

KENYA GOVERNMENT ARCHIVES  
PHOTOGRAPHIC SERVICE

CONTINUED FROM  
REEL No.

22

Wednesday, 19th February, 1958

The Council met at thirty minutes past two o'clock.

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

PRAYERS

ORAL ANSWERS TO QUESTIONS

QUESTION No. 71

MR. MBOYA: asked the Minister for Internal Security and Defence to state why ex-Senior Chief Koinage is not, so far, allowed back to his home, bearing in mind his old age and the fact that he was acquitted by a court of law of a charge related to *Mau Mau* terrorism before his arrest and detention.

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (MR. CUSACK): Ex-Senior Chief Koinage is not allowed back to his home because he is detained under Emergency Regulation 2 (1), and in accordance with its terms. This regulation reads—

"Whenever the Governor is satisfied that, for the purpose of maintaining public order, it is necessary to exercise control over any person, the Governor may make an order (hereinafter called a detention order) against any such person directing that he be detained

MR. MBOYA: Mr. Speaker, arising out of that reply, once again the Minister is giving his classical replies to this Council. Would the Minister state whether anything is being done in respect of ex-Senior Chief Koinage or whether any measures are being taken to ensure that he can be released.

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (MR. CUSACK): Mr. Speaker, Sir, I and my Ministry are not responsible for rehabilitation.

MR. MBOYA: Arising out of the reply, is the Minister stating that the Government knows nothing of what is being done?

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (MR. CUSACK): Sir, I am answering a question within the ambit of my Ministry and my responsibilities.

MR. COOKE: Is the Government giving any consideration to this old man? Do they intend to keep him for ever, and ever or are they going to release him at some time or another? This is a matter of concern to the public.

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (MR. CUSACK): Mr. Speaker, I have nothing to add to the reply I have already given. This person is detained for the purpose of maintaining public order.

MR. MBOYA: Mr. Speaker, Sir, arising out of the reply, does the Minister realize that his answer is totally unsatisfactory?

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (MR. CUSACK): The phrasing of the question is possibly unsatisfactory.

MR. MAIL: On medical grounds would the Government consider releasing the old man in order that he might come back to his home?

THE SPEAKER (Sir Ferdinand Cavendish-Bentley): I think that, under Standing Order 58 (1), any further questions on this particular subject are ruled out, except by way of Motion, possibly, but not by way of question.

QUESTION No. 72

MR. MBOYA asked the Minister for Internal Security and Defence to state whether Mr. Achieng Ouko was still a detainee or a restricted person. Would the Minister state why Mr. Achieng should still be detained.

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (MR. CUSACK): Achieng Ouko is a detainee. He is detained under Emergency Regulation 2 (1), and in accordance with its terms. This regulation reads—

"Whenever the Governor is satisfied that for the purpose of maintaining public order, it is necessary to exercise control over any person, the Governor may make an order (hereinafter called a detention order) against any such person directing that he be detained."

MR. MBOYA: Mr. Speaker, arising out of the reply, would the Minister state if Mr. Achieng Ouko is being subject to the same treatment as other detainees.

[MR. MBOYA] namely whether he is undergoing any rehabilitation.

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (MR. CUSACK): Mr. Speaker, I have already answered that in another connexion. Rehabilitation is not the responsibility of my Ministry.

SIR CHARLES MARKHAM: Mr. Speaker, arising out of the original reply, would the Minister give an assurance that people such as the person mentioned in the question will not be released just because of a question being raised in this Council.

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (MR. CUSACK): I should think that an assurance under those circumstances would be superfluous.

QUESTION No. 73

MR. MBOYA asked the Minister for Internal Security and Defence to state why Mr. John Washika, for many years an employee with the Judiciary arrested and detained without trial is still detained, and also to state into what classification Mr. Washika had been put.

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (MR. CUSACK): John Washika is detained under Emergency regulation 2 (1), and in accordance with its terms. This regulation reads:—

"Whenever the Governor is satisfied that for the purpose of maintaining public order, it is necessary to exercise control over any person, the Governor may make an order (hereinafter called a detention order) against any such person directing that he be detained."

The classification of detainees is not a function of the Ministry of Defence.

MR. MBOYA: Arising out of the reply, Mr. Speaker, would the Minister state whether he is responsible for anything with regard to the detainees?

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (MR. CUSACK): Sir, I am responsible for their custody and for their administration.

MR. MBOYA: Mr. Speaker, arising out of the reply, would the Minister not agree that their administration includes their welfare?

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (MR. CUSACK): Sir, their administration, in so far as I am concerned, does not include their rehabilitation. That is the responsibility of another Ministry.

MR. MBOYA: Mr. Speaker, I said: "... includes their welfare."

THE SPEAKER (Sir Ferdinand Cavendish-Bentley): That does not arise out of the question.

SIR CHARLES MARKHAM: Would the Speaker give an answer to the part of the question which does affect the Minister? It is very amusing to hear the other remarks about these regulations, but could he please inform the Council regarding the second part of that question?

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (MR. CUSACK): I have done so, Sir. The classification of detainees, if that is what the hon. Member is referring to, is not the function of the Ministry of Defence.

MR. MBOYA: Mr. Speaker, Sir, are we being told that the Ministry of Defence is responsible for the administration of the detainees but does not know what classification they belong to?

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (MR. CUSACK): I have not said I do not know. I have said that the classification of detainees is not a function for which I am responsible.

MR. HARRIS: Would the Minister agree that his Ministry should be called the Ministry of Sitting on de Fence?

BILLS

SECOND READINGS

*The Pensions (Validation) Bill*

2.45 p.m.

THE MINISTER FOR FINANCE AND DEVELOPMENT (MR. MACKENZIE): Mr. Speaker, Sir, I beg to move that the Pensions (Validation) Bill be now read a Second Time.

The circumstances of this Bill, Sir, are that the ten persons named in the First Schedule to the Bill have been awarded pensions in circumstances in which it was thought equitable that they should

[The Minister for Finance and Development]

be given pensions although from a strict reading of the pensions legislation they were not entitled to them.

The pensions in question have been paid for varying periods, as hon. Members will notice, from 1919 onwards. All the people concerned were employees of the Government and they were people who had given good service: in some cases, they were people who, under the old legislation, as subordinate employees, would not normally have been granted pensions, and, in others, various accidents, such as breaks in service, had arisen to justify, in the view of the Government, the payment of a pension.

In certain of the cases the Standing Finance Committee was consulted and in others the records do not show whether that action was taken or not; but I think it can be assumed that whatever was the practice at the time it was followed.

The four persons named in the Second Schedule have been granted increases in their pensions, ex-gratia, again in special circumstances. There, again, they were all members of the public service. One of them has actually died since the Bill was first considered and that is why if one adds up the actual figures in the two Schedules the total amount comes to £100 more than the figure of £367 mentioned in the Statement of Objects and Reasons: the actual figure is £367, because Miss L. Parsons, who is mentioned in the Schedule, is now dead.

These pensions, Sir, have been paid for quite a considerable time and the Government feels that it is desirable that they should be placed on a statutory basis. There are still certain other pensions which are being paid to persons who are not in the public service and in those cases it is not at present proposed to bring them into a law, but the pensions will be covered in the normal way when the Pensions Vote is appropriated in the Annual Accounts. It is considered that persons who are in the public service should be covered by law but that in the other cases it is probably more suitable for them to be dealt with in the Annual Appropriation Ordinance.

Sir, I beg to move.

—THE MINISTER FOR LEGAL AFFAIRS (Mr. CONROY):

*Question proposed.*

The question was put and carried.

The Bill was read the Second Time and committed to a Committee of the whole Council to-morrow.

*The Vexatious Proceedings Bill*

Order for Second Reading read.

THE MINISTER FOR LEGAL AFFAIRS (Mr. CONROY): Mr. Speaker, Sir, I beg to move that the Vexatious Proceedings Bill be now read a Second Time.

It is, unfortunately, a fact, Sir, that there are unhappy people in this world who are so obsessed with grievances, fictitious grievances, that they tend to fly to the courts and institute frivolous and vexatious legislation against innocent people. If they were the only persons concerned with the unfortunate results of their actions, Sir, then we would not have to worry very much, but two other types of people are concerned. In the first place, there are the defendants to these frivolous actions who are put to a lot of worry and a lot of expense, and there is also, of course, the family of the litigant himself which may be reduced to poverty by the waste of his family fortune in the pursuit of this peculiarity for which I understand the alienists have a name.

Sir, hitherto anyone has been completely free to go to the courts. But we have, unfortunately, had a practical experience of an individual who has so abused his freedom that it is necessary to introduce this legislation. Sir, he has instituted well over 100 proceedings against all kinds of people who have been put to great expense in defending themselves. It is a matter of some amusement, but it is also a matter of some tragedy for the man and his family concerned. It is therefore proposed, Sir, to introduce this provision which provides that where a man habitually and persistently and without any reasonable grounds institutes vexatious proceedings, then the court can make an order against him deeming him a vexatious litigant. The result of such an order is that if he wishes to institute, after the order has been made, any civil proceedings, he

[The Minister for Legal Affairs]

has to get the permission of a Judge. If he wishes to institute any criminal proceedings, he has to get the permission of the Attorney-General. Sir, that is not very much different from the present position, because the Attorney-General is in charge of all prosecutions, and can even withdraw a private prosecution, rather to the surprise of the private prosecutor. I should think.

There is in the Objects and Reasons, I regret to say, an error for which I apologize. Paragraph 2 of the Objects and Reasons is not accurate. There were several drafts of this Bill prepared, and we went home to the Home Office to make sure we had complied with the procedure in England, which has been in force for some 60 years; and, unfortunately, the Objects and Reasons that were sent to the Government Printer were the Objects and Reasons for an earlier draft of this Bill, and not the later. For that error I apologize, Sir, and I accept full responsibility.

Sir, I beg to move that this Bill be now read a Second Time.

MR. JAKS seconded.

*Question proposed.*

The question was put and carried.

The Bill was read the Second Time and committed to a Committee of the whole Council to-morrow.

*The Criminal Procedure Code*

(Amendment) Bill

Order for Second Reading Read.

