paired: Messrs. Roddan and Salter, 2. Absent: Messrs. Madan, Patel, Pritam, 3. Total: 38.)

#### HEAD 2-2, CLERKS

**THE CHIEF NATIVE COMMISSIONER:** (Applause.) Mr. Chairman, I beg to move that the new item under Head 2-2, five Temporary Clerks, Nyanza Province, and item 1 (1), two Temporary Clerks, Central Province, with their Cost of Living Allowances, be approved.

Once again, Sir, I rise rather in rather a sort of phoenix-like way on this shy day, to try again and see if we cannot restore these Temporary Clerks (European), who were cut out of the Estimates in November or December of last year.

Now, I believe, Sir, that the reason why these people were cut out last year was because they were called what they are called, Temporary Clerks (European). That, I know, is a very bad title, and I must apologize for it appearing again, but some of these Temporary Clerks (European) are still in the Estimates, and it is necessary in the Supplementary Estimates so to call them. When, the 1953 Estimates are before you, hon. Members, I hope—and I hope I am not out of order in saying this—I hope that they will appear as confidential secretaries. (Hear, hear.)

Now, Sir, I think the Committee is in no doubt as to what these people really do do. They are confidential secretaries in the district offices and provincial offices. Now, in the Nyanza Province, we had one of the secretaries in the Provincial Commissioner's Office and one in each of the district offices of the province; all were removed. In the Central Province we had one in the Provincial Commissioner's Office, one at Thika, one at Kiambu, and one at Nanyuki. They have been working, Sir, since 1948: their work as confidential secretaries to the District Commissioners takes a tremendous lot off his hands, and enables him to do, and that is to get out of his office. They are quick, they are efficient, they are stenographers. (Laughter.) Well, it is very easy to sit and laugh; they are stenographers; the fact is that except for these people there are no stenographers in the districts. Sometimes I wish that more of my hon. friends across the Committee had been District Commissioners in their time and had worked without stenographers, and were working under conditions that obtain now,

[The Chief Native Commissioner] not twenty years ago, but now, and tried to do it without an efficient stenographer to take minutes, to do all their security work for them, and to get this work done quickly.

Now, Sir, we have heard, I believe, that their security work, secret letters and all things, should be done in long hand. All I can say is that in North Nyanza alone they have had 1,310 letters up to the end of November, secret ones, last year, and of course it is quite impossible and impracticable to do this work in any other than by modern methods.

Now, Sir, their loss and their withdrawal, refusal by this Committee to allow these people to continue has resulted in I am certain, less security in the provinces, and that is a thing with which we are all concerned. They have had in one district to use a relief clerk, which means that the whole of the province has no relief clerk. In one district an unpaid voluntary person has come along to do it for one month. I think it is, Sir, beneath the dignity of this Committee to expect people to come along unpaid and do jobs which this Committee has stopped. I could go on for some time, but I do not think, again, the other side is very interested in what I say, and I therefore propose to sit down, and just move that the items be approved. (Prolonged applause.)

**THE FINANCIAL SECRETARY:** Just one point, Sir, and that is that the word "temporary" included in front of the clerks both in the Nyanza Province and the Central Province was an error, and should not appear.

**THE CHAIRMAN:** The word "temporary" should be cut out. Well, that will not affect it either way.

**THE FINANCIAL SECRETARY:** No, Sir.

The question that Head 2-2, Clerks (£2,345), be approved was put and negatived by 18 votes to 15 votes. (Ayes: Dr. Anderson, Mr. Carpenter, Major Cavendish-Bentinck, Messrs. Davies, Hammond, Hartwell, Hope-Jones, Sir Charles Mortimer, Messrs. Padley, Pike, Taylor, Thornley, Vasey, Wadley, Whyatt, 15. Noes: Messrs. Blundell, Chemallan, Cooke, Lt.-Col. Gherrie, Messrs. Havelock, Hopkins, Jeremiah,

Major Keyser, Messrs. Maconochie, Welwood, Mathu, Nathu, Ohanga, Dr. Rana, Messrs. Salim, Shatry, Lady Shaw, Mrs. Shaw, Mr. Usher, 2. Absent: Messrs. Roddan and Salter, 2. Absent: Messrs. Madan, Patel, Pritam, 3. Total: 38.)

#### HEAD 2-2, CLERKS

**THE CHAIRMAN:** Head 2-2, item 1 (1), 2 Temporary Clerks (European, Central Province).

**THE CHIEF NATIVE COMMISSIONER:** I moved those two together, Sir.

**THE CHAIRMAN:** Without the consent of the Chairman that could not be done. I think we must formally put the other one; it will come to £1,095.

The question that Head 2-2, Clerks (£1,095), be approved was put and on a division negatived by 19 votes to 14 votes. (Ayes: Dr. Anderson, Mr. Carpenter, Major Cavendish-Bentinck, Messrs. Davies, Hartwell, Hope-Jones, Sir Charles Mortimer, Messrs. Padley, Pike, Taylor, Thornley, Vasey, Wadley, Whyatt, 14. Noes: Messrs. Blundell, Chemallan, Cooke, Lt.-Col. Gherrie, Messrs. Havelock, Hammond, Hopkins, Jeremiah, Major Keyser, Messrs. Maconochie, Welwood, Mathu, Nathu, Ohanga, Dr. Rana, Messrs. Salim, Shatry, Lady Shaw, Mrs. Shaw, Mr. Usher, 19. Paired: Messrs. Roddan and Salter, 2. Absent: Messrs. Madan, Patel, Pritam, 3. Total: 38.)

#### HEAD 5-4, (1) (13)

**THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES:** Mr. Chairman,

I beg to move that Head 5-4, item 1 (13), be approved. At least this particular suggestion differs somewhat from the others in that it moves—

**THE CHAIRMAN:** On a matter of order, no sum of money is on the Supplementary Estimate to be approved, and we are not really concerned in the Committee of Supply unless there is a sum of money. (Hear, hear.) I may be quite wrong in my reading. I cannot see where the Supplementary Estimate comes in at the moment.

**THE FINANCIAL SECRETARY:** Mr. Chairman, the reason for not including that particular sum was that it was hoped that savings would cover it. With your leave, however, Sir, I would include the

[The Financial Secretary] sum of £2,000, if I may move an amendment that the sum of £2,000 be included.

THE CHAIRMAN: I take it there again that you have the consent of the Governor. In that case we had better put the £2,000. Now the Member for Agriculture and Natural Resources will perhaps move it at £2,000.

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: The object of this was that there are, as will be seen on page 144 of the Estimates, two grades of Foresters—Grade 1 and 2—and the Grade 2 Foresters are on a salary scale of £340 per annum, amounting over quite a period of time up to £520, and it has been found that it is quite impossible to retain the type of officer we require on this scale of salary. In the case of agricultural officers we bring them in, according to their experience, in the higher grade, which starts at £550 and goes up to £900, and it is therefore my suggestion that we should have a larger number of Grade 1 Foresters and make savings by abolishing a large number of the posts of Grade 2 Foresters; and although I am putting up, because it may cost that amount, a sum of £2,000, I was under the impression—and indeed I am still convinced—that as indicated this expenditure will be met by specific savings during the course of the year.

THE CHAIRMAN: Again I would ask—is it not necessary to have a definite Vote in order that there can be a charge upon the public revenue? The other Votes—there may be savings on them, there is no doubt about that—but it does not apply in this case.

THE FINANCIAL SECRETARY: Mr. Chairman, the difficulty that was encountered in this particular one was that 18 new posts are being created, and it was felt that no new posts of a size of 18 in number should indeed be created without the consent of this Committee, although in fact no additional money will be needed, because the equivalent number of posts—

THE CHAIRMAN: With great respect, you have not seized the point I am asking you. That is whether there is, by this transaction, the creation of a charge upon the public funds which must be voted in Committee of Supply before the Government can attempt to draw on it,

THE FINANCIAL SECRETARY: The answer is yes, Sir, to the tune of at least—

THE CHAIRMAN: Then we are right in putting in £2,000. The item is now proposed—£2,000.

THE FINANCIAL SECRETARY: If I may, Sir, having got that point clear—if I may say that 18 posts will indeed be reduced at the lower scale. Therefore my hon. friend, the Member for Agriculture is quite right when he says there will be no additional cost.

The question that Head 5—4 (1—(13)) (£2,000) be approved was put and on a division negatived by 18 votes to 15 votes. (Ayes: Dr. Anderson, Mr. Carpenter, Major Cavendish-Bentinck, Messrs. Davies, Hammond, Hartwell, Hope-Jones, Sir Charles Mortimer, Messrs. Padley, Pike, Taylor, Thornley, Vasey, Whittell, Whyatt, 15. Noes: Messrs. Blundell, Chemallan, Cooke, Lt.-Col. Gherrie, Messrs. Havelock, Hopkins, Jeremiah, Major Keyser, Messrs. Maconochie-Welwood, Mathu Nathoo, Ohanga, Dr. Rana, Messrs. Salim, Shatty, Lady Shaw, Mrs. Shaw, Mr. Usher, 18. Paired: Messrs. Roddan and Saller, 2. Absent: Messrs. Madan, Patel, Pritam, 3. Total: 38.)

#### HEAD 6—4 SURVEYORS

THE MEMBER FOR EDUCATION, HEALTH AND LOCAL GOVERNMENT: Mr. Chairman, I beg to move that Head 6—4 providing for four Surveyors and cost of living allowance at the total cost of £3,760, be approved. This item, Sir, may be thought by hon. Members opposite to have some merit in that it is a new item and has not been previously rejected by this Council or the Committee of Supply. It has frequently been said in this Council that the lack of surveyors is holding up development in all directions—(hear, hear)—to the serious detriment of the progress of this Colony. The Committee appointed at the request of this Council to inquire into the working of the Lands Department and the Survey Department recommended that additional posts of Surveyor should be created as soon as there was any prospect of their being filled. It was futile at any earlier stage to put in the Estimates of the Colony posts providing for the fulfilment of that recommendation until

[The Member for Education, Health and Local Government]

there was some prospect of filling the posts. Now it is evident from the applications that are coming forward to the Director of Surveys from suitable candidates for the posts that there is a very good prospect of the posts being filled at an early date, and that the Survey Department will then be enabled more quickly to catch up with the very large arrears of work.

I beg therefore to commend to hon. Members that they will break their Trappist vow and discuss the item or, without discussion, vote in favour.

I beg to move.

The question that Head 6—4 Surveyors (£3,760) be approved was put and on a division negatived by 18 votes to 15 votes. (Ayes: Dr. Anderson, Mr. Carpenter, Major Cavendish-Bentinck, Messrs. Davies, Hammond, Hartwell, Hope-Jones, Sir Charles Mortimer, Messrs. Padley, Pike, Taylor, Thornley, Vasey, Whittell, 15. Noes: Messrs. Blundell, Chemallan, Cooke, Lt.-Col. Gherrie, Messrs. Havelock, Hopkins, Jeremiah, Major Keyser, Messrs. Maconochie-Welwood, Mathu Nathoo, Ohanga, Dr. Rana, Messrs. Salim, Shatty, Lady Shaw, Mrs. Shaw, Mr. Usher, 18. Paired: Messrs. Roddan and Saller, 2. Absent: Messrs. Madan, Patel, Pritam, 3. Total 38.)

THE CHAIRMAN: "When it has been agreed to omit items in any Vote or Head the question shall afterwards be put upon the reduced Vote." I do not quite know what that means, but there is on the paper a grand total which would be £25,620 which was amended some time ago, and I think perhaps I ought to put the question on the grand total, but as the grand total now is nil I do not see how I can do it. Well, perhaps someone will report progress.

THE FINANCIAL SECRETARY: I beg to move that the Committee do report progress.

The question was put and carried.  
Council resumed.

THE SPEAKER: Are you moving anything on the report stage to-day, or are you bringing it up on a subsequent day? It is now 12.40.

MAJOR KEYSER: Can we not do it now, Sir?

THE SPEAKER: The initiative is over on that side.

THE FINANCIAL SECRETARY: I would like to move that the Committee of Supply sat and considered the Supplementary Estimates of expenditure and returned them to the Council with amendment.

THE LABOUR COMMISSIONER seconded.

THE SPEAKER: We have got it here before us now—we have got the report of the Committee that all the items shall be omitted before us. Someone has to move that the report be adopted.

THE FINANCIAL SECRETARY: Mr. Speaker, I beg to move that the report of the Committee of Supply be adopted.

THE LABOUR COMMISSIONER seconded.

THE SPEAKER: On that, it is open to an *ex officio* Member to move a Motion to disapprove, alter or vary a head or any item in a head of expenditure which has been approved by the Committee. I take it now that is your opportunity to move a Motion either to recommit or to reinstate the items, and so express what I held you were incapable of expressing when in Committee.

THE ACTING CHIEF SECRETARY: There are, Sir, certain remarks which I should like to make, but as I see it is now two minutes to the quarter now, would I be in order in suggesting that we might now adjourn?

THE SPEAKER: I think you can take it you can proceed with the matter next day, or any other day that it is put down on the Order Paper.

THE ACTING CHIEF SECRETARY: Thank you. That is what I would like to suggest.

#### ADJOURNMENT

Council rose at 12.45 p.m. and adjourned until 9.30 a.m. on Thursday, 28th February.

Thursday, 28th February, 1952  
Council assembled in the Memorial Hall, Nairobi, on Thursday, 28th February, 1952.

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

The proceedings were opened with prayer.

#### MINUTES

The minutes of the meeting of 27th February, 1952, were confirmed.

#### PAPERS LAID

The following papers were laid on the Table:—

By THE ACTING CHIEF SECRETARY:  
Annual Report on the East Africa High Commission, 1950.

By THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES:  
Review of the Kenya Fisheries, 1950.

By THE ACTING DEPUTY CHIEF SECRETARY:  
The Employment (Provident Funds and Superannuation Schemes) Rules, 1952 (The Employment Ordinance, Cap. 109)

By THE MEMBER FOR EDUCATION, HEALTH AND LOCAL GOVERNMENT:  
Medical Department Annual Report, 1950.

#### BILLS

##### FIRST READING

On the Motion of the Acting Solicitor General, seconded by the Attorney General, the following Bill was read a first time:—

##### The Audit Bill.

Notice was given that the Bill would be taken through all its stages during the present sitting of the Council.

#### MOTIONS

##### EFFICIENCY ECONOMY COMMITTEE— APPOINTMENT OF

MAJOR KEYSER: Mr. Speaker, I beg to move: That, having regard to the assurance given by Government during the recent Budget Debate in Legislative Council that a Committee would be appointed to inquire into the efficiency and economy of all Government Departments, and, having regard to the fact that consultation between Government

and Unofficial Members has not resulted in any agreement as to the personnel of such a Committee, or the Terms of Reference, this Council recommends that an Efficiency Economy Committee should be appointed without further delay by Government comprising not more than three persons independent of Legislative Council and Government to carry out such an investigation with the following Terms of Reference:—

"To inquire into the efficiency and economic working of Government departments, both centrally and in the districts, with special reference to a reduction in the expenditure of each department by means of more efficient organization methods and allocation of work and individual output; and, bearing in mind the need to maintain essential services at an efficient level, to recommend what economies and re-organization should be made and the reports should be made available to Unofficial Members on request."

Sir, hon. Members will recall that, during the main Budget Debate, several hon. Members on this side of Council suggested the formation of this Economy and Efficiency Committee and, later on, Sir, after this Council had gone into Committee of Supply, the matter was again brought up under the Motion of the hon. Member for Nairobi North. When he moved that the salary of the Member for Finance should be reduced by £100.

After some consideration of the matter you, Sir, suggested that perhaps the time had arrived when a Motion should be moved about this Committee and as we had then reached the time for the mid-morning adjournment, we adjourned, and the matter was discussed during the adjournment with hon. Members opposite. When we returned, Sir, the hon. Member for Agriculture and Natural Resources rose to speak and, in the course of his speech, he said:—

"Now, Sir, I do think that hon. Members on this occasion would recommend the cutting down by a committee of services that had been duly considered by this Council and recommended as necessary for the development of this Colony. That, Sir, I maintain is the responsibility of this Council, and not of a committee. If, on the other hand, what is needed is

[Major Keyser]

purely a committee or a number of persons, I hope as small as possible, to investigate, as far as they can, the staff and the expenditure that is incurred in carrying out the policies that this Council has laid down, then, Sir, I think we know where we stand, and I think our objection to such a committee would be removed. We all have the same object in view—to carry out the work that has to be done as economically as possible."

And, with that point of view, Sir, I think many hon. Members on this side of Council agreed.

He went on to say later on in his speech:—

"Now, Sir, as regards personnel, that is a matter on which we have to think very carefully, as I would submit, with all due respect to hon. Members on the other side of the Council, that the sort of personnel one generally chooses consisting of, say, three Officials and one Member representing each of the different groups on the other side, might, with due respect, not be found to be the most efficient type of committee for an inquiry of this kind, because it is very difficult to find persons who have experience or the time in which they could really produce anything that would be of much value to this Council when the report comes in."

Again, Sir, I think that many hon. Members on this side of the Council agreed wholeheartedly with the views expressed by the hon. Member (Hear, hear.) During the break, Sir, in discussion it was agreed that the hon. the Acting Chief Secretary would read a short statement when we returned to Council, and he then followed the hon. Member for Agriculture and Natural Resources, and he stated:—

"I am prepared to agree to the principle of appointing a Committee to inquire into the efficiency and economy of Government departments, having regard to the policies approved by this Legislative Council, and that the personnel and Terms of Reference will be a matter for discussion with hon. Members opposite. The committee here envisaged is quite apart from...—I think there is a mistake

in the Hansard—"from the one to which I referred earlier in this debate", is what I think it should be.

Well, Sir, the European Elected Members agreed, Sir, and adopted the suggestion put forward by the hon. Member for Agriculture and Natural Resources, and we considered that there should be a Committee of three chosen from outside this Council and from outside Government services, who had the capacity and the time to carry out the functions of this Committee, but, Sir, that statement of mine that I have read out was made on 27th November, 1951, and nothing happened—no action was taken immediately by Government, and nothing happened until 20th December, 1951, when a Motion was moved by the hon. Member for Finance to appoint a Select Committee to inquire into the Cost of Living Allowances.

At that time, Sir, I rose and opposed the Motion, stating that I considered that Government should first appoint the Efficiency Economy Committee whose work must be closely related to the question of cost of living allowances. I suggested that the 10th of January would be a suitable date on which to hold a meeting which had been referred to by the hon. Acting Chief Secretary, of representatives of various groups on this side of Council to decide on the personnel and the terms of reference of this Committee. The hon. Chief Secretary could not agree to the date of 10th January, and subsequently it was agreed that this meeting should be held on the 16th January, and it was held on that date.

At that meeting, Sir, the hon. Chief Secretary stated that he had had a long discussion with His Excellency over the appointment of this Committee, and that His Excellency would be unable to accept any Committee which was not responsible either to the Legislature or was not connected with the working of the Government machine. He therefore suggested one of three alternative Committees: (i) the Public Accounts Committee, or a sub-committee of that main Committee; (ii) a committee of Members of the Legislative Council; or (iii) an expert committee of senior officers in the Government Service. Those suggestions, Sir, were unacceptable to some of the Members attending that meeting, and

[The Acting Chief Secretary] He stated in the course of that speech as follows:—

"The Reports do not deal with the academic side of the accounts or merely bring to light minor discrepancies or irregularities. We hope that future Reports will, as in the case of the Controller and Auditor General in England, deal with the following important matters:

1. Apparently wasteful or uneconomical expenditure.
2. Any apparent lack of control over expenditure or failure to collect all due receipts. New developments or expansion of existing activities which involve considerable additional expenditure and which by the procedure adopted may not have been sufficiently brought to the notice of this Council."

I suggest, Sir, that when making those remarks, the Chairman of the Public Accounts Committee had very much in his mind the Government view that this sort of inquiry and this sort of work cannot only suitably be carried out by that Committee, but that it is a principal function of the Committee to see that Government expenditure is properly used and that finance which is voted by this Council is not wasted.

I agree, Sir, that it is a heavy and responsible task for anyone to have to perform, but I also think that it is a responsibility of this Council which cannot properly be delegated to independent persons. (MAJOR KEYSER: Question!) It is also the considered opinion of the Government that even if that were not so it would not be possible to find really tender valuable advice to Government or Council as a result of a general inquiry of this nature. But we realize, too, that it may well be that if the Public Accounts Committee is requested to undertake this inquiry, it will require expert advice to enable it to reach any useful conclusions, and in a moment or two, Sir, I propose to move an amendment to this Motion, which, if approved by Council, would give effect to what the Government believes will be the best and the most helpful way of proceeding in this matter.

Now, Sir, the hon. Mover quoted at some length the remarks of my hon. friend the Member for Agriculture and Natural Resources, which preceded the agreed statement which I made last year on Government's policy towards this matter which he also quoted, I do not think, Sir, that there could possibly be read into those remarks anything which could possibly be described as a commitment from which the Government has since run away. Certain views were expressed, and the hon. Mover has said that hon. Members opposite were all left with the belief that a Committee of the kind suggested in this Motion would finally be agreed by the Government. But, Sir, I have to challenge that statement, because when my hon. friend the Member for Finance and myself met representatives of the Unofficial Members Organization on 16th January, we found not of unanimity in their minds as to the

MAJOR KEYSER: Mr. Speaker, I think the hon. Member did not hear what I said. I was very careful not to commit the whole of the Members on this side of the Council. At one stage in my speech I said "most of the Members on this side," and later on I said, "the European Elected Members." Now, Sir, I think the hon. Member will agree with me that all of the European Elected Members who were at that meeting agreed that the Committee should consist of three persons outside this Council, as I stated.

THE ACTING CHIEF SECRETARY: Yes, Mr. Speaker, I certainly do, but what I am trying to show is that the remarks of the hon. Member for Agriculture and myself on that occasion certainly did not have the same effect on the minds of all hon. Members opposite.

MAJOR KEYSER: I said so.

THE ACTING CHIEF SECRETARY: That is the point I am making because the hon. Member did, I think he will agree, make the point that it was in hon. Members' minds that that was what was meant.

MAJOR KEYSER: European.

THE ACTING CHIEF SECRETARY: Be that as it may, Sir, I will not pursue the point further.

Certainly when we came to hold those discussions, we found very different views held as to what sort of Committee hon.

[The Acting Chief Secretary] Members did have in mind to do this work, and, particularly as to how such a Committee should be composed.

We feel, Sir, to sum up, that in a general inquiry of this kind, it is right and necessary that the control shall remain with this Council. That is why I am going to move my amendment shortly, but we do realize also that the Public Accounts Committee may well require expert advice, and the amendment which I propose to move will take that into account.

Mr. Speaker, I beg to move an amendment in the following terms: That all the words after "recommends that" in the eighth line be omitted and the following words substituted:—

"The Public Accounts Committee be requested to carry out this inquiry with the following Terms of Reference:—

To inquire into the efficiency and economic working of Government Departments, having regard to the policies approved by Legislative Council,

and that the Public Accounts Committee be given authority to consult with professional experts on any technical subject that they may wish."

THE SPEAKER: Mr. Thornley, this would involve expenditure.

THE ACTING CHIEF SECRETARY: Mr. Speaker, I have His Excellency's approval for introducing this amendment.

THE SPEAKER: Is there a seconder?

THE ACTING CHIEF SECRETARY: May I speak briefly?

THE SPEAKER: I thought you were winding up.

THE ACTING CHIEF SECRETARY: We do believe, Sir, that an amendment in these terms, which is not precisely as the hon. Mover would now have it, does nevertheless represent views which the hon. Member and his colleagues were, at one time, prepared to agree with, and if an amendment in these terms should prove acceptable to others on the opposite side of Council, then it is possible, and I would hope that Council can be unanimous in setting in motion this inquiry without further delay.

THE ATTORNEY GENERAL: Mr. Speaker, I beg to second.

THE SPEAKER: You will not be able to reserve your right to speak on an amendment.

THE ATTORNEY GENERAL: No, Sir.

MR. USHER: Mr. Speaker, I just rise to make one small point in regard to the capacity of the Public Accounts Committee to undertake such an inquiry. I am a member of that Committee and, as such, I fully endorse the proposals for the enlarged functions which occurred in the report of that Committee on the Audit Report for 1948. Where I should have to join issue with the hon. the Acting Chief Secretary is upon this point. That although the Public Accounts Committee could, I think, properly examine those matters which were referred to, as they might be presented to it from time to time, it would be an unsuitable body to undertake an inquiry which must be intensive and comprehensive.

LADY SHAW: Mr. Speaker, I rise to oppose the amendment. It appears to me a very curious thing that Government should be opposing the Motion of the hon. Member for Trans Nzoia, for in fact this amendment amounts to that. The hon. Acting Chief Secretary stated that no suitable person could be found, or persons could be found to make an independent investigation of Government. Now, Sir, I would like to ask the hon. the Acting Chief Secretary if any attempt has been made to find such a person.

The Acting Chief Secretary also says that the most suitable body for the investigation of Government spending is the Public Accounts Committee, because it is a Committee under the control of this Council. Now, Sir, it does appear to me the most extraordinary thing to wish to have Government investigated by a Committee which is under its control or under the control of this Council. If Government honestly believes it has nothing to hide—if I may use the word which the hon. Member for Finance constantly used in his speech yesterday—if Government has nothing to fear, why does it object to an independent investigation? Would it not in fact put Government in the strongest possible position if an independent Committee, which has to report to this Council—there would be no question of its being under the con-

[Lady Shaw] trol of this Council or under the control of Government, but it would have to report, and any action taken as a result of its report would have to be taken by this Council—would it not have put Government in a very much stronger position if that inquiry gave Government a completely clean bill of health? If the Public Accounts Committee—which it is admitted by the hon. Chief Secretary to be under the control of this Council, in which, Sir, are a very large number of Government Members—sixteen—if that Committee is the Committee which investigates, is it as good an investigation—as a satisfactory investigation—as one made by an independent body? Of course it is not. It cannot be. So long as suitable independent people can be found I say, and I say without hesitation, that any report made by them must be a more impartial, a more satisfactory report than any made by the Public Accounts Committee.

The hon. Member quotes the words of the Chairman of the Public Accounts Committee. I say, Sir, that he reads one meaning into them, and several other meanings could be read into his statement. It was made with no prospect of having to undertake this task, at that time. He undoubtedly envisaged extended powers for the Public Accounts Committee and extended responsibility, but he was not suggesting that the Public Accounts Committee should make a detailed investigation of the different functions of Government.

Sir, it amazes me that Government is so inept as to refuse to accept this Motion.

I beg to oppose. (Applause.)

MR. HOPKINS (Aberdare): Sir, I oppose this amendment for the reasons which have already been stated, but mainly because I do not believe it is the Committee which would find it practical to carry out the travelling which is necessary. I do not believe that, unless the Committee appointed can spend the time in travelling to the districts and provinces, and carrying out detailed inquiries there, they will really serve any practical purpose. For that reason I oppose the amendment.

MR. COOKE: Mr. Speaker, I rise, merely to supplement the remarks made

by the hon. and gracious lady. Sir, the hon. Member, the hon. the Acting Chief Secretary, must really think we are a lot of white-washing nincompoops. If he thinks we are going to agree to accept a committee whose members, Sir, with all due respect, have neither the time nor the technical ability to investigate a matter of this nature. (Hear, hear.)

Now, my hon. friend made the point that it was undesirable that a committee outside the control of this Council should sit on an important matter such as this. But, Sir, I submit that there is ample precedent for such a committee. (Hear, hear.) It was something like 20 years ago, I think, when a committee consisting of the hon. Mr. Wade and another member, then proprietor of the *East African Standard*, Mr. Meer, did sit as an Efficiency and Economy Committee and, as my hon. friend the hon. and gracious lady well said, although this Committee would be outside, as it were, the jurisdiction of this Council, its report when submitted would come before the jurisdiction, would come under the jurisdiction of this Council, and would by this Council be vetted and approved or disapproved.

Sir, I oppose the amendment.

MR. MATHU: Mr. Speaker, I really do not know what I am going to say in regard to this matter, but looking at both sides of the question, I am inclined to support the amendment, and in fact I am going to support the amendment.

My reason for doing so is this, that of the reasons advanced by those who have opposed the amendment for the Public Accounts Committee undertaking this work, one is that the Committee is not fully qualified to do this work; secondly, that the members of the Committee have not got the time, and thirdly that there are Government Members on the Committee and therefore the Government would be judges of their own cause.

LADY SHAW: Nobody said that.

MR. MATHU: Now, the first point, Sir, is the question of qualification. This Committee has been entrusted with the work of scrutinizing the Colony's accounts with a view to making sure that economies are made. Now, that seems to be, actually, Sir, the main intention of the hon. Member of the substantive Motion.

[Mr. Mathu] and that is the intention. I am sure, Sir, of all hon. Members of this Council, that this country should be run as cheaply and as efficiently as possible. I do not think there is any disagreement on that score. But if, then, Sir, the Public Accounts Committee has been entrusted with this very important work of scrutinizing the public accounts of this country, I do not think that it would be fair to say that they are not qualified.

Now, the hon. Member of the amendment, following on that, did include in the amendment that the Public Accounts Committee would have recourse to expert or professional advice, if they wish it, and the necessary weaknesses that might be found in the Committee itself would be remedied by the professional advice which will be available to the Committee if they so wish. Therefore, I do not think, Sir, that the question of capacity or qualifications as far as the Public Accounts Committee is concerned is a very strong argument against this amendment.

Now, the next point, Sir, is the question of time. These people, they say, will not have sufficient time to devote to the work that this amendment is asking them to undertake. I agree, Sir, that the members of the Public Accounts Committee, some of whom are Unofficials in this Council, with businesses outside, others are Members of the Government, are indeed very busy people. But surely it is one of the very important factors of public life to sacrifice time to serve the community, and if the Public Accounts Committee will not be able to sacrifice time, of course, it would be too bad. But I do not think that there is, in the composition of that Public Accounts Committee, any Member who will not sacrifice time in order to serve the country. On that score, Sir, I think there is not a very strong case for saying that these men who are serving on the Public Accounts Committee have not got the time to do the work.

I do not think I need comment on the final point which I thought, although not stated by any previous speakers, might be implied, that as the Committee will inquire into the efficiency and the economic working of the Government, that Government Members might perhaps

like to maintain the *status quo* in the various departments. Indeed, I think the Public Accounts Committee will also be entitled to an additional secretary as His Excellency had agreed in communications referred to by the hon. Member for Trans Nzoia, and that secretary could undertake certain work independent of the Public Accounts Committee as such of the Government members and merely report the findings.

So balancing the two sides of the question, Sir, I think it will be fair and proper that this amendment be supported, and I therefore support the amendment.

LT.-COL. GHERSIE: Mr. Speaker, speaking as a member of the Public Accounts Committee, and in view of the nature of this investigation and the proposed terms of reference, I submit, Sir, the Public Accounts Committee is not the proper body to undertake this investigation because to undertake an investigation of this nature would mean that one ought to be fully occupied for a very considerable period of time. I submit in an investigation of this nature in order for it to be really effective the time factor is important, and I do not think the Public Accounts Committee could achieve that object, namely an expeditious report on that investigation.

MR. HAVLOCK: Mr. Speaker, there is one aspect which has not been referred to by the other hon. Members. That is the change in the Terms of Reference that this amendment makes. The Terms of Reference that the hon. the Acting Chief Secretary in his amendment suggests are very short and quite to the point, but there is no mention that the Public Accounts Committee, who are to undertake this job, should make any report or recommendations. I have no idea what the idea of Government is on this. Is it that the Public Accounts Committee should have an annual report and include it in their annual report? Is it that they should have small recurrent reports from time to time as they find things to make recommendations about, or what is it?

Now, Sir, there is another point which also has not been raised. That is the delay that the hon. Member for Nairobi North mentioned. Not only will there be the delay in that members of the Public



[The Acting Chief Secretary]

He stated in the course of that speech as follows:

"The Reports do not deal with the academic side of the accounts or merely bring to light minor discrepancies or irregularities. We hope that future Reports will, as in the case of the Controller and Auditor General in England, deal with the following important matters:

1. Apparently wasteful or uneconomical expenditure.
2. Any apparent lack of control over expenditure or failure to collect all due receipts. New developments or expansion of existing activities which involve considerable additional expenditure and which by the procedure adopted may not have been sufficiently brought to the notice of this Council."

I suggest, Sir, that when making those remarks, the Chairman of the Public Accounts Committee had very much in his mind the Government view that this sort of inquiry and this sort of work cannot only suitably be carried out by that Committee, but that it is a principal function of the Committee to see that Government expenditure is properly used and that finance which is voted by this Council is not wasted.

I agree, Sir, that it is a heavy and responsible task for anyone to have to perform, but I do also think that it is a responsibility of this Council which cannot properly be delegated to independent persons. (MAJOR KEYSER: Question.) It is also the considered opinion of the Government that even if that were not so it would not be possible to find persons suitably qualified who could really tender valuable advice to Government or Council as a result of a general inquiry of this nature. But we realize too, that it may well be that if the Public Accounts Committee is requested to undertake this inquiry, it will require expert advice to enable it to reach any useful conclusions, and in a moment or two, Sir, I propose to move an amendment to this Motion, which, if approved by Council, would give effect to what the Government believes will be the best and the most helpful way of proceeding in this matter.

Now, Sir, the hon. Member quoted at some length the remarks of my hon. friend the Member for Agriculture and Natural Resources, which preceded the agreed statement which I made last year on Government's policy towards this matter which he also quoted. I do not think, Sir, that there could possibly be read into those remarks anything which could possibly be described as a commitment from which the Government has since run away. Certain views were expressed, and the hon. Member has said that hon. Members opposite were all left with the belief that a Committee of the kind suggested in this Motion would be finally be agreed by the Government. But, Sir, I have to challenge that statement, because when my hon. friend the Member for Finance and myself met representatives of the Unofficial Members Organization on 16th January, we found not as my hon. friend has suggested, any sort of unanimity in their minds as to the—

MAJOR KEYSER: Mr. Speaker, I think the hon. Member did not hear what I said. I was very careful not to commit the whole of the Members on this side of the Council. At one stage in my speech I said "most of the Members on this side", and later on I said, "the European Elected Members". Now, Sir, I think the hon. Member will agree with me that all of the European Elected Members who were at that meeting agreed that the Committee should consist of three persons outside this Council, as I stated.

THE ACTING CHIEF SECRETARY: Yes, Mr. Speaker, I certainly do, but what I am trying to show is that the remarks of the hon. Member for Agriculture and myself on that occasion certainly did not have the same effect on the minds of all hon. Members opposite.

MAJOR KEYSER: I said so.

THE ACTING CHIEF SECRETARY: That is the point I am making because the hon. Member did, I think he will agree, make the point that it was in hon. Members' minds that that was what was meant.

MAJOR KEYSER: European.

THE ACTING CHIEF SECRETARY: Be that as it may, Sir, I will not pursue the point further.

Certainly when we came to hold those discussions, we found very different views held as to what sort of Committee hon.

[The Acting Chief Secretary]

Members did have in mind to do this work, and, particularly as to how such a Committee should be composed.

We feel, Sir, to sum up, that in a general inquiry of this kind, it is right and necessary that the control shall remain with this Council. That is why I am going to move my amendment shortly, but we do realize also that the Public Accounts Committee may well require expert advice, and the amendment which I propose to move will take that into account.

Mr. Speaker, I beg to move an amendment in the following terms: "That all the words after "recommends that" in the eighth line be omitted and the following words substituted:—

"the Public Accounts Committee be requested to carry out this inquiry with the following Terms of Reference:—

To inquire into the efficiency and economic working of Government Departments, having regard to the policies approved by Legislative Council,

and that the Public Accounts Committee be given authority to consult with professional experts on any technical subject that they may wish."

THE SPEAKER: Mr. Thornley, this would involve expenditure.

THE ACTING CHIEF SECRETARY: Mr. Speaker, I have His Excellency's approval for introducing this amendment.

THE SPEAKER: Is there a seconder?

THE ACTING CHIEF SECRETARY: May I speak briefly?

THE SPEAKER: I thought you were winding up.

THE ACTING CHIEF SECRETARY: We do believe, Sir, that an amendment in these terms, which is not precisely as the hon. Member would now have it, does nevertheless represent views which the hon. Member and his colleagues were, at one time, prepared to agree with, and if an amendment in these terms should prove acceptable to others on the opposite side of Council, then it is possible, and I would hope that Council can be unanimous in setting in motion this inquiry without further delay.

THE ATTORNEY GENERAL: Mr. Speaker, I beg to second.

THE SPEAKER: You will not be able to to reserve your right to speak on an amendment.

THE ATTORNEY GENERAL: No, Sir.

Mr. USHER: Mr. Speaker, I just rise to make one small point in regard to the capacity of the Public Accounts Committee to undertake such an inquiry. I am a member of that Committee and, as such, I fully endorse the proposals for the enlarged functions which occurred in the report of that Committee on the Audit Report for 1948. Where I should have to join issue with the hon. the Acting Chief Secretary is upon this point. That although the Public Accounts Committee could, I think, properly examine those matters which were referred to, as they might be presented to it from time to time, it would be an unsuitable body to undertake an inquiry which must be intensive and comprehensive.

LADY SHAW: Mr. Speaker, I rise to oppose the amendment. It appears to me a very curious thing that Government should be opposing the Motion of the hon. Member for Trans Nzira, for in fact this amendment amounts to that. The hon. Acting Chief Secretary stated that no suitable person could be found, or persons could be found to make an independent investigation of Government. Now, Sir, I would like to ask the hon. the Acting Chief Secretary if any attempt has been made to find such a person.

The Acting Chief Secretary also says that the most suitable body for the investigation of Government spending is the Public Accounts Committee, because it is a Committee under the control of this Council. Now, Sir, it does appear to me the most extraordinary thing to wish to have Government investigated by a Committee which is under its control or under the control of this Council. If Government honestly believes it has nothing to hide—if I may use the word which the hon. Member for Finance constantly used in his speech yesterday—if Government has nothing to fear, why does it object to an independent investigation? Would it not in fact put Government in the strongest possible position if an independent Committee, which has to report to this Council—there would be no question of its being under the con-

[Lady Shaw] of this Council or under the control of Government, but it would have to report, and any action taken as a result of its report would have to be taken by this Council—would it not have put Government in a very much stronger position if that inquiry gave Government a completely clean bill of health? If the Public Accounts Committee—which it is admitted by the hon. Chief Secretary to be under the control of this Council, in which, Sir, are a very large number of Government Members—sixteen—if that Committee is the Committee which investigates, is it as good an investigation—as a satisfactory an investigation—as one made by an independent body? Of course it is not. It cannot be. So long as suitable independent people can be found I say, and I say without hesitation, that any report made by them must be a more impartial, a more satisfactory report than any made by the Public Accounts Committee.

The hon. Member quotes the words of the Chairman of the Public Accounts Committee. I say, Sir, that he reads one meaning into them, and several other meanings could be read into his statement. It was made with no prospect of having to undertake this task, at that time. He undoubtedly envisaged extended powers for the Public Accounts Committee and extended responsibility, but he was not suggesting that the Public Accounts Committee should make a detailed investigation of the different functions of Government.

Sir, it amazes me that Government is so inept as to refuse to accept this Motion.

I beg to oppose. (Applause.)

MR. HOPKINS (Aberdare): Sir, I oppose this amendment for the reasons which have already been stated, but mainly because I do not believe it is the Committee which would find it practical to carry out the travelling which is necessary. I do not believe that, unless the Committee appointed can spend the time in travelling to the districts and provinces, and carrying out detailed inquiries there, they will really serve any practical purpose. For that reason I oppose the amendment.

MR. COOKE: Mr. Speaker, I rise merely to supplement the remarks made

by the hon. and gracious lady. Sir, the hon. Mover, the hon. the Acting Chief Secretary, must really think we are a lot of white-washing nincompoops if he thinks we are going to agree to accept a committee whose members, Sir, with all due respect, have neither the time nor the technical ability to investigate a matter of this nature. (Hear, hear.)

Now, my hon. friend made the point that it was undesirable that a committee outside the control of this Council should sit on an important matter such as this. But, Sir, I submit that there is ample precedent for such a committee. (Hear, hear.) It was something like 20 years ago, I think, when a committee consisting of the hon. Mr. Wade and another member, then proprietor of the *East African Standard*, Mr. Meer, did sit as an Efficiency and Economy Committee and, as my hon. friend the hon. and gracious lady well said, although this Committee would be outside, as it were, the jurisdiction of this Council, its report when submitted would come under the jurisdiction, would come under the jurisdiction of this Council, and would by this Council be vetted and approved or disapproved.

Sir, I oppose the amendment.

MR. MATHU: Mr. Speaker, I really do not know what I am going to say in regard to this matter, but looking at both sides of the question, I am inclined to support the amendment, and in fact I am going to support the amendment.

My reason for doing so is this, that of the reasons advanced by those who have opposed the amendment for the Public Accounts Committee, undertaking this work, one is that the Committee is not fully qualified to do this work; secondly, that the members of the Committee have not got the time, and thirdly, that there are Government Members on the Committee and therefore the Government would be judges of their own cause.

LADY SHAW: Nobody said that.

MR. MATHU: Now, the first point, Sir, is the question of qualification. This Committee has been entrusted with the work of scrutinizing the Colony's accounts with a view to making sure that economies are made. Now, that seems to be actually, Sir, the main intention of the hon. Mover of the substantive Motion,

[Mr. Mathu] and that is the intention, I am sure. Sir, of all hon. Members of this Council, that this country should be run as cheaply and as efficiently as possible. I do not think there is any disagreement on that score. But if, then, Sir, the Public Accounts Committee has been entrusted with this very important work of scrutinizing the public accounts of this country, I do not think that it would be fair to say that they are not qualified.

Now, the hon. Mover of the amendment, following on that, did include in the amendment that the Public Accounts Committee would have recourse to expert or professional advice, if they wish it, and therefore any weaknesses that might be found in the Committee itself would be remedied by the professional advice which will be available to the Committee if they so wish. Therefore, I do not think, Sir, that the question of capacity or qualifications as far as the Public Accounts Committee is concerned is a very strong argument against this amendment.

Now, the next point, Sir, is the question of time. These people, they say, will not have sufficient time to devote to the work that this amendment is asking them to undertake. I agree, Sir, that the members of the Public Accounts Committee, some of whom are Unofficials in this Council, with businesses outside, others are Members of the Government, are indeed very busy people. But surely it is one of the very important factors of public life to sacrifice time to serve the community, and if the Public Accounts Committee will not be able to sacrifice time, of course, it would be too bad. But I do not think that there is, in the composition of that Public Accounts Committee, any Member who will not sacrifice time in order to serve the country. On that score, Sir, I think there is not a very strong case for saying that these men who are serving on the Public Accounts Committee have not got the time to do the work.

I do not think I need comment on the final point which I thought, although not stated by any previous speakers, might be implied, that as the Committee will inquire into the efficiency and the economic working of the Government, that Government Members might perhaps

like to maintain the *status quo* in the various departments. Indeed, I think the Public Accounts Committee will also be entitled to an additional secretary as His Excellency had agreed in communications referred to by the hon. Member for Trans Nzoia, and that secretary could undertake certain work independent of the Public Accounts Committee as such of the Government members and merely report the findings.

So balancing the two sides of the question, Sir, I think it will be fair and proper that this amendment be supported, and I therefore support the amendment.

LT.-COL. GHERSIE: Mr. Speaker, speaking as a member of the Public Accounts Committee, and in view of the nature of this investigation and the proposed terms of reference, I submit, Sir, the Public Accounts Committee is not the proper body to undertake this investigation because to undertake an investigation of this nature would mean that one ought to be fully occupied for a very considerable period of time. I submit in an investigation of this nature in order for it to be really effective the time factor is important, and I do not think the Public Accounts Committee could achieve that object, namely an expeditious report on that investigation.

MR. HAVLOCK: Mr. Speaker, there is one aspect which has not been referred to by the other hon. Members. That is the change in the Terms of Reference that this amendment makes. The Terms of Reference that the hon. the Acting Chief Secretary in his amendment suggests are very short and quite to the point, but there is no mention that the Public Accounts Committee, who are to undertake this job, should make any report or recommendations. I have no idea what the idea of Government is on this. Is it that the Public Accounts Committee should have an annual report and include it in their annual report? Is it that they should have small recurrent reports from time to time as they find things to make recommendations about, or what is it?

Now, Sir, there is another point which also has not been raised. That is the delay that the hon. Member for Nairobi North mentioned. Not only will there be the delay in that members of the Public

[Mr. Havelock]

Accounts Committee will find it difficult to do the work, but presumably the present Public Accounts Committee will come to an end when this Council also comes to an end, and no new Public Accounts Committee will be able to be appointed until after the General Election in this country. That will mean that there will be at least two months where we will have no Public Accounts Committee. They will not be able to undertake the job at all. If they went straight in, to try to do something now, it would mean they would only have about six weeks in which to try and start doing their job, and would have to end and hand over to someone else at a later date, all of which, of course, adds up to a very much longer period of grace before Government is subject to any criticism by the Public Accounts Committee, and by the time that criticism comes from the new Committee, the policy of the 1953 Estimates will be nicely crystallized, and everything will be put back for another six months until this Council debates the Estimates for 1953. I suggest the amendment suggested by Government will really be of great disadvantage to the country, and we will gain nothing out of it at all.

I merely wish to make one comment on the remarks by the hon. Member Mr. Mathur, who I understood said that there was an objection from hon. Members here who had just spoken, to the Public Accounts Committee, because there were Government Members on it. I do not think any hon. Members on this side who have spoken up to now have made that remark, and in fact I think that a Government Member on any committee would be of great use, because, after all, they would be able to guide the Committee in the quiet, subterranean channels of Government finance, which it is difficult for anybody to understand. (Laughter—applause.)

Mrs. SHAW: Mr. Speaker, in rising to oppose the amendment, and in doing so would like to support everything that the hon. Member for Ukamba and the hon. Member for Kiambu have said. But there is just one small point that I do not think was brought out in their remarks, and that is I am not quite sure of the wording of the amendment, but I think it read something like this, "to investigate the

economical workings of Government", or something like this, "to investigate the original Motion said "to recommend what economies and reorganizations should be made", as well as to report, and I think that that is a very different thing. I think to investigate the economical workings of Government you might investigate it, but you are not bound to make any recommendations as to what economies should be made if the Public Accounts Committee found that such economies should be required.

I beg to oppose.

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: Mr. Speaker, I rise to intervene in this debate, because I have been quoted as in the past having made certain statements in this Council which are alleged to have been in support of a completely independent body of persons being appointed to conduct this inquiry. I would, therefore, like to refute that, Sir, because I maintain that the remarks I made, far from supporting that suggestion, were in opposition to it (Hear, hear). I would draw hon. Members' attention to the debate which took place somewhere about 27th November. I think, during the course of which a number of hon. Members opposite spoke, most of whom have again contributed to this debate, and to the tendency during that discussion to recommend a committee which was going to have, apparently, very wide terms of reference. It has been suggested by the hon. Member for Nairobi North at the time that an inquiry should be conducted into the whole of the Government services, and that that inquiry be undertaken by an independent committee. Later on he again expressed the hope that it would have the widest possible terms of reference so as to inquire into all Government departments and their activities.

At a later stage, Sir, the hon. Member for Nairobi South suggested that he wanted two experts who would go over the whole range of Government departments and of the Administration generally in this country.

The hon. and gracious lady who represents Ukamba—she also recommended, as far as I can see, at that time that the Committee should have powers

[The Member for Agriculture and Natural Resources]

to go into the activities of all sorts conducted by Government departments, and make recommendations.

Now, Sir, these various suggestions were made and—if I remember rightly, and I think my recollection is borne out by my hon. friend the Member for Trans Nzoia—during the adjournment we had some discussion about the type of committee that we all felt might serve a useful purpose. That is, we all felt on both sides of the Council we might find some measure of agreement on some form of committee with some terms of reference. Later I did intervene in that debate, because I felt very strongly about the Terms of Reference of the committee.

I shall not weary hon. Members by reading out a history of the past, but I did say this:—

"Now, Sir, I do not think that hon. Members on this occasion would recommend the cutting down by a committee of services that have been duly considered by this Council, and recommended as necessary for the development of the Colony. That, Sir, I maintain is the responsibility of this Council and not of a committee."

And I repeat that here and now while we are discussing this Motion.

"If, on the other hand, what is needed is purely a committee by a number of persons—I hope as small as possible—to investigate, as far as they can, the staff and the expenditure that is incurred in carrying out the policies that this Council has laid down, then, Sir, I think we know where we stand."

And later on, I admit, I added—it has been quoted—after I had dealt with its Terms of Reference which I considered very important as regards "personnel" that I felt—

MR. BLUNDELL: Could I ask the hon. gentleman the number of the page?

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: Column 263, reporting what happened on the 27th November.

I said, "the sort of personnel one generally chooses, consisting of, say, three Officials and one Member repre-

senting each of the different groups on the other side, might, with due respect, not be found to be the most efficient type of committee for an inquiry of this kind; because it is very difficult to find persons who have the experience or the time on which they could really produce anything that would be of much value to this Council when the report comes in".

I still maintain that is true, but that does not indicate that I recommend some alternative body completely irresponsible, either to Council or to Government, to make this inquiry. Therefore, Sir, I strongly support the amendment that has been proposed by the hon. Acting Chief Secretary. I support it for this reason, that at least it ensures that any persons who are employed, are responsible to somebody.

Now, the hon. Member opposite suggested that Government is timid—is frightened of this sort of inquiry by strangers. They are not frightened, Sir, but they do consider, in nine cases out of ten—and I have seen a good many of them function—that such unguided inquiries are a complete waste of time, because who are you going to get locally, completely independent, of the calibre that hon. Members opposite visualize, who could make a really responsible inquiry into all activities of a Government.

I would suggest, what is suggested by amendment, that the Public Accounts Committee could perfectly well, despite the imminence of a General Election, appoint a secretary specially for this task, employ, if they wish to do so, such qualified persons as they think are suited to the various points of inquiry they wish made, and set them to work, before the General Election, if they so desire. Then, at least, no time will be wasted. There is bound to be another Public Accounts Committee, as this is a permanent body, in the next Council that assembles in a short time. I do suggest, Sir, an inquiry of that nature, which gives the Public Accounts Committee the latitude of employing all sorts of experts for inquiries into all aspects of the limited type of inquiry desired, is likely to cast a great deal more light on the subjects hon. Members wish clarified, than by

[The Member for Agriculture and Natural Resources] obviously sticking to what some Members state they want, which is a completely impartial—as they put it—inquiry by persons, whom I submit it will be very difficult to find, responsible to nobody.

I therefore very strongly indeed support the amendment.

THE FINANCIAL SECRETARY: Mr. Speaker, I rise to support the amendment. I think hon. Members should be reminded at this particular stage that it is a tradition of this Council that the Public Accounts Committee has an Unofficial majority, and that the Chairman is chosen from the Unofficial side. I think, too, Sir, there is a very important improvement, if I may say so, on the original proposition in respect to the manner in which the reports should be dealt with. The original proposition said: "and the reports should be made available to Unofficial Members on request".

Now, Sir, the report of the Public Accounts Committee on this matter would not only be made available to Unofficial Members on request, but would be laid on the Table of this Council for the whole Colony to see, and I suggest that that is a far better method of dealing with the reports as to whether the machinery of Government is working on an efficient and economic basis, than merely making the reports available to Members of this Council. At that particular time, whatever comment or criticisms they had made, would be public to the Colony, and the full light of public criticism could then be turned upon the machine.

The present secretary of the Public Accounts Committee has just returned from leave in the United Kingdom. He spent a great deal of a period of his leave going into the working of the Public Accounts Committee in the United Kingdom, and has come back with a first-hand knowledge of how that Committee, which calls before it heads of departments, which subjects them sometimes for days to the most piercing scrutiny of their expenditure—he has come back with the full knowledge of how that machine works. I would suggest, therefore, that, on the question of

the machine, the Public Accounts Committee is the best method of working this and, on the question of publicity and public criticism, the fact that the report will be laid on the Table of this Council for the whole of the Colony to see increases the value of any criticism that might be made.

MAJOR KEYSER: Mr. Speaker, I should like first of all to take up the point made by the hon. Member for Agriculture and Natural Resources. He states, Sir, that I have not interpreted quite correctly what I said when I made my original speech. Well, Sir, I was perfectly aware of the suggestions that had been made earlier in the debate of the 27th November for an investigation into the whole activities of Government, by hon. Members on this side of the Council, and I particularly, Sir, did not refer to them in my remarks this morning, because I did say that during the break the matter was discussed by hon. Members on this side of the Council with the hon. Members of the Government, and that we had agreed to a statement which would be read out by the hon. Acting Chief Secretary, and I referred to that statement, which the hon. Acting Chief Secretary did read out, and it stated that: "I am prepared to agree to the principle of appointing a committee to inquire into the efficiency and economy of Government departments, having regard to the policies approved by this Legislative Council".

Now, Sir, to my mind those words "having regard to the policies approved by this Legislative Council", and which were approved by hon. Members on this side, qualified the activities of that Economy and Efficiency Committee, and so, Sir, the hon. Member has really been discussing a matter which we had at that time all agreed and forgotten about. Now, Sir, he continued to say that, while he did think the Committee should be a small one of three persons, he did not recommend or indicate that he was supporting a committee of members of our side Council. That is quite true. He did not indicate he was recommending a committee of three people outside this Council but neither, Sir, did he give any indication that he considered that the Public Accounts Committee was the correct body to carry that investigation out, and, in fact, Sir, he did say—which

[Major Keyser]

I have already read out—"I would submit, with all due respect to hon. Members on the other side of the Council, that the sort of persons who generally chooses, consisting of, say, three Officials and one Member representing each of the different groups on the other side, might, with due respect, not be found to be the most efficient type of committee for an inquiry of this kind: because it is very difficult to find persons who have the time".

Now, Sir, I would submit that the composition of the Public Accounts Committee is very much of the character that the hon. Member deplored, and wished we should not appoint. (Hear, hear.) (THE ACTING CHIEF SECRETARY: "No, no.") But it is, Sir—the hon. Acting Chief Secretary may shake his head—but I do think it has two or three Members on the other side and representatives of groups on each side—all Members of this Council—and, Sir, I still maintain that the hon. Member for Agriculture and Natural Resources had in mind the type of committee which we also had in mind, and that he is probably misinterpreting his own speech. (Laughter.)

I would like, Sir, to refer also to the matter referred to by the hon. Member for Kiambu, and that is that this amendment does change the Terms of Reference to a very appreciable extent. Now, there is one part of the amendment to which the hon. Acting Chief Secretary may attach great importance—to which we would not object—in the Terms of Reference of the original Motion; that is, where he states that, "having regard to the policies approved by Legislative Council". If he would like to insert that into the terms of reference of the original Motion, I would have no objection to it, nor do I think hon. Members on this side would object.

The hon. Member for Finance, Sir, stated that he thought that a weakness of the original Motion was that it states the report should be made available to Unofficials, and that, in his opinion, it should be laid on the Table of this Council, and I think, Sir, that is a very strong point, and in that way, of course, it would be made available to Unofficials. Again, Sir, I should have no objection to those words—to that change being incorporated into my original Motion—

but I do submit, Sir, that the amendment really will not meet the requirements of the Colony. He did also, Sir, in his speech, state and read out a part of His Excellency's letter, in which he stated: "I am glad to learn that the European Elected Members are now prepared to accept this proposal".

I did point out, Sir, that I stated "while they, the European Elected Members, still think it would be difficult for the Public Accounts Committee to carry out the functions of an Efficiency and Economy Committee, they think it might work". I did not say "they think it would work". I said "they think it might work". There is a very great difference. (Cries of "Bah!"). You can "Bah!" as much as you like. I have heard quite a lot of ineffective "Bah-ing" in my life in other places. And he also, Sir, went on to refer to the views of the Chairman of the Public Accounts Committee, the hon. Member for Rift Valley, who very unfortunately and quite by chance—fortunately for the other side—is not present in Council, but, Sir, I do know that he did agree to this alternative, because we know, Sir, that he is a very brave and courageous man, and he thought rather than let the whole matter go he would be prepared to tackle this job, but he did do it with some trepidation, and because he did not feel very happy about it I put my clause 4 in, which is: "Should they" (the Public Accounts Committee) "at any time after the commencement of their investigation find that for any reason they consider that they are not achieving any useful purpose they will immediately report this and their reasons". That was put in, Sir, at his request because they did feel it was a very big duty for the Public Accounts Committee to undertake, and he felt that if, after a short period, they felt that they were achieving nothing that they should immediately be allowed to conclude their investigation by reporting back and giving their reasons for doing so. Sir, I do not think that the Chairman of the Public Accounts Committee is quite as happy about being saddled with his onerous duty as the hon. Acting Chief Secretary thinks.

Sir, I beg to oppose the amendment.

MR. SALTER: Mr. Speaker, there is one matter on which I would like information—it is this. It does not seem clear to

[Mr. Saller] me from the words of the amendment now being discussed whether there is, in fact, authority for the Public Accounts Committee to make any report to this Council at all. I would like the hon. Chief Secretary to make that clear, because it does seem to me that, unless there is specific provision for that, there would be no authority for the Public Accounts Committee to do so.

Generally, I oppose this amendment, because I feel the procedure suggested is wholly impractical. I do not know what is meant by consulting experts—it sounds very fine—but in fact if the experts are not allowed to undertake the investigation itself, it is quite useless to expect members of the Public Accounts Committee to go to an accountant or whoever it may be, on every single point. That is not what is required. What is required is a full investigation into the running of the various departments with a view to making economies. It is no good consulting experts about that. You have got to get down to the thing and go through the working of the various departments if necessary, which will take up nearly every day of one's existence.

**THE ACTING CHIEF SECRETARY:** Could I ask the hon. Member to give way on a point of explanation. Is the question to which he wants an answer, whether there is any authority in the Public Accounts Committee to submit a report to this Council?

**MR. SUTLIK:** In the wording of the hon. Member's amendment.

**MR. COOKE:** Mr. Speaker, would this not be an appropriate time to adjourn, Sir?

*Council adjourned at 11 a.m. and resumed at 11.18 a.m.*

**THE ACTING SOLICITOR GENERAL:** Mr. Speaker, I beg to move an amendment to the amendment moved by the hon. Chief Secretary. To insert into the words which he sought to insert into the Motion after the words "having regard to policies approved by the Legislative Council" the words "and to make recommendations to the Legislative Council".

Just before the adjournment, Mr. Speaker, the hon. Member for Nairobi South raised the point as to whether the Committee, the Public Accounts Com-

mittee, could report to this Council on this matter. In my submission, Mr. Speaker, the Accounts Committee could so report because it is a Select Committee of this Council, and if its powers were by this resolution extended, then it could certainly so report. There is provision in the Standing Orders providing for reports from Select Committees. But this amendment will have the added advantage of making this abundantly clear and making sure, doubly sure.

**THE DIRECTOR OF MEDICAL SERVICES** seconded.

**THE SPEAKER:** All amendments should be put into writing and given up to the Chair, at some time. May I have the paper back that we had before? Can I have the original Motion of the amendment that you moved?

**THE ACTING CHIEF SECRETARY:** It has not been returned to me, Mr. Speaker.

**MR. HAVELOCK:** You had it.

**MAJOR KEYSER:** May I give you my copy of it? I have not interfered with it.

**THE SPEAKER:** I must have Mr. Thornley's amendment in writing.

**DR. RANA:** Mr. Speaker, in order to show that there is no ill-feeling on this side of the Council with the opposite side, Sir, and at the same time to show that there is no real lack of confidence in any of the hon. Members who are sitting opposite, I have, Sir, decided to support the amendment moved by the hon. Chief Secretary. (Applause.) I must say at the outset, that when I came to this Council this morning, I had absolute sympathy—

**MR. HAVELOCK:** Mr. Speaker, on a point of order, what is before the Council, Mr. Speaker, is it an amendment?

**THE SPEAKER:** I am endeavouring to find out. (Laughter.) Hon. Members are inclined to laugh, but they are laughing at themselves. What we have is the amendment on the amendment, and it is proposed in the second amendment to leave out, or rather to insert the following words after the words, "Legislative Council", "and to make recommendations to the Legislative Council". That is all there is in it. Please continue.

**MAJOR KEYSER:** Mr. Speaker—

**THE SPEAKER:** Before you rise again I had called on Dr. Rana. It was only in response to a question of trying to find out what amendments are before the Council. That is all.

There are now two amendments. One is only a minor thing.

**DR. RANA:** Mr. Speaker, I must apologize. I thought we had accepted the second amendment. Anyway, there is a further reason why I rise to support the amendment to the amendment. Can I speak on the original amendment of the hon. Chief Secretary, Sir?

**THE SPEAKER:** You can speak to both these amendments as far as I can see. (Applause.) There is nothing in the substance of either amendment that is at odds with one another, and it will save the time of everybody if you will have one speech instead of rising to speak twice. (Applause.)

**DR. RANA:** Thank you, Sir, Mr. Speaker, I rise to support the amendment by the hon. Chief Secretary. I am sorry, Sir, for this confusion, but I am sure that my object will be realized by the hon. Member.

First of all, I want to say, Sir, quite openly that the original Motion moved by the hon. Leader of the European Elected Members Organization, has my great sympathy, and I must say openly that to-day there is widespread feeling among all sections of the community in Kenya that the present make up of the Government departments is getting far more than what it ought to be. But taking the action with the other side, and the Government has shown in accepting it, moving an amendment to the original Motion, and realizing the need to inquire into the various Government departments, it is only a question of the different view, Sir, and I feel that the Government should be given the trial through the Public Accounts Committee, and with certain extra privileges which are embodied in the Motion, in the way of the secretary and technical experts who will be required. I have decided to support the amendment before the Council.

But I must say that in case this Public Accounts Committee, I quite agree with some of the hon. Members on my right side who had the experience of sitting on that Council, is not able to deliver the

goods, then the time has come when the Government should seriously consider, when the new Council is formed, that something should be inquired into, quite independently, with a view to find out where the economies can easily be made.

With those few points, Sir, I support the amendment—(laughter)—moved by the hon. Chief Secretary.

**THE SPEAKER:** I must say that these amendments are a very serious matter and I would like them to be regarded most seriously. Whatever is the use of trying to introduce the words "to make recommendations to the Legislative Council" when the body concerned, the Public Accounts Committee, already has that power to make recommendations. Under rule 1, we have appointed the sub-committee by analogy with the House of Commons's practice, that the Public Accounts Committee can make reports from time to time as it thinks fit. This Council, as far as I know, has never put any limitation upon the powers of the Public Accounts Committee and the only authority we can get is that. If we are to have amendments of that kind, then I shall, of course, treat it if it is really an issue—I must, of course, treat it as a separate question. But I do not want to treat it as a separate question and have a succession of speeches. We have already had 12 speeches on the amendment proposed by Mr. Thornley, and now we shall, possibly, have another 12 on possibly another three or four words which seems to me a great waste of time.

**THE ACTING CHIEF SECRETARY:** I had in mind in moving my Motion that what you have said just now, Sir, was the position. We only moved this further amendment because we felt there was some uncertainty in the minds of hon. Members opposite as to whether it would be a requirement that a report be made. But we are perfectly prepared to withdraw that further amendment.

**MR. HAVELOCK:** May the matter be made clear. Has the Public Accounts Committee the authority to report to this Council in matters other than the Audit Report? I understand that the Public Accounts Committee can only investigate the Director of Audit's report and report to this Council on that. This Motion requires them to report on a very different thing, Sir.

THE SPEAKER: When was that laid down? I think that they put a Motion that they would not proceed on general allegations outside but only on matters they have discovered in the Auditor General's report. But at the present moment we have a Bill introduced already fixing this audit system, and no doubt we shall have to fix this Public Accounts Committee in accordance with that Ordinance whenever it is passed. I think myself it is much better to leave it in general terms. That is all I am suggesting, if that is satisfactory to Members who are particularly interested.

MR. COOKE: Mr. Speaker, I submit that the difficulties which have now arisen only emphasizes the undesirability of referring this matter to the Public Accounts Committee. Certainly, I am just as much in the deep now as to whether the Public Accounts Committee are empowered to investigate this matter.

THE SPEAKER: Well, instead of having two proposed sets of words, you know we shall have to get the other words out first before any amendment can be made at all, and there will be ample scope if the words come out for further amendments. I suggest I now at this stage put the question on the amendment. If the majority are for holding on to the Motion on the Order Paper, then no further amendment is necessary. Are you satisfied to have the question put?

THE ACTING CHIEF SECRETARY: Yes, Mr. Speaker, I am quite satisfied.

The question was put that the words proposed to be deleted stand part of the Motion and negated by 21 votes to 9 votes. (Ayes: Mr. Cooke, Lt.-Col. Gherrie, Messrs. Havelock, Hopkins, Major Keyser, Mr. Salter, Lady Shaw, Mrs. Shaw, Mr. Usher, 9. Noes: Dr. Anderson, Mr. Carpenter, Major Cavendish-Bentley, Messrs. Chemanan, Davies, Hartwell, Hope-Jones, Jeremiah, Mathu, Sir Charles Motimer, Messrs. Obiang, Padesy, Pike, Dr. Rana, Messrs. Salim, Shary, Taylor, Thorneley, Vasey, Wadley, Whyatt, 21. Paired: Messrs. Blundell and Hammond, Messrs. Maconochie-Welwood and Roddan, 4. Absent: Madan, Nathoo, Patel, Pritam, 4. Total: 38.)

THE SPEAKER: I now propose to insert in the Motion the following words, after the word "that"—

"the Public Accounts Committee be requested to carry out this inquiry with the following terms of reference:—

"To inquire into the efficiency and economic working of Government departments, having regard to the policies approved by Legislative Council, and that the Public Accounts Committee be given authority to consult with professional experts on any technical subject that they may wish."

The question that the words proposed to be inserted stand part of the Motion was put and carried.

LADY SHAW: May I ask you a question to clear something up in my own mind?

This amendment which has just been moved was to remove words but not to substitute them. Now it is open to us to move an amendment to substitute further words, is it not?

THE SPEAKER: Yes.

LADY SHAW: I thought so. Thank you, Sir.

THE SPEAKER: The only amendment I have before me is the one I have just read out. Until some other Motion is made, debate must continue on these words.

LADY SHAW: I would like very much, if I may—not having spoken on the original Motion—I would like to give the words which the hon. Solicitor General moved as an amendment added to the present words, but I would like him, if he would, to provide me with those words.

THE SPEAKER: The words are "to insert after the word 'Council'" in these words "and to make recommendations to the Legislative Council".

LADY SHAW: May I please move that Motion. I do not wish to speak.

MRS. SHAW seconded.

THE SPEAKER: It is proposed that we add now to the former words: "and to make recommendations to the Legislative Council".

THE ACTING CHIEF SECRETARY: Those are acceptable.

THE SPEAKER: You accept them—the other words?

MR. HAVELOCK: We have not voted on that.

THE SPEAKER: There should now be added to the Motion the following words after the word "that"—

"the Public Accounts Committee be requested to carry out this inquiry with the following terms of reference:—

To inquire into the efficiency and economic working of Government departments, having regard to the policies approved by Legislative Council, and to make recommendations to the Legislative Council, and that the Public Accounts Committee be given authority to consult with professional experts on any technical subject that they may wish."

Does anyone wish to say something? I do not wish to introduce an automatic closure or anything of that kind.

The question was put and carried.

THE SPEAKER: I ought, strictly, to put the whole Motion now.

MR. HAVELOCK: Mr. Speaker, has the Mover of the original Motion the right to reply?

THE SPEAKER: I had completely forgotten him.

MAJOR KEYSER: Mr. Speaker, I only very shortly wish to say that I think that the Motion, as amended, is not nearly as good as the Motion as moved by me originally. (Hear, hear.) It is not so, however, our intention to oppose—

THE SPEAKER: I hope I am not cutting the hon. Member out of any possible further amendments?

MAJOR KEYSER: No, Sir.

THE SPEAKER: I expressly said so.

MAJOR KEYSER: No, Sir, all I wish to say is that the European Elected Members did think that the Motion as originally moved by myself was the correct one; that we should have a small body to make this investigation. However, Sir, we do think that the amendment is better than nothing, and that is all.

MR. HAVELOCK: Half a loaf.

MAJOR KEYSER: We will, Sir, of course do our best to make it a success, and I hope that the Public Accounts Committee will be able to carry out the

duties allocated to it, by this Motion, efficiently, but as I said before, we have serious doubts of it. But I would like to assure this Council that every member of that Committee who is on this side of the Council will do his utmost to make it a success. (Applause.)

THE SPEAKER: I will not bore you with reading the whole of it. There is this Motion moved by the hon. Member for Trans Nzoia, and as it is on the Order Paper plus the amendment which you have just agreed to.

The question was put and carried.

THE SPEAKER: May I before parting with this, again insist upon the rule of amendments being put into writing and in parliamentary form, not with this complete repetition of half the amendment, part of the amendment and part of the previous amendment, and so on, which is most confusing.

#### AGRICULTURAL AND INDUSTRIAL DEVELOPMENT OF THE COAST

MR. COOKE: Mr. Speaker, I beg to move: That the Agricultural and Industrial Development of the Coast should receive high priority.

Sir, about nine hundred years—the tenth century *anno domini*—little ships could be seen sailing from the ports of Oman and the Persian Gulf, and proceeding towards the East African coast. They brought, I believe, frankincense and myrrh, and they took back to Arabia ivory, both black and white. Even to-day, Sir, those ships still proceed, not always, as my friend the hon. Member for Law and Order may agree, "on their lawful occasions!" But they still come and go—as the poet says: "This will go onward the same, though Dynasties pass". They not only came to these ports, but they formed settlements on the East African littoral; and those settlements, I may say, were established one thousand years before my hon. friend, the Member for Rift Valley, and his fellow settlers brought civilization and culture to this country.

MR. HAVELOCK: Why Rift Valley?

MR. COOKE: I meant Trans Nzoia. Sorry!

So that is the position to-day, Sir. Those settlements were formed well over

[Mr. Cooke] a thousand years ago. But, unfortunately, the people who came then—the Arabs—mistakenly that land to the extent that the forests were burned down, and what might be called to-day good agricultural practices were not observed; and what was once called in the parlance of those days "the granary of the East", now is no longer that "Granary of the East". And it is, Sir, for that reason that I bring this Motion to-day. And I would emphasize that in no respect, either direct or indirect, is it any kind of censure on the Government of this country. As I am going to say later, we have, at the Coast, certain deals of recent years, received a good deal of support from the hon. gentlemen on the other side of the Council. But it is because that support might be made more complete, and because I want to know in what stage of priority the industrial and agricultural development of the Coast exists in the eyes of the Government, that I have said, I have brought this Motion.

First of all I would like to deal, and my speech is not going to be a long one, with communications. It was Lord Lugard who first, I think, drew attention to the fact that communications in Africa was the most important factor in its development. Now, we at the Coast have a complaint that, for instance, our roads, our bridges, and other communications, like telephonic and postal, are not up to the standard that they should be, and we have for some years been agitating, for instance, for all-weather communications between Malindi and Lamu and—for what seems to some Members here my sort of "King Charles' Head"—a bridge or causeway at Takungu, and also there is the question of the Nyali Bridge. And I say this, as regards Nyali Bridge, about which so much controversy has arisen, that nobody at the Coast or Mombasa has any other feeling except that justice and fairness should be done to both sides in this controversy. (Hear, hear.) But, we do need proper communications between the mainland and the island, not only to help transport, but because they enter very largely into the cost of living in Mombasa.

I would also emphasize postal and telegraphic communications which are

very important factors in the development of the Coast.

With regard to settlement, which is my second point, a good deal of progress has been made lately both in agricultural and residential settlement. In fact, residential settlement is going ahead very satisfactorily indeed; and it is good to say that a great many people who have retired in Kenya, both from Government service and other services, are now buying residential properties at the Coast.

As regards agricultural settlement, a good many of us feel that when you are dealing with this virgin land at the Coast—actually it is land that has already gone back to secondary bush—and where the clearing of that bush costs a considerable sum of money, that the land should be given out at a peppercorn rent, and at a very small price, so that the buyer may retain for development that sum which he otherwise would have paid to Government. We feel, Sir, that is only common sense because otherwise the land may lie idle for a long term of years and bring no advantage to Government or anybody else.

There has been, during the past few years, a good deal of advance in agricultural matters. Five or six European farmers are now farming in the vicinity of Kilifi and there have been a good many applications for more land. And with regard to these applications, I would, Sir, ask for an assurance—and I know I have the sympathy, in this respect, of my hon. friend the Commissioner for Lands—that there should be no unavoidable delay in the appropriation of these applications. Because very often people come to Kenya with quite adequate capital, but the negotiations for the land are so prolonged that they move to other places, such as Southern Rhodesia. I have in mind one application at the moment—I will not mention names—an application from someone with a lot of money behind him for 10,000 acres. Objections have been made that it is too large an area to be given to any one person. Considering it is undeveloped bush, I would not call that a very good reason. The other is in many respects a proper objection put forward by my hon. friend, the Chief Native Commissioner, that this land may be needed later for African development. I know the Coast, probably as well

[Mr. Cooke] as most people, and I do know there are very large areas—hundreds of square miles of land—equally suitable for African settlement round the hinterland of Lamu, Kipini and Witu. His Excellency the Governor told me some time ago, having flown over it, it seemed very suitable. I think, Sir, that that land should be allotted first; and it would be a great mistake from the economic and every point of view to hold back highly desirable agricultural land which needs a great deal of private money for development if there is other suitable land available for African settlement. And I hope my hon. friend, the Chief Native Commissioner, if indeed he does hold those views, will come to a very speedy decision on the matter. Otherwise, we may be left with that land undeveloped for another few half centuries or so.

Now there is one very important factor at the Coast and that is water supplies, and I am dealing with the Mombasa Water Supply, which is part of the Coast in this matter, and asking that Government should do its utmost to expedite the scheme to take water from the Mzima Springs to Mombasa. If we do not do this, we will in a couple of years, be left with the position that exists with regard to the Port of Mombasa to-day. We will suddenly wake up and find there is not enough water supplied to Mombasa to further the development of that very important town, and we will have more commissions of inquiry and we will have "missed the bus" once more. This matter is so important that I moved a resolution in this Council about three years ago and Government did take action, but still, Sir, there does not seem to be any finality in the matter. I am one of those people who believe in dams and more dams so far as all Kenya is concerned; and I would like to see a policy adopted, which is adopted by District Commissioners on the Coast, who have put in some extremely good work in dam-making. And I hope that dam construction will receive all the encouragement, indeed, I know it will, from the Government of this country.

There is also the question of Fisheries, which have recently shown the most remarkable improvement and the present

Fish Warden at the Coast has found sandbanks from which a lot of fish have recently been caught. And, it does show the extreme value of the investment we made a few years ago when we appointed a Fish Warden and gave money for that particular purpose.

With regard to industry, there are already such works as the cement works going up at a place called Bamburi; and the very active kyanite works which—Sir Charles Markham and Co. are working at a place called Murka near Taveta and bringing a large amount of dollars to this country. We hope when any scheme for industrial development is considered that the Coast will be given a priority, because not only do we want it at the Coast, but it leads to that scattering of industries which, I understand, is one of the policies of the Imperial Government to-day.

I do advocate, very strongly, the establishment of sugar industries at places like Sabaki and Tana. There is already a thriving sugar industry at Ramisi, south of Mombasa, and I may say the local production of sugar has helped very largely the cost of living problem in this country.

There is also sisal and the big application to which I referred just now—ten thousand acres—envisaged the growing of sisal, which, as my friend the Member for Agriculture and Natural Resources knows, is very important at this time as being a dollar-earning investment.

We are at the Coast, strange as it may seem coming from me who is a bit of a critic of Government, we are thankful to Government for what it has done, especially in recent years. They have established a Coast Development Committee and a Coast Advisory Land Board, which have been very useful indeed in promoting settlement at the Coast. But, naturally, being human beings, we are asking for more; and in this connexion I would ask my hon. friend the Chief Native Commissioner—I never can understand his objection in this particular matter—to advocate the restoration of the post of Registrar of Land Titles—

THE MEMBER FOR EDUCATION, HEALTH AND LOCAL GOVERNMENT: Records,

Mr. COOKE: Thank you. Recorder of Land Titles, because there are so many titles on the Coast, Arab and Indian, that have never been recorded. That, Sir, is holding back development. There are in this country, fortunately, a number of people who would be prepared and have the ability to undertake that work. And if we could get an undertaking from the hon. gentlemen on the other side that this post should be filled as soon as possible, it would be a matter—it would be appreciated very much.

Finally, it is my opinion, Sir, and I agree with what my hon. friend the Financial Secretary said yesterday, that this country is on the "up and up." It is no use being defeatist about it, or looking over our shoulders for bugaboos which do not really exist. As my hon. friend, the Member for Commerce and Industry, reminded us the other day, more capital has come into this country during the past five or six years than has gone into the whole of the rest of the Colonial Empire. That is something to be very proud of and we must, Sir, attract that capital—in no rivalry to my hon. friend the Member for Trans-Nzoia—in fact, we hope my hon. friend will one day have a farm at the Coast! That would be a good idea! And I would emphasize, at the Coast, so far as farming activities are concerned, we make no distinction between races. We are only too glad to welcome as farmers anyone who is competent and has the capital, whatever his race may be, because we believe, in the development of this country, that Kenya has need of all her sons, whether black or white.

Now, Sir, I move this Motion and I hope that Government will see their way to accept it.

I beg to move. (Applause.)

Dr. RANA: Mr. Speaker, I rise to second the Motion by the hon. Member for the Coast and reserve my right, if necessary, to speak later on.

Mr. USHIA: Mr. Speaker, I rise to support this Motion. I shall do so briefly; but none the less emphatically.

In regard to what my hon. friend said about the water supply, I do hope it will be possible either now or very soon for us to have some information in regard to the financing of that great scheme. It is

of very great urgency. I live in Mombasa and I know that a few months ago we went through a very trying period there. The fact was that although we could not say at all that there was a drought, indeed there was not, we could not get water to the second storeys anywhere in the town, and it produced a most unpleasant effect to say the least of it.

Now, Sir, in regard to Nyali Bridge—one of the communications to which my friend alluded—with regard to Nyali Bridge we were told on 13th December, I think by the then Financial Secretary, Mr. Matthews, that negotiations with the Company were in a very advanced state. Those are the very words he used. Well, I do not know whether the progress has gone at a mad gallop since then, but perhaps they have already passed the post without our knowing it. Perhaps we could have some enlightenment upon that as well. I have set down a question in regard to Likoni Ferry, the state of which causes great dissatisfaction, and I hope to get a reply shortly. In the meantime, if any information could be given about that, I shall be grateful for it.

Sir, there are other matters of a somewhat parochial kind, but I would be glad also for information in regard to finance for capital development projects on the island of Mombasa itself. Particulars of these have already been furnished in a Loan Schedule to the Government a very long time ago and one would be glad to know whether finance is in the offing.

I should like, finally, to reinforce what my hon. friend has said in regard to the recording of titles, and to say this, that delay will mean the disappearance of most of the evidence.

Sir, I beg to support.

Mr. MATHU: Mr. Speaker, I rise to support the Motion, and in doing so I have a few comments to make.

Now, the hon. Mover said that we want development capital in this country, and in this particular case at the Coast, and at the Coast they are not racial, they do not object to any person coming to Coast and developing that area, provided that they had the capital.

Now, Sir, he also took exception to what is alleged to have been the attitude of my hon. friend the Chief Native Commissioner in regard to applications for alienation of land in the coastal belt,

[Mr. Mathu]

on the grounds that that land might be required for African settlement in years to come. Now, I am sure the hon. Member for the Coast knows very well, as well as I do, that when he says that capital is the prerequisite as far as the agricultural and industrial development of the Coast is concerned, he knows, as I say, very well, as I do, that very few of the indigenous population of this land would be able to avail themselves substantially of taking an opportunity of taking up the development of land in that area.

Sir, one of the tremendous handicaps that were established as a result of the policy initiated by the Carter Commission in 1933 was that as far as the land question is concerned, that policy did not see far ahead to reserve sufficient land for the utilization of the Africans in years to come, and the recommendations of the Carter Commission were as if the population of 1933 would remain the population of 1953. If my hon. friend the Member for the Coast wants to make this issue with us, with regard to the Coast problems by saying: "Let's alienate thousands of square miles as quickly as possible to those people who have the capital".

Now, Sir, are we looking far ahead to see what the increasing African population is going to do as far as the settling on the land is concerned? That is a point, Sir, I should like to emphasize very strongly in this Council, that one of the biggest problems we have in this country to-day is the scarcity of land, in particular of the overwhelming majority of this country, the African community. I should like to suggest, Sir, that the hon. Member for the Coast should consider this matter very seriously. It is not that we should hurry as quickly as possible to alienate the land of the Coast Province, and leave only small areas here and there which he says are suitable for African settlement. The matter goes deeper than that. It is to look ahead for a hundred years and see what the increasing population of the Coast Province is going to do if all the land is taken up by those who have the capital. Now that, Sir, I think, is a very important matter, and therefore, personally, Sir, I would say that the hon. Chief Native Commissioner has taken a

more progressive, a more far-seeing view in making objections to mass alienation of land in the Coast Province, and I am sure the African community would say that the hon. Chief Native Commissioner, acting on behalf of the Government, is acting in the interests, not only of the African people of this land, but of the whole communities of this land, because as long as we have the overwhelming majority of the African people here landless—the problems of crime, and all the rest of it, become the problems of the whole community, of the whole Colony, and not only of the African people. Therefore, Sir, I suggest that this matter should be looked to very seriously, and that land should be reserved for the African community in the coastal belt, because we must realize that the population, the African population in that area, must go on increasing until we educate the African so sufficiently high that they will adopt a method of birth control. But at the moment they do not, and therefore we must provide for them in the way of sufficient land for their occupation.

Now, Sir, my hon. friend, in discussing the question of agricultural development, did it, naturally, of course, in a very broad and a general manner, and, if I may, Sir, I should like to particularize in one respect, that the Coast is very suited in many ways for the fruit industry, and I should personally like to see more being done to assist all the fruit growers in the Coast Province.

Mr. COOKE: Hear, hear.

Mr. MATHU: To organize their fruit industry to such an extent that they will be able to enhance the economic wealth of this Colony. (Applause.) It may be done on the co-operative line, so that all fruit growers become members of a certain co-operative society and market their fruit not only locally but in certain cases export the surplus. I do not think that we have done sufficient along those lines, and my hon. friend, the Member for the Coast, has raised this question before in debate, but this time he did not mention at all this very important industry, the fruit industry in the Coast. I would like to say that I do know that Government is trying to do something in this regard, but I think we can reorganize and develop this industry in a way that we have not done before.



[Mr. Mathu]

Now, finally, Sir, I should like to mention one aspect of this development which my hon. friend, the Member for the Coast, has raised this morning, and I refer to manpower. The climatic conditions of the Coast, Sir, as you know, tend to make people sleepy—(hear, hear)—because of the very low altitude of that land, and if somebody—I do not see my hon. friend, the Director of Medical Services, here, but I see the hon. Member for Health and Local Government—something should be done to stimulate these people—(laughter)—to some activity. Because it does not matter what my hon. friend, the Member for the Coast, says about the agricultural and industrial development, unless you have an active manpower to develop the land and to develop the industries, you can have as much capital as you like. I do not think that with all these hills you have at the coastal belt and all these valleys—and all these bushes, even your very heavy tractors would be very cheap and economic, and therefore I suggest, Sir, whether through Education, or through Medical Services, or through something, the lethargy existing in quite a number of my people at the Coast Province must somehow be changed to activity. Because unless we do that, Sir, I think we are leading people up a blind alley, whether in industry or agriculture. Somehow, also, I think we shall have to work as hard as possible to get these people to have more needs, and not to be satisfied with a plateful of rice and a *kanzu* and a fez on the top, and then their whole life is complete. Sir, they must be given opportunities to raise their standard of life so that they can work harder and longer periods, either in the fishing industry or in the fruit industry, or in the industrial areas, not only to work for a day and the rest of the week or fortnight rest, until the money is finished. Sir, that is a problem of the Coast Province which I deplore, and which I am sure all hon. Members here would deplore, and I would like something done about it. How it is to be done, I will leave to my hon. friend, the Member for Health and Local Government. (Laughter—applause.)

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: Mr. Speaker, I naturally support the Motion which is

fairly general in its terms, to the effect that development on the Coast should receive a high priority, and from what the hon. Member who proposed this Motion has himself said, he has admitted that during the past few years—at any rate, we have tried our best. I think, in proportion and relation to what we have to do in the other parts of this Colony, to give the Coast a reasonably high priority. I could add this, Sir, that some few years ago I was personally, at any rate, and so were the officers in my departments, of the opinion that the Coast development was lagging behind, and I think we have done our best to try and to some extent remedy that position. (Applause.)

Now, Sir, one of the main difficulties on the Coast, in getting anything started, is one which has been touched upon by the hon. Mover, which is the difficulty of obtaining land to do anything with, because most of the land is under some sort of occupation, occupation which is rather vague in character, and which in many cases represents a very fragmented form of holding. Even to-day, Sir, as has been evident from this debate, this question of land ownership and land holding in the Coast is a very major obstacle to development of the Coast. But what we did do, Sir, is we did look about for any large blocks of land which could be made available, and we went so far as to earmark them and purchase them. We purchased a large block of land from the East Africa Estates Ltd. and we also have purchased land in the neighbourhood of Kilifi, north of Mombasa, comparatively recently.

Now, Sir, another difficulty which I personally felt existed in connexion with the agricultural development in the Coast was that in my opinion, and in that of my advisers at the time, that the main centre for agricultural investigations was in the wrong place, and so one of the uses we made of some of the land we purchased was to alter the existing station, to move it, and we have now created a new Coast Agricultural Investigational and Training Centre at Matuga. That, Sir, is only just being completed, and I hope that any hon. Member who is interested will go and see it. He will, for instance, see—taking up the last speaker on the question of fruit growing—that we now have there what I venture to suggest is quite a modern fruit investiga-

[The Member for Agriculture and Natural Resources]

tional centre, with, of course, a horticulturalist attached, and we are doing a great deal, I hope, on the lines indicated by my hon. friend to try and encourage the growing of fruit, citrus fruit specially, in the Coast Province.

Now, Sir, as regards African settlement, I do not think that it is fair to suggest that the hon. Mover of this Motion was advocating a complete disregard of provision of land for Africans in the Coast area. Very much to the contrary, he mentioned certain very large areas in the hinterland, and I know from experience in dealing with the Committee of which he is a member at the Coast, that he is just as anxious as we are to protect reasonable African interests in the coastal lands.

In this connexion, one of the things we have done is we are trying to exchange part of the remainder of the East Africa Estate land, which was bought, for a portion of a native land unit, with a view to obtaining a contiguous large block, including Crown land which already exists, in the Shimba Hills, for African settlement. That will entail provision of a considerable sum of money, but will, I hope, provide an outlet for some of the very congested populations, for instance, in the Teita Hills, and if this works—which I have every reason to believe it will—it will constitute a very large-scale experiment. At the moment we have a pilot scheme going to test out the form of agriculture which should be practised in this area, and that pilot scheme has in already been proceeding for two years. In addition to that, Sir, in the north we have tried to extend what I suggest has been a not unsuccessful Gedi settlement scheme, and we are devoting part of the lands we bought there as an addition to that scheme.

So, Sir, I would like the hon. Member who spoke last to appreciate that Government is by no means unmindful of the provision for Africans in the Coast area.

Sir, as regards the development of other interests mentioned by my hon. friend, I do not wish to go into a long series of examples, but as he well knows, there have been attempts made to induce persons with capital and experience to start enterprises in the Coast area. He men-

tions one particular one. Well, I do not think it is right to deal with particular individuals in a debate of this kind, but I can assure him that that particular case has not been overlooked.

Now, Sir, in addition there is one other considerable activity to which I should like to refer, and that is the pasteurization plant at Mariakani, and that, Sir, I would suggest—it has been established now for some years—has been a very marked success. It has involved expenditure of something like £100,000 over five years, much of which has had to be devoted to improve water supplies, but it has revolutionized, I suggest, such cattle industry as there has been on the Coast.

In conjunction with that we have a Coast Hinterland Development Scheme, for clearing bush and endeavouring to eliminate by selective felling teak infestation in that hinterland, and the work of opening up a potentially very large stretch of country has been proceeding steadily. The area we are working on now is no less than 1,400 square miles, and during the first five months of last year we concentrated work on the Kwale hinterland and we are moving towards the Kilifi hinterland now. We have constructed 95 miles of new roads, and we have put down 14 dams and we have drilled 5 boreholes, all quite recently—1951, during 1950 and the beginning of 1951. Two thousand acres of what was teak-infested bush has actually been cleared and is actually now in occupation.

Well, all this, Sir, I suggest shows that we are endeavouring on a fairly substantial scale to do something.

I do not, however, want to continue giving the impression that we are trying to blow our own trumpets as to what has been done, because we are far from satisfied. I only do want to assure the hon. Member that we do regard the Coast as possibly in the past having been somewhat neglected, and we are now giving it high priority.

One other question raised was the very important matter of a new Mombasa Water Supply. Members have asked what is the position, can we provide finance for it, and I think they almost suggest why has not this Council been told more about it. Well, Sir, it will be within the knowledge of this Council that the subject of the provision of adequate water

[The Member for Agriculture and Natural Resources]

supplies for a town the size of Mombasa at the rate at which it is growing is a very very major enterprise, and the sum of money involved from preliminary surveys—technical surveys of course, not perhaps really of a preliminary nature—is very large indeed, very much more than we could possibly envisage affording out of any existing suggestions for borrowings or from Development and Reconstruction Authority moneys. For that reason it was suggested that I should proceed to London towards the end of last year and, in conjunction with my hon. friend the Member for Commerce and Industry, I conducted negotiations in London with various authorities. I can say this much at the moment, that those negotiations were on the whole completely successful. I do not think at the moment that I am at liberty to disclose them in detail, but I can give an undertaking that that will be done at the earliest possible moment when I think that is advisable. In the meantime, to indicate how far we have gone, I can say that the form of contract for this very large work has been sent to England—because under modern conditions it is very important that we get the form of contract correct and providing adequately for all sorts of issues that may arise in the sort of abnormal world we now live in, and it is therefore just as well to get the best advice we can. The draft contract was duly returned in its approved form, and if application forms for tenders have not already gone out, which they may have, I can say that they are going out almost any day, therefore that shows that we have gone a very long way towards embarking upon this very large enterprise, which I consider very necessary. (Applause.)

The last thing I would like to mention, having discussed agriculture and water, is this, Sir. The hon. Member did say something about the fishing industry, and again I think we can claim to have done something in that respect, something more than preliminary investigation! Work is being carried out also on a larger scale on an East African basis, and I personally have every hope that what should be a very big coastal industry can in due course be developed to the scale which it should be developed.

Sir, I beg to support.

THE MEMBER FOR COMMERCE AND INDUSTRY: Mr. Speaker, I will not detain hon. Members long on this important matter, although I notice that some hon. Members on the other side representing constituencies in the Colony do not find the important affairs of the Protectorate of sufficient interest to stay, I would, however, refer to one important point arising out of the Motion which I am so glad that my hon. friend, the Member for the Coast, has moved, which is the degree of mineral development in Kenya. One of the most promising areas in the whole of this Colony and Protectorate are certain parts of the Coastal Province. I myself between this Council rising at the end of the Budget Session and the beginning of this sitting have visited no less than seven or eight mineral prospects at and near the Coast. One or two of them are of the greatest importance. One of them is an asbestos prospect, of great interest, some of them graphite prospects not yet fully proved. But we hope that some of them will in fact result in significant additions to the realized mineral wealth of this Colony and Protectorate.

Now, Sir, we are concentrating some of our geological strength, which is now much greater than it was two years ago, in those interesting areas of the Coast. There is also private enterprise, some of it of the most important dimensions which is also taking a great interest in developing the territory. Sir, I mention these points to show that at the basis of significant industrial development must be the provision of minerals, as my hon. friend pointed out, and as far as the Coast Province is concerned we are directing the greatest attention to that matter, and I can well envisage a time that may not be too distant when people will not speak of the Coast Province as a part of Kenya that has not been fully developed but one that may have become the part of Kenya that provides much of the wealth of this country.

In regard to industrial development—again, Sir, we are giving a high degree of priority inasmuch as we can provide facilities and encourage private investment. Naturally the best judges of where they should go, in 99 cases out of 100, are those investing the money, and those who are taking the risk, and there has

[The Member for Commerce and Industry]

been no tendency to neglect the coastal area in that respect. Private capital is finding distinct advantages in investing in industry in the Coastal Province and in Mombasa. For instance, as my hon. friend knows, a very large brewery has recently been erected in Mombasa. In addition to that, Sir—and this is a remarkable example of private enterprise—rolling mills may be erected at the Coast to roll aluminium and other forms of metal ingots, and at the moment—I know it sounds difficult to believe, but it is true—an investigation is going on as to whether blast furnaces should be erected there to process imported ore.

Now, Sir, these considerations point to the advantages of the Coast and of Mombasa. If it is necessary to bring in heavy raw materials to promote industry, then, Sir, it is wise to be near tide water. If it is a matter of building up export industries—and that is what we are doing—then it is wise to be near tide water so that those exports can be made easy. We are doing our utmost to point out those very distinct advantages to those who wish to invest in suitable enterprises in Kenya. Very important developments indeed are going on at the Coast. Even more important developments are being examined by those who hope to invest their money.

I will only deal with one point raised by my hon. friend the Member for African interests, Mr. Mathu, and which is that it is only by the fruitful effect of capital upon the natural resources of the Province, the principal one of which is the land, that a state of affairs can be created that will give a better life for the vast majority of the people. (Hear, hear.) This point is fundamental. I am not now dealing with the details involved. I quite well appreciate that in one particular scheme my hon. friend may well find that he can approve, but on the principle that capital must be forthcoming I submit, that in terms of economic development, provided it is honest capital, it matters little from what source it comes provided it is properly used. Unless that condition is fulfilled, then I think my hon. friend would agree we cannot look forward,

THE SPEAKER: Would the hon. Member for Commerce and Industry recollect that the rule is to address the Chair, and not to lecture the hon. Member for African interests.

THE MEMBER FOR COMMERCE AND INDUSTRY: I am sorry, Sir, I was not aware that I was not addressing the Chair. May I apologize. However, Sir, I have finished on that point. In fact there is little more to say, except that I think the hon. Member for the Coast is performing a public duty by drawing attention to what is required at the Coast, just as are those who have invested much money in such concerns as Kenya Kyanite, and in such pioneer work as the experiments being carried on by Colonel Grogan and by many others. I personally am very glad to be able to assure the hon. Member and his friends that all possible priority will be given to the development of the Coastal Province.

THE CHIEF NATIVE COMMISSIONER: Mr. Speaker, I was very glad to see this Motion on the Order Paper to-day, as I have, I think hon. Members all know, a particular interest in the Coast, and it has always been rather near to my heart. As the hon. Member has said, a good deal of development has taken place at the Coast, particularly within the last few years, and we have heard from both sides of the Council details of that development. I would only like to add a few words to what they have already said. First, I would like to pay a public tribute here to the work of the district teams, both in the Kwale and Kilifi districts, in conjunction with the organization of the Chief Zoologist; those teams and the Chief Zoologist have worked together with tremendous enthusiasm and drive, and are doing an extremely good job of work in opening up areas which for many years have been underdeveloped.

Secondly, Sir, the hon. Member for the Coast brought into his speech the question of communications. Now the communications, I would suggest, Sir, do not only consist of those along the actual coast, north and south, but also include the communications inland. Now, unfortunately, Sir, although very fine work has been done by district foremen both in the Kilifi and Kwale areas on those roads in the hinterland, we are going to see one of those gentlemen acted

[The Chief Native Commissioner] very shortly as a result of the decision to have fewer district foremen. One point made by my hon. friend for the Coast, which I fail to understand, was his reference apparently to my opposition to the appointment of a Registrar for Coast land titles. I do not remember ever having opposed it. In fact, I did my utmost to advocate that the post be restored when I was stationed at the Coast, and more recently in Nairobi. It has been impossible to make this appointment up to date, because of the lack of finance. I think we are all well aware of the difficulties of those Coast land titles, and sooner or later we will have to go into them and, in my way of thinking, the sooner the better—but of course if we are going to go into them it is going to cost money.

We have, Sir, done a tremendous lot, as the hon. Member for Agriculture has told us, in developing the Coast hinterland. Now that development has largely taken place in the form of the development of water supplies and communications. But the water supply in the Coast littoral itself is a very much more difficult problem than the water supplies in the hinterland, the area lying from the Coast proper, the actual sea, to say 20 to 30 miles inland is a much more difficult problem. I suggest as regards water supplies than that of water supplies in the next 50 miles inland, and that, I suggest, is probably our next problem and one which we must tackle. I, Sir, and the Government will not ever neglect to bear in mind the necessity, the possibilities of African settlement of the Coast. We have not neglected it in the past, as my hon. friend, the Member for Agriculture, has explained, and we do not propose to neglect it in the future either.

My hon. friend, the Member for African Interests, Mr. Mathu, suggested that some stimulant was required for the inhabitants of the Coast. If he had perhaps as intimate a knowledge of the Giriama, Digo and Duruma peoples as I have, I do not think he would suggest they were lacking at any rate for a stimulant. They certainly find it growing all around them. Sir, I am sure the

Government is very pleased to accept this Motion. (Applause.)

**THE MEMBER FOR EDUCATION, HEALTH AND LOCAL GOVERNMENT:** Mr. Speaker, in rising to support the Motion, which I formally welcome, there are a few matters that have been raised in the course of the debate on which I would like to comment. I have been asked, as the Member responsible for Lands, to do my best to speed up the allocation of land on recommendations from the Coast Land Advisory Committee. It is only a few weeks since that I again took over responsibility for Lands, and I have not, in consequence, been able to pick up all the threads, but I can give the hon. Member the assurance that he desires that in so far as in me lies I will endeavour to speed up the consideration of applications for land and the allocation of areas to those who are prepared and able to develop the land, and I would assure my hon. friend, the Member for African Interests, Mr. Mathu, that in all these deliberations the needs of African settlement are very carefully considered. (Hear, hear.) There is one matter, however, that I must mention.

**MR. HAVELOCK:** Lack of surveyors.

**THE MEMBER FOR EDUCATION, HEALTH AND LOCAL GOVERNMENT:** Yes, you are right. We have not gone far in the allocation of land whether for agricultural, industrial or residential purposes, without coming up against the need for survey. It has been recognized for a long time, that there has been a shortage of Government land surveyors on the establishment. We have been unable to meet the need because land surveyors were unobtainable. The prospect of getting land surveyors became imminent. There were applications. I endeavoured to comply with the recommendations of the committee that had been set up to investigate the Land and Survey Departments, as requested only a few days ago by hon. Members opposite. My efforts were frustrated, and I was amazed to find that amongst those who were parties to the frustration was the hon. Mover of this Motion. (Hear, hear.) The action of hon. Members opposite, has, of course, set back the clock very considerably, and has delayed and will delay the realization of the ideals that he has set before us. That, of course, cannot now be avoided.

[The Member for Education, Health and Local Government] land can be accurately plotted on a plan, and embodied in a document of title. Hon. Members have chosen their course, and they will have to abide by the results.

Now, Sir, the question of the appointment of a Recorder of Titles has been raised. I would welcome the appointment of a Recorder of Titles. In fact an endeavour was made by my hon. friend the Deputy Chief Secretary, to secure the inclusion in the 1952 Estimates of a post for the Recorder of Titles. Hon. Members opposite insisted, however, that there should be no new posts created in the 1952 Estimates.

**MR. COOKE:** It is not a new post.

**THE MEMBER FOR EDUCATION, HEALTH AND LOCAL GOVERNMENT:** The post has not existed for 30 years, it was abolished in 1920, so I think we might fairly regard it as a new post, and I am quite sure that hon. Members opposite, would have raised objections to it as a new post had it been included, but it was ruled out on the principles laid down by the hon. Members opposite. If I endeavour, as I intend to do, to get the post of Recorder of Titles reinserted, I wish here and now to make it very plain to hon. Members opposite, that I shall be no party to a bargain. It will not be a case with me of the Recorder of Titles goes in, and some other essential service goes out, because I will not and cannot accept that kind of bargain. (Hear, hear.)

**MAJOR KEYSER:** An unessential one. (Shame!)

**THE MEMBER FOR EDUCATION, HEALTH AND LOCAL GOVERNMENT:** The Recorder of Titles unessential, you say?

**MAJOR KEYSER:** No.

**THE MEMBER FOR EDUCATION, HEALTH AND LOCAL GOVERNMENT:** I beg your pardon. I misunderstood. Now, Sir, a few words about the Recorder of Titles. It is not a bit of use appointing a Recorder of Titles who will merely either sit in an office or go touring the country at the Coast, listening to applications, unless all that work can be closely related to the land, and unless there is ground staff to mark out in some way—a primitive way, I think, is all that is desired—but in some way to mark out on the ground the portions of land concerning which the application is being made, so that that portion of

land can be accurately plotted on a plan, and embodied in a document of title. That means staff. Staff means money. When I come to this Council with a request for money for those services I trust that my application will not meet the fate of the reasonable applications that have recently been made. (Hear, hear.)

**MR. HAVELOCK:** Reimbursable.

**THE MEMBER FOR EDUCATION, HEALTH AND LOCAL GOVERNMENT:** A great deal of the cost of that service will not be reimbursable. Much of the land that is concerned and will be concerned in the work of Recorder of Titles is, from an agricultural and economic point of view, not worth the cost of the survey, the investigation and the recording of the title. There are 4,000 titles which are the result of the work of the previous Recorder of Titles, lying in the safe of the Registrar of Titles at Mombasa, waiting for collection, because the parties concerned will not or cannot pay the necessary fees, and those fees have been reduced to a minimum and go nowhere near to covering the cost of the original investigation.

**THE SPEAKER:** Order, Order. It is now past 12.45. Will this debate appear on the Order Paper to-morrow?

**THE ACTING CHIEF SECRETARY:** I think, if hon. Members opposite would think it convenient, it would be convenient to dispose of it first thing to-morrow morning.

#### ADJOURNMENT

Council rose at 12.50 p.m. and adjourned until 9.30 on Friday, 29th February, 1952.

Friday, 29th February, 1952

Council assembled in the Memorial Hall, Nairobi, on Friday 29th February, 1952.

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

The proceedings were opened with prayer.

#### MINUTES

The minutes of the meeting of 29th February, 1952, were confirmed.

#### ORAL ANSWERS TO QUESTIONS

Mr. HAVLOCK: I beg leave, on behalf of the hon. Member for Nyanza, to ask Question No. 35.

#### QUESTION NO. 35

MR. SHAW:

Is Government aware that the findings of the committee on the delineation of the new European confluencies were not known to a number of people in up-country districts until a short time before the Bill implementing the recommendations was introduced into Legislative Council and that this was due to the fact that the findings were not published in any newspaper circulating in the districts concerned, nor broadcast?

In view of the above, will Government give an assurance that important committee reports of this nature will be published in newspapers, broadcast over the wireless and/or circulated to the claimants of production committees and farmers' associations and that in future sufficient time should be allowed between the publishing of such reports and their implementation to allow people concerned to lodge their complaints?

THE ACTING CHIEF SECRETARY: The report of the committee to which the hon. and gracious Member refers was laid in the Legislative Council on 27th November, and a full account of its recommendations was published in the *East African Standard* on the 28th November, three weeks before the second reading of the Legislative Council (Temporary Provisions) Bill. It was not possible, in this instance, to provide a longer interval between the publication of the report and the introduction of the Bill because

of the need to expedite this Ordinance so as to enable the elections to take place in May.

As regards the second part of the hon. Member's question, it is the Government's practice always to give the greatest possible publicity to reports of public interest.

#### QUESTION NO. 37

LT.-COL. GIERSE:

Having regard to the Mining Delegation's discussions with representatives of the Colonial Office in September last and the recommendations arrived at, will Government please state when it may be expected that legislation based on such recommendations will be introduced into this Council?

THE MEMBER FOR COMMERCIAL AND INDUSTRY: At the next meeting of Council.

Mr. HAVLOCK: Mr. Speaker, on behalf of the hon. Member for Uasin Gishu, I beg leave to ask Question No. 41.

#### QUESTION NO. 41

MR. MACONOCHE-WELWOOD:

(1) Will Government state whether the travelling expenses paid to directors of companies are subject to income tax?

(2) If the answer to (1) is in the affirmative, under what section of the Kenya Income Tax Ordinance are such allowances taxable?

THE FINANCIAL SECRETARY: With reference to the first part of the hon. Member's question, reimbursement of travelling and other expenses incurred by directors of companies is subject to income tax, unless it is incurred in the production of the income. For instance, a director of a company may be allowed travelling allowance to get from Ngong to his business daily. That allowance is taxable because he only begins earning his income on arrival at his office. A company director, travelling for the company, would not be charged on any reimbursement of expenses incurred.

2. As regards the second part of the question, the relevant section of the Kenya Income Tax Ordinance is section 7 (1) (b).

Mr. BLUNDELL: Mr. Speaker, arising out of that answer, am I correct in the

(Mr. Blundell) assumption that a company director, travelling from up-country solely for the purpose of a board meeting and return therefrom—that an allowance granted to him for that purpose would not be taxable in income tax?

THE FINANCIAL SECRETARY: I should have to confirm that with the Income Tax Commissioner, but I should say there is a great deal of logic in the hon. Member's supposition. (Laughter.)

#### MOTIONS

##### AGRICULTURAL AND INDUSTRIAL DEVELOPMENT OF THE COAST—(Contd.)

THE SPEAKER: There is a Motion before the Council, moved by the hon. Member for the Coast. The debate will continue. Sir Charles Mortimer, I think, was speaking.

THE MEMBER FOR EDUCATION, HEALTH AND LOCAL GOVERNMENT: Mr. Speaker, at the close of yesterday's sitting I was referring to the proposed reinstatement of the post of Recorder of Titles. I made a remark yesterday that I think is liable to misinterpretation, which I should like to amplify in a few words. I *did* say that much of the land concerned in the work of the Recorder of Titles is, from an agricultural and economic point of view, not worth the cost of the survey, the investigation and the recording of the title. I *did* not mean to infer, Sir, that land at the Coast is inferior to land anywhere else in the Colony and Protectorate. Indeed, much of it is superior, but what I *did* mean is that there has been so much fragmentation at the Coast that individual land holdings have been reduced in some cases down to as low as an acre or even less, and those holdings—which require just as much investigation as larger ones—are of very little economic value in themselves, though they do represent in many cases the whole of the scanty livelihood of the owner.

I would like to say a few words more about this post of Recorder of Titles, as I do not wish hon. Members opposite particularly—or even hon. Members on this side of the Council—to have any illusions about the service being self-reimbursing. That post was created in 1903, and it was at that time assumed that it would be self-reimbursing. In

course of years it was found that it was a very expensive service, and that the reimbursement fell very far short of the cost. Some 30 years ago, Sir, when this Colony was passing through one of the frequent periods of frenzied economy—from which we have suffered from time to time—

Mr. BLUNDELL: Benefited!

THE MEMBER FOR EDUCATION, HEALTH AND LOCAL GOVERNMENT: When, by a magnificent, but ill-advised, gesture the Commissioner of Lands reduced the Estimates for the Land and Survey Department from £120,000 to £20,000 in one year, this post was abolished with a large number of others. It was, of course, necessary to reinstate most of those posts and within two or three years, and to continue to pay the salary of the new incumbent of the post, and a quite useful pension to the one who had gone. That always happens when that kind of period comes upon us. The Recorder's post was not restored, because it was felt to be more expensive than the Colony could afford. When the post is reinstated—and I hope it will be—(hear, hear)—it will be expensive, and I think we must face up to that and recognize that we shall not recover from the owners of the land anywhere near the cost of the service, but even then I think it will be worth while to get the mess—and it is a mess—of Coast titles cleaned up for the satisfaction of all parties concerned.

The hon. Member for African Interests, Mr. Mathu, placed upon my shoulders a very heavy burden, to stimulate the Africans of the Coast—I think he was speaking chiefly about Africans—to renewed activity, and rouse them from their lethargy. Well, that is a bigger task than I am prepared to undertake, but I would point out that the lethargy of the Coast dwellers is not due only to climatic conditions, but is due in part to large numbers of them being addicted to the wrong kind of stimulant, and also to the fact that vast numbers of our Coast Africans are riddled with disease of every kind. Parasites, both within and without the body, are destroying their energy and robbing them of vitality. From the medical point of view, we are anxious to do everything possible to combat the insidious march of disease, but we cannot do it without staff. There is need for

(The Member for Education, Health and Local Government)

a vast increase in the medical services of the Coast, and particularly on the side of preventive medicine. We do not want large sums of money to spend on buildings, but we do want money to spend on staff, and when we come forward with proposals to comply with the request of the hon. Members opposite, we shall be asking for new services—new services, the cost of which cannot be met by the reduction of existing services, all of which are essential to the welfare and progress of this Colony—and I trust that hon. Members will keep in mind when these new services are asked for that they will be costly, but that they will be worth while. (Applause.)

MR. JEREMIAH. Mr. Speaker, I rise to say a few words on this Motion. I think, Sir, that when we talk about future development, especially in the Coast, we omit one very important factor—especially, as regards the Motion—and that is development by Africans. I believe, Sir, that very much can be done to develop the Coast if sufficient assistance and more assistance can be given to the Africans. The hon. Member, in his speech, deplored the stand taken by the hon. Chief Native Commissioner in not allowing the land to be released easily—a stand which I personally welcome, and support wholeheartedly, and which I am sure all the country will applaud.

Sir, it is my belief that agricultural development can be improved greatly and developed very much in the Coast by using more Africans, and that is by helping them to develop the land. Very much has been done, Sir, by instructing them what to do and how to do it, but nothing, I submit, has been done to assist them as to how to do what they have been told to do. I would suggest, Sir, for the consideration of Government that machinery should be provided from which Africans could learn to help themselves to cultivate their land. Also, capital should be made available, but if we depend on the improvement of agriculture on the old methods, I think, Sir, we will not be able to get anywhere. Also, I suggest that the co-operative societies in existence should do more to help Africans to organize themselves in order to be able to market their produce, with the result that they can sell it at attractive and stimulating

prices. At the present moment it is not right to see fruit, which is available, rotting on the trees because there is no proper market, and not only that, but because there is no one to show the people how to market their produce.

I understand there are officers, but they are limited to the townships.

In the Coast, Sir, we have very great potentialities in cotton, especially in the little place of Taveta itself. Without exaggeration, that little place has produced about five tons of cotton which is not very little, and in other places also much has been done, to the cotton crop. I think cotton is the only crop which Government is doing its best to market in a proper way.

Chillies is also a cash crop which is mainly grown at the Coast, but proper marketing is not organized at all.

Also, Sir, if co-operative societies could be developed and improved and introduced at the Coast, I think much could be done to help the Africans to improve the timber industry. At present it is being done in a very poor manner. Also there is a very flourishing industry called *makuti* which I think could be dealt with properly by co-operative societies. I suggest to Government, Sir, that the officers of the co-operative societies should be instructed to be more accurate on the Coast. The activity at present is only limited to the Taveta Hills and that is with regard to vegetables. So, Sir, I suggest that Government should do more to help African agriculture up-country.

I am quite aware, Sir, of what Government has done in regard to improving the water supply, which is very difficult at the Coast, and improving the cattle in that area. Large areas of bush have been cleared and made more useful for cattle, and also many dams and boreholes have been dug. We are very grateful for that and we hope that this Motion will make the Government move with more effort.

Now, Sir, with regard to the Recorder of Titles, I should say he is a person whom we need very much, and it will be very beneficial for the people of the Coast, if they know for certain what piece of land they own individually.

(Mr. Jeremiah)

In conclusion, Sir, I am very glad to see that the Government does not agree, and that they will never agree, to allowing the land to be alienated, indiscriminately sold just because some rich person wants 10,000 acres. For that reason, Sir, I support the Motion.

THE ACTING CHIEF SECRETARY: Mr. Speaker, I rise to intervene, very briefly, only to refer to two matters regarding communications at the Coast which has been raised particularly by the hon. Member for Mombasa.

He inquired what the position was regarding the negotiations with the Nyali Company. The position is that proposals have been submitted to the Company by the Government which we have good reason to hope will prove acceptable to the Company. (Applause.) The discussions which were held towards the end of last year were extremely helpful to both sides, and I understand that the only reason that Government has not yet heard of the reaction of the Company to the proposals which we have submitted to them, is because the Chairman of the Company has been seriously ill in London.

As regards the Likoni Ferry, the hon. Member reminded me that he had a question down for answer and he is aware of the reason why I am proposing to give him a written reply as soon as possible next week. To-day, I would, however, just like to mention that Government does appreciate that the existing ferry service is not altogether adequate and that it does occasion some inconvenience to the public. The Road Authority, in conjunction with the Public Works Department, has recently conducted an examination into that ferry service, and I can inform hon. Members that the Company has plans for an improved type of self-propelled pontoon, which will be capable of carrying six lorries or nine motor-cars at a time. These plans will have to be examined by a qualified marine engineer, and then drawings will have to be prepared. It will, therefore, be some time before those plans could be put into effect. In the meantime, as hon. Members know, efforts are being made to improve the

existing service by attention which is being given to the ramps.

I will deal with this matter more explicitly in the reply which I shall give to the question which is still outstanding.

I beg to support the Motion. (Applause.)

MR. COOKE: Mr. Speaker, I was intrigued listening to the hon. Member Mr. Mathu yesterday when he talked about the lethargy and absence of alertness of mind of coastal people. There are a great many of his race living down at the Coast at the moment, Kikuyu, and I certainly have not noticed any inactivity of mind where they are concerned, especially, Sir, over political matters. (Laughter.) But there is one point which I must, although the hon. Mr. Mathu is not present, I must put on record. He is under a complete misconception, both he and my hon. friend Mr. Jeremiah, with regard to the land at the Coast. There are two completely distinct areas. There is an area of a few thousand acres, Sir, on the actual coast itself, which was never claimed. It used to be old forest land and was never claimed by the Africans, except by a few slaves who were working under the Arabs there. But there are, Sir, a few thousand square miles, and I emphasize square miles, of land eminently suitable for community settlement, and available for the Africans of this country. That land, Sir, is not only the land behind Lamu, literally behind Lamu, the hinterland, but it is also available on the Tana River where irrigation projects could be put in force. And it is also available, and, indeed, I worked very hard as my hon. friend the Chief Native Commissioner knows, for an African settlement round Makindu and Kibwezi, which is just outside the Coast area. So I want to emphasize this, particularly that the land of a few thousand acres is only suitable for individual tenure, and is only suitable for people who have got both capital and knowledge. I think that statement, Sir, is completely indisputable. And as I said yesterday, I personally, and I think most people at the Coast, would welcome both Asians or Africans who had that experience and that capital to develop that land. I am not prepared to advocate any racial discrimination whatsoever in the development of that land, if suitable applicants can come forward. But I do

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say that it is a great mistake to hold back a few thousand acres now which never can be filled by the African who requires land at the moment, because somebody may think that in a few thousand years there may be individual applications for the land. I think that would be doing a very great disservice not only to the non-Africans on this land, but to the Africans themselves, because as my hon. friend the Member for Commerce and Industry said yesterday, it is only by development and circulation of the money that we can advance the civilization of the Africans themselves.

Now, Sir, I was glad my hon. friend Mr. Mathu and my hon. friend the Member for Agriculture and Natural Resources reminded me of an omission and that is about Matuga, the agricultural station at the Coast, which has been doing very good work indeed and also about the importance of horticulture which we are all trying to promote at the Coast. The Matuga station has made a very good beginning and our only complaint now is the usual one, lack of money. I hope my hon. friend the Member for Agriculture and Natural Resources can find some money for a laboratory there with special reference to the Coast fruit and Coast vegetation.

I am very grateful to my hon. friend the Member for Agriculture and my hon. friend the Member for Commerce and Industry for the very practical suggestions and for their support in this Motion. We need their support very much indeed, because they both, I know, can bring to the problems of the Coast as they brought to the problems throughout Kenya fresh liberal minds.

Now, Sir, with regard to my hon. friend the Member for Lands, I of course, plead guilty to this mild indictment, but, Sir, in accepting the party whip from this side, I have done what my hon. friend has done for a number of years. I sank my own personal obligations and my own personal judgment in the matter in order to retain, if possible, unity on this side of the Council. Now, Sir, my hon. friend probably because he did not know, did not tell quite the whole truth and nothing but the truth, but then he was not aware of what

happened. When we adjourned after a slight difference of opinion on Wednesday, there was a great difference of opinion amongst some of us as to whether we should accept what some of us regarded as a reasonable suggestion of my hon. friend and go into Committee, or whether we should not, and it was only by making a reasonable compromise, we were able to win over the people who were against going into Committee, by us all agreeing to oppose whatever was put up by Government on the other side. (Laughter.) Perhaps I ought not to divulge that, but politics is a pursuit of the practical, and no one is more aware of that than my hon. friend the Member for Lands. I hope I am not out of order when I say that the real guilty party for not passing this Schedule about surveyors is the Government itself. (Hear, hear.) It omitted to put into the Estimates for 1952 those particular posts, and they have been accused time after time by Members on this side of the Council of making omissions of that nature and perish the thought, bringing them up later at Standing Finance Committee and slipping them in when we were all pretty tired. As a matter of fact they tried that again at the Standing Finance Committee and we insisted that the matter should come to the Council, and it was then and not us who jumbled with the very reasonable request for surveyors in amongst the request for the others.

THE MEMBER FOR EDUCATION, HEALTH AND LOCAL GOVERNMENT: I do not know if it is a point of order or a point of explanation, but I would point out to the hon. Member that at the request of hon. Members opposite, the Government was precluded from including any new posts in the 1952 Estimates.

MR. HAVELOCK: It was no request of ours.

THE MEMBER FOR EDUCATION, HEALTH AND LOCAL GOVERNMENT: Anyhow, I was precluded from putting any in.

MR. COOKE: That is the use of the blue pencil. There is no pressure from this side of the Council. I cannot ever remember this side of the Council requesting that there should be the new posts, but I think we have always said we hoped there would be ample justification for any new posts; indeed it would be very

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short-sighted on our part to lay down an absolute rule that there should be no new posts.

Instead of I and hon. Members on this side of the Council being guilty of an offence so far as the surveyors are concerned, I think the gravamen of the matter must lie with the hon. gentlemen on the other side of the Council who omitted to place these very necessary officers in the Estimates for 1952.

I would say this, so far as I am personally concerned, I would be prepared, if Government brings in a Motion at any other time, and not locked up with other Motions to restore cuts that have already been made, I would be prepared, personally, to support him, so far as the surveyors are concerned.

Now, Sir, I think I have practically finished except to thank my hon. friend the Acting Chief Secretary for giving us those very welcome replies both with regard to Nyali Bridge and Likoni Ferry. We are very grateful to Government for taking this matter in hand, and at last for reaching a just conclusion over Nyali Bridge, a problem we would all like to see solved.

My last appeal is to Members of this Council to bring to bear in this new Elizabethan age some of those virtues which were so conspicuous in the first Elizabethan age, and which left their imprint on the whole history of England. I think, now, Sir, we are at the turning of the road and we could, if we all get together, we could make the Coast, and not only the Coast, but the whole of Kenya, a place of which we may all be proud.

Sir, I beg to move. (Applause.)

The question was put and carried.

#### REPORT OF SELECT COMMITTEE ON COST OF LIVING ALLOWANCES FOR GOVERNMENT SERVANTS

THE SPEAKER: There is a Motion on the Order Paper by the hon. Secretary to the Treasury.

MR. HAVELOCK: On a point of order, Mr. Speaker, may I ask, Sir, if this Motion is seeking to commit this Council to expenditure or if this Motion is merely to discuss the Select Committee Report?

THE SECRETARY TO THE TREASURY: Sir, in my submission, the adoption of this

Motion would mean that the provision of £358,000 would be consequential.

MR. HAVELOCK: Mr. Speaker—

THE SPEAKER: One moment. What does the hon. Member mean by "consequential"?

THE SECRETARY TO THE TREASURY: A necessary consequence, Sir, of the adoption of the resolution.

THE SPEAKER: I would like to put the matter more directly to you. Will the passing of this resolution by this Council give authority for the spending of £358,000?

THE SECRETARY TO THE TREASURY: In my submission, yes, Sir.

THE SPEAKER: In your opinion?

MR. HAVELOCK: Mr. Speaker, speaking again on a point of order, in this case may I ask why the procedure which we have followed yesterday and the day before is not followed here? That is, if it is a charge, if the result of passing this Motion is a charge, why is it that charge is not sought for in Committee of Supply?

THE FINANCIAL SECRETARY: Mr. Speaker, if I may, Sir, it was the intention of Government, if Council adopted the report, to follow the Committee of Supply procedure, and that we should submit Supplementary Estimates based on the report and go into Committee of Supply, but we did hold, I think, Sir, that if the Council adopted this report, then at the Committee of Supply stage the moving would be formal and consequential.

MR. BLUNDELL: I am slightly confused. I would like to know whether we are, in effect, then going to consider the report as a report, and subsequently follow it with the necessary procedure to ensure charges, at some time to suit hon. Members opposite—in other words, to endorse what the hon. Member for Kiambu has said. Do you envisage, Sir, that when this Motion is moved, and let us say the report is accepted, it immediately, therefore, brings a charge, or is it this, merely a matter for consideration which will subsequently be implemented by the necessary procedure to incur charges in Committee of Supply?

THE SECRETARY TO THE TREASURY: Sir, again, I would submit in this matter

[The Secretary to the Treasury] that we have ample precedent in this Council whereby the adoption of the recommendations of the Select Committee, which has led to additional expenditure, has been the authority for the supply itself.

MR. HAVELOCK: Mr. Speaker, on that point, I would like to suggest, in spite of ample precedent, we are now embarking on an entirely new system which the hon. Member for Finance, himself, spoke very lucidly and strongly in favour of the other day, in order that we should have Supplementary Estimates before this Council. Are we going to follow the procedure that has been outlined and advocated by the hon. Member for Finance or not?

THE FINANCIAL SECRETARY: I thought, Sir, I tried to make it clear in what I said previously.

THE SPEAKER: Unfortunately, you see, we have two voices.

THE FINANCIAL SECRETARY: I think the hon. Secretary to the Treasury is pointing out that in so far as the authority to spend money is concerned, there is plenty of precedent that the adoption of a Select Committee Report has been taken as an authority to spend money, but we would adopt the new procedure by going into Committee of Supply; but we did hold that if the Council adopted this report, then the following—the consequential procedure would really be formal. Otherwise, we should merely be placing ourselves, I submit, in the position of having two long debates on exactly the same subject.

THE SPEAKER: I think we must either have it one way or the other. This would be to absolutely falsify the ruling that I made the other day, where I said that I construed the alterations made in the Standing Orders, as resulting in the establishing of the principle that all financial matters originated now in Committee of the whole Council, and if I am right in that, I am also right in this. I think we amended Standing Order No. 12. Has anybody got a copy of the printed amendment? I have not one myself, but my recollection of it is that no Ordinance, Vote or Resolution which, in the opinion of the person presiding, may be to create a new charge on any part of the revenue arising within the Colony,

or to increase, revoke or alter or vary any existing charge upon such revenue—no such vote shall be proposed except with the consent of the Governor signified by an *ex officio* Member. I have not got a printed copy and if anyone has one, I would be very grateful.

MR. COOKE: Is not the point that if we accept this present Motion, we accept the implications in that Motion, but consequential to doing so, there would have to be a formal Motion to vote the money first, and it is not likely that that is going to be formal because if we accept the Motion we accept the implications. If we do not accept the Motion, a second Motion will not come forward.

MR. HAVELOCK: If I may speak to that? The principle, Sir, is *are* we voting on a charge on public funds in this Motion? If we are not, Sir, then surely according to our Standing Rules and Orders, the debate may take a very different form from what it may take if we are, by passing this Motion, automatically charging the public funds by £358,000.

THE SPEAKER: I quite appreciate your intervention, and I appreciate also the intervention of the hon. Member for the Coast, but has anybody got a printed copy of the amendment? I am certain about the alteration about the person presiding in the clause of the Royal Instructions, but I am not certain what alteration was made to this rule. I have been inquiring for it for some days, I might say.

The present proviso is as follows:—

“Provided always that no Ordinance, Vote or Resolution the object or effect of which, in the opinion of the person presiding, may be to create a new charge on any part of the revenue arising within the Colony, or to increase, revoke, or vary any existing charge upon such revenue shall be proposed except with the consent of the Governor, signified thereto by an Official Member of the Executive Council.”

Now in the first place in view of that Standing Order, I do not see how this can be a charge. (Hear, hear.) This Resolution can impose a charge. The first reason is that it is not proposed and brought into this Council by one of the *ex officio* Members. It is brought in by

[The Speaker] who is not a Member of Executive Council at all. That is one reason. The second reason is that we have definitely after the Motion which was moved by the hon. Financial Secretary the other day, after that time, then from this Chair I gave a ruling to the effect that my view was that all I have read of these alterations in the Standing Orders during the last four years was to establish that all financial matters should commence in a Committee of the whole Council.

Now, this Motion does not propose to go into Committee at all. That is another reason. Therefore, I do not see in it the operation of a charge. I cannot see that this can operate as a charge; if you want it to operate as a charge the Member for Finance must give notice that he is going to move into Committee of Supply to consider the matter of £378,000. Though there are precedents of doing it this way, as I said the other day, there were precedents of doing it the other way. But I would go back to one thing where you attempted to establish the precedent the other way and did go into Committee of the whole Council. That was on the Salaries Commission Report, and the variation thereto, where it was held that those Resolutions then brought in by the Member for Finance were charges, though the hon. Member for the Coast, of course, objected very strongly at the time that they were not. In view of that, therefore, I cannot see how you can have it both ways; you must, therefore, be bound to treat the Committee of Supply and the Committee of the whole Council as a nonentity afterwards if you pass this Resolution. I think you should have some sort of Motion to take note of the Committee's report—something which would not bind us in any way, so that the question which the Committee was asked to consider can now again be discussed in Council as a whole in view of their recommendations.

THE ACTING CHIEF SECRETARY: Might I suggest, Sir, that Council might perhaps adjourn for a few minutes to consider the advice that we have had?

THE SPEAKER: No. Let us settle it now. I have expressed my view and I think that if you move this Resolution—you are not bound to move it, you can pass it over if you wish and we can go

on to the next one. It has not yet been moved, it has only been called.

MR. BLUNDELL: Mr. Speaker, I was going to suggest to hon. Members opposite, would it not be the simplest thing to clearly state that this Motion, when being moved, is merely one of consideration of the report, and hon. Members opposite will subsequently move a short Motion in Committee of Supply to implement it?

THE ACTING CHIEF SECRETARY: Mr. Speaker, accepting the suggestion—

THE SPEAKER: I do not know whether you have got the suggestion which the hon. Member for Rift Valley made. It was that a Motion should be moved that the report be now considered.

THE ACTING CHIEF SECRETARY: I was going to suggest that if that was acceptable to hon. Members—

THE SPEAKER: That would leave us for anything abstract. That does not involve a charge.

THE ACTING CHIEF SECRETARY: If the Motion could be “*be* it resolved that the report be considered”, that would be acceptable to Government.

THE SPEAKER: Now that, of course, is a different Motion to the Motion on the Order Paper. There is no notice for that Motion, unless we suspend the Standing Orders or agree that that Motion shall be substituted for this Motion.

MR. HAVELOCK: We would agree, Sir.

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: Mr. Speaker, on another point of order it seems to me, to carry this ruling to its logical conclusion, it might almost be ruled that as this is a report of a Select Committee, when we send a Bill to a Select Committee, if that Bill on its return entails any form of expenditure, it can no longer be considered in Council as a whole, but will have to go to a Committee of the whole Council.

THE SPEAKER: That is covered by the existing Standing Order. On the point of expenditure there is nothing in it; if a Bill involves expenditure, incidentally, there will have eventually to be a Motion in a financial resolution to incur it, and to follow House of Commons practice under rule 1, we would have to pass that Resolution before we passed that second

[The Speaker] reading of the Bill—or thereabouts, at some stage; I cannot recollect offhand which.

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: But in the Objects and Reasons, Sir, attached to a great many Bills, it is often stated that expenditure will be incurred, but Government cannot foresee how much.

THE SPEAKER: You are not suggesting that the Bill is a charge? It is suggested that this Resolution as framed will operate as a charge.

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: I suggest, with all due respect, that a Bill might well be a charge, if it so states in the Objects and Reasons—

MR. HAVELOCK: No. The charge arising from a Bill must surely be met in the Colony's Estimates?

THE SPEAKER: It must, before you incur it.

THE CHIEF SECRETARY: Is it acceptable to you and to hon. Members that for the Motion on the Order Paper, the Motion suggested by the hon. Member for Rift Valley should be substituted: "It is resolved that the report of the Select Committee on Cost of Living Allowances for Government servants be considered".

THE SPEAKER: As that seems to be the general opinion I will allow Mr. Paddy to move that Motion.

THE SECRETARY TO THE TREASURY: (Applause.) Mr. Speaker, I beg to move: That it be resolved that the report of the Select Committee on Cost of Living for Government servants be considered.

I do not intend, Sir, in moving this Motion to go through this report paragraph by paragraph. In fact, Sir, I intend to do little more than to put forward the Government's attitude to those matters in the report where the view of Members of the Committee were not unanimous. Sir, all Members of the Committee were of the opinion that a revision of the present allowances had become necessary, and we were all agreed as to our recommendations on the extent of the allowances, except on what has come to be known as the ceiling. Our views in this matter, Sir, are given in paragraphs 20 and 21 of the report.

Two members, Sir, of the Committee were in favour of having no ceiling at all; that means that the cost of living allowances on salaries above £10 per annum should be paid at the rate of 25 per cent of salary, no matter what the salary may be. That, Sir, was their recommendation.

Two members recommended that the ceiling should be £375. They recommended, Sir, that all persons on salaries of £1,500 per annum and above should receive this amount. Three members were in favour of a ceiling of £250 per annum.

The Government, Sir, accept the view that the ceiling should be £250. It agrees, Sir, that this matter on which there was disagreement should be one for ultimate discussions by the suggested Interterritorial Committee, should it eventually be decided to set up such a committee.

In paragraph 26 of the report, Sir, reference is made to the question of cost of living allowances for pensioners.

The Government, Sir, propose to continue the present basis of payment of these allowances. That is at half the rate applicable to serving officers, and if the recommendations in the report are eventually accepted, Sir, the necessary amending legislation will be placed before this Council.

The Government, Sir, approve of the recommendation in paragraph 25 of the report, that any review of these allowances which may become necessary in the future should be the task of an interterritorial committee. I should make it clear, however, that before any action can be taken in this matter it will be necessary to obtain the views of the other territories, and administrations, concerned. This will be done as soon as the outcome of the debate is known.

I wish now, Sir, to refer to the recommendations in paragraphs 30 and 31 of the report. They arise out of the observations in paragraphs 27 to 29, that the additional cost involved if these recommendations were to be accepted should be met by—and, Sir, I quote from the report—"reductions in staff and departmental activities, rather than by increased estimates of expenditure." This recommendation, Sir, was made by all the Official Members of the Committee, and

[The Secretary to the Treasury] it is the subject of a dissenting minority view by the two Official Members, of which, of course, I myself was one. We made it clear that we were just as concerned as anyone else to see that savings in Government expenditure are effected wherever it is possible to do so.

In paragraph 28 of the report, reference, Sir, is made to the remarks of the Financial Secretary moving the adoption of the cost of living allowances a year ago. I should like, with your permission, to quote two sentences from Hansard which preceded the Financial Secretary said then: "It is the intention of the Government, therefore, in the changed circumstances"—by changed circumstances, Sir, he was referring to those arising out of the introduction of cost of living allowances—"it is the intention of the Government to cover as much of the Government's shortfall as possible by effecting without disrupting services". (Applause.) "I cannot, however, promise that the full shortfall will be met in this way, and it is possible that we may end the year with some deficit."

Sir, it is still the intention of the Government to cover as much of the shortfall as possible by such economies as can be effected without disrupting services, but in my submission it is not possible to produce savings of the order asked for without changing agreed policies. Hon. Members will naturally ask how the Government's ideas are as to how the additional cost of the proposed allowances should be met. In the first place, if but for the payment of these allowances the Colony's Revenue and Expenditure for 1952 were to be exactly the same as last year, the allowances would result in a deficit (if they were to be paid) on the annual year's working of the order of some £70,000 to £80,000. But the Estimates of Revenue and Expenditure, Sir, will not in fact coincide with the actual return. I can do no more, Sir, than express an opinion as to the probable outcome in 1952, but I think it would be interesting and informative to consider as a guide what we already know for 1951. The sanctioned Estimates for 1951 included the sum of £5,045,000 as the estimated revenue from customs and excise

duties, and the surplus for the year, when the Estimates were approved, was estimated at £579,000. The revised Estimates of Revenue and Expenditure prepared in October, 1951, Sir, that is, for the year 1951, gave a figure of £6,595,000 for customs and excise revenue. That is, Sir, an increase of £1,555,000 over the original Estimates. But the revised estimate of the surplus for 1951 was not increased as a result of this from £579,000 to £2,129,000. (Cries of "Shame!") The revised estimate of the surplus, in fact, Sir, which appears in the printed Estimates for 1952, was £524,000. The additional revenue, Sir, was to a very large extent due to increases in the prices of our imports on which *ad valorem* duties are levied. It did not, Sir, represent real wealth, but was merely a consequence of inflation.

MR. COOKE: So was the cost of living allowance. They balance out.

THE SECRETARY TO THE TREASURY: The increased prices of our imports naturally have had their effect on the prices of Kenya's own produce and on the cost of carrying out Government's services. In fact, Sir, it cost the Government more to carry out the same amount of work, and one aspect, Sir, of the cost was the need which we found necessary to pay about £1,000,000 in cost of living allowances during 1951.

With regard to 1952, Sir, as I have said, I am in no position to be specific, nor do I think anyone else is, but I would venture to express the opinion that the cost of these allowances, allowances which are a consequence of the inflationary process, is likely to be covered by additional revenue. If I am wrong, Sir, of course—

MR. COOKE: You will not be.

THE SECRETARY TO THE TREASURY:—and if savings do not cover additional expenditure, which will no doubt arise during the course of the year, then we may end the year with a deficit; but I, personally, should be rather surprised if this proves to be the case.

MR. BLUNDELL: May I ask the hon. Member to give way?

THE SECRETARY TO THE TREASURY: Certainly.

MR. BLUNDELL: Mr. Speaker, the hon. Member has given us the figures of in-



(Mr. Blundell) direct taxation and the changes in the Estimates. Is it possible for the hon. Member to give us figures in regard to direct taxation—in 1951?

THE SECRETARY TO THE TREASURY: I have not got, Sir, a copy of the Estimates here, but the revenue from licences, duties and taxes in which income tax is included did show a slight increase, but nothing of this magnitude. I will get the actual figures for the hon. Member, Sir, before winding up the debate.

I do not think that, in view of the Motion which is now being moved, I have anything further to add. I might have said a little more if we had been moving the original Motion.

In that event, Sir, I would merely say that I beg to move. (Applause.)

THE SPEAKER: Before the hon. Member rises to second, I would like to add something to what I said just now in respect of two Bills which were raised by the hon. Member for Agriculture and Natural Resources, and, of course, Standing Order No. 32 applies equally to a Bill, so that no Ordinance shall be proposed involving expenditure, except with the Governor's consent, and I presume that now—after what we have done the other day—that we should pass some kind of a financial resolution at the appropriate time in a Committee of the whole Council; but certainly in this case there is nothing to show this resolution, that was on the Order Paper, had ever had the consent.

MR. PIKE was rising.

THE ACTING SOLICITOR GENERAL seconded.

THE SPEAKER: It is proposed that the report of the Select Committee on Cost of Living be considered.

MR. USHER: Mr. Speaker, I rise to support the Motion, and in particular to welcome the main provisions, which are to give a flat rate of 25 per cent on the higher salaries, and to have suitable adjustment in the salaries up to £210 a year. I feel, Sir, that an advance has been made in that we now conform to the practice in other territories by giving the flat rate, and that it also has the advantage of

easy calculation, both for those who dispense this bounty and for those who receive it.

I must make a general reservation, in view of the attitude I have taken in this Council previously in regard to the payment of the cost of living allowance at all. I shall do so very shortly. It is very well known to hon. Members that Members on this side have favoured—some Members on this side have favoured—a solution, or a part solution, of our troubles by reduction in the cost of foodstuffs and of household commodities; and that all Members, I think, of this Council have favoured the rationalization of housing and transport, and recognized their effect upon the cost of living. I think a White Paper was promised just before Christmas on the latter subjects, and I feel that it is another "Forgotten Factor". I hope it is not, Sir.

Now, Sir, having made my reservations, I will return to the report and, first of all, I think it becomes me to support the view taken by the hon. Sheriff Abdulla Salim in regard to the ceiling. I think, myself, that there is something intrinsically vicious about the ceiling as a system, although I have given unqualified support. The reasons appear in the relevant paragraph of the report, and I do not wish particularly to go into them now; but I do find that the reasons I should say which induced the two of us who supported a ceiling of £375 a year, rather than the lower ceiling of £250, were that we have found by experience that it is difficult to secure adequately qualified professional and technical men for the public services on the rates which we have so far been used to offer them, and I think it is very likely that between £1,000 and £1,500 that we shall be wanting to employ such persons, and not perhaps at so low a figure as £1,000.

Of course, as I have said, this is all a matter of opinion, and the opinion of the two of us was that it would be preferable to have the higher ceiling. I may say, incidentally, that the extra cost to the Government would be in the region of £30,000 so far as concerns Government servants—I am not speaking now of the Development and Reconstruction Authority or the High Commission.

(Mr. Usher)

Now, Sir, may I turn to paragraph 30 of the report? The words we have used there are that we consider the additional cost involved should be met by reductions in staff and in departmental activities, rather than by increased Estimates of Expenditure. That wording, of course, was adopted for certain obvious reasons, of which you, Sir, will be very well aware; but the opinion—if I may say so—of the members of the Committee—anyhow of the Unofficial members of the Committee—was that it would not exclude items of expenditure that are not strictly within those terms.

May I now pass to paragraph 31? It will be noted there that we say: "Our belief is that the recommendations of the Select Committee should become operative at once".

There, again, I would draw attention to the fact that we merely state it to be a matter of belief, and do not put it as a specific recommendation. Then, again, I wish to call attention to the word "initiate", and by this we mean that the steps towards the economies that we have suggested should be made should be taken this year.

Now, I think we all realize, Sir, that economies might involve such matters as giving notice to members of the present staffs, and we do not—or at least I do not—imagine that the necessary economies could be made effective during the present financial year; that is, fully effective.

Now, Sir, on the point of initiation, I may say that the preliminary step has already been made, because not only are certain reserved matters of the Budget being considered by the Standing Finance Committee, and the question of leave for civil servants also being considered, but by a Motion in this Council yesterday a body has been set up—not the body which Members on this side of the Council, the European Unofficial Members, that is, wished to have—but still, a body has been set up to consider efficiency and economy and, as to that, all one can say is that we do pray that the Government will give it every possible assistance. (Hear, hear.)

Sir, before I sit down, I should like to observe that it is surprising that so

great a measure of agreement was reached in this report on a matter which must clearly have introduced subjects of acute controversy, and I have little hesitation in saying that this is largely due to the qualities of a Chairman under whom it was a very real pleasure to serve. (Applause.)

I beg to support.

MR. HOPKINS: Sir, I rise to support the Motion. There is not much which I have to add to what has been said, as I think that the hon. Member for Mombasa has covered very adequately the intention behind paragraphs 30 and 31 in so far as the Unofficial Members are concerned.

I am, however, desirous of making a few remarks on the matter of the ceiling, and I would like to say how sorry I am that the hon. Mr. Nalhoob and I were unable to convince the rest of the Committee that it was in the best interests of the Colony to stop discriminating against the higher-paid officials by the removal of a ceiling. Now, hon. Members who have given this matter thought will realize that the senior officers are being discriminated against under the present cost of living allowance arrangements three times.

Firstly, they are at a disadvantage because, under the income tax system which obtains, a man who gets £1,000 a year and draws a cost of living allowance of £250 will have to make less contribution than will one who has a salary of £2,000 a year, getting the same cost of living allowance. Now, Sir, I have no complaint against this. I think it is the right and wise method of exacting from the higher-paid individuals in the community a greater contribution towards the country's expenditure.

Now, the second disability under which they suffer is due to the tapering nature of the cost of living allowance system. This we have tried to correct, but so long as you keep the ceiling, Sir, which is the third discrimination against the higher-paid people, you will have this telescoping effect, and a perusal of the table on page 14 of this report will make it quite clear how this recommendation of ours, which is an improvement on the present system; does still discriminate against the higher-paid people, so that

[Mr. Hopkins]

every Member here opposite may be suffering very considerably as compared to those in the lower ranks.

Now, Sir, evidence which was given to the Committee makes it quite clear that in the lower, middle, and perhaps the upper middle ranks of the service they were at very little disadvantage in regard to emoluments as compared to people in commerce and industry. In regard to the higher posts, however, whether they were technical or administrative, there was no doubt that a man in commerce and industry, and in most walks of life outside the service, with similar abilities, was able to command a very much higher salary outside the service than if he was inside it.

One of the things that impressed me very much in the evidence of this Committee was how many hidden emoluments were available to people in commerce and industry. Sir, we always hear the "public talking about the hidden emoluments of the Government servants and I came to the conclusion, after hearing the evidence, that there were probably more hidden emoluments outside the service than there were in it. One of the most important of those was the system of bonuses which obtain outside the service. The second important one was the fact that outside the service, it was considered quite right for a man to take advantage of knowledge that he acquires in the course of business and turn it to his own advantage. No Government servant can possibly do that. Now, may I state that the higher posts in Government are not very attractive, which is borne out by the difficulty which Government had in getting suitable high level people which they have for the posts of Commissioner of Lands and Director of Public Works. They were only able to do this by raising the emoluments which it had hitherto been customary to give, and I do not believe they would have got as good men as they have been able to get, even now, had not these particular officers been subsidized by pensions which they earned in other walks of life.

The hon. Member for Mombasa has told you that if the ceiling is raised to £375, that difference would be a matter of some £30,000. Now this is, in addition

to what cost of living allowance is already costing, a very large sum of money, just over £1,500,000. Now to add £30,000 to that is quite a considerable amount, especially, so far as I can see, as no principle is involved. But, Sir, to remove the ceiling entirely—you will probably be surprised—will cost only another £5,000 in addition to what the ceiling to £375 would cost, and here a big principle is involved, and I think the principle is that we should do nothing through cost of living allowances to upset the salary scales and the proportion between the different posts which were decided upon in the Salaries Commission Report in 1948, which was considered so carefully. We should do nothing to upset that principle by awarding allowances which tend to telescope the salary scales.

Sir, I do not wish to say any more. The conversations which I have had with other hon. Members lead me to believe that I have not got a great deal of support for my point of view, but they amount to conviction so far as I am concerned, and that is why I wish to put them on record.

Sir, I support the Motion. (Applause.)

*Council adjourned at 10.58 a.m. and resumed at 11.20 a.m.*

MR. OIHANGA: Mr. Speaker, I rise to support the Motion to consider the report before Council. There are only a few points to which I would like to refer in the report and I should like to begin by referring to the rates that have been proposed by this Committee on which I had the honour to serve.

Firstly, the views which were expressed by three Civil Service Associations were unanimous in certain respects, and one of them was that the cost of living allowance rate for the lower paid African civil servant should be considerably higher than it was in October last year, and they suggested that 50 per cent of the basic pay should be the appropriate figure.

Later on, when other views had been expressed, and the Committee was in a position to see the whole picture, and not only the African side of it, I, together with other members of the Committee, could see quite clearly that it was necessary that civil servants should co-operate

[Mr. Ohanga]

with the taxpayer when the cost of living allowance is high and agreed to make sacrifices, and when later on we considered that 45 per cent was an appropriate figure at which the cost of living should be paid to the lower paid African groups, we had it in mind that they would be making a sacrifice. The facts were that by 31st December, 1951, the retail price index, which refers to the Africans, had risen by 46.7 per cent and that being so at that time, it had already exceeded 45 per cent, but after 31st December, it is true that several essential commodities have had their prices raised, in particular "Kimbo", the oil on which most African workers live, has gone up almost double. Sugar has also gone up since then, and, I think, tea has also gone up.

That being so, it is evident that the retail price index will have risen by now by much more than 46.7 per cent at which point it stood on 31st December, 1951. And so by agreeing that we should adopt 45 per cent, which only implies five per cent rise over and above the October recommendations, we were asking African lower paid servants to make a sacrifice in order that the increased cost of living should be borne easily both by the taxpayer and by the civil servant.

Now for that reason alone, Sir, I considered it worth while that I should also ask the higher paid civil servants of all races to agree to make sacrifices where possible, and I, therefore, join my opinion with the view that there should be a ceiling, and a very definite one, and when two ceilings were suggested I thought that the lower one, namely £250 per year, which started at, I think, on the £1,000 per year group, was a fair limit.

It is true, officers who are serving on higher salaries than £1,000 per year, are also being called upon to make a sacrifice, and I think that, on principle, it is a sound thing to do, and I do not regret that Africans have been asked to make this sacrifice, and I hope that other people will not regret that they have also been asked to make a sacrifice.

After that, Sir, I should like to refer to the subject which is contained in paragraph 12, namely the opinion of a few witnesses who appeared before the Committee, to wit, that the percentage,

which the Colony allowances now bear, to the basic salary of the African serving in lower groups, is very high. It is so high that it looks a little out of proportion, and something should be done right now to consolidate some of the cost of living allowances allowed as temporary allowances to the basic salary, thereby raising the level of the basic salary to a much higher level than you find to-day.

Now, Sir, I would refer particularly to the African civil servants who are serving on the lowest scales, namely £48 per year rising by £3 to £72 per year.

Now, the view held by the Associations, the whole lot of them, was that these basic salaries beginning at £48 per year were much too low at the present time, that even the addition of a high-rate cost of living allowance up to 50 per cent was not considered something that will substantially assist these servants in finding sufficient margin of manoeuvre when they are faced with a family budget.

I personally associate myself very strongly with those feelings. I think that the time has come when scales which begin much lower than £72 per year should not be considered as things that are worth-while. The cost of living which we are now endeavouring to ward off by means of temporary allowances are things which, although they are temporary, a very large element of them will have come to stay and it will have to be faced sooner or later. I should, therefore, like to ask that consideration be given, very urgent consideration be given, to the question of consolidating the cost of living allowances given to the lower-paid groups as part of the basic salary.

After that one, Sir, I should like to refer to the matter contained in paragraph 25. In this paragraph, Sir, we have proposed as a Committee, that an inter-territorial committee, or an inter-territorial body be set up that would deal with the cost of living allowance problem not only for their own territories, but for all the East African territories jointly. Well, I personally feel that it is a very wise move. A body of that kind will be in a position to see the problem in a much truer perspective than would a territorial body of the nature that was appointed by this Council.

[Mr. Ohanga] Whether we like it or not our problems are East African and they are, naturally, interrelated and a consideration of this kind, if done at that level and covering that sphere, is likely to produce results that would be appropriate to all the people concerned.

The only comment I should like to add to this, Sir, is that a body of this kind is essentially a body that will deal with the interests of all people concerned, and with authorities on this side for reasons of convenience is to limit the size down to an expert or two, I should like to suggest that experts can only serve the purpose required by the public if they are given the facts, and that facts are given by people who bear certain responsibility to the community. For that reason, while supporting the view that the interterritorial body should be limited, as I have agreed, the limit should not be so severe as to tie it down to a person or two to the extent that you would not have all interests involved represented; because I feel, Sir, that the only usefulness of a board like this one would lie directly on the confidence it is likely to draw from all communities in all territories, and to be able to do that I think it is very necessary that all interests concerned should be represented without much ado. The fourth and last point, Sir, I should like to make is a general one. As I have said, officers have been asked to make sacrifices. I am myself, aware that the extra Sh. 22/50, which an African earning Sh. 50 per month is going to receive, will not do very much to help him out of his present difficulty, but I agree that it is better than nothing and it will go some way in relieving him. But the question is still far from being solved.

This little assistance which is being afforded, will only help in a small way, and it is quite possible that after a short time it will be necessary for this Council to consider again and revise what recommendations have been put forward by this Committee. But I am quite sure that though small and not going a long way, the Committee has done something which should go a long way in assisting the officers to relieve their distress.

With this matter, Sir, I support the consideration of this report. (Applause.)

Mr. HAVELOCK: Mr. Speaker, there are one or two questions, Sir, which I would like to ask Government arising out of this report, if they can supply the information, now all well and good.

The first one is this, I have been told that the total cost of Government compared with the national income, has not altered in the last four or five years, if one compares the figure of the total cost of Government with the national income in say for 1946. I think 1948 was the first time the national income was worked out—if you compare with the total cost of Government for 1948 with the national income, and take a proportion, and then compare the total cost of Government in 1950, which, I understand, is the latest figure of the national income of that year, is there a considerable difference?

Now, Sir, it may not seem to be directly concerned with this Motion, but I feel it is, because it is, of course, owing to the cost of living allowances that have been granted in the last year or two, that the cost of Government has risen so sharply, mostly owing to the cost of living allowances, not entirely.

Now, Sir, I would be very interested indeed to hear the figures that I have asked for for the years 1948 and 1950, but I would be more interested to hear the figure of 1951. I know that it may not be available immediately, but it was during 1951 that the spiral took the extra turn and the cost of Government was very considerably increased by something in the region of £1,000,000. And I do believe, Sir, that it would be very interesting for hon. Members on this side of the Council to have those figures, and anyway for those, who might be present in this Council later in the year, to have those figures so that the 1953 Estimates might be viewed in the light of such figures.

Now, Sir, I am not saying, of course, that even if the proportion has not altered—I must make this clear—even if the proportion has not altered and the cost of Government is no more in 1951 than in 1948, I am not saying the cost of Government is sufficiently low. Another aspect of this problem, Sir, I think, has been brought up in other debates on the cost of living allowances to civil servants, and I would like to know if Government has considered what I am

[Mr. Havelock] going to put before the Council now, or if they will, and let hon. Members on this side of the Council know what are the results of their calculations. It is this, Sir.

If we grant this approximately £350,000 extra cost of living allowances as recommended, we will be paying a total sum of somewhere in the region of £1,500,000 in cost of living allowances. What effect, Sir, would it have if this £1,500,000 were devoted to subsidizing the cost of essential foodstuffs? What effect would that have on the African Retail Price Index, and the Wage Adjustment Index? Would it be sufficiently appreciable to adopt that policy and in that way benefit all consumers and all people in the country, rather than the direct benefit alone to the civil servant? I am not advocating this procedure. I am merely asking for comparative figures, and if it has been gone into and what the benefit might be, I can hardly advocate it myself, Sir, in view of a certain report that I have signed. However, times change and we were told by hon. Members opposite, I think, only yesterday, that it takes courage to change one's mind. Therefore, in changing circumstances and with courage to change one's mind, it may be that such a policy might be acceptable to hon. Members.

I do want to comment slightly, Sir, on a matter the hon. Member brought up, and that is the inflationary effect on the revenue of the Colony. I understood him to say that it is due to the inflation that these cost of living allowances are required, and, of course, inflation in itself will step up the pounds, shillings and pence that will be paid into the revenue of the Colony, and that, to some extent, the extra cost of these cost of living allowances should be met by the extra revenue collected owing to the inflationary effect. I think that was more or less what the hon. Member said. I would like to know if he can give us any firm idea of to what extent the inflationary revenue, the increased revenue due to inflation, will meet the increased costs due to inflation. I do not think he gave us even any guess to that, he merely said, "to some extent".

Now, Sir, I would also like to ask—this matter was obviously considered closely by the Select Committee and he has commented upon paragraphs 16 and 17—I think I am right, No.

Perhaps the hon. Member can help me?

THE SECRETARY TO THE TREASURY: On what? I am sorry.

Mr. HAVELOCK: On the inflationary effect on the revenue.

On pages 16 and 17, paragraph 27. Now, Sir, I would like to ask this. Did the Committee take into consideration the great increase in value of imports between the time that the Government estimated the revenue that would be coming into the Colony's coffers in 1952, the time that they estimated that figure, and the time that the Committee reported, because the Committee actually state: "Nevertheless, we feel it necessary to observe that even if the additional cost in this manner, the inflationary tendency caused thereby will of itself increase the cost of living, and will provide grounds for a further demand for an upward revision of the allowance". Was there not a gap between the revenue of the Colony being estimated and this report when the value of goods rose very considerably—three or four months, presumably, it would be—therefore at the time the report was written, more revenue could be expected owing to inflationary tendencies? I hope that I have put the point clearly. It is a difficult one. I see that the hon. Member looks a little puzzled, but the argument of the Committee, Sir, is that although the cost of living allowances may be paid from the inflationary tendency caused revenue, the inflationary tendency caused thereby will have, itself, increased the cost of living. What I am getting at is this. For instance, there is no further inflation as at the time this report was made, there is still, surely, that gap in value between the time the estimate was made and the time the report was made, to cover, in revenue, a considerable amount of this expenditure.

Now, Sir, the Committee have made a very wise recommendation, I think, in the suggestion that there should be an interterritorial committee to discuss matters of cost of living allowances, but

[Mr. Havelock] I would like to ask the hon. Member if he could tell us, if he has had any contact with the other territories on the recommendations that have been put before this Council. The formation of the interterritorial committee is for future cost of living allowances, I presume, the regulation of them, the agreement of them, but has there been an agreement on the recommendations put before us to-day, or has there been any discussion? In other words, is Government quite satisfied that if this Council should adopt these recommendations, they are not going to put the cat amongst the pigeons as regards interterritorial relations? In other words, that we are trying, even with these recommendations, to follow the usual policy of co-operation and collaboration with the other territories.

There is one other matter—this matter of the ceiling which two hon. Members on this side of the Council have discussed. As I understand it, if the ceiling advocated by the hon. Member for Mombasa were accepted it would cost approximately £30,000 more. If there were no ceiling at all, as advocated by the hon. Member for Aberdare, the total extra cost would be £35,000. Now, in going into this matter, did the Committee investigate and get any estimate of what collections by income tax would be if there were no ceiling? It seems to me that, especially in the higher groups if there were no ceiling, it might well be that quite a considerable part of this £35,000 would come back to the revenue in income tax, and I would like to know if the Committee considered it, because, in principle—and that is always the difficulty in discussing cost of living allowances, whether it is a matter of principle or expediency—in principle I agree there should be no ceiling, because a man should be paid what he is worth for what he is doing, and that is graded according to the responsibility he undertakes and even cost of living allowances, I believe, should be shaped to that end. If it is a matter of expediency only and relief to those who are hard hit, then sometimes, as is suggested here, and as in the past, that principle is waived. I suspect the extra cost to the country might not be very considerable when taking the revenue aspect into consideration. I am

pleased to see that this matter of the ceiling, according to the Report, is really left open for future discussion, especially in the interterritorial committee, and I would be grateful if the hon. Member would take into consideration my remarks on this matter when it is put up to the interterritorial committee.

Sir, to end, I would merely like to say, that I, myself, feel that this is, perhaps, the best Cost of Living Allowance Report of the numbers that we have had and as has been said by Members of the Committee, it is greatly due to the Chairman. In supporting the Motion, I would like to congratulate the Committee on presenting to this Council such a clear picture. (Applause.)

MR. MACONOCHE-WELWOOD: Mr. Speaker, rising to support the Motion, I have only a few points that I should like to make.

In the first place, it seems to me that, logically, one must support a Motion of this kind. Logically, because all of us have agreed, and certainly the agriculturalists have agreed, that rising cost of living prices, and those rising prices inevitably must be met by rising wages and rising salaries. Unfortunately the words "cost of living" are always used. It is not really a cost of living. It is the unfortunate result of the fall in the value of the token we use to pay people with, by things with and so on.

MR. COOKE: The same thing.

MR. MACONOCHE-WELWOOD: My hon. friend says it is the same thing. It may be, in a sense, the same thing, but most unfortunately it is never discussed by the public in the same way as a fall in the token would be discussed. A fall in the token means you accept these things. You do not say that and so is now receiving an enormous salary, he gets £2,000 a year, when he used to get £1,000. If you are thinking in terms of tokens, you would accept that, but we do not, we call it cost of living.

The major point I wish to discuss is this matter of ceiling. I wish to support very strongly the views of my hon. friend the Member for Aberdare. In the report, the words are used: "This is more a matter of propriety than a matter of logic." What propriety? Can there be in saying

[Mr. Maconochie-Welwood]

to a man, because you earn over a certain amount, we are not going to treat you with the same justice as a person who earns less, and this is where my argument about a token comes in?

If you admit a token has fallen in purchasing power you must provide top ranks of the service and higher paid executives with more of those tokens, and that is where I disagree with my hon. friend the Member for the Coast saying it is the same thing. If you admit the token has fallen, there would not be an argument across the floor of this Council on the subject of a ceiling. You would realize that men in this world are still (in spite of the modern theory) not paid what they are worth, but what they think it costs them to live; they are still paid, in fact, or should be paid in the higher ranks on merit, and it is on the merit of the higher ranks of any service or of any business, that the efficiency of that business chiefly must depend. If we go on like this, we are producing a perfectly ludicrous situation. We have our ceiling (I think it is £1,000) in this report. We have a man on £1,000 and this man is offered promotion on the normal salary increment without any further increase in the cost of living. As the token, which I come back to again, has gone down, that normal increment as it is called of, say, an extra £150 for taking infinitely increased responsibility and doing infinitely more work is written down to such a low figure that it is not worth the man's while to accept that particular rise in promotion. I am well aware that the Civil Service does not work entirely for money. I am well aware, to a great extent they work for the general good of the country and for their own sense of responsibility. Nevertheless, it is utterly unjust to haggle over the floor of this Council, which deals with a Budget of £16,000,000, over a matter of £5,000, to give justice to those people who shoulder the maximum responsibility for running this country. It is not, I repeat, a matter for bargaining, it is a matter of ordinary justice that there should be no ceiling. I am staggered that hon. Members have suggested that because it will save the taxpayer, it shall not be done. I have yet to learn that it is right

to try and save the taxpayer at the expense of common justice to a number of men who are serving the country. (Applause.)

THE SPEAKER: Is it not time hon. Members that we had something more concrete in the way of a resolution before us, than simply repeat "be now considered", because time is getting on?

MR. COOKE: Mr. Speaker, I rise merely to deal with the point made by my hon. friend. I did not intend speaking.

Now, I was amazed to hear my hon. friend say that we should devote £35,000, or whatever the sum was, extra to pay higher cost of living allowances to the senior members of the Government service. Well, Sir, I could not agree more. I think that is obviously our obligation and I would be perfectly prepared to support any Motion to that effect, but I thought we were, in here, to cut our coat according to our cloth, and if we are cutting our coat according to our cloth, it is my contention that the less paid members of the service should have higher priority. Now the reason is this. The man who—as I have made this point and others have many a time in this Council—the man who is on a low salary is getting nearer and nearer to the subsistence margin, and he has not got that margin of manoeuvrability that the higher salaried man has. The higher salaried man can cut down on luxuries and conventional necessities, but the lower paid man has already cut down to the bone and he is already on the margin of subsistence and therefore he cannot cut down his expenditure any lower without getting into debt or without adverse effect upon himself and his family. I believe that point to be quite indisputable, but if my hon. friend would suggest that the ceiling should be made higher: I would be perfectly prepared myself to vote with him. I agree with the arguments he has made, that the labourer is worthy of his hire, but as I have said before if the cloth is only going to be a certain amount, we must give preference to the lower paid people. That is the point I wish to make.

MR. SALTER: Mr. Speaker, I would like to add my congratulations to those that have already been tendered to the chairman and members of this Committee for the very careful examination

[Mr. Salter]

of this matter and the very clear report that has been produced.

You, Sir, reminded us just now that it was perhaps time that we should come to more concrete matters, and I would, with your permission, like to make two points for consideration in that connexion.

Now, first of all, looking at the terms of reference of this Committee, one sees that it was appointed as a result of recommendations made by the Select Committee of the 14th November, 1950. Now, again, if one looks at the Committee of the 14th November, 1950, it had been asked to report:—“Having regard to the existing price levels and the effect of any measures taken by the Government on those levels in relation to the cost of living, to investigate whether relief was necessary”, and so on. And they made certain recommendations, that was that relief should take the form of a money allowance based on gross salary, and certain percentages were suggested. Now, Sir, I agree entirely with the remarks which fell from the hon. Member for Uasin Gishu, but on that occasion one was tempted to ask whether the relief was being granted on hardship or equity, and I think that the hon. Member for Uasin Gishu has come down on the side of equity—and therefore, if equitable, why a ceiling? That was not the real concrete point I wanted to make. It was more in relation to the actual cost of living, because one cannot consider cost of living allowances without reference to the problem which has caused those allowances to come into being. I see that this Committee was asked to examine the matter in the light of existing circumstances and one would compare that with the terms of reference of the previous committee which had to have regard to existing price levels and the effect of any measures taken by Government on those levels in relation to the cost of living.

Now, Sir, if one turns again to the recommendations of the Cost of Living Committee Report at page 25 of that report, three main recommendations were made, and they were the subsidization of certain items of food—that was the first one.

The second was the immediate withdrawal of customs duties on the important items in the cost of living index and the third was the reimposition of price control on all essential articles in short supply appearing in the cost of living indices.

Since those recommendations were made, and since, obviously, it was then considered that they had such an important effect on the cost of living, then, in my submission, it was very relevant to know what steps have been taken to carry out those recommendations in their reference to these further allowances now recommended by this Committee.