THE MINISTER FOR LEGAL AFFAIRS (Mr. CONROY): Sir, section 28 of the Criminal Procedure Code gives specific powers of arrest to policemen without a warrant. It lists those particular powers. Powers of arrest as a whole are generally common to most systems of law based on the English Common Law, and that section in general sets out those Common Law provisions. It is intended in this Bill to amend that section to give a further specific power of arrest to policemen without a warrant in two particular cases. The first case is where a policeman finds a man in a street or in a public place, during the night, whom he suspects on reasonable grounds of being there for an illegal or disorderly purpose.

The second power of arrest, Sir, is where a policeman at night finds a person in a street or public place who is unable to give a satisfactory account of himself.

Well, Sir, these provisions are not unusual, and they have been the subject, in other places of interpretation by the courts. The effect of the interpretation is that the policemen must satisfy the court, if the right to arrest is challenged, that he acted on reasonable grounds and that he acted honestly. Of course, if he acts on grounds which the court finds are unreasonable, or if the court finds that he acted dishonestly, that is; for an ulterior purpose, then the arrest is illegal and an action will lie against the Crown for damages. I repeat, Sir, it is for the court to say whether the grounds for suspicion were reasonable and it is for the court to say whether there were reasonable grounds for the policeman not being satisfied with the explanation given by the individual who was found in the street.

Sir, I would point out that this amendment does not create any new offence. It merely gives a right of arrest in certain circumstances. I think the simplest way to explain that is to take hon. Members in practice through an example to show what would happen. Supposing a policeman finds a man wandering round at 3 o'clock in the morning in a street, and he says, "What are you doing here?" and the man cannot give any explanation of what he is doing there, then the policeman is entitled to arrest him and take him along to the police station. When he gets to the police station, he becomes the responsibility of the officer in command of the police station; and that officer in command then investigates the case and if he is satisfied that no offence has been committed by the arrested person, he releases him. If, on the other hand, he thinks that there is evidence, he is satisfied that there is evidence on which there is a reasonable prospect of getting a conviction of some offence, such as having a housebreaking implement in one's possession, or something like that, then the officer in charge of the police station has two alternative courses open to him; he either has to bring the man in front of a magistrate on a charge within the shortest possible period, which is

[The Minister for Legal Affairs] normally within 24 hours; or he has to release the man on bail. So the rights of the citizen in that respect are equal.

Now, Sir, all these rights of arrest, all penal legislation is to a certain extent the limitation of the rights of the individual. It is, of course, counterbalanced by the protection of the public, and you have to weigh up on the one hand the protection of the public with on the other hand the limitation of the rights of the individual. It is for the legislature to say where the line is to be drawn between the two, and the normal legislation as I suggest this is is a compromise, and the line is drawn somewhere near the middle. The compromise here is that the court has to be satisfied that the grounds for suspicion were reasonable, or that the officer was acting honestly. The purpose of this legislation is to help the police to combat various crimes which take place at night, in particular burglary and pole-fishing. The history of this legislation is not uninteresting, and is not at all apparent from the Bill itself. Sir, the police in Nairobi now make use of a municipal by-law which requires Africans not to be outside their locations after 10 o'clock at night without a permit. Sir, it is quite clear that that by-law is discriminatory and is wrong, and it is equally clear, I think, Sir, that it is wrong for the police to make use of local legislation in order to enforce what is really a matter for central legislation. So it is proposed, I understand, that this City Council by-law shall be revoked; but the police are satisfied that it would not be possible for them to preserve law and order in the context of burglaries and pole-fishing unless they were given some compensatory power of arrest. Accordingly, it is proposed to amend section 28 of the Criminal Procedure Code to give this power of arrest which is nothing unusual; it is of a type not unknown in other legislation.

Sir, there is nothing else that I wish to add on this Bill, and I accordingly beg to move that it be now read the second time.

MR. JACK seconded.

Question proposed.

MR. ODINGA: Mr. Speaker, Sir, I arise to oppose this Bill, because I feel, although the Minister states very well

that the other one which has been going on was discriminatory and that this Bill applies to all races equally. It is always a pleasure to make laws which you know very well will not apply to you. It is always very pleasant to do that, because I know pretty well that this law will only be directed to the African public. They will be bothered throughout; no African will dare to move at night, and it is said here that if a man is arrested and the police are given that wide power and undefined power of arresting somebody on suspicion alone, and then if he takes the man I know it has always been common that many Africans have been arrested, including some who are very important indeed. The man has been taken to the police station, and he is then locked in till the following morning when a police officer comes in and, of course, he will just be asked a very few questions. Somehow, the police officer does not even care very much to go deeply into the case. Then he tells the man: "I am very sorry indeed now that you were arrested. There isn't a case against you. Probably my constables make a mistake to have brought you here." Anyway, the man has suffered. He was going his own way, or he was making his own arrangements and going to his own home. He has suffered being locked up for nothing at all, and in the morning he is released just like that.

I should have liked to know what the Minister is proposing to do in such cases. Supposing a police officer, on suspicion, arrested me and took me and locked me up, and then the next day I was taken to court and was found to be innocent? That there was nothing at all in it? What will be done in this particular policeman? What will be done to him? I must know that and that should have been included here.

3.00 p.m.

The members of the public must also be protected. If, on the other hand, public and private property is protected by this law, we also, the innocent people, who will be moving at night, we must also be protected.

Now, Mr. Speaker, I should just like to add that I think that such a Bill is most unnecessary at this time. We have so many Bills which have already been

[Mr. Odinga] passed and which, of course, should protect both public and private properties at night. But such a Bill would only be used on Africans and the African public will not be able to move comfortably and easily at night.

Mr. Speaker, I beg to oppose.

MR. MHOYA: Mr. Speaker, Sir, I think we very much appreciate what the Minister says, and particularly the need to ensure that the public is protected. We are conscious of the various crimes which have been committed, and which might have prompted the Government to seek further powers or measures, but we must express our fear, and if we do it is not because we are in any way overlooking the importance of this necessary protection of the public. It is because firstly we are not convinced that the operation of some of this legislation is going to be as fair as Ministers tend to state in this Council—because we live with it and we see what happens in practice—and secondly, Sir, because the record of the Kenya Police has not been as good as it should be; this has been a subject of criticism in this Council for many years, and last year there were quite a few speeches criticizing the general conduct of the police force.

With that background, Mr. Speaker, whatever the Minister has said this afternoon is not quite palatable and acceptable to us because the Minister can give us all his assurances in this Council, but we are concerned with the African chap who will be found in Government Road tomorrow night by some constable or some police officer, and who will be given treatment such as he has received in the past. Of course, the Minister has stated that where wrongful arrest has been made, the courts will decide whether the arrest was justified under this legislation, but, as my colleague, the Member for Central Nyanza, has pointed out, very often an African is arrested, put into a police station and probably kept there for the night or the weekend; by Monday morning he is probably released or sent to court and then the court finds that he is not guilty.

Sir, this poor chap will have suffered either the consequences of a legislation that is not understood or the consequences of having a police force which

is not to the standard which we would find in other countries. The ordinary African may not be in a position to take these various steps which the Minister has outlined to us to-day, and I think that aspect of it, too, has got to be considered.

I think, Mr. Speaker, that the other factor which the Minister has mentioned, namely the abolition of the municipal by-laws, is not justification for the introduction of this legislation for the whole Colony, because it is obvious that in the past, in other local authorities, in other towns, the police have not found it necessary to use by-laws such as have existed in Nairobi. Is it being suggested that in these other towns, crimes such as have been defined in this Memorandum have been very common? If not, then, of course, the argument falls to pieces. If it is suggested that these crimes have been more prevalent in those towns without the type of municipal by-laws which we have had in Nairobi, then, of course, the Government is suggesting that for a long time crimes have been going on and they have not seen fit to do anything.

The relevant clause that this law intends to amend, which is at the back of this paper, reads: "Any police officer may, without an order from a magistrate and without a warrant, arrest . . . any person whom he finds in any highway, yard or other place during the night and whom he suspects". Here, under this clause, we hear of persons being arrested during the night. Now, I want to raise a question of definition, which seems to be rather curious, because the amendment speaks of "any person whom he finds in any street or public place during the hours of darkness".

I do not know whether it is suggested then that the definition of night in the old law would cover the definition of darkness. We would be interested to know exactly what is meant in the old legislation by the term "night" and in the new one by the term "darkness". I say this, Sir, because the municipal by-laws to which we objected were so framed that Africans might not move out of their areas in Nairobi after 10 o'clock. If the definition of darkness in this case is going to cover a period earlier than 10 o'clock, then, of course, the African is

[Mr. Mboya] going to have even more cause for frustration in Nairobi than he did before. Our complaint was that we wanted the Africans to be free to come, for instance, in to cinemas in the town, which end of about 11.30 p.m. and also to be able to make use of the various social facilities in the town outside the African areas.

Unless the definition of the word darkness here is going to imply a period that would be generally acceptable to the African community, for whom, as my colleague has already stated, it would seem this law is framed, then I think we are not solving the situation but adding more problems to an already unsatisfactory situation.

Mr. Speaker, Sir, I beg to oppose.

CAPT. HAMLEY: Mr. Speaker, Sir, I never ceased to be amazed at my friends on the other side who at times remind me of the virgin lady who looked under the bed every night for a man, and was disappointed if there was not one there. They find an adverse racial slant in every question which comes up in this Council, and I do ask them please in future to think before they put such a slant on everything that comes up here. I would ask my friends on the other side what the policeman is going to do if he sees a suspicious character wandering about the street at night, and says, "What are you doing here?" and the man says, "Well, I was going to commit a burglary." But the policeman has got no power of arrest; what is he going to do? He must have this thing; surely my friends can see that.

MR. MBOYA: Inaudible.

CAPT. HAMLEY: To arrest him; yes, but what can he do? He cannot very well say, "I cannot arrest you, but please come along with me." He has got to have powers of arrest.

MR. MBOYA: They have been arresting Africans even now, without using the by-laws.

CAPT. HAMLEY: They have been arresting Africans under this discriminatory by-law. Cannot my friends see that Government is trying to help those opposite? It is trying to do away with a discriminatory measure and bring in one of common sense and widespread application.