No action was taken and what was the result? I am open to correction on this, and I hope we will certainly have information about it. But with regard to the subsidization of certain items of food, so far as I am aware, no action has been taken of a practical nature at all. So far as the second recommendation is concerned, the immediate withdrawal of customs duties on important items in the cost-of-living index, I think I am probably right in saying that the only action there was, was indicated in the Budget Estimates last year when certain customs duties were abolished in respect of infant foods, properly regarded as human milk substitutes, and the halving of existing duties on imported soda. There may be some other small items that have been taken, but that is the only action, so far as I know, that has been taken but that recommendation. Now, with regard to the third matter, Sir, that is the question of reimposition of price control on all essential articles in short supply appearing in the cost of living indices. One has really striking facts. In the first place, I think it would probably be expected that the tendency has been to lift price control rather than to reimpose it, and indeed if one may take certain specific items about which I happen to be informed, one shows how the effect of the lift of that control has increased the price of the particular article. The first one I mentioned, Sir—these are mostly grocery matters; we know the complaints which are now being made by the grocers in this town—the tinned milk. Before the decontrol, or before the price control was lifted on these matters, the price was Sh. 2/10 per

[Mr. Salter]

tin. It promptly rose to Sh. 2/35 per tin. I hope my figures are correct. I do not know the exact present prices, but these, I think, were on 4th February. Bovril was Sh. 4/30 per bottle, which rose to Sh. 5. Mustard was another—Sh. 2/45 per tin, which went up to Sh. 2/90. I only quote this to show that so far from the recommendations of the Cost of Living Commission report being adopted, and dealt with, they have been neglected. (Hear, hear.) And that, Sir, the point I wish to make, is this, that unless the Cost of Living problem is tackled—I know it is the problem which is almost insoluble, but these measures were recommended by that Commission as temporary measures in the hope that they were going to afford some relief in the cost of living, but unless the problem is tackled, I am perfectly sure that it will be in a very short space of time that we shall be having yet another Select Committee to consider the Cost of Living Allowances for Government Servants, and so on *ad infinitum*.

Now, Sir, the hon. Mover has said this is going to cost the country so much, but savings will be made whenever they can be effected, and I believe that it is likely to be covered by additional revenue. Well, now, I should like to deal with that point, Sir. I am perfectly sure that he is right when he says that it is likely that the cost will be covered by additional revenue, but what we should like to know is the certainty that they will be covered by additional revenue. I would suggest to the hon. Mover and the hon. Member for Finance, a very practical way in which he could assure us that that would be a certainty. We know that certain posts on the Establishment of the Administration generally in this country have no hope of being filled, they cannot possibly be filled within—reasonably certainly—probably twelve months or two years, or whatever the period may be. Now, the taxpayer has voted money for those posts, and I have no doubt that if that money, if those posts were not filled that money would go to the surplus balances. But we do not know in what manner the Government next year might consider that surplus balances should be applied. We should like to say that where a post is known that it will not be filled within

a reasonable period, it should be deleted. The taxpayer in fact has voted for services which he will not get and which will not be rendered within a reasonable time. It may well be said that there are difficulties about that, that you cannot very well advertise appointments of that kind if there is no establishment for it. I fully appreciate that, and I would say that if, contrary to all expectations, there suddenly appears a possibility of filling that post, then that is a matter which could be easily and quickly dealt with by the Standing Finance Committee. But I do feel that if these obsolete—or, not obsolete, but posts, which in fact are not able to be filled, could be deleted altogether, we know what the figure is and we know therefore the savings which will be effected, and therefore the money which will then become available for the sort of allowances which we are now considering.

Sir, I beg to support.

MR. BLUNDELL: Mr. Speaker, as the Motion before us is merely one to consider, I should like to move this amendment: This Council agrees with the scales proposed in the report and further expresses the opinion that arising out of it is the view expressed in paragraph 30 the additional cost should be met preferably by reductions in expenditure generally rather than increased charges on the public revenues.

Mr. Speaker, in speaking to the Motion, I should like to deal first of all with the composition of the Committee and join with those who have expressed their congratulations to the Committee, and specially to the Chairman. I emphasize to the Chairman, Sir, because no one who has served with him on similar committees can doubt for one moment the extreme integrity with which he views all these matters, which must in some degree, of course, reflect upon himself.

Secondly, Sir, I wish to sound a note of warning over the point which the hon. Member for Kiambu raised. In accepting this report, it will inevitably have repercussions eventually through a spiral in the cost of living, because the recommendations contained in this report will travel through commerce and industry and eventually to agriculture,

[Mr. Blundell] which will affect the cost of basic foodstuffs. I mention that, because we do in this Council have certain views expressed about the cost of basic foodstuffs, and it is just as well to sound that note of warning right away.

Thirdly, Sir, on the actual report, I note with a certain amount of apprehension the fact that it is suggested that the employee at the bottom of a scale should bear equally an element of sacrifice. Now, in times of great national emergency, I would endorse that, but I am a little apprehensive, because at the present time I consider that those on the real rock bottom rates of pay have the greatest difficulty in subsistence, without bearing any additional sacrifice. I think it is as well to stress that. I am doubtful, if one is on a salary of £30 a year, what element of sacrifice one is able to contribute.

Fourthly, Sir, on the report itself, I should like to say that I entirely endorse the views of the hon. Member for Usain Gishu on the ceiling, but I think it is a matter that is best dealt with at some time when the whole of the salaries are revised, or possibly considered for revision, as the Committee themselves envisage. I make that point now, Sir, because I am not at all sure that this continued depression at the top may not ultimately affect the quality of those who are now entering at the bottom; and who are young and who will eventually succeed to the top. It is a point we should bear in mind.

Now, Sir, I move this amendment because I have been worried for several years on the particular points which I am going to raise, and I think I should warn hon. Members opposite. I have raised them before in this Council. They are largely the financial implications which arise in this report. I shall also be some considerable time, Mr. Speaker, and I thought if I gave that warning, those hon. Members opposite who did not feel they were vitally affected in financial matters might possibly be able to remove themselves and be saved, therefore, the worry of listening to me.

Now, Sir, cost of living allowance is costing us £1,500,000 a year, and it is not a new thesis of mine which I am

putting forward. I have put it forward continually since 1949. It is my constant worry over the actual cost of Government in this Colony. We have had, year after year, a rise in expenditure. We have had similarly a rise in revenue it is true—

MR. COOKE: Revenue.

MR. BLUNDELL: Now, a lot of that which will cover the interpolation of the hon. Member for the Coast, is natural and cannot be avoided. It is natural expenditure which arises out of a growing community. But, Sir, there is in addition an element of expenditure which was embarked upon immediately after the war for certain reasons which I will give, which was conditioned by the fact that, in my view, we considered we were more prosperous than we really were, and indeed, than we really are. Now, Sir, I am not apportioning blame to any one side of the Council any more than to the other, because all sides are responsible, and I in particular am responsible, because I remember, Sir, when sitting in another place—I say that quickly, Sir, in case I shall be ruled out of order—in another place, I remember quite speedily agreeing to large establishment changes and proposals in departments about four years ago.

Now, Sir, my contention is that there is an element of prosperity in the country which is conditioned, of course, by the rise in the price level of our natural products, and by the great flow of capital into the country. But at the same time I do not consider we are as prosperous as we think we are—in other words, we were able to create an establishment outside, shall I say, the real basis of our prosperity due to two factors. Immediately the war was over we entered a post-war economy with a war-controlled economy, and the immediate effect of that was to present the ordinary man on a salary basis with a fairly low level of foodstuffs. It did not take long for the level of foodstuffs to rise, as they felt the impact of the post-war inflation period. That was reflected at once, of course, by progressive rises which have been taking place since 1948, in the cost of the establishment of the civil servants. At the

[Mr. Blundell] > same time, Sir, we entered that period—when we were possibly being misled—by these low war-controlled products—we entered that period also with Civil Service salaries which, for the same reason, and because during the war it was impolitic of anybody to suggest rises, were chained or tied to 1939 levels. We therefore started, from about 1947 onwards, about, to build Civil Service establishments which were largely conditioned by those two factors, the cost of living was cheap, and the cost of the civil servant was cheap. Now, I think, Sir, that induced us in those periods, possibly, to build up a Civil Service structure which is inadvisable within the general economy of our country. Now, Sir, if we follow this train of thought a little bit, we shall find that much of our prosperity is due, partly to revenue which arises out of the customs—and I should like to stress, Sir, that the immediate effect in many cases of a rise in the cost of Government as in this cost of living allowance is a further rise in the cost of living, because much of our revenue is created from indirect taxation. Secondly, Sir, there will inevitably come a time—and this is not only my own view, it is the view of persons, I think, more qualified than I am to express the view—there will inevitably come a time when the profit gap which is now flourishing, and flourishing strongly, our direct taxation, through income and company tax, will narrow, because as inflation hits the price of manufactured products, so the price rises and it tends to create increasingly—it may take a period of four or five years—consumer resistance. That is followed by a drop, first of all in profits and at the same time as this process is going on, we have got within the whole structure of, commerce a constant rise in the cost of production, which is also tending to narrow the gap. Now, I am deducing from this that it is quite wise, Sir, to issue a word of warning (in case Mr. Speaker, you are feeling slightly dubious about whether I am in order, I am bringing my argument up to the necessity, if possible, of meeting these extra charges by savings) because it will inevitably mean in the course of time that our revenue from income tax or company tax will fall—

THE MEMBER FOR COMMERCE AND INDUSTRY: Could I ask the hon. Member, Sir, if he will deal with one point? That is, he has referred to the great problem of the new investment. Would he agree that some cost of investment at any rate will be successful and even when the profit gap did narrow, the profits deriving from those new investments might take up the slack in revenue?

MR. BLUNDELL: Mr. Speaker, there is an element in that the hon. Member is right over new investment. The capital now coming into the country will inevitably result in greater revenue. But that revenue will also have to be serviced by an expansion of what I would call the essential services on the other side. It may well be that we shall not get from the new investment the rise in revenue in terms of money for expenditure which we anticipate. We shall probably get a rise in revenue, and at the same time a rise in expenditure to meet the services which the new capital development demands. That is why I feel it is so essential to limit our services to the basic essential services necessary for the country. (Hear, hear.)

Now, Sir, in putting forward this view—it is not only my own view—I must stress to hon. Members opposite that despite the impassioned appeals which we have had lately there is a very strong anxiety in the country on this matter, for this reason: I believe that the general view—at any rate, in most part the country for which I am qualified to speak—(hear, hear)—is that if the choice has to be made between more taxation, which may well arise out of these constant cost of living allowances, and a reduction in services, then the people in my part of the country would prefer to accept a reduction in services. Now, if we take our eyes off Kenya and look both far and near overseas, we shall see similar processes already taking place, both in Australia and Israel, and now in the United Kingdom.

MR. COOKE: How about Eire?

MR. BLUNDELL: I am not acquainted with Eire, and therefore I make no comment, Sir.

In regard to the United Kingdom, I should stress that the proposed cuts in Civil Service expenditure

[Mr. Blundell] is not in my view in any way connected with the arguments which I am advancing. They are largely connected with the vital necessity of financing in some way or another the rearmament programme. But, nevertheless, we have already got a tendency in the world for a retraction from the upward surge of establishments and services under Government in other parts of the world, and I think it may be necessary for us to consider it here.

Now, Sir, point is made to my argument by the following: over the last five years, expenditure has not—and I do stress this—had not gone hand-in-hand with revenue. That is a most important thing: The hon. Member when moving this hopes that revenue will be there to meet it, but it is not so. We have had over the last four years additional taxation on the poll tax, the export taxes, which are to serve the capital programme, company tax and excise tax, so that the people whom I represent, at any rate, are faced with the fact that the present establishments of Government have only been maintained by an increase in the taxation; I wish to stress very strongly that, faced with this choice once again, faced with the choice of more services and more taxation, I have no doubt in my own mind that they will choose less services and no greater increase in taxation.

Now, Sir, for these reasons therefore I move my amendment, and I have stressed very strongly in the wording that it is not mandatory. Now I do so, Sir, because, profiting by homilies that have been delivered of recent days, I did not wish to infringe in any way on what might be called the prerogative of the Crown, but I did think it was reasonable for us to express our advice and our counsel in this matter—and our counsel, Sir, very definitely, for the reasons I have given, and for the reasons which other Members have given, is that every attempt should be made to meet these extra costs by savings and not by further charges on the public revenue. I have therefore worded it, Sir, so as to give the hon. Member, who is singularly fortunate in the flexibility of his mind, the greatest flexibility inaxed in carrying out our intentions. I have been led to believe, Sir, that hon. Members opposite have

constitutions. I stress—I have been led to believe. I do not deny that, Sir, I only have one constituent to make. Unfortunately, their constituents can make no changes in hon. Members. Now, Sir, I underline the word "unfortunately," and I will go on from that to say, Sir, that I have a right, a perfect right, here to declare clearly what I believe are my constituents' views, and I have stated them. They are quite clearly that they would rather have less services than more taxation, and, Sir, I am more fortunate than hon. Members opposite, because in May of this year I shall be able early to present to them my views on this subject, and they will be equally able to endorse them. For all these reasons, I move my amendment.

MRS. SHAW: I beg, Mr. Speaker, to second this amendment, and in doing so I should like to say first of all that I wholeheartedly support this report, as a Member who has amongst my constituents a large number of civil servants, a body of people who, anyway as far as Nyanza is concerned—and I can only speak with any authority of Nyanza—work extremely hard, often long hours of overtime, and are often much criticized by a certain community for some obstruction of red tape which is not their fault but which clogs the machine of which they are only the wheels. For many of them, especially those civil servants in the lower grades, the general rise in the cost of living must be a monthly nightmare. In fact it must be extremely difficult for the man of a lower grade salary, with a wife and family, to make, or to balance his monthly budget, and often I suspect that such a family can only keep out of debt—which is a very important thing for a civil servant to do—by the most stringent economy, and a great deal of self-denial. However, having made it quite clear that I do support the recommendations of this report and should like to add my congratulations to the Committee on their excellent work, I must remind the hon. Members opposite that inflationary conditions do not only affect the civil servants but the community as a whole, many of whom are often in posts as small farm managers, etc., where they have not been granted, nor indeed have they any hope of being granted, a cost of living allowance. (Shame!) They are probably work-

[Mrs. Shaw] for some small farm or company which is starting up and, as such, is developing at the very high cost of production to-day. The lot of the man with a young wife and family in these circumstances, on a salary of say £35 to £40 a month, with no emoluments and no cost of living allowance, is indeed an unhappy one. For these people the burden of taxation is already too high, and it is for this reason, and because of the fear that every increasing cost of living allowance will mean ever-increasing taxation that I support this amendment put forward by my hon. friend, the Member for Rift Valley, as I do feel very strongly that savings can be effected in Government economy without in any way impairing the efficiency of Government, and that therefore it is only fair to ask that Government, on their part, should give some assurance that some part of the additional cost of £358,000 should be found out of savings.

THE SPEAKER: It is proposed to leave out all words after "that" for the purpose of inserting the words, "The Council agrees with the scales proposed in the report and further expresses the opinion that arising out of the views expressed in paragraph 30 the additional cost should be met preferably by reductions in expenditure generally rather than by increased charges on the public revenues."

THE FINANCIAL SECRETARY: Speaking, Sir, to the amendment—

THE SPEAKER: You can go back again if you like, but I was hoping we were going to close it on that.

THE FINANCIAL SECRETARY: I was speaking to the amendment because I have a fair amount to say, Sir, in reply to some of the arguments that have been put forward from the other side of the Council, and facts to give which have been called for, to the best of my ability. I would like to say that whilst not necessarily agreeing with some of the arguments put forward by the hon. Member of the amendment or by the hon. Member for Nyanza, nevertheless Government can accept this amendment. It is, after all, Sir, an expression of opinion of which Government will take very due notice and will endeavour to the best of its ability to carry out the intention.

I have nothing more to say, Sir, except if I may, on this amendment to compliment the hon. Mover of the amendment on having found a vehicle upon which we can agree. We can again and again, Sir, take notice of hon. Members' opinions opposite and say that we will do our best to observe them. What is difficult is for us to accept a firm and rigid instruction that such shall be done, because it is then not possible, as he has pointed out, to preserve the flexibility of Government administration.

LT.-COL. GHERSIE: Mr. Speaker, I have just one or two small observations to make—

MR. HAVELOCK: On the amendment?

LT.-COL. GHERSIE: I beg your pardon, Sir.

MR. HAVELOCK: Are you going to put the amendment?

THE SPEAKER: I am not going to put the amendment, considering the first Motion has to be superseded by something, I will allow the hon. Mover of the debate to have his reply and then put the amendment, which is the only thing that is worth putting, because the Motion does not take us very far one way or the other, though it gave us an opportunity for airing our views.

LT.-COL. GHERSIE: On that condition, I should like to speak.

THE SPEAKER: Go ahead.

LT.-COL. GHERSIE: I wish to draw hon. Members' attention, Sir, to an error in paragraph 27 of the report. It states that the estimated additional expenditure which our recommendations involve converts the estimate in the Budget surplus to a deficit of £76,778. Now, Sir, if I may remind hon. Members of the Budget debate, the ex-hon. Member for Finance made a statement that, due to the fact that he intended imposing or endeavouring to impose an export tax, that income tax in relation to that would be reduced. Now, Sir, I am not suggesting that this error was deliberate at all. I think it was an oversight on the part of the then hon. Member for Finance and the hon. Secretary to the Treasury because, Sir, it must be realized that this tax—and it is very important in relation to what I am going to say about another

[Lt.-Col. Gherisie]

paragraph in this report—this export tax on these particular commodities will only be levied in the year 1952. Now, on the 1952 year's assessment the deduction will only be made in 1953, with the result that there is no loss of income tax in 1952 because, Sir, there was no export tax in 1951, and the assessment of income tax on the year of assessment, 1951, was in 1952; therefore there is no loss to the Income Tax Department. Therefore, if I may use the expression, the Member for Finance has up his sleeve something in the nature of £60,000 to £100,000 which he thought he would lose from the revenue of the Income Tax Department. The reason I am trying to make this point is this: there is a suggestion in the report that there should be compensating savings in relation to the cost of living allowance that is now being asked for, and I do not want him to lose sight of the fact they have something in the nature of £60,000 to £100,000 which was never really disclosed in the 1951 surplus balance. I am sure it was an oversight on the part of the hon. Member's predecessor. I would like to make that point, and I am sure the hon. Member will appreciate it.

There is just one other point, Sir. I would just like to add one short remark to what has been said by my hon. friend and colleague for Nairobi South. That is, it is no use Government—we appreciate the necessity for an increase in cost of living, but it is no good Government continually coming to us for an increase in cost of living allowance unless they accept their own responsibilities also. They must do their utmost to try and control the cost of living. I want to make two very brief points. At some later stage, I hope, I will raise the question of the resignation of the Nairobi Citizens' Cost of Living Vigilance Committee—not to-day, Sir. (Laughter.) I have a lot of ammunition, Sir, but I am not going to waste the time of the Council. Their recommendations were not accepted—they were in part, admittedly, but it is a dreadful story. I will relate it at some later date. There is just one further point—I think I am correct—that there was a rise in the price of sugar shortly after the distribution had been made to the main distributors. The rise took place, with the result that these distributors

woke up one morning and found they had made a most wonderful fortune. The retailers are not complaining, except that they would have preferred to see it as an excise, and the Government benefit. It is all a question of timing. After the bulk distribution from the distributors, the retailers have to put up the price, and the cost of living goes up again. The people suffer. It is these sort of things we must watch, otherwise we will never control this vicious spiral.

THE MEMBER FOR COMMERCE AND INDUSTRY: Would the hon. Member agree that if what he suggests happened in regard to the distribution of sugar that it would happen in exactly the opposite way if events so demanded the distribution at a somewhat later stage in that particular period?

MAJOR KEYSER: Not necessarily.

THE MEMBER FOR COMMERCE AND INDUSTRY: I was asking him.

LT.-COL. GHERISIE: Is the hon. Member really suggesting—

THE MEMBER FOR COMMERCE AND INDUSTRY: I was not suggesting anything—I was asking for information.

LT.-COL. GHERISIE: If you make a bulk distribution of any commodity and within 24 or 48 hours there is an increase in the price, so those people would make a fortuitous profit.

THE MEMBER FOR COMMERCE AND INDUSTRY: The hon. Member has not answered my question asking for information. Could it in fact have happened the other way round?

LT.-COL. GHERISIE: No, Sir, because the price of sugar would have been increased before the distribution was made to the wholesalers. Well, Sir, as I say, I do not wish to delay the proceedings.

THE SPEAKER: We are going to adjourn until another day, and you will be able to go on, as long as you are speaking at the time of the interruption of business. I do not wish to deprive you in any way of doing anything like that. This is a sort of superseding Motion, this amendment, and I do not propose to

The Speaker) with having to say "No" when you really mean "Aye", and therefore if no one else wishes to speak I will call upon the hon. Mover to reply.

THE FINANCIAL SECRETARY: *Rise*—

THE ACTING CHIEF SECRETARY: Another speaker, Sir.

THE FINANCIAL SECRETARY: I feel, Sir, that in view of certain of the arguments which have been put forward from the other side, and certain information that has been asked for, that it would be entirely wrong if I allowed this debate to come to its conclusion without at any rate expressing opinions on certain things which have been addressed to myself.

THE SPEAKER: In that case we had better go through the motions of saying "No", etc. and the debate then will continue on the amended Motion and give you a right to speak. I will put the question that the words proposed to be left out stand part of the Motion.

THE ACTING CHIEF SECRETARY: Mr. Speaker, is it proposed to leave any words out on this occasion?

THE SPEAKER: Yes, it is proposed to leave words out. Unfortunately, you see, I am the only one that has the Motion in writing. The Motion is that the report be now considered. The amendment is to leave out all words after "that" and to add the words, "the Council agrees with the scales proposed in the report and further expresses the opinion that arising out of the views expressed in paragraph 30 the additional cost should be met preferably by reductions in expenditure generally rather than by increased charges on the public revenues". I will put the question that the words proposed to be left out stand part of the Motion.

The question that the words proposed to be deleted stand part of the Motion was put and negatived.

The question that the words proposed to be inserted stand part of the Motion was put and carried.

THE SPEAKER: Members will now continue to speak to the debate.

THE FINANCIAL SECRETARY: I shall be some considerable time.

THE SPEAKER: I have put you down on the list for the next day.

THE FINANCIAL SECRETARY: Perhaps I might take advantage, with your permission, of the one or two minutes left me, merely to request that I shall be permitted to give notice of Motion on Thursday that Council will resolve itself into Committee of Supply.

THE SPEAKER: This debate now, of course, is interrupted by reaching a quarter to one, and it will be open to those hon. Members who have not spoken on the main question, of course, to speak, when the debate is resumed, but as we have all had a very good talk I hope no one will take advantage to do much of that.

Council will now suspend business until 9.30 a.m. on Thursday, 6th March, 1952.

#### ADJOURNMENT

Council rose at 12.45 p.m. and adjourned until 9.30 a.m. on Thursday, 6th March, 1952.



Thursday, 6th March, 1952

Council assembled in the Memorial Hall, Nairobi, on Thursday, 6th March, 1952.

Mr. Speaker took the Chair at 9.45 a.m.

The proceedings were opened with prayer.

#### MINUTES

The minutes of the meeting of 29th February, 1952, were confirmed.

#### REPORT OF SELECT COMMITTEE ON COST OF LIVING ALLOWANCES FOR GOVERNMENT SERVANTS—(Contd.)

THE SPEAKER: The debate will continue on the Motion which referred to the Cost of Living Allowances Report.

THE FINANCIAL SECRETARY: Mr. Speaker, I would like, Sir, to commence by congratulating the Select Committee, and particularly its Chairman, upon the very lucid report which has served, I think, a very good purpose by setting forth in its first few paragraphs the basis and history of cost of living allowances. (Applause.) In that respect it will serve, I trust, as a starting point for any reviews of this type in the future.

I would like, Sir, to assure the hon. Member for Mombasa that Government will, of course, give every support that is possible to the Efficiency and Economy Committee. (Applause.) The Government—perhaps more than any body else—recognizes that inside the limited means of this Colony, it is important that every penny that is spent shall be spent to the best advantage. That we have to spend that money in the direction of certain services is, of course, a matter for this Council, but the hon. Member did raise the question of Government support, and I should like to assure him that there would be no question that the utmost support will be given to that Committee in its operations.

The hon. Member for Kiambu, Sir, raised certain matters with regard to figures of national income. My hon. friend, the Secretary to the Treasury, will cover that reply in detail in his reply to the Motion—to the debate. It might, however, interest the Council and the hon. Member to know that we have

already called for a complete statistical review of all the trends of expenditure and income, both on services and on non-recurrent groups. We have already called for special statistics showing us the trend of trade, and I hope that before long we shall have a complete statistical review before the Government on which to discuss and base our policy of the future.

Now, Sir, I come to a matter on which I am afraid I shall have to keep the Council for some time. It is, I feel, to some extent, Sir, not strictly relevant, but the hon. Member for Nairobi South raised this particular point, and made certain statements and asked for figures and replies from Government; and now, Sir, I am afraid that I must ask, Sir, that I be given permission to reply to the points that the hon. Member raised. He raised, in particular, Sir, the question of cost of living and the Cost of Living Commission.

THE SPEAKER: I do not quite follow whether you are addressing me on some matter of procedure or not.

THE FINANCIAL SECRETARY: I was, Sir, mildly seeking your permission to reply to the points raised by the hon. Member for Nairobi South, although he had, Sir, I felt, rather gone outside the Select Committee debate.

THE SPEAKER: Oh, yes. You may continue.

THE FINANCIAL SECRETARY: Thank you, Sir. He did refer in his speech, Sir, to the Cost of Living Commission Report, and referred to the recommendations given on page 25 of that report, quoting the three main recommendations. Now, Sir, I do feel that it is rather important in a matter so vital as this, and of such public interest, that the whole position of the recommendations should be laid before the Council—and so before the country. The page that the hon. Member quoted, Sir, reads as follows:—

"The Committee appreciates that, with three exceptions, there is little so far in this report which offers specific immediate relief to the cost of living. We believe, however, that we have set out principles which, if the Government adopts them, will result in a long-term stability of these prices

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which Kenya has within her own power to control. Three steps may be taken which can bring immediate relief."

Now, this, Sir, is an important statement from the Committee:—

"They are steps which can only be worked out in detail with full knowledge of all the financial implications. Because of continually changing factors in revenue and expenditure levels, factors unknown to us, we have not made specific recommendations. These steps are:—

1. The subsidization of certain items of food. Whether this subsidization should be provided, and the measure of it, is a matter for the Legislative Council to decide, because that body will have before it all the facts. It is the opinion of the majority of us that some measure of subsidization is proving essential, but it is more than likely that, in order to have any general appreciable effect on the cost of living, the figure of subsidization might well be in the region of £500,000."

Now, Sir, I will not amplify the cost, which has greatly increased in view of the changing factors of revenue and price levels, had this policy been embarked upon. That will be a matter for my hon. friend, the Secretary to the Treasury.

But I must quote from paragraph 110: "It is unlikely that any of these steps should be accepted as other than temporary measures, particularly that which deals with the direct subsidization of food". In other words the Cost of Living Commission in itself recognized that to accept that as anything like a permanent policy would mean a drain upon the Colony's finances. That was unlikely to be acceptable as a permanent feature of our economy. Mr. Havelock records his dissent. With the hon. Member's permission I will not read all the grounds for that because they are already on record.

Now the hon. Member for Nairobi South then went on with his second point, which was the immediate withdrawal of customs duty on the important items in the cost of living index. The report of the Commission on this particular point, Sir, was:—

"2. The immediate withdrawal of customs duties on imported items in the cost of living index. The factors which have influenced us against making any specific recommendation are those set out in the preceding paragraph. Here again it is obvious that the revenue which would have to be sacrificed would necessarily be of a substantial nature and might well, if the position demanded it, have to be made up either by increases in the present rate of direct taxation in the existing form or some other form of direct taxation or by increasing customs or excise duties on non-essentials or by some other form of indirect taxation, such as sales tax on certain specified articles."

In other words, Sir, the Cost of Living Commission had done what the hon. Member suggested in his words, but it recognized that a corollary of that was, indeed, "a possible increase in direct taxation or the increase of customs and excise duties on non-essentials, or some other form of indirect taxation".

Now, Sir, it is not true, or not accurate, shall I say, Sir, to say that we did not take certain steps with regard to the withdrawal of customs duties. The hon. Member must be surely aware that in the discussion on the 1951 Budget Estimates, the question was raised and Government abolished the excise duty on tea and customs duty on kerosene, and various other so-called minor things which cost the country £300,000 in revenue. And later in connection with the 1952 Budget Estimates, two more items were selected for reduction of customs duty to assist the pressure on the cost of living—certain infant foods and soap. Now, Sir, those may be regarded as minor matters, but nevertheless, the Committee itself recognized that the loss of revenue on the one hand would have to be accompanied by an increase in either direct or indirect taxation on the other hand. I suggest, Sir, that the Government has to balance very carefully where the impact of taxation must fall, and that too great a release of indirect taxation on these lines might well have meant that there would have been an impact at other points in order to compensate for it. I would suggest, Sir, that it is wise, when one is discussing this subject and quoting the Cost of Living

[The Financial Secretary] Commission Report, to bear in mind the whole of their arguments on this particular matter.

Now, Sir, the third was imposition of price control on all imported articles in short supply appearing in the cost of living indices, and it is on that, Sir, that I would like to speak, both in particular, and in general.

Hon. Members will remember the history of price control, how at one time, under pressure, it was gradually unwound. The amount of price control imposed in the country was gradually reduced largely as a result of public pressure and public opinion being against the system of control. It was a process that from 1948 onwards, and a process to which I must admit to hon. Members when I was on the other side of the Council I contributed from 1948 onwards. The general policy of the Government as a result of the expression of public opinion and opinion in this Council, had been this lessening of price control. When the Korean crisis began, there came the question of whether, if essential articles were to be in short supply, there should not be some re-imposition of price control. And by the 1951 Budget debate, the position had reached the stage stated by the then Member for Finance in the following words: "We have now pursued the policy of decontrol for a considerable time and the fall of prices by those urging decontrol has not eventuated. On the contrary there has often been an inexcusable rise. I think we can justly claim that the laws of competition have had their chance and for the most part failed. If Government is not to fail in its duty to the country, considerable re-imposition of price control is inevitable" and price control was reimposed forthwith upon khaki drill, certain made-up garments, blankets, and price control gradually became effective over a wider range of goods.

But, Sir, it is a policy which the Government must continually keep under review. We are not an isolated economy. A great number of those things which are affecting our daily lives are, in fact, those produced, and a great number of them, Sir, cannot be said by any means to comply with the request for the con-

ditions laid down in the Cost of Living Commission Report and, indeed, laid down by almost every Member opposite when demanding price control on an article. The request was for the reimposition of price control on all essential articles in short supply. Now, Sir, the hon. Member quoted one or two articles. He quoted tinned milk, Nestlé's tinned milk. Now, Sir, whilst one can say that it may be regarded as essential, can one in fact say that it is in short supply? He quoted Bovril, and Bovril, Sir, may be regarded as essential. But can one, in fact, say that it is in short supply? He quoted mustard; mustard, Sir, may be regarded as essential, and in our political life hon. Members opposite regard the application of mustard as being essential from time to time—(hear, hear—laughter)—but I could not say, Sir, that either in this Council or on the markets of this country, mustard is in short supply. It is not a matter which it to be settled quite as easily as the hon. Member thought. What is to be the principle of price control? Is price control to be applied only where articles are in short supply or is price control to be applied if, indeed, it is an essential, an essential article, irrespective of whether it is in short supply or not? Because if we adopt, Sir, as the hon. Member seemed to be advocating in his speech, if we adopt price control on the ground that an article is essential, then we have to be extremely careful, because we are, in fact, interfering with the economic status, the economic reward, of the individual initiative, purely on the grounds that it is essential to the country. And hon. Members, and, indeed, the Colony as a whole, must turn its mind as to whether this is indeed a just principle on which to base price control, and whether, in fact, the natural corollary of saying that because a man earns his living from something which is essential to the community he must be restricted in his reward, is not a very dangerous proposition over the long run; whether, in fact, the automatic expansion of that theory, of that principle, is not a limitation of dividends, a control of profits, a restriction of wages, indeed, an equality of sacrifice from all citizens rather than from the group that is handling the one essential article.

[The Financial Secretary] Now, Sir, that does not say that as the Government, on the ground of national expediency and emergency, these steps have not to be taken. They should, I think, be taken and they should be clamoured for by the people concerned in the full knowledge of the fact that they are asking for an equality of sacrifice, and that, indeed, they are embarking upon what may eventually be the first step of a completely planned economy: something, which, I am sure, Sir, hon. Members of this Council do not contemplate for one moment.

Sir, the Government has endeavoured to follow certain principles, therefore, in dealing with the situation which the hon. Member for Nairobi South outlined. That is, Sir, that any control of price, or otherwise, in this country must keep in mind the first essential basic requirement of the Colony, and that is the need to encourage self-sufficiency in foodstuffs. Because, if we do not do that, if we do not encourage a sufficiency of food, if we are hit by any outside catastrophe, be it a financial catastrophe, or be it, if I may call it, a marital catastrophe, Sir, this Colony would be in a much worse position. One of the saving graces of this Colony's present position is that it is confident of its ability to feed, at any rate, at a certain standard, the population of the Colony. And the Government's main duty must be to see that that protection against external incident, against starvation due to external causes, is always preserved. (Hear, hear—applause.)

Now, Sir, that automatically leads to the second point of Government's policy, the ensuring to the producer of a fair and reasonable profit. Because if the producer is not to be allowed a fair and reasonable profit, then there will be no incentive to production. (Hear, hear.) Let us, Sir, take all that we need from them in the way of finance for services by the way of taxation. Let us take it by the way of taxation, which is the fair and equitable way, but do not let us remove the incentive of a fair and reasonable profit.

MR. BLUNDELL: Remove incentive?

THE FINANCIAL SECRETARY: The third point, Sir, again highly important in a

Colony of this particular kind—without any disrespect, I may refer to what is its immature system of distribution—is the need to keep the distributive trades in being, because unless the distributive trades are in being there will be no channel, no vehicle for the distribution of the Colony's goods except that final and awful position of opening state shops in every place, and I can assure hon. Members that that type of activity is the last that the Government wants to embark upon on any wholesale scale. So there is need, the need to keep the distributive trades in being and, to keep those distributive trades in being, exactly the same principle must be applied as is applied to the producer. There must be a fair and reasonable profit on their activities.

Therefore, Sir, I come to the other principle which is a consequence, if we accept these first three, the need to keep in mind the principle that equality of sacrifice must be asked for from all concerned, consumer, distributor and producer.

And the final one, Sir, which is one that Government always has to keep in mind, the need to maintain a level of revenue essential to provide for the services demanded by the people of the Colony, and approved by the Legislative Council. I am sure, Sir, to have covered so much ground but I felt that as the hon. Member for Nairobi North has raised this particular matter, it was important that the position should be stated from the point of view of the general Government principle, even though, from time to time, we recognize that we have to depart from it, Sir, on the grounds of national emergency and expediency.

There is one paragraph in the Select Committee Report, Sir, to which I would like to refer before I sit down, and that is the one, Sir, which deals with the question of a review in the future.

The Government is endeavouring to move to a system of an annual review of agricultural prices. Hon. Members will be well aware of the terms of reference that have been given by His Excellency the Governor to the Commissioner who is now inquiring into this matter, to aim at an annual review of agricultural prices. The cocountant of that, if we can

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get it of that period of stability throughout the year, when the question of agricultural prices will not be touched, must be a period of stability in other things, in so far as they are in the power of Government to affect them. It is not in our power to affect the external prices, but in so far as it is in the power of the Government, if there is a recognized acceptance by the agricultural community of an annual review, then we in our turn must aim at periods of stability, even though that longer period between reviews and that period of stability demands sacrifices from other people of the type that we shall, undoubtedly, be asking the producers to make if they agree to the principle of an annual review. Because of that, Sir, I welcome the Select Committee's comments on the question of the period of review. I hope that when the Government has been able to deal with the present agricultural price position, that we shall see in front of us a period of price stability, and that we shall see, in so far as internal effectiveness is concerned, and equal period of stability in other things, and it may well be, Sir, that in the interests of the Colony as a whole, we shall have to delay these reviews in future even though it means a higher level of sacrifice being called for. All that we can do is to make certain that we call for sacrifices on an equal basis, if possible.

I cannot sit down, Sir, without mildly crossing swords with my hon. friend, the Member for Rift Valley. When he spoke about constituents, and a return to his constituents—I would like to say first of all, Sir, and to express my personal hope that his constituents will regard him with the same affection that hon. Members on this side of the Council regard him—(laughter—applause)—and that we shall have the pleasure of listening to what I think I once referred to as "Rift Valley rumbustiousness" for a long time to come.

MR. BLUNDELL: Mr. Speaker, I must point out to the hon. Member that these hopes on his part may well damn any chance I have of returning to this Council. (Laughter.)

THE FINANCIAL SECRETARY: I am perfectly sure, Sir, that the agility of the wit of the hon. Member will enable him

to leap over any hurdles such as to electorate.

Now, Sir, we will, indeed, be very pleased always to have him amongst us because we have for him, as I was saying, an affection, but, of course, he did, Sir, make one, I think, not mistatement, but one rather blind statement. He said that he was going back to his electorate "to the people in my part of the country". Well, Sir, that is right, he is going back to his constituents, but he would be the first to acknowledge that his constituents and his representation is of a certain section only, and that the position of the Government is that it has to have due regard to the interests of all sections—(hear, hear)—and when he said "unfortunately the Government could not be turned out by the Electorate", I think in his heart of hearts he is fortunate that, at the present moment in the history of this Colony, the Government does not have to seek the votes of any one other than the Members of this Council.

Sir, I beg to move.

MR. NATHOO: Mr. Speaker, there are only one or two points which I should like to make regarding the report which is before the Council. Sir, in paragraph 23 of the report, there is a statement by the Committee which appreciates that, whilst working out the cost of living allowances, people of certain groups of income are not benefited at all by the new allowances which will come into force. Now, Sir, whilst appreciating the fact, that whilst temporary reliefs are being granted, and *ad hoc* allowances are being made, that some section or other of the community is bound to suffer, but Sir, in all justice to this income group people, I do beg of the Government that some solution should be found to assist them as they, along with others, are meeting the shock of the cost of living increase and that, whilst it may not be possible to give them immediate assistance, when the whole matter is being reviewed by Government something should be done to assist these people.

Now, Sir, there is another aspect of this report which recommends to a certain extent some sort of uniformity with adjoining territories. Even, Sir, whilst the report is being discussed, I see in the

[Mr. Nathoo]

papers that one of the adjoining territories has increased the allowances from 20 per cent to 25 per cent to the Civil Service. I would like to know, Sir, from the Secretary to the Treasury, when he is replying to the Motion, as to how the new scale of cost of living allowance compares with what we are proposing at the moment, and whether, in view of their immediate decision, which has been taken during the last day or two, whether it would be necessary for us again to review the position say in about two or three months.

There is another aspect, Sir, which also, I am sure, is causing a great deal of anxiety to all responsible people who live in this country, and that is, even, Sir, during the last few weeks, there have been marked increases in some of the prices of commodities which are of essential supply.

I would, Sir, refer to the fact of the edible oil of which, as we are aware, Sir, a large proportion comes from Uganda. About two weeks ago, during an auction at the cotton seed sales, the prices which used to be in the region of £10 a ton of cotton seed, which gave us our oil supply, has risen up to nearly £30 a ton, Sir, and whilst I was in Uganda the day before yesterday, I found that the oil which was being marketed there at Sh. 23 a tin has already gone up to nearly Sh. 50, and I am sure, Sir, that the repercussions are going to be felt here and I do beg of the Government that they should take adequate steps to see that all that oil which has been given out to us at a fixed price, must be available to the public at that price, and that undue advantage is not taken of that thing by profiteers.

Sir, all these things do lead us to believe that as we are going on the prices are rising, the wages are rising, and I do not know what the answer is, but it seems to me that unless something is done very soon I think that wages will keep on chasing the prices which we can never catch.

Sir, I beg to support.

MAJOR KEYSER: Mr. Speaker, there are just two points I would like to refer to very shortly.

The first is the question of the ceiling and views expressed on that matter on this side of the Council.

I agree, Sir, with what the hon. Member for Uasin Gishu said about the remuneration of the higher civil servants. But, Sir, I think that we are possibly losing sight of the purpose of these allowances. I took it, Sir, that the purpose of these allowances has always been to meet a situation that has arisen owing to the increase in cost of certain essentials, and if that is the purpose, then I do submit, Sir, that it is essential that we should have a ceiling. But I do, Sir, at the same time think that with the continual decrease in what he calls the token, that possibly the time has arrived when we should have a review of basic salaries, always on the understanding, of course, that if there is a downward trend in costs—in other words, if deflation sets in instead of inflation, that again a review to bring basic salaries downwards should be inaugurated. That is one point, Sir.

The other point was the one raised by the hon. Member for Rift Valley when he moved the amendment which has been adopted by Government. He did say, Sir, I wish to stress very strongly that, faced with this choice once again—faced with the choice of more services and more taxation—I have no doubt in my own mind that they will choose less services and no greater increase in taxation.

Now, Sir, I believe that that is so. I believe there is a feeling, a very strong feeling, throughout the country, that the time has arrived when we have reached a level of taxation which must not be increased, that it would be destructive of, possibly, incentive and morals, and to the economy of the country to increase taxation to any very great extent; and therefore, if we are not going to increase taxation, but expenditure is going to rise at a greater rate than revenue, then we have something to get to do away with services and believe, Sir, that that involves a review of our policy. That is the point that I would like to make and I would like, Sir, the hon. Member, in his reply, possibly to deal with that, if, Sir, we are going to prevent increased taxation and reduce expenditure, then it would possibly involve a review of the whole of the policy of Government with regard to the services that it provides.

I, Sir, I beg to support. (Applause.)

Mr. HAVELOCK: Mr. Speaker, is the hon. Mover given an opportunity of replying, Sir?

THE SPEAKER: The hon. Mover only moved an amendment to the original Motion. Does he get a right of reply?

Mr. HAVELOCK: I asked that because I have been promised certain answers to questions.

THE SPEAKER: I do not think so. If there is any right of reply at all, it is Mr. Padley.

Mr. HAVELOCK: I mean Mr. Padley.

THE SECRETARY TO THE TREASURY: May I speak to the Motion? Sir, I will try to be as brief as I can and, at the same time, however, try and answer those points raised by hon. Members opposite which have not already been dealt with by my hon. friend, the Member for finance.

Sir, in the first place, as Chairman of the Select Committee, whose report we have been debating, I should like very much to thank Members of the Committee for their patience and for their tolerance and for the time they gave up to this task, all of which enabled us, Sir, to set down our views, with what I think I might describe as reasonable expedition. I very greatly appreciate the remarks which hon. Members have made about the Chairman, and I should be glad if they would accept my thanks, although the real reason why we were able to reach comparative unanimity in so short a space of time, was the approach made by hon. Members of the Committee with whom it was a privilege to serve. (Applause.)

Several hon. Members have referred to the ceiling, and it is clear that, like us, hon. Members are divided in their views on this question. I do not think now that I have much more, indeed anything more, to add to what we said in our report. I, for one, would be perfectly prepared to admit that there is room for more than one view on this matter. I can certainly give an assurance that the views of hon. Members opposite will be made known to the Members of the proposed interterritorial Committee, should it be decided to set this up.

I note the point made by the hon. Member for African Interests, Mr.

Ohanga, about the question of consolidation of part of the present allowance in the lower ranges of salary. It is my opinion, Sir, that *ad hoc* revisions of salary should be avoided if they can be. But I would agree that this matter is one which it would be appropriate to discuss on an inter-territorial basis.

Now, Sir, the hon. Member for Kiambu asked a number of searching questions to which I shall try to give the answers.

He asked for figures giving the relationship, as I understood it, between the Government's expenditure and the national income. Here they are, Sir. The national income has been estimated as £61,000,000 for 1948, £71,000,000 for 1949 and £82,000,000 for 1950. That is the latest figure we have. In those years the Government's expenditure, net expenditure, and by the word "net" I mean expenditure which excludes the Government's share of joint services expenditure, which appears on both sides of the accounts, was £10,385,000, £10,338,000 and £12,163,000 in each of those years respectively.

The ratio of expenditure to national income on the figures which I have given works out at 0.17 for 1948, 0.15 for 1949 and 0.15 for 1950, and indeed, Sir, if a contribution in 1948—

Mr. BLUNDELL: Mr. Speaker, may I ask the hon. Member if he would elucidate his figures of 0.17, 0.15 and 0.15. With swift calculations I regret to say I do not make the same. Even if you use the word ratio, I feel the hon. Member must be mistaken, Sir.

THE SECRETARY TO THE TREASURY: Sir, if we take the first figure—0.17. That was the figure, the ratio, for 1948. The national income was £61,000,000 and I said that the expenditure was £10,385,000. The ratio, therefore, of Government expenditure to national income is £10,000,000 divided by £60,000,000, very, very roughly. That is 1/6th, which I think is about 0.15, Sir. (Applause.)

Mr. BLUNDELL: Could the hon. Member, Sir, not express it in terms of 17 per cent and 15 per cent and 15 per cent. It would loom much larger then. (Laughter.) It would, in my submission, not tend to mislead the public. (Laughter—applause.)

THE SECRETARY TO THE TREASURY: Sir, an intention to mislead the public was the last thing that entered my mind. (Laughter.) If the hon. Member wishes that this should be expressed as a percentage then, Sir, the percentage of Government's expenditure to national income would have been 17 per cent in 1949 and 15 per cent in the other two years. (Applause.)

Well, with regard to the figure of .17 for 1948, I am sorry, Sir, of 17 per cent for 1948. In that year we had a contribution of £830,000 to the Civil Service Salaries Arrears Funds. If that amount, which is quite extraordinary, were to be deleted from the expenditure, then the ratio for 1948 also would work out at 15 per cent. Now this constancy, Sir, is interesting. But without very much more exhaustive examination of the matter than I have been able to give, indeed than it would have been possible to give to the matter in the time available, I for one would be cautious about drawing too many conclusions from it.

The hon. Member, in referring to the cost of providing Government services, said: "It is, of course, owing to the cost of living allowances that have been granted in the last year or two that the cost of Government has risen so sharply, mostly owing to the cost of living allowances, not entirely".

I do not wish to weary you with a mass of figures about this, but I should like to say, that in addition to the cost of living allowances, we have had considerable increases on what are known as "Other Charges", due to rises in price of imported and local products, and of course, in my opinion, Sir, perhaps the biggest single factor which has caused recurrent expenditure to rise recently has been and is the impact of the development programme. (Hear, hear.)

The hon. Member, Sir, asked what effect it would have on the wage adjustment index if the £1,500,000, which cost of living allowances are likely to cost if this motion is to be accepted, were used for subsidizing essential foodstuffs. I referred to this matter of subsidies, Sir, last May, in the debate on the Report of the Cost of Living Commission: I then

gave what was a very tentative estimate of between £4,000,000 and £5,000,000 as the annual cost of pegging the cost of living index at its 1948 level. I have been able, Sir, in the last few days, to obtain, with the kind assistance of the Director of Statistics and his staff, some more up-to-date figures in this matter, which I think will be of interest to hon. Members.

The figures, Sir, are intended to show what annual subsidy would be required in each of the items to which I referred, in order to peg the price at its level in late 1948, i.e. at about the time of the salaries revision.

For maize, Sir, it would require about £1,400,000. The retail prices have changed from 14 cents to 23 cents—that is, an increase of 9 cents.

Wheat would require £500,000 for bread, and about £600,000 for flour.

Rice: about £200,000.

Tea: about £300,000.

Sugar: about £1,800,000.

Butter: about £200,000.

That is, Sir, on those six items alone we estimate that, in order to have kept those at their 1948 level, the cost to-day would amount to about £5,000,000 which, I think, is roughly the sum of the individual amounts; and of course that is not everything. These are six items only. It is, Sir, very difficult to try and determine what would be the annual cost to the Colony of having maintained the *status quo* in 1948. I give this figure with a great deal of reservation and diffidence. It is little more than a guess, Sir, but I would guess that the figure might be somewhere near £12,000,000 a year.

Mr. COOKE: Sir, on a point of explanation, in case the hon. gentleman is in any way getting at me, nobody outside in Mathari has ever suggested the subsidization of all foodstuffs in this country, but the subsidization of maize alone.

THE SECRETARY TO THE TREASURY: I am sorry, Sir, that the hon. Member should think that I was getting at him. I do assure him that I was not.

Mr. COOKE: Thank you

THE SECRETARY TO THE TREASURY: I will give one more example which might be interesting. To reduce the African index—the retail price index, that is—by bringing back to their 1948 levels the prices of maize, tea and sugar only, we estimate would require £3,500,000 a year. I hope, Sir, that those figures will be of interest to the hon. Member—(applause)—and that he will regard them as an adequate answer to his question.

The hon. Member, I think, Sir, misunderstood me when he asked for my views as to what extent the increased revenue due to inflation was likely to meet the increased costs. He said, Sir: "I do not think that"—that is myself, the Mover—"gave us any guess to that. He merely said, to some extent." What I said, Sir, was this: "With regard to 1952, I am in no position to be specific, nor do I think anyone else is, but I would venture to express the opinion that the cost of these allowances—allowances which are a consequence of inflationary process—is likely to be covered by increased revenue."

The hon. Member referred to paragraph 27 of the report, and asked whether the Committee had taken into account, as I understood him, the fact that as a consequence of the increase in ad valorem duties, the additional revenue which might have accrued in 1951 since the time the revised estimate for that year was made, and the writing of the report, would not in itself cover the additional cost of these allowances. I think, Sir, that was what he said, although I must confess I was a little puzzled. I can only say that the Committee, in any view I gave on this matter, approached the matter quite generally, and no attempt was made to reach conclusions on evidence that at best would be a matter largely of "guess-work."

It is true, Sir, that since the revised estimates for 1951 were prepared, the latest figures show that the out-turn for customs and excise revenue may well be a further £2,000,000 above the revised figure prepared now nearly six months ago; but we shall not know the expenditure for the whole year until the accounts are closed—in what I hope will be a few months' time—and I should not be surprised if the increase in expenditure is almost equivalent, at any rate, to those increases in revenue.

I would merely add, Sir, that the type of inflation from which we are suffering here is not of the classical kind, "too much money chasing too few goods". There are very few essential commodities which are, in fact, in short supply.

The hon. Member, Sir, went on to ask whether there had been any agreement or discussion with the other territories about the recommendations in the report. On this point I would refer him to paragraph 14 which, with your permission, Sir, I should like to quote for the purposes of record, which said:—

"We should like to emphasize, here, an aspect of our terms of reference to which we have paid constant attention, that is the need for interterritorial co-operation. We were instructed to re-examine the cost of living allowance scheme, "with due regard to the need for co-ordination to the maximum extent possible with other Administrations, particularly the East African Railways and Harbours and the Posts and Telegraphs Department". The Chairman, at all times, kept these Administrations and the other Governments informed of the general views of the Select Committee and while, in the time available, the other territories and administrations were unable to say that they were prepared to adopt the scheme proposed, they were able to give assurances that its introduction in Kenya would not embarrass them. It has not been possible to achieve more than this at present, but reference is made later in this report to the matter of interterritorial co-operation, and we make suggestions about dealing with the kind of difficulties that arise in negotiations of this nature."

Since that was written, Sir, hon. Members will have noticed an announcement about changes in Uganda, and I can assure the hon. Member for Central Area that this is a consequence of our discussions, and I think he will agree that the proposals there are not inimical to the ones we have here. I am also, Sir, authorized to say that the East African Railways and Harbours, and the Posts and Telegraphs Department propose to adopt an arrangement similar to that recommended by this Select Committee for salaries above £210 per annum. Below that their system is rather on a different

[The Secretary to the Treasury] (but, and again it is in no way inimical to that proposed for this Government.

The hon. Member for Kiambu asked one more question. He was referring to the matter of the ceiling, and he asked for information as to the amount which would be recovered to revenue in the form of income tax on the additional cost involved. This is a difficult question to answer, and I can only give a very rough estimate. Hon. Members opposite, Sir, will understand why it is difficult, because income tax is related to the personal circumstances of the individual, and I can only be hypothetical. However, this may be of interest.

Let us take a man with a salary of £2,000 a year. We will assume that he is married, has two children and that he is allowed £150 deduction for education allowances, and £50 for insurance. His total tax, before cost of living allowance is added to his emoluments, will be £164. With cost of living allowance at £250, his tax would be £227. If there were no ceiling, his cost of living allowance would be £500 per annum, and the total tax paid would then amount to £304. In other words, Sir, with cost of living allowance at £250, £63 of this £250 would be repayable to revenue in income tax. With cost of living allowance at £500, £140 of the £500 would be payable in income tax.

MR. BLUNDELL: Shame!

THE SECRETARY TO THE TREASURY: As an overall approximation sum, I can say—as far as the Colony's Estimates are concerned—about £7,000 in additional income tax might be paid if there were no ceiling, in comparison with the tax which would be payable if the ceiling were £250.

Finally, Sir, I should like to refer to the question of meeting the extra cost of these allowances, and here I would refer to one point made by the hon. Member for Nairobi North when he said that, preparing the Estimates for 1952, the Government had reduced the estimate of income tax by some £600,000 as an offset for the imposition of excess profits tax. In fact, what the hon. Member said is perfectly correct. The reduction in income tax will not—owing to the im-

position of excess profits tax—will not, in fact, occur until 1953, and to that extent I would agree with him that the revenue may be said to be underestimated by £600,000.

I merely wish now, Sir, to say that the Government is fully in agreement with hon. Members opposite, that any additional expenditure should preferably be met by reductions in expenditure rather than by increased charges, and every effort will be made to find savings within the limits of accepted policy.

As far as members of the Treasury are concerned, Sir, it may not be generally realized that they wrestle daily—almost hourly, in fact—with the invidious task of trying to prevent somebody spending something—(laughter)—and you will understand, Sir, that we do not necessarily achieve universal popularity in the process. (Applause—laughter.) In fact, Sir, if a Financial Officer is not greeted by black looks from his colleagues, he usually begins to think that in some way he probably is not doing his job properly. (Laughter.)

Sir, we shall continue to court unpopularity in this way.

I beg to move. (Prolonged applause.)

The question was put and carried.

#### MOTION

COMMITTEE OF SUPPLY—TO RESOLVE INTO COMMITTEE OF SUPPLY

THE FINANCIAL SECRETARY moved: That the Council do resolve into Committee of Supply to consider the Financial resolution on the Orders of the Day.

THE ACTING CHIEF SECRETARY seconded.

The question was put and carried.

THE FINANCIAL SECRETARY: Mr. Chairman, I beg to move the following resolution: BE IT RESOLVED that a sum not exceeding £38,000 be granted to the Governor towards defraying the charge which will come in course of payment during 1952 for additional cost of living allowances for Government servants.

This, Sir, is consequent upon the matter we have already debated and I feel, therefore, it is unnecessary for me to say anything else at this stage.

I beg to move, Sir.

The question was put and carried.

THE FINANCIAL SECRETARY moved: That the Committee of Supply do report the resolution without amendment.

The question was put and carried.

Council resumed and the hon. Member reported accordingly.

THE FINANCIAL SECRETARY moved: That the Report of the Committee of Supply be adopted.

THE ACTING CHIEF SECRETARY seconded.

The question was put and carried.

THE SPEAKER: It is now just on 11 o'clock, and we will resume in a quarter of an hour. The Bills will be taken after the interval.

Council adjourned at 11 a.m. and resumed at 12.44 a.m.

#### ADJOURNMENT

THE SPEAKER: Hon. Members, it is now 12.45. I hope the adjournment has been as profitable as it has been lengthy; consequently there is no time remaining for further business, and Council will resume at 9.30 a.m. tomorrow morning.

Council rose at 12.45 p.m. and adjourned until 9.30 a.m. on Friday, 7th March, 1952.

Friday, 7th March, 1952

Council assembled in the Memorial Hall, Nairobi, on Friday, 7th March, 1952.

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

The proceedings were opened with prayer.

#### MINUTES

The minutes of the meeting of 6th March, 1952, were confirmed.

#### SUPPLEMENTARY ESTIMATES, 1952

##### REPORT OF COMMITTEE OF SUPPLY ON

THE SPEAKER: There is a Motion before Council, which was moved some days ago, which is not yet before Council, but a Motion has been moved, that the Report of the Committee of Supply on the Supplementary Estimates of Expenditure, 1952 (No. 1 of 1952) be adopted.

THE ACTING CHIEF SECRETARY: Mr. Speaker, I beg to move that the Report of the Committee of Supply on the Supplementary Estimates of Expenditure for 1952 (No. 1 of 1952) be recommitted.

I do this, Mr. Speaker, because I still believe that there is some misunderstanding over what the Government is seeking to do in the submission of this Estimate, and I think that this misunderstanding may arise as a result of possible confusion in the minds of hon. Members between Establishment and Supply. I think, Sir, that I can best explain what I mean by going back for a few moments to the debates on the Budget which took place last year. Hon. Members will remember that, when reviewing—as they have, if I may say so, a perfect right to do—the detailed Estimates of Expenditure, after some weeks of lengthy discussions, a number of posts were removed from the establishment. As a result, Sir, of that reduction in establishment, which the Government opposed as strongly as they could, the supply which was necessary to cover the cost of Government, was reduced accordingly. The Government strongly opposed those reductions, Sir, but, as I made clear towards the end of the debate in December, it then became the duty of the Government loyally to accept the majority decisions of this Council. I did, however, at the same time, give notice

[The Acting Chief Secretary]

then that the Government would have to review the position, and might find it necessary to come back to this Council with a request for some—at any rate—of the posts which had been deleted to be reinserted in the Estimates.

Since that time, Sir, Government has conducted this review and, out of quite a large number of posts which were then deleted, has felt it necessary that a few of those posts—and I would emphasize a few only of those posts—must, if the Government is to be able to carry out its duties as a Government, be reinserted in the Estimates; but, Sir, when we make that request—as we do now—we are still loyally accepting the total reduction in supply which resulted from the Budget debate. That figure was some £176,000. We are not now, Sir, asking Council to approve any additional supply. What we are seeking to do, is to point out as strongly as we can that, in deleting the posts which hon. Members did delete, they happened to hit upon a few which the Government considered to be vital. Therefore, Sir, we are now proposing—without asking for any additional supply—that those few posts which we consider absolutely vital should be reinserted in the Estimates.

That, Sir, inevitably means—having explained, as I have, that we are seeking no additional supply—that inevitably means that the funds appropriated for the payment of emoluments to the staff employed by the Government over the range of all the other departments must—if this supplementary goes through—be reduced by the total of the money required to pay these new posts. That, Sir, is what we are seeking to do.

We accept—as we accepted at the end of December—so we accept now the same reduction as was then brought about in the supply which was voted, and we will—as we said some ten days ago—take steps now to ensure that the supply necessary to meet the costs of these new posts—which we hope Council will be prepared to reinsert—is offset against appropriations for other purposes, we will take the steps necessary now to instruct heads of departments as to how the appropriation agreed for their departments in December must be reduced in order to cover this extra cost.

My hon. friend, the Member for Finance, will follow me with a precise statement on the instructions which will be given to members of the Government and to heads of departments on this question of savings, and also on the action which the Government undertakes to do in that matter: and, Sir, I do ask—understanding, as I hope all hon. Members now do, that we are not asking them to vote any additional supply—that hon. Members will agree that Council may resolve itself once again into Committee of Supply so that the details of this Estimate may be discussed in the light of the statement which I have made.

Sir, I beg to move. (Applause.)

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

THE FINANCIAL SECRETARY: Mr. Speaker in supporting the Motion moved by my hon. friend, the Chief Secretary, for recommitment of the report, I would like to reiterate the assurances I have previously given on behalf of the Government.

First, that savings will be available to cover the suggested expenditure, and that the sanctioned Estimates will not be increased in total beyond the amount already voted through the acceptance of what I might call the reinstated items.

Secondly, that where posts have not already been filled, or are not filled by a time later in the year, all Members will review the position with regard to those posts. I would say now, in addition, that instructions will now be given that savings must be made on the personal emoluments to the extent necessary to cover expenditure of any reinstated post, and that savings on other items must be made to meet the cost of expenditure other than personal emoluments. During the August sitting, I will inform the Council of the manner in which such complementary savings have been effected, and what posts, not already filled, Government will hold in suspense until the end of 1952 to cover the cost of any reinstated posts. (Applause.)

Thirdly, as I said indeed in Committee of Supply, Sir, Government is prepared to go a long way to see that these essential posts—in their opinion—do not add

[The Financial Secretary]—any expenditure to the sanctioned Estimates. It is the posts, and not the amount of money reduced in the Budget debate, which the Government wishes to see restored. Financial procedure, Sir, requires that the amounts have to be shown against these items as expenditure, even though savings of any kind—I repeat, even though savings of any kind—are made on other items, and I believe it is from that fact that the misunderstanding in Committee of Supply arose.

There is one other point I would like to make, Sir, and that is I believe that the form in which our Estimates are presented to some extent is our particular difficulty. It does not, I think, allow either the hon. Members opposite or the Government the flexibility that is desirable in a budget of this kind and with departments of the size that we now handle. I have already had consultations with my colleague the hon. Secretary to the Treasury, and I hope that we shall be able to advise Government of a new form of presentation of the Estimates which will in future achieve that flexibility on which I believe an agreement must be reached.

I hope, Sir, that with this explanation we will be able to agree to recommittal and discussion in detail once again.

MAJOR KEYSER: Mr. Speaker, I rise to support the Motion on behalf of the hon. Members on this side of the Council. (Applause.)

Sir, there is a difference which I should like to point out between the assurance now given by the hon. Member for Finance and the one that was given previously. The assurance given previously, which we found difficult in accepting, was dependent on certain posts which had not been filled and which might be filled in the course of the year, having the savings thus effected put against the new posts which Government are now asking for, whereas, Sir, our contention was that the new posts should be paid for out of definite savings, and the assurance now given by the hon. Member for Finance covers that, because the payments will be made by posts not being filled up to the end of the year, and I think, Sir, that that completely meets the request that we had made from this side of the Council.

There is, Sir, I think, a very short explanation possibly needed of the attitude of hon. Members on this side to the whole of the debate that has taken place on these Supplementary Estimates in the last week or so. Sir, we have on numerous occasions, stated that we feel that taxation has reached a level beyond which it would be dangerous to go, and we are quite aware that expenditure is dependent on policy. We are also aware, Sir, that services and the carrying out of a policy can only be effected by the revenue being provided and the supply provided to Government in order to carry out that policy. But, Sir, we do feel that when the time arrives we feel that we cannot supply any further funds towards the carrying out of a policy, that we must have a right here to state what amount of expenditure we are prepared to meet, and if, within the policy, economies cannot be effected, then, Sir, I think it is the duty of Government to state that there must be a change in the policy and state what that policy must be, but the real principle, Sir, that we have stood on in the last week or so, is that we do claim the right to say in how the money supplied by the taxpayers of this country will be spent.

Sir, on a word of detail over this Motion, which I think has not been mentioned by the hon. speakers on the other side, it is agreed, Sir, that the four surveyors asked for will be an extra supply. That is an agreement that has been made already, but I did not think it had been mentioned by the hon. Member.

THE FINANCIAL SECRETARY: No. Sir, on a point of explanation, I thought that would come better from hon. Members opposite.

MAJOR KEYSER: The other short explanation is that when we do go into Committee of Supply, there will be no Whip on this side of the Council, and hon. Members will be at liberty to express what views they like and will be at liberty to vote as they like.

Sir, I beg to support. (Applause.)

MR. BLUNDELL: Will you do the same?

THE ACTING CHIEF SECRETARY: Mr. Speaker, I think that there is very little that I need say, except to express the appreciation of the Government that we are to be given this further opportunity

[The Acting Chief Secretary] of discussing the items in this Supplementary Estimate in Committee of Supply one again.

I would also just like to say with reference to the hon. Member for Trans Nzoia's remarks that the Government does, of course, recognize the right of hon. Members opposite to discuss and to criticize the details of the Estimates of Expenditure. But having said that, Mr. Speaker, I hope that I may also be permitted to suggest for the future that with the development which is going on in this country, and with the ever-increasing amount of time which will, no doubt, be taken up in this Council in the consideration of the policies which are to govern that development—I do suggest that the time available to Council in the future will be very much more profitably used in discussing those policies rather than the smaller details of estimates. (Hear, hear.) There is no question of the right of hon. Members to discuss any detail that they may wish. But it is a fact—as I think we are all agreed—that it is policies that do in the end govern expenditure.

MR. HAVELOCK: Not entirely.

THE ACTING CHIEF SECRETARY: I truly believe that the time of this Council will be used to best advantage in discussing and deciding upon those policies and leaving to the Public Accounts Committee and any permanent expert machinery that that Committee might think fit to set up to see to the task of ensuring that the moneys voted by Council are properly expended, and that there is no waste. (Hear, hear.) I do believe that machinery of that kind is much better suited than this whole Council to consider details about the number of clerks and messengers and so forth, that are required by the Government to do its job.

I merely make this point, Sir, because I do think that in the future it may be of the very greatest importance that too much of the time of Council is not taken up in matters purely of detail. (Applause.)

The question was put and carried.

#### COMMITTEE OF SUPPLY

Council went into Committee of Supply on the recommittal of the Supple-

mentary Estimates of Expenditure, 1952 (No. 1 of 1952).

#### HEAD 2—2

THE ACTING DEPUTY CHIEF SECRETARY: (Applause.)—Mr. Chairman, I beg to move that Head 2—1, new item, One Secretary for Education and Labour on a salary of £635 a year, be approved.

MR. HAVELOCK: Little Sir Echo!

THE ACTING DEPUTY CHIEF SECRETARY: Having explained only a few days ago the reasons why Government considers this post necessary, I will only briefly reiterate what I have already said. The post is required as a sieve between the Assistant Secretaries and to the to the Member, to help inexperienced Assistant Secretaries with their work, to look after work when the Member is away on safari or on other engagements; and to co-ordinate between the various people who are submitting files or other papers to the Member. Finally, I drew attention to the fact that this post would be very necessary if at some future date constitutional developments should lead to a replacement of a professional civil servant Member by a person drawn from the other side of the Council.

Now, Sir, as a further illustration of the need for this post, I thought it would be interesting to the Council if I gave an account of a typical week in the life of a Member. (Laughter—applause.) This is the present week, and I have not picked it out as a particularly busy one. Monday, at noon, a personal interview lasting until one o'clock; 2.30, first meeting of the Whitley Council, going on until 4.30.

MR. HAVELOCK: What happened between 1 p.m. and 2.30 p.m.?

THE ACTING DEPUTY CHIEF SECRETARY: Tuesday morning, meeting at Government House; afternoon, meeting at East Africa Command. Wednesday, a Select Committee all day. (Laughter.) Thursday, Legislative Council in the morning; Select Committee all the afternoon. Friday, Legislative Council in the morning; Executive Council in the afternoon. Saturday—that is to-morrow—in the office, official discussions with other Members at 10 o'clock, another at 11 o'clock and another at 12 o'clock. (Applause—laughter.)

Sir, I beg to move.

Mr. HAVELOCK: Mr. Chairman, I merely wish to state, Sir, that we did discuss at another time, the matter of the increase from last year's salary by £400, of the salaries of Secretaries to Members.

THE MEMBER FOR EDUCATION, HEALTH AND LOCAL GOVERNMENT: Two hundred pounds.

Mr. HAVELOCK: Two hundred pounds, I am sorry. In supporting this Motion I merely wish to reserve the position on that particular point and ask Government to reconsider the position for future budgets or supplementary estimates, whether it is really right that every Secretary to every Member should be put on exactly the same grade, considering the different responsibilities held by the different individual posts.

I would merely like to conclude that the work as given by the hon. Member has created even greater doubts in my mind as to whether this post is necessary or not. I can assure the hon. Member that the work that has been placed before us, that is performed by this hon. gentleman in the last week, or some week, is possibly about 30 per cent of the work that is performed by an Unofficial Member. (Laughter.)

The question was put and carried.

#### HEAD 2—2 (2)

THE CHIEF NATIVE COMMISSIONER: Mr. Chairman, I beg to move that Head and sub-head 2—2 (2) new post of Press Office—I would ask that all the items under that item "Press Office" totalling £3,403 be approved.

I have already, I think, Sir, described the functions of the Press Office, and I would only recapitulate what I think are the three main functions. Those are to supply the Press in this country with Government and Colonial Office material and also to give publicity to the policies and actions of Government in the Press here; secondly, to assist the vernacular Press and African Press in this country particularly, and thirdly to assist in getting us a good Press overseas, particularly in the British Isles.

As I said, Sir, last week, when talking on this subject before, we have had a large number of notices, articles and letters in the Press and in many of the

journals—in fact, in all but, I think, two of the journals published in this country—saying how much the Press Office is required; how vitally it is required, and in many instances, giving great praise to the Press Officer.

Now, Sir, I would like to refer to one letter which appears over the signature of a large number of Press men from England, which appeared, I think, in the *East African Standard*, signed by, I think, 14 of them, representatives of the B.B.C., the *Express*, the *New Chronicle*, the *Daily Telegraph*, and so on, in fact by a large number of Press officers who were out here during the Royal visit. In their letter, which was published here on Tuesday, February the 12th, they not only gave great praise to Mr. Granville Roberts, who is a member of the *East African Standard* staff—and also to a postmaster—but gave great praise also to the Press Officer here about whom they say, "with only a small staff to help him and most of them volunteers, Mr. Downes has accomplished a splendid job which called for exceptional tact and organizing ability together with a real understanding of our many and varied needs".

That was only one of the compliments paid to our Press Officer. Since last week, a petition has been sent by the African editors of vernacular newspapers to His Excellency the Governor pointing out the great value of the Press Office to them and of the Press Officer himself. They say—I give it if I may say, Sir, a few extracts only—they say that: "We are dismayed by the prospect of the cessation of the kind and sympathetic encouragement and assistance we have always received from the Press Officer, Mr. Downes". They say, "The assistance rendered to us by the Press Officer has been invaluable. The Press Office has taken infinite pains to provide the facilities which we previously lacked", and so on.

I would only say once again to hon. Members that I think we are all agreed that the functions of the Press Office are essential. We very badly need them to be carried out and I would submit to hon. Members that without a Press Office itself and without a Press Officer, those functions cannot possibly be realized.

Sir, I beg to move. (Applause.)

Mr. NATHOO: Are we speaking on the Press Officer's post or on all of it?

THE CHAIRMAN: Well, we put the whole sum £3,403. Does anybody wish to move a Motion to omit or reduce?

Mr. NATHOO: I want to make some general remarks and then after listening to the other side, I might want to move an amendment.

THE CHAIRMAN: Well, then, talk generally.

Mr. NATHOO: Whilst appreciating the remarks of the hon. Member for African Affairs, I would like to say, Sir, that when, at the time of the Budget, this item was discussed, I along with some of my colleagues, I am sure, were under a different impression about this office and at that time we felt that perhaps we could do without a Press Officer and his department.

Subsequently, Sir, representations have been made to me by my constituents to say that, to a large extent, the Press Officer and his department have been of great assistance to them in their various functions and that it was a mistake on our part to have deleted the office completely.

I would, Sir, while supporting the Motion, like to know from the hon. Member for African Affairs whether it is necessary immediately to have the complete staff as he has outlined in the estimate which is before us. I should have thought, Sir, that in the first place, now we are doing the work again, that a small establishment could be initiated and then later on, if it was found that some of the extra clerks and other smaller posts were required, they would be put in at a later date. I would like to have some information about this point from the hon. Member before I make up my mind to move a reduction.

Mr. HOPKINS: Sir, I would like to ask if it would not be possible for the activities of the Press Officer to be extended to embrace correction and contradiction of some of the many inaccurate statements which are made in the Press overseas.

Mr. HAVELOCK: And locally.

Mr. HOPKINS: Sir, I accept that too. And locally. But, I think it is most im-

portant that something should be done to contradict the irresponsible and untrue statements that are made overseas.

Mr. COOKE: Mr. Chairman, I think it is a pity, Sir, to discuss details at this stage, such details as have been raised by my hon. friend, Mr. Nathoo. Surely, Sir, that is a question that the Efficiency and Economy Committee could probably go into.

I agree with what my hon. friend, the Acting Chief Secretary, said, that the question of policy is what we should mainly discuss and leave the details to be dealt with by the Economy Committee, which should sit later on.

Mr. BLUNDELL: Mr. Chairman, I intend to support the Motion before the Council, but I wish to say one or two things on the policy of this particular item.

The first, Sir, is that we should not confuse what is mainly an administrative matter with that of the true functions of the Press Office, which is the correct dissemination and passing to and fro of news generally, and I do submit that I am quite happy to pay a tribute to the Office for the way in which it handled the visit of Her Majesty The Queen to this country, and the excellent way in which the visiting Journalists were looked after—I submit, Sir, that is largely an administrative matter—I believe the office as constituted at the moment is excellent, in fact, first class on the administrative side, and the tribute which the 14 Journalists paid to the Press Officer was very well earned. (Applause.) But, Sir, I feel that the Office, as at present constituted, needs strengthening on the technical side. I do not say this from a complete lack of knowledge on the subject. I say it, Sir, after very due consideration, and I think that possibly we have not got quite the right set-up in the office, to inspire the local Press, both African and European in regard to the technical ability of the officers within the office. And, secondly, Sir, I am doubtful whether, again, the office has got the knowledge to put forward Government policy views, to disseminate and pass to and fro news generally to the best ability.

Now, I would like to ask the hon. Member to examine that side of the



[Mr. Blundell]—because people do not generally realize that the presentation of news, the selling of news, and even the smug-out of news, is, curiously enough, a profession, a technical business, just as much as anything else. It is quite erroneous to think that a man who may have a small knowledge of it or a slight background to it and is a first-class administrator, has, necessarily, that strong development of smell for news and for the presentation of news which is vital if this office is to be successful.

Now, Sir, I was one of those who, during the main debate, opposed this office strongly. I debated whether the correct course was to continue to oppose, but I think the proper thing to do is to advance this as a matter of policy and ask the hon. Member opposite to look into all this which I have suggested, and in view of that, Sir, I intend to support the Motion.

THE CHAIRMAN: I did not quite grasp the effect of what the hon. Member for the Coast suggested now. I do not wish to repeat it, but I have to point out this, that the Motion before the Committee is that the whole sum, that is £3,403, be approved. It is within the authority of the *ex officio* member in charge of the vote to move that a particular item or particular items be approved. That is the Motion, that the whole of the items be approved. If anybody wants to reduce or omit at any time, they are able to rise up and move that the item be reduced or omitted. It is simply a question of relevancy to the Motion at present before the Committee.

MR. COOKE: I merely deplored, Sir, raising detail at this stage. I thought it would be better at the Economy Committee.

THE CHAIRMAN: It is generally, but I have never been able to make these distinctions.

LADY SHAW: Mr. Chairman, I am still quite impenitent and I am not going to support this Motion. It is perfectly obvious that the Press Office is to become part of the Kenya set-up and I would very much like to impress upon Government the absolute necessity for keeping the set-up under constant review—the personnel, the organization and its usefulness. Personally, in spite of all the

encomiums which have been showered in this Council, I still feel that it is extremely doubtful whether it is half as valuable as it is supposed to be.

I beg to oppose.

THE CHIEF NATIVE COMMISSIONER: Well, Sir, I would like to give a reply to one or two points that hon. Members have raised.

The hon. Mr. Nathoo raised the question as to whether all the staff was necessary, and I would suggest that the details of the staff might go before the sub-committee of Standing Finance Committee to discover whether or not each of these items is, in fact, essential.

The hon. Member for the Aberdare raised a question of the correction of the false statements, both in the local Press and the Press overseas. I would only say two things about that. The first is that the Press Officer here is in close touch with the Press men in the United Kingdom, and is, in fact, raising questions with them when we find that misrepresentations appear to have been made there, making an effort, in fact to have them corrected in the overseas Press. My own experience, such as it is, is that it is extremely difficult to chase a lie. Once it is published in the paper, very often, the mere publishing of a contradiction or explanation, merely calls attention to the original lie and "hits it on the head with a hammer", not the sort of hammer we want to hit with. That is a very debatable question and it is one that has come to me personally many times over the last half a dozen years.

The hon. Member for Rift Valley raised the question of the ability of the present staff to be able to put across to the local Press Government policy, Government action. I think that his ability to do so depends very largely upon hon. Members on this bench really, the opportunity they give him, and so on, and the degree of "publicity-mindedness" of themselves. If I may coin a phrase, I know that we will all look to try to help in that matter.

I am sorry I did not persuade the gracious lady, the Member for Uluamba once again to support the Press Officer whose appointment she supported some months ago.

Mr. Chairman, I beg to move.

MR. HAVELOCK: Mr. Chairman, I would like to emphasize the point put forward by the hon. Member for Aberdare and I suggest that the rather unsatisfactory answer given by the hon. Member for African Affairs—I think, Sir, that it is a most important factor, the misrepresentation that is going on and has been increasing of late, both in the local Press and in the Press overseas. This matter of chasing a lie has been discussed in detail and was certainly discussed by the Select Committee on whose recommendation this Office was created, and that Select Committee realized the difficulties of chasing a lie, as pointed out by the hon. Member opposite. But, I believe that quite strong measures could still be taken in a positive way and that means that, should any newspaper in Britain or indeed in East Africa print something which is not really true and is a misrepresentation, that steps should be taken through the Press Officer to have a positive article giving the right facts, not necessarily just denying the lie, but giving the right facts in the same newspaper as soon as possible afterwards. That, Sir, I believe, is the way; in some way, this malicious misrepresentation can be countered. And, I do hope that hon. Members opposite, and the hon. Member who is responsible for this Office especially, will take this into consideration and see that some steps of this sort are taken.

LADY SHAW: Mr. Speaker, this question of chasing up a lie for preference, I should like to check one directly if I may; that is this question of my having approved of the Press Office a few months ago. Anybody would think I had approved of it a few months ago. In fact, I signed the Report of the Information Office Inquiry, which did agree to the establishment of a Press Office. At that time, I was under the impression that it was going to be expressly used and almost entirely used to help the vernacular Press. I expected, Sir, that the emphasis would be laid upon that function and its necessity, and, incidentally, naturally expected that someone with considerable experience of Africans and the African Press would be likely to be given the task. Therefore, Sir, when I objected to the Press Office as set up here, I am in no way going back on my belief that a Press Office should be

set up, but I do not believe that the Press Office here is of any use for the purpose for which it was intended.

MR. BLUNDELL: Mr. Chairman, I just want to tie down the hon. Member to what he referred to when he replied just now. It is no earthly good how "publicly-minded" the hon. Member may be if the vehicle for the Press Office does not know its job. The Press Office may be the most magnificent Press Office in the world and capable of keeping several thousands of journalists happy, but it will be utterly useless unless the news which is put across to the public is what is wanted. I do not think that the Press Office as constituted to-day has enough knowledge of what is news, how this news should be presented, of how it should be put across to people and how it should be organized. That is all.

I will now quieten down, Sir, as the hon. Member is using his hands in that respect, but I do want to impress upon the hon. Member that, in my view, is where the weakness lies.

The question was put and carried.

#### HEAD 2—2 (1) (16)

THE CHIEF NATIVE COMMISSIONER: Mr. Chairman, I beg to move that Head 2—2, Item 1, (16) 9 District Officers, be approved.

Once again, Sir, I have put before this Committee the functions of these District Officers, and again I will say that I think their main functions are four. As we all know, those officers work amongst Africans in the African land units mainly, although one or two of them have worked in the settled areas in the Rift Valley Province. Their main functions are particularly, first of all to encourage good citizenship; secondly to develop a sound public opinion amongst the people, amongst whom they are working; thirdly, to do everything they can do to encourage better living conditions; and fourthly, to do what they can to give instructions in what nowadays is called the utilization of leisure. Their particular value is, I believe, Sir, their contact with the individual.

As I have said before in this Council, I am quite sure that nowadays we have got to put our ideas across to individual Africans, to persuade them that those are

[The Chief Native Commissioner] good ideas worth following and to help them to do so. Now these officers, whom we are now asking for, their particular function is to get in touch with individuals and not to be taken up with a tremendous amount of routine that the ordinary District Officer has to do.

Now, Sir, as I said last week, it is my intention that these officers should eventually be absorbed into the District Administration, and in that way this Vote that I am now asking for is really in effect for nine additional District Officers in the Administration. They are, I know, paid at this particular salary which although it is covered by the salaries paid to the District Officers, but is not at the same scale as theirs. I would only state that it is my own intention that it should be. There are nine of these officers and it would mean, if this happened, that nine additional recruits will be asked for as soon as we can get them and that, Sir, will not be until September, 1953.