I can assure, Sir, I can speak from experience of this law. I have suffered arrest under it myself. I remember once when I was in London being infuriated by a cat in the middle of the night and when the cat would not go away, I chased it—being in pyjamas at the time—and when got to the High Street the policeman said to me, "What might you be doing 'ere, Sir?" And I said, "I'm chasing a cat!" And he said in whatever language then used, "Wapi cat?" And there was no cat. I think they want to be able to do the same thing here; if a policeman finds a man in suspicious circumstances in Government Road in Nairobi, surely if he is under the impression that the man may be about to commit a felony of some sort he should be able to arrest him and take him into the police station and find out more about it.

The hon. Minister has told us that there are safeguards; if, in fact, the policeman's suspicions are not justified, the man will be released. I ask my friends to take a reasonable view and not always see persecution of the African in these things, when it is a measure of widespread application to all races, and when it is a measure designed for their protection. Surely, your yourselves do not want to be burgled; surely you want the police to have some power to stop a man burgling your premises; surely you can see that it is a better thing to deal with it this way than to deal with it under an extremely discriminatory by-law.

Mr. Speaker, Sir, I beg to support.

MR. USHER: Mr. Speaker, I would like clarification on one point from the hon. and learned Mover. This Bill deals with arrest and there has been discussion recently arising out of a case that had some publicity in regard to arrest and methods of arrest. In this case a dog was used.

Now, I should feel myself in exercising my private right of arrest in certain circumstances that I could use such a thing as a net, as they did in olden times in the arena, or such other means as would not cause a man any particular harm. I should hesitate to use perhaps a wild and dangerous animal, a trained dog, of course, is a different matter. But I think the thing upon which most people

[Mr. Usher] would like enlightenment is the circumstances in which animals, for instance, might be used to effect arrest, particularly, of course, whether some warning is given and whether they are used only where arrest is resisted or is otherwise impossible.

MR. MATE: Mr. Speaker, it is as well for Members of the Council, like myself and the hon. Nominated Member from Mombasa, to speak of what you might call a fair law. But, Sir, there are facts which make the average law-abiding citizen fear. It is quite true that in Kenya, regarding any department, there are racial differences in treatment. It is a very easy thing for a white man to be attended to more quickly than an Asian, and an Asian more quickly than an African. In the same way, I hesitate to support the kind of discriminatory behaviour that can be exercised on an African who seems to be quite a simple man to deal with; unquestionably it is much easier for an African to be arrested on suspicion than other races.

Sir, that is a fact which nobody can deny; for an ordinary African it is very, very easy to be arrested, and whether he likes to admit it or not, according to the book of the law, it is a fact.

Sir, the majority of the population of this country are perhaps simpler citizens who sometimes walk into towns or strange places; they have nowhere to sleep; they are visitors; they get robbed; and these are Africans. They are very easy victims for people who are intending to steal or seeming to steal. I would like the Minister to tell the Council what safeguards there are, especially when such a person suspected of illegal purpose is arrested by a constable and may be locked in for the night. The following morning he explains his story, but meanwhile he has suffered the inconvenience. What compensation would be given for such illegal arrest?

11.15 p.m.

Sir, I have very definite fears here, and much as I agree with the spirit of the Bill I would like to see what safeguards are made in respect of the citizen who is arrested by mistake just because the constable, who may be wrong, arrested him on suspicion. The principle is, how far is the suspicion of one

particular individual against another justified?

I would also like to add that, regarding the general behaviour of Africans, some of them run away from the police just because they are afraid; and that alone constitutes reason enough for a policeman to chase a particular man. He is afraid of the police and what they might do to him. I would appeal to the Minister to make sure that no citizen suffers because of these things.

I would also like to mention here that there are people who, fearing to be caught or arrested, do sometimes try to offer gifts to constables in order to save themselves. Now, if the public knew they had no outlet then they might be tempted, and the policeman might be tempted, to accept this kind of thing in order to, say, dismiss the situation. Mr. Speaker, I do feel that this outside factor, apart from the letter of the law, is a very important one to consider in passing this Bill; and I would like again to appeal to the Minister to tell the Council what safeguards there are for such cases.

As I say, much as I agree with the spirit of the Bill before the Council I would like, before I could confidently support the Bill, to be assured of the safeguards I have mentioned.

MR. HARRIS: I support this Bill, and I do congratulate the last speaker, the hon. Member for the Central Province, on the attitude he has taken towards it. But, Sir, I must cross swords with him when he suggests that this is a racial Bill. In fact it is trying to get away from a racially discriminatory by-law that has caused the Government to see fit to introduce this measure.

I would have thought from what the last speaker said that the real difficulty is that this is not racial but that members of the European and Asian races are usually more able to identify themselves to the police if they are found in suspicious circumstances, and to prove their bona fides, than those of the African races. I would suggest to the Government that they should seriously consider that if there were some form of identification of all races in force then possibly measures of this sort might not be quite so necessary.

I beg to support.

[Mr. Mboya] going to have even more cause for frustration in Nairobi than he did before. Our complaint was that we wanted the Africans to be free to come, for instance, in to cinemas in the town, which end at about 11:30 p.m., and also to be able to make use of the various social facilities in the town outside the African areas.

Unless the definition of the word darkness here is going to imply a period that would be generally acceptable to the African community, for whom, as my colleague has already stated, it would seem this law is framed, then I think we are not solving the situation but adding more problems to an already unsatisfactory situation.

Mr. Speaker, Sir, I beg to oppose.

CAPT. HAMELEY: Mr. Speaker, Sir, I never ceased to be amazed at my friends on the other side who at times remind me of the virgin lady who looked under the bed every night for a man, and was disappointed if there was not one there. They find an adverse racial slant in every question which comes up in this Council, and I do ask them please in future to think before they put such a slant on everything that comes up here. I would ask my friends on the other side what the policeman is going to do if he sees a suspicious character wandering about the street at night, and says, "What are you doing here?" and the man says, "Well, I was going to commit a burglary." But the policeman has got no power of arrest; what is he going to do? He must have this thing; surely my friends can see that.

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Mr. MBOYA: They have been arresting Africans even now, without using the by-laws.

CAPT. HAMELEY: They have been arresting Africans under this discriminatory by-law. Cannot my friends see that Government is trying to help those opposites? It is trying to do away with a discriminatory measure and bring in one of common sense and widespread application.

I can assure, Sir, I can speak from experience of this law. I have suffered arrest under it myself. I remember once when I was in London being infuriated by a cat in the middle of the night and when the cat would not go away, I chased it—being in pyjamas at the time—and when got to the High Street the policeman said to me, "What might you be doing 'ere, Sir?" And I said, "I'm chasing a cat." And he said in whatever language then used, "Wap! cat!" And there was no cat. I think they want to be able to do the same thing here; if a policeman finds a man in suspicious circumstances in Government Road in Nairobi, surely if he is under the impression that the man may be about to commit a felony of some sort he should be able to arrest him and take him into the police station and find out more about it.

The hon. Minister has told us that there are safeguards; if, in fact, the policeman's suspicions are not justified, the man will be released. I ask my friends to take a reasonable view and not always see persecution of the African in these things, when it is a measure of wide-spread application to all races, and when it is a measure designed for their protection. Surely, your yourselves do not want to be burgled; surely you want the police to have some power to stop a man burgling your premises; surely you can see that it is a better thing to deal with it this way than to deal with it under an extremely discriminatory by-law.

Mr. Speaker, Sir, I beg to support.

Mr. USHER: Mr. Speaker, I would like clarification on one point from the hon. and learned Mover. This Bill deals with arrest and there has been discussion recently arising out of a case that had some publicity in regard to arrest and methods of arrest. In this case a dog was used.

Now, I should feel myself in exercising my private right of arrest in certain circumstances that I could use such a thing as a net, as they did in olden times in the arena, or such other means as would not cause a man any particular harm. I should hesitate to use perhaps a wild and dangerous animal; a trained dog, of course, is a different matter. But I think the thing upon which most people

[Mr. Usher] would like enlightenment is the circumstances in which animals, for instance, might be used to effect arrest, particularly, of course, whether some warning is given and whether they are used only where arrest is resisted or is otherwise impossible.

Mr. MATE: Mr. Speaker, it is as well for Members of the Council, like myself and the hon. Nominated Member from Mombasa, to speak of what you might call a fair law. But, Sir, there are facts which make the average law-abiding citizen fear. It is quite true that in Kenya, regarding any department, there are racial differences in treatment. It is a very easy thing for a white man to be attended to more quickly than an Asian, and an Asian more quickly than an African. In the same way, I hesitate to support the kind of discriminatory behaviour that can be exercised on an African who seems to be quite a simple man to deal with; unquestionably it is much easier for an African to be arrested on suspicion than other races.

Sir, that is a fact which nobody can deny; for an ordinary African it is very, very easy to be arrested, and whether he likes to admit it or not, according to the book of the law, it is a fact.

Sir, the majority of the population of this country are perhaps simpler citizens who sometimes walk into towns or strange places; they have nowhere to sleep; they are visitors; they get robbed; and these are Africans. They are very easy victims for people who are intending to steal or seeming to steal. I would like the Minister to tell the Council what safeguards there are, especially when such a person suspected of illegal purpose is arrested by a constable and may be locked in for the night. The following morning he explains his story, but meanwhile he has suffered the inconvenience. What compensation would be given for such illegal arrest?

3.15 p.m.

Sir, I have very definite fears here, and much as I agree with the spirit of the Bill I would like to see what safeguards are made in respect of the citizen who is arrested by mistake just because the constable, who may be wrong, arrested him on suspicion. The principle is, how far is the suspicion of one

particular individual against another justified?

I would also like to add that, regarding the general behaviour of Africans, some of them run away from the police just because they are afraid; and that alone constitutes reason enough for a policeman to chase a particular man. He is afraid of the police and what they might do to him. I would appeal to the Minister to make sure that no citizen suffers because of these things.