MR. HAVELOCK: 1953?

THE CHIEF NATIVE COMMISSIONER: I think this is all I need state. I will not weary the Committee with once again going through more details about the work of these men and I would very earnestly ask the Committee to approve the provision of these posts.

MR. HOPKINS: Mr. Chairman, I think as Budget debates go, when these posts first appeared under the name of Welfare Officers, I, and a number of others on this side of the Committee, opposed them vigorously. We have done so consistently ever since when they had their names changed to Community Development Officers, and now they have their designation as District Officers on a different scale. On each occasion we have given carefully our reasons for opposing these posts and we have listened patiently to the arguments put up in support of them.

Sir, I do not think it could be said that their elimination from the 1952 Estimates was the result of insufficiently thought-out action. I should like to make it quite clear that I am opposing these posts, not because I think that welfare and community development work is unimportant. On the contrary I think it is so important that it should be undertaken by all officers in the native reserve who

are in contact with the Africans. (Hear, hear.)

It has been stated, Sir, that the abolition of these posts is likely to make it easier for subversive influences and communism to spread. Now, Sir, I think that it is a great exaggeration of the situation. Now, it is a fact that no one type of officer is ever able to contact more than a very small section of the African population. The District Commissioner and his officers, for example, get into contact with those, broadly speaking, who are interested in the administration of their districts or of their locations. The Agricultural Officer again contacts those who wish to improve their agricultural efforts or those who he is trying to persuade to improve their methods. The Medical Officer and the Veterinary Officer again contact a different section of the population, and so on. Between them all, however, there is no doubt that they cover practically the whole of the population.

Now, Sir, the District Welfare Officer also contacts a certain number of people but very often not the people that he wants to, and I believe that it is true that all these different officers who are already in close contact with the Africans are those with whom we should carry out our welfare work. Now, when I was carrying out an investigation into administrative problems a few years ago in the various territories which lie between here and the Cape, I was most impressed to find that, in Southern Rhodesia it was the established policy that every officer who worked in the native reserve should, over and above his ordinary legitimate duties, do something in the way of community development. The Public Works Department foreman, for instance, was expected to do this after he had finished his work he would try to contact the Africans and get them interested in improving their water supply by piping it into cement catchments which kept it clean.

The Medical Officer was expected to get into touch with those who wished to lay out their villages and to show them how they could do so on sanitary and better style than was their custom.

Now, Sir, I believe that this is the correct way of tackling this problem of welfare. We are in this country

[Mr. Hopkins] hundreds, and if we include Africans, which I think we very definitely must, even thousands of officers who come in close contact with Africans who have already their sympathies, and I think it is through these people that the work is done and not through nine Community Development Officers, whom the Chief Native Commissioner said last November quite frankly, are not up to the standard of District Officers.

Sir, the mere existence of these posts, I believe, tends to make other officers feel that they can leave community development work to these nine officers.

Sir, in regard to the view that the abolition of these officers, who belong to the administration, I should like to say a few words about that and to do so I shall have to go back a bit to the "thirties". About that time, Sir, there were a number of agitations in this country for the reduction of the administration. At one time it was even pressed that District Commissioners in settled areas had outlived their usefulness and could be replaced by Revenue Officers and Magistrates.

Now, Sir, the outcome of this was that somewhere about the middle of, the "thirties" a distinguished civil servant came out here with a mandate to find out how the administration could be cut down. The result of his report was, and it was a most disastrous report so far as this country is concerned, that the administration should be cut down quite considerably. It was reduced, Sir, not only in numbers but in prestige.

Now, about 1939 when I happened to be Provincial Commissioner in the Rift Valley Province and also incidentally a member of this Committee on the Official side—(applause)—I put up a memorandum pointing out what a disastrous policy it was to cut down the administration, and I remember that in this memorandum I made special reference to the East Suk and stated quite definitely that if there was not closer administration in that and other backward districts, some untoward incident would inevitably take place in the future. Sir, this prophecy was unfortunately fulfilled in Kolloa.

Now, Sir, this memorandum was supported by the other Provincial Commis-

sioners, it was accepted by Government and I was allowed by the Chief Secretary to put up the point of view to the Elected Members, the European Elected Members they were in those times. I managed to convince them how strong the case was, and the result was that in Legislative Council shortly afterwards the principle was accepted that there should be an increase in the Administrative staff. One man was appointed, and the War then came upon us, and the Administration was once again cut to the bone.

Now, Sir, from this it has never recovered. Such small increases as there have been from time to time have been more than absorbed by the increase of post-war development, and, Sir, I believe that there would be no expenditure in this Colony which would show greater dividends than that of increasing the Administrative staff of the Colony. (Hear, hear.)

Sir, as I have said, I oppose very strongly these nine Welfare Officers and I do not quite know how to proceed about having them replaced by real Administrative Officers. What I would like to suggest is that the hon. Chief-Native Commissioner would agree—he has given some measure of agreement—categorically that he would get rid of these people, those of them who are not suitable to be absorbed into the Administration, and that he would replace them by cadets. I say cadets, Sir, because I believe that by recruiting through the ordinary channels which we have always recruited our Administrative Staff, that is through the Universities, is the only really satisfactory way of getting good Administrative officers. (Applause.)

I know, Sir, that it is a long-term policy and for that reason I am not going to oppose this item of £7,124 provided that I get the assurance from the Chief Native Commissioner that these men will be replaced as soon as possible by real Administrative Officers.

Sir, I beg to support.

MRS. SHAW: Mr. Chairman, although I do agree with what the hon. Member for Aberdare has said, to a certain extent, about these Development and Welfare Officers, I do not agree with everything he has said. For I feel that,

[Mrs. Shaw] while it is very important that the District Commissioner, Agricultural Officer, Veterinary Officer and all Government servants should in their day to day tasks and journeying from the reserve always keep before them the fact that they must do anything they can do or say to stop subversive propaganda, and every opportunity they can use to get in touch with the African and African opinion they must use, at the same time many of their duties may preclude them from going into more detailed work of community development.

There is another angle I feel very strongly about. The District Commissioner, when he attends a *baraza*, does so as a *bwana mkubwa* and when he comes to that *baraza* everything is rather formal and official, as the *bwana mkubwa* he does not get the opportunity very often of getting in touch with the man who is possibly spreading that subversive propaganda in the little markets throughout the native reserves. I feel that the Community Development Officer, who is usually a young man who tours round starting this development work, in a much less impressive manner than the District Commissioner when he attends a *baraza*, is more able to get at the gossip that is going on in the market place throughout the reserve. (Applause.) And therefore I feel that he can very often find out and nip the spread of rumours and dissatisfaction in the bud, whereas these rumours and dissatisfaction or grumbings may never reach the District Commissioner. (Hear, hear.)

I also feel strongly on another point. I know our Community Development Officer in Kisumu is doing an excellent job. Now he is a young man who has not had possibly, I think, the advantage of coming into the Colonial Service via Oxford or Cambridge or an English University. But he is a young man who has been brought up in Kenya and knows the Africans and speaks Swahili fluently and therefore is eminently suited, in my opinion, to take such a job as this. (Applause.)

THE CHIEF NATIVE COMMISSIONER: Mr. Chairman, I would like first of all to give to the hon. Member for

Aberdare the positive assurance that he asked for, and that was that I will, as soon as I possibly can, ask that we have an additional number of cadets sent out to take the place of those of these five District Officers who are not capable, are not up to the standard of the work of the District Officer. (Applause.)

There is one more point I want to make and that is that although I entirely agree that it is excellent policy, if you can get all the members of district teams to do this work and get in touch with individual Africans as they go round the country, you will still require, I am convinced, a member of the District Administration proper to be particularly assigned to that work, and that I say, having in mind essentially the enormous amount of wireless sets of all the propaganda machinery for publicity that we have now, emerging from the Information Office. We have got to make use of that machinery, and we want to keep that tie up in the African land units, and I think you have got to have a man, and I would prefer him, I agree, to be a District Officer proper, to do that job. And I think we shall still require those men. But I do give that assurance that we will take on District Officers proper and not take on those from the present staff who are not capable of taking over the work of the District Officers proper.

I am happy to say a few are, although the remainder are not.

The hon. and gracious lady from Nyanza stated that District Officers may be too busy to do this work and I think that is so in a number of cases. True that they do deal far more with the mass than with the individual. I agree with her, it would require a special man to do this particular work. I put a very great measure of importance upon the fact that they should know the local language. It is for that reason that these District Officers, when they are recruited from home will be stationed and placed in one district as long as I can manage to keep them there.

Mr. Chairman, I beg to move.

Mr. HAVELOCK: Mr. Chairman, may I ask the hon. Member a question? He seems to have assured the hon. Member for Aberdare that these Development Officers will be absorbed into the

[Mr. Havelock] on the other hand, he has also given an assurance, I understand, to the hon. Member for Nyanza that the specific people are required, and therefore, presumably, will continue to be required, that is, people specifically on this job. I do not really understand what the future picture is going to be.

THE CHIEF NATIVE COMMISSIONER: Mr. Speaker, I shall have the greatest pleasure in trying to tell the Member for Ukamba again, but, Sir, I agree entirely with the hon. Member for Aberdare that what we want are District Officers on a long-term scale to do this work. Therefore, as I have said, I shall endeavour to recruit as many as are required to take the place of such of these men as are not up to that standard.

But I still consider that when we have those additional District Officers, they will be required to do this special work. I do not say there will be any nine particular officers for this. They will go into the pool, and we will pick out of the pool such officers as seem to be most suited to that work.

Mr. BLUNDELL: It has taken three years to get that.

Mr. HAVELOCK: Thank you!

THE CHIEF NATIVE COMMISSIONER: I am delighted you are pleased. I should like to say that I believe in choirs and places where they sing they say: This is the third and—I hope—the last time of asking.

The question was put and carried.

#### HEAD 2—2 (1 (10))

THE CHIEF NATIVE COMMISSIONER: Mr. Chairman, I beg to move that Head 2—2, item 1—10, 4 District Foremen, be approved.

I will not, Sir, weary the Committee again with details of these men's work. I think that hon. Members have all agreed that their work is valuable and absolutely necessary, and I would merely say that I would ask them once again if they would agree to provision for these posts.

Mr. COOKE: Mr. Chairman, when these posts were first envisaged four years ago—in the 1948 Estimates—the hon. Mr. Mathu and myself suggested

that it would be expedient to have African foremen in place of Europeans, because we thought that that was a typical post which might be filled by the emerging African, but, in spite of our protests, the European foremen were kept on.

Now, I have no objection—no criticism whatsoever—of the European foremen—who, I think, from all I have seen, are very efficient men—but I do think, Sir, that if we can have African administrative officers, it is certainly time that we had African road foremen, and I think, Sir, it is a legitimate criticism of the gentlemen on the other side of the Committee, that, after 30 years in this country, we have not trained Africans for that comparatively minor job, although I do admit that a sense of responsibility must be possessed by anybody who holds down such a job.

If I can get a promise from my hon. friend, the Member for African Affairs that he will make it his business to see that Africans are trained for this particular post, I personally, will withdraw my objection to it.

I would think, Sir, if I may indulge in this reflection, that it is much the best policy, I think, on this side of the Committee, to oppose the creation of new posts—in which I have taken some pride myself—I did four years ago—rather than to cut down posts that have already been created, where you do a great disservice and have already been often to people who have already been appointed, and I have had a good deal of experience in Standing Finance Committees, where our policy will be, in future, to scrutinize very carefully any new posts, and I think that it is going to be our policy, rather than cut down our posts and, possibly, do injustice to men who serve here.

Now, if I can get that assurance, personally, Sir, I shall be happy to support the Motion.

LADY SHAW: Before the hon. Member gets that assurance, I hope that I shall also get an assurance that no one will get that post—whatever the colour of his skin—unless he is any good at it.

THE CHIEF NATIVE COMMISSIONER: Mr. Chairman, I would like to correct, I think, one impression that my hon.

[The Chief Native Commissioner] friend, the Member for the Coast, has—that is, I think, that they are road foremen. They are much more than road foremen. They are district foremen; they undertake bridges, roads and care of machinery. It is for that very matter—that they have to be people who can build in various materials, they have to know something about roads, and they have to know something about machinery—those three things together—that it is difficult to get Africans to do the job.

I have gone into this carefully, and I think there is only one African at the moment who is doing anything comparable to this—that is an African in Fort Hall, whose job is particularly buildings, but not machinery or roads—and in Nyanza Province, the only man they had there was not able to do the job, and they have now a post vacant for this kind of man in the Central Nyanza African District Council, and they cannot get any takers for the job; I do assure hon. Members it is very difficult to get Africans up to the standard.

I would also give the assurance asked for by my hon. friend, the Member for the Coast, that we will certainly do all we can to train Africans to do that job.

Mr. Chairman, I beg to move.

The question was put and carried.

#### HEAD 2-2 (2)

THE CHIEF NATIVE COMMISSIONER: I beg to move that the new Item, Nyanza Province—Five Temporary Clerks, be approved. (Applause.)

I have already, Sir, endeavoured to show the value of these ladies, and I do not think I need again go into this matter. I will say once again they are confidential stenographers, and quite vital. I would ask hon. Members once again to agree to this provision. (Applause.)

MR. USHER: Mr. Chairman, I just want to make a brief intervention here. Of all the items that were rejected, and now sought to reinstate, none has caused a greater storm than what I might call the "boma wives", and it was very improper that such a storm should have

been created. We have been told harrowing tales about how people were offering their services free. (Cries of "Shame!")

Let us see what really happened. We cut out, I think, seven out of twelve. Now, the understanding on this side of the Committee was that they were clerks to the District Commissioners—and that is what we were told by the hon. Member, that afterwards was corrected by another hon. Member opposite, who pointed out what the function of five of them, anyhow, was—four, I beg your pardon, Sir.

Now, when that situation arose, instead of creating a storm about it in order to inflame public opinion against the Unofficial Members, Sir, it would have been better to use the power of *virement* to see that the Provincial Commissioner, Nyanza, did not lose his clerk. That, Sir, I suggest, could have been done. The only reason why a redistribution did not take place was that they are—as I say—"boma wives".

MR. NATHOO: Mr. Chairman, there is only one observation I should like to make regarding this post. These stenographers or clerks—whatever you call them—are doing confidential work, and I would like to know from the hon. Member for African Affairs whether one clerk for the District Commissioner and the Provincial Commissioner is not enough. There is only the Provincial Commissioner, Nyanza, the District Commissioner, Central Nyanza, North Nyanza and South Nyanza.

Sir, that is the information I would like to have—whether there was more than one clerk given to any one officer.

MR. HAVELOCK: Mr. Chairman, arising from the remarks by the hon. Member for Mombasa, I want to make it quite clear that hon. Members on this side of the Committee, once they had been told by the hon. Member for Agriculture that these clerks were confidential secretaries, made it absolutely clear in the Budget debate that they did not want to deny any one province of all the clerks. We made it clear in the debate—and, indeed, at a later date—I want to put this on record, I had a special circular sent to every Unofficial Member, in my capacity as Chairman of the Unofficial Members' Organization, asking every man to vote on a resolution which I framed to the effect that the

[Mr. Havelock] money which had been left in for Rift Valley and Central Province should be pooled, and voted to all three provinces. In other words, no province should be without a confidential clerk—one, two or however many that could be afforded from the money remaining. That was the intention of hon. Members on this side.

This resolution that I have referred to was handed to the hon. Member for Finance and the hon. Chief Secretary at a meeting of Standing Finance Committee. Government did not accept that suggestion, but I want to make it absolutely clear that, directly we were told, and we were sure of what the function of these officers were, that we took steps immediately to see that no province was deprived entirely of such clerks.

THE ACTING CHIEF SECRETARY: Mr. Chairman, there are three points that I should like to make in reply to certain remarks which have been made by the hon. Member for Mombasa and the hon. Member for Kiambu. The difficulty, which the Government had to face, in a matter of this kind, was that you cannot *vire* to a non-existent post. That is a simple statement of fact. The position that the Government was in was, that in the Nyanza Province, these posts had been deleted from the establishment. There no longer were any such posts. Therefore, Sir, it was quite impossible to transfer personnel from any other post outside the Nyanza Province to fill a non-existent post within it.

MR. USHER: Second item.

THE ACTING CHIEF SECRETARY: This is one of the difficulties which was in the mind of my hon. friend, the Member for Finance, when, earlier this morning, he explained that he was considering a rather different form of presentation of the Estimates. There would not have been this particular difficulty over this particular case had there been one territorial item for so many clerks. The position would not then have arisen that an individual post or posts in a particular province was removed from the Estimates. But there was no intention on this side of the Committee to be unnecessarily awkward over this matter. That is why I make this point.

MR. HAVELOCK: Nor here.

THE ACTING CHIEF SECRETARY: As regards the representations which were made to the Standing Finance Committee to adjust this matter, the Government view, Mr. Chairman, frankly was that it would not be proper for the Standing Finance Committee to reverse a decision that was taken by a majority vote in this Council, and I believe that, on reflection, hon. Members will agree that that would not be a proper procedure.

The third point that I wish to make is this: I deny the charge of the hon. Member for Mombasa that there was any attempt on this side of the Committee to create a storm over these particular items. We did—quite a number of us, Mr. Chairman—notice gentle winds beginning to blow shortly after the discussion on these posts in Committee of Supply, and we did notice a little later that those gentle winds began to assume storm proportions; but those winds were not, Mr. Chairman, puffed up by any Members on this side of the Committee.

THE CHAIRMAN: The Committee will now suspend business for 15 minutes.

The Committee adjourned at 11 a.m. and resumed at 11.22 a.m.

MRS. SHAW: Mr. Chairman—(applause) I should like to ask the hon. Member a question on a point of information as regards these five clerks in the Nyanza Province, and that is that during the period when their fate had hung in the balance, some of them, I understand, were moved from one office, say, the Provincial Commissioner's or the District Commissioner's offices, where they were confidential clerks, to another office within the same building—(cries of "Oh!")—which I think shows that although very often on this side of the Council we feel we are faced with an immovable object, I think it does show that Government possesses a certain manoeuvrability if they wish to do so.

MR. BUNDELL: Plenty, plenty. (Laughter.)

MRS. SHAW: My point is that some of these ladies have a length of service, and I should like to be assured that if they have been moved from one office to another office and in actual fact have been working under the same roof the

[Mrs. Shaw] entire time, there shall be no break in their service as far as increments are concerned.

LADY SHAW: Mr. Chairman, I should like to move a reduction of two of these posts—this is rather a battle of the Amazons, but I cannot get the sum of money. I find it a little difficult. My arithmetic is very bad. Can somebody do it for me? They may not all be getting the same amount of pay; that is why I find it a little difficult to think of the amounts. This is the difficulty, Sir, as between supply and posts. I find it extremely difficult to know how to deal with this because one lady may be getting £200 more than another, and it makes it extremely difficult to know whether you are moving her or removing another who gets less. I should be very glad if someone on the opposite side of the Council could give me guidance.

THE CHAIRMAN: I can appreciate there are some difficulties. But after all we are more concerned here with a sum of money than we are with the different jobs, rates and so forth. The function of the Committee is to either grant or refuse to grant the money. That is what I am against.

THE FINANCIAL SECRETARY: Mr. Chairman, whilst, of course, not supporting the amendment that the hon. and gracious lady is presumably about to move, I am only too willing to give her what assistance I can. It is, Sir, as I have said in a previous debate, the fact that you have five posts at £1,960, the number of posts does not really matter. If the hon. lady moves the reduction by £700, the fact that there are five posts will still remain, but the Department would only be able to spend £1,260 on this and, therefore, could, in fact, only afford to have three at the rate of pay.

LADY SHAW: Sir, I beg to move the reduction of £760 on this item, Sir, I do this because although I recognize the necessity for a certain number, or possibly the necessity for a certain number of confidential clerks, I cannot believe that every District Commissioner's office requires a confidential clerk. There is a general attitude, if I may call it so, in this country that as soon as one man has something, somebody else has got to

have the same thing. It would be beneath the District Commissioner's dignity not to have a confidential clerk whether he wants it or needs it or not. Usually there are confidential clerks available in the shape of somebody's wife in the *bona* and, therefore, it is not very difficult to apply the question of extra housing and so on. I believe if Government were faced with having to erect houses and deal with this type of confidential clerk in the same way that they do have to deal with ordinary servants, I think there would be less pressure for them, and I am quite sure, in my own mind, living in my own part of the world, that is if certain District Commissioners and Provincial Commissioners have their own confidential clerks, there are some others that could do without. Therefore, I beg to move the reduction of £760.

MR. BLUNDELL: Mr. Chairman, in dealing with this amendment, I feel that we should consider how these estimates came before the Council. As I see the matter, Government has said to us in effect we believe that these posts are posts that we must have, and in return for them we are prepared to make specific savings to cover them. Now, Sir, we have had a considerable disagreement on that, and my view has always been that whereas I believe that we are perfectly entitled here to say how much money we think should be spent generally over the expenditures of the Government, nevertheless, the actual person who is at the wheel, it does seem to me, must have the fullest capacity to say where he considers the money is best spent. Now, as Government has said these posts are vital, as it has said "we consider them so vital"—as I read it—"we consider them so vital, we are prepared to give up other posts which indeed we felt were nearly as vital", I do not feel, myself, that I would frankly deal with the detail of these Estimates. As I see things, quite clearly Government has said "we want these and in return we are prepared to give something up".

If it is the considered view of Government, and it is their job to execute it, the will of Government must be done, I will accept that as I accept their view. I will ask the hon. Member for Ukamba whether as that is the position, whether it would not be

[Mr. Blundell] better to pass the Estimates and indicate to Government that in our view we should review whether it is really necessary to have the number of stenographers, whether, indeed, their estimates of the element of essentiality is correct. I believe that a better way of doing it is to accept Government's viewpoint on the matter, instead of arguing the toss over details.

LADY SHAW: Mr. Chairman, I would be perfectly prepared to accept that point of view so long as again there is a real honest investigation—not just taking somebody's word for it—a real investigation is made, possibly by the Public Accounts Committee. Then, Sir, I am prepared to support this amendment.

MR. HAVELOCK: Mr. Chairman, I would like to point out that the Chairman of the Public Accounts Committee was the hon. Member who made the suggestion. I, therefore gather he will see that the Public Accounts Committee will go into this matter very thoroughly.

THE FINANCIAL SECRETARY: I would suggest this is not a matter which should go to the Public Accounts Committee, but rather it should be referred to the sub-committee of the Standing Finance Committee, which is dealing with the suitability of posts.

The Public Accounts Committee will be dealing with efficiency and economy over a long range. If the matter is such, from the point of view of hon. Members opposite, that they do not wish it considered at an early date, then let the Public Accounts Committee move towards it in a general investigation. If they want it investigated at an early date, then I suggest the sub-committee of the Standing Finance Committee.

MR. BLUNDELL: Whereas I would accept what the hon. Member for Finance has said as an immediate investigation on the problem, the sub-committee of the Standing Finance Committee will achieve the quicker method of dealing with it. Nevertheless, I would not like an infringement of the general broad basis on which the Public Accounts Committee will make an investigation. As Chairman of the Public Accounts Committee, I should consider that Com-

mittee entirely within its rights to consider it on a long-term basis.

THE FINANCIAL SECRETARY: All I was dealing with was if it were an immediate problem. Nobody can take it away from the Public Accounts Committee. Its statutory responsibility is to investigate these posts.

THE CHAIRMAN: Does the hon. Member for Ukamba wish to withdraw the Motion?

LADY SHAW: Yes, Sir.

The amendment was, by leave, withdrawn.

THE ACTING DEPUTY CHIEF SECRETARY: Mr. Chairman, I have been asked to deal shortly with a point raised by the hon. Member for Nyanza. It was this: She believes that some of these clerks have been promoted from the work they were doing in the District Commissioner's office, or the Provincial Commissioner's office, and they were put temporarily into a vacancy which existed in some other office in the same place, and that in one or two cases there have been breaks in service. She is anxious about two things. Firstly, that this should not interfere with the incremental date of the person concerned; I can confirm that it will not. Secondly, that if any of these people should have become pensionable, the break will not prevent the earlier service counting for pension purposes. I confirm that the break could be condoned.

MR. HAVELOCK: Mr. Chairman, would some hon. Member opposite answer the question put by the hon. Member for Nyanza, whether it is a fact that these temporary clerks or stenographers were taken on in some other capacity to fill in time?

Mrs. SHAW: May I correct an impression that I might have made? I think some of them were taken on to deal with the rush of work in registration.

THE ACTING CHIEF SECRETARY: Mr. Chairman, I would like to say on that point, Sir, that, of course, if a single post is deleted from the establishment and it should happen that the occupier of that post is well qualified to hold another post for which provision is made on the establishment, there is no objection to that particular individual being appointed

[Mrs. Shaw] entire time, there shall be no break in their service as far as increments are concerned.

LADY SHAW: Mr. Chairman, I should like to move a reduction of two of these posts—this is rather a battle of the Amazons, but I cannot get the sum of money. I find it a little difficult. My arithmetic is very bad. Can somebody do it for me? They may not all be getting the same amount of pay; that is why I find it a little difficult to think of the amounts. This is the difficulty, Sir, as between supply and posts. I find it extremely difficult to know how to deal with this because one lady may be getting £200 more than another, and it makes it extremely difficult to know whether you are moving her or removing another who gets less. I should be very glad if someone on the opposite side of the Council could give me guidance.

THE CHAIRMAN: I can appreciate there are some difficulties. But after all we are more concerned here with a sum of money than we are with the different jobs, rates and so forth. The function of the Committee is to either grant or refuse to grant the money. That is what I am against.

THE FINANCIAL SECRETARY: Mr. Chairman, whilst of course, not supporting the amendment that the hon. and gracious lady is presumably about to move, I am only too willing to give her what assistance I can. It is, Sir, as I have said in a previous debate, the fact that you have five posts at £1,950, the number of posts does not really matter. If the hon. lady moves the reduction by £700, the fact that there are five posts will still remain, but the Department would only be able to spend £1,260 on this and, therefore, could, in fact, only afford to have three at the rate of pay.

LADY SHAW: Sir, I beg to move the reduction of £760 on this item, Sir. I do this because although I recognize the necessity for a certain number, or possibly the necessity for a certain number of confidential clerks, I cannot believe that every District Commissioner's office requires a confidential clerk. There is a general attitude, if I may call it so, in this country that as soon as one man has something, somebody else has got to

have the same thing. It would be beneath the District Commissioner's dignity not to have a confidential clerk whether he wants it or needs it or not. Usually there are confidential clerks available in the shape of somebody's wife in the *boma* and, therefore, it is not very difficult to apply the question of extra housing and so on. I believe if Government were faced with having to erect houses, and deal with this type of confidential clerk in the same way that they do have to deal with ordinary servants, I think there would be less pressure for them, and I am quite sure, in my own mind, living in my own part of the world, that if in certain District Commissioners and Provincial Commissioners have their own confidential clerks, there are some others that could do without. Therefore, I beg to move the reduction of £760.

MR. BLUNDELL: Mr. Chairman, in dealing with this amendment, I feel that we should consider how these estimates came before the Council. As I see the matter, Government has said to us in effect we believe that these posts are posts that we must have, and in return for them we are prepared to make specific savings to cover them. Now, Sir, we have had a considerable disagreement on that, and my view has always been that whereas I believe that we are perfectly entitled here to say how much money we think should be spent generally over the expenditures of the Government, nevertheless, the actual person who is at the wheel, it does seem to me, must have the fullest capacity to say where he considers the money is best spent. Now, as Government has said these posts are vital, as it has said "we consider them so vital"—as I read it—"we consider them so vital, we are prepared to give up other posts which indeed we felt were nearly as vital", I do not feel, myself, that I would frankly deal with the detail of these Estimates. As I see things, quite clearly Government has said "we want these and in return we are prepared to give something up".

If it is the considered view of Government, and it is their job to execute it, the will of Government must be done, and I will accept that as I accept their view. I will ask the hon. Member for Ukamba whether as that is the position, whether it would not be

[Mr. Blundell] better to pass the Estimates and indicate to Government that in our view we should review whether it is really necessary to have the number of stenographers, whether, indeed, their estimates of the element of essentiality is correct. I believe that a better way of doing it is to accept Government's viewpoint on the matter, instead of arguing the toss over details.

LADY SHAW: Mr. Chairman, I would be perfectly prepared to accept that point of view so long as again there is a real honest investigation—not just taking somebody's word for it—a real investigation is made, possibly by the Public Accounts Committee. Then, Sir, I am prepared to support this amendment.

MR. HAVELOCK: Mr. Chairman, I would like to point out that the Chairman of the Public Accounts Committee was the hon. Member who made the suggestion. I, therefore gather he will see that the Public Accounts Committee will go into this matter very thoroughly.

THE FINANCIAL SECRETARY: I would suggest this is not a matter which should go to the Public Accounts Committee, but rather it should be referred to the sub-committee of the Standing Finance Committee, which is dealing with the suitability of posts.

The Public Accounts Committee will be dealing with efficiency and economy over a long range. If the matter is such, from the point of view of hon. Members opposite, that they do not wish it considered at an early date, then let the Public Accounts Committee move towards it in a general investigation. If they want it investigated at an early date, then I suggest the sub-committee of the Standing Finance Committee.

MR. BLUNDELL: Whereas I would accept what the hon. Member for Finance has said as an immediate investigation on the problem, the sub-committee of the Standing Finance Committee will achieve the quicker method of dealing with it. Nevertheless, I would not like an infringement of the general broad basis on which the Public Accounts Committee will make an investigation. As Chairman of the Public Accounts Committee, I should consider that Com-

mittee entirely within its rights to consider it on a long-term basis.

THE FINANCIAL SECRETARY: All I was dealing with was if it were an immediate problem. Nobody can take it away from the Public Accounts Committee. Its statutory responsibility is to investigate these posts.

THE CHAIRMAN: Does the hon. Member for Ukamba wish to withdraw the Motion?

LADY SHAW: Yes, Sir.

The amendment was, by leave, withdrawn.

THE ACTING DEPUTY CHIEF SECRETARY: Mr. Chairman, I have been asked to deal shortly with a point raised by the hon. Member for Nyanza. It was this. She believed that some of these clerks have been moved from the work they were doing in the District Commissioner's or the Provincial Commissioner's office, and they were put temporarily into a vacancy which existed in some other office in the same place, and that in one or two cases there have been breaks in service. She is anxious about two things. Firstly, that this should not interfere with the incremental date of the person concerned; I can confirm that it will not. Secondly, that if any of these people should have become pensionable, the break will not prevent the earlier service counting for pension purposes. I confirm that the break could be conformed.

MR. HAVELOCK: Mr. Chairman, would some hon. Member opposite answer the question put by the hon. Member for Nyanza, whether it is a fact that these temporary clerks or stenographers were taken on in some other capacity to fill in time?

Mrs. SHAW: May I correct an impression that I might have made? I think some of them were taken on to deal with the rush of work in registration.

THE ACTING CHIEF SECRETARY: Mr. Chairman, I would like to say on that point, Sir, that, of course, if a single post is deleted from the establishment and it should happen that the occupier of that post is well qualified to hold another post for which provision is made on the establishment, there is no objection to that particular individual being appointed

[The Acting Chief Secretary.]

to that other post. That, I think, is the answer to the hon. Member's point.

The question was put and carried.

HEAD 2—2 (1) (1)

THE CHIEF NATIVE COMMISSIONER: Mr. Chairman, I beg to move that Head 2—2, item 1 (1), two Temporary Clerks, for the Central Province and cost of living allowance be approved. I will not add anything more to what has already been said on the subject. What applies to Nyanza applies equally to the Central Province.

Sir, I beg to move.

MR. HAVELOCK: Would the honourable Member opposite, Sir, agree to these two posts also being referred to the Standing Finance Committee? (Hear, hear.)

THE CHIEF NATIVE COMMISSIONER: I should agree.

The question was put and carried.

HEAD 5—1 (1) (13)

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: Mr. Chairman, I beg to move that Head and sub-head 5—4, item No. 1 (13), be approved and for the purposes of this Committee, the sum put against this item be £2,000. Sir, I think as I explained a few days ago, we are confronted with the fact that we are unable to retain officers in the Forest Department that are classified as second-grade foresters. Their rates of pay are very low and unattractive, and though I did attempt to have this put right last year, in my absence in England my proposal was cut out as being a new service or a new rate of pay and second-grade foresters were re-inserted at the very low rate of pay which now no longer exists in any other department. Sir, it is therefore desired to up-grade the 18 foresters that are now in the second-grade category and, for that purpose, as is mentioned in the note, it will be possible to find savings within the departmental estimates to cover any increased expenditure which may be incurred on this account during this year. Sir, I beg to move. (Applause.)

The question was put and carried.

HEAD 6—4

THE MEMBER FOR EDUCATION, HEALTH AND LOCAL GOVERNMENT: Mr. Chairman, I beg to move that Head 6—4, Survey Department, four Surveyors, £3,760, be approved.

This item, Sir, is an entirely new one, inserted on the recommendation of the Committee appointed to investigate the Land and Survey Departments, who felt that the number of surveyors in the establishment was inadequate to cope with the ever-increasing amount of work. The expenditure of this money will pay ample dividends, not only in the direct return from the collection of survey fees, but by the encouragement and the speedy encouragement of development in all directions; commercial, industrial and agricultural, where development today is being held up because of the shortage of survey staff.

I commend this proposal to the Committee, feeling sure that they will see the reasonableness of the proposition and readily support the request.

I beg to move.

MR. HAVELOCK: Mr. Chairman, this item is not covered by different agreements possibly that have been reached. As has been said, this is a new item, not a reinsertion.

I, Sir, accept the remarks of the hon. Member, that this item will pay for itself probably directly and in any case, over and over again, indirectly, and because of that, I support the Motion. (Applause.)

MAJOR KEYSER: Mr. Chairman, while I am going to support this Motion, I would like at this stage, Sir, to remind the hon. Member that it is only some two and a half to three months ago that we were considering the Estimates in this Council, and I do think, Sir, that it is rather quick to come back and ask for an increase in the establishment that had been decided on at that time. Had, Sir, a decent period of six or eight months been allowed, then I think my remarks might not have been applicable. But, I do think, Sir, that two or three months after, that he should come and ask for more surveyors shows that the Estimates have not been carried out with the care that we are normally informed it is given to these Estimates.

THE ACTING DEPUTY CHIEF SECRETARY: Mr. Chairman, since I was responsible for the presentation and submission of the Estimates relating to the Survey Department, perhaps I might be allowed to explain that point as best I can.

[The Acting Deputy Chief Secretary.]

The Committee of which I was Chairman, which examined the Land and Survey Departments, did request that when there was any prospect of surveyors being available, then provision should be made to get more surveyors.

At the time that the Estimates were prepared, we saw no prospect at that stage of getting any more surveyors and, therefore, the provision was made only as shown in the 1952 Estimates. During the debate on the Estimates, I was repeatedly urged by people on the other side to recruit more surveyors, if it was possible to do so, in order to accelerate survey work. Shortly after that, I think at the end of last year or early this year, the Director of Surveys got information that there is a good prospect of recruiting surveyors, and it is for that reason that this supplementary estimate now comes forward.

MAJOR KEYSER: Mr. Chairman, I will concede to the hon. Member, Sir, that he has made a very good attempt to answer my criticism, but I do not think it was quite good enough—(hear, hear)—because, Sir, right throughout the Estimates, we know that there are posts in establishments of all departments, most of which have not been filled, and which have been put in because they are required on the establishment and no officer has been in view to fill that particular post. We know, Sir, that the Survey Department itself had some 15 to 18 surveyors on the establishment who they could not get hold of in person to put in their particular positions, so, Sir, I do not think that the hon. Member's excuse, shall we call it, is quite strong enough.

THE ACTING DEPUTY CHIEF SECRETARY: I am sorry, Sir, that I have failed to satisfy the hon. Member.

MR. COOKE: There is a point even more important than the point made by my hon. friend. That is that the impression was given to me that the surveyors—four surveyors—had been advocated by my hon. friend, and that they were cut out—blue-pencilled—from his original estimates. If that is so, we should have been told that when Standing Finance Committee met, because I think that is even a more serious matter. If these posts have been blue-pencilled

when they came to the Financial Secretary, then I think it was doubly wrong of Government to have brought up a blue-pencilled item to try to get it in through Standing Finance Committee. I would like an assurance, I would like my hon. friend to answer whether he did put the surveyors in his original estimates to be surveyed by my hon. friend the late Financial Secretary and whether they were actually, indeed, cut out of the Estimates.

THE ACTING DEPUTY CHIEF SECRETARY: The answer is, Sir, that they were not put into the Draft Estimates.

MR. COOKE: I am afraid my hon. friend seems to be avoiding the issue. Did the head of department ask that this item should be put into the Estimates?

THE ACTING DEPUTY CHIEF SECRETARY: He did not ask for them to be put into the Estimates.

MR. COOKE: I thought my hon. friend gave me the impression that he did, the other day.

THE MEMBER FOR EDUCATION, HEALTH AND LOCAL GOVERNMENT: Mr. Chairman, if I gave that impression, I had no intention of doing so, because as a matter of fact, I did not know whether or not the head of department has asked for these posts. I was not in any way responsible for the preparation or the approval of the Draft Estimates and had no immediate knowledge. But, I think what I did say was to express the view that no new posts had been created in the Estimates because of the request of the Unofficial Members opposite. I was corrected on that point. I submit, Sir, it is an evidence of the very sincere and earnest desire of the Government to keep down the Estimates to the lowest possible level, that new posts were, in fact, not included in the Draft Estimates submitted.

The argument raised by the hon. Member for Trans Nzoia applies to existing posts in the Estimates which remain unfilled. Just because those posts cannot be filled at the moment is no reason for cutting them out of the Estimates. What we are dealing with now are four entirely new posts which there is some prospect of filling in the very near future. I am informed by the Director of Surveys that he has one

[The Member for Education, Health and Local Government] applicant, a very suitable applicant, waiting for a telegraphic reply as soon as this debate is finished. And, I trust, Sir, that the debate will not be unduly protracted so that we can get the telegram off this morning.

MAJOR KEYSER: Mr. Chairman, I think both hon. Members have given very gallant answers—excuse me, shall I say—to the matter, Sir, I am sure all other hon. Members feel as embarrassed as I do at the embarrassment of the hon. Members opposite.

THE MEMBER FOR EDUCATION, HEALTH AND LOCAL GOVERNMENT: Mr. Chairman, I do not feel in the least embarrassed.

The question was put and carried.

THE FINANCIAL SECRETARY: Mr. Chairman, I beg to move: That the Committee of Supply do report the Supplementary Estimates of Expenditure, 1952 (No. 1 of 1952), without amendment.

The question was put and carried.

Council resumed and the Member reported accordingly.

REPORT OF COMMITTEE OF SUPPLY ON THE SUPPLEMENTARY ESTIMATES OF EXPENDITURE, 1952 (NO. 1 OF 1952)

THE FINANCIAL SECRETARY: Mr. Speaker, I beg to move: That the Report of the Committee of Supply on the Supplementary Estimates of Expenditure, 1952 (No. 1 of 1952), be adopted.

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

The question was put and carried.

## BILLS

### SECOND READING

*The Essential Services (Arbitration) (Amendment) Bill*

THE ACTING DEPUTY CHIEF SECRETARY: Mr. Speaker, I beg to move. That the Essential Services (Arbitration) (Amendment) Bill be read a second time.

The principal Ordinance was passed by this Council in January, 1950, its object being to prevent strikes and lock-outs in services declared by the Governor to be essential services.

Section 18 of the Ordinance, with which we are now concerned, makes it an offence to declare, instigate, counsel or procure, a strike or lock-out in a service which has been declared to be an essential service, unless the dispute has been reported to the Member in accordance with the Ordinance, and the Member has failed to set in Motion the arbitration machinery within the prescribed period.

Now section 18 (3), which it is sought to repeal, provides that the whole section shall have effect for a period of two years from the date of commencement of the Ordinance unless previously revoked. The Ordinance began to operate on the 12th May, 1950, and section 18 of it will, therefore, lapse on the 12th May, 1952, unless sub-section (3) is repealed.

It was generally agreed in January, 1950, that the Ordinance as a whole, and section 18 of it in particular, is necessary. Its necessity is no less now that it was at that time and I therefore commend the Bill to the Council.

I beg to move.

THE LABOUR COMMISSIONER seconded, reserving his right to speak.

The question was put and carried.

### *The Wheat Industry Bill*

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: Mr. Speaker, I beg to move: That the Wheat Industry Bill be read a second time.

Mr. Speaker, this is a Bill which has been in preparation for some two years, and I had hoped that by past consultation with the various interests involved we had produced a Bill which would pass through Council without very much discussion. But, Sir, during the last few weeks, it has become evident that certain interests would wish to be heard, more especially in regard to one or two clauses that I will come to in a minute, and therefore, Sir, it is Government's intention to allow, or rather to refer this Bill to a Select Committee, which we hope will report by the next time we meet.

Sir, the existing Wheat Industry Bill is entirely out of date, and that has been realized for quite a long time. It is called, actually, the Wheat Sales Ordinance. Under that Ordinance any

[The Member for Agriculture and Natural Resources]

may be raised in this debate, so I shall try and forestall, is this, that it is imagined that this Ordinance as worded makes it absolutely incumbent that all exports, should there be any surplus wheat, will have to be, by this Ordinance, conducted through one monopoly agency. Well, Sir, this Ordinance does not tie us down to that extent and I think it quite right that it does not, because we have, at the moment, a Committee sitting, which is going to report on these very subjects, and I submit that we should await the report of that Committee and this Bill as now worded will enable us to implement, if we so desire, the report of that Committee.

Clause 7 provides that every person who wishes to commence or carry on the business of a miller shall, before he acquires any mill, or commences to construct any premises for a mill, apply for a permit. And subsequently, Sir, he has to have a millers' licence. In other words, the premises have to be permitted and the operator has to be licensed. It is the unanimous view of all whom we have consulted in connexion with this Bill that those two provisions are necessary.

Furthermore, Sir, I would add that wheat milling is not, as people imagine, merely grinding down grains of wheat. That is gristing. Real milling is a highly technical business, and to produce flour which is suitable for baking into bread is by no means the easy "come and go as you please" business that some people seem to imagine.

Well, Sir, under this Ordinance, I think that the Objects and Reasons are fairly complete, we provide first of all that all marketing and distribution and allocation to East African territories of wheat flour and wheatfeed will rest with the Member for Agriculture who, however, is required to exercise his very considerable powers of control on the advice of the Wheat Board.

Under clause 4, Sir, provision is made for the Wheat Board, and one of the contentious subjects is the composition of this Board. Sir, Government, at any rate, feels very strongly that the composition that has been suggested is the correct one. We have, however, some doubts with regard to the quorum. I think, possibly our proposed quorum is too small.

Under section 5, the Member can by notice in the *Gazette* appoint any person or persons to be an agency for the purpose of this Ordinance. The wording there is "any person or persons". I know, Sir, that one of the matters which

may be raised in this debate, so I shall try and forestall, is this, that it is imagined that this Ordinance as worded makes it absolutely incumbent that all exports, should there be any surplus wheat, will have to be, by this Ordinance, conducted through one monopoly agency. Well, Sir, this Ordinance does not tie us down to that extent and I think it quite right that it does not, because we have, at the moment, a Committee sitting, which is going to report on these very subjects, and I submit that we should await the report of that Committee and this Bill as now worded will enable us to implement, if we so desire, the report of that Committee.

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In short, Sir, this Ordinance seeks to control the marketing and distribution and allocation of wheat and flour and also to exercise, with the advice of the Board, a very considerable measure of control over the erection of mills and operators of mills.

As the Bill is going to Select Committee, Sir, I do not propose to touch on, in detail, the remaining clauses, which, I think, are well explained in the Objects and Reasons, and I merely move the second reading.

THE ACTING SOLICITOR GENERAL seconded, reserving his right to speak.

MR. NATHOO: Mr. Speaker, I appreciate the fact that it is necessary to regulate the milling industry of such an important item as wheat. There have been doubts, Sir, in the various sections of the community that all interests have not been properly safeguarded. I, therefore, Sir, thank the hon. Member for Agriculture and Natural Resources for having agreed to let this matter go to a Select Committee where all views can be represented and then a final decision taken.

Sir, I beg to support.



MAJOR KEYSER: Mr. Speaker, I welcome this Bill, Sir, because I look on it as an extension of the principle that has been applied to various branches of agriculture, that that particular industry will be controlled by the producers of whatever their commodity is, and we have ample precedents in this Colony of that principle in the form of Statutory Boards such as the Coffee Board, the Pyrethrum Board, the Pig Board and the Sisal Board, and innumerable others.

Now, Sir, the wheat industry is one that has gone through innumerable vicissitudes in this Colony, and has been only managed to surmount enormous difficulties in the past through the courage and tenacity of the wheat growers and through the great assistance that has been given to them by certain plant breeders in producing new plants to withstand the disease to which wheat is very strongly prone in this Colony.

Sir, providing that principle is agreed to, because I think it is essential that we should know what the main principle of this Bill is, providing that is agreed to, I would support the Bill, but I have a few suggestions to make at this stage, and perhaps, Sir, the Select Committee, when it is appointed, could consider them.

The first one, Sir, is that paragraph 1 (1) seems to me to be very vague. It states that the control of the marketing and distribution of wheat, flour and wheat feed is vested in the Member, so, however, that the Member shall obtain the advice of the Wheat Board in relation thereto.

The Memorandum of Objects and Reasons states: "Clause 3 of the Bill vests the marketing and distribution of wheat, flour and wheat feed in the Member, who, however, is required to exercise his control in accordance with the advice of the Wheat Board." Now, Sir, I do think that section 3 (1) should be made as clear in the Bill as it is in the Memorandum of Objects and Reasons, and that could very well be done by changing the words "shall obtain the advice of the Wheat Board" to "shall act on the advice of the Wheat Board". But at the moment, Sir, it is a very vague, and has been the cause of a considerable amount of criticism of this Bill.

Again, Sir, I should like to agree with the hon. Member over the question of the quorum. I think a quorum of three is too small for a Board of this size to consist of seven members, and I think the quorum should be at the very least four.

Now, Sir, this Bill departs from the principles of other statutory boards, in that, Sir, that most of the statutory boards in the Colony are appointed by election of the producers of the particular industry, while this board is appointed from persons nominated by certain bodies enumerated in section 4 (3).

I do think, Sir, that while not opposing the proposals of the Bill, I do think that, within the near future, consideration might possibly be given to the appointment of the Board by election.

Sir, as this Bill is going to a Select Committee, I shall refrain from criticizing the Bill further.

Sir, I beg to support.

LT.-COL. GHERSIE: Mr. Chairman, whereas there may be desirability for legislation of this nature, I do submit that introduction of a Bill of this nature must be deferred until such time as the Ibbotson Committee submit their report, and I am very glad to hear the hon. Member give that assurance. I see the Member for Agriculture and Natural Resources indicates he has not given that assurance.

Well, Sir, the Ibbotson Committee are investigating identical and parallel issues in relation to produce and maize, and I submit that the terms of reference include the question of sales and marketing in regard to all produce.

Now, Sir, if I was a member of the Ibbotson Committee, I would find it very difficult to reconcile the setting up of that Committee and Government's action in rushing through a Bill of this nature, without having given that Committee an opportunity of reporting. I am afraid I must have misunderstood the hon. Member. I thought we might have had that assurance.

I have heard that the proposals for this measure have been on the stocks for some considerable time. I submit, under the circumstances, a little further delay could do no further harm. I do not propose to go into details at the moment.

(LT.-Col. Gherrie)

except on the question of the setting up of an agency which will deal with the marketing, and in this connexion I submit that no agency should have a monopoly.

Now, Sir, I maintain that any produce which is surplus to the requirements of the East African territories should be made available for export through either local produce exchange, or by public tender. An agency should be strictly impartial, in my opinion, and should not be involved in the marketing and milling. The trade have world-wide connexions and, in view of that, must be in the position to obtain the best possible price.

Now, Sir, if we refer to the Objects and Reasons, I see the Bill is also designed to take care of redundancy of mills. Now, Sir, it is not that rather a cumbersome method of dealing with redundancy of mills? I mean, could not the existing Factories Act or the Industrial Licensing Ordinance be used in this connexion?

As the Bill is going to a Select Committee, I will not delay the Committee any further, but I do find, at this stage, and under the circumstances I have mentioned, I am in very great doubt as to whether I can accept this Bill in its present form.

MR. BLUNDELL: Mr. Chairman, I do not wish to delay the Council. Whilst I agree with the viewpoint which the hon. Member for Nairobi North has put forward, I should like to stress, Sir, that I think it is inadvisable to receive this Bill. We shall have it to-day and it will not be taken through its final stages until the next session, which gives ample time for discussions. It is also going to a Select Committee and, as the hon. Member for Nairobi North said, many of the points which he raised can be discussed then. I think it is unreasonable to ask the producer to wait for, possibly, a considerable time before the Ibbotson Committee reports, and, secondly, Sir, I do wish to lay down quite clearly that, at any rate, I could not support a departure from the principle that the producer has the right to process his own produce. I think he not only has the right to process his own produce, but, I think also, Sir, he has the right, which has been well established in this

Colony, to, wherever he wishes to, market his own produce.

LT.-COL. GHERSIE: On a point of information, Sir, is it not a fact that there are individuals other than Europeans who are growing wheat?

MAJOR KEYSER: May I ask a question of the hon. Member, Sir? Sir, has Government decided on a policy over this question of wheat, and the milling of wheat, and if so, Sir, would not this be an appropriate time at which to enunciate that policy?

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: Mr. Chairman, I will deal with the last point first as it is a matter of policy, that is, Government has already, I think, I certainly have, in this Council, and I think the Governor has elsewhere stated, that where producers wish to join together for the purpose of processing of their produce that Government will not see fit to interfere. I put it that way as that is the way I think our policy has been announced on a previous occasion, and, as the hon. Member will see, in this Bill, by the very composition of the Wheat Board which it suggests, and which I particularly stressed in introducing this Bill, indicates that Government held strong views and thereby I think Government's policy is made fairly clear.

MAJOR KEYSER: Would the hon. Member tell us that it is the policy of Government that producers should have control of the processing and marketing of their produce?

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: I am not prepared to be tied down so hard and fast that I might not be able to feed the Colony or East Africa. In so far as it is reasonable, producers will have the right to control the selling, as far as is reasonable also the processing. But the hon. Member is perfectly well aware that wheat and flour are controlled, and I have to exercise those controls. I am not prepared to make a statement in the Council which is going to prevent my exercising those controls for the good of the community as a whole. I think the hon. Member were he in my position would fully support me in the attitude which I am taking up.

In answering some of the other points, the hon. Member suggested that some

[The Member for Agriculture and Natural Resources]

is required in the wording of one section. That, of course, will be seen in. He went on to say that this Bill differs from others in that the Board is not elected. Although this particular Board is not to be elected, it has, at least, to be chosen from a number of persons nominated, I submit, by the right bodies for the purpose. And although I do not wish to join issue with the hon. Member, I am, personally rather doubtful as to the wisdom sometimes of these fashionable elections to bodies that are controlling agricultural or semi-agricultural enterprises. Such elections are a little bit apt to become almost political elections representing all districts, and this procedure does not necessarily produce the best people for conducting the activities of such commercial enterprises on behalf of the farmers concerned. Be that as it may, Sir, the suggestion before Council, I think, is well worth giving a trial, and if it does not work, well, we can deal with the hon. Member's ideas later.

The hon. Member for Nairobi North suggested it was quite wrong to bring in this Bill while the Ibbotson Committee was sitting. He felt the Ibbotson Committee might take it amiss that we should push this through Council before they had submitted their report. As I have already said, this Bill has been hanging fire for a long time, and I consider that some of its provisions are urgently essential to the industry. The Ibbotson Committee is fully aware that this Bill is being put through, and indeed, was consulted in regard to one or two clauses.

Naturally, when the Ibbotson Committee report comes out it will come before this Council, and I stress again that the provisions of this Bill, as I see it, as worded to-day could be made to conform to any recommendations of the Ibbotson Committee, if this Council felt they wished to accept those recommendations. For instance, it may be claimed by the hon. Member that no agency should have a monopoly. No agency is given monopoly in this Bill.

The hon. Member then said that the question of redundancy of mills could be dealt with in another way. Well, I would like to assure the hon. Member that I have tried to deal with redundancy of

mills in another way by trying to use the Industrial Licensing Ordinance. The difficulty there is we have got to get the agreement of all three territories, and I can give the hon. Member an assurance that that, so far, has proved quite impossible.

The hon. Member also asked me whether wheat was grown by other races. It is a fact that a comparatively small quantity of wheat is grown by Africans. It is, however, a very small proportion indeed. I do not anticipate that wheat growing by Africans will ever be done on a very large scale.

Well, Sir, I think I have answered the main points that have been made and I will merely beg to move. (Applause.)

The question was put and carried.

#### The Audit Bill

THE SECRETARY TO THE TREASURY: Mr. Speaker, I beg to move: That a Bill entitled "The Audit Ordinance, 1952" be read a second time.

I know, Sir, that hon. Members will wish me to be as brief as possible in moving this second reading, but I feel it would be appropriate to give a very short review of the background which has led to its introduction.

In June, 1948, the Secretary of State approved the transfer of certain financial powers to this Government, a transfer which has come to be known as devolution. The most important effects of this decision were that, after its introduction, the Colony's Estimates now require no approval by the Secretary of State for the Colonies, and the accounts of the Colony may be certified by the Director of Audit, Kenya, as opposed to the Director General of Colonial Audit, London.

Another aspect of this, Sir, was the setting up of a Public Accounts Committee, with whose duties and functions, I think all hon. Members are thoroughly familiar. It is the arrangement by which the accounts may be certified locally, more than any other provision of devolution of financial powers, that has resulted in this Bill being presented to the Council to-day.

In all places where local certification of accounts is accepted, it has, Sir, come to be recognized that audit arrangements

[The Secretary to the Treasury] should be governed by statute. I do not intend, Sir, nor do I think it necessary, to go through this Bill clause by clause. In amplification of the Memorandum of Objects and Reasons, I would merely draw special attention to clause 8, which lays down that the Director of Audit shall carry out his functions on behalf of the Legislative Council. That is, Sir, on behalf of all of us. This, to my mind, is of fundamental importance, and it is for this reason that the salary of the Director, under the provisions of clause 3, Sir, of the Bill, is made a charge upon public revenues. It will not be necessary to make annual appropriation for the Auditor's salary if this Bill becomes law.

There are one or two very small amendments, Sir, which I shall have to move during the Committee stage. There are various references in the Bill to the Member, a term which is not defined, although the Interpretation and General Clauses Ordinance is usually adequate in this respect. In view of the fact that while the Director of Audit has always been recognized as being within the group of departments for which the Member for Finance is responsible, if this Bill becomes law, he will be responsible to the Council. For this reason, it is probably desirable to define "Member" as being the Member responsible for Finance.

The other points are that in clauses 12 and 13 of the Bill, periods are laid down within which the Accountant General shall report to the Director of Audit and the Director of Audit to the Member. For reasons which may not be apparent to us now, these limitations may, at some future date, prove to be too rigid. I shall, therefore, propose to the Committee, to avoid a possible amendment of the law, that the periods laid down may be extended, but only, Sir, by special resolution of this Council.

The Bill was submitted to the Public Accounts Committee before its presentation in this form to the Council, and it has the unanimous approval of that Committee. I have no doubt that the views of that Committee will be accepted here.

I think that it is a matter of interest and importance that Kenya was the first

Colony to introduce a Public Accounts Committee, and if this Bill is approved, it will be the first Colony to have an Audit Ordinance. (Applause.)

I think, Sir, these are achievements of some importance from which we may derive a certain satisfaction.

Sir, I beg to move.

MR. BLUNDELL: Mr. Speaker, I beg to second.

I just wish to make a few small remarks—a few short remarks. First, Sir, I should like to congratulate hon. Members opposite on the celerity with which they have brought forward this Bill. I think it is something like two and a half years since we asked for it. (Laughter.)

Secondly, Sir, I should like to underline what the hon. Mover has said in regard to the Director of Audit. Under the provisions of this Bill, as the hon. Mover has said, he becomes directly the servant of this Council. That is emphasized by clause 3 (1) which lays as a charge direct to the Council his salary and emoluments. In that connexion, Sir, I think it would be fitting at this moment, as Chairman of the Public Accounts Committee, to record the impartiality of the Director of Audit in making his report—(applause)—to this Council, and the integrity with which he puts forward his views before us.

I have only one other point, Sir, to which I wish to draw the attention of hon. Members opposite. It is clause 9. It is impossible for the watchdogs of this Council, that is to say, the Public Accounts Committee, to function properly unless all accounts especially those which are official, but which are furnished by public moneys in some form or other, such as the Maize Control, the Road Authority and the Meat Commission—unless those accounts are laid on the Table of this Council, then it is impossible for the Public Accounts Committee to comment upon them. I think it is essential that where public moneys are used for quasi-official bodies, a point should be made by hon. Members opposite of laying the accounts on the Table of the Council.

The question was put and carried.

REFERENCE TO A SELECT COMMITTEE.  
THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: Sir, I beg to move that the Wheat Industry Bill be referred to a Select Committee.

THE SPEAKER: Do you name them now?

THE ACTING CHIEF SECRETARY: I beg to second that proposition, Sir, and as the Chairman of the Sessional Committee, I have to report that the following Members have been appointed to be Members of the Select Committee on the Wheat Industry Bill:—

The Member for Agriculture and Natural Resources (Chairman).  
The Director of Agriculture.  
The Secretary to the Treasury.  
Major Keyser.  
Mr. Blundell.  
Mr. Nathoo.  
Mr. Chemallan.

The question was put and carried.

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

The Essential Services (Arbitration) (Amendment) Bill.  
The Audit Bill.

THE ACTING SOLICITOR GENERAL seconded.

The question was put and carried.

#### COUNCIL IN COMMITTEE

##### The Audit Bill

#### Clause 2

THE SECRETARY TO THE TREASURY moved: That there be inserted in clause 2 the following new definition: "Member" means the member of the Executive Council for the time being responsible for Finance.

The question of the amendment was put and carried.

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

#### Clause 12

THE SECRETARY TO THE TREASURY moved: That there shall be inserted in clause 12 next after the words "four months" the words "or such longer period as the Legislative Council may, by resolution, appoint".

The question of the amendment was put and carried.

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

#### Clause 13

THE SECRETARY TO THE TREASURY moved: That there shall be inserted in clause 13 next after the words "seven months" the words "or such longer period as the Legislative Council may, by resolution, appoint".

The question of the amendment was put and carried.

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

THE ATTORNEY GENERAL moved: That the Committee do report the Essential Services (Arbitration) (Amendment) Bill without amendment and the Audit Bill with amendment.

The question was put and carried.

Council resumed and the Member reported accordingly.

#### BILLS

##### THIRD READINGS

THE ACTING DEPUTY CHIEF SECRETARY moved: That the Essential Services (Arbitration) (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 accordingly.

THE SECRETARY TO THE TREASURY moved: That the Audit Bill be read a third time and passed.

MR. BLUNDSELL seconded.  
The question was put and carried and the Bill read a third time and passed accordingly.

#### VALEDICTORY

##### MR. C. H. THORNLEY

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: Mr. Speaker, may I ask your indulgence to encroach on the time of the Council in order to draw the attention of hon. Members to a circumstance which I think we all regret.

Mr. Speaker, if I have your permission, I would mention, Sir, that for some time to come, at any rate, this will be the last occasion on which the Acting Chief Secretary, the Member for

[The Member for Agriculture and Natural Resources]

Development, will be occupying his seat as a Member of this Legislature. Mr. Speaker, the hon. Member who is about to leave us has had a distinguished career both in East Africa and the United Kingdom, and the experience he has gained both in public business and of the vagaries of mankind have served him well. (Laughter.) So much so, that on his arrival here, not only did he rapidly gain respect and the admiration of us all, but he has, in addition, throughout his sojourn amongst us—if I may say so, due to his personality—managed to carry out the many difficult tasks which have fallen to him with the minimum of friction and a complete avoidance of personal acerbations. (Applause.)

Sir, on this occasion I am most particularly conscious that I am mouthing no conventional valedictory. (Hear, hear.) There are a number of hon. Members of this Council, whether hon. and gracious or hon. and gallant, or even hon. and learned, and whether predestined by circumstances of partisanship to support or oppose our hon. friend in this Council, are at one in feeling that by his departure we are losing not only a trusted colleague, but a very real friend whom we hold in sincere affection. (Applause.)

Sir, I have little doubt that other Members may wish to say something on this occasion, and I will therefore conclude, Sir, by expressing on behalf of all Members on this side of Council our conviction that my hon. friend will be equally successful in the office in a neighbouring territory to which he has been promoted, and to convey our best wishes to the hon. Mr. and Mrs. Thornley for their happiness and well-being in the future. (Prolonged applause.)

MAJOR KEYSER: Mr. Speaker, on behalf of the European Elected Members, I should like to congratulate Mr. Thornley on his appointment to the post of Chief Secretary of Uganda. (Applause.) Although, Sir, I think that it is Uganda that should be congratulated on their fortune in getting Mr. Thornley. (Hear, hear.)

Mr. Thornley as Deputy Chief Secretary and Acting Chief Secretary has been very largely responsible for the good relations that exist between all hon. Members of this Council, and which allow for a healthy and sound disagreement in debate and a friendly attitude after it. (Hear, hear.) And, Sir, he will always be remembered for this. Both he and Mrs. Thornley will be missed by all in the Colony, and in wishing them the best of luck for the future, I cannot but hope that it will lead them back to Kenya. (Applause.)

DR. RANA: Mr. Speaker, I rise on behalf of the Asian Elected Members to endorse the sentiments and the compliments which have been paid by the previous two speakers. I would like also to include the hon. Arab Member, who unfortunately happens to be absent, at this time, and who specially requested me that his name and his community should be associated with the best wishes and sentiments expressed. (Applause.)

Sir, generally the farewell speeches and sentiments are sad, but I feel that there is one good thing which we all feel, that the Acting Chief Secretary has not only got a promotion, but at the same time he is going to be in the adjoining territory, and I feel sure, Sir, by his experience and integrity, and the wonderful appearance which he has made during the last week when this side of the Council and the other side was battling against each other on various points, I must say, during my experience, I should name him as one of the most popular and clever Colonial Secretaries whom we have had. (Applause.)

With these few words, Sir, I will wish him, Mrs. Thornley, and his family, all the best health, good luck and good wishes on behalf of my colleagues and myself.

MR. JEREMIAS: Mr. Speaker, I also rise to associate myself and my colleague and, indeed, my fellow Africans, with the congratulations extended to the hon. Mr. Thornley on the eve of his departure from Kenya. It is with regret, Sir, that we are going to miss a man who has been ruling for such a long time and whom we have liked and loved, but such as it is, it is also a gain on Uganda's side. Mr. Thornley's tenacity, especially during the last two days, showed that he should be able to do very well in Uganda as he has

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## OFFICIAL REPORT

Fourth Session—Second Sitting

Volume XLVI

12th February, 1952 to 7th March, 1952

### EXPLANATION OF ABBREVIATIONS

Bills: Read First, Second or Third time—1R, 2R, 3R;  
In Committee—IC; Referred to Select Committee—  
SC.; Select Committee Report—SCR.; Rejected  
to Council—Re.CI.; Withdrawn—Wdn.

[Mr. Jeremiah] done in Kenya and his achievement in good relationship between this side and the other will also, I hope, Sir, succeed in achieving a better relationship and closer association between Kenya and Uganda. (Applause.)

I will, therefore, Sir, express our sincerest congratulations and best wishes to Mr. and Mrs. Thornley in their new future and wish them all the best of luck. (Applause.)

THE SPEAKER: I do not wish to detain Council too long, nor to put the Leader of the Council under greater difficulty than he is at present, but I must say on behalf of myself and the Clerks of Council and of the staff, how we endorse and support every word that has been uttered so far. It is as Leader of this Council that I wish to stress our loss. (Hear, hear.) We shall find it very difficult to gain one who will strive so well to keep the Council going as a body. (Hear, hear—applause.) In that behalf he has striven very hard indeed and now it becomes a case of: "We do not want to lose you but we know that duty calls you elsewhere and we wish you great joy, and Mrs. Thornley as well, and the hope also of further promotion". (Applause.)

THE ACTING CHIEF SECRETARY: Mr. Speaker—(applause)—I am very deeply grateful to you, Sir, to my hon. friend, the Member for Agriculture and Natural Resources, and my hon. friends, the Member for Trans Nzoia, the Member for Eastern Area, and the Member for African Interests, Mr. Jeremiah, for the far too generous terms in which they have spoken about my impending departure.

I suppose, Sir, that it is the earnest prayer of every civil servant whose early years are not much taken up in training to play his part in political affairs, that when the time comes for that stage in his career to be faced where he has to concern himself with politics, that his introduction into that sphere shall be reasonably gentle. (Laughter.) It is, of course, a matter of opinion as to whether, in my particular case, it would be correct to describe the introduction as gentle. (Laughter.) But, Sir, to use a Yorkshire expression, in my political life I have been "blooded" in the Kenya

Council and, Sir, I am very thankful that it has been so. I have been extremely happy in this Council all the time that I have been here. We have had our periods of awkwardness, we have sometimes had storms in this chamber, but, Sir, I have found throughout all these years that I have had the high privilege of making some very good friends whom I have always found approachable, whom I have always found anxious to be helpful, and to whom I should like on this occasion to express my most sincere gratitude. If, Sir, I have done anything to help this Council to work along and to adjust itself to its responsibilities, which are constantly changing with the steady development which is going on in this country, then, Sir, it has been a very high privilege indeed, and I would like, in thanking my hon. Members for their very generous reception of the kind words which have been uttered by their spokesmen, that my last words in this Council should be words of good wishes for its future success. I hope, and I am quite sure, that it will go on adjusting itself in its procedures and in the manner that it conducts its business so that it will at all times be thoroughly and completely competent to handle the changing situations which it will be required to deal with.

May I say once again, Mr. Speaker, how very deeply grateful I am to all hon. Members for this remarkable farewell and for the good wishes they have expressed to my wife and myself. We are, indeed, very happy that we are going so short a distance away from Kenya. (Adjuncted applause.)

### PROLONGED ADJOURNMENT

THE SPEAKER: Mr. Thornley, I understand that the date for the adjournment is to be the 1st April. Can you give us any indication as to how long that sitting is going to last?

THE ACTING CHIEF SECRETARY: It can only be a guess, Mr. Speaker, but I should not expect that the session would last beyond a week.

THE SPEAKER: Council will now stand adjourned until Tuesday, 10 a.m., 1st April.

Council rose at 12.45 p.m. and adjourned until 10 a.m. on Tuesday, 1st April, 1952.

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COLONY AND PROTECTORATE OF KENYA

# LEGISLATIVE COUNCIL DEBATES

OFFICIAL REPORT

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COUNCIL INAUGURATED  
JUNE, 1948

VOLUME XLVII

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1952

FOURTH SESSION — THIRD SITTING

1st April, 1952, to 8th April, 1952



# List of Members of the Legislative Council

## *President:*

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

## *Vice-President and Speaker:*

HON. W. K. HORNE

## *Ex Officio Members:*

CHIEF SECRETARY AND MEMBER FOR DEVELOPMENT (HON. H. S. POTTER, C.M.G.).

ATTORNEY GENERAL AND MEMBER FOR LAW AND ORDER (HON. J. WIIYATT).

FINANCIAL SECRETARY AND MEMBER FOR FINANCE (HON. E. A. VASEY, C.M.G.).

CHIEF NATIVE COMMISSIONER AND MEMBER FOR AFRICAN AFFAIRS (HON. E. R. ST. A. DAVIES, M.B.E.).

MEMBER FOR AGRICULTURE AND NATURAL RESOURCES (MAJOR THE HON. F. W. CAVENDISH-BENTINCK, C.M.G., M.C.).

DEPUTY CHIEF SECRETARY AND MEMBER FOR EDUCATION AND LABOUR (HON. C. H. HARTWELL).

MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT (HON. SIR CHARLES MORTIMER, C.B.E.).

## *Nominated Official Members:*

HON. A. HOPE-JONES (Member for Commerce and Industry).

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

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

\*HON. R. A. HAMMOND (Director of Veterinary Services).

HON. W. PADLEY, O.B.E. (Secretary to the Treasury).

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

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

\*HON. R. W. TAYLOR (Director of Public Works).

\*HON. W. J. D. WADLEY (Director of Education).

## *European Elected Members:*

HON. M. BLUNDELL, Rift Valley.

HON. S. V. COOKE, Coast.

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

HON. W. B. HAVELOCK, Kiambu.

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

MAJOR THE HON. A. G. KEYSER, D.S.O., Trans Nzola.

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

HON. C. W. SALTER, Nairobi South.

HON. LADY SHAW, Ukamba.

HON. MRS. A. R. SHAW, Nyanza.

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

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\*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. SHARIF MOHAMED SHATRY

*Nominated Unofficial Members:*

*Representing the Interests of the African Community*

HON. J. J. K. ARAP CHEMALLAN,  
HON. J. JEREMIAH,  
HON. E. W. MATHU,  
HON. B. A. OIANGA

*Representing the Interests of the Arab Community:*

HON. SHERIFF ABDULLA SALIM.

*Acting Clerk to Council:*

J. H. Butter

*Reporter:*

Miss L. Fraser



COLONY AND PROTECTORATE OF KENYA

LEGISLATIVE COUNCIL DEBATES

FOURTH SESSION—THIRD SITTING

Tuesday, 1st April, 1952

Council assembled in the Memorial Hall, Nairobi, on Tuesday, 1st April, 1952.

Mr. Speaker took the Chair at 10.07 a.m.

The proceedings were opened with prayer.

ADMINISTRATION OF OATH

The Oath of Allegiance was administered to the Hon. H. S. Potter (Chief Secretary).

THE SPEAKER: Hon. Members, I have received the following letter addressed to me:—

"Sir, I have the honour to inform you that the Secretary of State has been commanded by the Queen to convey to the Legislative Council an expression of Her Majesty's grateful thanks for their resolution of sympathy to herself and the Royal Family on the death of His Late Majesty King George VI.

The Secretary of State has also been commanded by the Queen to convey to the Council an expression of Her Majesty's deep appreciation of their resolution of loyalty and devotion on the occasion of her accession to the Throne. I have the honour to be, Sir, your obedient servant, H. S. Potter, Chief Secretary."

MINUTES

The minutes of the meeting held on 7th March, 1952, were confirmed.

PAPERS LAID

The following papers were laid on the Table:—

BY THE HON. FINANCIAL SECRETARY:

- (1) The Export (Hides) (Variation of Duty) Order, 1952.
- (2) The Supplementary Estimates, No. 2 of 1952.

BY THE HON. MEMBER FOR RIPT VALLEY:

The Report of the Public Accounts Committee on the Colony's Accounts for 1949.

BY THE HON. DIRECTOR OF AGRICULTURE:

The Agricultural Department Annual Report, 1950.

BY THE HON. DEPUTY CHIEF SECRETARY:  
The Select Committee Report on the Trade Unions Bill.

BY THE HON. MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT:  
The Annual Report for 1951 of the Government Chemist's Department.

BY THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES:  
The Select Committee Report on the Wheat Industry Bill.

ORAL ANSWER TO QUESTION  
QUESTION No. 43

MRS. SHAW (Nyanza):

What priority is the Road Authority extending to the provision of a road to an all-weather standard linking

(Mrs. Shaw)

S.W. Nyanza directly with Nairobi to enable the Mining Industry in that area to reach its maximum development?

**THE CHIEF SECRETARY:** The Road Authority is aware of the development of the mining industry in South-west Nyanza, but does not consider it justifiable to divert funds from approved schemes under its present programme to provide an all-weather link with Nairobi via Lolorogin, Narok and Kibaje at a cost which would not be less than £100,000.

The matter will, however, be reviewed by the Road Authority when further funds for development become available.

**MRS. SHAW:** Arising out of that rather unsatisfactory reply, Mr. Speaker, I should like, with your permission, to ask—has the Road Authority held any form of consultation with the Chamber of Mines or representatives of the industry, and if not, might I suggest that the Road Authority do so.

**THE CHIEF SECRETARY:** I am afraid that I can not give a categorical answer to the last part of the hon. and gracious Member's question owing to my recent arrival here. I do know that the matter has been under investigation, but I will certainly take care that if such consultations as the hon. and gracious Member has suggested have not been held, I shall ask the Road Authority to hold them. (Applause.)

## BILLS

### FIRST READING

On the Motion of the Attorney General, seconded by the Acting Solicitor-General, the following Bills were read a first time:

The Legislative Council (Powers and Privileges) Bill.

The Local Government County Councils Bill.

The Customs Duties on Foodstuffs (Provisional Exemption) (Continuance in Force) Bill.

The Pig Industry (Amendment) Bill.

The Gold Mines Development Loans Bill.

The Compulsory Military Training (Amendment) Bill.

The Diplomatic Privileges (Extension) (Amendment) Bill.

The Electric Power (Amendment) Bill  
The Coffee Marketing (Amendment) Bill.

The Local Government (Rating) (Amendment) Bill.

The Advocates (Amendment) Bill  
The Supplementary Appropriation (1949) Bill.

The Supplementary Appropriation (1950) Bill.

The Consular Conventions Bill.

**THE ATTORNEY GENERAL:** Sir, with your permission I beg to move: That the Standing Rules and Orders be suspended, in order that the subsequent Bills may be taken through the second reading and succeeding stages to-day:—

The Gold Mines Development Loans Bill.

The Diplomatic Privileges (Extension) (Amendment) Bill.

The Coffee Marketing (Amendment) Bill.

The Local Government (Rating) (Amendment) Bill.

The Advocates (Amendment) Bill.

The Supplementary Appropriation (1949) Bill.

The Supplementary Appropriation (1950) Bill.

The Customs Duties on Foodstuffs (Provisional Exemption) (Continuance in Force) Bill.

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

The question was put and carried.

### SECOND READING

*Gold Mines Development Loans Bill*

**THE MEMBER FOR COMMERCE AND INDUSTRY:** Mr. Speaker, I beg to move: That the Gold Mines Development Loans Bill be read a second time.

It will be remembered that on 18th August, 1950, the following resolution was passed unanimously by this Council in these terms:

"This Council being mindful of the need to develop the mineral resources

[The Member for Commerce and Industry]

of the Colony to the full, and realizing that, with regard to the particular case of gold mining, active encouragement and direct assistance are necessary if the industry in Kenya is to be placed on a sound footing, approves, subject to the financial position of the Colony permitting such a course, the payment of grants to cover a proportion of the cost of new and approved underground development in gold mines; it being understood that detailed proposals will be submitted for the consideration of Legislative Council at a later stage, and that the cost of operating the scheme will not exceed £40,000 in the first year of operation. The sums paid as development grants to be subject to a condition of repayment which will be invoked only if, and when its implementation would impose no undue financial strain on the recipient of the original grants."

Mr. Speaker, I have to apologize for the time it has taken to produce a Bill to implement the resolution of this Council. Hon. Members are familiar through the process of question and answer in the Council, why there was that delay. It was necessary for Members of this Council and others to go to London and to persuade the monetary authorities there that there was nothing in the proposals that contravened international agreements in regard to the price of gold. Gold mining in this Colony has been depressed because, alone of commodities produced here, the increase in the price obtained has been very small indeed, in fact negligible, apart from the effect of the devaluation, in relation to the cost of materials utilized in the industry. I do not feel that I need detain hon. Members by going through the Bill clause by clause. The Memorandum of Objects and Reasons explains the meaning of each particular clause. The Bill in short, Sir, is in implementation of the Resolution passed by this Council. I will, of course, do my best to answer any questions raised by hon. Members opposite.

I beg to move. (Applause.)

**THE ACTING SOLICITOR GENERAL** seconded.

**LT.-COL. GHERSIE (Nairobi, North):**

Mr. Speaker, I rise to support the Motion. The introduction of this proposed legislation is in my opinion long overdue and I am afraid will be too late to render any assistance to a number of gold mines. Now, Sir, within the last few weeks, another gold mine which was established here some 20 years ago, and has struggled due to rising working costs over the last 12 years, has decided to go into liquidation and I think I am correct in stating that the shareholders of that company have not seen one cent by way of dividends and they will receive nothing as I understand it in respect of return of capital. Now, Sir, most industries in spite of the increased working costs, have considerably benefited due to the prevailing high market price of their particular products, but gold mining has been the exception. Costs have risen, but relatively speaking the price of gold has remained static. Now, Sir, if there is to be any real future in the development of this Colony, if we are to achieve a balanced economy, we cannot afford to rely entirely on agriculture. (Hear, hear.) Therefore, I submit that we should give every possible encouragement to the development of the gold mining industry. In this connection I would like to refer to both gold and base metals. Now, Sir, Tanganyika and Uganda are at present well ahead of Kenya in regard to mining. But it would be wrong to suppose that providence drew a line between Tanganyika and Kenya and Uganda and Kenya, thereby indicating that those two East African areas were mineralized and the other, one not. I am convinced that given proper encouragement the prospectors and syndicates could revolutionize the economy of the Colony from the point of view of mineral wealth, and I only hope that the nominal or token sum of £40,000 referred to in the Bill is merely the forerunner of additional provision of adequate finance should the circumstances justify it.

It is no use embarking, Sir, on expensive geological surveys unless those surveys are followed up by practical prospecting and exploration.

Now, Sir, to conclude, I would just like to make one general observation. It is this. That in view of the present lack

[Lt.-Col. Gheric] of experienced prospectors, or the shortage of experienced prospectors operating in the field to-day, I think Government should impress upon Government officers and I refer to Administrative officers as well as field officers that they should endeavour to educate the African community in regard to the importance of the discovery of minerals, and the value that minerals may play in the economic life of the community as a whole.

I do believe that if the true facts were explained intelligently to the African, it would result in removing to a large degree the resentment and distrust which at present exists in some areas.

I would also suggest that Government Field Officers should be requested to take an interest in the subject from another angle.

They should be encouraged to submit samples of rocks to the Mines Department for further investigation, and in this connexion it might be considered advisable for these officers to receive a briefing by the Mines Department governing the elementary principles in respect of rock formations and the submission of samples.

Sir, I beg to support.

MR. NATHOO (Central Area): Mr. Speaker, whilst welcoming the Bill which gives this much needed assistance to the gold industry, I would like to make one or two observations, Sir. The first one is, Sir, that whilst we are spending this money to help the industry will the hon. Member in his reply tell us what machinery is there which would make a periodical review of the position to see that the money which is being spent is getting some return, as it may happen that the money which is given is not sufficient and for want of sufficient funds once we are wasting what we have given. For that reason I do beg the hon. Member to tell us what effective measures are given to keep this matter constantly under review.

MR. SHAW: Mr. Speaker, I rise to support because of the importance of the mining industry of this Colony. Unfortunately this loan has come too late to save many of the smaller mines which

have been forced to close down. One, as you have already been told by the hon. Member for Nairobi North, in Nyanza only a few weeks ago owing to the high cost of working and underground development, and the price of gold which bears no relation to the price of that commodity on the world market. If only Government had possessed more foresight, and introduced this grant three or four years ago, these mines would have been open to-day—rather in 1949—when the increased price of gold came, and would have been able to continue even if they were then only working a lower grade ore. Still, better late than never, and it is hoped that this grant will encourage development in all branches of mining, and act as a tonic to what is to-day a very sick industry.

Doctors, people say, are the last people to be paid, but a good doctor feels that the recovery of his patient, who is then enabled to lead a happy and useful life is ample repayment. And I should—(laughter—hear, hear)—like to feel that in this case, Mr. Speaker, the Government is like that good doctor. For by the administration of this grant-in-aid or loan, which has no repressive clauses of repayment, Government may be able to put the mining industry on its feet and so to ensure it a long and useful life bringing with it substantial extra revenue both to Government and the individual in this Colony. For in my opinion discovery of minerals and oil would be the salvation of this Colony, putting its whole economy on a sounder basis. A geological survey has been carried out, and any indications in that survey should be explored to the full, and therefore it is all important that we should support measures of this kind which are designed to encourage development by the small private prospector as well as the larger company. For do not forget, that a grant not only will help the existing mines but may result, and indeed I hope it will, in an influx of new prospectors who, by increasing settlement will in themselves help all branches of economy in this Colony. For miners it seems are very costly people, and I believe it has been estimated that it takes four people in commerce and in agriculture to keep one man employed on a mine. So a flourishing mining industry will help us all and

[Mrs. Shaw]—any measures that put that industry on its feet will always have my fullest support.

I beg to support. (Applause.)

THE MEMBER FOR COMMERCE AND INDUSTRY: Mr. Speaker, first of all I would like to thank my hon. friends the Member for Nairobi North, the Member for Nyanza and the Member for the Central Area for what they have said. I agree with the criticism that this Bill is probably late in the day. On the other hand, I would make one point in reply to that justifiable criticism, which is, that so far apart from Canada, which has development grants for the gold industry, and the scheme in Southern Rhodesia we are, as far as I know, the only part of the Empire, indeed, the only part of the world, that is a party to the international monetary agreement, which has got a scheme to assist gold mining along these lines. (Hear, hear.) So, Sir, I think we have a reply to criticism, not a complete reply, but at any rate a reply which shows our good intention. It may be that we found the scheme difficult to work out. I know that my friends in the industry found it difficult to work out some of the details and we had the complication that it was necessary to get the agreement of the authorities in London. I have said on other occasions how much we are indebted to my hon. friend, the Member for Nairobi North. I would like also to say how much we are indebted to the late Mr. Preston who was Member for Nyanza before the present occupant of that seat. (Applause.) He too played a considerable part and a most valuable part in letting us get ahead with what I still consider to be an achievement. I hope that our efforts will have the effect of saving what is left of the gold mining industry in this Colony and also encouraging new development.

To deal with the point raised by my hon. friend, the Member for the Central Area, naturally an Ordinance of this kind requires, if it is agreed that I should come back to this Council and ask for appropriation. Naturally, appropriation is on a yearly basis—the Bill is not. Therefore, there will be automatic review of the financial position on every occasion it is necessary to come

for appropriation to this Council and, Sir, I can promise the hon. Member that if it is necessary to spend more money to save what has been invested, I personally will be the first to ask for support from hon. Members opposite always assuming the financial position of the Colony permits, and I am sure that hon. Members opposite would join me in that endeavour.

To deal with the point raised by my hon. friend, the Member for Nyanza, about repayment, it is quite clear in the Bill that the provision for repayment is on the basis that it should be made under circumstances when it would not impose any undue financial strain on the recipient of the grant. Now, Sir, it was necessary to phrase the Bill before Council in the terms of the Resolution passed 18 months ago and there was a repayment clause in that Resolution, but I am sure that hon. Members can rely on the Mines Department and those concerned in administering this Ordinance, if it be passed, can be assured that that provision will be exercised in the best development interests of the industry. That is the object of the Bill and it would obviously be foolish if the Bill were administered in such a way that its object would be defeated.

I was also most interested in the points raised by my hon. friend, the Member for Nairobi North. Uganda and Tanganyika have so far in their geological surveys perhaps have had more luck in the dip than we have; on the other hand, five years ago, only one-tenth of Kenya had been surveyed at all. To-day, between one-eighth and one-ninth has been surveyed and the prospects of mineral development in this Colony are, I think, excellent. The at least in the view of some of the geologists generously loaned to us under the Economic Co-operation Administration, as I believe my hon. friend knows, I will bear in mind the very important points he made about administrative officers and others being given some elementary knowledge of geology, if they do not already possess it, and being asked to send interesting rock specimens to the Geological Laboratory.

Mr. Speaker, I beg to move.

The question was put and carried.

*Diplomatic Privileges (Extension)  
(Amendment) Bill*

THE ATTORNEY GENERAL: Mr. Speaker, I beg to move: That the Diplomatic Privileges (Extension) (Amendment) Bill be now read a second time.

This is a short, one-clause Bill, the object of which is to add a proviso to sub-section (2) of section 2 of the principal Ordinance to ensure that when the Governor makes an order conferring immunities and privileges on members of an international organization, that order shall be couched in such terms as to ensure that it does not confer any benefits wider than are necessary to give effect to the international agreement which is the occasion of making the order. Such a limitation as that, Mr. Speaker, may appear to be self-evident and indeed, speaking for myself, I would not be disposed to disagree with that view. But since the Bill is concerned with international agreements, it is no doubt desirable to remove any possibility of misunderstanding or misapprehension or doubt, and therefore that is why the Secretary of State has invited us to pass this amending Bill. In doing so, we shall bring our legislation on this subject into line with corresponding legislation in the United Kingdom and elsewhere in the Commonwealth and Empire.

Apart from that major amendment in the body of the Bill, there are certain minor amendments in the Schedule of the Bill which I think, Mr. Speaker, do not call for any comment.

Accordingly, Mr. Speaker, I beg to move that this Bill be now read a second time.

THE ACTING SOLICITOR GENERAL seconded.

The question was put and carried.

*Coffee Marketing (Amendment) Bill*

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: Mr. Speaker, I beg to move: That the Coffee Marketing (Amendment) Bill be read a second time.

Sir, this is a short Ordinance which, I think, is explained by the Objects and Reasons and which is introduced at the request of the Coffee Board and Coffee Marketing Board.

The background of this amending Bill is as follows. The principal Ordinance

was originally introduced in 1946 and, at that time, the life of the measure was limited to three and a half years, but was subsequently extended by Ordinance No. 14 of 1947, so that the Ordinance should expire on the 30th June this year. The reason at that time for the extension of the Ordinance was the successful outcome of negotiations between the Coffee Marketing Board and the Ministry of Food, whereby an agreement was reached under which the Ministry was to take up 6,000 tons of Kenya coffee per year commencing with the 1947-48 crop.

Now, Sir, the whole question of coffee marketing was discussed during the annual Coffee Conference held in July last year, and at that Conference, it was unanimously recommended that organized marketing should continue and that these amendments which are now before hon. Members should be made to the existing Ordinance in order to implement the policy, and further, in order to improve the Ordinance in the light of experience which has been gained over this comparatively long period of five and a half years. Further, they wanted to make provision within the amended Ordinance so as to allow that coffee produced in East Africa could possibly be marketed on an East African basis, if growers in other territories expressed the wish to join forces with the Kenya organization.

Now, Sir, in connexion with that, I would like to draw the attention of Members to the Objects and Reasons because in the second paragraph of the Memorandum of Objects and Reasons, it rightly suggests that these provisions enable the Kenya Coffee Board to set up a Committee on which there will be representatives of any organization in any other territory whose coffee is being marketed by the Board, jointly with coffee produced in the Colony. It rather gives the impression that it is the Kenya Coffee Board that is going to set up this Committee and it is the Kenya Coffee Board that is going, more or less, to invite members of similar bodies in other territories to join their Board. Of course, Sir, that is not the intention. The intention is that if similar marketing bodies in other territories wish to combine with the Kenya growers in marketing their coffee, then jointly such a Committee

[The Member for Agriculture and (Natural Resources)] could be set up and the amendment to the Ordinance makes it possible for the Kenya growers to operate through such a body.

Sir, beyond giving this background, I feel that the small amendments which this Ordinance seeks to introduce are fully explained in the Objects and Reasons, and I need not take up the time of the Council any longer except again to assure them that these measures are at the request of the industry itself and to commend them to hon. Members for their consideration.

THE DIRECTOR OF AGRICULTURE seconded.

The question was put and carried.

*The Local Government (Rating)  
(Amendment) Bill*

THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT: Mr. Speaker, I beg to move: That the Local Government (Rating) (Amendment) Bill be read a second time.

This, Sir, is a very simple measure. The existing law allows local authorities 12 months in which to prepare a valuation roll for rating purposes. In the larger municipalities it has been found that this period is too short, and a request has been made that the law be amended to allow 18 months instead of 12 months for the preparation of these rolls. The Bill before the Council purports to carry that request into effect, and I beg to move.

THE DIRECTOR OF MEDICAL SERVICES seconded.

The question was put and carried.

*The Advocates (Amendment) Bill*

THE ATTORNEY GENERAL: Mr. Speaker, I beg to move: That the Advocates (Amendment) Bill be now read a second time. Although, Mr. Speaker, this is a somewhat lengthy Bill I think I need not take up much of the time of the Council in explaining the principles of the Bill to this Council because it is a Bill which, for the most part, does not concern the general public but is primarily the concern of that small but select and indispensable section

of the community—the legal profession. (Applause.)

The text of the Bill, Mr. Speaker, has been examined by the Law Society of Kenya and also by the Judiciary and has received their imprimatur and therefore I think it is unlikely that hon. Members opposite, or indeed hon. Members on this side of the Council, will rush in where those angelic feet have trodden. (Laughter.) If the Bill becomes law, I think hon. Members may confidently assume it will prove to be a useful and valuable addition to the *corpus juris* of this Colony.

The main principle of the Bill, stated in its broadest terms, is to improve the machinery for safeguarding proper standards of professional conduct and enforcing those standards of conduct among the lawyers of this Colony. As hon. Members know, all professions have their own particular code of conduct, whether it be the legal profession or the medical profession, the architect's profession or the chartered accountants' profession, and indeed it is this feature which gives the professions and professional men a special and peculiar status in the community; as it was once put by an eminent statesman, it is the professional men who strive to maintain "those high standards of behaviour which distinguish a profession from a trade".

Well now, hon. Members will have observed that an attempt was made when the principal Ordinance was enacted to set out in statutory language what those high standards of behaviour must be, but experience has shown that good professional behaviour, like good manners, cannot be confined within the straight jacket of a statute, and that it must be left to the good sense and the good judgment of the leaders of the profession itself to determine what those standards of good behaviour should be.

The test, if this Bill becomes law, will not be whether a particular advocate has committed a breach of a particular section or sub-section of an Ordinance, but whether he has done such things as, in the opinion of the leaders and not members of the profession, are just and done by those who have the interests and traditions of the legal profession at heart. In other words, instead of a rigid statutory yardstick, the test that will be

[The Attorney General] applied, will be the test of the living tradition of the profession which has been inherited from those who have pursued this honourable and learned profession in the Inns of Court and other seats of learning in the United Kingdom and elsewhere.

Now that, Mr. Speaker, is the major amendment that is effected by this Bill. Here is one other amendment which is also of importance contained in clause 7. I think it is, which extends the powers of the Disciplinary Committee to enable them to impose sanctions upon lawyers' clerks, as well as on the lawyers themselves, if they should act in contravention of the standards which we expect from persons employed in the legal profession. It is an amendment which will bring the Law in this Colony into line with that which exists in the United Kingdom, and I feel it is a good thing that lawyers' clerks should be brought within the purview of the Disciplinary Committee's activities. It will certainly remove from lawyers the temptation to employ clerks who are not, in spite of their cleverness or personal ability, fully aware of the standards of propriety which are expected of members of the staff in a lawyers' office.

Those are, as I say, the two major amendments enacted by this Bill, but there are two other smaller, but not entirely unimportant matters, which I think I might mention before I sit down. Hon. Members will have observed that one of the qualifications which enables a solicitor to be admitted to the profession locally is that he is a solicitor entitled to practise in Scotland. In the existing Ordinance such a person is described as a "Law Agent", but I suppose, when this Ordinance was enacted, that was because the expression "Law Agent" has been obsolete for the past 20 years or more and no such creature has existed for very many years. Therefore that anomaly is removed. At the same time a specific reference is made to another species of Scottish lawyer, namely the Writers to the Signet who constitute a very exclusive and very distinguished branch of the legal profession in Edinburgh. They never were included in the designation "Law Agent" and it would have been quite anomalous if any such person had sought and been refused

admission to the local Bar, because Writers to the Signet are well qualified, indeed in many cases better qualified, than most of the ordinary lawyers practising in Scotland. Now that anomaly likewise is removed by this Bill.

Lastly, I would invite the attention of hon. Members to clause 8 of the Bill which, as Members will see, imposes a fee of Sh. 60 for the annual renewal of the practising certificate which all lawyers have to take out in this Colony. There again I regret to say, Mr. Speaker, that Jove nodded when the principal Ordinance was passed, because although it had been customary for many years for solicitors to take out Practising Certificates and pay that Sh. 60 fee, by some oversight that provision was omitted from the principal Ordinance which was a consolidating Ordinance when it was enacted in 1950. Nevertheless, although the lawyers of this Colony have been under no obligation to pay their practising fee for the last three years, I need hardly say that all of them, without a single exception, have paid their Sh. 60. That might seem a little puzzling to certain hon. Members and indeed it might even appear to some that the payment of a tribute to the State, which the State was not legally entitled to claim suggests some form of natural imbecility rather than astuteness, which is ordinarily attributed to lawyers. Be that as it may, it does, in my view, lend some support to the dictum which at one time was very widely held that if all the people in the world were lawyers then you would need no laws, and, of course, if you needed no laws, you would need no lawyers. And then we should all live in Utopia, which, as every schoolboy knows, was the creation of a very distinguished lawyer.

Accordingly, Mr. Speaker, I beg to move that the Bill be moved a second time.

THE ACTING SOLICITOR GENERAL  
seconded.

The question was put and carried.

Supplementary Appropriation (1949)  
Bill

THE FINANCIAL SECRETARY: Mr. Speaker, I beg to move: That the Supplementary Appropriation (1949) Bill be read a second time.

[The Financial Secretary]

This, Sir, is the final, and, I think, formal step in the financial procedure for charging on the revenue certain items of over-expenditure on various Heads. The items shown have, of course, all been previously approved as Estimates by this Legislative Council through the machinery of Standing Finance Committee reports and through Schedules of Additional Provision. It is now necessary to comply with the formal and final step of authorizing them as a charge on the revenue through the Appropriation Bill procedure.

Sir, I beg to move.

THE SECRETARY TO THE TREASURY  
seconded.

The question was put and carried.

Supplementary Appropriation (1950) Bill

THE FINANCIAL SECRETARY: Mr. Speaker, I beg to move: That the Supplementary Appropriation (1950) Bill be read a second time.

Sir, the remarks that I made about financial procedure on the Bill which has just passed its second reading apply also to this Bill. I think it is unnecessary to keep the Council with any repetition of that explanation.

Sir, I beg to move.

THE SECRETARY TO THE TREASURY  
seconded.

The question was put and carried.

The Council adjourned at 11 a.m. and  
returned at 11:20 a.m.

Customs Duties on Foodstuffs  
(Provisional Exemption) (Continuance  
in Force) Bill

THE SECRETARY TO THE TREASURY: Mr. Speaker, I beg to move: That a Bill entitled "An Ordinance to Provide for the Continuance in Force of the Customs Duties on Foodstuffs (Provisional Exemption) Ordinance, 1946", be read a second time.

The Provisional Collection of Foodstuffs Ordinance was introduced in 1946 and its purpose is to enable the Governor in Council to suspend duty on foodstuffs imported into the Colony. The Ordinance is one which has to be renewed annually. It will, Sir, be very clear, I am afraid, to Members what has

happened from the Memorandum of Objects and Reasons, which is almost embarrassingly lucid. (Laughter.)

I beg to move, Sir, that the Bill be read a second time.

THE ACTING SOLICITOR GENERAL  
seconded.

MR. HAVELOCK (Kiambu): Mr. Speaker, would the hon. Mover give us details of the actual foodstuffs which are at the moment considered to be so important that customs duties should be removed. You may, Sir, wish to rule me out of order asking this question, but I would suggest that unless there are a number of foodstuffs which we on this side of Council consider are important enough to allow for customs duties being removed, that it may not be necessary to have this Ordinance at all. Therefore, I would ask the hon. Mover to give particulars.

THE SECRETARY TO THE TREASURY: Sir, the foodstuffs which are at present exempted from customs duties are: beans and peas (excluding dhal), brick mineral licks, cassava and cassava flour, cattle, sheep and goats, coira and coconut oil, dates, fish, salted or dried, green, maize and maize-meal, millets, red palm oil, rice and paddy, salt (excluding table salt), soya beans and flour, wheat and wheat flour. Recently there has been added to that list fish-meal and condensed whale solubles. (Laughter.)

I beg to move that the Bill be read a second time.

The question was put and carried.

COUNCIL IN COMMITTEE  
The Diplomatic Privileges (Extension)  
(Amendment) Bill

THE ACTING SOLICITOR GENERAL: Mr. Chairman, there is one very trifling amendment which I can best describe as a lawyer's amendment which merely seeks to insert certain words, and to make the provision consistent with another clause.

I beg to move that the Schedule be amended as follows:—

That there be substituted for paragraph (b) of the amendment of Part IV of the Schedule to the principal Ordinance the following—

[The Acting Solicitor General]

(b) For the words "the representative of a member Government" there shall be substituted the words "a representative on any organ of the organization or as a member of the committee of the organization or of an organ thereof".

I do not think I need explain it any further, it is purely a verbal amendment.

The question of the amendment was put and carried.

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

#### The Coffee (Amendment) Bill

##### Clause 3

MR. HAYLOCK: Mr. Chairman, would the hon. Member opposite make it quite clear one way or the other, under the alteration in the Schedule in clause 3 it will now not be possible for a coffee grower to sell *buni* otherwise than through the Coffee Board. If that is the case, Sir, would the hon. Member also inform me if, this particular provision was supported by the Coffee Conference—not the Coffee Board, the Coffee Conference.

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: Mr. Chairman, the position as regards *buni* is that under this amending Ordinance, as the hon. Member will see section 2, clause 3, *buni* now means "coffee dried in the fruit but does not include hulled *buni*" and coffee in the new interpretation means "the fruit or any part of the fruit *Coffea arabica* and includes clean coffee, parchment coffee and *buni*". Therefore, *buni* now, for the purposes of this amending Ordinance, is included in the interpretation of coffee and coffee, Sir, can only be sold to or through the Board, but the hon. Member will see that under clause 11, as amended, the Board is enabled to impose conditions upon the granting of an exemption under section 11 of any part of the provisions of the Ordinance. Therefore, if a person wishes to sell *buni* other than through the Board, he will have to get the Board's permission.

As regards the second question that the hon. Member has asked, this provision is in accordance with the wishes expressed by the Coffee Conference.

The question was put and carried.

#### The Customs Duties on Foodstuffs (Provisional Exemption) (Continuance in Force) Ordinance, 1952

MR. BLUNDELL (Rift Valley): Mr. Chairman, I should like to ask the hon. Member what is the provision by which any particular item is placed on the list for exemption. What procedure is followed before an item is placed on the list for exemption under this Bill?

THE SECRETARY TO THE TREASURY: Sir, the power rests with the Governor in Council, and as a result of the decision of the Governor in Council, a notice is inserted in the *Official Gazette*.

MR. BLUNDELL: Mr. Chairman, could I ask the hon. Member—surely before the matter goes to the Governor in Council, the industries which may be affected by any decision under this Bill are consulted? That is a procedure which I wish the hon. Member would outline. What steps are taken to consult an industry? If I could explain, Sir, I must declare an interest in the canning industry. I understood the hon. Member when he was answering the hon. Member for Kiambu to say something about peas being down on this Schedule. I merely wish to know whether he consulted the canning industry on their opinion with regard to peas.

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: As far as I am aware, Sir, the procedure has always in the past been that where suggestions are made for the removal of customs duties and things of that kind, I am consulted and I think I may say that in almost every case that I am aware of, I have consulted the industry concerned.

MR. BLUNDELL: Mr. Chairman, I should like to ask the hon. Member whether he consulted the canning industry in regard to peas, because I am pretty sure he cannot answer that. (Laughter.)

THE ATTORNEY GENERAL moved: That the following Bills be reported back to Council without amendment:—

The Gold Mines Development Loans Bill.

The Coffee Marketing (Amendment) Bill.

The Local Government (Rating) (Amendment) Bill.

The Advocates (Amendment) Bill.

The Supplementary Appropriation (1949) Bill.

The Supplementary Appropriation (1950) Bill.

The Customs Duties on Foodstuffs (Provisional Exemptions) (Continuance in Force) Bill.

and the following Bill with amendment:—

The Diplomatic Privileges (Extension) (Amendment) Bill.

The question was put and carried.

Council resumed and the hon. Member reported accordingly.

## BILLS

### THIRD READING

THE MEMBER FOR COMMERCE AND INDUSTRY moved: That the Gold Mines Development Loans Bill be read a third time, and passed.

THE ACTING SOLICITOR GENERAL seconded.

The question was put and carried.

THE ATTORNEY GENERAL moved: That the Diplomatic Privileges (Extension) (Amendment) Bill be read a third time, and passed.

THE ACTING SOLICITOR GENERAL seconded.

The question was put and carried.

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES moved: That the Coffee Marketing (Amendment) Bill be read a third time, and passed.

THE DIRECTOR OF AGRICULTURE seconded.

The question was put and carried.

THE ATTORNEY GENERAL moved: That the Local Government (Rating) (Amendment) Bill be read a third time, and passed.

THE DIRECTOR OF MEDICAL SERVICES seconded.

The question was put and carried.

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

THE ACTING SOLICITOR GENERAL seconded.

The question was put and carried.

THE FINANCIAL SECRETARY moved: That the Supplementary Appropriation (1949) Bill be read a third time, and passed.

THE SECRETARY TO THE TREASURY seconded.

The question was put and carried.

THE FINANCIAL SECRETARY moved: That the Supplementary Appropriation (1950) Bill be read a third time, and passed.

THE SECRETARY TO THE TREASURY seconded.

The question was put and carried.

THE SECRETARY TO THE TREASURY moved: That the Customs Duties on Foodstuffs (Provisional Exemption) (Continuance in Force) Bill be read a third time, and passed.

THE FINANCIAL SECRETARY seconded.

The question was put and carried.

THE SPEAKER: That concludes the business on the Order Paper and Council will stand adjourned until 9.30 a.m. to-morrow morning.

## ADJOURNMENT

Council rose at 11.40 a.m. and adjourned until 9.30 a.m. on Wednesday, 2nd April, 1952.

Wednesday, 2nd April, 1952  
Council assembled in the Memorial Hall, Nairobi, on Wednesday, 2nd April, 1952.

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

The proceedings were opened with prayer.

### MINUTES

The minutes of the meeting of 1st April, 1952, were confirmed.

### ORAL ANSWERS TO QUESTIONS

#### QUESTION No. 40

SHARIF ABDULLAH SALAM:

In view of the fact that Messrs. Brooke Bond Tea Co., Ltd., have made a net profit of £1,006,252 in the year ended 30th June, as appeared in the newspaper *East Africa of Rhodesia*, will Government therefore state reasons for raising the price of tea?

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES:

The figure of £1,006,252 quoted by the hon. Member for Arab Interests represents the net profits made by Messrs. Brooke Bond Tea Co., Ltd., and their subsidiary companies, of which there are over 50, on their world-wide operations during the year ended 30th June, and does not in any way represent profits on their operations in Kenya alone.

The reasons why Government agreed to an increase in tea prices in October, 1951, were published in the *East African Standard* on 20th October, 1951, and Government has nothing further to add to the information then published.

#### QUESTION No. 42

MAJOR KEYSER (on behalf of Mr. Havelock):

(a) In view of the fact that the decision of the Crown Estates Development Committee may have widespread effects on town and country planning generally, the development of private estates and the cost of living problem, will Govern-

ment appoint Unofficials to this Committee?

(b) If the answer to (a) is in the negative, will Government give their reasons for confining the substantive membership to Officials?

THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT:

(a) No, Sir.

(b) The primary purpose of the Crown Estates Development Committee is to examine all the technical aspects connected with the development of a particular area of Crown land. These involve the detailed examination of schemes for roads, drains, water supply, etc., and the technical experts on these matters are in attendance on the Committee. The Commissioner for Local Government has been made a member of the Committee for the express purpose of representing local authorities, who should be aware of the views of local bodies, such as Chambers of Commerce, on the need for a particular type of development. The Committee has power to co-opt additional Members, and would certainly use this power to include any Unofficial who, in his opinion, was in a position to contribute valuable local knowledge on the technical problems involved. Apart from this, the Government considers that, in the interest of rapidly giving effect to schemes, the Committee should be as small as possible and should consist of persons who are in daily touch with the problems involved and are readily available to attend meetings of the Committee at short notice.

MR. BLUNDELL: Mr. Speaker, in view of the fact that this Committee will be advising upon a considerable sum of expenditure of public money in all probability and in view of the necessity to reduce as much as possible suspicion in this matter, would the hon. Member give reconsideration to his views on the composition of the Committee?

THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT: Mr. Speaker, very careful consideration has already been given to this matter, but if the hon. Member has any other factors which he would like to have taken into consideration that have not already been reviewed, I shall be very happy to consider them.

THE FINANCIAL SECRETARY: Mr. Speaker, I beg to move: That this Council do now resolve itself into Committee of Ways and Means.

THE SECRETARY TO THE TREASURY seconded.

### MOTIONS

THE FINANCIAL SECRETARY: Mr. Chairman, I beg to move the Motion standing in my name on the Order Paper:

#### Export Duty Ordinance, 1951 (No. 71 of 1951)

(1) Sub-section (1) of section 4 of the Export Duty Ordinance empowers the Governor in Council by order to increase or decrease the duty payable on any commodity specified in the Schedule to the Ordinance or to abolish the duty thereon:

(2) Sub-section (2) of the aforesaid section requires any such order to be laid on the table of the Legislative Council and provides that it shall cease to have effect unless approved by resolution of the said Council passed within seven days of its being so laid:

(3) The Governor in Council by an Order entitled the Export Duty (Hides) (Variation of Duty) Order, 1952, decreased the duty payable on hides in the manner shown in such Order:

NOW, THEREFORE BE IT RESOLVED that this Committee approves the terms of the aforesaid Export Duty (Hides) (Variation of Duty) Order, 1952.

THE CHAIRMAN: I understand you use the word Committee; no, you must use the word Council because that is the Resolution. We are now discussing the Resolution in Committee.

THE FINANCIAL SECRETARY: The Order to which this refers is that the rates of duty on hides specified in the Schedule to the Export Duty Ordinance, 1951—there shall be paid duty at the following rates, that is to say, hides, air dried, Sh. 10/53 per 100 lb., and *pro rata* any part thereof. Hides, wet salted, Sh. 5/27 per 100 lb. and *pro rata* for every part thereof.

When the duty on hides and skins was introduced, Sir, Government did not increase the total import previously levied as cess, but merely separated this impost into the two elements, duty and cess, the cess element being calculated at the amount which would be necessary to

cover the expenditure of hides and skins services during the year 1952. The Member for Finance in the Legislative Council gave an undertaking, Sir, that the cess would be maintained at a level sufficient to finance the services. If the overall impost is varied downwards, then it will be at the expense of the tax and not at the expense of the cess.

Since the introduction of this duty, Sir, certain prices have fallen significantly and it has been necessary for the Treasury to make a further calculation of L.o.B. values in accordance with the Ordinance. The fall in hide prices has been drastic and fairly general. Indeed the *Financial Times* of 19th March, in reviewing the situation generally, makes such comments as "Overnight, from being the dearest on the world market, Argentine hides prices became the cheapest...." "A representative quality hide costing 48 pence a lb. a year ago, now costs about 18 pence."

That, Sir, shows the measure of the fall of prices and the measure of the blow the industry has suffered. It has, therefore, been considered desirable that at the earliest possible date we should reduce the duty and the order was made to take accordance with the Ordinance, this Order has to be approved by the Legislative Council. The Resolution I have now put is to bring that approval into effect.

Sir, I beg to move.

MR. BLUNDELL: Mr. Chairman, are we in Committee, Sir?

THE CHAIRMAN: Yes, I think so. There has been no seconder of the Motion because a seconder was not necessary. You were called.

MR. BLUNDELL: Mr. Chairman, hon. Members will recollect that, during the debate on the principle of these taxes in December, European Unofficial Members on this side of the Council advanced strongly the argument that the principle of these taxes was an insecure one upon which to base such a programme as part of the development programme of the Colony. (Hear, hear.) We did not receive, during that debate, the enlightened support that we should have received from hon. Members on the left, however, who were perhaps unable to foresee the ups and downs in the prices of a commodity market, but, Sir, I would



[Mr. Blundell] like to suggest that the fact that the hon. Member opposite is moving this Motion to-day fully underlines and stresses completely the arguments which we then advanced upon this matter in December—(hear, hear)—and I should like to ask the hon. Member, in his reply, to give us an assurance that he will review, between now and the date when he will once more laconize us with his Budget in October at the end of this year, he will review the whole instance of export taxes as advanced for a part contribution towards the development programme of the Colony.

I wish to underline again, Sir, that the mere fact that he is moving this Motion to-day, emphasizes the insecurity upon which the premises of his predecessor were based. (Hear, hear.)

Lastly, Sir, a small matter of detail. I should like to suggest to the hon. Member that he reverses the incidence of taxation, that he puts the lowest tax upon the hides which are most suitably and best prepared, and the highest tax upon those which are most poorly and wrongly prepared, and in that way he will accelerate the efforts which the hon. Member on his right—his hon. colleague on his right—is making in inducing those who prepare hides, to prepare them to the best advantage. (Applause.)

MR. NATHOO: Mr. Chairman, I should like to refer to the remarks of the hon. Member for the Rift Valley when he said that the people on his left did not appreciate the fact that these prices are subject to heavy rises and falls. Sir, I would inform him that some of us may not be so big business men as he is, but we are fully conversant with trade and commerce and we know that the prices will rise and fall, but that is no reason why, Sir, when the prices are at the very high level, that Government should not take some of them to put it into the development programme—(hear, hear)—and on behalf of Members on his left, Sir, I again assure him that we still stand on the decision which we took at that time.

In view of the fall of prices, I beg to support the Motion. (Applause.)

MR. MATHU (African Interests): Mr. Chairman, I did not intend to join in this debate—(laughter)—but my hon. friend, the Member for the Rift Valley,

in his usual volcanic manner, has based his argument on a very insecure basis by saying that because the prices have fallen and we expected them to remain at the high level. The support given by some of us on this side on the introduction of the export taxes was very wrongly given. Now, Sir, what we supported is the principle of export taxes. The principle of export taxes does not mean that prices will always remain what they were in October, 1951. They will definitely fluctuate as all the prices fluctuate throughout the ages, but our principle is still sound and we still continue to support it and I therefore, Sir, support the Motion moved by my hon. friend, the Member for Finance. (Applause.)

MR. COOKE (Coast): Sir, when the hon. Member replies, could he give us an indication of the likely shortfall in revenue on account of this readjustment of tax?

THE CHAIRMAN: Perhaps you would like to extract that from him before he replies, in order that you may be able to speak on it. We are in Committee and seeking information.

MR. MACDONOCHE-WELWOOD (Uasin Gishu): Mr. Chairman, I merely rise briefly to reiterate the point made by my hon. friend, the Member for the Rift Valley, which appears to have been missed by hon. Members on my left. (Laughter.) What he was attacking was not the hon. Members' support of this tax, but the insecure base on which this tax has been placed. (Hear, hear.) If you are going to impose a tax for the development of this Colony, it seems to me this basis is slightly insecure. When the hon. Financial Secretary, within six months of proposing the tax, has to very largely withdraw it as the industry is incapable of carrying it.

MAJOR KEYSER: Mr. Chairman, while I support the remarks of the hon. Member for the Rift Valley, it does seem to me that we are rather wasting our time because the hon. Members here who previously supported this tax are so hide-bound that they are not likely to change. (Laughter.)

THE FINANCIAL SECRETARY: I am quite prepared, Sir, to intervene.

[The Financial Secretary]

The hon. Member for the Coast raised the question of the shortfall. The shortfall is likely to be increased due to two factors, the first the reduction of duty, and the second the fact that the market shortfall abroad and the increased flow of Argentine hides and such will decrease our exports expectation. So that the estimated shortfall will contain those two factors. Our estimate of the revenue for this particular tax for the year was £70,000. We estimate the reduction of duty we are making will cost the Colony some £21,000. There must be added to that sum £12,600 which we estimate as lost due to decrease in exports. I must repeat that these are, of course, estimates and cannot be firm figures, so that a loss of some £33,600, is estimated, leaving us still with some £36,400 in the kitty from this particular industry.

MR. BLUNDELL: Fifty per cent reduction nearly—only a half a million—far every million you pay.

MAJOR KEYSER: Which year was it for?

THE CHAIRMAN: Any other member wishing to address the Committee? I will ask the hon. Member to reply to the debate.

THE FINANCIAL SECRETARY: I have already covered the question of the shortfall, Sir, and there is, I think, one point which I must make in reply to certain hon. Members opposite.

It may be that, to their idea, this particular type of tax is based on a fluctuating foundation. Nevertheless, it does remain that at the end of this particular financial year, the development costs of the Colony will have been covered to quite a reasonable extent in comparison with the original estimate. And, Sir, it must be remembered that that will be capital which will not have to be borrowed on which we shall not have to pay 3 per cent or 4 per cent interest over some 20 years, which would otherwise cost us—and add to the cost of any particular building probably 70 per cent. That is a matter of interest and calculation.

Now, Sir, I was sorry that the hon. Member for Rift Valley picked on the point of "swings and roundabouts" because from the same article that I read

in the *Financial Times*, there was an other paragraph. "Unfortunately, too, for the industry, tanning materials (for example, quebracho and wattle) and wattle will, of course, strike an export cord in the hearts of the hon. Members opposite—"have advanced in price over the past twelve months at the same time as hides and skins have fallen." (Applause.) "In some cases, they are 40 per cent dearer."

MR. BLUNDELL: I only wish to ask the hon. Member to give way, Sir, because what he is advancing now in effect, once again, underlines the point I was making. (Laughter.) This emphasizes what he called a thing I have never heard of before a fluctuating foundation—(laughter)—

THE FINANCIAL SECRETARY: The hon. Member used, Sir, this word "fluctuating."

MR. BLUNDELL: Not foundation.

THE FINANCIAL SECRETARY: And I tried to point out that it was a foundation. However, that does not get away from the fact that the hon. gentleman, in his arguments, said we are losing so much revenue on hides and skins export duty, and it is my duty to point out that, at the same time, wattle is 40 per cent dearer and we may therefore be said to be gaining on the swings.

On the question of the review of this particular policy, of course, Sir, Government always keeps its policy—I think a phrase that somebody disliked the other day—constantly under review. But the Ordinance itself is an annual Ordinance, and the hon. Members opposite will have the full opportunity to debate that annually—(hear, hear)—and if the hon. Members to their left remain as sane and sensible as they did—(laughter)—last year, then there can be little doubt that the development of this Colony will, to a great extent, be financed on what is the good and solid foundation of doing without loan unless loan is absolutely necessary.

Sir, I beg to move. (Applause.)

The question was put and carried. Council resumed.

## BILLS

## SELECT COMMITTEE REPORT ON TRADE UNIONS BILL

THE DEPUTY CHIEF SECRETARY: Mr. Speaker, I beg to move: That the Select Committee Report on the Trade Unions Bill be referred to a Committee of the whole Council.

In the first place, Sir, I have to apologize to Members on the other side for the very short time they have had to study the Report of the Select Committee and the reprinted Bill, which has been produced to incorporate the Committee's proposals. The reason for that is, Sir, that the Labour Commissioner is going on leave to-morrow and naturally we are anxious to have the benefit of his expert knowledge and experience in dealing with this Bill.

Now, Sir, with regard to the procedure, I consulted you, through the Clerk regarding the most convenient way of dealing with this matter, and we came to the conclusion that the most expeditious way of dealing with it was under Article 80, subsection (3) of the Standing Rules and Order, which says: "On a Motion for the adoption of a Report of the Select Committee, the report shall be debated in Council, but at the request of any ten members present, the Bill shall be referred to a Committee of the whole Council".

I have obtained the support of ten other Members for that procedure to be followed, and I therefore now move that the Council go into Committee to consider the reprinted Bill.

THE LABOUR COMMISSIONER seconded.

## COUNCIL IN COMMITTEE

## Trade Unions Bill

## Clause 2

THE DEPUTY CHIEF SECRETARY: Mr. Chairman, I beg to move: That in clause 2, subsection (2), the words "Labour Commissioner" wherever they appear be replaced by the word "Registrar".

The question that the Committee agrees with the proposed amendment was put and carried.

The question that the clause as now amended stand part of the Bill was put and carried.

## Clause 3

MR. MATHU: I beg to move, Sir, that clause 3 be deleted—omitted.

THE CHAIRMAN: No, you cannot move to delete a clause. I have been looking this up very carefully—this is a matter we have gone into before. It is not right to move to delete a clause in Committee of the whole Council. The proper way to do this is to vote against the clause standing part of the Bill. I cannot accept that amendment. I am sorry. You can speak as much as you like—you may speak to clause 3. Clause 3 being called by the Clerk, it is open to any Member of the Committee to address the Committee on the clause, give his reasons and so forth why it should be voted against instead of voted for later.

MR. MATHU: I would like to make a few remarks to clause 3, Sir, and suggest that during the sitting of the Select Committee, evidence was given by trade unions themselves that they did not like the provision or the introduction of staff associations, employees associations, and employees organizations, and my hon. friend, Mr. Ohanga, and myself have agreed with the views of the trade unions in this matter, and in fact we have appended a minority note referring to this section—and that is one of the reasons why I was suggesting, Sir, that this be omitted. But, as you say, it is up to us when it comes to the question of voting this clause, to vote against it.

MR. USHER (Mombasa): Mr. Chairman, I merely rise to support the Report in this matter, because, from first hand observation, I have been able to see the value of, for instance, the staff associations, in as much as they do give the employee direct contact with the employer. I do not know if the contrary view implies that these employees would not join the trade union because they belong to a staff association, but if that is the case, I think the argument is a poor one, and, as I say, the great point is to get the employees in as close touch as possible with their employer.

THE LABOUR COMMISSIONER: Mr. Chairman, I would like to draw the Committee's attention to paragraph 8 of the report, and that makes it clear that the purpose of clause 3 is to make it clear that provided they conform to certain conditions, staff associations

[The Labour Commissioner]

employees associations and employees organizations will not be deemed to be trade unions. Now, Sir, but for the inclusion in this Bill for these organizations and associations, each one of them would be bound under the definition of trade union to apply for registration as a trade union. In point of fact, the staff associations to-day in existence—and there are a large number—should according to the present law apply for registration as a trade union. That, Sir, was never the original intention and the inclusion of these bodies in this Bill now makes their position quite clear. I would like to support what the hon. Member for Mombasa has said in referring to the success of the associations over the past two or three years. There are many thousands of employees who are members of such associations and included in this definition, Sir, are the Whitley Councils—Whitley Councils of the civil servants. There are many more thousands belonging to those associations than to the trade unions, but I would like to make it quite clear that membership of a staff association does not necessarily preclude any person from becoming a member of a trade union. In fact, in many cases, members of staff associations are also at this moment members of trade unions. The point that the encouragement of staff associations will deter or retard the growth of trade unionism, I do not think is a valid one. I think from the experience gained on working on staff associations, officers and members will gain the sort of experience which is so necessary when they come to tackling the very much more difficult task of conducting the affairs of a trade union.

Sir, I beg to oppose any suggestion that this clause be deleted.

MR. MATHU: Mr. Chairman, I should like to make one point very clear, and it is this. We are not suggesting that the employees should not have direct contact with their employers. What we are suggesting is that we should not legalize the relationship between these employees and their employers in the sub-trade union level. What we are suggesting is the relationship with the employers will continue to be voluntary, but we do not want that relationship to be recognized in law, because as soon as you do that,

we feel, Sir—although my hon. friend the Labour Commissioner, does not say that there is a point in our view—we feel that by encouraging these sub-trade union organizations the tendency in the majority of cases will be that the energies of these employees will be diverted from the trade unions proper. Well, it may be a guess on our part, but I think experience will have to prove whether we have a reason in supporting that that will be the case or not.

Now, let me underline this point. What we want is that the relationship between these employees and their employers should be voluntary, just as we have many voluntary organizations which we do not find in our laws—these welfare associations and so on, exist in this country, but they are not recognized in law. That is what we are objecting to.

THE LABOUR COMMISSIONER: May I underline the point which the hon. Member for African Interests himself has made—that these associations are voluntary, there is nothing compulsory about them at all. There is nothing compulsory in the Bill. The Bill merely lays down conditions where a certain association of persons need not register themselves or apply for registration, as a trade union. They are voluntary associations—they will remain so.

The question that clause 3 stand part of the Bill was put and carried.

## Clause 11

MR. MATHU: Mr. Speaker, here again the evidence the Committee received from the trade unions was that they did not want the provision for the probationary trade union, and we supported that point of view and in fact it is a point I raised in the second reading of the Bill before it was referred to the Select Committee. They feel, Sir, that the feeling of uncertainty which this probationary trade union would produce would not be for the interests of the trade union movement in this country. And in fact it is a feature of the law here which as far as I can gather does not exist anywhere else, in matters relating to the trade union movement. We therefore support the trade unions in this matter and suggest that on application, after the three months' existence of an organization

[Mr. Mathu]

which intends to be a trade union the Registrar may either grant the application or tell the folks that they are not ready and they can apply again—some such thing. But not to have this period of probation as suggested in clause 11.

THE DEPUTY CHIEF SECRETARY: Mr. Chairman, the point which has now been raised by the hon. Member for African Interests was discussed very fully by the Select Committee and the majority of the Committee came to the conclusion, which the Government shares, that this provision for probationary trade unions should remain. We believe that that is in the interests of the trade unions themselves. It will make it possible for the Registrar, if he is not absolutely satisfied that he can properly register a body aspiring to be a union as a fully fledged union, to register them as a probationary union, instead of refusing registration altogether. We believe that far from discouraging the union, as the Member for African Interests thinks, it will have exactly the opposite effect. We could not therefore, Sir, agree to the amendment which he desires.

The question that clause 11 stands part of the Bill was put and carried.

THE CHAIRMAN: If any Member is going to oppose any particular section or raise an amendment could he give me notice of which number it is, so that I could run through the non-controversial ones *en bloc*. My duty is, of course, to propose each clause separately but where there is no contention over the clauses it is always the practice to take them altogether. Have you any others you are going to raise a question on?

MR. MATHU: Mr. Chairman, I have no other points at the moment. I support all the rest of the clauses *en bloc*.

THE DEPUTY CHIEF SECRETARY moved: That the Trade Unions Bill be reported back to Council with amendment.

The question was put and carried.

Council resumed and the Member reported accordingly.

DILLI.

THIRD READING.

THE DEPUTY CHIEF SECRETARY moved: that the Trade Unions Bill be read a third time and passed.

THE LABOUR COMMISSIONER seconded.

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

#### The Wheat Industry Bill

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: Mr. Speaker, I beg to move that the Select Committee on the Wheat Industry Bill be referred to a Committee of the whole Council.

Sir, this report was laid yesterday, and before adopting the procedure adopted by my hon. friend in respect of the Bill I would make two comments on the report. My first one, Sir, is that under section 3 (1) of the Bill it was pointed out by the hon. Member for Trans Nzoia in the debate on the second reading that the provisions which would appear to have been implemented under clause 3 (1) scarcely tallied with the Objects and Reasons in which it is stated that clause 3 of the Bill will vest the marketing and distribution and the allocation to the two East African territories of wheat flour and wheat feed in the Member who, however, would be required to exercise this control in accordance with the advice of the Wheat Board. Whereas, under the section as drafted in the Ordinance the Member is only required to obtain the advice of the Wheat Board in relation thereto. He therefore would appear not to be absolutely bound to accept the advice of the Wheat Board. Sir, your Committee went into this matter in some considerable detail and they have come to the unanimous conclusion that for a number of reasons they considered that the clause should stand as printed in the Bill which was discussed a few days ago by the Council, in its consideration of the second reading.

The other point, Sir, which requires perhaps some explanation is the provision we have made in regard to clause 17, where we have added a proviso that: "Provided that when an agency is authorized under paragraph (b) of this section to sell wheat for export, the Member shall publish in one or more newspapers circulating in the Colony a notification that wheat is available for export".

Sir, it will be noted that we have heard a good deal of evidence before the Committee, and amongst other we had

[The Member for Agriculture and Natural Resources]

evidence from the Chambers of Commerce. And they pointed out that they felt—we have not entirely followed their requests—that they did feel that at least if wheat was available for export the fact should be notified to the public so that those interested could get in touch with the agency or in some other way at any rate make offers for it or take some part in the transaction if the agency so desired. We felt that this was a reasonable request and we therefore made this addition to the provisions of the Bill.

The other amendments, Sir, I think are self-explanatory and I would therefore, Sir, with your leave, move that the Bill as amended should be considered by a Select Committee of the whole Council and therefore, Sir, could I move that we do now resolve into Committee of the whole Council to consider the whole Bill.

THE SPEAKER: Have you ten Members in support? Yes. If that is the case I will leave the Chair.

#### COUNCIL IN COMMITTEE

##### The Wheat Industry Bill

THE CHAIRMAN: Are there any further amendments from anywhere at this stage?

THE CHAIRMAN: Any clause prior to 8?

MR. SALTER: Sir, might I just raise one point on clause 3, sub-clause 2 (c). That is, "the local marketing and distribution of imported wheat is effected only through an agency"; I take it that it is to remain as part of the Bill. Well, Sir, I wondered whether the hon. Member would consider taking that clause out altogether because it does restrict or it appears to restrict, the local marketing of this commodity. It is felt, Sir, that this commodity should be marketed locally through a marketing board on the same lines as the Coffee Board.

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: Mr. Chairman, I am afraid I am not prepared to accept the amendment suggested by my hon. friend. We went into this as a Committee very carefully and under the provisions of this Ordinance as it stands, there is nothing to prevent the wheat being sold

either through an agency or a number of agencies, and it gives the greatest latitude possible to the agency and to the Wheat Board. We felt, Sir, that it was advisable to leave this Bill in that situation and not bind ourselves in any direction as to how either local marketing or exports should of necessity take place. Equally, as regards export which was the point which appeared to be of the greatest concern to the members of the Chamber of Commerce, under the Ordinance as it now stands an agent or agencies could sell to any person in this country, for export, without necessarily having to make such person an agent under the Act.

MR. NATHOO: Mr. Chairman, I was also one of the members of the Committee who was of the opinion as that of the hon. Member for Nairobi South, but, Sir, having listened to all the evidence which was given to us, we were convinced that on all sides there was such a reasonable attitude regarding the matter that the only way we can hope for is that in administrative practice effect will be given to the opinions expressed by the various interests and on an assurance from the hon. Member who was presiding over the Committee at that time that these points will be considered in making any decisions, we agreed to sign the report as a unanimous report.

The question that clause 3 stands part of the Bill was put and carried.

MR. NATHOO: Mr. Chairman, I was opposed to clause 9 in that there is a likelihood that some concern having already ordered some machinery prior to the publication of this Bill would be debarrassed from installing same, but, Sir, I have been assured by the hon. Member for Agriculture and Natural Resources that where evidence is produced that any such orders of machinery have been placed before the publication of this Bill, that such cases will be sympathetically considered and on that assurance, Sir, I have agreed to let that clause stand as it is.

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: Sir, as the hon. Member is aware, the question of making additions to or replacement or substitution of machinery is one which will have to be taken on its merits or consideration by the Wheat Board. Further-

[The Member for Agriculture and Natural Resources]—more. Sir, I would point out that under section 12 there is provision for appeal to the Supreme Court in regard to any permission given or refused under section 9. Sir, I think it is abundantly clear that the circumstances which have been mentioned by the hon. Member must be taken into account and considered even after there is appeal to the Supreme Court and therefore I feel that the hon. Member's fears are not very well founded.

The question that clause 9 stand part of the Bill was put and carried.

#### Clause 17

LT-COL. GHERIE: If you refer to the Select Committee's Report in section 17, it states: "It was represented that if it was the intention that an exportable surplus of wheat should be offered for sale by the agency (within the Colony) it was desirable that the public and the trade should be made aware of the fact that an exportable surplus of wheat was available. Your Committee accepts this recommendation and recommends that this section of the Bill should be amended to ensure that any exportable surplus is notified to the public."

I would like a little explanation from the hon. Member. "It was the intention" are the words I have underlined. The others were "within the Colony". Does it mean in fact the agency could offer wheat for sale overseas without at first offering it to the local public or the trade?

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: There is no question of any obligation to offer it to the local public or trade, but what under the Ordinance, as it now stands, will have to take place, is that before that wheat is exported or issued from the moment it is decided that wheat is available for export, the fact has to be advertised in the Press that such wheat is available for export so that the public and the trade here can have an opportunity of then and there either offering for it or communicating with the agency in regard to it. It will not be possible, in regard to the hon. Member's question to conduct any transaction without the public knowing that wheat is available. But it does not bind the agency of necessity to specifically

offer it first to the local public or trade. Local trade can make an offer for it, if it is a good enough offer I have no doubt it will be accepted. That is the position.

MR. SALTER (Nairobi South): Sir, arising out of the remarks of the hon. Member, could I ask why it is thought necessary to make a difference between the procedure in respect of wheat, shall we say, and that prevailing in the coffee market? As far as I know, Sir, under the Coffee Marketing Ordinance, it is necessary for the Board to offer in the first instance the surplus coffee in the local market, and it is not clear to me, Sir, why that procedure should not, and could not, be adopted in this case as well. The amendment as it stands is laudable to some extent, Sir, but in my submission, it does not go far enough. It is merely acquainting the public that there is wheat for export that is all, but in my submission, the clause should make it quite clear that, in the first instance, all surpluses should be offered to the local market first. There should be the usual procedure followed as in the Coffee Marketing Ordinance.

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: Well, Sir, quite frankly there is a difference of opinion as to what various persons advocate regarding the procedure that has just been mentioned by the hon. Member for Nairobi South. Other persons do not wish his proposed procedure adopted. Personally, for quite a different reason, I do not think it would be right to tie the Board of necessity to offer surplus on the local market. I think it might get us into quite serious difficulties as there are very great differences between the selling and the exporting, and the arrangements for shipping and the conditioning, remember, of the wheat exported as compared to coffee marketing.

Anyway, be that as it may, Sir, I repeat that under this Ordinance either procedure can be adopted, and I understood it is certainly the intention of Government, but I understood that it was the intention of the majority of Members who spoke on the second reading that it would be more desirable to leave the position fluid in a Bill of this kind than to tie down the proposed Board in either direction. I strongly

[The Member for Agriculture and Natural Resources]—have been brought in the maize industry had to carry itself, it had to do all its own exporting. It had to take world prices, and everything else. It is only since control came in, and the world prices have risen far above the local prices, that somebody has stepped in and robbed the maize grower of the difference which he could get—(laughter, applause)—by selling their crops overseas.

MAJOR KEYSER: Mr. Chairman, I think, Sir, that the proposed procedure for marketing wheat and that for marketing coffee does show a very great difference. After all wheat and coffee are two totally different types of crops and grown under different conditions, marketed under different conditions.

Now, Sir, prior to the Coffee Board being set up and the present methods of marketing coffee, coffee was marketed in this country through local agencies and the present procedure is merely in order to give continuation to the procedure that prevailed prior to the present marketing condition being brought in; this circumstance, again as far as wheat is concerned, bringing in the position which prevailed before the sale of wheat came in. So that the procedure really is identical with that of the coffee industry, which is to follow the procedure that prevailed prior to these Ordinances being brought in.

LT-COL. GHERIE: Mr. Chairman, in view of the remarks made by the hon. Member for Trans Nzoia, perhaps I can give a better example, that is maize. Surplus maize available for export is in fact offered to the trade—

MAJOR KEYSER: Who by?

LT-COL. GHERIE: Tenders are called for. It is sold through the trade. Tenders are called for and it is exported through the trade. The argument behind this is that it is felt that trade, having world-wide connexions, would be in the position to obtain the best possible price. It would be in the best interests of the Colony and the actual producers if these sales were effected not through one agent, as it could possibly be the case, but through the trade.

MAJOR KEYSER: Mr. Chairman, following on the remarks of the hon. Member for Nairobi North with regard to the maize industry, as he has mentioned the procedure under which maize is exported, I know, Sir, that the European maize industry feels that it is suffering under an injustice through the present system, because prior to the control of maize

having been brought in the maize industry had to carry itself, it had to do all its own exporting. It had to take world prices, and everything else. It is only since control came in, and the world prices have risen far above the local prices, that somebody has stepped in and robbed the maize grower of the difference which he could get—(laughter, applause)—by selling their crops overseas.

Now, Sir, that is the procedure that the hon. Member for Nairobi South thinks should be perpetuated. (Laughter.)

MR. BLUNDELL: Mr. Chairman, I wish to take the debate away a moment from the rival merits of coffee and maize and endorse very strongly what the hon. Member for Agriculture and Natural Resources said. We did examine his point on the Select Committee. What it boils down to is an element in commercial circles who wish to achieve the object of selling wheat possibly through individuals forcibly, but as the Bill is now drafted it leaves it entirely flexible, and it can be operated to the best advantage, not only of the wheat producer, but of the Colony generally, and on those grounds, Sir, I would very strongly like the hon. Member for Agriculture and Natural Resources to commend the clause as drafted to the Committee.

LT-COL. GHERIE: Mr. Chairman, I must reply to the hon. Member for Trans Nzoia. What I think he fails to appreciate, Sir, is this. It is due to the trade interesting themselves in the sale of export maize and that market is competitive and therefore they take an awful lot of trouble in feeling the world market and are prepared to make a very small margin of profit that the maize producer has in fact benefited very considerably by the efforts of the trade.

MAJOR KEYSER: I did not answer that question, Sir, because I thought we could cut down the debate, Sir, but the hon. Member compels me to reply. My reply is that if there is a surplus of wheat to be exported and be sold on the world market, it would be in various parts of one agency to offer that to have, say, half a dozen agencies from Kenya offering the same parcel of wheat to the same people all over the world and creating the impression that Kenya is extremely anxious to get rid of some wheat. Obviously, Sir,

[Major Keyser]

we all know that these chaps are pretty hard-headed businessmen, and quite obviously they are going to reduce their offer and the final effect may very likely be that Kenya will get less for its exports than if it was sold through one agency.

THE CHAIRMAN: I think the matter has been well thought out. I will put the question that clause 17 stand part of the Bill.

The question was put and carried.

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES moved: That the Wheat Industry Bill be reported back to Council without amendment.

Council returned and the Member reported accordingly.

## BILL

### THIRD READING

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES moved: That the Wheat Industry Bill be read a third time and passed.

THE DIRECTOR OF AGRICULTURE seconded.

MR. NATHOO: Mr. Speaker, even at this late stage I must express the feeling of a large section of the community in the country that with a Bill of this nature it is not right that it should be rushed in the manner it has been through this Council and I would again appeal to the hon. Member for Agriculture as to whether we can defer the Bill to another session.

THE SPEAKER: Is the hon. Member, as far as I can understand, condemning something without moving any Motion to support it? Are you going to move the rejection of the Bill which you are entitled to do under the present Standing Orders?

MR. NATHOO: Well, Sir, I did not feel like moving a Motion to reject the Bill because I know it would be defeated. Sir, but I would like to have it recorded that there is general feeling in the country that this Bill should not have been rushed in the manner it has been.

THE SPEAKER: I think I must ask the hon. Member to withdraw that, because everything has been done according to the method which is laid down in the Standing Orders. That is to say, the Bill has been read a second time, there has

been a debate, it has been referred to a Select Committee, it has been brought back, put through a Committee of the whole Council, and you are quite entitled, as I say, under the present Standing Orders, to move now that the Bill be rejected.

MR. NATHOO: Well, Sir, with your permission may I move that the Third Reading of the Bill be adjourned.

THE SPEAKER: You can move the adjournment of this debate, and then, in so moving, you make a speech and speak to that.

MR. NATHOO: I am sorry about my ignorance, but with your permission, I should like to move, Sir, that the debate on the third reading of the Bill be adjourned and, Sir, in support of that I would like to state that there is a very widespread feeling throughout the Colony—perhaps not in the farming community I agree, Sir—that the measure has been unduly rushed and as such I beg to move that the debate be adjourned.

SHERIFF ABDULLA SALIM (Arab Elected Member): Seconded.

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: Mr. Speaker, of course I am opposed to this Motion, I think the object of the hon. Member, and he was quite honest about his opinions during his participation in the examination of this Bill by a Select Committee was to stress that in his opinion it would be better and wiser to have deferred this Bill, in order that we should await the report of the Ibbotson Committee, but, Sir, that point was raised and, I maintain, disposed of during the second reading of the Bill. This Bill does not only provide for the marketing of wheat, more especially surplus wheat, which is what I think interests certain members of the commercial community, but it deals with the proper administration and the proper orientation of milling, and it is most important, Sir, that we should enact, indeed it is long overdue, some of the provisions of this Bill in regard to the Milling Industry itself.

It can hardly be said, Sir, that this Bill has been rushed. It has been before this Council now for quite a long period of time, and was only withdrawn during last session from coming before Council at the request of a number of Members.

[The Member for Agriculture and Natural Resources]

who wished to make certain representations to me in regard thereto. Everybody has known about this Bill for a very long time indeed. A great number of Members have known about it for nearly two years. Therefore, Sir, I deny that this Bill has been rushed. Furthermore, Sir, members of the Ibbotson Committee have been consulted in regard to some of the provisions in this Bill. As it has been stressed, not once, but several times this morning, this Bill in no way counters any likely, or even reasonable, recommendations that might be made by the Ibbotson or any other Committee. I will repeat, Sir, as regards the disposal of wheat, the position is quite fluid under this Bill, and that being the case I can see no reason whatever for adjourning it and I must press, Sir, that the third reading be taken this morning.

THE SPEAKER: You do not get a reply on an adjournment debate, I am sure. No, it is only a dilatory Motion. The Member who originated a substantive proposition may reply.

MR. NATHOO: Am I allowed to reply, Sir?

THE SPEAKER: No, you will be able to speak again on the main Motion. Your Motion is simply a dilatory one. There is no right of reply on a dilatory Motion. You have to say it all the first time. (Laughter.)

The question that the debate on this third reading be now adjourned was negatived.

The question that the Wheat Industry Bill be now read a third time and passed was put and carried.

### The Legislative Council (Powers and Privileges) Bill

THE ATTORNEY GENERAL: Mr. Speaker, I beg to move: That the Legislative Council (Powers and Privileges) Bill be now read a second time.

I feel sure, Mr. Speaker, that, not only will all hon. Members of this Council, on both sides of the Council, welcome this Bill, but that you, too, Sir, if I may be permitted to address you for a moment in a personal and individual capacity as well as in your representative capacity, will feel considerable satisfaction and

pleasure that our parliamentary institutions have developed to the point where the Council can claim, on behalf of its Members, both collectively and individually those powers and privileges which will enable it to safeguard its dignities and to exercise its freedom of action in the important years that lie ahead.

This Bill, as you know, Mr. Speaker, is but one stage in the growth of our legislative institutions towards maturity. Before very long, and I hope at an early date in the next session of the Council, it will be possible to introduce new Standing Orders for this Council to govern our internal procedure, Standing Orders modelled on those of the House of Commons and, to some extent, on those of the Dominions. Thus, Sir, we are preparing ourselves, equipped as we will then be, with a Powers and Privileges Ordinance and with new Standing Rules and Orders, for the third and final stage in our development, when we shall move to our new home in the new Legislative Council building. To-day, Mr. Speaker, we enter upon the first of those three stages which will lead us, we hope within a measurable distance of time, to the happy position in which we will be able to claim that this Council, though young as Colonial Legislatures go, can nevertheless compare favourably in its dignities and in its privileges and in its powers with Colonial Legislatures elsewhere in the Commonwealth.

Now, Mr. Speaker, the present Bill is wide in its scope and embraces the same general principles in relation to privileges, which have been established in the House of Commons. In the case of the privileges of the House of Commons, of course, there is no comprehensive, comprehensive code such as is presented to the Council in this Bill, because, in the House of Commons, its privileges consist of a collection of precedents and cases which have been built up in the course of centuries, and recorded in the Rolls and Journals of that House. The effect, however, of all those precedents can be summed up in certain principles, and those principles find their counterpart in the present Bill. Now, Mr. Speaker, what are those principles? Firstly, there is the principle of freedom of speech. When this Bill becomes law, any Member of the Council, whether he be an Official or an Elected or a Nominated Member, may

[The Attorney General] exercise the right of free speech in this Council in the sure and certain knowledge that he is completely immune from the process of the Courts in respect of any words that he may utter in this Council. In other words, Sir, as it is described in the law, he enjoys absolute privilege in respect of any speech that he makes in this Council. It remains true, of course, that he is still accountable to this Council for his conduct in debate, and if his conduct by his speech or words should transgress the bounds of propriety, then, of course, he will be restrained by the Standing Orders of this Council, the new Standing Orders, to which I have already referred, and by virtue of which we shall reach the second stage in the process of rounding off our parliamentary institutions. So much for the first principle.

Now, Sir, the second principle embodied in this Bill is, I think, exemplified in the power of the Council to control the admission of strangers. "Strangers" in this context is used in a technical sense, meaning any person who is not a Member of the Council, and under the provisions of this Bill the Speaker may make orders which will regulate the admission of strangers to the Council, and furthermore the Bill authorizes the Speaker to demand, or order the withdrawal of strangers at any time. Now, in this connexion, Mr. Speaker, I would draw attention to the sanctions which are provided in the Bill for disobedience to the Speaker's orders. At the present time we have no penal sanctions for disobedience to the Speaker's orders in relation to strangers, but when this Bill becomes law, then anyone disobeying the Speaker's orders may be arrested by an officer of this Council and, on conviction, will be liable to be fined or sent to prison.

The third principle can, I think, be best described as the control of the Council over the publication of its proceedings. When this Bill becomes law, then any reports published by the authority of the Council will be absolutely privileged. Thus, if an hon. Member should, in the course of his speech, make statements which are defamatory of any person outside the Council, then, if subsequently his speech should be reproduced in what we call

the *Hansard*, no action could be successfully brought against the person reproducing those defamatory statements outside, because immediately any such action was instituted, the person concerned would seek and obtain from the Speaker a certificate stating that he had published the proceedings of this Council, by authority of this Council, and thereupon all proceedings would be stayed by the Judge who was hearing the suit. There is yet another way in which the Council can control the publication of its proceedings, and that is where a newspaper, or any other publication, publishes a distorted report of the proceedings of the Council, which is manifestly untrue and inaccurate, so manifestly untrue and inaccurate as to constitute a libel on the Council itself. In such a case the person responsible for the publication could be prosecuted under the provisions of this Bill and, on conviction, will be liable to fine and imprisonment.

Those, in their briefest outline, are the privileges conferred by this Bill on the Council and on its Members. But, as the title of the Bill shows, the Bill is not concerned only with privileges, but also with powers. By powers, of course, I do not mean legislative powers, because the Council already possess those, but I mean those ancillary powers which are necessary to enable the Council to perform its functions as a legislative body efficiently and effectively. These powers are concerned, for the most part, with the calling of witnesses in order to give evidence and produce documents.

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

THE ATTORNEY GENERAL: Mr. Speaker, when we suspended business at 11 o'clock, I was dealing with the powers which will be conferred on this Council when this Bill becomes law and I pointed out that those powers were concerned for the most part, with the calling of witnesses to give evidence or to produce documents before Standing Committees and Select Committees of the Council.

As everyone knows a court of law could not function unless it possessed powers to require the attendance of witnesses to give evidence and produce documents, and in the same way, the

[The Attorney General] Committees of this Council cannot function efficiently unless they have, at all events in reserve, similar powers of compulsion. I doubt, Mr. Speaker, whether the power of compulsion will be much needed in practice. Up to the present time the Committees of the Council have functioned smoothly and satisfactorily, so far as I am aware, without resort to compulsory power. But it is conceivable that a situation might arise some day when there would be a need for such provisions as these. Indeed, I have myself known of such a situation and have been involved in it in another Colony. There is, however, an exception to the rule that the Council can compel witnesses to produce documents and that is dealt with in clause 13 of the Bill. There it is stated that if the documents relate to Naval, Military or Air Force matters or civil departments or the public service, then the public officer concerned shall not produce those documents unless he has previously obtained the consent of the Governor to do so. That, Mr. Speaker, is a wise provision because circumstances may arise where it would not be in the public interest to disclose confidential documents dealing with defence matters or dealing with confidential reports on officers or other documents of similar nature which, when they came into existence, it was never contemplated would be made available some day for public consumption. The best judge of whether the public interest would be damaged by the production of such documents must be the Head of the Executive, that is to say, the Governor.

I understand that certain hon. Members, in considering this Bill, have expressed the view that a distinction should be drawn between the production of documents relating to Naval, Military and Air Force matters and the production of documents relating to civil departments or the public service, and the proposed distinction would be that in the former case, they should not be produced without the prior permission of the Governor, whereas in the latter case, the public officer should produce them unless specifically directed by the Governor not to do so. That distinction is one which I think in practice will not be very material, but if it allays any

doubts or fears on the part of hon. Members opposite, or on this side of the Council, then I am quite prepared to move an appropriate amendment in Committee to give effect to that proposal.

The Bill also contains other provisions of a miscellaneous character for safeguarding the dignity of the Council, such as provisions dealing with the offering and the accepting of bribes; a provision which I hope will never have to be enforced; provisions dealing with the publication of false copies of Ordinances and other documents of that nature and also provisions dealing with the obstruction of officers of the Council, and so forth. With those miscellaneous provisions, Mr. Speaker, I think it is unnecessary for me to deal at this stage and I think all that I need say in conclusion is that taking all the provisions of this Bill together, they constitute a compendious code for regulating the privileges and powers which this Council should possess in order to discharge adequately its functions and duties to the electorate and to the inhabitants generally of this Colony. I hope, Mr. Speaker, and I believe, that this Bill will fulfil our expectations, and thus help in some measure to satisfy, in this particular field, the needs of this growing and developing community.

Accordingly, Mr. Speaker, I beg to move that this Bill be read a second time.

THE ACTING SOLICITOR GENERAL seconded.

LT.-COL. GIBBS: Mr. Speaker, the hon. Member has referred to clause 13 and has suggested, if necessary, an appropriate amendment should be moved. I am speaking on behalf of the Public Accounts Committee, where it is often necessary to ask a head of a service or department to produce certain documents and it is specifically stated in clause 13: "Except with the consent of the Governor no public officer shall—(a) produce before the Council or a Committee any such paper, book, record or document";

Now, Sir, our only feeling about this is that it may delay our proceedings, if production of documents could be refused where security measures were affected, such as the Army, Navy and Air Force. One might understand that permission from the Governor should be

(Mr. Col. Gherrie) I do suggest that in all other circumstances the position might be reversed where we could as the Public Accounts Committee demand that documents should be produced; if it was felt by the Head of that particular service that he ought to obtain permission, then I think that would satisfy the point I am raising.

MR. HAVELOCK: Mr. Speaker, I merely wish to welcome that Bill, Sir, which has taken a long time to come before this Council, and I can say how much I have appreciated—in spite of the fact I was rather late in getting back from the adjournment—the very precise and clear manner in which the hon. Member has told us exactly what the provisions of this Bill are.

There is only one thing I take up with him, with the hon. Member. He was referring to the fact that this may be the first stage in a three-stage development for a final stage for this Council. I suggest that there can be no final stage that we will go on from year to year to actual stages which we cannot at the moment foresee. The only other point I would like to stress is to support the view of the hon. Member for Nairobi North to say there are a number of hon. Members from this side of the Council who would like to see an amendment as suggested by the hon. Member to clause 13.

Mr. Speaker, I beg to support.

THE ATTORNEY GENERAL: There are very few observations I wish to make in reply. I should like to express my appreciation of the remarks made by the hon. Member for Kiambu. If I used the adjective, final, in relation to the stages of development, it was inappropriate. I ought to have said it is one more stage in the growth towards the full maturity of this Council. As regards the point which was made by the hon. Member for Nairobi North and by the hon. Member for Kiambu concerning production of documents, I have already circulated or at least delivered to the Clerk of the Council, an amendment which I think will meet the case, and I think it would not serve any purpose to take up the time of the Council discussing it now. We can discuss this in the Committee stage if it does not meet their point, and

if it does not then I will see if I can modify it so that it does.

The question was put and carried.

THE CHAIRMAN: Will you take the Committee stage now?

THE ATTORNEY GENERAL: Yes, Sir, I am quite prepared to take the Committee stage now.

THE ATTORNEY GENERAL moved: That Council do resolve itself into Committee of the whole Council to consider the Legislative Council (Powers and Privileges) Bill clause by clause.

#### COUNCIL IN COMMITTEE

THE CHAIRMAN: I put the question that we omit the words "29th March, 1934" from the definition of Standing Orders.

THE ATTORNEY GENERAL: You suggest, Sir, that we should omit all the intervening words, so that it would read "The Standing Rules and Orders for the time being in force".

THE CHAIRMAN: The date could come out.

THE ATTORNEY GENERAL: Indeed, I think the reference to the Royal Instructions could come out, too. It would read "The Standing Rules and Orders means the Standing Rules and Orders of Legislative Council for the time being in force"; we could then omit all the other words from the paragraph.

The question that the words "made under Clause XXIV", etc., right down to the date "1934" be omitted was put and carried.

#### Clause 9

THE CHAIRMAN: On clause 9 the expression Standing Committee has caused me a certain amount of qualm, because we usually only have a Select Committee dealing with these matters.

THE ATTORNEY GENERAL: We do, Sir, but the Bill also goes on in sub-section (2) of that clause, to deal with committees other than standing committees: "The powers conferred by sub-section (1) of this section may be exercised by any other committee".

THE CHAIRMAN: Is that sufficient for the purpose? I was only doubting whether it would be necessary every time there was a Select Committee it would

[The Chairman]

have on its appointment to have a resolution that it has power to call for the papers.

THE ATTORNEY GENERAL: I think a resolution would be desirable, Sir, if it were intended to exercise compulsory powers, as that would be the exception rather than the rule.

THE CHAIRMAN: I am quite content.

THE ATTORNEY GENERAL: Yes, Sir, I am obliged.

The question that clause 9 stands part of the Bill was put and carried.

#### Clause 13

THE ATTORNEY GENERAL: Sir, as regards clause 13, as I have already indicated on the second reading of this Bill, I desire to move an amendment to meet the point which was raised by the hon. Member for Nairobi North. The amendment in draft has already been handed in to the Clerk of the Council, but perhaps, Sir, I ought to read it now. It is an amendment to sub-clause (2) of that clause, and would read as follows:—

"(2) Except with the consent of the Governor, no public officer shall—

(a) produce before the Council or a committee any paper, book, record or document; or

(b) give before the Council or a committee evidence,

relating to the correspondence of any naval, military or air force matter; nor shall secondary evidence be received by or produced before the Council or a committee of the contents of any such paper, book, record or document."

Sub-clause (3)—and this is really, I think, the point which the hon. Member for Nairobi North had particularly in mind, will read—

"(3) Except upon the direction of the Governor, no public officer shall refuse—

(a) to produce before the Council or a committee any paper, book, record or document; or

(b) give before the Council or a committee evidence,

relating to the correspondence of any civil department or to any matter affecting the public service; and secondary evidence shall not be received by

or produced before the Council or a committee of the contents of any such paper, book, record or document which the Government has directed shall not be produced."

That amended clause draws the distinction, Sir, which the hon. Member for Nairobi North desires should be drawn, and provides for a different method of controlling the production of documents from civil departments I gather is what he wishes should be embodied in the Bill.

It is proposed to delete sub-clause (2) and substitute another series of words which are on the Order Paper.

The question that clause 13 as amended stand part of the Bill was put and carried.

#### Clause 17

THE ATTORNEY GENERAL: Sir, in clause 17 I have two amendments, what I might call drafting amendments, to propose with regard to paragraph 3 and paragraph 4 of that clause.

The proposal, Mr. Chairman, is that in paragraph 3 these words be substituted for the present words:—

"(3) being a stranger contravenes any order made under this Ordinance by the Speaker regulating the admittance of strangers to the precincts of the Council or any rule made by the Speaker under the Standing Rules and Orders; or; and"

As you will have observed, Sir, at the moment this particular paragraph does not relate in terms to any order which you make under this Ordinance, but merely refers to rules which you might make under the Standing Rules and Orders. A similar amendment is suggested in paragraph 4, by substituting for the words "under the Standing Rules and Orders" in paragraph (4) the words "under any order made under this Ordinance or under the Standing Rules and Orders".

The question was put and carried.

THE ATTORNEY GENERAL moved: That the Legislative Council (Powers and Privileges) Bill be reported back to Council with amendment.

The question was put and carried.

Council resumed and the Member reported accordingly.

## BILL

## THIRD READING

THE ATTORNEY GENERAL moved: That the Legislative Council (Powers and Privileges) Bill be read a third time and passed.

THE ACTING SOLICITOR GENERAL seconded.

The question was put and carried.

## The Pig Industry Bill

THE DIRECTOR OF VETERINARY SERVICES: Mr. Speaker, I beg to move: That the Pig Industry (Amendment) Bill be read a second time.

The Pig Industry Ordinance was passed by this Council in 1945 and came into effect on 1st January, 1947, so that Board has now had five years' experience of operating this Ordinance. Members will recollect that the principal Ordinance was designed to foster the expansion and development of the Pig Industry in a manner which would permit a controlled expansion without the periodic gluts and shortages which in the pig industry, more than any other, have been such a feature of pre-war farming in Kenya. But, as was to be expected when new and original legislation of this type was introduced, experience has shown that certain amendments are necessary to enable the Pig Industry Board to function efficiently and the amendments proposed are set out in the Bill. I do not intend to elaborate on the Memorandum of Objects and Reasons except perhaps to explain that, under section 8—I beg your pardon—clause 8 of the amendment Bill, provision is now made for the refusal to register African applicants for registration. The principal Ordinance did provide for refusal to issue a licence to a European applicant, but did not provide for refusal to issue a registration certificate to an African producer.

Clause 8 (3) of the amendment Bill has the effect previously provided under section 11 of the principal Ordinance, but not sufficiently clearly defined in the principal Ordinance.

I shall in the Committee stage be moving an amendment to clause 9 of the amendment Bill.

Clause 10 is the one which may perhaps prove to be controversial in that it provides that the Board itself may impose penalties which, at the moment, may only be exercised through the Courts. That is in order to simplify the operation of that section of the Ordinance which requires that the pig producers should submit regular returns to the Board. Producers who fail so to do at the moment can only be corrected by recourse to the Courts and the proposed amendment provides that the Board itself should exercise disciplinary powers.

The expansion of the pig industry in the last five years has, I believe, been of significance and importance to the whole of the Colony, and even more important than the increase of production has been the improvement in quality which has been achieved, and I suggest it has been the Pig Industry Board which has facilitated that improvement in quality. As a result, the Board has been able to enter into contracts with the Ministry of Food and our export of pig products during 1951 was in excess of £21,000. I believe I am expressing the feelings of the Council when I say that much of the credit for the expansion of the pig industry is due to the responsible manner in which the Pig Industry Board has exercised its responsibilities.

And with that, Sir, I commend the amendment Bill to the Council. (Applause.)

THE DIRECTOR OF AGRICULTURE seconded.

MR. BLUNDELL: Mr. Speaker, I should perhaps apologize to the hon. Member, the Mover, in that I have not conferred with him before on this Bill as I am rather uncertain about some of the provisions within it. I should like to stress, however, Sir, that no member of the Pig Industry Board or of any body connected with the industry has, as far as I know, approached any Members on this side of the Council in regard to the Bill.

Now, Sir, the matters upon which I am uncertain in this Bill are these. I do not like clause 10. I do not like the provision by which the Board is given the right arbitrarily to fine the producers up to Sh. 100, by which the hon. Member for Agriculture can, without let or hindrance so far as I can see, reduce or

(Mr. Blundell) remit the fine, and by which completely sweeping the right of appeal to the Courts is removed.

Secondly, Sir, I do not like in clause 18 the principle it is sought to establish there. There again, it is sought to establish to remove from the producer the right of appeal to the Court and it is suggested that the Governor in Council's decision shall be final. Now, Sir, I am quite happy that the Governor in Council's decision shall be final in matters of administration of the Ordinance, but I think it is establishing a dangerous principle to deny to the producers the right of applying to the Courts in respect of these two matters—legal fact and his rights as an individual citizen of the country. I think it is most important. On this side of the Council have consistently in the last two or three years resisted the attempts of the administration generally even in the slightest way whatsoever to whittle away those prerogatives of the people. That, Sir, I would consider would need amendment.

Thirdly, Sir, a further point to which I think we should take exception is in clause 19 where the right to import pigs or the licence to import pigs or to prohibit the import of pigs is reserved to the Board. I see no reason whatsoever why the Pig Industry Board should interfere in any way with the right of man to import pigs. There is only one reason. It is because the importation of pigs of a wrong sort might eventually, after breeding result in a flow of pigs to a factory, which was unsuitable for its purpose. But I suggest that it perfectly easily met by a normal provision for refusing to take pigs which are unsuitable to the factory. There is no need to go to the cumbersome procedure of refusing the right of the producer to import a pig which he might like to admire. The fundamental right of the producer is to import a pig which he likes. If it is not suitable for sale the loss will fall on him. I am uncertain about clauses 18 and 19 of this Bill.

I do hope the hon. Member will give us some assurance that there may be ways and means whereby we can reserve the rights of the individual and still preserve this strong and prosperous industry.

MR. MATHU: Mr. Speaker, I should like to make some comments on some of the provisions.

On this amending Bill, firstly, it is the question of registration and licensing which is provided for here in clause 2, clause 7 and clause 8. In clause 7, Sir, there is provision that all those who want to keep pigs for business reasons should be licensed. That the Pig Industry Board may refuse to license any of the applicants.

Now, Sir, my point here is this, that I think it should be fair for all concerned if the Board were to refuse to grant a licence that it was made obligatory for them to advance reasons why they should not license any individual person. I think as I read into it, the Board may just refuse to grant a licence and that is the end of it without advancing any reasons.

Now, the licensing of the producers seems to be done in two ways: The Europeans apply under clause 7, the present section 11, which it is intended to amend, but first of all as far as African producers are concerned they must first be registered under the present clause 12, which is amended by clause 8, and then if they are, they can apply to be licensed. Now, my point there is, why should the African producer go through two mills. Now, why should he not go direct to the Pig Board and ask for the licence to produce pigs. I cannot see why there should be first a stage for him to go through and also a bit of a headache because he may not go through that first mill in that the District Commissioner has the power to grant or to refuse if he wishes—although there is a right of appeal which I am going to deal with—I do not think it is fair to him. I think it is a principle of discrimination which is not justifiable. In ordinary commerce all traders apply for licences for their trade. There is no halfway house for one section of the community and I cannot see any reason for having a halfway house in the case of the pig industry here for the African producer.

Dealing with this question of registration, Sir, of the African producer there is a new provision here which was not in the old clause 12 and that is that it refers only to the African pig producer who is residing in a native area.



[Mr. Mathai]

A native area is a phrase which appears afresh in the Bill. It was not included in the original Ordinance. I should like to know exactly what that means, because I do know that some landowners in the country, and I cannot understand the law not allowing this, allow Africans residing in their lands to keep stock. They have cattle, they have sheep. They have goats, and they have chickens. But now if my interpretation is right here, is that a landowner would not be permitted to allow an African working on his land or residing on his land to produce pigs. Now I know in one particular case, Sir, where a very big concern has allowed their people to produce livestock, including pigs, and this one here, the native area phrase, would as I suggest seem to penalize those sympathetic farmers who allow their men, their people, to produce livestock including pigs. Now there is another phrase to which appears later in the same clauses, the gazetted native area, I should like to know what that means, a gazetted native area. That would mean that there will be further limitations and further restrictions of an African who is interested in the pig industry to be refused to produce this animal. There again, Sir, I do not think that it is fair to put such a limitation. There will definitely be under regulating clauses at the end of Bill powers given to the Board to control the industry whether that might be all I am suggesting, Sir, is that there should not be such limitation, which is imposed only to the African community.

Now, I should like also, Sir, to say under clause 8 what I did say under clause 7 of the Bill, that if the District Commissioner refuses to grant an application he should give reasons and it should be so provided in the law that the District Commissioner will produce reasons why he does not grant an application for the keeping of pigs for this industry. One other point, Sir, in regard to clause 8, to which I take tremendous exception, is that under clause 8 (3) I think, you have that a limitation as far as the African registered producer is concerned, and that is he cannot trade outside his area unless he is licensed under the present clause 11. Now that I think is very unfair and to use the argument that my hon. friend the Member

for Rift Valley used in another connexion, as far as the importation of pigs are concerned, now surely it should be, it is a fundamental right of the African as it is a fundamental of any other person to have a free market. It will be for the factory to say that this pig is not good and therefore the factory is not going to receive it. All right, he can put the rope round the pig's neck and return it home. But why prevent him from trading with the factory just because he is put in a separate book from someone else who is licensed? I think it is grossly unfair, and I suggest, Sir, that the African producer, if in the end this clause stands as it is, continues to have two sections, registered and licensed Africans, that the registered African producer should be permitted to sell his pig to the Pig Board and only let the Pig Board say that we do not want this pig because it is not exactly what we want.

I therefore, Sir, suggest very seriously that this matter be looked into very carefully and not to limit the trade of the African just because he is put in a separate book from that of the licensed trader. Now, I am sure my hon. friend, the Director of Veterinary Services, will say "well, of course, he can be licensed under clause 11". Then I say why put him through two processes, why make it more difficult for him to go through two mills? Why not let him go direct to the Pig Board and let them refuse the application in which case I suggest they should give good reasons or grant the application.

Now, you see this clause 8 restricts the African so badly that although the whole of these provisions are very good you know for the expansion, as my hon. friend the Mover said of the Pig Industry, it restricts the African more than anybody else and instead of encouraging him to go forward now, he has got all these doors to open. He opens one, he opens the second and then he goes and opens the third, and all that time he will get fed up with it and, therefore, fail to contribute to the expansion of the Pig Industry. Under clause 8 there is also provision for the removing either the licence or the registration if the District Commissioner refuses to renew the registration or if he cancels the registration, and as soon as the registration is cancelled, the licence is also cancelled

[Mr. Mathai]

the District Commissioner, the African has a right of appeal to the Provincial Commissioner of his Province and the Provincial Commissioner's court will be the final court of appeal.