I would also like to mention here that there are people who, fearing to be caught or arrested, do sometimes try to offer gifts to constables in order to save themselves. Now, if the public knew they had no outlet then they might be tempted, and the policemen might be tempted, to accept this kind of thing in order to, say, dismiss the situation. Mr. Speaker, I do feel that this outside factor, apart from the letter of the law, is a very important one to consider in passing this Bill; and I would like again to appeal to the Minister to tell the Council what safeguards there are for such cases.

As I say, much as I agree with the spirit of the Bill before the Council I would like, before I could confidently support the Bill, to be assured of the safeguards I have mentioned.

Mr. HARRIS: I support this Bill, and I do congratulate the last speaker, the hon. Member for the Central Province, on the attitude he has taken towards it. But, Sir, I must cross swords with him when he suggests that this is a racial Bill. In fact it is trying to get away from a racially discriminatory by-law that has caused the Government to see fit to introduce this measure.

I would have thought from what the last speaker said that the real difficulty is that this is not racial but that members of the European and Asian races are usually more able to identify themselves to the police if they are found in suspicious circumstances, and to prove their bona fides, than those of the African races. I would suggest to the Government that they should seriously consider that if there were some form of identification of all races in force then possibly measures of this sort might not be quite so necessary.

I beg to support.

MR. NGALA: Mr. Speaker, Sir, I rise to oppose this Bill.

The by-law which is only concerning Nairobi is going to cause a lot of frustration to the whole Colony if introduced Colony-wide. I personally have had to suffer from it in Nairobi near Makadara and I think it was the Member for the East Electoral Area who had to come to my rescue.

I would like to underline the need for safeguards for peaceful citizens who happen to be moving about at night. The question of suspicion is very difficult indeed, and although it is easy to pass a law here but the working of the law in the field is quite different from what the Minister sometimes tells us. The officers in the field, particularly the ordinary policemen, have a tendency to arrest everybody they see at night regardless.

Last week in Mombasa I helped a girl and three young men who had been arrested at night while they were coming from a dance. These people had not done anything. In the morning they were told: "Sorry. Go home". They went home very much frustrated and unhappy and nothing was done to the police who had arrested them, and therefore there was nothing to show or to teach them that they should behave properly in all circumstances.

The Minister has pointed out that if a person is arrested like that and taken to the police station then there is a possibility of his case being gone into thoroughly by the chief inspector in charge of the police station. In practice, Sir, what we see is quite different. Once a person is arrested and taken to the police station and once the man arresting has reported to the police inspector "I suspect this man" he is then taken to the court and he is charged. There is no question of asking the man (any questions) or even considering what the man says to the police inspector. This is something which you can see going on in many places and I am very much doubtful as to whether what the Minister has told us will be done in actual fact in the field by the police or police-inspectors in charge of stations.

I think that this law will affect the Africans mostly. It is the African who leaves the cinema at night and goes to

his home at Makadara and other places. The Minister will go to his home in his car, and so will other people of the same type, and so will any other well-to-do persons. There is no question of them being frustrated by the African police. It is the African who is going to suffer more.

By saying this I do not want to be misunderstood as being racial. I know that this will affect the Africans more than any other people. The people moving on foot in Nairobi are Africans, and it is those Africans who will be affected by this law. Because of this we are quite sure that it will affect the Africans most. It is not going to affect the Minister because he will go in his car, and it will not affect other people going in their cars: it is going to affect mostly the Africans who go mostly on foot at night.

On the question of suspicion, I would like to underline what my hon. friend the Member for the Central Province has said. This is something which I very much doubt. Last week-end I was driving from here to Mombasa and I was stopped on the way by the police on suspicion. I do not know what he suspected me of, but he suspected me and inspected my car. I got very much annoyed. I told him who I was and that I was a Member of Legislative Council. He inspected my car and delayed me.

Now, these people who have not reached the standard of using their judgment correctly, and for them to be given this law as an instrument is very dangerous indeed. If they can suspect me, they will easily suspect the person who runs away because of fear, as the hon. Member for the Central Province has mentioned, and they will arrest him and treat him in any way they like. I am quite sure that when he is taken to the police station there will be no question of investigating whether he is wrong or right. This is something which we have seen and which has been going on in many places.

Underlying the question of safeguards, the other day in Mombasa I heard of the case of a person who was arrested and taken to the police station, and in the morning he was released. This person wrote a very strong letter because he had been disturbed for no reason. It is such things that might be caused by a

[Mr. Ngala]

Bill such as this, and in the interests of Africans as a whole, Mr. Speaker, I would like to oppose this Bill very strongly.

MR. SLADE: Mr. Speaker, Sir, I support this Bill.

I have no doubt that these powers are needed, and regrettably needed for exercise, from time to time, against people of all races. Nevertheless, if some hon. Members are afraid that they will be exercised more against Africans than any others, I think they should remember on the other side that the great majority of crimes at night are committed by Africans, and so this state of affairs must be. But I do hope, Sir, at the same time, that powers will not be exercised too drastically on Saturday nights. I can think of many people, ordinarily quite respectable, who could, on a Saturday night, sometimes other nights even, be found in a street or public place, and unable to give a satisfactory account of themselves without intending to cause any mischief.

I do support what hon. Members have said concerning what they described as safeguards. It is a regrettable fact that policemen in this country—perhaps elsewhere, but certainly in this country—are a bit free in arresting or otherwise troubling citizens without good cause.

Now, this power, according to this Bill, is only exercisable upon suspicion on reasonable grounds of a man being in a place for an illegal or disorderly purpose, or the man being unable to give a satisfactory account of himself. I hope that the Minister will be able to say that the policeman himself is not the final judge of what are reasonable grounds for suspicion, or what is a satisfactory account. In other words, that there can be an appeal to somebody else as to whether the policeman had such reasonable grounds, or as to whether he did receive a satisfactory account; and that if it is established, or indeed if the policeman cannot establish, that he had such reasonable grounds of suspicion, or that the account was unsatisfactory, there will be scope for some disciplinary action against him, or even for the injured citizen to have recourse to a court of law—provided, of course, that he is not a vexatious litigant.

Lastly, Sir, I would support the request for explanation of the two different phrases used—that in paragraph (f) of the Ordinance as it stands, namely, "... during the night..." and that in the new paragraph, "... during the hours of darkness..." It is very undesirable to have two phrases which mean the same thing in an Ordinance, particularly in the same section. If the two phrases do mean different things, it would be interesting to know where the difference lies.

Sir, I beg to support.

3.30 p.m.

MR. MULIRO: Mr. Speaker, I have a few points to raise on this Bill also, and I also equally oppose the Bill as my colleagues have opposed it.

The problem of the police in this country, Mr. Speaker, who are going to administer this law, is what is worrying us very much, because they are not properly educated. Normally, the police whom we come in contact with in carrying out these letters of the law are those who have no respect for the African. The African police in this country are very discriminating in their outlook. Although the hon. Minister for Legal Affairs has argued in this Council to-day that the law is not going to discriminate against anybody and any race, what is clear, Mr. Speaker, is the fact that the policemen themselves do discriminate to a very high degree in their outlook.

We have the very appealing case of the hon. Member for the Coast Province who was inspected, I also was inspected on Tuesday when I was coming to Nairobi. My car was stopped; it is brand new; they looked at the tyres; they asked for the owner of the car. My driver said, "It belongs to Muliro". He looked at me—"are you Muliro?" I said: "Well, what do you think?" Mr. Speaker, these are the problems. I was delayed for 30 minutes; after that he said, "Go on". That is what is worrying us more than anything else, and when the hon. Members—particularly on the opposite side, and some hon. Members on my right—argue that this is perfectly all right, they do not know; they have never been in the boots in which most of us are. The suspicion is very predominant among the backward groups, and that is the African, particularly as

[Mr. Mutiro]

the hon. Member for the Central Province has pointed out already: I need not repeat what he has said.

The fact is that the Africans, because of the bad reputation of the policeman in this country, are suspicious of the police. If they see him they run away. Probably their passes are not in order. The other day I was taken to rescue my driver. Now, that is what is going on.

So, Mr. Speaker, I think this Bill, even if it takes instances from Nairobi only, as the Member for Nairobi Area has already said, should not be applied in the law. I think there are people on a check all the time who should deal with these problems. We argued last year and we are still arguing over giving powers to people who are incompetent to carry them out properly, and we think this Bill should not be passed in this Council.

I beg to oppose, Mr. Speaker.

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones): Mr. Speaker, Sir, it is indeed tragic that when the Government attempts, as it has done here, to meet what it regards as a legitimate point of the African people and to substitute for a discriminating by-law which applied a curfew to Africans only—to substitute for such a discriminatory by-law a necessary provision to ensure that law and order can be maintained—it is indeed tragic that in those circumstances the Government still meets with the apparently united opposition of the hon. African Members. May I remind them, Sir, that the present, by-law, which we hope the City Council will revoke, imposes a curfew on all Africans from, I think it is 10 o'clock at night to something like 6 o'clock in the morning.

Now, that has been objected to by the African people, and understandably objected to. The Government also has taken the view that the curfew which that by-law has imposed until now, while it has facilitated the maintenance of law and order and the protection of the law-abiding citizen at night, is, nevertheless, not an appropriate means of achieving that end. The securing of the law-abiding citizen against the criminal by night is not, in our judgment, a proper purpose to be achieved by a by-law. However, it is a fact, as the hon. and learned Member for Aberdare has pointed out, that the very large majority—over 99 per

cent—of crimes by night are committed by Africans, and it is essential in the interests of the vast majority of citizens of the country, who are law-abiding, that they should be safeguarded against the predatory activities of these criminals.

Now the agency through which the community is so protected is the police force. The police force must have adequate powers to protect the community. Now let us consider what, in place of this curfew, the Government proposes to invest the police with: the power to arrest any person found in any street or public place during the hours of darkness whom he, the police officer, suspects, upon reasonable grounds, of being there for an illegal or disorderly purpose, or who is unable to give a satisfactory account of himself. It is a provision in general terms; it will apply to persons of all races. I entirely concede, though, that in practice it will apply more to Africans than to other races, and that is, as I have already reiterated, very largely because the vast majority of criminals by night are Africans, and because—I think there is considerable force in what the Member for Nairobi South has said—Africans very often have greater difficulty in identifying themselves and explaining the legitimacy of their purposes than do Asians or Europeans.