Other dealers have recourse to some higher authority elsewhere in the Courts and in the Governor in Council. I, personally, Sir, do not like it that the Provincial Commissioner's court be the final court of appeal. I think there should be a higher court and although, Sir, I am not suggesting in the least that Provincial Commissioners would not be competent to be the final court of appeal, I do feel, Sir, that as his District Commissioner will have been the person refusing to renew the registrations or cancelling the registration of the licence, I feel it would be better removed from the whole orbit of Administration, and even if necessary they should go to the Courts and not to the Administration.

I do not think I have further comments but I should like to commend the points I have raised for the favourable consideration of the hon. Mover and the Government because I feel that, if these restrictions that I have suggested are removed, that will encourage the African pig producer and in that way enhance the wealth of the country through that method. (Applause.)

MR. MACONOCHE-WELWOOD: Mr. Speaker, I rise to make one small point omitted by my hon. friend, the Member for Rift Valley, on clause 19. In clause 19 (m), "regulating the feeding, management and housing of pigs by licensed pig producers or registered African pig producers". Now, Sir, I think this is a quite impossible clause to insert in the Bill. If the Board does not like your pigs they can reject them, they can do what they like, but I have yet to hear it is reasonable to tell a farmer how to feed his own animals. It is entirely up to him to feed them as he thinks fit. If the resultant pig is not acceptable he is the loser. (Hear, hear.) I know what the clause is aimed at, it is aimed at the management more than anything else. I think the clause is to ensure that pigs should be kept properly enclosed in order to prevent swine fever and so on. That is a matter I think better dealt with under the diseases of animals, rather than under this Board. In

view of the matters that have been raised in this Bill, I would suggest that this Bill should go to Select Committee. I admit that that will mean that the Bill will not come in the habit of hurrying through legislation always in the belief that, if we do not get it through it will wait for another session. To my mind it is very rare indeed that a measure passes this Council that could not wait a month, two months, or three months. They have done quite well without these amendments for some time and I think we could do quite well without them for a further three months. I would ask the hon. Member whether he would agree to this Bill going to Select Committee.

MR. HAVELOCK: Mr. Speaker, I would support, I do support, the objections that the hon. Member for Uasin Gishu has brought up. I would be very interested to hear what the hon. Mover has to say in reply. It does seem to me to be going to the extreme. I realize, of course, that under the present Ordinance, Article (m) does regulate the feeding and housing of pigs and our management has been aided and African producers as well. But I personally feel, having listened to the debate, that there is no real need for a Select Committee. I am quite sure that the usual Government reasonableness in meeting the points of view of hon. Members on this side, these matters could be regulated in Committee of the whole Council.

I beg to support.

MAJOR KLYSER: Mr. Speaker, in view of the remarks made by the hon. Member for Uasin Gishu, I would not like to associate myself with his views that almost everything that comes before this Council could wait for a month, or two, or three months. I, Sir, and Members on this side have often criticized Government for the dilatory way in which they have taken action or brought matters before this Council. (Shame.) Yes, we have. And we shall probably continue to criticize Government for not being quicker off the mark. Therefore, I would not like the hon. Members on the other side of the Council to get the impression that we now think they have gone too fast about anything at all, Sir. (Laughter.)

Mr. OIANGA (African Interests): Mr. Speaker, I rise only to support very strongly what the hon. Member for Uasin Gishu has said that the Bill should go to a Select Committee. It seems to me that it contains some very drastic amendments and they affect the African rather adversely and if we are going to examine it in detail, under Select Committee, it would make for improvement.

Now, there is one further principle in this amending measure which seems to me to be somewhat unnecessary. The point, I think, which starts off in the definitions and so on is that the African had no way of being stopped from getting his registration. The District Commissioner would not refuse, and I should like to know from the Member who moved the Bill, how many Africans had applied and should have been refused and could not be refused because there was no provision for it. Because, in my own experience, it does not seem to me that Africans keep large herds of pigs everywhere in the country. There are some who are interested in it, who have made a start on it and are coming on and the general view is that they should be encouraged to keep more and more in order that that industry might be enhanced. But the severe restrictions that are now being placed against him seems to be wholly unwarranted and when he replies perhaps the hon. Member will give some indication of what has actually taken place.

There seem to be a number of regulations which are also unnecessary. If you have the Pig Board, or whatever it may be called, licensing for other producers, I wonder why it is really necessary that these very busy administrative officers again should be given an additional burden of licensing industrial measures of this kind. Could not the Pig Board undertake the licensing for everybody regardless of who they are. Why should a District Commissioner or a Provincial Commissioner be asked to license Africans and although the other people be licensed otherwise? I think it is a very unnecessary duplication of work and is going to cause a lot of correspondence between the District Commissioner, Provincial Commissioner and the Pig Industry Board. I think the Bill is a step forward in development of the pig industry and the discrimination is

absolutely unnecessary because the people who buy the pigs can always tell whether the pig is of good quality or not. Why should they be refused this opportunity in advance? We agree with the second reading to go through, but urge that the Bill be committed to a Select Committee of this Council.

Sir, I beg to support.

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: Mr. Speaker, I think it would be, in many respects, regrettable to put this Bill to a Select Committee if it could be avoided (Hear, hear). This industry is growing very fast and is becoming a very important industry to the Colony, and although I admit that some of these provisions may appear to be perhaps too rigid, nevertheless possibly in the Committee stage in view of this debate one might be in a position to be able to produce a certain number of amendments that might satisfy hon. Members opposite. If this Bill goes to Select Committee, it really in fact means that it will die with this session, and will have to be reintroduced as a new Bill in the next parliament and I personally would regret that and hope it can possibly be avoided. At this stage I have not got very much more to add except that to the hon. Members representing African Interests I must say this, that the pig industry, perhaps more than any other industry, is subject to outbreaks of disease. We have managed to create an export trade with some difficulty, despite the fact that we have, in this country, African swine fever enzootic in certain districts. And that means that we have to adopt more rigid measures of control and of marketing and acceptance than would otherwise be the case. Furthermore, I think hon. Members representing African Interests must realize another fact. That is, much as we desire, and it is true we desire to help them to produce any form of agricultural produce or stock products, I am doubtful whether, without more experience, pigs are very suited for production by Africans in large numbers. We had a most successful experiment at Nyari but we did have to finish those pigs, and I think it does need a certain amount of guidance and education and possibly control before, in my opinion, the production of pigs on a large scale by Africans would be other than a possible

[The Member for Agriculture and Natural Resources].  
to 52,000 pigs as marketed by Europeans. Now, the disease aspect is of very great significance from two angles. The expansion of our pig industry is dependent upon our export to Great Britain. Our contract with the Ministry of Food carries with it an undertaking from the Veterinary Department to the Ministry of Agriculture that pigs should be drawn only from areas where we can provide very rigid assurances in respect of swine fever, rinderpest and foot and mouth disease. We have, with some difficulty, fulfilled those requirements with the Ministry of Agriculture, but any introduction or spread of disease into the areas at present providing for the export of pigs would immediately imperil our export contract.

THE DIRECTOR OF VETERINARY SERVICES: Mr. Speaker, my hon. friend, the Member for Agriculture and Natural Resources, has gone far to meeting the points raised by the hon. Member for Rift Valley, but I would like to answer the charge implied of petty bureaucracy. This Board, the Pig Industry Board, is constituted of seven Unofficials and three rather quiet and retiring Officials. (Applause.) The entire impetus for these amendments emanated from the pig-producing members of the Pig Industry Board and I suggest it illustrates the dangers of allowing amateurs to exercise bureaucratic control. (Laughter.) I have a great deal of sympathy with the Member for Rift Valley in his desire to admire any pig he may care to import—

MR. BLUNDELL: Thank you.

THE DIRECTOR OF VETERINARY SERVICES: I would remind him of P. G. Wodehouse's famous "Pig, the Empress of Blandings". I believe that, in the Committee stage, we can meet most of the objections that have been raised by Unofficial Members opposite on the European side. But, in so far as the Members for African Interests are concerned, I must speak frankly, I myself had the experience during the war of marketing, on behalf of African producers, something over 13,000 pigs.

From my experience, I know that the quality of the pigs which can be produced by Africans, even after subsequent fattening and finishing, and under European supervision, would not to-day be acceptable on the market. The African producer can produce pigs of a type acceptable to pork, but I am very firmly of the opinion that in terms of quality he is insufficiently experienced and insufficiently able to provide the foods which are necessary to provide the pig of bacon quality.

It is implied or suggested that the African contribution to the pig industry is a substantial one. In actual fact, during 1951 a total of under 700 pigs were marketed by Africans as opposed

to 52,000 pigs as marketed by Europeans. Now, the disease aspect is of very great significance from two angles. The expansion of our pig industry is dependent upon our export to Great Britain. Our contract with the Ministry of Food carries with it an undertaking from the Veterinary Department to the Ministry of Agriculture that pigs should be drawn only from areas where we can provide very rigid assurances in respect of swine fever, rinderpest and foot and mouth disease. We have, with some difficulty, fulfilled those requirements with the Ministry of Agriculture, but any introduction or spread of disease into the areas at present providing for the export of pigs would immediately imperil our export contract.

But there is another aspect of disease which my hon. friend the Director of Medical Services would be disposed to support, I am sure. The pig is the intermediate host of the African intestine, or if so, only to a limited extent. I speak of that tapeworm which is introduced as a result of eating improperly cooked pig meat which may be infected with these cysts of measles. The cysts of measles which are spread via cattle are widespread in the African population. But measles or tapeworms obtained from pigs as yet are sufficiently rare in this Colony to justify very strict control over the management and consumption of pigs, particularly by Africans. I have seen pigs about to be consumed in native areas which would, had they been consumed, have infected with a new parasite several hundred Africans who might have eaten that pig. Those people in turn, going out to work as labourers in European farms, if handling pigs would, as a result of the unhygienic practices common among Africans, have endangered the European-owned pigs and on the disease aspect alone, I believe it to be essential that strict control of African-owned pigs should be exercised.

Now, it has been suggested that it is unnecessarily cumbersome for an African pig producer first to register and secondly to be licensed. That proposal is there deliberately in order to make it easier and simpler for the African pig producer. There are very few African pig producers who produce for sale more than four or five pigs in the course of a

[The Director of Veterinary Services] and for each and every one of those to be registered with the Pig Industry Board it would make it not only difficult for the Board, but difficult for that African himself, who frequently enough is illiterate. Under the arrangements proposed for registration, it is possible for any illiterate African pig producer to make verbal application to a District Commissioner on safari and that application would, in general, be referred to a District Veterinary Officer, and he is thereupon registered.

In the main pig producing African areas we have already established an efficiently working co-operative society with a chain of subsidiary ones, and that co-operative society holds a licence from the Pig Industry Board to market pigs. Therefore all that is required under the existing Ordinance or under the proposed amendments is for an African pig producer to join the local African co-operative society, who will then on his behalf market the pig for him. All that he requires to do is to be registered under this Ordinance, and there is no necessity for him to be licensed.

One further aspect of this, I think that it was suggested that Africans are permitted to keep cattle, sheep, goats, poultry, pigs, etc., with no control. But I suggest that pig farming is not a normal part of the African farming economy. It is something which has been introduced and, while I do not suggest that they should be prohibited from keeping pigs, I must make the point that the normal African practices in relation to breeding their domestic livestock cannot be followed where pigs are concerned.

The history of the pigs in the Nyeri Fort Hall area was that a few breeding sows, having been given by the Missions to a few of their proteges, in due course produced their litters of seven or eight or nine. Now, it is African custom to permit any animal of breeding age to breed, and the net result was that within seven or eight months the owner of a sow had seven or eight small pigs, which inter-bred, brothers mated with sisters, and as I have said, this repeated itself time and time again, and one pig in the course of 15 months became 47 pigs. Those 47 pigs became a source of embarrassment, and they in turn were

given away to other Africans, to whom it did not occur that one did not automatically breed from any pig once it got to a breeding age. When I took over in the Nyeri District in 1939, pigs could not be given away, because it had not occurred to the African pig producer to limit the remarkable powers of reproduction possessed by the pig. For that reason, I believe it all the more imperative that in areas outside the Kikuyu, which have not yet had experience of keeping pigs—I refer, of course, to African areas—that strict control should be exercised.

Mr. Speaker, if it is acceptable to the Council that amendments to be moved in the Committee stage would be the best way of dealing with this, I feel sure that that would be acceptable on this side of the Council.

Mr. Speaker, I beg to move. (Applause.)

The question was put and carried.

THE SPEAKER: I take it we will not go into Committee on this Bill to-day?

THE DIRECTOR OF VETERINARY SERVICES: We would prefer it should not go through the Committee stage to-day.

THE SPEAKER: The Committee stage will stand over.

#### *The Compulsory Training (Amendment) Bill*

THE DEPUTY CHIEF SECRETARY: MA Speaker, I beg to move: That the Compulsory Training (Amendment) Bill be read a second time. The purpose of this Bill is to make certain amendments in the main Ordinance which are shown to be necessary by the last six months' working of the Ordinance. The amendments are fully explained in the Memorandum of Objects and Reasons. No question of principle or policy is involved, and the amendments are not, I think, in any way controversial.

After the Bill had been published I was asked by the hon. and gracious Member for Ukamba if I would accept an amendment to section 11 of the Ordinance to give a person affected by a call-up notice 30 days instead of the present 14 days to report his name and address to the Director of Manpower. I shall move the necessary amendment

[The Deputy Chief Secretary] to section 4 of the Bill (which refers to section 11 of the Ordinance) at the Committee stage of the Bill, together with a consequential amendment to section 6 of the Bill (which refers to section 12 of the Ordinance). The text of these amendments has already been circulated.

Sir, I beg to move.

THE ACTING SOLICITOR GENERAL seconded.

The question was put and carried.

THE DEPUTY CHIEF SECRETARY moved: That Council do resolve itself into Committee of the whole Council to consider the Compulsory Military Training (Amendment) Bill clause by clause.

The question was put and carried.

#### COUNCIL IN COMMITTEE

Clause 4

THE DEPUTY CHIEF SECRETARY moved: That paragraph (a) of clause 4 be amended—

(a) by substituting for the word "fourteen" the word "thirty"; and

(b) by substituting for the words "fourteen days" in the proviso to subsection (1) of the principal Ordinance (which paragraph (a) of clause 4 inserts) the words "thirty days".

The question of the amendment was put and carried.

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

Clause 6

THE DEPUTY CHIEF SECRETARY moved: That there be substituted for clause 6 the following:—

#### *Amendment of section 12 of the Principal Ordinance*

6 Section 12 of the principal Ordinance is amended—

(a) by substituting for the marginal note thereto the following—

"Powers of the Director of Manpower";

(b) by substituting for the words "Within one month" in subsection (1) the words "Within six weeks".

The question of the amendment was put and carried.

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

THE DEPUTY CHIEF SECRETARY moved: That the Compulsory Military Training (Amendment) Bill be reported back to Council with amendment.

THE CHAIRMAN: Before Members leave the Chamber—many Members seem to be leaving—I will have to make the announcement. I intended to make later on, namely that a photograph will be taken at 9 a.m. tomorrow morning at the south side of the south entrance to the Law Courts. It is the most convenient point, and there is plenty of room for cars to be parked. Further, we must note that as we wish to get I.L.E. the Governor there to be in the photograph it has not been possible to fix any other time than 9 a.m. tomorrow. There is also the question of the proper light—I hope it does not rain. (Laughter.) With your permission, I propose to go in plain dress. (Applause.)

Council resumed and the Member reported accordingly.

BILL.

#### THIRD READING

THE DEPUTY CHIEF SECRETARY moved: That the Compulsory Military Training (Amendment) Bill be read a third time and passed.

THE LABOUR COMMISSIONER seconded: The question was put and carried.

*The Electric Power (Amendment) Bill*

THE MEMBER FOR COMMERCE AND INDUSTRY: Mr. Speaker, I beg to move: That the Electric Power (Amendment) Bill be read a second time.

Sir, the Bill before Council is the result of detailed and long consideration by the Power Board set up under the principal Ordinance. Its purpose is briefly to deal with certain anomalies arising out of the principal Ordinance. First, Sir, it has been taken into account that at the present juncture of events, when the prices of materials and the prices of services are daily rising, that it is expedient to give powers for the undertakers under the Ordinance to make applications to the Governor in Council at more frequent intervals than three years for revisions of their tariffs. This, Sir, is a necessary step,

[The Member for Commerce and Industry] as with the statutory limitation of three years there is always a tendency that prices may rise more rapidly than they should do in the event that a further application is not possible for three years.

A further point dealt with in the Bill is definition of the powers governing the right of way for the power lines. In this instance it was felt that it was necessary that there should be a right of appeal if certain property rights are interfered with—that is provided for in the Bill.

Other clauses deal with the consolidation of licences, for administrative purposes. Again, others deal with the question of statutory consumers, cutting off of power to those whose buildings have been condemned under the law and those who have been persistently bad payers of their accounts. I do not feel, Sir, it is necessary at this stage, in view of the Memorandum of Objects and Reasons, to go through this Bill clause by clause. I would, however, add one thing. It is the function that they are discharging to the great advantage of this Colony, and something for which we should be grateful to the members of the Board who are giving their time in this arduous work. It is one of their functions, as I say, to keep under constant review the legislation governing the undertakers under the present Ordinance. It is hoped that from time to time further amending Bills will be brought forward, indeed, one of the objects of the Board is eventually to produce a consolidated Ordinance up to date as far as possible in every respect.

Mr. Speaker, I beg to move. (Applause.)

MR. HAVLOCK: Mr. Speaker, in seconding the second reading of this Bill, Sir, as a Member of the Power Board I merely wish to say that we have taken, the Power Board has taken, very considerable trouble over this matter, over a quite a period of time, unfortunately, but it is an extremely complicated issue. It has been very difficult to try to balance the needs and the rights of the different interested parties in trying to amend the present Ordinance. There are, for instance, of course, consumers who have to be taken into very serious consideration; on the other hand, you have the undertakers, whose wishes and interests some-

times conflict with those of the consumers. You then on the other hand, again have the landowners and property owners, over which lines will have to be taken, and so on and so forth. In fact, Sir, from the point of view of the Power Board these amendments are by no means the last which it is hoped will be placed before this Council. There are, in fact, already two or three clauses of the present Ordinance which are under discussion by the Power Board and the amendments to those clauses have not yet been agreed upon by the Board, owing mostly to the difficulties and conflicting interests which I have just mentioned. I think that a solution to the problem in amending such clauses will be found in the near future, and then again no doubt another amending Bill will be coming before this Council. Again, there is another factor which I think should be taken into consideration. That is the very rapid development of this country, and the urgent need for electric power in places where it had not been visualized a few years ago. All these factors lead to extra complications in trying to get a really overall satisfactory Electric Power Ordinance. On behalf of the Electric Power Board, Sir, I would like to thank the hon. Member for his compliments to the Board and I do believe myself it is a very useful body, and I have pleasure, Sir, in seconding the Motion. (Applause.)

The question was put and carried.

THE CHAIRMAN: I take it you will have Committee stage to-morrow?

THE MEMBER FOR COMMERCE AND INDUSTRY: Could we take it now, Sir?

THE SPEAKER: There is another Bill on the Order Paper, but I am afraid the time is very short. Perhaps it would be better if we do not proceed with it to-day.

THE DEPUTY CHIEF SECRETARY: Mr. Speaker, it will only take about two or three minutes, I think.

THE MEMBER FOR COMMERCE AND INDUSTRY moved: That Council do resolve itself into Committee of the whole Council to consider the Electric Power (Amendment) Bill clause by clause.

THE ACTING SOLICITOR GENERAL seconded.

The question was put and carried.

### COUNCIL IN COMMITTEE.

THE MEMBER FOR COMMERCE AND INDUSTRY moved: That the Electric Power (Amendment) Bill be reported back to Council without amendment.

The question was put and carried.

Council resumed and the Member reported accordingly.

### BILL

#### THIRD READING

THE MEMBER FOR COMMERCE AND INDUSTRY moved: That the Electric Power (Amendment) Bill be read a third time and passed.

THE ACTING SOLICITOR GENERAL seconded.

The question was put and carried.

#### The Consular Conventions Bill

THE DEPUTY CHIEF SECRETARY: Mr. Speaker, I beg to move that the Consular Conventions Bill be read a second time.

The object of this Bill is to make it possible to give effect in Kenya to certain conventions making provision for Consular privileges to be enjoyed on a reciprocal basis by members of the Consular Services of the countries subscribing to the conventions. As explained in the Memorandum of Objects and Reasons, the United Kingdom Government has entered into two conventions, one with the United States of America and the other with Norway, and it seems likely that other similar conventions may be entered into in the future with other countries. The provisions of the Bill are fully explained in the Memorandum of Objects and Reasons, and I think they are unobjectionable. No further explanation by me, therefore, seems necessary.

I beg to move. (Applause.)

THE ACTING SOLICITOR GENERAL seconded.

The question was put and carried.

THE DEPUTY CHIEF SECRETARY moved: That Council do resolve itself into Committee of the whole Council to consider the Consular Conventions Bill clause by clause.

THE ACTING SOLICITOR GENERAL seconded.

The question was put and carried.

### COUNCIL IN COMMITTEE

THE DEPUTY CHIEF SECRETARY moved: That the Consular Conventions Bill be reported back to Council without amendment.

The question was put and carried.

Council resumed and the Member reported accordingly.

### BILL

#### THIRD READING

THE DEPUTY CHIEF SECRETARY moved: That the Consular Conventions Bill be read a third time and passed.

THE ACTING SOLICITOR GENERAL seconded.

The question was put and carried.

THE SPEAKER: Business will now be suspended until 9.30 a.m. tomorrow morning. I hope hon. Members will not forget their engagement to be photographed.

### ADJOURNMENT

Council rose at 12.45 p.m. and adjourned until 9.30 a.m. on Thursday, 3rd April, 1952.

**Thursday, 3rd April, 1952**  
 Council assembled in the Memorial Hall, Nairobi, on Thursday, 3rd April, 1952.

Mr. Speaker took the Chair at 9.40 a.m.

The proceedings were opened with prayer.

#### MINUTES

The minutes of the meeting held on 2nd April, 1952, were confirmed.

**THE FINANCIAL SECRETARY:** Mr. Speaker, I beg to move: That the Council do now resolve itself into Committee of the whole Council to consider the Resolution on the Order Paper.

**THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT** seconded.

The question was put and carried.

#### COUNCIL IN COMMITTEE

**THE FINANCIAL SECRETARY:** Mr. Chairman, I beg to move: That be it resolved that this Council approves an amendment being made to the Second Schedule of the Pensions (Increase) Ordinance, No. 44 of 1951, by order of the Governor in Council made under proviso (iii) to sub-section (2) of section 3 of the Ordinance to provide that with effect from the 1st January, 1952, where the pension is a pension specified in the First Schedule to the Ordinance then, subject to the provisions of the Ordinance—

- if the pension does not exceed £70 per annum the increase shall be 22½ per cent of the amount of the pension;
- if the pension exceeds £70 per annum, but does not exceed £210 per annum, the increase shall be 22½ per cent of the first £70 of the pension and 7½ per cent of the remainder of the pension;
- if the pension exceeds £210 per annum the increase shall be 12½ per cent of the whole pension.

Mr. Chairman, hon. Members will remember that in the Last Select Committee on Cost of Living Allowances, paragraph 26, there was contained the following sentence:—

"If it should be decided to continue the present practice of paying cost of

living allowances to pensioners at half the rates of allowances to serving officers we estimate that the extra cost will be £6,000 per annum if our recommendations are approved."

This resolution, Sir, does no more than continue the present practice and I commend it to the Committee.

**MAJOR KEYSER:** Mr. Chairman, I should like to ask the hon. Member, is it the intention and has it been made quite clear to pensioners that, should conditions of the world change and it be found necessary to reduce cost of living allowances—and I believe, Sir, that that is the intention of cost of living allowances and it certainly was the intention and was made quite clear in the Salaries Commission Report—has it been made clear, Sir, to these pensioners that, should those conditions change, these increased pensions will also be reduced or completely abolished.

**MR. COOKE:** Sir, if I may anticipate what my hon. friend is going to say I may say that the pensioners quite understand that. When my hon. friend reduces the price of *posho* we shall be very glad to receive less pension! (Laughter.)

**MR. HAVELOCK:** Maize, not *posho*.

**MR. COOKE:** Maize, yes, Sir, with regard—if I may speak on general terms about this increased pension—if I am not out of order, may I say, Sir, that pensioners, although they are glad for these small mercies—thankful for these small mercies—still do protest that they only receive 50 per cent of the cost of living allowance that Government serving officers are receiving. I know there is one reason for that, that is that serving officers being naturally younger have perhaps more family responsibilities. On the other hand, a lot of pensioners, especially those living in England, have very big family responsibilities and they cannot eke out their pension by getting another job. I think Government should at any rate revise the 50 per cent and make it something like 75 per cent of the cost of living allowance which is being paid to serving officers.

Now, Sir, there is one matter which I am sorry I have to dwell on. A sub-committee of the Pensioners' Association, which exists in Kenya, saw the late Financial Secretary as long ago as the

[Mr. Cooke] end of November and we brought before him, Sir, some very deserving anomalies, if I may use that term about anomalies, but we put in front of him certain grave anomalies which were susceptible we thought to major immediate treatment. The hon. Member took copious notes and said he would communicate with us in due course. That was three months ago and so far as I know there has been no reply to the Pensioners' Association. I think, Sir, if I may say so, that in this country that is called a bad *shanti*, that people who are pensioners should have been neglected by the Head—as indeed I think the hon. Financial Secretary is regarded, certainly the Head of the Treasury is so regarded in England—as the Head of the Civil Service. We do hope in the future we will receive more considerate treatment. I welcome these proposals with the caveats that I have already mentioned.

**MAJOR KEYSER:** Mr. Chairman, to the hon. Member opposite I should like to say that I do not accept the explanation made by the hon. Member for the Coast and I hope he will still give me the assurance that I have asked for.

**THE FINANCIAL SECRETARY:** Mr. Chairman, in replying to the hon. Member for the Trans Nzoia, the hon. Member for the Coast has, of course, answered the question largely in spirit, I imagine. I shall be only too pleased to give the assurance that the hon. Member has asked for—that obviously if there is a decrease in the cost of living, any increase which is based on the increase in the cost of living must be reviewed and would be brought before this Council for decision by Resolution.

So far as my hon. friend the Member for the Coast is concerned, I was going to say I regret, but perhaps I am pleased to be able to say that my hon. friend the Chief Secretary is the Head of the Civil Service in this country and that is his particular burden. In so far as the question of the sub-committee of Kenya pensioners is concerned, that matter has not come to my notice as yet. I will take the matter up and endeavour to find out what happened at the interview and see if there is any way in which we can meet the hon. Member. That, I think, covers all the points raised.

The question that the Committee agrees with the proposed resolution was put and carried.

Council resumed.

**THE FINANCIAL SECRETARY:** Mr. Speaker, I beg to report that the Committee of the whole Council has considered the Pensions Increase Ordinance, 1951, and has agreed with the Resolution.

The question that it be resolved that this Council approves an amendment being made to the Second Schedule of the Pensions (Increase) Ordinance, No. 44 of 1951, by order of the Governor in Council made under proviso (iii) to sub-section (2) of section 3 of the Ordinance to provide that with effect from the 1st January, 1952, where the pension is a pension specified in the First Schedule to the Ordinance then, subject to the provisions of the Ordinance—

- if the pension does not exceed £70 per annum the increase shall be 22½ per cent of the amount of the pension;
- if the pension exceeds £70 per annum, but does not exceed £210 per annum, the increase shall be 22½ per cent of the first £70 of the pension and 7½ per cent of the remainder of the pension;
- if the pension exceeds £210 per annum the increase shall be 12½ per cent of the whole pension.

was put and carried.

**THE FINANCIAL SECRETARY:** Mr. Speaker, I beg to move: That Council do now resolve itself into Committee of Supply.

The question was put and carried.

#### COMMITTEE OF SUPPLY

**THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT:** Mr. Chairman, I beg to move: That provision be made for £4,350 for extension to the Land Office Buildings.

I put this proposal before the Council with confidence. It is to meet a most urgent need for provision of extra accommodation for the Land Administration staff, for extra space in which to house the records of the Department, and for additional room for the accommodation of the typing pool and the accounts branch.

[The Member for Health, Lands and Local Government?]

The Hartwell Report on the Land Department recommended that there be considerable expansions of staff in each one of these branches. That staff has, for the most part, already been provided, but there is no room to house them. The Hartwell Report, in another paragraph, commented very adversely upon the overcrowding that was already taking place before the expansion of the staff. The situation now is far worse. The staff itself is working under extremely difficult conditions which must impair efficiency and the expeditious dealing with the work of the Department.

The records rooms consist of two file rooms. They are full to overflowing, and there must be provision for an additional room. The accounts branch and the typing pool are working under extremely adverse and overcrowded conditions.

The question will naturally arise in the minds of the hon. Members, as it did in mine when I first saw this proposal—why was not provision made in the 1952 Estimates. (Hear, hear.) The answer is a simple one. The Head of the Department had been led to believe and to expect that provision would be made for a new Land Office building to be erected during the years 1952 and 1953. It was pointless then to put forward propositions for the expansion of the temporary buildings, so-called, of the existing Lands Department. It was only on 22nd December, 1951, that the Commissioner of Lands was informed that it had been found to be quite impossible to provide funds for the permanent building and that for several years to come that permanent building could not be expected. The Commissioner of Lands, during the middle of 1951, had surrendered a provision that had already been approved of £8,171 for a fire-proof building for the archives, in the expectation that a permanent building would be coming forward within at least two years. That hope has been completely frustrated and now this additional provision to the temporary buildings is unfortunately the most urgent one required. The Public Works Department is ready and willing to start on this work as soon as approval is given.

I must emphasize, however, that even when these additional buildings have been provided the fire risk, which is a most important one, will still remain. The Land Office is one of the oldest buildings in this town, certainly one of the oldest Government buildings, if not the oldest, and it is the most vulnerable. I can think of no Government department where a fire would have more devastating consequences and would create more confusion and disaster for the whole of the community, than the Land Office. (Hear, hear.) So I do entreat that hon. Members will keep that very closely in mind and that as soon as it is possible permanent provision may be made. In the meantime, I do ask for hearty approval of this proposal for a temporary addition to the wooden buildings.

I beg to move.

MR. HAVELOCK: Mr. Chairman, the hon. Member has made a very strong case as usual for the extra expenditure, but it puzzles me as to what is the policy of Government in this regard. Sir, the hon. Member has underlined the very great danger of fire and yet in the beginning of his speech, he also said that this £4,350 will, to some extent, be used to try to house more records in a temporary wooden building. Is there no part of the Land Office which is more secure than another, either away from the remaining buildings or built of stone in the back areas? I believe there are certain parts which have been built of stone. Cannot something be done to see that the records, as far as possible, are put in non-inflammable buildings—not the coarsely of the policy of providing wooden buildings for such important records.

MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT: Yes, Sir, there is one stone building in which the records of the Registration Department are housed, but that is all, and that building is crowded. The files have always been kept in wood and iron buildings and there is absolutely no other provision. If hon. Members care to increase the amount asked for—

THE ATTORNEY GENERAL: They cannot.

MR. HAVELOCK: We cannot. (Laughter).

MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT: If hon. Members would have no objection to my seeking an increase in the amount required, I would have no objection whatever to the erection of further stone buildings, but I do submit that if there was a prospect of getting permanent buildings within a year or two it might be considered economical to carry on. The risk of fire will, as I have emphasized, still remain.

MAJOR KEYSER: Mr. Chairman, I agree with the hon. Member that a fire at the Land Office would cause an enormous amount of inconvenience for the country. It would, of course, on the other hand, produce just as good, if not a better, excuse for Government than the Secretariat fire gave them for many years. But, Sir, it does seem to me that just a little ordinary common sense applied to the whole problem might provide a better solution than the voting for £4,000 or £5,000 to putting up a stone building.

Now, Sir, I have always considered the land on which the Land Office is built most valuable and I cannot think why Government does not offer that land for sale and with the—

THE CHAIRMAN: The rule in Committee is strict relevance to the Vote under discussion. Now the Vote under discussion, I take it to be, is only this particular item at the moment of building to the Land Department, and I consider it to be going beyond the terms of this Vote if we discuss sales of land and other matters incidental.

MAJOR KEYSER: It is a pity, Sir, because I do think they need a few bright ideas about the subject. However, I think I have said enough for them to understand what I was getting at.

MR. COXIE: Mr. Chairman, I oppose the Vote under discussion because Government has missed the bus once more. If they had gone in for the building of proper Government buildings five or six years ago, as urged by some of us, there would now be no need for temporary buildings. I think it is a waste of money—it is throwing good money after bad—there is no sufficient reason.

THE CHAIRMAN: Will some Member, if they oppose the Motion, move some re-

duction or omission, then we know where we are. All we have had at the moment is the proposition of the Supplementary Estimates of Expenditure of £71,183. I have not moved it properly but I will now do so.

The Supplementary Estimates (No. 2 of 1952) £71,183 are proposed.

MR. BLUNDELL: Mr. Chairman, I beg to move the deletion of the item £4,350.

Mr. Chairman, in moving this deletion, I do so for these reasons. In view of what the hon. Mover of the item has said in regard to the vital necessity of proper buildings for the preservation of these documents, I agree with the hon. Member for the Coast. I think it is bad policy to throw this money into the existing buildings. I would like to suggest, Sir, the hon. Mover supports my Motion on the strict understanding that the matter is referred immediately to the Planning Committee. I am certain in the Planning Committee Report—I seem to recollect we made provision for these buildings. The cost of building has risen, Sir, and it would be necessary for the Planning Committee anyway to readjust its ideas. I would suggest we get on to it right away rather than waste time over putting up a temporary building of this nature, rather than letting it be wasted in, say, two years time when a permanent building is erected. I say this, Sir, because I think it is so vital that these registration files should be properly housed.

MR. HAVELOCK: Mr. Chairman, I oppose the Motion.

I do not agree with the hon. Members on this side of the Council who wish to delete this item and I wish to make it quite clear to the hon. Member for the Coast what I mean by opposing the Motion.

It seems to me, Sir, although I agree in principle to the long-term policy, we must have the proper buildings for the Land Office, this particular item is not entirely for expenditure on the keeping of records. The majority of it, as I can see, is for office accommodation and especially, if the hon. Member for Rift Valley is correct in that the Planning Committee will have to review its whole plan and its idea in view of present financial conditions, then I would be very doubtful if office accommodation for the Lands Department staff would be one of the priorities.

[Mr. Havlock]

Obviously the Planning Committee would not be able to have very much more money at its disposal and they will have to cut out things that they have already suggested should be done. I am by no means at this time prepared to say that the office accommodation of the Lands Department staff is of such importance to be retained in a pruned Planning Committee Report. Therefore, although it would be nice to have a stone building for the Land Office entirely, I feel that we have to go on for office accommodation with temporary buildings, but my point in speaking before Sir, was that we must look after our records and I personally—although it is uncomfortable and may be difficult for the members of the Land Office staff to work as they do today—I would rather see, I am afraid, that discomfort continued and that this money should be devoted to protecting the vital records. That, to my mind, is of very highest priority, and therefore, Sir, as I am also sure that this matter has been thought about by the hon. Member who has moved this Motion. He has gone into this matter in great detail no doubt and so has the hon. Member for Finance, and as long as he can tell us that as soon as possible and with as little expenditure as possible, he will see that the records are secure, then, Sir, I would oppose the present amendment before the Committee.

MR. COOKE: Mr. Chairman, I can see no reason for a pruned Planning Committee Report because we have got about £7,000,000 surplus balances. There is no reason why a certain amount of that money should not be put into the Planning programme. This point having been raised by my hon. friend, the Member for Kiambu, I should point this out.

THE FINANCIAL SECRETARY: Mr. Chairman, I find this one very difficult, Sir, because to answer the points which have just been raised about the Planning Committee finance would, of course, involve a somewhat long and protracted debate on the question of Planning Committee finance. The hon. Member, Sir, has raised the point as to the need for a pruned Planning Committee Report and I feel, Sir, it would be completely out of order for me to go into, in Committee at this stage, the position with regard to the Planning Committee

Report and the Colony's finances generally. (Hear, hear.) There can, however, be little doubt, Sir, that with the rise in the cost of building and with the tightness of capital throughout the sterling area, the matter will have to be reconsidered and the Planning Committee will have to do further consideration work.

We have, Sir, gone into this matter of the Land Office buildings extensions very carefully. We thought perhaps the answer would be to rent some office for the time being in order that perhaps we could put the records into stone buildings, and the files. But it was obvious that for the files to be in one place and the staff who needed constant reference to those files to be some distance away would have led to considerable delay in the work. We have not at the present moment been able to find the capital for all the buildings necessary for Government offices, and the Land Office, important as it may be, has to state and make its case equally with the many claims that are being placed before Government at the present moment. In the circumstances, I believe that the best step that can be taken is to put up these temporary buildings. At the same time, in order to safeguard our records, as hon. Members who are members of the Standing Finance Committee are aware, we have approved the purchase of a microfilm apparatus and shall shortly be presenting estimates for the recurrent expenditure for that work to the Council and to this Committee, and then, Sir, we shall begin to have available a modern system of minute reproduction of the records so that they can be stowed away safely without using a great deal of storage space.

Sir, I beg to oppose the Motion for a deletion.

MR. BLUNDELL: Mr. Chairman, I do not want to delay the Committee. I did very carefully word what I was saying when I moved the deletion of this item. What I said in moving the deletion of this item, I hoped hon. Members opposite would be able to support us on the understanding they will take back the item and examine it in the light of remarks which have been made. There is nothing to prevent the hon. Member, after examining the position in the light

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of what has been said—I do not want to repeat all that because on your ruling it was irrelevant—if he is still convinced that these temporary extensions are necessary, then I think, Sir, his case would be enormously strengthened if it were sent to the Planning Committee and it would not be delayed more than six weeks—it would come into the June session.

MR. COOKE: I am also reluctant to take up the time of the Committee, but I would like to point out that whether you take out the £3,000 from general revenue or surplus balances it is six of one and half-a-dozen of the other in the end.

THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT: I regret that I cannot accept the suggestion of the hon. Member for Rift Valley. This matter, to my mind, is desperately urgent and will brook no delay, even for the six weeks to which he has referred. But it will not be six weeks. Hon. Members will pardon me if I am a little cynical about this question of a new Land Office building. During my 35 years' association with the Lands Department in one way or another, I have been in at the preparation of plans for permanent buildings for the Lands Department no less than five times, and in several of those instances the plans had reached quite an advanced stage. The siting was approved, the plans were all prepared, often at considerable expense, but nothing has happened and those temporary buildings are still there. They are holding together by the new paint, but they are still temporary, and my conclusion is that the only immediate solution, and an immediate solution is required, is the extension of these temporary buildings.

Now the point has been made that the housing of the records is more important than the comfort of the staff.

The extension of the staff administration buildings is not merely a matter of the comfort of the staff, it is the convenience of the public which is concerned, and the expedition with which the work can be turned out and that is very seriously impaired by the present conditions. There you have got in one case a room 18 ft. by 12 ft. in which three officers, not clerks, three officers of

the Department have to work. They have to interview members of the public almost all day long. They have to have room in which to spread out plans and to deal with their files. How can it be done in a room 18 ft. by 12 ft. with three officers. In two or three other cases there are two officers working in rooms 12 ft. by 12 ft., and the inconvenience is unbearable, and must, I submit, be remedied at the earliest possible moment. I will give the hon. Member for Kiambu an assurance that I will further examine the construction of the proposed extension to the records building to ensure that it is as fireproof as it can possibly be made.

There is another matter connected with this business of these temporary buildings that have been in existence for so long. The hon. Solicitor General has just reminded me that the Government is at this moment considering a claim for damages of about £5,000 in respect of one member of the Government staff who fell through the floor of one of our Government offices, and that kind of thing might happen any time in these 50-year old wooden buildings. I do beg hon. Members not to delay this matter but to support this Motion. (Applause.)

THE CHAIRMAN: The question is the amendment that the item New Land Office Buildings, Extensions £4,350, be omitted.

The question was negatived.

THE CHIEF SECRETARY: Mr. Chairman, I am concerned with the remaining five items which appear under Head 2, sub-head (6). Subject to your permission, Sir, and no objection being raised by hon. Members, it would be convenient if I might be allowed to move the approval of these five items together.

THE CHAIRMAN: The Motion to approve, I do not think is necessary at all. We have got to the stage now in which we have a Motion to grant the whole £71,183. You may certainly state such information as is necessary for the benefit of the Committee.

THE CHIEF SECRETARY: I thank you, Sir, I apologise for my ignorance in the procedure here.

Hon. Members will recall that some years ago a committee was appointed known as the Boyd Committee to consider representations from persons who considered they would suffer hardship at

[The Chief Secretary]

a result of the recommendations of a committee on railway realignment. The Lloyd Committee concerned themselves and made a number of recommendations in connection with the realignment of the railway between Gilgil and Nakuru. That report was the subject of a resolution in this Council in 1950, which was framed in the following terms: "As a consequence of the realignment on the railway between Nairobi and Nakuru action be taken on the general lines of the recommendations submitted by the Boyd Committee, subject to the modifications which the passage of time and further investigation since the report was published have shown to be necessary, and in particular" and the Motion went on to deal with certain roads. But there were certain recommendations in the Boyd Committee Report which dealt with matters other than roads, and for one reason or another effect was never given to these recommendations.

The five remaining new items under Head 2 and sub-head 10 arise from those outstanding recommendations of the Boyd Committee. In the case of the first item, Elmenteita-Karandua Road, fenced outspan at Elmenteita and Herdman's Hut, the Boyd Committee in Appendix (iii) in the third paragraph of the Appendix, item 3, recommended that an outspan be provided near the existing Elmenteita Station, should this prove necessary. It is proposed, if this supply is approved, that an outspan of about 100 acres should be provided at the old Elmenteita Station out of the old trading store reserve. The Boyd Committee did not refer to fencing but the matter has been the subject of considerable investigation and fence is strongly supported by the local friends. The Director of Veterinary Services is of the opinion that the area there is dangerous to the owners of their animals and also to adjacent animal owners and it is considered suitable that there should be a sort of permanent caretaker or warden to provide for themselves looking after the animals.

The further part of Elmenteita-Eburru-Gilgil Road, fence from the point where the old railway track meets this road through Eburru Station to a point the other end of Elmenteita, it is accordance with the second paragraph of the Appendix to the Boyd Report, item

(ii). In connexion with a fenced stock route, it is proposed to fence the old railway embankment and to use that as a stock route. The remaining three items are concerned with watering facilities at Eburru Station, at a point five and a quarter miles from Mereroni Station and at the new Mereroni Station. These are all connected and designed to provide the necessary watering facilities along the stock route which was recommended. (Applause.)

MR. BLUNDELL: Mr. Chairman, I do not wish to move a deletion in any item or a reduction in any item but I wish to say one or two things about these matters, Sir. I should like your ruling. The hon. Member, whom I should like to congratulate, Sir, on his speech in this Council—(applause)—did touch upon the Boyd Report itself, but I am rather doubtful whether it would be strictly relevant to these items to browse as far as perhaps he did. Might I have your ruling, Sir?

THE CHAIRMAN: Well, one never interrupts a maiden speech but you know the rule quite as well as I do, and you have no need for ruling whatsoever.

MR. BLUNDELL: There is one particular point to which I wish to refer on Elmenteita, the fenced outspan at Elmenteita and the herdman's hut. So far, there is no water supply at the outspan and the water supply is of course tied up with the provision of a water supply at Elmenteita; which is strictly relevant to this item, Sir, because in the Boyd Report it is recommended that water supplies should be available to stock routes and fenced stock routes. Now, this is not a contentious matter, I feel it is possibly something which the hon. Members opposite, in their confusion in putting the recommendations into effect may have missed. During the time all this work at Elmenteita was going on the Public Works Department drew water from the Delamere Estates at Soyambu. Upon the removal of the Public Works Department there appears to have been no provision for continuance of the supply at Elmenteita. I have here a copy of a letter in which the Public Works Department at Nakuru imply that there are no instructions. There are no instructions given to them in this matter and I would therefore ask the hon. Member to investigate firstly, the provision of a water supply at

[Mr. Blundell]

Elmenteita which was removed when the Railway was removed because the railway carried the water there twice weekly in trucks, and secondly, the provision of a water supply for this outspan.

THE CHIEF SECRETARY: I shall certainly investigate the point made by the hon. Member, Sir. My information was that there was or rather there is a watering point at the old Elmenteita Station, but I am afraid that my knowledge of the area is not sufficient to enable me to say whether that particular water supply would, if it exists—and I shall have to go into that point further—whether it would, in fact, be sufficiently close to the outspan area to serve that outspan. But I shall certainly investigate the point made by the hon. Member.

THE MEMBER FOR COMMERCE AND INDUSTRY: Sir, the sum of £35,000 for the Goldmining Development Loans is consequential upon the Bill passed into law in this Council the other day. The sum concerned is £5,000 less than that referred to as the maximum in the original resolution passed eighteen months ago. I do not feel it necessary to say anything further but if any hon. Member wishes any points of explanation, I will be happy to try and deal with them.

MR. HAVELOCK: Mr. Chairman, I do not know if hon. Members opposite are intending to explain to us the reasons for other items on the first page of or all pages for that matter, of these Supplementary Estimates, or whether it is necessary for us to move omissions or deletions in order to draw their attention to such items.

THE CHAIRMAN: Where there are new items possibly I should think some explanation should be afforded. I am not laying that down as a law, but I would have thought that you were both at arms length with the other party and could quote easily, if you wished to, attack the estimates, move such reductions or omissions as is permissible to you. That would confine the debate then to the particular item. Otherwise, when you get an explanation at large then people tend to speak to the explanation at large as if it were a Motion.

THE FINANCIAL SECRETARY: Mr. Chairman, in order to prevent the hon. Mem-

ber having to remove a reduction which I am sure he does not wish to do on an item he would not wish to see reduced, I would like to explain, Sir, that the item Expenses of the Efficiency Economy Committee, £2,000, is a token amount to carry out the assurance that staff would be made available to the Public Accounts Committee for its Efficiency and Economy Investigation.

MR. BLUNDELL: I hope that the item will be off-set by savings, Mr. Chairman.

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: Mr. Chairman, I think possibly I must explain that this item of £8,871 is connected with the International Red Locust Scheme. The history of this Red Locust Scheme—as hon. Members are aware, we have three locusts, different types of locusts which have to be dealt with, and all three appear in some form or another as expenditure items in our Estimates. As regards red locusts, the association of territories formed to combat red locust dates from an International Locust Conference held in Brussels in 1938, and following that Conference an Organization was set up between the British territories affected, involving expenditure of £2,250 a year, of which Kenya agreed to pay £600. The contribution of the participating territories were fixed by the Secretary of State, who stated that at that time that it was related to recorded damage done in Kenya by red locusts in the past. The outbreak of war postponed operations, and the Red Locust Control, as it exists to-day, only came into operation at the beginning of 1941, in which year Kenya did pay its first contribution of the agreed sum of £600. In 1944 it was found necessary to extend operations and, with the approval of Standing Finance Committee, Kenya agreed to increase its contribution from £600 to £1,510.

In 1945 the Belgian Government decided to participate and Kenya's contribution was in consequence reduced from £1,510 to £1,200. This was still about 20 per cent of the total cost of the Organization. In 1945 it was decided to place the voluntary association of the territories concerned on a more formal basis and steps were taken for the drawing up of an International Convention for Red Locust Control. Under this Convention the contribution that the British



[The Member for Agriculture and Natural Resources] Colonial territories was fixed at was 36 per cent of the expenditure involved, of which Kenya was expected to contribute 12 per cent. Kenya did not protest at that time because 12 per cent was, in fact, a smaller contribution than she had been making in the past. When the Union of South Africa became a party to the Convention, Kenya's share was further reduced to 8.64 per cent, and subsequently, when the Portuguese Government also became a party to the Convention, Kenya's share was still further reduced to 7.44 per cent.

In the meantime, however, the costs of operations carried out by the Red Locust Control have risen astronomically and in 1951-52 Kenya's contribution, while remaining at 7.44 per cent of the total, which appeared to be a very small percentage, was called upon for £15,371, whereas provision in the Estimates was only for £6,500.

In addition to this, I may add a communication has now been received from the Chairman of the Executive Committee of the International Red Locust Control service saying that the British Government has been unable to extract from the Portuguese Government their contribution under the Convention, to which the Portuguese Government is a party, in respect of the years 1950/51 and 1951/52, and that the other participants have been asked to make up this deficit. If this were agreed to the increase and the sum which Kenya is asked to contribute would be a further £3,512 above the figure which are before members.

Members are aware, I think, that we are at the extreme end of the range of damage done by this particular species of locust, and we are not so susceptible to damage as are other countries to the south of us. The question has been taken up with the Secretary of State in the past and, I suggest, should be taken up again.

So that is the background of this expenditure—I have been into it at some length, because I think it is probably more than likely that hon. Members opposite will wish, or would wish, to be given a good deal of information about this particular expenditure.

Well, Sir, as I think they all are aware, that although we have very serious in-

festations of desert locusts, and occasional infestations of migratory locusts, that the damage by the red locust in the past many years has been very slight indeed.

Our late Director of Agriculture attended the International Red Locust Annual Conference this last year and after examination approved, on behalf of the East African territories as a whole, the proposals for the 1951/52 campaign, of which the total expenditure is given as £206,600. I will not worry hon. Members with the details, but this figure does represent a substantial increase over the Estimates of the previous years and is mainly due to a policy decision taken by all Members of the Convention, or their representatives, to mechanize the control service and to provide new buildings to house the staff, largely in the Rumbwa Valley, which, in we think, in the centre from which the red locust menace is said to emanate.

Our late Director expressed the opinion that this increased expenditure was quite unavoidable and further that recurrent expenditure is also likely to run at an increased level—about £120,000 a year for some time.

These Estimates were only received by this Government at the end of November at a time when the provisions of our Budget could not be altered, and were accepted by Great Britain, on behalf of the East African territories, as a signatory to the International Convention for Red Locust Control. The question of the contribution of the British Colonial territories can only be opened as an international issue, but it would be open to this Government to question with the Secretary of State the question of whether even this very reduced percentage of 7 per cent is a reasonable one for this country to undertake. I therefore suggest, Sir, that, in view of the assistance we do get in other directions from other territories, despite the fact that we are not ourselves, as far as we know, extremely susceptible to an infestation by the red locust, that we should pay this particular sum of money in respect of the past but that we should, as a Government, which I will undertake to do, reopen the whole of this question and the allocation of the expenditure on Red Locust Control with the Secretary of State. (Applause.)

MAJOR KEYSER: Mr. Chairman, I beg to move that this item of £8,871 be omitted.

Sir, there has been a considerable amount of doubt in the minds of Members on this side of the Committee as to the wisdom of spending large sums of money on locust control, even of those locusts which do invade these territories, but when, Sir, it comes to having to vote comparatively large sums of money for an increase in the rate to deal with locusts in parts of Africa—and possibly due to a country, that is in danger from this particular locust, with drawing its support—then, Sir, I think it is time that we also considered what our support for that particular campaign is going to be and I do think, Sir, that we would be very unwise to-day to agree to an increase in the contribution to this particular item.

MR. COOKE: Mr. Chairman, I would probably be out of order, but would it be possible that when these Locust officers, who are employed, when there is nothing for them to do, as very often happens, could they be employed in helping the Game Department or some other department so that they could be—

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: Mr. Chairman, I think possibly the hon. Member is under some misapprehension. The big campaign, which has been criticized as possibly unnecessary, has been, without doubt, the greatest success that has ever attended any form of operation against locusts: That is the campaign that we have recently undertaken at very great expense against the desert locust. I was almost as sure as I possibly could be a few months ago that this year we should have a very serious infestation of locusts and that this country would suffer probably vast damage from locusts. Without, of course, being able to give any assurance, it now looks as though—and I think largely thanks to the work done, not only in Kenya, of course, but further north and in Arabia—that it is likely now that we shall not have a locust infestation in the more settled and more productive areas of this country at all. We have, already, Sir, dispensed with the services of quite a number of Locust officers, but these are officers employed in this country in our organization.

MR. HAVELOCK: On a point of order, Sir, is the hon. Member in order? I believe he is discussing an item on desert locusts and not red locusts.

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: In reply to the hon. Member, I am discussing an item which I think is important, and connected with the suggestion of our not paying for this particular proposal for £8,000, this £8,000 is devoted to a completely different scheme based on Northern Rhodesia and I would resist the expunging of this £8,871 because I feel we are committed to it, rightly or wrongly, and we do get assistance in all sorts of directions from these other territories in regard to general locust problems. But, Sir, I did also say that I felt we should not continue paying on the present formula and that matters should immediately be taken up, as regards next year, with the Secretary of State and the Authorities concerned, to see whether they cannot reduce our contribution to the Red Locust Scheme.

MAJOR KEYSER: Mr. Chairman, would the hon. Member tell us, because I did not catch it, what our total contribution to this Red Locust Scheme is? This, I understand, is an increase to our present contribution. Also, Sir, I cannot recollect—it may have been done—but I cannot recollect this Council having been consulted at the time that agreement entered into that particular agreement. Perhaps they were, but I cannot recollect it and I do think, Sir, if this Council was not specifically consulted before the agreement, referred to by the hon. Member was entered into, then we have a moral right at the moment to oppose it.

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: The total amount of the contribution which is asked for from this Colony is £15,371, of which £6,500 was provided for in the Estimates which have been passed by hon. Members opposite. I explained, Sir, that we were unaware of this increase at the time the Budget was submitted. I think I may say that this Council, or at any rate the appropriate Authority at the time, was consulted, but as I explained just now, it looked as though our contribution was gradually decreasing with the increase of paying members of the International

[The Member for Agriculture and Natural Resources] Convention. One is not a paying member of the International Convention. As I explained we started on the basis of 20 per cent, and then went down to 12 per cent, and then went down to 7.44 per cent, the 7.44 per cent as a percentage was agreed, but what was not known was the astronomical increase in the cost of this operation, which brought that 7.44 per cent, which started at £600 a year to this very large sum of £15,371.

MR. NATHOO: Arising out of the remarks of the hon. Member for Agriculture and Natural Resources, when he says that the figure was not known, are we not even consulted when drafting estimates for the following year? Are we just told that we are to pay so much and leave it at that?

MR. HAVLOCK: Mr. Chairman, the point I feel is so dangerous is that we enter into an agreement, or Government does, that this Colony should pay a certain percentage of the cost of a certain operation, and we have no control at all over the expense of that operation. If some people—technicians, with special ideas of their own—suddenly make up their minds to completely reorganize the thing, make it much more extravagant, then we have to pay a good percentage of the cost. Sir, I support the amended Motion before the Committee.

The question that item "International Red Locust Scheme, £8,871" is omitted was put and on a division, carried by 18 Votes to 14 votes. (Ayes: Messrs. Blundell, Chemallan, Cooke, Lt.-Col. Gherie, Messrs. Havelock, Hopkins, Major Keyser, Messrs. Macochnick-Welwood, Nathoo, Nahoo, Ohanga, Dr. Bana, Messrs. Salim, Salter, Shatry, Lady Shaw, Mrs. Shaw and Mr. Usher, 18. Noes: Dr. Anderson, Major Cavendish-Bentick, Messrs. Davies, Hartwell, Hope-Jones, Sir Charles Mortimer, Messrs. Pacey, Pike, Potter, Roddan, Taylor, Vasey, Wadley and Whyatt, 14. Absent: Messrs. Carpenter, Hammond, Jeremiah, Masani, Patel and Pritam, 6. Total: 18.)

THE CHAIRMAN: The amount of the Estimates before the Committee is £62,312.

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: Sir, I wish to comment now on the next item, which is the International Service for the control of the African Migratory Locusts. There a sum of £1,400 is asked for. Sir, I must admit that I feel very much more strongly on this one than on the last one. (Laughter.) This locust is a very real menace. It emanates, as far as we think, from the Lake Chad district, and we have been kept in very close touch by the French Authorities with the reasons which have occasioned this rise in the cost of operations. In this year's Budget we included the sum of £3,800 as this Government's contribution to the International Service for the control of this locust and that was a rough estimate I think, pruned down to the basis of what it cost us in 1951. Subsequently, we were advised that the Kenya contribution for 1952 had been assessed at £5,200 and I was not entirely astonished, because we were told that there was likely to be steadily rising costs of the work, and of various items, things that had to be bought, etc., and also here had to be an increase in the salaries of the staff of the organization which had to be considered to bring them into line with the new scales of pay to Government servants, who are in force in French West Africa, and these are not very high as hon. Members know.

Other factors through which an increased expenditure may arise next year are recent expansion of the Secretariat-General as well as certain arrears which have to be met in salaries of civil servants. So, Sir, there may therefore be a further £1,400 expenditure, we do not know yet. But I repeat, Sir in this particular instance we have been kept in very close touch. This is a locust that affects us and I would seriously, Sir, strongly urge that this item be approved.

MAJOR KEYSER: Mr. Chairman, may I ask the hon. Member if the other contributory territories are making an equivalent or proportional increase in their grant?

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: Yes, Sir.

THE DEPUTY CHIEF SECRETARY: Mr. Chairman, I rise to give a brief explanation on the new item under Head 4, sub-head 8, entitled "Cost of Transportation of Archaeological Specimens". (Laughter.)

MR. HAVLOCK: Put it down to passages! (Laughter.)

THE DEPUTY CHIEF SECRETARY: Archaeological specimens from the United Kingdom to Kenya.

Sir, these specimens were dug up—(laughter)—by Dr. Leakey, between 1927 and 1935 and under the terms of his licence, half of what he dug up is the property of the Kenya Government. At that time there were no facilities for exhibiting these specimens in Kenya, and they were therefore taken, first to Cambridge and then to London to await—

MR. BRUNDELL: Short courses!

THE DEPUTY CHIEF SECRETARY: The accommodation in England is no longer available, whereas the extension to the Coryndon Museum has made it possible to us to exhibit these specimens in Kenya. This sum of £150 is therefore required to bring them back to Kenya. (Laughter—applause.)

MAJOR KEYSER: Mr. Chairman, could we have some explanation on the Agricultural Department Items and the Plant Breeding Services?

THE DIRECTOR OF AGRICULTURE: I take it the hon. Member wants to know about both Pasture Research and the Plant Breeding Services. This is merely a reorganization within the Department, so that within the finance that is available to us we can strengthen the staffs in what I consider to be the most important services of the Department, the Plant Breeding Services and the Pasture Research Organization.

What in fact has happened in regard to the Plant Breeding Services is this: in the Estimates at the moment we have provision for one Senior Plant Breeder, one Plant Breeder, one Field Assistant and one Junior Laboratory Assistant. I propose to change that to one Senior Plant Breeder, one Plant Breeder, one Assistant Agricultural Officer and one Assistant Plant Breeder (Asian), for this reason, the Plant Breeding Services have been subjected to criticism from hon. Members opposite in that they are not sufficiently strong. A Field Assistant on the salary provided, £340 I think, does not give us the man of experience and responsibility that Mr. Thorpe, the Senior Plant Breeder, requires on the station. Therefore, that one particular

post is slightly up-graded so that we can get the type of man we want. In regard to the other post, the Junior Laboratory Assistant, we have been unable to get a satisfactory Junior Laboratory Assistant (European), so we have got—and it is there now—a satisfactory Assistant Plant Breeder (Asian). Therefore we propose to substitute that post for the one we have been unable to fill satisfactorily.

MAJOR KEYSER: Mr. Chairman, as I understand it it is merely a reorganization of the Plant Breeding Department. A certain amount of expenditure—which I add up to £2,245—is added to that and the other posts which will be given up will be £2,620. Therefore does it not mean that the total of this £71,183 is not really needed?

THE CHAIRMAN: It means that there is a certain saving of £375.

MAJOR KEYSER: No, Sir, because all these figures are included in the £71,183, so the £2,620 must come off the £71,183.

MR. HAVLOCK: The in and out system!

MAJOR KEYSER: If you put in £2,245 and you take out £2,620—which has not yet been taken out.

THE FINANCIAL SECRETARY: Mr. Chairman, following what my hon. friend, the Secretary to the Treasury, has once described as the in and out system, may I endeavour to explain to hon. Members opposite, Sir, that savings do not affect the amount of Estimates put before the Committee. The money on the item—I may take it, one Assistant Agricultural Officer, £550. Before that money can be spent there must be authorization in this Committee for that expenditure. The fact that another officer has disappeared from the Estimates will not be shown until the final account. I hope, Sir, that I have made it perfectly clear that, while the posts will be abolished and will not appear, we nevertheless have to put forward new Estimates of Expenditure, and this is the expenditure and does not reflect the savings.

MAJOR KEYSER: May I ask the hon. Member, Sir, if he will also see that one of these figures given on page 3 appear under the savings that he has told us would take place under the debate on the last Supplementary Estimates?

THE FINANCIAL SECRETARY: Yes, Sir.

Mr. HAVLOCK: On the posts which are being abolished, are there any of them which are pensionable?

The CHAIRMAN: Are we not getting a long way away from the item?

The DIRECTOR OF AGRICULTURE: The posts are potentially pensionable ones, the Junior Laboratory Assistant, the Field Assistant, etc., but the holders if they exist are being absorbed and there is no commitment as far as Government is concerned in the abolishment of these posts.

Mr. HAVLOCK: Thank you, Sir.

MAJOR KEYSER: May I ask, Sir, what the V.A.D. staff does, is it a new thing?

The DIRECTOR OF MEDICAL SERVICES: Mr. Chairman, these are not really new posts at all. V.A.D.'s were first employed by the European Hospital in Nairobi during the war and they have been employed ever since. Until the end of last year these ladies' salaries were paid by the Hospital Authority. Now, owing to the introduction of the new Hospital Treatment Relief (European) Ordinance, a Hospital Authority ceased to exist and was replaced by a Hospital Treatment Relief Fund which, of course, has no authority to pay staff. I am afraid that the subtle difference was not quite realized in my office at the time that the 1952 Estimates were prepared, and consequently this item was not included in the Medical Estimates for 1952, and I am now asking the Committee to vote the salaries of these ladies who were employed last year and are actually employed at the present time.

Mr. HAVLOCK: Mr. Chairman, if there are no hon. Members opposite who wish to comment on anything before item Part II (50), E.A. Interterritorial Marine Fisheries, I wish to move a Motion on it.

Mr. BLUNDILL: Mr. Chairman, I would just like to ask one question on the East African Interterritorial Plant Quarantine Station at Maguga. I read a document, Sir, in which I think the Research Institute there was reduced, on an officer basis, down to so many officers but the buildings were built on the original estimate, which was many officers above the officers it is now intended to employ. All I am asking, Sir,

is, is it not possible to fit this quarantine station into the existing layout without getting another capital commitment. Has that been examined?

The MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: Yes, Sir, it has been examined, it does not come within the Charter to start with, because it is not considered fundamental research. It is a service and we have tried very hard to get fitted in. We do want this Quarantine Station. There are advantages of having it at Maguga and looked after by the staff there, but we have been quite unable to finance it in any other way. I do regard the Quarantine Station as a crying need and that is why it appears here.

The idea is that Kenya, Tanganyika and Uganda should pay 31 per cent each of the cost and Zanzibar 7 per cent.

Mr. COOKE: I think it is proper to remind Members that as far as Maguga is concerned the capital cost came from the Colton Cess Fund and not from the revenue of this country.

Mr. USHER: I hope the hon. Member concerned—

Mr. HAVLOCK: If I may move my Motion, Sir, on an item which I know is before that concerning the hon. Member for Mombasa.

I wish to move that the item, East African Interterritorial Marine Fisheries Organization, £660, be omitted.

Sir, through investigations in Committee of this Council and through my own personal investigations and knowledge, I am absolutely convinced that at the moment this particular organization is not providing Kenya with any worthwhile work compared with the money that we spend on it. My strong view is that the money which we provide apart from this, all the money that we provide for this Interterritorial Organization would be much better used by our own Fishery Organization. This, of course, only has to do with the coast and sea fish. I think it would be very wrong, holding that opinion, which I think is shared by other hon. Members on this side of the Committee, that we should vote extra money into this investigation and I beg to move the omission of this sum.

The meeting adjourned at 11 a.m. and resumed at 11.15 a.m.

The CHAIRMAN: We were at the Motion—the item, Marine Fisheries—£660, be omitted.

Mr. COOKE: Mr. Chairman, I should like to support what the hon. Member for Kiambu said. I think it is necessary to cut our coat according to our cloth. Any available money we have should be devoted to local fisheries rather than be dissipated on interterritorial fisheries. It is, I am afraid, a fact, and I am sure I have the sympathy of the hon. Member for Agriculture in this matter, that our local fisheries have not the funds which they really require for carrying on their work and therefore, as I said before, if any money is to be made available it should go to local fisheries rather than to any territorial set-up.

Mr. MATHU: I rise just briefly to support what the hon. Member has said in regard to this item and to endorse this particular aspect of it, that when a Select Committee of this Council was appointed to investigate the workings of the East African High Commission services, this is one of the services which did not impress us at all. In fact, they failed to convince any one of us that the money they have now spent is bringing any results to this Colony, and I therefore support the omission of the item.

The MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: Mr. Chairman, hon. Members are opposing this item. I am not quite sure whether they know what exactly this item represents because I was not given an opportunity of explaining it.

As Members are aware, we have set up a Marine Fisheries Investigational Service on a territorial basis—a fairly big one in our own case. I admit I would like to have further funds for our Service, because I believe that there is a great potential in sea fisheries on our coast. Tanganyika equally has set up a territorial investigation service. There is in addition a Zanzibar one, an interterritorial one stationed in Zanzibar. Recently a specially equipped vessel which has been operating in the Indian Ocean under a rather famous gentleman called Mr. Ommamney has come to these shores. This vessel has operated, as I say, between the Seychelles and Mauritius trying to establish whether there were banks on which possibly

some of our fish breed. This vessel, Sir, is now here. It is a single-engined vessel. It is an expensive vessel, because she is full of scientific equipment and no financial provision was made for ensuring this motor-ship, the *Research* at all, as the matter was overlooked when the original estimates were drawn up. Owing to the fact that the scheme did not get under way until mid-last year, that is, the interterritorial part of it, it was possible to insure the *Research* last year from savings out of other items.

Now, at its meeting last August the East African Marine Fisheries Research Advisory Committee noted this position and they expressed the rather, I suggest, light-hearted view that it might not be necessary to insure this vessel at all, on the principle that Governments very often do not take out insurance policies like ordinary individuals do. However, Sir, at this point legal opinion was sought, and in view of that opinion, it was decided that it would be prudent, at least, that this vessel should be insured and the Master most strongly held that view in consideration of the dangers of this coast and that she is a single-engined vessel. It has been estimated that the cost of insuring this vessel for the remainder of the period of this scheme—that is from 1952 until August, 1955, would amount to £3,300 and East Africa High Commission have suggested that a supplementary Colonial Development and Welfare Scheme should be made for the provision of these funds and the costs should be shared in the same proportions as the original scheme, that is—Kenya will pay £660, Tanganyika £660, and Zanzibar £330. This proposal has been put to us and that is why this £660 appears.

I would only add this, Sir, that whatever hon. Members may think about the efficiency or otherwise of this newly-formed interterritorial investigation scheme, I think that we shall have to have this ship. She is a ship which has been very specially equipped and she is suited to our purposes, and I personally feel that it would be very foolish not to keep her insured. That is the reason why we have asked for this money.

Mr. HAVLOCK: Mr. Chairman, I have listened with interest to the remarks of

[Mr. Havlock]

the hon. Member. I think there is a great deal more behind this matter than he has told us. This ship, as I understand it, has been in East African waters for at least 18 months and probably more. At least, I understand from the hon. Member, he admits to one year. It has never, as far as I know, put to sea. (Laughter.) There are a number of other things that have gone on; the wireless installation has been another trouble, although it was quite obvious that a ship of this sort which is going to put to sea in fairly deep water must have wireless communication. Nothing was done about it and nothing really practical was done about it until an enormous amount of money was spent looking for another ship of this type whose wireless broke down and went adrift in the Indian Ocean. That happened about six months ago. Then I believe the people concerned with this particular ship started to really get going on their wireless.

—There are a number of other things, Sir. There is no doubt at all that in this particular organization nothing practical has resulted except a few pretty pictures of tropical fishes. I believe can be put down or can be allowed as an achievement on the behalf of this organization. A few pretty pictures which may go to some museum overseas. Nothing else has been done.

I have discussed this matter, not only in committees and so on, but with practical men on the coast and indeed with people who are interested, really very interested in the development of the fishing industry down there as we all are, and I am absolutely certain that to vote any further money to this organization at the moment would be a complete waste and, in fact, to allow them to think that we are satisfied by voting the money would be entirely wrong and I still submit, Sir, that if any money is to be voted to Marine Fisheries Research, that money should be handled by the Kenya Fish Department and not by this interterritorial organization. (Applause.) It may well be that this vessel requires insurance, but judging from past performance it will not require it because it will not go to sea. On the other hand, the vessel itself might be useful. It is still not in proper condition to carry out the task which it has been allotted. It might be

useful to Kenya—that is another question which both Government and hon. Members on this side should consider at a later date. Meanwhile, Sir, I think it would be very wrong, as I have said before, to vote any money to this most inefficient organization.

MAJOR KEYSER: Would the hon. Member tell us, Sir, if there is any danger of the ship catching fire while she is in harbour? (Laughter.)

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: Sir, it is true that this ship has cost a large sum, and has later required a certain amount of overhauling in various directions—(laughter)—but lest there be a misunderstanding—and I think there seems to be some—I think it would be very unfair, no matter what people may think about the interterritorial research, to suggest that this ship never has or never will be put to sea. This ship has been floating about the Indian Ocean and doing some useful work, possibly not to Kenya, but to the general knowledge of the Indian Ocean fishing possibilities for a very long time.

MR. HAVLOCK: Not under this organization.

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: She has been around twice—(laughter)—and she does contain a lot of very expensive equipment and I still submit, Sir, that I think it is only reasonable that she should remain insured and I doubt whether by your refusing to insure her, you are going to really vastly improve the efficiency of an organization which you allege is not very efficient.

The question that the East African Interterritorial Marine Fisheries Organization be omitted, £660, was put again on a division carried by 18 votes to 16. (Ayes: Messrs. Blundell, Chemallan, Cooke, Lt.-Col. Gheric, Messrs. Havlock, Hopkins, Major Keyser, Messrs. Macoachie-Welwood, Mathu, Nathoo, Othanga, Dr. Rana, Messrs. Salim, Salter, Sharty, Lady Shaw, Mrs. Shaw and Mr. Usher, 18. Noes: Dr. Anderson, Major Cavendish-Bentick, Messrs. Davies, Hammond, Hartwell, Hope-Jones, Sir Charles Mortimer, Messrs. Pauley, Pike, Potter, Roddan, Taylor, Vasey, Wadley and Whyatt, 15. Absent: Messrs. Carpenter, Jeremiah, Madan, Patel and Pritam, 5. Total, 38.)

THE CHAIRMAN: That reduces the sum further by £660.

THE MEMBER FOR COMMERCE AND INDUSTRY: Mr. Chairman, I would appreciate the opportunity to give some explanation of the Supplementary Estimate under the War Expenditure—Civil Head. Hon. Members will remember that in moving this item in the Budget debate I made the point that if the position developed in such a way that it was necessary to take steps to limit imports into this Colony and Protectorate as a result of a worsening financial situation in the sterling area, I would have to come to this Council for more staff to carry out that policy. Now, Sir, it is generally known, not only to hon. Members, but to public opinion generally in this Colony, that the position within the Sterling Area in regard to its balance of payments position with the rest of the world has worsened seriously since the end of last year. It has therefore become necessary to play our part in the general rescue operation for the Sterling Area. Southern Rhodesia has cut its imports; Australia has cut its imports; New Zealand has cut its imports; the United Kingdom has cut its imports; India has cut its imports; and Pakistan and other Commonwealth countries have cut their imports. And we, Sir, with I am sure the support of the organized commerce and industry in this Colony and, indeed, with that of public opinion as expressed through the columns of the Press, we too are doing our utmost to play our part in this vital job of trying to adjust the balance of payments position in regard to the Sterling Area.

Now, Sir, having tried to outline the general situation, one comes down to the Supplementary Estimate before this Committee. This particular Supplementary Estimate is necessary because it is designed to achieve the general objective which I have tried to describe. It is necessary in many cases to substitute individual import licences for certain categories of goods for many countries outside the Sterling Area for Open General Licences. This, in terms of the work of the office, means that in the past where there may have been an Open General Licence for a particular commodity on a number of countries (we might say all the countries with the exception of the Dollar Area), with the

result that there was little work for the office, as soon as it becomes necessary to substitute individual licences, which, as hon. Members will appreciate, results in a much tighter control of the import position, then, Sir, each licence has to be examined by an officer, and that of course means more work requiring more staff. Sir, I was reluctant to come to this Committee with these Supplementary Estimates at this stage, because, as hon. Members will remember, I agreed that during the course of the first few months of this year a committee of the Board of Commerce and Industry would examine the controls coming within my purview with a view to achieving economies. Now, Sir, that committee is sitting; it is examining the controls coming within my portfolio. It will be reporting, I hope, in a matter of a few weeks' time, and I should have liked to have been able to come with these Supplementary Estimates in June, able to show economies in terms of my original undertaking in the Budget Debate. That has not proved possible, because the balance of payments of the Sterling Area is so serious that it was necessary as an immediate emergency measure to introduce this procedure of individual licensing in respect of certain items of our import programme. Therefore, it was not possible, as I say, to wait until June, when we could expect the committee to which I have referred will have reported. What I will, however, undertake is that these posts—if they are approved by this Committee—will be subject to the scrutiny of the committee and in addition to considering the whole position in regard to the existing controls, if this addition is authorized, to-day that too will be examined in relation to those economies. I would hope, although I cannot promise, that there will be economies partially—I cannot say in whole, because this is a considerable addition to the cost of the Imports Control Department—offsetting the additional expenditure that I am seeking to-day.

Sir, I will be very happy to answer any points that hon. Members may wish to raise on this matter. I have tried to put the case for authorizing this additional expenditure. I have undertaken to do my best in the light of the committee of the Board of Commerce.

[The Member for Commerce and Industry] and Industry's recommendations, to find off-setting economies.

At this point, I cannot go further and I would ask hon. Members to support this Supplementary Estimate.

DR. RANA (Eastern Area): Mr. Chairman, I congratulate the hon. Member for Commerce and Industry, Sir, for the very forceful way, not only in explaining in his speech, but the way he was standing and explaining the importance of this control. But I may assure the Council, Sir, that with all his force, I have not been convinced to the slightest extent that there is any need for the increase of this item and I beg first to move that this item be deleted.

The reasons, Sir, are that during the past seven years since the war has ended, I have heard and so have the hon. Members heard about the various controls. It is not only my opinion, Sir, but it is the opinion of the great majority of all races residing in this country that the controls have lost their value and importance which they ought to have by not reducing either the cost of living or by not reducing the illicit trade in the black market in every controlled article which is going on in this country. This is a statement, Sir.

THE CHAIRMAN: It will be out of order to discuss controls generally. The only items here are Imports, Controls and certain additions necessary for a certain purpose which has been explained. Beyond that I do not think we ought to go.

DR. RANA: Well, Sir, I will stick to the Imports Control. I am sorry.

The position is, Sir, that I have to use the word control in order to make my point.

THE CHAIRMAN: When you get to black market and things like that, it is entirely out of order.

DR. RANA: That is due to control.

THE CHAIRMAN: The Imports Control is due to the control of imports. It is to do with licensing. Licensing of things from abroad.

DR. RANA: The question of the value of saving of sterling and balance of payments—I fully agree with the hon. Mem-

ber, but I do not think that this is in any way going to help by increasing the staff of the Imports Control. There are various other controls by which the staff could be reduced and these places could be filled by those gentlemen. Not only that, Sir, he has stated that he had given an undertaking last Budget that he would discuss the various controls fully and intended to bring before this Council next June certain reductions. This statement every year has been made whenever the controls have been made.

THE MEMBER FOR COMMERCE AND INDUSTRY: On a point of order, Mr. Chairman, I have not made such a statement every year and the hon. Member is misquoting.

DR. RANA: Well, Sir, I apologize, but that is my impression. I have no answer here, but if it is necessary, I will bring it and show the hon. Member. It has been on Rent Control and various other matters—that they are always revising Price Control and so on and I say that this Control is exactly the same.

Now, Sir, I do not need to feel any necessity for this item and as I am against the other control, I may not refer to the other controls, I will move that this item be reduced.

THE CHAIRMAN: You will have to move that the item Assistant Imports Controllers—there is one time here—Imports Control Office, £4,250, be omitted.

MR. COOKE: I find that I must support.

LT.-COL. GHERSIE: Mr. Chairman, there is only one question I would like to ask the hon. Member for Commerce and Industry—that is, in view of the congestion at the Port and a very considerable reduction of cargo coming into this country, surely his present staff can handle the necessary import licences?

MR. COOKE: Mr. Chairman, I should like to support the proposal of my hon. friend, the Member for Commerce and Industry, I think, Sir, this proposal of his is consequential upon the world situation. It is absolutely necessary to-day, so far as Kenya and East Africa is concerned, for instance, to have a tighter control of consumer goods so as not to entice people to spend their money on goods which are not really necessary.

[Mr. Cooke] and that we should concentrate so far as imports are concerned more on capital goods which will contribute to the development of this country. But that is only just one point which I wish to make. I am in entire agreement with my hon. friend's proposal.

MR. NATHOO: Mr. Chairman, I think, Sir, there can be no question about the fact that whilst all the countries in the Empire and Commonwealth are playing their part in restricting imports, we should fall into line and it is quite possible that some of the posts which the hon. Member has asked for are necessary. But at the same time, I do feel that, in view of the fact that the Committee which is now sitting and which is about to present its report about amalgamation of certain controls, which I am quite definite is going to save a considerable amount of money, all the Vote which is asked for here is not necessary and that the posts could be filled in by savings which he must have already and he will have in the future to offset these items. I do think if he gives an assurance that the whole amount will not be spent in regard to what economies may be done, I think I will be prepared to support him.

MAJOR KEYSER: Mr. Chairman, I understood that the decision with regard to imports was that the imports from non-sterling areas would be kept at the same level in 1952 as in 1951. Well, that is, Sir, what I understood from the announcement that was made in the Press that the 1951 level would be the limit for 1952. Now, Sir, unless the hon. Member is anticipating very much greater demands for importing, then I can see no necessity for this staff. After all, he did without this staff in 1951 and the amount of the imports in 1952 are going to be limited to the same amount, but, Sir, in view of the fact that shipping and the port facilities are going to put a brake on imports, as stated by the hon. Member for Nairobi South, I really cannot see that he needs all this staff. He might need staff, but seeing the limit is going to be the 1951 limit, he had none of this staff last year, I do think, Sir, his demand for staff is excessive.

MR. BLUNDELL: Mr. Chairman, I want to ask the hon. Member if he could tell

us the amount of staff that he has now in the office so that we can relate it to the new bodies he is asking for and connect that with the arguments that have been advanced. This does represent an increase of nine bodies—I do submit we probably will need an increase, with all due respect to the hon. Dr. Rana, because it is a matter of controlling non-sterling currencies. That is the only object of this—it has nothing to do with the flow of goods—it has nothing to do with the congestion of goods at the Port. It is an attempt to prevent sterling currencies being dissipated on non-sterling currencies. It does seem to me that nine extra bodies is a lot. Perhaps the hon. Member will justify it.

THE MEMBER FOR COMMERCE AND INDUSTRY: Mr. Chairman, could I reply to the points raised so far?

To deal with the point raised by the hon. Member for Trans Nzoia, when he quotes the communiqué—that is perfectly true—but it was indicated in that communiqué that further measures might well be necessary.

Further measures might well be necessary. Since that communiqué was issued, and that was an agreed communiqué with the three territories as the hon. Member will recollect, the position has further worsened; there is still a drain on the gold and foreign currency resources of the Sterling Areas as a whole and in certain cases we are going to have to make cuts that go beyond the level of imports in 1951. Sir, it is essential that these cuts should be made in those directions that will least affect the development of this Colony. (Hear, hear.) In the words of my hon. friend, the Member for the Coast, as far as possible these cuts should be made in non-essentials. To illustrate my point, it is not so saying that from the imports of a particular country we will cut, £39, £10,000 of the imports that came during 1951, and that we will allow £90,000 only to come in on the basis of first come first served. In the interests of this Colony it is essential that our £90,000 available should be utilized in the best interests of development of this Colony, and that is why when it is necessary to cut, it is necessary to cut with discrimination. The only way that I know by which this can be done is by a system of individual import licences.