I do ask the hon. gentlemen opposite to view this provision with a degree of objectivity which they have so far not displayed. They object that the African police are not able to exercise proper judgment: it is said that the African people suspect and do not trust the African police—I repeat that it has been said by more than one Member opposite that the African police are not able to exercise proper judgment, and that the African people suspect them and mistrust them. At the same time my hon. friends opposite were recommended on a score of occasions, both inside this Council and outside, that African policemen are equally able to assume commanding posts in the police as European officers. They are always pressing for the promotion of the African police and for their equating in terms of responsibility and command with European members of the police force.

Now, Sir, they must be consistent. I entirely concede that there are occasions on which African police, European

[The Acting Chief Secretary]

police, any other type of police, have in the past been guilty of misusing powers, but they have been dealt with. I know of a number of occasions when police officers have been prosecuted for misuse of their powers: I know of other occasions when, not having committed a criminal offence, they have nevertheless been guilty of a lack of judgment to the inconvenience and possibly to the injustice to individual Africans. On those occasions, as I well know, the Commissioner of Police and all the appropriate authorities take whatever action is necessary to prevent a recurrence and disciplinary action is taken. It has been suggested by one hon. Member opposite that the one objection to this Bill is that members of the public—the African public—will seek to escape arrest by trying to corrupt the police. May I remind him that the integrity of the police lies very largely in the hands of the public and that you will not get corrupt police unless you get people who are prepared to corrupt them.

It has also been urged, as a measure of opposition to this Bill, that two hon. friends opposite have been stopped at road blocks and their cars searched. I have had a number of complaints—I think one, at least, of them from a consul for a certain foreign State—which occurred on the same day, I believe, and on the same road, as my hon. friend the Member for the Coast Area. But these road blocks are not necessarily aimed at only Africans: there are a lot of citizens of all races who have to submit to these inconveniences in the interests of maintaining law and order, and of tracing and catching criminals, and they are all, whatever their race, always and invariably most indignant about it.

Sir, I will now give way to my hon. friend, if he wishes to make a point.

MR. MUYA: I thank the Minister for giving way. I wanted to point out that I said that we did not particularly think the record of the Kenya Police—I did not say African police—was such that we did not trust them with these powers.

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones): Several of his colleagues have referred specifically to the African police.

I can only conclude by urging my hon. friends opposite to reconsider their

attitude towards this Bill, which is designed, as I have said before, to attempt to secure the decent law-abiding citizen against the activities of the burglar, the housebreaker and the pole-fisher by night. It will, as I appreciate, affect in practice principally the Africans, but it can affect members of any race who are unable to give a satisfactory account of themselves and of the reasons for which they are abroad at the particular time when they are picked up by the police. Let them forsake their racial bogies in respect of this Bill, and let them, if they will, accept my assurance that the Government has attempted here to meet their own point of view by replacing a discriminatory curfew by a general measure of this nature, which is necessary to secure the Queen's peace and the safety of law-abiding citizens by night. Sir, I beg to support.

MR. MUMI (Kitui): Mr. Speaker, the position of this law, as worded by the Minister, sounds very beautiful indeed, but the execution by the police of the law is what the Africans are very much objecting to. I would like the Minister, or whoever is in charge of the police, to assure the Council in what way the police are made to understand or to distinguish the difference between a person who is suspected of roaming about the streets with a bad intention, and somebody else who is walking about the streets with good intentions; say, for example, going to his home. I think that is one thing we must be assured of before we can support the Bill before us.

3.45 p.m.

I would like to give just one instance where I feel the police sometimes do fail in their duties in executing the law. Just before the introduction of identity cards, I remember I was once arrested in Nairobi: that was the time when Africans were given letters of exemption from the African Authorities Ordinance. I think, at the time of the *kipanali*, I remember producing my exemption certificate to a police officer, a European, and to my surprise, he said that he could not understand what the letter was about, he did not know what it was. If those are the sort of police people that you commend to us, I am afraid—

SIR CHARLES MARKHAM: How long ago was that?



Mr. MUMBI: Some time ago, I do not remember, but it was the time before the introduction of identity cards. Well, I again remember just in recent times when somebody else was arrested and he produced his identity certificate to a policeman—this was an African policeman—and because the policeman refused to accept the identity card, taking it for an employment card, the man asked to be taken to a superior police officer to identify himself. The policeman refused him. Well, if an African cannot be afforded the opportunity of identifying himself before a superior officer, I do not know what his position is.

Again, the Acting Chief Secretary has said that this law is not discriminatory. Well, I have seen in Nairobi, for instance, after the hours of 10 not only Africans but also the "Johnnies" walking about the streets. Well then, I would like the Minister to tell us how many of the "Johnnies" are being questioned.

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones): Sir, may we have a translation?

Mr. MUMBI: Well, by "Johnnies," I mean non-Africans walking about the streets.

May I, Sir, conclude by saying that the Minister should not think that the African does not feel so strongly about burglaries and such other violent acts by irresponsible people. Everyone surely would like to feel free in his home and in his walking about. But if it is the intention of Government to introduce a law which only will affect one side of the communities of this country, I feel that I should not support it.

THE SPEAKER (Sir Ferdinand Cuvendish-Bentick): If no other hon. Member wishes to speak, I will ask Mr. Conroy to reply.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): Mr. Speaker, Sir, listening to the hon. Members opposite who objected to the introduction of this measure, one would have thought that it was the most Draconian piece of legislation which has been thought up in some torture chamber to impose the brutal jackboot of imperialism upon the poor African. It may be a surprise, Sir, to the hon. Members to know that the model on which I founded this draft is the Metropolitan Police Act of 1839;

and, Sir, the law which we are seeking to introduce now is in effect what has been the law of London for 120-odd years. It was the law which allowed the policeman in Streatham High Street to arrest my hon. and gallant colleague when he was wandering around in his pyjamas chasing an invisible cat.

Well, Sir, we have heard a great deal of theory opposite, but let us apply, if we can, a little practical common sense to this problem. Sir, an African going home from the cinema is not going to be liable under this, because he is walking from the cinema to where he lives, his location. When he is stopped by a policeman who says "Where are you going?", he says "I am going home to my location"—and I do not know what time you come out of the cinema, because I do not frequently go; but supposing you come out at 11 o'clock, and you are found between 11 and half-past 11 between whatever the cinema is called and your home, you have a reasonable excuse. But suppose, Sir, that an African is found at 3 o'clock in the morning wandering around Spring Valley when his home is in Makadara. Should the police not be able to arrest him?

Mr. ODINGA: You do not know his troubles.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): Sir, we apply a little common sense to these measures, and we find that they work very well. In theory, Sir, you can always attack anything, but whether your attack makes sense is another matter.

Now, Sir, I should like to deal with the points made by the hon. Members, at least, those which require dealing with. The hon. Member for Nairobi Area asked why it was necessary that this piece of legislation should apply throughout the Colony when it was only designed to allow the revocation of a by-law in Nairobi. Sir, there are two answers to that: the first is that Nairobi is the greatest centre of crime in the Colony, and the by-law has been used in the past by the police for the general maintenance of law and order. Therefore, it is appropriate that they should rely on a piece of central legislation and not upon a piece of local legislation. Local legislation should be to deal with the affairs of the local authority; central legislation

[The Minister for Legal Affairs] should deal with the central maintenance of law and order. That is the first answer. The second answer, Sir, is that there are similar by-laws elsewhere, and my hon. colleague, the Minister for Local Government, assures me that the enactment of this legislation will give him the strongest arguments in order to have the other by-laws revoked. Mr. Speaker, I should have thought that hon. Members would have been pleased at this, but apparently they object to that too.

The next question was why did the powers of arrest under section 28 (f) relate to night; and why did the proposed powers of arrest relate to the hours of darkness. Well, Sir, night is defined as extending from 6.30 in the evening to 6 o'clock in the morning. It seemed to the Government, in proposing this legislation, that it would be too restrictive, unnecessarily restrictive, to give the power of arrest without warrant during part of the 24 hours—I use a neutral phrase—during part of the 24 hours when it is not dark, and when people have a legitimate excuse for being abroad. Sir, there is no need to have this power of arrest to combat burglars and pole-fishers at 6.30 in the evening; there is no need to have it at 6 o'clock in the morning when it is getting light. You want these powers of arrest when it is dark, and you want the powers of arrest when criminals are abroad at night to the detriment of honest law-abiding citizens of all races.

Mr. ODINGA: What time?

THE MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): The hours of darkness are the hours during which it is dark, and it is a matter for the court to say in any particular case when it is dark; and even the much-maligned African policeman, whom we have been told is backward and discriminatory, can tell when it is dark. He may not be able to tell the time; he may not have a watch; but he can tell when it is dark, and therefore it is much more practical to have a power which relies on the hours of darkness rather than a power of arrest which relies on where the hands of a clock are at any particular time.

Now, Sir, the hon. Member for Mombasa sought some free legal advice on the use of a dog or a net or other means

for arrest: Sir, I shall be delighted to give him that information, more privately, for two reasons. One, I am not prepared to give it off the cuff in case I might be inaccurate; and two, I am not wholly convinced that it is relevant to the present issue.

SIR CHARLES MARKHAM: Careful—he will charge a fee!

THE MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): Unfortunately, Sir, I am not entitled to charge him a fee! But I will be delighted to give it to him or to any other Member for nothing.

Sir, we have been told about how this Ordinance will bear most hardly upon Africans, and I am sorry, Sir, that it will; but it will, because polefishers and burglars are, as a whole, Africans. It is sad but it is a fact that—

Mr. MUOYA: (Inaudible).

THE MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): I do not know whether the hon. Member is suggesting that polefishers come from Poland, but if so, they would be Polish-fishers, I suggest!

Sir, the hon. and learned Member for the Aberdeare asked whether I could make it clear that the policeman would not be judging his own case, whether the test would be a subjective one of the policeman saying: "I am reasonably satisfied"; or an objective one of the court saying: "Is there evidence upon which the police could be reasonably satisfied, and do we believe they acted honestly?" Sir, I can give him that assurance without any difficulty. The cases are quite clear: the test is the test applied by the court, and unless the court is satisfied that the policeman acted both reasonably and honestly, then the arrest is illegal.

Sir, that brings me on to the other point, another point made by hon. Members: if a policeman arrests illegally, he commits an offence, a civil offence for which he is liable and the Crown is liable in damages. I have no doubt that he also commits an offence against police discipline for which he can be dealt with disciplinarily because he has behaved improperly on duty.

Now, Sir, the hon. Member for Kiulu, reading from my note, says that the Bill was beautiful. I must thank him for

[The Minister for Legal Affairs] that. He says that the Bill was beautiful, but the execution was bad. I admit that mistakes sometimes occur in the Kenya Police. Sir, we have to make do with the material that is available. Mistakes also occur in other police forces. Sir; because when preparing this Bill, I went away and looked at a large number of cases which have occurred in England of police constables who have improperly arrested people, and the substantial damages which have been given against them for the improper exercise of this power.

Sir, I do not think anyone can deny that our police force is constantly improving. We have been told that this Bill may be an invitation to bribery. I have before asked the hon. African Members to exercise their undoubted influence among the African people to ask the African people to stop bribery and corruption. That is where the big sanction against corruption lies—public opinion—and the hon. Members can mould public opinion; we know they can, and if they could mould public opinion in this way, they would be doing a very genuine service both to their own people, and to Kenya.

4.00 p.m.

Sir, it is very disappointing: the Government, on what it considered a perfectly good point, made, I think, by the hon. Member for Nairobi Area, that this discriminatory legislation should be removed went forward genuinely to help the Africans, and our attempt to do so has been spurned by the Africans in this legislature to-day. We are trying to remove discriminatory legislation. Sir, we are imposing, seeking to impose, legislation which has a very respectable legislative ancestry, the Metropolitan Police Act and the Larceny Act of 1916. As to the Metropolitan Police of 1839, and it is not unamusing—I think I might tell hon. Members—that when Sir Robert Peel first introduced the Metropolitan Police Bill in the House of Commons, he met with the most violent opposition. It was said that "this is the first step in the imposition of a military autocracy: the liberty of the Englishman is in peril"—the Metropolitan Police we are talking about, Sir, in case we have forgotten. And I could not help feeling that there was a certain echo of that debate, which

took place so long ago, to-day. Sir, this is a genuine attempt by the Government to remove discriminatory legislation. Sir, the hon. Member objects that the Bill is not bad, but the police who enforce it are. Sir, the vast majority of police in this country is African. They lack; we do our best to train them, Sir, but it must be a slow process. They improve all the time.

Sir, I do not believe that anyone who sits down quietly and sensibly and considers the application of this Bill can for one moment genuinely fear that it is going to interfere with the decent law-abiding citizen.

And for those reasons, Sir, I beg to move that it now be read the Second Time.

#### DIVISION

The question was put and Council divided.

The question was agreed to by 36 votes to six.

AYES: Messrs. Alexander, Blundell, Blunt, Group Capt. Briggs, Messrs. Conroy, Cooke, Courts, Crosskill, Cusack, Lt.-Col. Gherrie, Mr. Griffith-Jones, Capt. Hamley, Messrs. Harris, Havelock, Hope-Jones, Mrs. Hughes, Messrs. Jack, Johnston, Mackenzie, Lt.-Col. Bruce McKenzie, Sheikh Mohamed el Mandry, Sir Charles Markham, Messrs. Maxwell, Nazareth, Pandya, Sir Eboob Pirbhai, Messrs. Riddoch, Robinson, Sagoo, Mrs. Shaw, Messrs. Slade, Tyson, Usher, Sir Alfred Vincent, Dr. Walker and Mr. Wadley. Tellers for the ayes: Mr. Jack and Mr. Robinson.

NOES: Messrs. Mboya, Muimi, Muliro, Ngala, Odinga and Oguda. Tellers for the noes: Mr. Ngala and Mr. Nazareth.

The Bill was read the Second Time and committed to Committee of the whole Council to-morrow.

#### The African District Councils (Amendment) Bill

4.16 p.m.

Order for Second Reading read.

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Havelock): Mr. Speaker, I beg to move that the African District Councils (Amendment) Bill be now read a Second Time.

[The Minister for Local Government, Health and Housing]

Mr. Speaker, this is a conglomeration of amendments which have been requested from time to time, but the main purpose of the Bill, the underlying purpose, is that which I have expressed before in this Council, that is to develop the African district councils on the traditional lines of local authorities and to bring them more and more in line with other local authorities in this Colony. A number of the sections in this Bill follow that particular principle.

I think, Sir, I will have to touch on nearly every clause as they are separate amendments.

The first clauses, 2 and 3, are to do with the change of nomenclature which may or may not sound very important; but there again it follows the same line, that is that the presidents of African district councils will now be called chairmen, as are the heads of all other local authorities. Clause 3 covers that particular point and at the same time changes the nomenclature of the local African court to conform with the African Courts Ordinance.

I would here, Sir, say that in the Objects and Reasons, the reference to clause 27 is a printer's error, and the reference should read: "clause 2".

Clause 4, Sir, provides for the term of office of the chairman and vice-chairman; it is to be one year, which again is, of course, the normal practice followed by municipal authorities and county councils, and it also provides that the chairman shall have a casting vote. Again it is only a matter of procedure, but I think such matters are important.

Clause 7 follows the municipal council practice, in vesting the duty of granting leave of absence to members of the council and not vesting that duty in the presiding officer. Clauses 5, 6 and 8, Sir, look forward to the time when the district commissioner will no longer be a member of the African district council. Provision is made in those clauses that he may attend meetings and also other administrative staff of the council, that he should be sent a copy of the agenda so that he knows what is going on, and power is also included in these clauses to give the provincial commissioner the authority to call a meeting of the council if he con-

siders that that is necessary in times of emergency or crisis. The minutes, too, should be submitted to the district commissioner so that, in his capacity as chief administrative officer of the district, he is fully aware of what is going on.

Clause 9, Sir, is a matter of joint committees, that is, joint committees between African district councils and Government. Up to the moment there has been no statutory provision for such committees and hon. Members will know that this is necessary, especially for the administration of a number of matters such as loans to farmers and so on. The clause shows that such joint committees being set up especially to administer money which is that of the Central Government, can include members of Government or Government officers as full members of the committee, but it is emphasized and underlined that the African district council membership will remain in the majority.

Clauses 11 to 14, Sir, are important ones, these are the clauses which set up local councils as statutory local authorities. This is in accord with an assurance that I have given this Council before that the model for local authorities in the African areas should be that obtaining elsewhere; and that we will be moving, as circumstances afford, to the double, two-tier authority which, of course, is existent under the County Councils Ordinance. I do not say that we will create all the present advisory local councils into statutory local councils immediately; a considerable examination of this has got to take place. There are in fact in some areas a very large number of local councils and probably too large a number to put them on a statutory basis and to fit them in properly under the local authority umbrella. But in a number of cases, in a number of areas, I will consider the applications to make local councils statutory and will be able to act under this Bill.

I would like to say here, Sir, again re-emphasizing something I have said before in this Council, that a county district council, as an example, within the area of a county council, is an authority on its own and has its own powers. It is not a subsidiary to the county council; it has definite powers given to it and definite responsibilities.

[The Minister for Local Government, Health and Housing].  
The same should apply to locational councils when they become statutory. They are not just small children running in the tail of the African district council; they will have their own specific powers and specific authority, just as the county district councils do in other areas.

Naturally, the locational council will probably be formed covering areas in which there is a kinship of the groups of people living there, and that in itself, I think, especially with the statutory responsibilities which they will be given, will be found to be a considerable advantage in African district council areas which cover a number of different groups of people.

Clause 10, Sir, increases the number of statutory officers which African district council may appoint and allows the district commissioners to suspend them and other employees where incapacity or neglect or misconduct is apparent, pending a decision of the council.

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

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

I think that in view of past experience this is a power that should remain and I hope that hon. Members will agree. This clause also provides for machinery for calling on officers and employees of African district councils, either to make a deposit or to execute a bond to ensure that the council's moneys are watched over with a full sense of responsibility. This, of course, is in line with other local authorities.

Clause 16, if I may move to that section, extends the power of African district councils to enable them to collaborate with electricity undertakings if they wish to arrange for a supply of electricity to their area. This, I think, is a power that is required quite urgently. I understand that the electricity suppliers are quite enthusiastic about selling their product to Africans and I hope that they succeed. I feel that it is quite a practical proposition, already in a number of areas, especially where there are concentrations of population in villages, this

could be done, and the co-operation of the African district councils in this regard will be necessary.

Clause 15, which I am afraid I missed out, is also a very important one. This enables two councils to constitute a joint board for operating any particular common activity. The section of the Ordinance—19 (a)—already allows the creation of joint boards as between councils and Government, which I have dealt with, but this one allows joint boards between councils and councils. I hope that this will lead, not only to joint boards between two African district councils but to joint boards between African district councils and other local authorities. The obvious application of this at present between two African district councils is the management and administration of the Mariakani milk scheme which is done by Kilifi and Kwale jointly; although it is only done by arrangement at the moment, it will in future under this provision be possible to have a joint board of those two African district councils to undertake that administration.

The other example, Sir, which I would like to quote is the administration of the roads in the Nyanza area, which hon. Members may recollect is undertaken by a joint committee between the Nyanza County Council and the Kipsigis African District Council; there again there is a project which I am sure would be a suitable one for administration by a joint board.

I hope personally that advantage will be taken of this provision for a very considerable development of this particular co-operation between local authorities, urban and rural, African and European, because it is my profound belief that it is when people who have got a job to do and problems to overcome get round a table and thrash it out together—thrash out a particular problem common to both—it is then that people really start to understand each other and each other's point of view. I am certain that the development of these joint boards will lead to a very much greater understanding between local authorities of different sorts in this Colony than there is at the moment.

[The Minister for Local Government, Health and Housing]

On this subject, Sir, I would merely say that there is much too much ignorance within this Colony of one area about another and vice versa. How many people, even in this Council, Sir, know what goes on in the areas in which they do not live? I myself must admit that I was pretty ignorant until I had the advantage of being in my present position, when I was able to get around the different areas of the Colony and find out how the people live. I do say here that this is the principle that I want to establish through these joint boards; even more than that, I do hope that hon. Members will encourage their constituents to visit each other in their different areas and find out what goes on; thereby understanding each other better.