[The Member for Commerce and Industry]

This leads me to the point made by my hon. friend, the Member for Nairobi North. He mentioned that the Port is congested—that is perfectly true. But as my hon. friend well knows, when a man, shall we say, wishes to import semi-manufactured steel, shall we say from Belgium, he places the order, it may be six months, may be nine months, may be twelve months before delivery. Before he could place his order and establish a firm credit, assuming that this was one of the items for which an individual licence was required, he would have to obtain that individual licence. Therefore, it is necessary to put this additional staff in now so that there will not be a hold-up in the import of essential goods, we say six months from now, twelve months from now, maybe eighteen months from now. That is the reason why we must do it now. The goods in the Port at the present time, apart from goods from North America and hard-currency countries, are goods that have come in on Open General Licence, and are awaiting clearance. We have now got to move ahead to the time when the new system is working. Now, I will deal with my hon. friend's, the Member for the Eastern Area, point, and that is this, and I would ask him to consider it very carefully before he presses his motion to a division. The matter has been discussed with the Board of Commerce and Industry in general terms, it has been discussed in general terms with the Chambers of Commerce here, and we can, I think, count on their general support. I would put it to the hon. Member that there is the aspect of service to the commercial and business community of this Colony and Protectorate. They must have the facilities that will enable them, in a time when it is necessary for reasons that every hon. Member fully appreciates, to cut imports, to have the best service that we can provide so that the delays will be minimized and so that we can make the very important business of cutting down imports work as smoothly as it possibly can. That is why it is necessary to come to this Committee now and ask for this additional staff.

On the point of making savings, as I said when I was speaking before, I am

very anxious indeed to make these savings, so is the Board of Commerce and Industry and I agree with my hon. friend, Mr. Nathoo, when he says that we all hope that those economies can be made. If they can be made, and I believe that economies can be made, they would partially offset, it may be wholly offset, these items here. But for the reasons that I have given, we cannot await another two or three months and let those who must import those essential goods into this country suffer and allow development to suffer and in some cases the consumer, in other words making capital investments. These additions to staff are absolutely essential to carry out, what I believe every Member of this Committee believes, is the obligation of this Colony and Protectorate to play its part in the defence of sterling and the balance on payments position. (Applause.)

MR. HAYLOCK: Mr. Chairman, could you tell me, are we debating a reduction of Assistant Import Controllers—£1,705, or the total?

THE CHAIRMAN: The total. I understand these others are only appendic items.

MR. HAYLOCK: I should like to ask the hon. Member for Commerce and Industry one thing. I think he is right in assuming the majority of Members on this side of the Committee will support, and do support, naturally, the overall policy. The hon. Member for Commerce and Industry said that the matter has been discussed in general terms with the Board of Commerce and Industry and with the Chambers of Commerce, presumably, also in general terms. I hope he is not, well I would like him to confirm on that, way or the other—does he mean that the Board of Commerce and Industry and the Chambers of Commerce felt that there must be three Assistant Import Controllers, one Clerk, European, and five Clerks, Asian? Is he suggesting that they have supported the details of this Supplementary Estimate?

THE MEMBER FOR COMMERCE AND INDUSTRY: Mr. Chairman, that was why I said "in general terms". Of course, I am not suggesting for one moment that the details of this Supplementary Estimate were considered by either the Board of Commerce and Industry or by the Chambers of Commerce. It would

[The Member for Commerce and Industry]

have been highly improper if they had been. All I am suggesting is this, they agreed that this was an emergency matter, that is why it has been brought before this Committee to-day. We had to know what was the minimum required, when it was raised at the Board of Commerce and Industry, the general position was explained and I asked for their support on the general policy and received it unanimously. Naturally, I pointed out that there were certain consequential additions to staff. All the Chambers of Commerce the policy was discussed, not, of course, the details. I think I have made myself clear.

MR. HAYLOCK: Mr. Chairman, I would suggest to the hon. Member that the policy could be carried out efficiently with a slight reduction of staff for which he has asked. I would like to move a further amendment, Sir, which I think would be in order. Instead of omitting the item, to reduce it by £1,000, I believe, Sir, that to my mind represents approximately one Assistant Imports Controller and two clerks.

THE CHAIRMAN: It is now proposed that the item be reduced by £1,000. Formerly, it has been reduced by £4,250.

THE MEMBER FOR COMMERCE AND INDUSTRY: Mr. Chairman, I regret that I cannot accept the amendment. I have already said that these additional services are required by commerce and industry and that they represent the minimum—in fact I doubt whether they will be sufficient to deal with the volume of business necessitated by the policy. On this matter, I do feel that in view of what I have said and in view of the fact that the Board of Commerce and Industry is going into the whole question of imports control, including these posts, that they, after very careful examination are the best people probably to judge as to the necessity of the particular amount of assistance necessary to implement the policy. That is how I test my case, I do not say that I am the best judge, all I say is that a Committee of the Board of Commerce and Industry drawn on a representative basis from those who, after all, handle the import trade of this country, from those who are experts in this matter, are probably the best people

to say, "this service is necessary and that is not—this service is essential, this service can be cut down" and I have made the point that as far as I am concerned, the recommendations of that committee, when considered by the Board of Commerce and Industry, will be a determining factor in any decisions that I reach on this matter. I said that I hope as a result of this, in fact I am confident, there will be economies. But I would appeal to this Committee to let me provide this service as an emergency measure. It is not that I wish to contradict the hon. Member for Kiambu's desire to cut down on the costs. All that I say is that an expert committee is going into this matter, and that this is an emergency addition to a service required by commerce and I say as strongly as I possibly can and suggest that the sensible course in this matter is to accept my undertaking, to accept the advice of the expert committee of the Board of Commerce and Industry as a determining factor in my decision, and on that understanding, to let these items through.

MR. BLUNDELL: Mr. Chairman, I should like to suggest that hon. Members on this side of the Committee approved these items—(hear, hear)—on condition that the items are submitted to the sub-committee of the Standing Finance Committee, which is now sitting and examining matters of this sort, which were referred to them during the Estimates debate. My reason, Sir, is this. It is policy that governs expenditure, and this expenditure is conditioned upon us by world problems and I do feel with all due respect to my colleagues on this side that we do waste a certain amount of time debating details. I do not think there is anybody here, probably not even the hon. Member who is introducing the Estimates himself, who is probably absolutely fully qualified—who is absolutely fully qualified to say as to whether there should be two or three clerks. We get locked in these battles about the posts—(hear, hear)—and it is equally, impossible for Members on the other side, who are saying "hear, hear"—they have not the faintest idea whether they think the posts are necessary. Possibly the hon. Member for the Treasury may, because he has examined them, but many of the others do. (Cries of "Question!") Therefore, I would appeal

[Mr. Blundell] to all hon. Members that we refer this item to the sub-committee of the Standing Finance Committee that we have got sitting at the moment.

Mr. HAVELOCK: Mr. Chairman, I quite understand the view put forward by the hon. Member for Rift Valley. I do not agree with him. I do not think it should be referred to the sub-committee of the Standing Finance Committee. It is a matter for a great deal more investigation than the sub-committee could give to it. At the present moment we have, I am afraid in order to seek full economy and efficiency in Government—I still submit that this Committee has the duty to investigate the detail until the organization is appointed and is put to investigate these details. I hope that that will be the next step, that we shall have an Estimates Committee on the lines of the British Parliament, something of that sort. In the meanwhile, we have not got it. In the meanwhile, I deny absolutely the right, or indeed the fact, that it is not the duty of this Council to go into detail providing we do not waste too much time. In view of what the hon. Member for Commerce and Industry has stated that the Board of Commerce and Industry's special committee will be going into this matter, I beg leave, Sir, to withdraw my Motion.

The Motion was withdrawn.

DR. RANA: Mr. Chairman, I am very glad that the object which I had in mind, Sir, has been achieved to a very great extent, and it has been brought to the notice of the hon. Member that by putting forward all these new posts we are not in such a position that we do not understand them. My whole object in moving was to convince the hon. Member of the necessity of strict economies, as much as he is doing to save the sterling. I believe it has been amply proved by this side of the Committee that there are certain posts which could easily be reduced, and now the various explanations and various views have been expressed, I hope the hon. Member will see that economies are made.

With your permission, Sir, I withdraw my Motion. (Applause.)

The Motion was withdrawn.

THE MEMBER FOR COMMERCE AND INDUSTRY: I thank the hon. Members

and I assure them that I will do my utmost to carry out their wishes. (Applause.)

THE CHAIRMAN: The Committee have reduced the original sum of £71,183 to £61,652. I will therefore put the question that a sum not exceeding £61,652 be granted to the Governor in respect of the services set out in the Supplementary Estimate No. 2 of 1952 as amended.

The question was put and carried.

Council resumed and the Member reported accordingly.

THE FINANCIAL SECRETARY moved: That this Council agrees with the Committee in the said resolution.

THE SECRETARY TO THE TREASURY seconded.

The question was put and carried.

## BILL

### SECOND READING

#### The Local Government County Councils Bill

THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT: Mr. Speaker, I beg to move: That the Local Government County Councils Bill be read a second time.

Two years ago, Sir, it was my privilege to introduce into this Council the African District Councils Bill and to pilot the Bill through all stages until it became law. It now falls to my lot to introduce another very far reaching and important measure for the advancement of local government in this Colony. This new measure owes its main inspiration and conception to my hon. friend, now the Member for Finance, Mr. Vasey, and for the detail to Mr. Hunter, the Commissioner for Local Government, who was before coming to this country the legal advisor to the Association of Municipal Corporations in the United Kingdom.

For many years, as Member for Local Government, and previously as Commissioner for Local Government, I was profoundly dissatisfied with the stagnation of our local government system and its operation in the settled areas. Whilst municipal local government had advanced apace, and indeed was blazing a trail for all municipal authorities throughout the Colonial Empire, local government in our rural areas was at a

[The Member for Health, Lands and Local Government]

standstill, and had made practically no move forward since the Ordinance was passed in 1928.

Our district councils were little more than glorified road boards. They had wider powers available to them but those were contingent upon rating and only one district council had embarked upon a rating system, that is the Nairobi District Council.

With the co-operation of representatives of the district councils we were then tentatively feeling our way towards a broader based and more effective system of local government, but the progress was slow. One of the main weaknesses of the old system was the exclusion of townships from the district council areas. The Feetham Commission away back in 1927 had recognized that, although they had one good look at it and passed by on the other side, the Feetham Commission it was that recommended the exclusion of townships, although it expressed the view that there should be the closest co-operation and on occasion amalgamations of staff where that proved possible.

Now these small townships and indeed some of the larger ones that have now reached the municipal status have no real reason for their existence except as the centre for the business and social life of the rural community of which they really form part. It is only on rare occasions that there is any real divergence of interest between town and country, in these outside areas. The main problem was the racial one, and we may as well frankly face that. In the townships, the population is mainly Asian. In the rural areas, Asians have no land interest, with the exception of the Nyanza District Council area. District councils were not prepared to accept non-Europeans in their councils because they claimed that the non-Europeans were not concerned with the items that came up for discussion during their work. The one exception as I have said was the Nyanza District Council which had special provision made in the law, and one highly respected Indian gentleman has held a seat on that Council, I think, ever since its inception.

Now, Sir, if local government in rural areas is to make any effective progress at all, there must be a drastic change, and a completely different outlook and a new inspiration. The Bill I have now the privilege of presenting to the Council gives to the local authorities in the settled areas an opportunity, it goes no further than that, to become effective bodies, and to exercise greater control over their own affairs than they have had in the past. For this advance to be practicable, the first problem to be solved was how to bring the urban areas into the system. The second was to provide in some way that non-Europeans should have an effective voice in the control of affairs in the district in which they had a real interest. These conditions have been met by the Bill that is now before us. The Bill is based upon the county council system in operation in England and Wales, of course with necessary changes to adapt that system to local conditions, and introduces a two-tier system of local government. At the top there will be county councils. On the lower tier there will be the county district councils which will provide for subdivision of the county council area as rural district councils and will also provide for bringing into the scheme our townships as urban district councils. It provides also for such dormitory suburbs as Karen and Spring Valley to come into the system also as urban district councils. Provision is made for municipalities to come into the scheme, but only with their own consent. They cannot be coerced. If they do come into the scheme, they may retain their municipal status, or they may come in as urban district councils.

An intermediate tier is introduced into the Bill known as county divisional councils. That is to provide for a grouping of county district councils if, for administrative and practical reasons, that is shown to be of any value. My own belief is that this middle tier will not, at any rate, for some years be used.

I pass now, Sir, to the powers of the various bodies as detailed in the Bill before us. Taking, first, the county councils, they are given a very wide range of powers which are general to the county as a whole, such powers as those dealing with public health, with education, with town and country planning,

[The Member for Health, Lands and Local Government] with the county funds and a great mass of miscellaneous powers which they can take up if they wish to do so.

The county district council may assume practically all the powers that municipalities have to-day under the existing legislation, except those that are expressly vested in the county councils, but even some of these may be delegated to the county district councils.

The local authorities on both these levels will have the power to make by-laws covering all their powers and functions and both these bodies, the county council and the county district council, will operate quite independently of each other once they have been established, with no interference from either side, the one with the other.

I turn now, Sir, to the question of finance. The county council will be the financial authority for its whole area. It will receive into a county fund all revenues that come into the whole scheme for the area concerned. It will receive the Government grants, for which provision is made in Part IX, and which I will not describe in detail. They are similar to those that are paid to municipal local authorities and will be forthcoming in a similar manner.

The county council will administer its finance with the advice of a finance committee which must be established. It will have borrowing powers for embarking upon capital works in its area. It will make grants to the county district councils in order to cover the services which they are required to carry out. The county district council will have full control over its own finance—once the subvention has been voted by the county council, but one set of accounts will be kept for the whole county.

To my mind, Sir, the main advantages of this scheme lie in the economic field. Provision is made, and I am sure will be carried out when the scheme gets into operation for the pooling of staff and plant. Hitherto, one of the weaknesses has been that the smaller local authorities had had so little financial backing that they have been unable to engage adequate and fully-qualified staff to carry out their work. (Hear, hear.) By the new arrangement, it will be possible

for local authorities, for the county council and the urban district council, to combine their resources and to engage adequate, well-qualified staff to bring local government in this country to a higher standard than we have hitherto conceived, and also to ensure that more effective services are rendered. None of us can go through our small townships in the country and feel any sense of pride about their development. Indeed, they rather engender a feeling of shame when we see how these smaller townships have been neglected. There is a great deal which could be done to beautify our smaller townships, but there has never been finance available to do it. This will provide an opportunity for our smaller townships to develop on sound lines and become things of beauty instead of things of ugliness and shame. (Applause.)

Another aspect of the financial side of this measure is included in the power of rating. County Councils will have powers given to them to impose a rate over the county council area in order to cover the cost of those services which they are undertaking, and which are not provided for financially by any other means.

The exercise of that power of rating is optional, but I must make it quite clear that the option is illusory. There is no real option if our local government bodies are going to make any advance on the line of progress indicated in this measure, and it may be taken for granted that if any local authority adopts this new system, it will be necessary for them to raise at any rate some of their revenue by means of a local rate. The rate money, when once it has been collected, may be used for any one of three purposes, either for general county expenses, or for the expenses of the county district councils, or to deal with special expenses for some particular locality which has contributed expressly for the purpose.

The methods of rating laid down by the Bill are very wide and provide for no less than six different methods, and if that is not enough, there is a proviso added to that section of the Bill which says—"or such other method as the council, with the approval of the Member, may adopt." There is, therefore, great flexibility, as much as could pos-

[The Member for Health, Lands and Local Government] sibly be given as to the methods of rating to be applied.

I turn now, Sir, to another important aspect of this measure in which all Members will be particularly interested, and that is the membership of these various local bodies. The precise number of members for each body is not specified. That will be determined largely by the scheme that is submitted by the local authority for the approval of the Member, when the scheme is initiated in any particular area. But certain broad principles are laid down in the Bill.

Look first at the county councils. The county council membership is composed of several different parts. First of all, up to two-thirds of its membership may be elected. Another section must be nominated by the county district councils. Provision is also made for the inclusion of the local administrative officers. If a municipality comes into the scheme, one or more members may be appointed by that municipal authority, and then, finally, there is a most important provision, that not more than three members may be appointed by the Member for Local Government. Now, Sir, the reason for that is a simple one. It may be that the county district councils, in making their nominations to the county council, will not take full cognizance of the need to appoint non-Europeans on to the county council. The Member, therefore, is proposing to keep three appointments up his sleeve for use, and I give a pledge here and now that that power will be used, if adequate reasonable representation is not provided through the ordinary machinery for the appointment of non-Europeans to the county councils. That right of appointment will be used to appoint Indians and/or Africans to that county council in the event of their not being provided by any other means or not having adequate provision.

Now, Sir, we turn to the county divisional councils, which, as I have already said, will probably not be used for some time at any rate. They are to be nominated by the county district council with, again, provision for not more than three members to be appointed by the Member.

The county district councils will have somewhat elaborate provisions. First of all there is provision for the council to be

wholly elected, and if that does take place, the membership must range from six to twelve. If the council is wholly appointed, there must be six to twelve members appointed by the Member in the first instance, but after two years those appointments will pass to the county council. Here, again, there is provision for three members to be appointed by the Member for the express purpose which I have already described. There is a third provision. If the council is partly elected and partly appointed, there will be, first of all, European Elected Members, then there will be some members appointed by the Member and that power of appointment will pass, after two years, to the county council, and here, again, there is provision for three members to be appointed by the Member for Local Government, in order to safeguard non-European interests.

It will be seen, therefore, Sir, that at every stage, a careful endeavour has been made to ensure that the rural and urban areas are brought together in one common system; that all races are associated in one common task; that the interests of all are safeguarded, and that each race has an opportunity to contribute to the teamwork of the whole, without which progress in this country will be null and void, and we might as well write it off. (Hear, hear.)

An objection has been raised, Sir, to this measure on the ground that it is too elaborate and will make much too serious demands upon the community in the provision of men and women who will be prepared to shoulder the burden, and that, in fact, we should not find sufficient people who are willing to take on the responsibilities.

Now, Sir, I do not accept that argument for one moment. I am convinced that we have in this country large numbers of public spirited ladies and gentlemen of all races, who are willing and able to take up the burden of local government service without any thought of pecuniary gain, and I would take this opportunity, Sir, of paying a warm tribute to the district councillors, who have, for many years, carried the burden of local government upon their shoulders—(hear, hear—applause)—and who are doing it with credit to themselves and the approbation of their communities.



[The Member for Health, Lands and Local Government].

I would like, Sir, now to say a few words with special reference to the African situation in the rural areas. It is one of the major weaknesses of the present system that the Africans in our rural areas, which are, after all, by far the major portion of the population, have no effective voice in the control or development of local government in the areas in which they live. It is not practicable at the moment to give Africans direct membership on the local government bodies in the rural areas, except as provided for in this Bill, by appointment to the county council by the district councils, and by the reserved power of the Member for Local Government to appoint not more than three members to all these bodies.

I hope that the hon. African Members of this Council in supporting this measure will see that we are endeavouring to make, on their behalf, a very material advance. It is my intention, and I pledge myself here and now, forthwith to undertake an investigation into the whole situation and to try to find the best means of providing resident African labour with a legitimate channel of expression in their own area. That may be by the establishment on each council—and I think this should apply to the existing district councils even before the coming into operation of this new measure—of African affairs committees, whose business it shall be to work together with African opinion in their areas. At any rate, to find out what that African opinion is on matters that affect Africans, and at the same time, to try to establish African advisory committees to work in co-operation with those African affairs sub-committees of the central body.

Now, Sir, I have little more to say at this stage, except to point out that this Bill is an enabling measure. It does offer opportunity to enter a wider field of responsibility and duties if they wish to do so. They will, when they feel ready, draw up their own schemes, as to how this Bill can best be operated upon in their own areas, and submit those schemes to the Member for consideration. Any scheme that comes into operation must, under the Bill, be reviewed after a lapse

of not less than five years, and after that, must come up for periodic review.

If any district authority wishes to remain stagnant under the old Ordinance, it is quite at liberty to do so. The old Ordinance will be kept in being in order to enable that to be done. But there is evidence that most of the districts, both district councils and the local populace are ready and willing to go forward on this new scheme.

During the last two years, there have been protracted discussions on this Bill with the representatives of the district councils, and more especially with the Association of District Councils of Kenya and their officers. The Bill has been closely examined clause by clause, and many minor amendments have been put forward—32 pages of them!—and most of the amendments proposed by the district councils have, in fact, been accepted. They deal, not with matters of principle, but with matters of detail and machinery, and we found ourselves able to accept practically the whole lot. I would pay a tribute here, Sir, to the members of the district councils and others, for the constructive criticism that has been directed upon this Bill and the help that we have obtained from those who will have to work the measure as to the best method of organizing the machinery.

The result of all this deliberation, Sir, has been an unusually large number of amendments which will have to come forward at the Committee stage. Those have been laid on the Table for the study of hon. Members, in order that when we reach the Committee stage, we may have considered views upon each and every one. I would much have preferred, Sir, to have had the Bill completely reprinted including the proposed amendments, but the time factor did not allow, if we were to get the Bill through before the death of the present Legislative Council.

Now, Sir, the enormous mass of proposed amendments has placed upon the Solicitor-General an immense amount of work and I want to pay a tribute here to the Solicitor-General for the work he has done during the past few days—(applause)—at very considerable personal inconvenience and sacrifice of leisure time—if ever he has any.

[The Member for Health, Lands and Local Government].

(Laughter.) On his behalf, I will put in a caveat. He has studied, as best he could in the time available, the proposed amendments. He has put them into legal form for us, but he is not prepared to guarantee that they are all strictly legally in order.

Now, Mr. Hunter and I have been carefully through the Bill and we are pretty well satisfied that they are in legal order, but no one pretends that the Bill is perfect. During its later stages, it has undoubtedly had to be rushed. Consequently, it may be necessary in the not distant future to come forward with small amendments to bring the matter into proper legal shape.

Now, Sir, I have come to the end of what is a somewhat dreary dissertation. (Cries of "No!") I have endeavoured to accept myself to matters of principle and to leave out all detail unless it was strictly relevant. If I have omitted anything on which hon. Members have a desire for further information, I must rely upon my hon. friend, the Member for Finance, as I am only the foster-father of the Bill. (Laughter.)

Now, Sir, in conclusion, I do commend the Bill to the close consideration of the Council and hon. Members. It is a provision, an opportunity for a very important constitutional advance in which all races may combine on a fair basis, and to which all races can contribute from their store of experience, qualifications and knowledge.

I beg, Sir, to move. (Prolonged applause.)

THE ACTING SOLICITOR GENERAL  
recoiled.

MR. HAVELOCK: Mr. Speaker, would it be in order to adjourn now if hon. Members opposite feel the same way?

THE SPEAKER: Yes, I think it would be perhaps unnecessary for anybody to start to speak in the last five minutes. I am quite agreeable.

Council will stand adjourned now until 9.30 a.m. to-morrow morning.

#### ADJOURNMENT

Council rose at 12.40 p.m. and adjourned until 9.30 a.m. on Friday, 4th April, 1952.

Friday, 4th April, 1952

Council assembled in the Memorial Hall, Nairobi, on Friday, 4th April, 1952.

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

The proceedings were opened with prayer.

#### MINUTES

The minutes of the meeting held on 3rd April, 1952, were confirmed.

#### NOTICE OF MOTIONS

THE SECRETARY TO THE TREASURY: Sir, I wish to give notice of the following Motion: BE IT RESOLVED that the scheme outlined in a memorandum, dated 2nd May, 1951, providing for the administration of the Agricultural Land Rehabilitation Fund and adopted by Resolution of this Council on the 9th May, 1951, be amended so as to provide that moneys voted annually for this purpose be paid into a Fund under this name available to the Accountant-General and made available by him to the Land Bank and as when they may be required.

#### ORAL ANSWERS TO QUESTIONS

QUESTION No. 44

MR. BLUNDELL:

Arising out of the answer to Question No. 34 of 21st February, 1952, will Government state the number of voluntary record of employment cards which have been taken into use by employees as a result of the distribution by the Labour Department?

Will Government further state the amount of public funds which have been used—

(a) in the publicity campaign to make known the compulsory provisions of the Registration Ordinance and the arrangements for registration;

and

(b) in any campaign to make known the provisions for the carrying or obtaining of voluntary record of employment?

THE DEPUTY CHIEF SECRETARY: Some 90 employees have so far applied for voluntary record of employment cards issued under the Employment (Amendment) Ordinance, No. 14 of 1951. However, very large numbers of employees

[The Deputy Chief Secretary] are in possession of the bottom (or record of employment) half of the old *Kipande* (issued under the Native Registration Ordinance now repealed); under the proviso to section 6 of the Registration of Persons Ordinance (introduced by the amending Ordinance No. 13 of 1951) this document is equivalent to the new Voluntary Record of Employment.

About £800 has been spent during the last 12 months in publicizing the compulsory provisions of the Registration of Persons Ordinance. This was necessary to ensure that members of the public were aware of their legal obligation under the Ordinance.

No public funds have yet been spent on a campaign to publicize voluntary records of employment. The Labour Commissioner is now taking steps to give adequate publicity to these cards both in the vernacular press and in vernacular broadcasts.

MR. HUNDELL: Mr. Speaker, arising out of that answer, does not the hon. Member think that the difference in the sums allocated for publicity most unsatisfactory in view of the very widespread interest and desire which was expressed up-country both amongst Africans and Europeans for the retention of the voluntary employment system?

THE DEPUTY CHIEF SECRETARY: Mr. Speaker, I do not attempt to deny that we have not given the publicity which we should have done to the voluntary record of employment arrangements. The responsibility for that is entirely mine, and I am grateful to the hon. Member for drawing attention to the matter. I can now assure him that we are taking energetic steps to see the matter is properly publicized.

#### QUESTION NO. 45

MR. NAIKHO (on behalf of the Member for Western Area):

(a) Having regard to answers to questions Nos. 43 of 1945, 94 of 1947 and 86 of 1948, will Government please state particulars of townships and trading centres situated in African reserves and in settled areas where sites have since been provided for crematoria?

(b) It is understood that the Government is fully aware of the fact that crematoria will be enclosed by stone walls of reasonable height?

THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT: (a) The hon. Member's earlier questions referred both to crematoria and to cemeteries; information regarding both is therefore given in this reply. The following provision has been made for crematoria and cemeteries in development plans approved since November, 1948:—

*Gilgil*.—Provision for three crematories one of which may include a crematorium.

*Embu*.—Provision made for a Mohammedan cemetery and subsequently a Hindu crematorium.

*Kericho*.—Provision made for a cemetery.

*Kisii*.—Provision made for a cemetery.

*Machakos*.—Provision made for a fourth cemetery.

*Molo*.—Provision made for a cemetery and crematorium.

*Nandi Hills*.—Provision made for a cemetery.

*Nanyuki*.—Provision made for a cemetery.

*Rongai*.—Provision made for a cemetery.

In addition to the foregoing the following reservations have been made to the local authorities for these purposes:—

#### *Crematoria and Burning Ghats*

*Crematorium*: *Lumbwa*.—Section XIII.—Reserved 10th July, 1951.

*Crematorium*: *Molo*.—Site reserved 17th May, 1951, but location is being reconsidered owing to opposition by Local African community.

*Burning Ghat*: *Machakos*.—Plot 197.—Hindu, reserved, 12th October, 1951.

#### *Cemeteries*

*Kisumu*.—Extension to European cemetery.—reserved 30th July, 1951. Section LXI Plots 1 and 6 and unsurveyed plot.

*Thomson's Falls*.—European cemetery, adjoining Section VI reserved 10th August, 1951.

[The Member for Health, Lands and Local Government]

*Nakuru*.—African cemetery, 30 acres unsurveyed. Reserved 15th May, 1950.

*Kericho*.—European cemetery. Unsurveyed, 200 ft. by 100 ft. Reserved 15th September, 1951.

*Nairobi*.—Extension to Municipal African cemetery. Reserved 21st November, 1950.

*Port. Reitz, Mombasa*.—African cemetery. Reserved June, 1951.

*Machakos*.—Cemetery site L.R. 909/196. Reserved 1950.

The Government has not changed its policy regarding the provision of cemeteries and crematoria in trading centres in African and settled areas, namely that it does not consider it practicable or desirable to make provision for these facilities in trading centres save in exceptional circumstances.

(b) It is understood by the Government that crematoria will be enclosed by stone walls of reasonable height.

#### QUESTION NO. 49

MR. NAIKHO (on behalf of Mr. Pritam):

(a) Will Government please make a full statement as to why it has not been possible for it to alienate business and residential plots at Molo and Kericho and residential plots at Kakamega and Kisii in order to relieve overcrowding which has assumed dangerous proportions?

(b) Is Government aware that the sale of plots at Kericho and Kakamega was supposed to have taken place some five years ago and at Molo some three years back, yet nothing seems to have been done so far?

THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT: (a) *Molo*.—A layout was prepared by the Town Planning Adviser in 1948, a Development Plan was approved, and 33 class "B" residential plots surveyed and advertised for disposal in August of that year. Though the approval of the Local Authority had been obtained to the Development Plan, a strong protest was received from the Kenya Co-operative Creameries on the grounds that the "B" residential plots were sited above the Creamery buildings,

and sullage water from these would contaminate the Creameries plot, and that bucket latrines would breed flies.

This protest was supported by the Medical Authorities, and as a result the disposal of the "B" residential plots was cancelled, and on Government's instructions a new layout was prepared. A new Development Plan was approved on the 23rd October, 1951, but progress in the alienation of plots was not possible until a decision had been reached on the arrangements for the provision of road and drain services. Funds have now been provided and the recently-appointed Crown Estates Development Committee has asked the Director of Public Works for an estimate of the cost of construction of roads and drains to serve 11 business-cum-residential plots, and 7 "B" residential plots. It is expected that this will be received in the immediate future.

*Kericho*.—Under the development proposals of the old Development Plan of Kericho, no surveyed class "B" residential plots were available, and in order to meet the demand a Development Plan making what is hoped will be adequate provision for class "B" residential plots was approved on the 21st August, 1951. The survey of these plots was given priority and the necessary Deed Plans have recently been made available. A very small number of surveyed business-cum-residential plots and workshop plots have been available, but the disposal of these was not proceeded with during 1951 in view of the difficulties in obtaining estimates and arranging for the construction of roads and drains. At its first meeting a few weeks ago, the Crown Estates Development Committee considered briefly a scheme drawn up with the approval of the District Commissioner, Kericho, which makes provision for the alienation of—

twenty-four class "B" residential plots;

five business-cum-residential plots;

seven workshop plots;

seventeen class "A" business plots;

and a revised estimate of roads and drains charges will be put before the Crown Estates Development Committee for its consideration as soon as it is received.

[The Member for Health, Lands and Local Government]

**Kakamega.**—This is a township in the native lands and although under the old development proposals there were a number of surveyed "B" residential plots available, these could not be disposed of as, having been surveyed in 1933, beacon verification was first necessary.

A further Development Plan of Kakamega was approved on the 18th October, 1950, making provision for approximately a further 50 class "B" residential plots which have very recently been surveyed and a scheme for the alienation of some 60 class "B" residential plots and approximately 40 business-cum-residential plots has been drawn up at the request of the District Commissioner and an estimate for the necessary road and drain charges obtained from him. The discovery, however, that certain of the plots suggested will require beacon verification has necessitated this plan being referred back to the District Commissioner for a slight modification and adjustment of the estimate of the road and drain charges. When these are received from the District Commissioner, the plots will be advertised in the usual manner. Some doubt existed as to the adequacy of the water supply for intensive development, but it is now understood that the reticulation work will be put in hand during the next two months and that the system will be able to cope with the increased demand by the end of the year.

**Kisii.**—Five business-cum-residential plots will be advertised this month. A development plan for Kisii was approved in January, 1952, and the survey of 11 residential plots has been given priority for the first half of this year.

(b) Government is aware that there has been considerable delay in the provision of plots in the townships mentioned.

**MR. NATIHO:** Mr. Speaker, arising out of the reply of the hon. Member, will Government give an assurance that no further delay will take place in proceeding with the schemes as outlined in the reply of the hon. Member?

**THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT:** Mr. Speaker, I will give an assurance that no further avoidable delay will take place. (Laughter.)

**MR. COOKE:** Mr. Speaker, on a point of order, Sir, when a Member willfully absents himself from this Council, would it not be better—as the Member for the Western Area has—would it not be better that any question he asks, specially a long question like this, should be answered by written answer instead of occupying the time of this Council unduly? (Applause.)

**THE SPEAKER:** Yes, I think that would be a better course to adopt in the future. I had some doubt as to whether the question could be asked at all.

#### QUESTION NO. 51

**LT.-COL. GHERSIE:**

In view of the reply given by the Member for Health and Local Government on 27th February, 1951, to a question on the subject of the Infectious Diseases Hospital, in which he stated that it was hoped to complete the building of the new Hospital by September, 1952, will Government please state:—

- (1) Whether a start has been made on the new hospital and if not, when is it proposed that building will commence?
- (2) When the completion of the new hospital may be expected?

**THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT:** (1) Work on the construction of the new hospital has not yet been started. It is hoped that it will be possible to begin work about August this year.

(2) The whole project will require some two years to complete.

**LT.-COL. GHERSIE:** Arising out of that reply, is the hon. Member aware of the embarrassment which is being caused to the Railway and commercial community in general due to this exceptional delay in the removal of the Infectious Diseases Hospital?

**THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT:** Mr. Speaker, I can assure the hon. Member that the Government is very acutely aware of the embarrassment which is caused to the Railway and the commercial community, and everybody who has an interest in freeing these sites. It is merely a question of priorities, finance, staff, and these matters are being very closely considered.

[The Member for Health, Lands and Local Government]

A high level conference was held in my office only last week to discuss, from every possible point of view, what urgent steps could be taken to free these sites at the earliest possible moment, and my answer reflects the result that was reached at that Conference.

**MR. HAVELOCK:** Mr. Speaker, arising out of that answer, Sir, would the hon. Member state, when he said that the whole project would be completed in two years, or it would take two years to complete—does he mean also that it will take two years before the present Infectious Diseases Hospital can be vacated?

**THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT:** Mr. Speaker, after consultation with the Director of Medical Services, I must regretfully say that it will be impracticable for the Infectious Diseases Hospital, even in part, to move out until the whole scheme is completed. But I can assure hon. Members that all pressure will be applied to ensure that the work is done as expeditiously as possible.

**MR. MATHU:** Mr. Speaker, does the hon. Member, when he refers to priorities, finance and staff, imply that this scheme cannot be given a high priority, that there is no finance for this scheme, and that there is no staff for this scheme?

**THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT:** Mr. Speaker, all I can say is that it has been given the highest possible priority that could be accorded without pushing some other scheme out of the way that also has been given a very high priority.

**LT.-COL. GHERSIE:** Mr. Speaker, arising out of that reply, may I ask the hon. Member what altered circumstances, financial or otherwise, have arisen which has necessitated this delay? I would like to remind the hon. Member that the question when previously answered by his predecessor was that the building would be completed by September, 1952.

**THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT:** I think, Mr. Speaker, I had better ask my predecessor to answer that one. (Laughter.)

**THE SPEAKER:** That question is finished.

**MR. BLUNDELL:** Mr. Speaker, I would like to rise on a point of order. I wish

to draw to the attention of the Council and to you, Sir, the great delay which takes place in the answering of questions. I put a question round 12th December, and there has yet come no answer. It is not a difficult question to answer and one hon. Member opposite did speak to me about it and I agreed to postpone it. But, nevertheless, I feel as a general rule; it takes too long to answer questions. One cannot expect the expeditiousness it takes at home because of distances and communications and because hon. Members opposite, I think, do much more detailed work than the equivalent Members in England. I would like to draw the attention of the Council to the fact that hon. Members are disturbed at the length of time which it takes to get an answer to a question and that these should be expedited.

**MR. COOKE:** I should like to support this, because two or three years ago we had a promise that this should not happen.

**THE CHIEF SECRETARY:** Mr. Speaker, I am afraid I cannot make any reference to what was said before, but I give an assurance that every endeavour will be made to expedite the answers to questions. (Applause.)

**THE SPEAKER:** I cannot see there is a point of order on which any ruling is necessary from me.

**LT.-COL. GHERSIE:** Mr. Speaker, may I have a reply to my last question?

**THE SPEAKER:** How many have you got down?

**LT.-COL. GHERSIE:** No, Sir, my supplementary question, Sir.

**THE SPEAKER:** I thought the matter had been finished. No, I do not think we can go back now. (Laughter.)

**THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES:** Mr. Speaker, during the February session of Council I undertook to examine further the question of supplies of ghee to the Asian community and to report back to this Council in April.

As a first step I made an approach to the Government of the adjoining territories to seek their agreement to free the interterritorial movement of ghee in East Africa. I have not as yet received their reactions to my proposals.

[The Member for Agriculture and Natural Resources.]  
I have also visited Nyanza and made a personal examination of the ghee industry in that province and have set in train steps which I hope will result in some improvement of both quality and quantity of ghee produced there.

I have also discussed with the Kenya Co-operative Creameries the question of the production by them of a quantity of superfine ghee, and I am glad to announce that subject to final agreement on price, the Kenya Co-operative Creameries have decided to go into very early production of a quantity of approximately 25,000 lb. a month, which is their maximum output with the equipment at their disposal at the present time. This ghee will be sold in tins with some permanent form of marking, containing 6 lb. and 36 lb. of ghee. The price will be high; in fact in line with butter prices taking into account certain additional costs and the cost of containers, but I have reason to believe that it will not be nearly so high as prices at present paid on the black market for ghee of inferior quality. Should the demand prove satisfactory, the Kenya Co-operative Creameries have agreed to order additional machinery and equipment and to step up production, possibly to a level of about 100,000 lb. a month. These arrangements will not be at the expense of internal supplies of butter.

It is at present estimated that a little over one million lb. of butter is purchased by the Asian community and converted to ghee, and I would suggest that this process will probably continue even when the Kenya Co-operative Creameries bring ghee on to the market to meet the demand of the Asians who do not wish to purchase ghee in bulk.

I believe that with some improvement in Nyanza supplies, with the level of production which may be achieved by the Kenya Co-operative Creameries and a continuation of a certain amount of conversion of butter into ghee, we will come a lot nearer satisfying the Asian demand. The possibility of encouraging further supplies, particularly of vegetable ghee, by importation is a subject on which further consideration is required. Not only sources of supply in relation to Commonwealth currency difficulties, but

also quality and price are among the matters to be taken into account.

It is my intention to make a further announcement on this aspect of the matter when, in conjunction with the Member for Commerce and Industry, I have been able to study the problems involved.

I have, of course, considered the question of advising Government to decontrol ghee completely in Kenya as regards distribution, price and importation, but the experience of the past has not encouraged me to pursue this line of action. It is not so long ago that ghee was decontrolled, with the result that supplies were cornered, prices went sky-high and the poorer sections of the Asian community were denied even the meagre supplies which they at present obtain at reasonable prices.

Under the arrangements which I have outlined, at least some supplies of Nyanza ghee will continue to be equitably distributed at reasonable prices, while those who can afford more will be able to satisfy their demands by obtaining tinned ghee at a higher, but reasonable, price level.

DR. RANA: Mr. Speaker, Sir, with your permission, Sir, I just want to express my very sincere thanks and also of the Asian community for the statement that the hon. Member has made and request that all that he has done and will do in the future, he will see that we get at the earliest possible moment good quality ghee.

## BILLS

### SECOND READING

#### Local Government County Councils Bill

THE SPEAKER: On the Order of the Day is the continuation of the debate on the Local Government County Councils Bill.

MRS. SHAW: I rise, Mr. Speaker, to give this County Council Bill the strongest support that I can, for if it is passed into law, as indeed I hope it will be, it will be a great advancement in the running of our own affairs.

Up to date, with very few exceptions, as the hon. Member for Local Government has told us, district councils have been nothing more than spending bodies for the Public Works Department. Now

[Mr. Shaw.]

We are being given the opportunity of effective control over our own affairs, provided we are willing to accept our responsibilities as far as rating is concerned, and it is my belief that it is not until people are spending their own hard-earned money that they show a true sense of responsibility in the spending of such moneys. (Hear, hear.) I would suggest, Mr. Speaker, that perhaps that is why there is such a different approach to the increase of expenditure on the opposite sides of this Council.

As the hon. Mover has told you, the opposition to this Bill was largely racial, but I am happy to be able to tell you that, after the able explanation given to us by my hon. friend, the Member for Kiambu, in Kericho the other day—(applause)—although one of our councillors of the Nyanza District Council is a much respected Asian gentleman, the support of that Council was unanimous for it was fully realized that town and country are interdependent, for a township is born out of a need of a rural area, and so it is quite absurd, after birth, that it should be removed at such an early age from the control of its parents.

Now, Mr. Speaker, although this is an enabling Bill, I sincerely hope that the obvious benefits of coming under the new Bill will be so great that, in time, all district councils will come within its scope so that the development of the town and country can go forward as a whole to the greater benefit of this Colony. (Applause.)

MR. NATHOO: Mr. Speaker, I am afraid I am rising to oppose the Bill for the simple reason that there are the widest possible feelings amongst the non-European communities in Kenya that this Bill is unduly being rushed through all its stages in the present Session.

Sir, I would like to refer to the remarks of the hon. and gracious lady from Nyanza when she says that the Nyanza Council, one of the members of which is an Asian gentleman, gave unanimous support to this Bill, Sir, I would like to make it quite clear here and now, Sir, that from first-hand knowledge I have, that this gentleman did not have any mandate from any sections of

the Asian community to give their support to this Bill as, with very few exceptions, Sir, there are the widest possible feelings in the minds of the Asian community that this Bill should not be passed through all its stages in the present Session.

Sir, there are two or three points which I would like to refer to. In the first place, Sir, I would like to congratulate the hon. Member for Local Government for having given such a lucid and clear explanation of all the implications of the Bill in such a precise and his usual very clear manner. But, Sir, whilst listening to him, I think one was apt to be led away from the logic of his reasons by his oratory. The one particular point, Sir, I would like to refer to the fact when he mentions that adequate safeguards have been given to non-Europeans by the power with the Government of appointing three members of any district on this county council, Sir, I ask you—is it fair or is it an adequate safeguard that three members out of 35 represent the non-European interests? Is it a safeguard and a fair representation?

Sir, I would like to refer to some statements which have appeared in the Press at meetings which have been held in various parts of the country and, Sir, when certain sections of the European community get up in public and say that they are against even the inclusion of some non-European, African or Asian members on these councils, I ask you, Sir, how can the community have any confidence in that section being given complete power in the management of all their affairs.

Sir, under this Bill, the Local Authorities can take charge of education, and, Sir, it is also stated that any Council—whether it is a city council, a municipal board or any other township committee—can become members of county councils or turn themselves into county councils if they so desire. But, Sir, I would like to state here that, in other parts of the world where municipal societies exist, this declaration of becoming a county council is dependent upon the majority votes of all the sections of the community and I notice, Sir, that this safeguard has not been given in this country and, in the present instance, I would quote an example of the City

[Mr. Nathoo]

Council of Nairobi which consists of an overwhelming majority of Europeans who, to-morrow if they so desire, can turn themselves into a county council with all the powers which they can take over in regard to education, town planning and other things and which in the frame of mind the various sections of the communities are at the moment. Sir, this will not inspire any confidence in these non-European communities about the ability of the European communities to give them a fair deal.

Sir, I appeal to the hon. Member that in view of the new Council to many new changes are going to come over, and this is a major change, since we have been going on as we are for these years, a few months more, at this side or that side, do not matter so much and this Bill, after having been debated in the second reading should be deferred—the debate should be adjourned to the next Council when perhaps, Members in a bigger Council, better representation or at least more representation, can deal with the matter more effectively.

Sir, I beg to oppose.

THE SPEAKER: The only amendment that I can see that is possible to move to the present Motion is that the Bill be read this day six months. That is the usual polite way of refusing a second reading. The alternative is a reasoned amendment expressing the reasons why the Bill should not be continued with one way or the other. That is if one is really intending to make this protest.

I have no other Motion other than that the Bill be read a second time.

MR. MATHU: Mr. Speaker, I did not quite catch your first advice because I got the second part, that is, a reasoned Motion to say why the Bill should not be read a second time; that did not attract me. May I have your first one, Sir?

THE SPEAKER: I did not quite catch you. Will you say it again?

MR. MATHU: You gave us two advice, Sir, that an amendment to this Motion—that the Bill be read a second time—there are two alternatives. The first one I did not catch quite well. Six months, I think, deferment? Or a

reasoned amendment that the Bill should not be read a second time now.

THE SPEAKER: You can either read it or not read it. A mere negative of the Motion is not in parliamentary form; for everybody to band together and to say "No" is simply contrary to the parliamentary practice. If you want to really attack it you must move one or other of those amending Motions.

MR. MATHU: Sir, I would like if it is in the proper form to move to amend the Motion by saying that the debate on the second reading be deferred for six months.

THE SPEAKER: You move that the Bill be read this day six months?

MR. MATHU: May I move the Motion that the Bill be read this day six months?

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: On a point of order, is it possible to do that with a dissolution in view, because the Bill will die automatically?

THE SPEAKER: It is a formal Motion, it is the way that is laid down in May for doing it. The dissolution will have another effect, in any event.

MR. MATHU: Mr. Speaker, I want to speak very shortly on this Motion and the first point I want to make is that this Bill, although it has been under consideration or in the typed form for nearly two years is so complicated that it does require very, very careful study because there are certain indications that even after that time it would not have been very clear until there had been discussions in the country and statements and speeches published in the Press and finally the very able speech of my hon. friend the Member for Local Government yesterday.

To make the matter even more complicated as a result of these discussions—amendments were laid on the Table only yesterday—32 pages of duplicated papers, both sides, of these papers. There again, after very heavy work the whole of yesterday, and meetings in the afternoon, Committee work, one could not really digest these amendments by reading them together with the Bill as published; and that is, I think, Sir, another reason why

[Mr. Mathu]

I think that the country, and particularly the non-European community, should be given further opportunities of studying the implications of this Bill.

Now, the second point, Sir, why I think this Bill should be read a second time this day six months, is that we are on the threshold of going into the whole of the constitution of this Colony, and after the visit of the Secretary of State for the Colonies, Mr. James Griffiths, the agreement was reached between him and the Government and the Unofficial Members, that from next May twelve months, which will be May, 1953, a committee should be set up to go into the whole question of the constitution. And I think, Sir, that in that agreement it was stated that between last May and this coming May there should be no major constitutional change. Now this, Sir, as my hon. friend the Member for Local Government admitted yesterday, could be taken as a major constitutional change in the district council level.

This could have very far-reaching developments and I submit that as this constitutes a major constitutional change this could wait six months, so that if this Council decides to pass this law at any rate there will be an opportunity to see whether they should do that or whether they should await the results of the consultative body which is going to be set up to go into the whole constitution of Kenya.

Now, that is my second point. Arising out of that second point, Sir, I would like to refer to what my hon. friend the Mover of this Motion said yesterday. He said that as far as the constitution of the county councils and county district councils are concerned there are safeguards for the non-European community. He also said it would not be possible for existing district councils to operate their affairs on the new law, they can continue to operate under the Local Government District Councils Ordinance, 1928. Now that suggests, Sir, that if such district councils chose to operate under the 1928 law, then the non-European community would not even have a single representative on those councils. Even if these councils chose to come under the present law I take it, Sir, that the safeguards of the Members appointing three members to

go on these councils is not sufficient and it would have been more sufficient to have laid down specifically the number according to racial groups as it is indeed laid down in the Legislative Council Ordinance. Recently we amended that Ordinance to go further and make it specifically clear that the non-Hindu community will be represented separately.

Now, Sir, leaving it as general as it is provided for here, I do not think that will give the non-European community the security that they very much desire in matters of this kind.

Sir, I want to stress this point because I do feel as the hon. Member himself admitted yesterday, that we cannot run this country in any unilateral manner. We have to run this country both on the local and central government levels as a team of all the communities residing here. But the opinions expressed in the Press by a certain section of the European farming community in regard to non-Europeans frightens some of us and it makes us afraid that if they are given the greatest powers which are envisaged in this law, the majority of the inhabitants in what they call the White Highlands who are non-Europeans, and who are really helping in the development of this country, because without African labour for one thing under the present arrangements, I do not see how this country can ever progress. Therefore, Sir, I feel that it is imperative that we should not rush this legislation through now.

It is true that the principle in this Bill could not very well be disputed because there must be an advancement in the local government as well as central government levels. That I am not questioning. It is the question of timing. Some Members say we must do it now and do it when all the Members here are all very tired and have been sitting and talking for four years; then just at the moment when you want to rush a close of the day; they want to rush a very complicated piece of legislation through. (Applause.)

Now, Sir, I do not think it is fair, I suggest it would be fair for both parties—the party which is so very anxious to get this legislation through and the other party which would like to do it in a more gradual and, I think, with less haste—if in a new Council—when all the Members are fresh and more active than those of us here who are seeing a bit

[Mr. Mathu] frustrated after all this talking and talking, and, perhaps, nothing being done, they would look into this matter with a better perspective.

I should like to refer to one final point, and it is this, that I feel that before even a piece of legislation such as this is put through the present Local Government and District Councils Ordinance should make it possible for the non-European to sit on these district councils. My hon. friend did say that the Government is going to work out a way by which, referring to the African opinion now, the district councils or these county councils could get the African opinion by forming African Affairs sub-committees and the African Affairs Advisory Committees. Now, Sir, it is very difficult to draw the line between what you would call in this country the African affairs and the European affairs and the Asian affairs. I cannot very well draw the line because what are the affairs which are specifically African, in, say, the Nakuru District Council area? Now, the European farmers in those areas depend upon African labour, the African labour depend upon European farmers, and I do not think that really there should be a very distinct division between the affairs of these two parties. They are both interdependent and to set up a small organization here, call it an African Affairs sub-committee and set up another one there and call it an African Affairs Advisory Committee, if you think that these are affairs which you can put in a watertight compartment, I do not think it is a proper way of looking at it. What I should like to say is that responsible non-Europeans living in these areas who must take an interest in the affairs of those areas because after all, that is what they are—they should be given an opportunity to sit in the proper Council with the proper authority. It is not a question of the advice. It is that they should be given the opportunity to exercise generally the responsibility and not be given something, a shadow, and call it substance. I think it is a very important point. Now, I do not like to weary the Council in moving this amendment to the substantive Motion but I should like to plead with this Council that it is only a matter of another three months when the new Council sits and another three months when all these

matters have been gone into and then we can proceed with the second reading. I think that would be for the interests of this country if you rush this legislation—and perhaps you will, because you have definitely the majority support here—you will be losing the confidence and support of nearly 5,000,000 Africans in this country because I feel that I am voting exactly the fears that they would have, and you will also to a certain extent lose that support from, at any rate, the majority of the Asian community.

Sir, I beg to move the amendment.  
SHEHIF ABDULLA SALIM seconded.

*Council adjourned at 11 a.m. and resumed at 11.22 a.m.*

MAJOR KEYSER: Mr. Speaker, I rise to oppose the amendment. This Bill has been under consideration for a very long period and Members on this side of the Council—on both sides of the Council—have spent a very considerable time in giving consideration to this Bill.

The hon. Member suggests that it would be better to leave it over until the next Council, but, Sir, those Members who have given all this work for the past two years may not be back in this Council and I feel that it is only fair to them that the Bill should be considered now while they are still Members of the Council. The hon. Member also went on to suggest that we are fresh now and that in six weeks' time—(cries of "Tired now!")—that we are tired now and that in six weeks' time we might be very much fresher. I cannot see why, Sir. (Laughter.) Well, he did, he said we were tired now and by the time the next Council met we might not be so tired. (Laughter.) I think I have got it right now, Sir.

Well, I cannot see, Sir, why Members should be fresher after fighting an election than they are now when they have not got the bother of an election, and I do not think, Sir, that that argument impresses me very much.

He did, Sir, talk about a constitution. Now, Sir, I consider that this Bill has nothing to do with the constitution and when I say constitution I mean the constitution of this Central Legislative Council. There is no connexion between the two, quite apart from the fact that

[Major Keyser] the Bill was enacted by this Legislature. But it is a Bill to set up local government authority and not to set up or affect a central legislature. I know, Sir, that the hon. Member of the Motion yesterday did mention the question of important constitutional changes. Again, Sir, I entirely disagree with him if he meant that it had anything to do with the constitution of this Legislature or the constitution of the Central Government.

THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT: Mr. Speaker, in order to set the hon. Member's mind at rest I did not mean that it had anything whatever to do with the constitution of this Council.

MAJOR KEYSER: Well then, Sir, with that explanation I cannot see, Sir, how there is any substance in the argument of the hon. Mr. Mathu that we would be going against the assurance given by the Secretary of State that no measure of constitutional changes would take place before the inter-racial body, which he promised would be set up a year after the new Council was formed, meets to consider the constitution of the Council.

He did, Sir, go on to refer to the matter of African representation. Now, Sir, there are to-day no African representatives on the district councils, and in my opinion the section here, under which it would be possible for the Member for Local Government to appoint African representatives to county councils, is a very great advance in African representation. After all, Sir, these county councils are going to administer local government in the European areas in the Highlands, and I think that they are making a very great concession in admitting non-European representation on these county councils:

Now, Sir, if there is one thing calculated to create opposition to any representation of any sort of non-Europeans on county councils, it is in my opinion the attitude of the hon. Mr. Mathu in being dissatisfied with the representation that is suggested here. Because the moment he starts doing that, then, Sir, it is going to be considered that the African will continue to claim greater representation, and, Sir, there is

a limit to the amount of representation that he will be granted on these councils. I do think, Sir, that that should be understood now. That we will not agree—quite definitely not agree—to any unlimited form of representation on our councils. He talked about the support of five million Africans in the Territory, but, Sir, the great majority of the five million Africans in the Territory have their own African district councils to represent them. Why the whole of five million should want representation on our county councils I really cannot think.

So in my opinion, Sir, he is bringing up a subject which is only going to cause greater friction over this particular subject. I, Sir, oppose the amendment very strongly. (Applause.)

MR. NATHOO: Mr. Speaker, I rise to support the amendment moved by the hon. Member for African Interests, Mr. Mathu. Sir, I would like to say that I was very sad indeed to listen to the hon. Member for Trans Nzola in the vein he has spoken at in this present stage when so much suspicion exists in the minds of non-European communities.

Sir, it is a very unfortunate thing and I say this, that there may be cause for suspicion and there may not be cause, but the attitude which European Members are taking are convincing the non-European communities that there is something there and they will not be rushed into this thing, Sir. If the hon. Member for Trans Nzola thinks that by giving a three membership they are making a big concession, as far as I am concerned, they can keep it.

MR. OHANGA: Mr. Speaker, I rise to support the speaker very briefly indeed on this Motion. I support my hon. colleague one hundred per cent on his moving the postponement of this debate for six months because I feel only in one or two sessions in the life of this Council have we seen Bills that were of such great importance as the one we are dealing with now, and if I remember rightly this Bill actually has not taken anything like even half of the time that those Bills took. They all took a very long time. A much longer time than this one has taken to go through. I am referring now to the Water Bill and the Agricultural Bill. I think those two have been the

[Mr. Ohanga]

most comprehensive and important Bills that we have dealt with. The view held that the few months that this one has been in publication is sufficient time to rush it through this Council. I deny that completely. I think that the feeling which is now abroad that this matter concerns only European communities in this country is one which is completely anomalous. How can it be? Right at the beginning the African district councils are mentioned, if you go through the clauses you will appreciate that everybody is involved just as much as the Europeans would themselves be. The voice of the Press of the country has shown quite clearly that not everybody is well versed in what the legislation contains. So everybody is pleading for time to read and digest what the measure seeks to put into the statutory books of this Colony. I should like to say, Sir, that for our own part we think we would probably support the Bill as a Bill. All we are asking for is that we should be given time to consider it in detail and to be able to talk with our European colleagues, both inside and outside this Council, in order that we may put right what may be not quite right at the moment. But we are being denied that opportunity completely by the action which is proposed to rush this through at the last moment of the life of this Council.

It seems to me, Sir, that if this move went through it would go through completely without our support and completely without the confidence of the non-European community of this country. I do not think that anyone can deny that, and if there is anyone who says deny that, I would like to hear it, because the only evidence we have so far, as far as the races are concerned, is that this is too much of a risk. That is the position. It seems to me that to accept the request which my hon. colleague has made here, would be acting in the interests of the people in this country. I think it would put the whole country in a very difficult position indeed to have it rushed. I have not yet heard any arguments or reasons for rushing the Bill through. It may be that in the course of this debate someone will get up and tell us, but it seems to me that this is a piece of legislation that has come in here

only because it is far-reaching and important effects and we need time to consider it. Why should it be rushed through? Is there anything in this that people fear and perhaps if it went on through this Council it would cause chaos in the country? It seems to me to be quite clear in my own mind that it is necessary that African district councils should be consulted and their views ascertained clearly.

Sir, I beg to support the Motion.

MR. BLUNDELL: Mr. Speaker, I rise to oppose the Motion. I want to put rather a different angle of this Bill before us than has been hitherto put to this Council, and my reason for opposing the Motion.

In my area in the Nakuru District Council, to which reference has been made, we have been most anxious for more than four years now to accept greater responsibilities and to show conclusively what European leadership can really mean in a local area. Whenever we have been considering proposals to get on with an example to other people, they have always been held back, because this Bill has been under preparation. I could give hon. Members on my left 20 different examples of things which we want to do which will benefit them, not only us, but them and then this Bill comes before the Council and the hon. Members on my left all get up and shoot it down. I do urge hon. Members to pass this Bill. I am fed up with living in this country full of fears and suspicions, and the people in my part of the world are all out to show what European leadership can mean.

I am going to deal with some of the points, Sir. In my area, we have an element of people who are frightened of this Bill. They say "This is the thin end of the wedge, this is so and so", and on my left we have an element who are equally frightened. I do suggest that we have got to get rid of those fears. We are here in this country, we are here whether we like it or not. We have got to live together and we have got to get together. We will never learn to live together if we put up enormous great barriers of fears one against the other. (Applause) We say we can give the leadership which you require, I am confident we can; you can see the proof of it everywhere. The other

[Mr. Blundell]

faces say to us: "Where is your leadership?" We cannot give it if the opportunity to express it is denied to us. And again, if the other races will not accept the chance they are given, they cannot get it. I do want to repeat this, it is this terrible barrier of racial fear and suspicion which is constantly getting in the way. In my area we are determined to show, if we are given responsibilities and powers—and it is because we are constantly denied the responsibilities that we are not able to give expression to them—we are determined to show what European leadership means; not in a dominant fashion, but in a constructive, positive way.

I am going to take this Bill and deal with some of the things which have been raised and I am going to shoot them down in no uncertain voice. There is no suggestion that there will be only a representation of three what one might call coloured people in this Bill. All this Bill does is it clearly lays down that there shall be a European majority—I think we have a right to ask that in our area, just as the Africans in their areas will have in their African district councils an African majority. That is all the Bill does, and that is what exception has been taken to and to which I think unfortunate references have been made by perhaps the hon. Member. Three members is merely a safeguard.

I should like to say, Sir, definitely—we cannot pledge ourselves on this side, because we have got no responsibility—but I will say one thing. As long as I have any say in this country I am determined that this Bill will not be used in a repressive fashion. (Hear, hear.) This Bill, in my opinion, will open the door to what we have got to learn together, to the benefit to everybody, regardless of their colour. I object to sitting in this Council and listening to a lot of bandying about all because some people are born with different complexions. The truth of the matter is that there are some people—regardless of their colour—who have the capacity to create, to promote success, conditions of happiness, vitality for other people. Let those people do the running of the areas, For goodness sake let us forget what sort of colour their skins are.

I just want to conclude by one sentence. I am absolutely and utterly opposed to the postponement of this Bill. I want to get on in my area, I want to create things for Africans, which they need in the area. I want to create things for Asians, which they need in our area. I want to revitalize those horrid, dusty little towns which one goes through today. The Europeans are doing a lot for these towns, they come in from outside and they take an interest; for example, in Gilgil they planted the trees there. The effort and the thought of all that comes from the Europeans outside who help the people in their efforts. I am not, Sir, now casting aspersions on to other races. It is that I believe sincerely that we have the greatest chance of giving the races in our areas the best possible opportunity. For those reasons, I am not prepared to frustrate the demonstrations of my capacity and the capacity of my people to get on with the job. (Prolonged applause.)

DR. RANA: Mr. Speaker, Sir, when I came this morning it was not my intention to say anything on this Bill at all. I must confess that the situation which has arisen and the heat which has been created both on my right and left—I happen to be in the middle—(laughter)—whatever word you may say prompted me to stand up and express my opinion. First of all, I am very grateful to the hon. Member for Rift Valley, and I have not got the least or slightest doubt in his sincerity in sentiments which he has expressed. (Hear, hear—applause.) It is a thing, Sir, which unfortunately is creating a great suspicion and doubt, and that is the settlers' community have engaged everybody else in this country. I may here state my opinion and frankly say that, since my community in this Council, not because the Muslim seats have been created separately, but because that was the absolute fair and just way, but I say I have found the majority of them very reasonable and always ready to co-operate with all the sections of the community. At the same time whatever the hon. Member for African Interests, Mr. Mathu, has said is also quite true that there is a terrible suspicion which has been created, rightly or wrongly, in my opinion by the representations and the news which one is receiving from South Africa. That is the

[Dr. Rans] whole basis, I think, and that is complicating, unfortunately, our affairs in this country. Under the circumstances I have studied the Bill carefully and I absolutely agree in principle that the Bill is essential for the progress and the development of this country. There is not the least doubt. I think the hon. Member on my left—the hon. Member for African Affairs—openly said that community itself means what is good for the country. In order to avoid—if I could think there was some solution, I would still appeal to the hon. Members on the right to agree that the matter would be postponed for a few months, although I must say that, until the constitutional issue has worked, it has got nothing to do with this affair perhaps there will be no use at all between the two sections, but at the same time, owing to the suspicion which has been created, it would be a good gesture on the part of the Government and the people, I think, the hon. Members on my right, if they could come to some decision to postpone it for a short time.

Further, I think in the excitement of the moment, my hon. colleague, the Member for Central Area, has expressed and stated that, if the idea is to give three seats or something of that kind, he said you can keep it. I am afraid that was expressing that opinion of his own, not on behalf of the entire community. Sir, because after all is said and done, we do want co-operation and the progress of this country stage by stage. Under the circumstances my appeal is, Sir, that if this matter could possibly be settled without going into division, without creating any bad blood—because on principle, as I have said, there is no question the time has come and it will come that a thing of that kind should be given a trial. It is for the good of the country as has been expressed by the hon. Member and I repeat it, if the sentiments and feelings are good, if we want to live in this country, we want to see progress of all races there, we should come together and meet each other in a reasonable way.

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

MR. NATHO: On a point of explanation, all I said was if the hon. Member

for Trans Nzoia was making a concession, Sir, that is a thing we did not want. I did not say I did not want three seats. But, the gesture of making concessions, that is the thing we do not want.

THE FINANCIAL SECRETARY: Mr. Speaker, I do feel that this is perhaps an opportune time for me to try to point out that there is quite a lot of misapprehension as to the purpose and contents of the Bill we are now discussing.

The first mistake that was made, Sir, was pointed out by my hon. friend the Member for Rift Valley when he referred to the fact that the three members which are referred to in the clauses dealing with the membership of the county councils and the county district councils, that those three memberships do not represent any statutory limit to the number of non-European representatives who can be present on any of the bodies which are set up under schemes under this Bill. (Hear, hear.) The purpose of the three members to be appointed by the Member for Local Government was to reserve and safeguard a position where either at the county district council level, the urban townships, or, at the top, the county council level, if at any time, and I cannot visualize it happening, if at any time, the European community were so foolish as to replace no other non-European representation on statutory bodies which had to deal with townships, then the Member for Local Government and the Government itself would have the power to appoint three members in order to ensure that, at least, there was a minimum representation of non-European opinion, and the very fact that this could have been taken up in such a wrong spirit and a wrong interpretation of what is intended shows how much the fundamentals of the Bill that we are now discussing have been misunderstood by some hon. Members opposite. I would say to them that this is, in the very first issue, a test for European leadership in the European areas.

Up to now what has happened? There has been no non-European representation on district councils, and now, before they can get a scheme accepted, of controlling those matters of local government, and we must keep the issue down, it is those matters of local government, before they can get a scheme accepted, they have to

[The Financial Secretary] submit to the Member for Local Government all the details; they have to publish their scheme; the Member for Local Government has to give full consideration for all the details of the scheme, and only if that scheme is accepted and approved, does the enabling side of the Bill really operate.

The hon. Member for African Interests, Mr. Mathu, spoke about this as a far reaching measure. It is, in fact, no more far reaching than the African District Councils Bill, and the African District Councils Ordinance, which has enabled a great leap forward in the social services to Africans in the African District Council areas.

The hon. Member, Mr. Mathu, has, I think, many times said that he wished to see the European in the settled areas rating himself as the African in the African district council areas rates himself, in order that the full burden of social services shall not fall upon the central revenue, but should be divided, as divided it should be, between the central interests and the local interest. As I have sat in this Council year after year, Sir, either on that side of the Council or on this side of the Council, I have repeatedly said that one of the weaknesses of our financial position is that there is not sufficient local expenditure on services, and that our Budget every time appears far too large in certain respects because the local community is not rating itself and bearing the burden of expenditure that it should be bearing.

There are a number of townships today, Sir, in this country, Thika, Nyeri, Naruki, who have begun to rate themselves. On those three township committees, all three races, I think I am right in saying, on every one of them now, all three races sit and are together hammering out the shape of their local government of the future. But, economically, they cannot advance as they should advance because they are too small as a unit, and if the history of local government in Great Britain shows anything, it shows that when you are dealing with villages and, after all, that is all the majority of our townships are, villages, the only possible advance in economic and social services is the unity, the economic unity of the whole.

Now, Sir, another reference was made in the speech made by the hon. Member in moving this amendment to the powers and the question of safeguards. I would refer the hon. gentleman to clause 94 of the Bill, which shows how far the Government and the representatives of the European district councils who accepted this as the basis, were prepared to go to safeguard the interests that the hon. Member is representing—when it says, "It shall be lawful for a county council to adopt different methods of rating for different parts of the county, from time to time to vary the method of rating adopted for the whole or any part of the county or to impose the industrial rate referred to in paragraph (v) of subsection (1) in addition to but not to the exclusion of any other rate, but"—and this is a remarkable phrase to appear in a local government Bill—"It shall be the duty of the county council and the Member to ensure that the cost of the general county expenses is distributed equitably over all parts of the administrative county and accordingly no rate shall be valid and enforceable unless and until it has been approved by the Member who may direct the county council to make such modifications in the incidence thereof as he thinks fit".

Now that is a remarkable clause, Sir, to appear in a local government Bill, and it shows the extent to which those responsible for this Bill endeavoured to protect and to guard against such fears and suspicions as those that have been brought in this Council by the various hon. Members who have spoken against the Bill.

The county council will be the rating authority. It will be able to impose a cost of service expenditure on the townships.

THE SPEAKER: Council will suspend business for 15 minutes.

THE FINANCIAL SECRETARY: Mr. Speaker, when the Council adjourned, I was dealing with the question of the safeguards that the Government put into this Bill. I had drawn attention to clause 94 with its very powerful safeguards of the interests of the townships.

Now, Sir, one hon. Member opposite spoke about the fact that the county



**[The Financial Secretary]**

councils had been given power over education, and I think, Sir, I must draw his attention to the inaccuracy of that particular statement. Clause 53 reads:—

"The Governor, may, if a county council requests—

(a) declare the council to be a local education authority for local education in the administrative county;

(b) transfer to such county council the whole or any part of the functions of the Governor or the Education Department under the Education Ordinance in respect of the administrative county;

(c) vest in the county council any Government or public school, boarding house, or other institution in the administrative county established and maintained by the Governor under the provisions of such Ordinance, upon such terms as the Governor may decide."

The proviso in that particular clause gives us a second safeguard from the point of view of the county council, but the important fact is that it is not mandatory on the Government to grant the power of educational control to any county council. The Governor would obviously have to be satisfied that the scheme for educational control that was to be put up—that was put up by the county council—would be fair and just to everybody concerned, and I think it is obvious that the hon. Members opposite have nitpicked this clause if they think for one moment that the county council is getting educational powers granted to it under this Bill. The clause is no more than another enabling clause and again the Government would have to be perfectly certain that the interests of all sections of the population were safeguarded if that scheme included the taking over of non-European educational services.

One hon. Member seemed to visualize the Nairobi City Council being able to declare itself as a county council under this Bill. That, of course, is not correct, Sir, this Bill refers to the district councils; it would be possible for any Municipality, should it so wish, to come to an agreement with its county council and see if it could join into the structure, but

that is all that could be done. It would be extremely unlikely that a powerful body like the Nairobi City Council, with its autonomy of finance, would sacrifice the status it has arrived at to place itself under any other body, but as the hon. Member, Sir, has referred to the Nairobi City Council, let us take that particular example for the advance of local government in this country. There must have been just the same fears expressed at that time, just the same fears and suspicions in the hearts of people as there are at the time of the Bill we are dealing with to-day; just the same fears that a certain body of people would take control—would ignore the legitimate aspirations, the need for social services of the poorer community, merely because the poorer community happened to be a different colour to those people who had a majority on the Council. But have those fears, Sir, in fact been justified in practice, or are we not able to look at the Nairobi City Council to see that the great burden of direct rate-paying—I will grant the hon. Mr. Mathu the indirect rate-paying—but the great burden of direct rate-paying has fallen upon the European and the Asian community; but the representatives of the European and Asian communities have never hesitated to step forward and provide a higher standard of social service for the African than the Government finance could provide. (Applause.)

I have, Sir, served as a member of that City Council; it has been a revelation to work with that Council and to see that when the public council is over, when the publicity, the speeches made in open council and the seeking of cheers, is done and you get down to the committee work inside local government—(hear, hear)—when you get down to the need for drains, for sewers, for houses, then, Sir, the feeling of responsibility which has been granted to them in the recognition that they must spend their money as well as the Government's has brought forth a tremendous answer I believe that in this Bill, if we accept it, and if we go forward with all the challenge it contains—and get rid of our fears and our suspicions—we shall see exactly the same answer—(hear, hear)—but they must be given, the people must be given the opportunity, the challenge, before they can accept it. I do not be-

**[The Financial Secretary]**

lieve, Sir, that any useful purpose will be served by postponing this particular Bill. We have still, if the second reading is passed, a few more days to consider amendments. We have still a Committee stage when we can thrash out in detail things that we may fear, but if this Bill is to be really effective from the point of view of central government, and from the point of view of central government finance, if we are to get the adjustment that must come as local government bodies grow in the settled areas as they have grown up in the African district areas and in the municipalities, if we are to bring that into being, we have to recognize two factors. One, the timing of the annual Budget—(hear, hear)—and, two, the time that it will take to evolve, prepare; present and get approval for the schemes for county council organization. That will need a great deal of extra work. It will need a great deal of extra study in the office of the Member for Local Government. There will be many points to be checked. There will be staff of a very high standard to be obtained, mainly, I imagine, from the United Kingdom, which is the source of our local government experience. That will take nine months or a year, and suppose that we postpone this Bill, we will have to face the fact that instead of being able to get these implications into the 1954 Estimates, we shall be unable to get them in before the 1955 Estimates, and to that extent the central government will have to continue to bear burdens and demands for expansion of social services that should, in fact, be borne by the local inhabitants to the degree that the local inhabitants benefit from those services.

One final point, Sir, if we postpone this Bill, will the fears, will the suspicions, will the doubts—(cries of "No!")—will they vanish overnight? Will hon. Members in a new Council be any less free from suspicion, fear and doubt, than those who have known each other on the opposite side of Council, who have worked with each other on the opposite side of Council, and who—I say it with regret—have many times united to defeat Government on the opposite side of Council, will those fears and will those suspicions, and will those doubts be any less? Of course not. Man's fear,

man's doubts and man's suspicions, one or the other, can only be dispelled by one thing, experience which brings confidence—(hear, hear—applause)—I can understand that the hon. Mr. Mathu and hon. Mr. Ohanga, the hon. Mr. Nuthoo, their suspicions and doubts will remain until they have been washed away by one thing, the cold water of experience, which has shown that when cases you give people responsibility in most cases, they rise to the occasion. And, I think we can realize that in this Bill, there is an advance made which will admit of a degree of racial co-operation in the local government field which may well produce good fruits for the development of this Colony. (Prolonged applause.)

**THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT:** Mr. Speaker, I would like to say just a few words on the amendment.

The hon. Mr. Mathu, I thought, made out a very reasonable case for time to study the Bill and all the mass of amendments that have been produced. Had it not been for the close time factor under which we are at present working, one would have expected a Bill of this size and importance to be referred to a Select Committee, and I do not think any Member of this Council could have had any objection to it being so referred, but we are up against a most important time factor which we cannot overcome, and I do beg of hon. Members to remove from their minds the fears and suspicions that, perhaps not unaturally, reside there. I would like to express my thanks and appreciation to the hon. Member for the Rift Valley for his very moving speech—(hear, hear—applause)—and for his explanation of the true purport and intention, the honest intention, of this measure, and, also, I would express my thanks to my hon. colleague on this side of the Council for his very able exposition—(applause)—of the whole background, meaning and purport of the measure we are now discussing. I cannot support the amendment now proposed for the reasons that have been so well expressed. We are going to have the week-end, apparently, to consider all the various amendments, and I can assure hon. Members that there is not a single amendment proposed in all these 32 pages that is in any sense a matter

The Member for Health, Lands and Local Government) of principle. They deal entirely with machinery and method of carrying out the intentions of the Bill.

I would just refer to one point in addition to what my hon. friend, the Member for Finance, has said, with regard to the hon. Mr. Mathu's speech, in which he referred to education. Possibly, he was misled by something I said in my opening speech, where I spoke of the powers of county councils and mentioned education. Of course, I meant their powers in regard to education, as determined by the clause in the Bill, which, as my hon. friend has explained, is limited and subject to the control of the Governor. I would therefore ask the hon. Member to remove from his mind any misgivings on that point. (Applause.)

The question that the words proposed to be left out stand part of the Motion was negatived.

Mr. Mathu rose—

THE SPEAKER: I am very sorry—you are not at liberty. You spoke already to the Motion.

MR. MATHU: The amendment, Sir—I moved the amendment.

THE SPEAKER: I do not know whether we have it in the Rules, but it certainly is in the book. The question is this—A Member is entitled to speak only once to the question proposed from the Chair. The question proposed from the Chair was the original Motion. You spoke to that and concluded your speech in the usual way by proposing an amendment and the second likewise. Therefore, no other question was then before Council. It was not until after you and the hon. Member for African Interests had seconded the amendment that there was any other question before the Council. You have already spoken to the Motion.

THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT: Mr. Speaker, there is very little for me to say in reply to the Motion, but I have noted with satisfaction that not one single speech, either on the main Motion or on the amendment, has been in opposition to the Bill. The only remarks that have been made have

been in favour of postponement of consideration in order to give further time for study, and I would express appreciation of the attitude of hon. Members towards the Bill in their acceptance of it, or at any rate in their non-rejection of it, as an important measure that will help to bring a greater measure of peace and harmony and real advancement in local government in our settled areas. (Applause.)

The question that the Local Government (County Councils) Bill is now read a second time was put and carried.

#### Pig Industry (Amendment) Bill

THE DIRECTOR OF VETERINARY SERVICES moved: That Council do resolve itself into Committee of the whole Council in order to consider the Pig Industry (Amendment) Bill clause by clause.

THE DIRECTOR OF AGRICULTURE seconded.

The question was put and carried.

#### COUNCIL IN COMMITTEE

##### Clause 1

MR. MATHU: Mr. Chairman, I am going to oppose sub-clause (b) of clause 2, but if you allow me, I would like to speak on it in conjunction with clause 8 which I am voting against when we come to it.

The question that clause 1 stand part of the Bill was put and carried.

##### Clause 2

MR. MATHU: Mr. Chairman, I was asking that if you allow—if you put clause 2 I will vote against it, but I will speak on it what I want to speak when we come to clause 8, Sir.

THE CHAIRMAN: You are not moving any amendment.

MR. MATHU: Well, the amendment I wanted to propose, Sir, in (b), is to omit the definition of registered African pig producer provided under (b) that "registered African pig producer" means an African pig producer registered under the provisions of section 12 of this Ordinance. I wanted to move an amendment in committee, but I understand that is not the way you want me to move an amendment, I understand that is not how you wish me to do it in Committee.

THE CHAIRMAN: Your amendment is to omit paragraph (b) of clause 2?

MR. MATHU: Yes, Sir, after the definition of the words "Licensed pig producer" the definition of—

THE CHAIRMAN: All amendments should be handed in in writing. This is being brought up all the time and no attempt is made to comply with the Rule.

It is proposed that paragraph (b) of clause 2 be omitted. Nobody else wanting to speak on it?

THE DIRECTOR OF VETERINARY SERVICES: Mr. Chairman, the Government could not accept the proposed amendment.

The question that paragraph (b) of clause 2 be omitted was put and lost.

The question that clause 2 stand part of the Bill was put and carried.

##### Clause 8

(Mr. Mathu's amendment was handed in.)

THE CHAIRMAN: No, the proper thing is to move to leave out all words after the word "section"! You do not mind do you?

It is now proposed in clause 8 to leave out all words after the word "section".

MR. MATHU: Could I speak to the amendment, Sir?

THE CHAIRMAN: Yes, speak to it of course.

MR. MATHU: Sir, I did raise the question of the two provisions regarding the licensing and registering of pig producers in the country and suggested that there should be only one form of licensing for all pig producers, and I suggested, Sir, that that is the usual way of legislation of this kind in all business legislation and I do not want to have any differentiation on racial grounds as far as the law is concerned in regard to licensing and registering. My hon. friend, the Director of Veterinary Services, in reply, spoke and suggested and painted a very dull and very ugly picture of the African pig producer. He indicated that he had no faith in the future of the African pig producer and actually gave us a very morbid and disappointing picture of the African in this regard.

Now, Sir, I do not think that has anything to do with the question of licensing or registering. I suggest, Sir, that the other person, would be able to produce pigs as good as any other, as indeed he will do in the case of coffee, and he will do in the case of other products. Therefore, Sir, I think that in view of the way in which my hon. friend the Director of Veterinary Services has replied to these he would be good enough to accept my proposals in this one, as so far he has rejected them all, the Government has rejected them all, I do say it is most unfortunate that Government turns a very deaf ear to sincere representation made by the African representatives in this Council, that they have shown without any reason at all, except perpetuation of the principles of racial discrimination in this Council.

I beg to move.

THE DIRECTOR OF VETERINARY SERVICES: Mr. Chairman, it is suggested that the amendment proposed by the hon. Member for African Interests, Mr. Mathu, would not be in the best interests of the development of the pig industry. As I said during the debate on the second reading the uncontrolled African producer does constitute a potential menace to the 98 per cent of the industry which is in the hands of European pig producers. That in itself is, perhaps, not a valid argument for requiring that Africans should be registered, but in implementing the Pig Industry Ordinance, the conditions which obtain in the African areas are so different from those in the European areas that it would be impossible for the Pig Industry Board to operate a licensing system under which each and every individual African pig producer was required to obtain a licence from the Pig Industry Board. As I mentioned previously, many of them are illiterate and the implications of that illiteracy are to be seen not only in the case of application for a licence, but to the subsequent sale of pigs. The Pig Industry Board pays its producers by cheque and if the suggestion of the hon. Members were implemented, if all the Africans were licensed not registered, it would mean the Pig Industry Board would be despatching weekly a large

[The Director of Veterinary Services] number of cheques for individual African pig owners throughout the area. In the interests of the efficiency of the operation of the Ordinance, Sir, I must oppose the amendment.

Mr. MATHU: Mr. Speaker, I should like to say, Sir, that the point raised by my hon. friend are arguments against his department. In that if he depletes the conditions in the African areas and those conditions, if you have uncontrolled pig producers, you have a potential menace, then who is to blame? What are the Veterinary officers doing all over the country—Africans, Europeans. It is against his Department, Sir, if they cannot improve the pig industry then why should this Council vote money to this particular Department for this service? If anything it is against his department, and, Sir, I suggest that the question of cheques and the illiterate African does not arise. It is a very minor point. I can tell you many Africans receive cheques, illiterate Africans at that, and they manage to cash them. I can give you hundreds of Africans who are in business to-day who cannot read and write and they receive cheques from business people all over the country and they cash them. That is a very weak argument, Sir, against the proposition which I am putting forward. As I do not want to delay the Council and Government is adamant in maintaining a system which is against all justice, I want to close by saying that though the hon. Director of Veterinary Services stressed most unduly the symptoms which symbolize morbidity in the African pig industry, I should like to inform him and to inform this Council that the industry has wonderful potentialities of good salubrity but those opportunities cannot happen if the attitude of the department is to ignore the fundamental rights of African producers. Those will go down in the future of this country. I say this with all sincerity, and with all the force that I command.