Finally, Sir, in clause 16, as I said, there was this matter of an electricity undertaking; and there is also in the same clause a provision that African district councils may purchase land for their own use outside their own area. They are able to do so within their own areas at the moment, but it is necessary that they should be able to do so outside their own area. In that regard, another obvious example which comes to mind is the Kipsigis African District Council hall, which is situated in Kericho; they are not really, until this is passed, supposed to purchase that land, because it is outside their area. Many other examples will occur in the future.

Also their power is given to African district councils to levy fees by passing a resolution in council. This again is in line with the powers vested in other local authorities. At the moment they have to levy fees by passing by-laws.

Finally, Sir, in this particular clause there is another important provision and that is that African district councils will be enabled to pay compensation to persons who held rights, especially those who held rights in land. This particular provision is to meet the present need of the African district councils of Central Province to pay compensation to persons whose land has been taken from them for the formation of villages. I understand the scheme will be that each householder in a village may pay one shilling a head per annum to a fund which will be used

for this compensation. At the moment no compensation is allowed to be paid by an African district Council in this regard.

Clause 17, Sir, is tied up again with electricity and enables African district councils to establish light, heat and power, either alone or jointly with other local authorities or corporations. These provisions are almost identical to those in the County Councils Ordinance.

Clause 18: there are a number of small provisions here. It deletes the power to make by-laws in respect of wills; it is considered that this is a matter which should be done more appropriately by the legislature than by a local authority. Also at the request of African district councils in the more isolated areas, it will make provision for communal work to be done for 24 days in a year, all at one stretch, rather than for six days in each quarter, which is the present position. It has been found rather awkward for people to travel long distances in isolated areas to do six days in every quarter; they would rather come in and do 24 days at a stretch. Provision is made for that under this clause.

Also the council's powers with regard to the control of buildings are expanded and clarified and power is given to the African district councils to make compensation if necessary for demolition, etc. Although this is a small amendment, it is a very important one and I hope it will lead to a considerable number of by-laws passed by African district councils to try to improve the standard of buildings and accommodation in their areas, such as are passed by other local authorities. Here I must say that a number of African district councils have already tried to do their best through their health by-laws on this one, but this will give them even further authority.

Also in this same clause power is given to councils to make by-laws in respect of retiring benefits of their employees, and—an important point—to ensure that such retiring benefits are not to be attached or assigned. This is entirely in line with the Municipalities Ordinance.

Clause 19, Sir, allows for the imposition of cesses on agricultural produce at the time of purchase as well as at the time of sale. Already African district councils have power to impose a cess at

[The Minister for Local Government, Health and Housing] the time of sale, but it has been found that administratively it is more simple to collect sometimes at the time of purchase and so power has been given under this amendment to do so.

Also natural products, as well as the products of agricultural and animal husbandry, may be the subject of a cess, and, of course, hon. Members will realize that there are a number of such natural products such as fish, which could be subject to a cess; honey is another one, and so on. These, of course, are only enabling; the African district councils themselves will have to consider whether such cesses are required or not. Timber is excluded from this particular provision in that it is already covered by the Forest Ordinance and, in some cases, the Native Lands Trust Ordinance, where the Forest Department is acting on behalf of the district councils and managing their forests for them; of course, royalties are paid in respect of such management. Therefore cesses on timber are specifically excluded.

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

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

It will be noted, Sir, that this Bill will allow African district councils to elect their own chairman now—it would have been presidents, but under the amendment it will be chairmen—and therefore, because of this, because the district commissioner will, in a number of cases, step out of the executive position that he really holds as president, certain matters of inspection, publicizing of by-laws, etc., certain such powers, are given to the district commissioner. I would like to say here, Sir, that I do not think hon. Members can expect that there should be a flood of African chairmen to their district councils immediately; I would have to make up my mind that the administration of such a council was in good hands and being carried out efficiently—let me say that numbers of them are getting more and more efficient—before one could agree to the election of the chairman. But I will say that in the near future I foresee at least one, possibly two, African district councils who

might well have their chairmen, and we will see how it goes. This is a matter that hon. Members have raised with me some time and here is the provision to allow for it.

Clause 21, Sir, gives the courts powers to confiscate stock and property. They have not had those powers before—confiscation of stock for breaches of by-laws—but those powers are now being given to them. However, it should also be noted that there is power for a court to order that the results of such confiscations, the money realized from the sale of such stock, can be paid to the owner—or part of it can be paid to the owner according to the penalty imposed.

Clause 22 is consequent upon the policy which was adopted by this Council in the White Paper No. 1 on the financial relations between the Government and the African district councils, that is that African court fines and fees should be paid to Central Government, and of course the expenses of such courts will also be the responsibility of the Central Government; and traders' licence fees in African land units will not accrue to the revenue of African district councils.

Clause 23—although again a very small amendment—is a very important one. It makes the secretary of the African district council the chief executive officer of that council. At the moment the president is the chief executive officer, and all correspondence from my office and my Ministry—and from other Government Ministries, etc.—is addressed to the president; in future it will be addressed to the secretary, just as in other local authorities it is addressed to the town clerk or the clerk of the county council.

Clauses 24 and 26 are absolutely in line with the other Ordinances for other local authorities with regard to audit and inspection of accounts, and I think that they are very desirable provisions. Again, African district councils are brought in line with other local authorities.

Clause 27 is merely a consequential amendment to the Ordinance, consequential on all these other amendments which I have described and which have gone before.

Sir, as hon. Members will see, there are a number of subjects on this, and before I sit down I would like to give

[The Minister for Local Government, Health and Housing].

notice that I will be moving an amendment in Committee to this Bill, which will again bring in line with other local authority Ordinances the position of medical staff. The point is, Sir, that the medical staff—the Medical Officer of Health and health inspectors—have a duty to the Government as well as to local authorities on health matters, and they are protected in other Ordinances—the Municipalities Ordinance, the County Councils Ordinance—that they cannot be dismissed straight off the bat, like that, without the authority of the Director of Medical Services or the Minister for Health. I would make this quite clear; in this connexion it is the Minister for Health who will be giving the authority; the Minister for Health may not always be the same as the Minister for Local Government.

I would like to remind hon. Members of one more thing on this and that is that at the moment, probably not always and certainly not permanently, most of the health staff of African district councils are seconded from the Government to the African district councils. I must make it clear that I am only dealing with the senior health staff, that means the medical officer of health and the chief health inspector. It would therefore be very invidious if such seconded staff were dismissed by the African district council, when their employers, that is Government, had had nothing to say about it. In any case, I repeat that this amendment is in line with other local authority Ordinances, that the health staff have special protection there and so deserve it, and I apologize to the Council for having to bring this amendment before it; I think we could have seen this particular difficulty before and it should have been in the printed Bill. However, that will be a matter for the Committee stage.

Sir, I think I have covered most of the points, and I only hope that hon. Members will welcome this Bill; it has taken some time in maturing but, as I say, the provisions are extremely important and all aimed at one thing; bringing African district councils more and more in line, almost entirely in line now, with other local authorities.

Mr. Speaker, I beg to move.

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

Question proposed.

4.42 p.m.

MR. ODINGA: Mr. Speaker, Sir, I have a number of points to raise in this particular Bill amending the African District Councils Ordinance of 1950.

I am sure that many Africans—and especially many African district councils—would be disappointed to learn the position of the president, who now will be named the chairman, because their conception of the idea would be very different from what the Minister has already put down here. The Africans believed—that when the Administration had to give up the work of the district councils, they would have taken it over wholly with all the executive powers which the district commissioner had been wielding in these district councils.

I can see that here the presiding officer who will be the chairman is left entirely only to preside over the council meetings, and he has not any other power whatsoever. He has nothing to say on the administration of the council; he does not actually have any say in the administration of even the finances, and as such I am sure the African public, especially the African council members, would be bitterly disappointed. At the same time the Minister has remarked, just before he sat down, that he hopes to put the African district councils into equal line with other district councils or county councils in this country. But I do not think so, because the African district councils are still not to deal with him as Minister direct, but they will be under the Provincial Commissioner. Most of their affairs will only end at the provincial level; they will not actually come to his Ministry, and I take great exception about that, because I felt that it is time that if we are to eliminate all discrimination, as you said, everything has got to be unified. This is the time when when discrimination should not be left in some spheres and in other spheres removed.

I thought that it is a time that the Minister should be able to deal, just as he is dealing, because the other time I read the Ordinance dealing with the county councils and district county councils and

[Mr. Odinga]

I found each time it is said the Minister will do this and that, and it is all through. Everything is directly, with the Minister, but when it comes to the African district council then everything has to be referred first to the district commissioner and to the Provincial Commissioner and probably to the Ministry of African Affairs, and later on to the Minister himself. This is still, I think, something which is really very serious and which should have been looked into and put right at this stage.

In here it is stated that when a chairman, as he is quoted, that the chairman when appointed by the Provincial Commissioner, he will be the chairman for three years, and when he is elected by the council itself it is only for one year. But my idea would have been, because when we talk of the native authority we mean all the African authorities in this country, to preserve the African authority from the very beginning up to the end. It should have been better to put. It would have been better to preserve the name president as it was and let the African district council themselves, voting in their own council, to elect the president who will be also the president for a term of three years, just as any other members. Then it goes on like that, and at the same time the Government could have handed over the chiefs, in order to give the chiefs full authority over the locational council, for at the moment they are the people looking after the locational council. If that is so then the continuation would have been that the chiefs should have been under the president of the district council. All these people should have been under the president as I think this should have preserved the native authority in the district and that would give them more responsibility and I think better responsibility at the district and locational level.

It is said that at this time some Africans are shirking the responsibility, but here is the chance when the Africans are fully prepared now to surmount the responsibility, both at the locational level and the district level, and I think that it should—the Government—should not actually be afraid to give that immediately to the Africans at this time.