Mr. MACDONALD-WELWOOD: Mr. Chairman, I rise to oppose this amendment and to make a few observations on that amendment. I think it is time that some hon. African Members should be told that the confusion of politics with reality and with economics will bring them and this country to complete disaster. (Hear, hear.) There is no question

whatsoever that this amendment is put for purely political reasons, and to put an amendment of this sort, which might well destroy an industry, valuable alike to Europeans and Africans in this country, is to my mind absolutely wicked. Again and again this matter comes up. In order that there should be no defalcation between Africans living under totally different conditions to Europeans, necessary clauses in Bills are amended, and amended to the ultimate detriment not only of the country as a whole but particularly of the African. Everybody who knows anything about pigs knows that they are a particularly difficult animal to look after and particularly difficult to avoid disease among them, and the African has not reached a stage where he can have uncontrolled pigs and be trusted to see that they are not a menace to himself and everybody else.

Mr. Chairman, I strongly oppose the amendment. (Applause.)

The question of the amendment was put and negatived.

The question that clause 8 stand part of the Bill was put and carried.

THE DIRECTOR OF VETERINARY SERVICES: Mr. Chairman, I beg to move: That there be substituted for clause 9 of the Bill the following:—

"9. Section 13 of the principal Ordinance is repealed and the following new section shall be inserted at section 13

13. Any person who, being required to be licensed or registered as a pig producer under the provisions of this Ordinance, produced pigs without being so licensed or registered shall be guilty of an offence against this Ordinance."

That amendment, Sir, rectifies an omission both in the principal Ordinance and the amendment Bill under which, while it is permissible for the Board to refuse to issue a licence or for the District Commissioner to refuse to register an African applicant, there is no penalty in the event of a person continuing to keep a pig in the face of such refusal.

THE ACTING SOLICITOR GENERAL: Mr. Chairman, there is, I find, a typographical error in the transcription of this amendment. The word "produced" should be in the present tense not the past.

Clause 10.

THE DIRECTOR OF VETERINARY SERVICES: Mr. Chairman, I beg to move: That clause 10 of the Bill be deleted. This meets certain objections raised on the other side of the Council, during the second reading. In so far as adequate authority remains under the principal Ordinance, the effect of the deletion of clause 10 in the amendment Bill will be simply to deprive or to ensure that the Board does not secure the powers which it sought to obtain.

THE CHAIRMAN: If there is no need of such an amendment on the question that the clause stand part, you simply say "No".

The question that clause 10 stand part of the Bill was negatived.

Clause 18

THE DIRECTOR OF VETERINARY SERVICES: Mr. Chairman, accepting your previous ruling, may I invite hon. Members on this side of the Council to vote "No".

The question that clause 18 stand part of the Bill was negatived.

Clause 19

THE DIRECTOR OF VETERINARY SERVICES: Mr. Chairman, I beg to move: That there be substituted for clause 19 of the Bill the following:—

"19. Section 27 of the principal Ordinance is amended by relettering paragraph (i) as paragraph (w) and by adding the following new paragraphs—

(i) providing for the slaughter at prescribed places of condemned or prohibited breeding stock;

(w) providing for controlling and regulating the supply and delivery of pigs to bacon factories;

(9) requiring a District Commissioner to notify the Board of the manner in which he has exercised powers conferred upon him to the provisions of section 12 of this Ordinance."

The amendment there, Sir, deletes from the amendment Bill sub-section (a) and (b) of clause 19 in the amendment Bill. It also deleted from clause (c) in

the amendment Bill, sub-clause (p), the phrase specifying the price to be paid in respect of. These amendments, Sir, are again to meet objections raised on the other side of the Council, and I am satisfied that the Board can successfully operate even if these amending clauses are withdrawn.

THE CHAIRMAN: I have to put the question in this way. It is proposed to leave out all words after amended in the first line to the end of the clause for the purpose of substituting other words.

The question that the words proposed to be left out stand part of the clause was negatived.

The question that clause 19 as now amended stand part of the Bill was put and carried.

New Clause

THE DIRECTOR OF VETERINARY SERVICES: Mr. Chairman, I beg to move: That there be added a new clause 20 as follows:—

"20. Section 26 of the principal Ordinance is amended by adding, at the end thereof, the following words:—

In addition to the penalties hereinbefore prescribed a court may on the conviction of an offender of any offence against this section (whether a first or subsequent offence) order that any licence granted to the offender under this Ordinance be cancelled."

That, Sir, conveys power to the Courts to cancel a licence which in the amending Bill, as originally drafted, would have been a power available to the Board. It establishes once again the fundamental right of any Member of the public to have recourse to the Courts rather than to be bound by an arbitrary decision by the Pig Industry Board.

The question that the clause be read a second time was put and carried.

THE DIRECTOR OF VETERINARY SERVICES moved: That the Pig Industry (Amendment) Bill be reported back to Council with amendment.

The question was put and carried. Council resumed and the Member reported accordingly.

THE DIRECTOR OF VETERINARY SERVICES moved: That the Pig Industry (Amendment) Bill be read a third time and passed.

THE DIRECTOR OF AGRICULTURE seconded.

The question was put and carried.

THE SPEAKER: There is still a matter of half an hour. Do you intend to go into the Committee stage of the County Councils Bill to-day?

THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT: Mr. Speaker, I do not see the slightest prospect of getting all these amendments through in the half an hour still left. I consider, therefore, subject to the approval of hon. Members that we defer going into Committee of the whole Council until Council meets again.

MR. HAVELOCK: Mr. Speaker, we would agree with this that especially in view of the fact there are such a number of amendments, the week-end will give Members time to study them a bit more fully.

THE SPEAKER: In that case that completes the business of the Order Paper. Council now stands adjourned until Tuesday morning at 10 a.m.

The Committee stage of the Local Government County Councils Bill was deferred.

#### ADJOURNMENT

Council adjourned at 12.20 p.m. until 10 a.m. on Tuesday, 8th April, 1952.

Tuesday, 8th April, 1952

Council assembled in the Memorial Hall, Nairobi, on Tuesday, 8th April, 1952.

Mr. Speaker took the Chair at 10.05 a.m.

The proceedings were opened with prayer.

#### MINUTES

The minutes of the meeting held on 4th April, 1952, were confirmed.

#### PAPERS LAID

BY THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES:

The Maize and Produce Control Balance Sheets and Accounts as at the 31st July, 1950.

#### NOTICE OF MOTIONS

THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT: I beg to give notice of the following Motion. Be it resolved that a capital grant in aid of £30,597 be made to the Pandya Memorial Clinic, Mombasa, and that the sum of £10,597 be appropriated for this purpose. As this is a matter of some urgency, Sir, at a later stage in the sitting a Motion will be proposed asking for the suspension of Standing Orders in order that this Motion may be debated and dealt with to-day.

#### ORAL ANSWERS TO QUESTIONS

QUESTION No. 26

MR. BLUNDELL:

Will Government give the latest information in regard to surplus balances which are held by the High Commission and which have accrued from expenditure voted to the High Commission since its inception showing the amounts, if any, which have so accumulated in respect of each year?

THE FINANCIAL SECRETARY: It is assumed that the question relates to the non-self-contained services of the High Commission and is not intended to include the East African Railways and Harbours Administration or the Posts and Telecommunications Administration.

Surplus balances and funds accumulated by the East Africa Governors' Conference by the 1st January, 1948, amounting to £83,560, were taken over

[The Financial Secretary:]

by the High Commission. In addition, a surplus balance of £78,916 was realized for the year 1948. The total surplus at the end of the year was thus £162,476, of which Kenya's share stood at £54,475. It was, however, necessary in 1950 to find additional moneys to pay for Salaries Revision and Pensions and as a result Kenya's 1948 balance was reduced to £27,531.

In 1949, Kenya's share of the surplus balances amounted to £12,454, but since as in the previous year pensions were not estimated for, it will be necessary for the East African Governments to make additional provision which is likely to absorb all the year's surplus and possibly leave a small deficit.

For the year 1950, Kenya is credited with a surplus balance of £77,090 but this figure will be reduced by some £25,000 as a result of unspent money voted for capital projects being revoted in 1951.

MR. BLUNDELL: Arising out of that answer, Sir, can the hon. Member not give me the figure for 1951?

THE FINANCIAL SECRETARY: The answer is "No", Sir.

#### QUESTION No. 50

LT.-COL. GHERSIE:

In view of the reply given by the Member for Agriculture and Natural Resources on the 15th May, 1951, to a question on the subject of proposed legislation in respect of the prevention of cruelty to animals, in which he stated that he would endeavour to introduce the necessary legislation before the expiration of the year 1951, will Government please furnish Council with the present position and the date on which it may expect the proposed legislation to be introduced?

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: I regret that owing to the pressure of other business it was not possible to have a Bill ready before the end of 1951 as promised. The sub-committee of Executive Council appointed to consider the legislation required has now completed its work, however, and I hope that a Bill will be ready for introduction, early in the life of the new Council.

#### QUESTION No. 53

MR. BLUNDELL:

In view of the expanding canning industry in Kenya and the possibilities of a valuable export industry, will Government state whether steps are being taken to ensure that adequate grading of articles for export takes place with a view to maintaining the reputation for quality of Kenya produce?

THE MEMBER FOR COMMERCE AND INDUSTRY: The Government has, for some time past, considered the desirability of establishing a grading organization on the lines proposed by the hon. Member. The Board of Commerce and Industry, however, considered that owing to the necessity of employing adequate technically qualified staff, the expenditure involved would be greater than the industry could afford to pay. The Kenya Food Packers' Association which represents the majority of the canners in the Colony is in consultation with the Government arranging for the sampling of the products of its members with a view to improving the quality standard.

#### QUESTION No. 54

MR. BLUNDELL:

I. Will Government state:—

- The quantity of margarine which has been imported to date?
- The amount, if any, which has been exported after import either as ship's stores or in any other way?
- Whether applications have been received for the local manufacture of margarine and if so—
  - how many; and
  - with what result?

THE MEMBER FOR COMMERCE AND INDUSTRY: (a) In 1951 and 1952 to date 30 tons and 79 tons have been licensed by the Imports Controller. Of these quantities 21 tons have actually been imported into the Colony.

(b) Nil.

(c) (i) One, in Kenya.

(ii) The project is still under consideration by the firm concerned.

## QUESTION No. 55

MR. HAVELOCK:

Is Government aware of the growing public concern at the incidence of crime, in the Colony, and in this regard is Government aware that owing to the lengthy procedure required by the law before a person can be accused of a petty crime and brought before the courts, and owing to the considerable time that witnesses in a case have to sacrifice from their ordinary activities, increasing numbers of petty crimes are not reported?

THE ATTORNEY GENERAL: Yes, Sir, I am aware of the growing public concern at the increase in crime, particularly in Nairobi, during the past few months and I may say that I share that concern. I do not agree that the procedure for bringing persons accused of petty crimes before the Court is unduly lengthy or that this reason could properly be advanced for failing to assist the police by not reporting offences to them promptly.

MR. COOKE: Mr. Speaker, arising from that answer, will the hon. gentleman inform me how many times during the past 12 months the Advisory Committee on Law and Order have met? How many times during the past 12 months?

THE ATTORNEY GENERAL: Since I have been here they have met on one occasion.

MR. HAVELOCK: Arising from the original answer, Mr. Speaker, would the hon. Member tell me then what is the reason for the increasing lack of reporting of petty crime?

THE ATTORNEY GENERAL: It is the hon. Member who has stated the fact that there is a decrease in the reporting of petty crime, but I have not accepted that as a correct statement of fact. The police can only deal with the crime that is reported.

MR. COOKE: Mr. Speaker, I realize the hon. Member has only been a short time in this country but can he give an assurance that this important Committee will meet say, every six weeks in future in order to tender advice to him?

THE ATTORNEY GENERAL: No, Sir, I could not give an assurance that they will meet every six weeks. I am in close

contact with the Members of that Committee and I keep in touch with the specific problems with which they are concerned. I am always prepared to meet at their request, but I have not so far received a request.

MRS. SHAW: Arising out of the original answer, is the hon. Member aware of the fact that this applies as well to serious crime as well as petty crime and that prisoners who are charged with murder have been remanded in custody for up to nine months and a year before they are finally brought to trial?

THE ATTORNEY GENERAL: I shall be glad if the hon. Member will give me particulars of any case in which a person charged with murder has been kept on remand for nine months.

MRS. SHAW: I will give him the particulars.

## QUESTION No. 56

MR. HAVELOCK:

Will Government examine immediately the penalty provisions in all Ordinances with a view to increasing the penalties, especially so that they conform with the fall in the value of money compared with the value at the time such Ordinances were passed, and with a view to increasing the limit below which appeals from a subordinate court are not allowed?

THE ATTORNEY GENERAL: Government has already under consideration the penalty provisions of a number of Ordinances and proposes to take steps to increase them where it is considered that the present maximum penalty would not be a sufficient deterrent in an appropriate case. The question of increasing the limit below which appeals may be brought from a subordinate court is being considered in consultation with the Judiciary.

## QUESTION No. 57

MR. HAVELOCK:

Will Government examine the law with regard to charging a person with a petty crime with a view to simplifying the law?

THE ATTORNEY GENERAL: British legal procedure has gradually evolved to protect an accused person

[The Attorney General]

whether he is charged with a petty or a serious crime. It would not be possible to simplify the procedure further without reducing these safeguards, and to reduce the safeguards would not be in the public interest and would be damaging to British legal traditions and to the British way of life which I am sure the hon. Member for Kiambu is as anxious as I am to propagate and encourage.

## QUESTION No. 58

MR. HAVELOCK:

Will Government consider simplifying the procedure as regards giving evidence, so that members of the public are encouraged to do so rather than discouraged through having to sacrifice so much of their time?

THE ATTORNEY GENERAL: One of the fundamental principles of our system of justice is that a witness should give evidence in person so that the party against whom that evidence tells may have the opportunity of cross-examining him. Government could not consider any alteration of this principle.

Government will, however, consult with the Judiciary on the subject of the arrangement of the court lists with a view to minimizing, if practicable, the time lag between the hour at which a witness is required to attend at the court and the taking of his evidence from the witness-box. It should, however, be pointed out that no appreciable improvement may be practicable save at the expense of a very considerable waste of judicial time with the attendant delay in the administration of justice which this will entail.

## QUESTION No. 59

MR. HAVELOCK: What has Government done to ensure that police officers prosecute efficiently in court?

THE ATTORNEY GENERAL: Government has done and is doing a great deal at the Police Training School at Nyeri to instruct police officers in the art of conducting prosecutions.

MR. HAVELOCK: Arising from that answer, Mr. Speaker, does the hon. Member recollect that this question was raised at least two years ago for the first time and a promise was given in this Council that every effort at that time and in a

short period of time, would be taken to improve the prosecution by police officers which at that time was agreed by hon. Members opposite to be one of the weaknesses in the system of the police in the judicial system of this country. (Hear, hear.)

THE ATTORNEY GENERAL: I agree that the standard of prosecution by police officers is not as high as it should be but I would not agree that this is the substantial cause of failures in prosecutions. A great deal has been done to improve the standard of prosecutions in the last two years by introducing a special course of instruction at the Police Training School. I would add that as well as an excellent scheme for setting up a prosecutions department in the police force in which police officers would specialize in prosecutions, but that excellent scheme is as yet on paper and will remain on paper unless and until the necessary money is forthcoming.

MR. HAVELOCK: Will the hon. Member then approach the hon. Financial Secretary on this question?

THE ATTORNEY GENERAL: With your support and at your instigation, I will have the greatest pleasure in doing so.

MR. USHER: Arising out of the original answer, would the hon. Member state whether the instruction to which he referred is to probationary officers only or to the whole force?

THE ATTORNEY GENERAL: Instruction is given to all those who are attending the school, whether they are going there for the first time or for a refresher course.

MR. BLENDELL: Arising out of this approach of the Member for Finance, with the support of the hon. Member for Kiambu—

THE ATTORNEY GENERAL: Mr. Speaker, on a point of order does that arise out of this question?

THE SPEAKER: No, it does not arise.

## QUESTION No. 60

MR. HAVELOCK:

Will Government ensure that chiefs in the African areas are properly remunerated so that they are able to carry out their duties efficiently and their offices are respected by the people?

**THE CHIEF NATIVE COMMISSIONER:** Members will be aware that the salaries of headmen, or chiefs, were revised in 1948 as a result of the Holmes Report. Revision was undertaken after full consideration of the several aspects involved and resulted in headmen's salaries being computed in accordance with two main criteria. There were the importance of the district concerned and the size of the headman's location. In addition special provision was made for important and able headmen who it was thought needed special consideration.

In assessing the importance of districts consideration was given to the size, population, productivity and political advancement of the districts which were then divided into the three categories of advanced, not-so-advanced, and backward districts. After the application of the second criterion, the size of the location, all chiefs were fitted into the grade considered suitable. All headmen qualified for cost of living allowance and have received the recent increase.

A few anomalies in assessment have arisen from time to time. These have been, and are being, corrected and indeed at the next Provincial Commissioners' meeting which is to be held this month some outstanding anomalies are to be considered. The general position is kept constantly under review and I can certainly assure the hon. Member that the Government is fully aware of the importance of a well paid and contented body of Government chiefs and headmen.

**MR. HAVELOCK:** Arising out of that answer, Mr. Speaker, could the hon. Member tell me what is the maximum paid to any one chief, including cost of living allowance?

**THE CHIEF NATIVE COMMISSIONER:** No, Sir, I can give you the scales. The scales, Sir, are these, without cost of living allowance, which I am sure the hon. Member will compute at once knowing the actual details of cost of living allowances:—

*Gazetted Headmen and Chiefs:—*

Grade IV, £48 to £73.

Grade III, £72 to £105.

Grade II, £100 to £172.

Grade I, £154 to £268.

Special Grade, £276 to £348.

**MR. MATHU:** Arising out of that reply, Sir, would the hon. Member say whether the grades and categories he has read out place these chiefs as under Civil Service terms, or is it a separate category altogether from Government servants?

**THE CHIEF NATIVE COMMISSIONER:** They are civil servants.

#### QUESTION No. 61

**MR. HAVELOCK:** Will Government call a conference of District Commissioners to make recommendations as to how the authority of the chiefs and Administration may be strengthened and upheld?

**THE CHIEF NATIVE COMMISSIONER:** The machinery already exists and operates for regular meetings of District Commissioners (within each province) which are held twice a year. These are presided over by Provincial Commissioners and attended on occasions by Official Members. Regular meetings of Provincial Commissioners are also held in Nairobi at least three times a year.

Subjects cognate to, although not in the precise terms of, that suggested by the hon. Member have already been discussed recently in the Central Province and will be on the agenda for the forthcoming meeting of Provincial Commissioners at the end of April.

The Government believes that more can be achieved by the initial discussion of subjects of this sort at a provincial level with subsequent co-ordination by Provincial Commissioners, rather than by a full conference of all District Commissioners which would be unwieldy.

**MRS. SHAW:** Arising out of that reply, could the hon. Chief Native Commissioner tell me what control, if any, is kept on the activities of the mixed native tribunals, if their only control is this meeting twice a year or if they are under review the whole time to ensure that they do not intimidate the culprits in any way when they charge these people in the native tribunals of offences in the native areas?

**THE SPEAKER:** It seems to be rather extending the question from the existing form to the judicial. There is no need to reply.

**MR. HAVELOCK:** Arising out of the original reply, would the hon. Member tell me if there is any opportunity for District Commissioners in any way to get together to exchange views on their common problems?

**THE CHIEF NATIVE COMMISSIONER:** District Commissioners, as I have said, in their provinces meet twice a year.

**MR. HAVELOCK:** Outside their provinces?

**THE CHIEF NATIVE COMMISSIONER:** No, special arrangements are not made generally for District Commissioners to meet outside their province.

As I have said, a general meeting of that kind, with about 30 District Commissioners would, Government considers, be unwieldy.

**MR. HAVELOCK:** Would the hon. Member not agree that it would be of advantage to District Commissioners outside their districts to meet some way or other for formal or informal discussions, not necessarily making an unwieldy body?

**MR. COOKE:** Does not the Provincial Commissioner make the co-ordination between the province?

**THE CHIEF NATIVE COMMISSIONER:** Provincial Commissioners do co-ordinate between province and province and the District Commissioners do get about a good deal and visit their opposite members in other districts.

**MR. MATHU:** Would the hon. Chief Native Commissioner say whether there are any doubts as to the authority of chiefs provided in the Native Authority Ordinance under the African Councils Ordinance?

**THE CHIEF NATIVE COMMISSIONER:** I do not think that question—I submit that that question does not arise.

**THE SPEAKER:** That is all there is to it.

#### QUESTION No. 62

**MR. HAVELOCK:** Will Government discuss with the City Council and Municipal Boards the advisability of establishing municipal police forces, the members of which would be able to specialize in urban crimes, and who through continuity of service in one locality might have greater opportunity than now to be known to and trusted by the local population?

**THE ATTORNEY GENERAL:** It is Government's view that, under local conditions, the establishment of municipal police forces is neither desirable nor practicable. Separate small forces would be unable to provide from within their slender resources for a highly-qualified C.I.D., wireless and other technical staff, nor could they offer attractive career prospects.

Government appreciates, however, that a specialization of city policing in Nairobi is desirable so that police officers may have continuity of service and acquire the particular knowledge and local experience which is required for policing a large city. Nairobi is, however, with all ranks of the police force, the least popular station in the Colony due to the high cost of living, housing difficulties and the very arduous duties which are the policeman's lot there. It is desirable, therefore, first to make police conditions in Nairobi sufficiently attractive, by providing a better promotion prospects and in other ways persuading intelligent and ambitious police officers to serve continuously within the city. To this end exploratory discussions with the City Council have already taken place.

Elsewhere, it is the Commissioner of Police's policy to ensure so far as is practicable that police officers have continuity of service in their stations in order that they may acquire local knowledge and experience.

**MR. HAVELOCK:** Arising out of that answer, Mr. Speaker, is the approach that Government has made to the City Council to the effect that the City Council should help in providing money and amenities for the benefit of such officers?

**THE ATTORNEY GENERAL:** Yes, Sir, the exploratory discussions have been on those lines.

**MR. HAVELOCK:** Thank you, Sir.

#### QUESTION No. 64

**MRS. SHAW:**

Will Government please state what are the latest figures as regards the populations of the various communities:

- (a) European?
- (b) Asian?
- (c) African?

THE MEMBER FOR COMMERCE AND INDUSTRY: The following are estimates as at the end of 1951:—

- (a) 42,000.  
(b) 158,000.  
(c) 5,500,000.

QUESTION NO. 65

MR. SALTIA:

(a) Is Government aware that on the 22nd September, 1950, H.E. Sir Edward Grigg laid the foundation stones for the proposed new Secretariat Building and Legislative Council Chambers on Secretariat Hill, and that therefore there are now two foundation stones for the Legislative Council building in existence?

(b) If the answer to the above is in the affirmative, will Government say what consideration was given to the use of this stone in the Legislative Council building now under construction?

(c) Will Government say what steps they will take to give recognition to this stone, the laying of which was attended by religious and customary ceremony?

THE CHIEF SECRETARY: (a) On the information available, after reference to the plans for the building which was to have been erected on the site in question, the foundation stone laid by Sir Edward Grigg (now Lord Altrincham) was not intended for a new Legislative Council Chamber.

Answers to (b) and (c) do not therefore arise.

THE FINANCIAL SECRETARY undertook to circulate the answer to Question No. 39.

MOTIONS

THE SECRETARY TO THE TREASURY, Mr. Speaker, I beg to move: BE IT RESOLVED that the scheme outlined in a memorandum dated 2nd May, 1951, providing for the administration of the Agricultural Land Rehabilitation Fund and adopted by resolution of this Council on the 9th May, 1951, be amended so as to provide that moneys voted annually for this purpose be paid into a Fund under the control of the Accountant General and made available by him to the Land Bank as and when they may be required.

As mentioned in the Resolution, the establishment of the Agricultural Land Rehabilitation Fund was the result of a Resolution of this Council last year. The memorandum, Sir, setting out the administrative details referred to provides that moneys provided by the Legislature for this purpose should be paid into a fund by the Accountant General as and when they are required by the Land Bank, for the purpose of making authorized loans and for the purpose of carrying out the administrative functions.

£200,000, Sir, was provided in the Estimates for 1951, and a further £200,000 was made available in this year. The 1951 expenditure was negligible because it was not till the end of the year that the administrative machinery was in working order. This year, Sir, the expenditure is likely to be more than £200,000, but whether it will be as much as £400,000, that is the total of the two amounts of money so far voted, I do not know.

The Resolution, Sir, which is now before the Council seeks authority to amend the original administrative proposals which were approved by this Council so as to provide that any money voted in any particular year may be placed on deposit so as to avoid the necessity for revolving upset balances. I consider, Sir, that it would be prudent, Sir, to take this action.

I beg to move.

THE FINANCIAL SECRETARY seconded. The question was put and carried.

THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT: Mr. Speaker, I beg to move: That the Council do resolve itself into Committee of the whole Council to consider the Local Government County Councils Bill clause by clause.

THE SPEAKER: You are not taking the Motion under suspension of Standing Orders now?

THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT: I can take it now if it is convenient.

THE SPEAKER: I take it, it is not the intention to sit—is it the intention to sit to-morrow if necessary?

THE CHIEF SECRETARY: If it is absolutely necessary, Sir, but if it is possible to get through to-day, I am sure all hon. Members would welcome that, Sir.

THE SPEAKER: In that case, I will give leave to suspend Standing Orders so that the Motion can be taken. Move the suspension of Standing Orders first and then move into Committee.

Standing Orders were suspended.

THE FINANCIAL SECRETARY: Mr. Speaker, as this is a money Resolution, Sir, is it not necessary for me to move that Council do resolve itself into Committee of the whole Council?

THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT seconded.

COUNCIL IN COMMITTEE

Grant-in-Aid—Pandia Memorial Clinic, Mombasa

THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT: Mr. Chairman, I beg to move: BE IT RESOLVED that a capital grant-in-aid of £30,597 be made to the Pandya Memorial Clinic, Mombasa, and that a sum of £10,597 be now appropriated for this purpose.

I must, Sir, begin by apologising to you and to hon. Members opposite for the short notice of this Motion. That has been due to the difficulty of obtaining final figures in time to give the authorized notice as prescribed by the Standing Rules and Orders.

The Motion is in strict conformity with the policy adopted by the Council for making grants-in-aid to hospital funds. Recommendation 2 of the Select Committee's Report on Hospital Services reads as follows: "That any such fund—referring to the Hospital Treatment Relief Fund—should not be called upon to meet capital expenditure". And paragraph 13 of the report went on as follows: "We appreciate that if Recommendation 2 is accepted, capital expenditure will have to be found from some other source. Such capital expenditure, we believe, must be a matter for *ad hoc* consideration by the Government, which, we suggest, should have regard, first, to the needs of the people concerned; and second, to their ability to maintain the service for which provision is desired.

We recognize that in endeavouring to make any capital provision for this purpose the Government will have to pay due regard to the resources of the Colony as a whole".

The Report of that Select Committee was adopted by this Council and now stands as the prevailing policy for dealing with matters of this kind.

I must say now a few words about the particular hospital which it is intended to benefit. In 1942, a statutory body was formed with the object of commemorating the late Mr. J. H. Pandya, who was, for a long time, a respected Member of this Council. The establishment of a clinic and hospital was decided upon as the most appropriate form of memorial. The Society leased premises in Mombasa from the Naval Authorities; this lease expired in September, 1951, and the Pandya Memorial Clinic and Hospital are now situated in new premises, which cost £61,194. The Pandya family have contributed £17,500, and the balance required to cover half the total cost has been raised by public subscription. The present accommodation of the clinic caters for 32 in-patients; there are surgical, X-ray and laboratory facilities provided, together with accommodation for two resident doctors and their families.

I take this opportunity of paying a very warm tribute, on behalf of the whole community of Kenya, to Dr. Karve, the principal resident doctor and secretary of the whole scheme, for his self-sacrifice and devoted labours to which he has decided to give the rest of his life for the benefit of the community. (Applause.)

In Standing Finance Committee, on the 12th October, 1950, it was decided that a loan of £20,000 should be made to the Pandya Memorial Clinic. In September, 1951, the Standing Finance Committee decided that that loan should be made interest free, pending the introduction of a Motion into Legislative Council to convert the loan into a grant. Thus it will be seen that £20,000 of the money required has already been appropriated and used for the purpose indicated. The further sum of £10,597 is required in order to make it a £1 for £1 grant as originally promised. The total cost is £61,194; half of that, i.e. £30,597, of which £20,000 is already appropriated, and the balance now to be

[The Member for Health, Lands and Local Government] appropriated is £10,597. The Vote, however, is required that the capital grant-in-aid shall cover the whole sum of £30,597.

With confidence, Sir, I commend this Resolution for the approval of the Committee. (Applause.)

The question was put and carried.

THE FINANCIAL SECRETARY: Mr. Chairman, I beg to move: That the Committee do now report its agreement with the Resolution.

Council resumed.

THE FINANCIAL SECRETARY: Mr. Speaker, I beg to report: That the Committee has considered and agreed with the Resolution.

The question was put and carried.

THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT: Mr. Speaker, I now beg to move: That the Council resolve itself into Committee of the whole Council to consider the Local Government (County Councils) Bill, clause by clause.

THE ACTING SOLICITOR GENERAL seconded.

The question was put and carried.

#### COUNCIL IN COMMITTEE

*The Local Government (County Councils) Bill, 1952*

THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT: With your permission, Sir, on the general principle of these amendments as many of the amendments are rather long, I trust that you, Sir, and hon. Members will excuse me from reading them out in full. Hon. Members have had the proposed amendments in their hands for several days and have had full opportunity of studying them. A few words in explanation of several of the proposed amendments will, I think, be appropriate.

Taking the amendments proposed for clause 4:

##### Clause 4

That paragraph (c) of clause 4 be amended—

(a) by substituting for the word "nominated" in sub-paragraph (i) the word "appointed";

(b) by deleting from sub-paragraph (ii) the words "rules made under";

(c) by substituting for the words "the Nyanza District" in the proviso to sub-paragraph (ii) the words "the area of the Nyanza District Council";

(d) by substituting for sub-paragraph (iv) the following:

"(iv) where the administrative county contains—

(i) only one administrative district, the District Commissioner of such district, or the District Officer of such district deputed by such District Commissioner;

(ii) not more than two administrative districts, the District Commissioner of each such administrative district, or the District Officer of each such district deputed by each such District Commissioner;

(iii) more than two administrative districts, the District Commissioners appointed by the Governor in Council from two or more of such districts, or the District Officers of the districts deputed respectively by the District Commissioners so appointed.

At any meeting at which a District Commissioner is present, a District Officer of the same district shall be entitled to attend in an advisory capacity but shall not be entitled to vote.

The Provincial Commissioner or the Provincial Commissioners of the province or provinces, as the case may be, in which the administrative county is situate shall be entitled to attend and speak at any meeting of the county council.

For the purposes of this paragraph the term "administrative district" means the whole or any part of such administrative district";

(e) by substituting for the words "nominated by the Member" in the approval of "in sub-paragraph (i) the words "appointed by".

[The Member for Health, Lands and Local Government]

Sub-paragraph (a). Substituting the word "nominated" for the word "appointed". The word "nominated" does imply that someone else makes the appointment but that was not intended, so this is intended to put that right.

Sub-paragraph (b). Rules made under those refer to the election rules which were embodied in the Bill. It is proposed now, Sir, not to have rules but to embody in the Bill the whole provisions relating to elections in a new Part II. That will come on in due course but there are several references to rules made under and in relation to election procedure and it is proposed to delete all those.

Sub-paragraph (c) is self-explanatory.

Sub-paragraph (d) is in order to meet with the desires of district councils who wish that where one or more district is concerned, in a county council area, the District Commissioners concerned shall all have a seat on the council and not merely one selected.

The clauses in sub-paragraph (d) are taken almost *en bloc* from the existing Local Government District Council's Ordinance.

Sub-paragraph (e). That is intended to make it clear that municipalities will not merely nominate but will actually appoint their representatives to the councils.

Sir, I beg to move.

THE CHAIRMAN: In order to save time I shall propose only one Motion on each clause of these Government amendments. It is now proposed that clause 4 be amended in the manner set out in the Order Paper.

The question was put that the Committee agrees with the proposed amendments to clause 4.

The question was put and carried.

The question that clause 4 as now amended stand part of the Bill was put and carried.

##### Clause 5

THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT moved: That the words "and for the administration of such municipality as an urban district" be deleted from clause 5.

The question of the amendment was put and carried.

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

##### Clause 6

THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT moved: That clause 6 be amended—

(a) by substituting for the words "twelve councillors" in sub-clause (1) the words "twelve European councillors";

(b) by inserting after the word "Member" in sub-clause (2) the words "with the approval of the district council submitting the scheme";

(c) by deleting the words "rules made under" where they occur in sub-clauses (1) and (3); and

(d) by adding the following new sub-clause—

"(4) The Member may appoint to any county district council the District Commissioner of the administrative district in which the county district is situate."

The question of the amendment was put and carried.

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

##### Clause 9

THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT: I beg to move, Sir: That there be substituted for clause 9 the following:—

##### *Dissolution of District Councils*

##### "Clause 9

On the coming into force of a scheme of county administration—

(a) the district council submitting the scheme shall be dissolved and shall cease to exist and the Local Government, (District Councils) Ordinance (Cap. 140) shall cease to apply to the district concerned:

Provided that—

(i) all by-laws made under the said Ordinance shall be deemed to be by-laws under this Ordinance and shall continue to be of full force and effect within the area to which they apply until altered or revoked under this Ordinance;



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(3) all appointments made, powers conferred, and notifications served or published under the said Ordinance shall be deemed respectively to have been made, conferred, served and published under this Ordinance;

(3) all works and undertakings authorized to be executed, all rights, liabilities and engagements existing, and all actions, suits and legal proceedings pending by or against a district council constituted under the said Ordinance shall be vested in, attached to, and be enforced, carried on and prosecuted by or against the appropriate county council constituted by a scheme of county administration made under this Ordinance, and no such action, suit or proceeding shall abate or be discontinued or prejudicially affected by the operation of this Ordinance;

(4) all rates, fees, charges and debts of whatsoever description due or payable to or recoverable by a district council constituted under the said Ordinance shall be payable to or recoverable by the appropriate county council constituted by a scheme of county administration made under this Ordinance;

(5) all licences, registrations and permits issued, made or granted under or in pursuance of the said Ordinance shall continue in force for the period, if any, specified in such licences, registrations or permits, unless the same are sooner suspended or cancelled under or in pursuance of this Ordinance;

(b) the Townships Ordinance (Cap. 133) shall cease to apply to any township included in the administrative county—  
Provided that—

(1) all rules made under the said Ordinance shall continue to be of full force and effect within the area to which they apply for a period of two years from such date until altered or revoked under this Ordinance.

(2) all rates, fees, charges and debts of whatsoever description due

or payable to or recoverable by the Government of the Colony under the said Ordinance within any area placed under the jurisdiction of a county district council shall be payable to or recoverable by such county district council constituted by a scheme of county administration made under this Ordinance;

(3) all licences, registrations, and permits issued, made, or granted under or in pursuance of the said Ordinance shall continue in force for the period, if any, specified in such licences, registrations and permits, unless the same are sooner suspended or cancelled under or in pursuance of this Ordinance."

The object of this is to ensure that the rules of district councils and townships which go out of existence when a scheme comes into force will remain valid until an opportunity has been given for the new authority to substitute new rules.

#### Clause 11

THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT moved: That clause 11 be amended—

(a) by substituting for the words "council of the urban district affected" in sub-clause (4) the words "municipal council or board or their successor";

(b) by deleting the words "and for the administration of such municipality as an urban district" in sub-clause (5); and

(c) by adding at the end of sub-clause (6) the words "and such municipal council or board shall have power to initiate proposals for the variation of the scheme of county administration for such purpose".

The question of the amendment was put and carried.

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

#### Clause 12

THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT moved: That clause 12 be amended—

(a) by adding to sub-clause (1) the following proviso—

"Provided that where the administrative country is divided into two

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wards and each ward is represented by more than one councillor, an equal proportion (or as near as may be) of the number of councillors representing each ward shall retire on each succeeding first day of April";

(b) by inserting at the beginning of sub-clause (7) the words "Unless otherwise provided by a scheme of county administration,".

This is to provide for rotation of retirements of members where that is desired. The question was put and carried.

#### Clause 13

THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT moved: That clause 13 be amended—

(a) by substituting for the words "shall make rules" the words "may make rules";

(b) by deleting paragraphs (a), (b) and (g);

(c) by substituting for the words "the Part" in paragraph (e) the words "Parts II and III"; and

(d) by relettering paragraphs (c), (d), (e), (f) and (h) as paragraphs (a), (b), (c), (d) and (e).

The question of the amendment was put and carried.

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

#### Clause 17

THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT moved: That sub-clause (2) of clause 17 be amended by substituting for the words "on the thirtieth day of April" the words "on a day in the first week of May to be appointed by the county council".

The question of the amendment was put and carried.

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

#### Clause 18

THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT moved: That sub-clause (2) of clause 18 be amended by inserting after the words "annual meeting of the council" the words "or as provided by the Standing Orders of the Council".

The question of the amendment was put and carried.

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

#### Clause 31

THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT moved: That sub-clause (3) of clause 31 be deleted.

The question of the amendment was put and carried.

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

The Committee adjourned at 11.00 a.m. and resumed at 11.45 a.m.

#### Clause 32

THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT moved: That sub-clause 12 of clause 32 be deleted.

The question of the amendment was put and carried.

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

#### Clause 34

THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT moved: That clause 34 be amended—

(a) by adding at the end of sub-clause (1) the words "The Chairman of the Council shall be *ex officio* a member of every Committee";

(b) by inserting after sub-clause (3) the following new sub-clause—

"(4) Each Committee shall elect its own Chairman, if not appointed by the Council, and such election shall, in the event of equality of votes for two or more candidates, be determined by lot";

(c) by renumbering sub-clauses (4) and (5) as sub-clauses (3) and (6).

The question of the amendment was put and carried.

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

#### Clause 37

THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT moved: That sub-clause (1) of clause 37 be amended by omitting the words "Subject to the approval of the Member" at the beginning thereof.

The question of the amendment was put and carried.

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

#### Clause 38

THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT moved: That sub-clause (7) of clause 38 be deleted.

The question of the amendment was put and carried.

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

#### Clause 41

THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT moved: That sub-clause (4) of clause 41 be amended by substituting for the word "shillings or to imprisonment for months" the words "one hundred pounds or to imprisonment for six months".

The question of the amendment was put and carried.

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

#### Clause 42

THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT moved: That sub-clause (2) of clause 42 be amended by substituting for the words "one hundred and fifty pounds" the words "five hundred pounds".

The question of the amendment was put and carried.

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

#### Clause 43

THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT moved: That clause 43 be amended—

(a) by omitting the words "with the consent of and subject to any conditions imposed by the Member," in sub-clause (3);

(b) by omitting the words "approved by the Member" in sub-clause (5), and

(c) by omitting the words, "with the consent of the Member" in sub-clause (8).

The question of the amendment was put and carried.

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

#### Clause 44

THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT moved: That sub-clause (2) of clause 44 be renumbered as sub-clause (3) and the following new sub-clause be inserted—

"(2) The Road Authority before tendering advice to the Governor in Council in respect of the classification of any road shall consult the Council of the administrative county in which the road is situate."

The question of the amendment was put and carried.

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

#### Clause 46

THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT moved: That clause 46 be amended—

(a) by inserting at the beginning of sub-clause (1) the words—

"Without prejudice to the powers and duties of the Road Authority as defined in section 8 of the Road Authority Ordinance, 1950 (No. 64 of 1950);" and

(b) by substituting for the words "may appeal against such order to the Governor" in sub-clause (4) the words "may, within thirty days of the making thereof, appeal against such order to a subordinate Court of the first class".

The question of the amendment was put and carried.

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

#### Clause 47

THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT moved: That clause 47 be amended—

(a) by substituting for the words "with the approval of the Governor" in sub-clause (1) the words "with the approval of the Road Authority"; and

(b) by substituting for the words "with the approval of the Governor" in sub-clause (2) the words "with the approval of the Governor in Council".

The question of the amendment was put and carried.

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

#### Clause 48

THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT moved: That clause 48 be amended—

(a) by inserting after the words "shingle, slate or surface soil" the words "and may carry across any land, by a route to be agreed between the owner or occupier thereof and the council, such material removed from other land";

(b) by substituting for the words "14 days" in paragraph (a) of the proviso to sub-clause (1) the words "one month's";

(c) by substituting for the words "14 days" in paragraph (b) of the proviso to sub-clause (1) the words "one month"; and

(d) by substituting for the words "shall be filled up or fenced at the expense of the council" in paragraph (c) of the proviso to sub-clause (1) the words "shall, at the request of the owner or occupier of such land, be filled up or, in the discretion of the council, fenced, at the expense of the council".

The question of the amendment was put and carried.

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

#### Clause 50

THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT moved: That clause 50 be amended by substituting for the word "Governor" the words "Governor in Council".

The question of the amendment was put and carried.

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

THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT: I beg to move: That sub-clause (1) of clause 53 be amended as follows:—

(a) by omitting the words "for elementary education in paragraph (a);

(b) by substituting for paragraph (b) the following:—

"(b) transfer to such county councils such of the functions of the Governor, the Member for Education and the Education Department under the Education Ordin-

ance (Cap. 30) in respect of the administrative county as the Governor may decide and subject to such conditions as he may think fit";

(c) with one small amendment to the amendment which has inadvertently been omitted by a typing error, that the words "or public" should be omitted at the end of the first line of clause (c), clause (c) should read as follows:—

"(c) vest in the county council any Government school, boarding house, or other institution in the administrative county established and maintained by the Governor under the provisions of such Ordinance, upon such terms as the Governor may decide";

The question was put and carried.

#### Clause 54

THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT moved: That clause 54 be amended—

(a) by substituting for the words "trim or remove" in paragraph (b) the words "trim, preserve or remove";

(b) by substituting for the words "by-laws made under the provisions of paragraph (n) of section 55" in paragraph (c) the words "rules made under the provisions of section 105";

(c) by omitting the words "and subject to the approval of the Member" in paragraph (f); and

(d) by omitting the words "with the consent of the Member, to" in paragraph (e).

The question of the amendment was put and carried.

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

#### Clause 55

THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT moved: That sub-clause (1) of clause 55 be amended—

(a) by substituting for paragraph (c) the following—

"(c) for regulating the imposition upon employers of a flat rate per head on African labour employed within the administrative county and the collection of such rate and

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for requiring employers of African labour to register with the county council and to render returns of all such labour employed by them at such times and in such manner as the county council may require;

(b) by deleting paragraphs (h) to (r) both inclusive and by relettering paragraphs (a), (i), (u) and (v) as paragraphs (h), (i), (j) and (k).

The question of the amendment was put and carried.

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

#### Clause 56

THE ACTING SOLICITOR GENERAL moved: That there be substituted for clause 56 the following—

#### "Power of County Council to Delegate Functions"

56. A county council may delegate to the council of any county district or county division within the administrative county with or without restrictions the discharge within the area of such county district or county division of any of their functions under this Ordinance and may, with the consent of the Member, so delegate to any such council the discharge of any function conferred upon the county council by a declaration made under section 51, 52 or 53 of this Ordinance.

The question of the amendment was put and carried.

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

#### Clause 57

THE ACTING SOLICITOR GENERAL moved: That sub-clause (3) of clause 57 be amended by omitting the words "with the consent of the Member."

The question of the amendment was put and carried.

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

#### Clause 59

THE ACTING SOLICITOR GENERAL moved: That clause 59 be amended—

(a) by substituting for paragraph (a) the following—

"(a) establish, acquire, construct, equip and carry on, within or without the county district, works for supplying premises within or without the county district with water and may purchase water in bulk for distribution to such premises and may make such charges and impose such conditions of service for supply of water as may be fixed by the council;"

(b) by substituting for the words "within the county district" in paragraph (b) the words "in connexion with works for the supply of water";

(c) by inserting after the words "make advances to the owner of any land" in paragraph (d) the words "within the county district"; and

(d) by deleting the proviso to paragraph (d).

The question of the amendment was put and carried.

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

#### Clause 61

THE ACTING SOLICITOR GENERAL moved: That sub-clause (1) of clause 61 be amended by omitting the words "and approved by the Member" at the end thereof.

The question of the amendment was put and carried.

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

#### Clause 67

THE ACTING SOLICITOR GENERAL moved: That clause 67 be amended by deleting the proviso thereto.

The question of the amendment was put and carried.

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

#### Clause 68

THE ACTING SOLICITOR GENERAL moved: That paragraph (b) of clause 68 be amended by substituting for the words "reasonable notice" the words "thirty days' notice."

The question of the amendment was put and carried.

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

#### Clause 73

THE ACTING SOLICITOR GENERAL moved: That clause 73 be amended by omitting the words "with the approval of the Member".

The question of the amendment was put and carried.

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

#### Clause 75

THE ACTING SOLICITOR GENERAL: I beg to move: That clause 75 be amended—

(a) by inserting next after paragraph (4) of sub-clause (1) the following new paragraph—

#### "Almshouses"

(5) To acquire, establish and maintain either by themselves or jointly with any other local authority or association almshouses within or without the county district;"

May I bring to notice at the end of paragraph (5) the word "districts" should be "district". It is a misprint and it was not so drafted. Paragraph (5) should read as follows—

#### "Almshouses"

(5) to acquire, establish and maintain either by themselves or jointly with any other local authority or association almshouses within or without the county district;"

(b) by substituting for the words "to plant, trim or remove" in paragraph (7) of sub-clause (1) the words "to plant, trim, preserve or remove";

(c) by substituting for the words "equip and maintain" in paragraph (32) of sub-clause (1) the words "equip, maintain and regulate";

(d) by omitting the words, "with the consent of the Member," in paragraph (43) of sub-clause (1);

(e) by inserting the following new sub-clause as sub-clause (2)—

"(2) Before exercising any of the powers conferred upon them by paragraphs (13) to (19), both inclusive, and paragraphs (25), (34) and (35) of the foregoing sub-

section, a county district council shall give not less than thirty days' notice of their intention so to do by advertising in one or more newspapers (if any) circulating in the county district and if any person objects to the council's proposals and serves written notice of objection on the Commissioner and on the clerk at any time within such period of thirty days then the council shall not proceed with their proposals without the consent of the Member, unless such objection is withdrawn;"

(f) by renumbering sub-clause (2) as sub-clause (3) and by substituting for the words "this paragraph" in the said sub-clause the words "paragraph (31) of sub-section (1) of this section".

The question of the amendment was put and carried.

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

#### Clause 77

THE ACTING SOLICITOR GENERAL moved: That sub-clause (1) of clause 77 be amended by substituting for the words "The Member may authorize a county district council to make by-laws" the words "A county district council may make by-laws".

The question of the amendment was put and carried.

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

#### Clause 78

THE ACTING SOLICITOR GENERAL moved: That sub-clause (1) of clause 78 be amended by omitting the words "with the consent of the Member".

The question of the amendment was put and carried.

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

#### Clause 79

THE ACTING SOLICITOR GENERAL moved: That clause 79 be amended—

(a) by inserting after the words "may refuse to grant" in sub-clause (1) the words "or renew" and by relettering

[The Acting Solicitor General] paragraph (b) of the sub-clause as paragraph (d) and by inserting the following new paragraphs—

"(b) that the premises in or on which the applicant intends to carry on his trade or business do not conform to the requirements of the Council's by-laws;

(c) that sufficient provision for the needs of the area already exists;"

(b) by substituting for the words "any applicant for a licence" in sub-clause (2) the words "Any applicant for the renewal of a licence".

The question of the amendment was put and carried.

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

#### Clause 83

THE ACTING SOLICITOR GENERAL moved: That there be substituted for clause 83 the following—

##### "Procedure for Making By-laws

83. (1) At least fourteen days before application for approval of any by-laws intended to be made by a Council under the provisions of this Ordinance is made, notice of intention to apply for such approval shall be given in the Gazette and in one or more local newspapers circulating in the area to which the by-laws apply.

(2) For at least fourteen days before application for approval of any by-laws is made a copy of the by-laws shall be deposited at the offices of the Council and shall at all reasonable hours be open to public inspection without payment, and the Council shall on application by any person and on payment of a sum not exceeding fifty cents for every hundred words furnish to such person a copy of the by-laws."

The question of the amendment was put and carried.

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

#### Clause 84

THE ACTING SOLICITOR GENERAL moved: That clause 84 be amended—

(a) by omitting the words "or amended" and "or amendment" wherever they occur;

(b) by substituting for sub-clauses (3) and (4) the following:—

"(3) By-laws made under this Ordinance shall, unless some other date is therein specified, have effect from the date of the approval thereof which said approval shall be notified by publication in the Gazette and in the newspaper or newspapers in which notice of the intention to apply for approval was published.

(4) A copy of the by-laws, when approved, shall be printed and deposited at the offices of the Council by whom the by-laws are made, and shall at all reasonable hours be open to public inspection without payment, and a copy thereof shall, on application, be furnished to any person on payment of such sum as the Member from time to time approves.

(5) The production of a printed copy of any by-laws purporting to be made by a Council under this Ordinance upon which is endorsed a certificate purporting to be signed by the clerk stating—

(a) that the by-laws were made by the Council;

(b) that the copy is a true copy of the by-laws;

(c) that on a specified date the by-laws were approved by the Member; and

(d) the date from which the by-laws have effect, shall be *prima facie* evidence of the facts stated in the certificate without proof of the handwriting or official position of any person purporting to sign a certificate in pursuance of this subsection."

The question of the amendment was put and carried.

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

#### Clause 85

The question that clause 85 stand part of the Bill was put and negatived.

#### Clause 86

THE ACTING SOLICITOR GENERAL moved: That clause 86 be amended by substituting for the words "fifty pounds" the words "one hundred pounds".

The question of the amendment was put and carried.

#### Clause 92

THE ACTING SOLICITOR GENERAL moved: That clause 92 be amended by substituting for sub-clauses (2) and (3) the following sub-clause—

"(2) The county council shall make standing orders regulating the making of payments out of the county fund in respect of the general or special expenses of the county council and the general or special expenses of every county district council and county divisional council in the administrative county."

The question of the amendment was put and carried.

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

#### Clause 94

THE ACTING SOLICITOR GENERAL moved: That clause 94 be amended—

(a) by omitting the word "annual" in paragraph (vi) of sub-clause (1); and

(b) by inserting after the words "shall be substituted therefor" in the proviso to sub-clause (2) the words "in respect of the whole or of such part of the administrative county as the case may be".

The question of the amendment was put and carried.

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

#### Clause 108

THE ACTING SOLICITOR GENERAL moved: That there be substituted for clause 108 the following—

##### "Payment of Rates, Taxes and Other Charges Before Transfer of Premises

108. (1) No transfer of any premises within an administrative county shall be passed or registered before any registration officer until a written statement in the form shown in the

Schedule to this Ordinance, and signed and certified by the clerk or other officer authorized in that behalf by the county council, shall be produced to such registration officer, nor unless such statement shows—

(a) that all charges for a period of twelve years immediately preceding the date of application for transfer due in respect of such premises for sewerage, sanitary and refuse removal services and lawfully imposed under this Ordinance or any by-laws made thereunder; and

(b) that all charges (in any) for a period of twelve years immediately preceding such date due in respect of such premises on account of rates imposed under any enactment for the time being in force within the administrative county; and

(c) that all sums (if any) due on account of any expenses incurred or advances made by the Council under the provisions of this, or any other Ordinance, have been paid to the council.

(2) The clerk or other officer authorized in that behalf by the Council is hereby required to give the said statement on the demand of the owner of the premises or his attorney or agent, upon payment by him of all charges due as aforesaid and of a charge to be fixed by resolution of the council not exceeding Sh. 5 for each such statement."

The question of the amendment was put and carried.

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

#### Clause 109

THE ACTING SOLICITOR GENERAL moved: That clause 109 be amended by substituting for the words "treatment of such Africans in hospitals established by a county council or dispensaries established by a county district council" in paragraph (a) of sub-clause (1) the words "of any service for the benefit of such Africans".

The question of the amendment was put and carried.

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

## Clause 111

THE ACTING SOLICITOR GENERAL moved: That clause 111 be amended—  
(a) by inserting the following marginal note—

Government contributions;

(b) by deleting sub-paragraph (ii) of paragraph (a) of sub-clause (1);

(c) by substituting for paragraph (b) of sub-clause (1) the following

"(b) out of the Road Fund—

(i) the cost of the construction, reconstruction and maintenance to such standard as the Road Authority may approve of such roads within the administrative county as the Governor in Council, on the advice of the Road Authority, may determine;

(ii) such proportion as the Road Authority may direct of the sum of money credited to the Road Fund pursuant to the provisions of paragraph (a) of sub-section (2) of section 10 of the Road Authority Ordinance, 1950."

MR. HAVELOCK: Mr. Chairman, I have another amendment to that. I have a further amendment. I beg to move, Sir, that the amended clause be further amended adding the following words after paragraph (b) (ii) "in respect of vehicles registered in the name of persons having their residence or place of business within the administrative county where such vehicles are ordinarily housed or kept".

This, Sir, is exactly the same wording as in the original and is merely added to the amended section.

THE ACTING SOLICITOR GENERAL: I think, Sir, the matter is covered. I have not got a copy of the Ordinance with me, Sir, but I think it is actually covered by the wording of the Road Authority Ordinance itself, but I am not sure. But we have no objection to the amendment.

MR. HAVELOCK: Speaking to that amendment, Sir, it is merely, I think, that adding those words will give an indication to the county councils of what moneys or what licences, the proportion of which should be decided by the Road Authority; according to this amendment they may be entitled to the money therefrom, they may be entitled to it.

It gives them some expectation. As it is at the moment it is completely flat, and there are no grounds stated, as I understand it, for any contribution in that regard to the county council.

THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT: Mr. Chairman, it is certainly the intention that this section shall be applied in the manner indicated. There is no objection from the Government side to the acceptance of the amendment.

MR. HAVELOCK: Thank you, Sir.

The question of the amendments was put and carried.

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

## Clause 112

THE ACTING SOLICITOR GENERAL moved: That clause 112 be amended by substituting for the words "from the public revenues of the Colony" the words "out of the Road Fund".

The question of the amendment was put and carried.

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

## Clause 114

THE ACTING SOLICITOR GENERAL moved: That clause 114 be amended by substituting for the words "paragraph (c)" wherever they occur the words "sub-paragraph (ii) of paragraph (b)".

This is consequent upon the supplementary amendment to clause 111.

The question of the amendment was put and carried.

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

## Clause 119

THE ACTING SOLICITOR GENERAL moved: That there be substituted for clause 119 the following—

## "Reserve and Renewal Funds"

119. (1) A county council shall create adequate reserve funds to provide for the entire or partial replacement of assets of the county council and of the council of every county district and county division in the administrative county which, owing to

## [The Acting Solicitor General]

depreciation or other cause, will require at some future date to be moved; That the following new part be replaced, and shall invest such funds.

(2) Every council shall pay annually into the reserve funds so created such contributions as may be necessary, and no such moneys or any part thereof shall, without the sanction of the Member, be used either permanently or temporarily for any purpose other than the purposes for which they have been contributed. All interest or other revenues derived from such reserve funds shall be paid into and become part of such funds."

The question of the amendment was put and carried.

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

## Clause 122

THE ACTING SOLICITOR GENERAL moved: That sub-clause (2) of clause 122 be amended by omitting the words "and in accordance with regulations made under the provisions of section 119 of this Ordinance" in paragraph (e).

The question of the amendment was put and carried.

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

## Clause 124.

THE ACTING SOLICITOR GENERAL moved: That sub-clause (2) of clause 124 be amended by substituting for the words "thirty pounds" the words "one hundred pounds".

The question of the amendment was put and carried.

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

## Clause 127

THE ACTING SOLICITOR GENERAL moved: That clause 127 be amended by substituting for the words "approval of the Governor" the words "approval of the Governor in Council, the Governor".

The question of the amendment was put and carried.

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

## Clause 136

The question that clause 136 stand part of the Bill was put and negatived.

## SECOND READING

THE ACTING SOLICITOR GENERAL moved: That the following new part be read a second time:

## Part II—Provision Relating to Registration of Voters and Elections

## Preparation of Voters' Roll

12. (1) As soon as possible after a scheme of county administration has been approved by the Member the district council or councils submitting the scheme shall cause a list to be made of all Europeans who are qualified to be enrolled as voters for the administrative county under the provisions of this Ordinance. Where the administrative county concerned is divided into wards, such list shall be subdivided into as many parts as there are wards of the administrative county and the list, or each such part, shall show in alphabetical order the full name, residential address, occupation, and nature of the qualification of every voter qualified to vote within the administrative county or the ward to which such part refers:

Provided that in the case of any county council which shall include within its jurisdiction the rural area of the administrative district now known as the Nyanza District, such county council shall also cause a separate list to be made of all Asians who are qualified to be enrolled as voters for such administrative county under provisions of this Ordinance.

(2) Such district council or councils shall also cause to be made in the manner described in the last preceding sub-section in respect of every county district the council of which is required by the scheme to be wholly or partly elected a list of all Europeans who are qualified to be enrolled as voters for such county district under the provisions of this Ordinance.

(3) Once in every three years after the preparation of any list of voters as required by this section the county council shall, by a date to be fixed by the Commissioner, cause a new list to be prepared in the manner described in this section.

(4) As soon as possible after any variation has been made in a scheme of county administration in pursuance of section 11 of this Ordinance, the county council shall cause such consequential

[The Acting Solicitor General] alterations to be made in the respective voters' rolls as may be necessary.

(5) Where any ward has been divided into polling districts or any increase, decrease, alteration or adjustment of such districts has been made, the county council shall compile from the voters' roll of such ward a register of voters for each such polling district, consisting of the voters for the ward who are entitled to vote in such polling district.

(6) The Member may order all such steps to be taken with regard to the preparation of the first voters' rolls for any administrative county to which the provisions of this Ordinance apply, or may hereafter become applicable, as he may deem necessary to meet the circumstances of the case.

(7) An administrative county, county district, or ward for which a voters' roll is prepared under the provisions of this section is in this Part of this Ordinance called an "electoral area".

#### Registering Officer

13. The registering officer for the purpose of the preparation of voters' rolls under the provisions of this Ordinance shall be the Clerk of the Council concerned or such other person as such council may, with the approval of the Commissioner, appoint.

#### Qualification of European Voters

14. Subject to the provisions of this Ordinance, every person who is—

- (1) of European origin or descent; and
- (2) of not less than twenty-one years of age; and
- (3) either—

(a) owns rateable property within the electoral area of the capital value of one hundred pounds; or

(b) (i) has resided in the electoral area for twelve months out of the twenty-four months preceding the date of application for enrolment, and either

(ii) has been in occupation, for a like period, of premises in the electoral area of an annual value of thirty-six pounds, or

(iii) is, at the date aforesaid, and has been for six months out of the preceding twelve months, in receipt of earnings at the rate of not less than ten pounds per month.

shall, upon application to the registering officer, be entitled to be enrolled in the European voters' roll for the electoral area and to vote at the election of a European member;

Provided that a married woman who is qualified for enrolment under the provisions of paragraphs (1), (2) and sub-paragraph (b) (i) of paragraph (3) of this section shall be entitled to be enrolled notwithstanding that she does not possess either of the qualifications required by sub-paragraphs (b) (ii) and (b) (iii) of paragraph (3) of this section, if her husband is so qualified.

#### Qualifications of Asian Voters

15. Subject to the provisions of this Ordinance, every person who is—

(1) a British subject of Asian origin or descent or an Asian under the suzerainty or protection of Her Majesty; and

(2) of not less than twenty-one years of age; and

(3) either—

(a) owns rateable property within the administrative county of the capital value of one hundred pounds; or

(b) (i) has resided in the administrative county for twelve months out of the twenty-four months preceding the date of application for enrolment, and either

(ii) has been in occupation for a like period of premises in the administrative county, of an annual value of twelve pounds; or

(iii) is, at the date aforesaid, and has been for six months out of the preceding twelve months, in receipt of earnings at the rate of not less than ten pounds per month.

shall, upon application to the registering officer, be entitled to be enrolled in the Asian voters' roll and to vote at the election of an Asian member;

Provided that a married woman who is qualified for enrolment under the pro-

[The Acting Solicitor General]

visions of paragraphs (1), (2) and sub-paragraph (b) (i) of paragraph (3) of this section shall be entitled to be enrolled notwithstanding that she does not possess either of the qualifications required by sub-paragraphs (b) (ii) and (b) (iii) of paragraph (3) of this section, if her husband is so qualified.

#### Disqualification of Voters

16. Notwithstanding anything in the preceding sections of this Ordinance contained, no person shall be entitled to have his name entered upon any voters' roll or to vote at any election if such person—

(a) has been found by a competent court to be of unsound mind; or

(b) has been convicted of a criminal offence, whether in the Colony or elsewhere, and has been sentenced to imprisonment for a term of not less than twelve months and has not received a free pardon;

Provided that such disqualification shall cease two years after the date of the expiration of the sentence; or

(c) has received relief from any public funds within twelve months prior to the date of this application to have his name entered upon the voters' roll; or

(d) has been declared bankrupt or insolvent by a competent court, whether in the Colony or elsewhere, and has not received his discharge; or

(e) is suffering from any disqualification provided by any enactment for the time being in force.

#### Voters to be Enrolled in Electoral Area in respect of which they are Qualified

17. Every person who is enrolled in any voters' roll in respect of a property qualification shall be enrolled in the electoral area in which such property is situate, and shall be entitled to be enrolled office in each electoral area in respect of which he is qualified; and every person who is enrolled in respect of a residential qualification shall be enrolled in the electoral area in which he resides;

Provided that no person shall be enrolled in the same electoral area in respect of both a property and a residential qualification.

#### Notices of Objection to List

18. The registering officer shall cause every voter's roll framed under the provisions of this Ordinance to be deposited in the Council's offices for inspection by the public, and shall cause to be published in the Gazette and in one or more newspapers (if any) circulating in the administrative county a notice that all objections and claims to be enrolled will be heard at some time and place to be therein stated;

Provided that such time shall not be less than fourteen days after the publication of such notice.

#### Determination of Claims and Objections

19. (1) A magistrate having jurisdiction within the administrative county shall hear and determine all claims and objections, and may enrol the names of any persons qualified which have been omitted from the appropriate voters' roll, and shall strike out the names of all persons not entitled to be enrolled;

Provided that the name of any person shall not be struck out until such person shall have had not less than seven days' notice of the investigation of his qualification, and such person shall, if he shall so desire, be heard in regard thereto either personally or by a representative.

(2) The hearing and determination of any claim or objection under this section may be adjourned from time to time, and the decision upon any such claim or objection shall be subject to appeal to a Judge in Chambers if notice thereof be given by any interested person within seven days after the declaration of such decision. The Judge in Chambers on hearing such appeal may uphold or reverse the decision and may make such order as to costs as may seem just.

(See page 23A for clause 20.)

#### Provision for Addition of Names to Voters' Rolls

21. Any person who is not on the appropriate voters' roll in force for the time being in an electoral area may at any time apply to the registering officer to be enrolled as a voter, and the

[The Acting Solicitor General] registering officer upon being satisfied that such person is qualified under this Ordinance to be so enrolled shall cause the name of such person to be placed on the voters' roll. If the registering officer shall refuse any application under this section the applicant may appeal to a magistrate having jurisdiction within the administrative county, and the application shall be disposed of in the manner provided by section 19 of this Ordinance;

Provided that no person shall be enrolled under this section as a voter upon an application made after the date of publication of a notice of any election under section 28 of this Ordinance until such election shall have been held.

#### Right of Public to Inspect Voters' Rolls

22. Every voters' roll framed or amended under the provisions of this Ordinance shall be deposited at the council's offices for inspection by the public during office hours.

#### Rolls to be in Force until New Rolls Prepared

20. Subject to the provisions of the next succeeding section the voters' rolls when so settled and amended shall be the voters' rolls for the administrative county and county districts respectively until the next voters' rolls shall in like manner be completed; and such voters' rolls shall be deemed to be conclusive and the only proof of the right of every person enrolled therein to vote at the election of Members of the Council.

#### Penalty for False Statements

23. Any person who wilfully makes any false statement on an application to be enrolled upon any voters' roll under this Ordinance shall be guilty of an offence and shall be liable on conviction to a fine not exceeding four hundred shillings or to imprisonment for a period not exceeding three months or to both such fine and imprisonment.

#### Qualifications of Candidates

24. (1) Subject to any of the disqualifications mentioned in sub-section (2) of this section, any person who is and who is entitled to be enrolled as a voter in any administrative county shall be eligible for election as a member of the county council or of the council of any county district in the administrative county.

(2) A person shall be disqualified for election as a member of any council if such person—

- (a) is not a British subject; or
- (b) cannot read, write and speak the English language; or
- (c) is in the employment of, or holds any office or place of profit under or in the gift of, the council; or
- (d) has been convicted of a criminal offence, whether in the Colony or elsewhere, and has been sentenced to imprisonment for a term of not less than six months and has not received a free pardon;

Provided that the Governor may by order in any particular case remove such disqualification; or

(e) has received relief from any public funds within twelve months prior to the date of his nomination as a candidate for election.

#### Casual Vacancies

25. (1) Any vacancy caused by the death of an elected member or by an elected member vacating his seat for any reason other than the expiration of his term of office shall be deemed to be a casual vacancy.

(2) Whenever a casual vacancy shall occur an election shall as soon as possible be held for the purpose of filling such vacancy and the councillor to be elected to fill such vacancy shall be elected in the manner provided for the election of candidates at the annual election. Any member elected to fill a casual vacancy under this section shall hold office for the remainder of the term for which the member whose place he has taken would have been entitled to remain in office.

(3) Where a casual vacancy occurs within six months before the ordinary day of retirement from the office in which the vacancy occurs, an election under this section shall not be held to fill the vacancy, but the vacancy shall be filled at the next ordinary election:

Provided that if upon a vacancy, or a number of simultaneous vacancies, so occurring the total number of unfilled vacancies in the membership of the council exceed one-third of the whole number of members, this sub-section shall not apply to that vacancy or to those vacancies.

[The Acting Solicitor General]  
*Circumstances in which Councillors and Members ipso facto Vacate Office*

26. Any elected member who ceases to possess the qualifications by this Ordinance prescribed, or who is a paid agent for any candidate at an election under this Ordinance, or who becomes disqualified under this Ordinance shall *ipso facto* vacate his office, and the council shall at their next meeting declare the seat of such member to be vacant, and shall forthwith notify the Commissioner of such vacancy. In any such case such vacancy shall be filled by election in the manner prescribed by the last preceding section:

Provided, however, that a member whose seat shall have been declared vacant under this section may, within fourteen days after the date of such declaration, apply to a judge in chambers to have such declaration set aside. Notice of the intention to make such application and the grounds thereof shall be given to the clerk within seven days after such declaration. The order of the judge in chambers as to the disqualification or otherwise of the councillor or member shall be final and without appeal.

#### Returning Officers

27. The council may, with the approval of the Commissioner, appoint a returning officer for each election held under this Ordinance:

Provided that where elections are held in more than one electoral area a returning officer shall be appointed for each such electoral area.

#### Notice of Election

28. (1) The clerk shall, not less than ten days prior to any election, cause to be published in the *Gazette* and in one or more newspapers (if any) circulating in the administrative county and to be posted at such conspicuous places as he shall think fit within the electoral area in which the election is to be held, a notice of the returning officers (if any) appointed under the last preceding section and the dates and places during and at which the returning officers will receive the nomination papers of candidates for the seat or seats to be filled by election and, in the case of nomination papers sent by registered post, the address to which they shall be sent and

the latest date upon which such nomination papers will be received by the returning officer.

(2) Any date specified, under the provisions of sub-section (1) of this section, shall be not less than ten nor more than fourteen days from the date of the publication of the notice.

#### Nomination of Candidates

29. (1) On the day and at the place or places fixed under the last preceding section the returning officer concerned shall attend at ten o'clock in the forenoon until one o'clock in the afternoon and shall receive the nomination of any duly qualified candidate for the seat or seats to be filled.

(2) Every candidate shall be proposed and seconded and shall be supported by not less than three persons other than the proposer and seconder. The proposer and seconder and supporters shall be persons whose names appear on the appropriate voters' roll for the electoral area for which the candidate seeks election.

(3) Every nomination paper shall be in a form to be prescribed by rules under this Ordinance, and the signatures of the proposer and seconder shall be witnessed by a magistrate, justice of the peace or notary public.

(4) Every nomination paper subscribed and witnessed as aforesaid shall be—

(a) delivered to the returning officer by the candidate, or by his proposer and seconder at the time, date and place specified; or

(b) if sent by registered post, received by the returning officer not later than the latest date specified,

any nomination paper which is not so delivered or received shall be rejected.

#### Description of Candidates and Examination of Nomination Papers

30. (1) Every candidate shall be described in his nomination paper in such a manner as in the opinion of the returning officer is calculated sufficiently to identify such candidate. No objection to a nomination paper on the ground of the description of the candidate therein being insufficient or on the ground that such nomination paper does not comply with the provisions of this Ordinance or any rules made thereunder shall be valid unless such objection is made to the re-

[The Acting Solicitor General] turning officer or immediately after the time of delivery of the nomination paper. The decision of the returning officer as to the sufficiency of any nomination paper shall be final.

(2) The returning officer shall permit any candidate and his proposer and seconder to examine the nomination paper of any other candidate.

#### Procedure for Election of Candidates

31. (1) If at the expiration of the time appointed for the election the number of any duly nominated candidates for any electoral area does not exceed the number of members to be elected for such electoral area, the returning officer shall forthwith declare such candidate or candidates to be elected, and the clerk shall publish the result of the election in the Gazette.

(2) If the number of duly nominated candidates exceeds the number of members to be elected as aforesaid the returning officer shall forthwith adjourn the election for the purpose of taking a poll and the clerk shall publish immediately in the Gazette and in one or more newspapers circulating in the administrative county and cause to be posted at such conspicuous places as he shall think fit within the electoral area in which a poll is to be taken a notice specifying—

- (a) the electoral area in which the poll will be taken;
- (b) the date on which the poll will be taken, which shall not be less than fourteen days from the publication of the notice;
- (c) the names of the candidates as described in their respective nomination papers and the names of their proposers and seconders;
- (d) the place or places at which a poll will be taken and the proportion of the electoral area allotted to each polling station.

(3) No election which is adjourned for the purpose of taking a poll, shall be declared invalid for the reason that the poll was not held or completed before the 1st April in the year in which such election is held.

#### Death of Candidate before the Poll is Taken

32. If, after an election has been adjourned for the purpose of taking a poll,

one of the candidates nominated shall die before the poll has commenced, the returning officer shall, upon being satisfied of the fact of such death, countermand notice of the poll, and in such case all the proceedings with reference to the election shall be commenced afresh:

Provided that no fresh nomination shall be necessary in the case of a candidate who stood nominated at the time of the countermand of the poll.

#### Retirement of Candidate Before Taking a Poll

33. If, after an election has been adjourned for the purpose of taking a poll, any candidate nominated for election shall be desirous of retiring from the candidature, he may, not later than three days before the day of polling, sign and deliver a notice of his retirement to the returning officer, who, on receipt of such notice, shall, if the number of candidates is by such retirement reduced to the number of persons to be elected at such election, declare the remaining candidates to be on that date duly elected, and if the said number is not so reduced shall omit the name of the person so retiring from the list of candidates and such person shall not be capable of being elected at such election.

#### Provisions as to Voting

34. (1) A registered voter shall be entitled to one vote in respect of each vacancy to be filled for the electoral area in which he is enrolled.

(2) Every voter shall vote at the polling station appointed for the electoral area or polling district, as the case may be, in respect of which his or her name appears upon the voters' rolls and at no other place.

#### Penal Provisions Relating to Elections (Cap. 38)

35. Sections 21 to 29 (both inclusive) of the Legislative Council Ordinance shall apply *mutatis mutandis* to any election held under the provisions of this Ordinance.

The question was put and carried.

The question that the new part stand part of the Bill was put and carried.

THE ACTING SOLICITOR GENERAL moved the second reading of the following new clause—

#### [The Acting Solicitor General] Transfer to Road Authority of Functions Relating to County Roads

75. A county council may, if so requested by the Road Authority, and shall if so directed by the Governor in Council, transfer to the Road Authority the whole or any part of the functions conferred upon such council by sections 45 to 49 inclusive of this Ordinance.

The question was put and carried.

The question that the new clause stand part of the Bill was put and carried.

THE ACTING SOLICITOR GENERAL moved the second reading of the following new clauses—

#### Shops in Rural Areas

79. The Member shall, if a county council so request, declare the county council to be an authority for licensing shops in rural areas and shall take such steps as are necessary to vest in the county council the powers of the licensing officer under the Shops in Rural Areas Ordinance (Cap. 115) in respect of the rural areas of the administrative county.

#### County Council May Discharge Other Functions

80. A county council shall be entitled to discharge within the administrative county any function conferred upon a district council by the Local Government (District Councils) Ordinance (Cap. 140) or any other Ordinance, so far as the discharge of such functions is not inconsistent with the provisions of this Ordinance.

The question was put and carried.

The question that the new clauses stand part of the Bill was put and carried.

THE ACTING SOLICITOR GENERAL moved the second reading of the following new clauses—

#### Power to Make Rules

105. (1) A county council may make rules relating generally to the establishment, control, management, maintenance, and contribution to any pension, provident or benevolent fund established under section 81 of this Ordinance (in this section referred to as "the

fund") and, without prejudice to the generality of the foregoing power, such rules may—

- (a) permit or require all or any of the officers or servants of the council to become members of any such fund;
- (b) fix the amount of the contributions, if any, to be made by members of any such fund and the amount of the contributions to be made by the council;
- (c) provide for periodical valuation of any such fund and for enforcing any increase in the contributions thereto or any diminutions in the benefits arising therefrom as the valuation may show to be necessary to maintain the solvency of such fund;
- (d) prescribe the age at which any officer or servant of the council may or shall become a member of any such fund and the age and conditions upon which any such officer or servant may or shall retire from the service of the council or cease to be a member of the fund;
- (e) determine the amount of pension or other benefit to be paid to a member of any such fund or to his dependants or to his personal representative;
- (f) provide for the management and investment of the moneys of any such fund and the election of a committee of management for that purpose;
- (g) provide for vesting the property, money and assets of any such fund in trustees for the purpose of the administration thereof in such a manner as the committee of management may direct;
- (ii) permit a trustee, if a bank, to transact any business in connexion with any such fund on the same terms as would be made with a customer in the ordinary course of business, without such trustee being liable to account for any profit or share of brokerage;
- (h) provide for the retirement, removal or resignation of a member of any committee of management or trustee and for filling any vacancy caused thereby;
- (i) provide that no pension or right to a pension shall be capable of being



[The Acting Solicitor General] assigned or transferred or otherwise ceded or of being pledged or hypothecated or of being attached or subjected to any form of execution under a judgment or order of a court of law, and in pursuance of any such rule the council may withhold, suspend or entirely discontinue the payment of a pension in the event of the beneficiary attempting to assign, transfer or otherwise cede or to pledge or hypothecate any pension or right as aforesaid;

(j) provide that any pension or other retiring benefit may be withheld by the council for the purpose of discharging any debt due to the fund or to the council;

(k) provide that if any person in receipt of any pension or other retiring benefit—

(i) is convicted by any court in Her Majesty's dominions or under Her Majesty's protection or in which Her Majesty has jurisdiction and is sentenced to imprisonment without the option of a fine for a period exceeding one month;

(ii) is adjudicated a bankrupt or is declared insolvent by judgment of the court;

(iii) becomes incapable of managing his own affairs by reason of physical or mental infirmity any such pension or retiring benefit may during any such incapacity, cease to be payable to the member and instead be paid to such of his dependants as the council may determine.

(2) All rules made under this section shall be subject to the approval of the Member.

#### Relinquishment of Functions by County District Council

106. (1) The Council of any county district for the time being responsible for the discharge of any function conferred upon them by this Ordinance may at any time, with the consent of the county council, relinquish such function, and as from the first day of January next after the date of relinquishment such function may be discharged within the county district by the county council as

if it had been conferred upon the county council in respect of such county district by this Ordinance.

(2) Where any function of the council of a county district is relinquished under this section any expenses incurred by the county council in discharging such function shall, except in so far as they may be met by a grant made by the county council, be a debt due from the county of the said county district to the county council, and shall be defrayed as general expenses of the council of the said county district or as special expenses of such council or partly as such general expenses and partly as such special expenses as the county council may direct.

The question was put and carried.

The question that the new clauses stand part of the Bill was put and carried.

THE ACTING SOLICITOR GENERAL moved the second reading of the following new clause:

#### County District Council may Discharge other Functions

112. A county district council shall be entitled to discharge within the county district any function conferred upon a municipal council or municipal board by the Municipalities Ordinance (Cap. 136), or upon a township by the Townships Ordinance (Cap. 133), or upon any such local authority by any other Ordinance, so far as the discharge of such functions is not inconsistent with the provisions of this Ordinance.

The question was put and carried.

The question that the new clause stand part of the Bill was put and carried.

THE ACTING SOLICITOR GENERAL moved: That the following Schedule be read a second time:—

#### SCHEDULE

##### The Local Government (County Councils) Ordinance, 1952

This is to certify that all sums due in accordance with section 108 of the Local Government (County Councils) Ordinance, 1952, to the county council of ..... and to the council of the county district of ..... in respect of the premises ..... registered in the name of ..... have been paid to the said councils.

This certificate is available to ..... 19.....

[The Acting Solicitor General]

Given under my hand at ..... this ..... day of ..... 19.....

Clerk of the ..... County Council.

The question was put and carried.

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

THE ACTING SOLICITOR GENERAL moved: That the Local Government (County Councils) Bill be reported back to Council with amendment.

Council resumed and the Member reported accordingly.

#### THIRD READING

THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT moved: That the Local Government (County Councils) 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 SPEAKER: That concludes the business on the Order Paper. If no other Member has any other matter to raise on the adjournment, I will then propose we adjourn until His Excellency is due to arrive. If that is convenient to everybody we will suspend business then until 12.25 p.m.

Council rose at 12.07 p.m. to await the arrival of the President and resumed at 12.25 p.m.

#### COMMUNICATION FROM THE CHAIR

HIS EXCELLENCY THE GOVERNOR: Mr. Speaker, and hon. Members of the Legislative Council, with the completion of your business this morning, this Council has come to the end of its life. It has had an arduous and exacting time and has had to consider much legislation of the greatest importance to the future of the Colony for the passage of which I venture to think that subsequent generations will be grateful to you: A Proclamation will issue on the 11th April proroguing the Council until the 15th April, upon which date the dissolution will take effect by a second Proclamation.

Nomination day will follow on the 7th May and after the statutory interval, the new elections will take place at the end of the month and the beginning of June. I hope to be able to announce as near simultaneously as possible the nominations to the Council of those hon. Members who fall to be nominated. The new Council will be able to assemble for the purpose of taking the oath and for its formal opening of the 12th June. It is a matter of great satisfaction to myself that by arrangement with hon. Members, it has been possible for me to remain in the country for long enough formally to open the first session of the new Council—(applause)—about a week before I leave the country on termination of office. The Council is prorogued with effect from the 11th April to permit of the final meeting of the Standing Finance Committee.

#### PROCLAMATION OF PROROGATION

The Clerk read the following Proclamation:—

BY His Excellency Sir Philip Euen Mitchell, Knight Grand Cross of the Most Distinguished Order of Saint Michael and Saint George, upon whom has been conferred the Decoration of the Military Cross, Governor and Commander-in-Chief of the Colony and Protectorate of Kenya.

IN EXERCISE of the powers conferred by clause XXX of the Instructions passed under the Royal Sign Manual and Signet dated the 29th day of March, 1934, I do hereby proclaim that the Legislative Council of the Colony shall be prorogued with effect from the 11th day of April, 1952, until the 15th day of April, 1952.

Given under my hand and the Public Seal of the Colony at Nairobi this 8th day of April, 1952.

#### GOD SAVE THE QUEEN

THE SPEAKER: Well, nothing remains for me to do but to adjourn the Council sine die.

I take it no other Members wish any other matters to be raised.

#### ADJOURNMENT

Council adjourned sine die at 12.35 p.m.

# Index to the Legislative Council Debates

## OFFICIAL REPORT

Fourth Session—Third Sitting

Volume XLVII

1st April, 1952, to 8th April, 1952

### EXPLANATION OF ABBREVIATIONS

Bills: Read First, Second or Third time—1R, 2R, 3R;  
In Committee—1C; Referred to Select Committee—  
SC; Select Committee Report—SCR; Recommitted to  
Committee=Re.C.; Withdrawn=Wdn.

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