Mr. Speaker, I have one very important objection, especially in giving the district commissioner still the power of

dealing with the staff of the district council. This power should exclusively be left with the council, and with their president or the chairman, whoever it may be, because I believe that if the chairman has to retain any authority or has to carry on or discharge any duty at all, as a man who is fully responsible for the council he must be able to supervise and look after the staff of the council, with the help of the council itself.

It is also stated in here that the district commissioner is the authority to suspend one of the staff, and if in that respect he is in disagreement with the council he will refer the matter to the Provincial Commissioner who will, without making any provision for his consideration, will order that that man to be dismissed. I think that this is serious. A deliberate disregard for the council's decisions is something which should be regarded as serious because I feel that the council is a responsible body, and as such if it decided against one particular officer of the Government, their opinion must receive fair consideration, and that matter should not end with the Provincial Commissioner or somebody like that; it must go right up to the higher level.

Mr. Speaker, I am also very pleased to see that the Minister has been able to make some provision for locational councils which I believe should also be developed especially to assist in the development of these locations. As he said, and as he has already admitted, a constitution should be made but something like that should be made immediately to guard the election of these members and also who shall preside and other things like that which will go on with that.

Now Mr. Speaker, I have one very important clause here to refer to and that clause is clause No. 18—the amendment—it is on page 13, where an amendment was made—I will read the amended clause. It requires:—

... able-bodied adult male Africans to work for not more than twenty-four days in any one year either without payment or for such payment as may be determined by the Council, in minor communal services of a kind which, being performed by the members of the community in the direct interest of such community, can therefore be considered as normal civic

[Mr. Odinga]

obligations incumbent on the members of the community; and declaring what shall be minor communal services within the meaning of this paragraph."

Mr. Speaker, this is the point that I have raised so many times in this Council and I thought that the Minister should have understood me and some of my colleagues who have spoken very strongly on this particular issue, because we felt that this particular work does not need any legislation of any kind. If the African community knows that something is vital for their interests, they will voluntarily go out to do it. They will voluntarily also go and do it. They are already doing a great deal in that manner; they are building schools themselves without any legislation at all or any force at all being used, and as such it was not necessary to make this legislation, especially in regard to adult male Africans—that is also a discriminatory legislation. It is not only the Africans who are living in the reserves; there are also Asians and many other people who are living in them. And anything which is done probably if it is building the roads everyone will use the roads. It will not be the African and anything where such legislation will be used suddenly it will not be to the interest of the Africans themselves, because as it is they generally go voluntarily without needing any force of any kind and therefore I thought this one is really unnecessary here and it should be deleted. I am asking the Minister to reconsider this particular clause and to leave it out.

Now Mr. Speaker before I sit down I would only say that again the African public will be bitterly disappointed if the powers of the chairman who used to be, and who they know to be, the president would be whittled down to be only presiding officers at the meetings. They indeed know that it is time that the work of the district council should be entirely left in their hands and try to practise and make mistakes and by that way will also progress.

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

4.59 p.m.

MR. ARAP MOI (North Rift): Mr. Speaker, it has been the desire of the

African community that they should be given many more responsibilities at the lower level. I mean that at locational level and at district councils level they should be given responsibilities to show that they are able to execute and run their own affairs which affect them day to day. The African Elected Members for many years have been advocating for African presidents of the African district councils, and I welcome this amendment, although there are some shortcomings in this Bill which the Minister ought to rectify at the Committee stage.

There are certain clauses, as my colleague has made it quite clear, that although the district commissioner will not in future have more powers than he has had in the past, but in this it seems as though the district commissioner is going to scrutinize all the work, or all the minutes, which are being passed by the locational councils or the African district council as such. There is a section here; it says that the secretary of every council shall at least 14 days before any meeting of the council notify the district commissioner of the time, date and place, and the business proposed to be transacted at such meeting. Well, any locational council has no powers and it has not really been entrusted to feel that they can transact their business efficiently.

It has also been stated in clause 11 that "Provided that the Provincial Commissioner may, in lieu of such appointment of members, authorize the election of a specified number of members to any any African locational council; and such elections shall be held in such manner, and in respect of such geographical or other units, as the Provincial Commissioner may direct, but in each case where a vacancy occurs by reason of the retirement of an elected member, such vacancy shall be filled by election". In the old Ordinance it says "with the consultation of the African district council"; the Provincial Commissioner would not in the old Ordinance do it without consulting the African district council. But in this it seems as though the Provincial Commissioner can do it directly by himself. Clause 11, section 17 of the principal Ordinance.

Now, Mr. Speaker, I wish also to raise another very important point which has been raised by my hon. colleague the

(Mr. arap Moi) Member for Nyanza Central, Clause 18, section 22 of the principal Ordinance: it is really the worrying factor on the part of the African community. These communal services—if Government really intends to have an agricultural revolution in the African areas, I do not see why Government should bring in these communal services. The African is having an increasing burden on all sorts of taxation. Locational councils put up certain rates; the African district councils the same, and the Central Government, and how can an African be able to produce wealth so as to pay off these taxes? Government is going ahead on land consolidation. I do not see how an African can devote his time in producing and planning and putting all his efforts into his farm if 24 days in a year are spent on communal work. I think that this section should be deleted if the Minister actually wishes that the Africans should prosper and produce wealth instead of being bothered, because I think this clause is made to bother Africans: not because they will be asked to work, because in the traditional period they used to work on things which could not be forced, but these things are being forced because this clause is being misused.

I also, Mr. Speaker, wish to raise another point on clause 21. There is a provision in this clause to make by-laws to order the confiscation and sale of any property which includes livestock. I would express, Mr. Speaker, before this Council, that this is not to the advantage or to the interest of the African people if this clause is going to be used, because I know that in destocking stock this clause may be used as a cover to such action. I wish to make a plea to the Minister to consider delisting some of these disadvantageous sub-sections, which would remove fears among the African community.

Mr. Speaker, with these very few remarks I support the bill.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Conroy). Mr. Speaker, I would like to answer the question which has been asked by two hon. Members opposite, which deals with communal services under clause 18. Sir, I would like to point out two things in connection with

this clause. The first is that the amendment does not impose a liability; it does not mean that Africans will have to perform 24 days' work in the year. It merely allows an African district council to make a by-law imposing such a liability, and whether the African district council makes the by-law or not is in the hands of the African district council. This is an enabling power: it says the African district councils may make a by-law imposing 24 days' work a year.

The second thing, Sir, is that this provision is word for word the same as the International Labour Office Convention on this type of communal services. It is agreed as an international convention that this is the kind of service that it is reasonable to impose, and this was drafted, word for word, within that convention.

Sir, I beg to support.

MR. MALE: Mr. Speaker. There are some remarks I want to make on the Bill. The first is the change of name from "president" to "chairman", which sounds very trivial but has a lot of value, and if the Minister thinks that the word "chairman" is as good as the word "president", would he consider reverting to the old name of "president" because I think it has got some special feeling for African people.

The other point is the fact that in clause 10, part (b), where the recommendation of the district commissioner differs from the opinion of the council, it should be referred to the Provincial Commissioner, but notwithstanding the decision of the council, the Provincial Commissioner may direct the removal of such officer or other employee. Sir, what is the relationship between the district commissioner and the council as a whole if the district commissioner's recommendation as an individual can be followed where the council as a whole feels different? Sir, I submit this is not giving the council power to manage their own business where, in their opinion, they feel their officer is all right and the district commissioner has the power of veto. After recommending to the Provincial Commissioner, the Provincial Commissioner has the power to remove him in spite of what the council itself feels.

(Mr. Mate)

Sir, at the same time, regarding the question of locational councils, the district commissioner has the same power with regard to the locational council as the Provincial Commissioner would have related to the African district council. Sir, where is the dynamic power to guide the council? Is this their own general free will and their own general free feeling about an issue, or is it what a district commissioner thinks? Sir, I feel that principle of giving the council the power to organize their own affairs is what matters, not the fact that they have now a chairman—of their own instead of a district commissioner chairman. I do feel that principle is very, very important, that their opinion should count for quite a lot.

Coming to the locational councils—clause 11 (2) (a), it says at the bottom that the Provincial Commissioner may authorize the election of a specified number of members to any African locational council, thereby implying that the membership will be by nomination or appointment. Now I take it that this would depend on the recommendations of the local chief, the local district officer, the district commissioner and then the Provincial Commissioner. Sir, why cannot the citizens of that particular area be given the right to elect their own councillors to the locational council in the same way as the African district councils, or at least their own quota, so that we could have those elected by the people and those nominated by the Provincial Commissioner on the Government side. I feel this part of the change is very important, because my feeling is that the African people on the ground should be given power to direct their own local affairs, not according to what the district commissioner thinks, but according to what they as a group think and I doubt how a whole body can be wrong and one man be right. I feel it can be argued that the district commissioners must be there to give guidance. However, when it comes to a matter that the council—whether a locational council or an African district council—have considered, have ventilated the issue, his power should not be used to veto whatever they decide; otherwise they have

no power, but that they should be allowed to do as they think.

Sir, I come now to my most favourite part of the new law, which is clause 18, dealing with communal labour. Sir, I am not sure that the Council appreciates what communal labour means to the African. Briefly, the ordinary African, communal labour means giving executive power to the local headman or chief, or district officer, to impose anything they like, just as they like, just because they feel they have power. Sir, I would prefer—and this is in accordance with the expressed opinion of the African—a different system. One where by paying a shilling or two to the locational council a gang is employed to do these minor jobs and the citizen is free from communal labour. To-day the locational councils and the African district councils get cesses, rates, and money paid to them by the people. Why cannot the locational councils be empowered to do these kind of jobs instead of calling people to come and do them?

5.15 p.m.

What has happened, Mr. Speaker, is that for very many years now the Africans have developed individual ways of doing things which are communal. They are traders, they are teachers, they are businessmen who have no time to waste. They want, therefore, to get on and do something else and they are only too prepared to pay a shilling or two in order to be exempt, and Sir, what it amounts to is this, that too many individuals who ought to be doing their duty are exempted just because they are shielded by the headmen or the chiefs. I am one of them. I am never called to do communal work, simply because the chief thinks I am too important. Now the same applies to chiefs themselves. Their wives and everybody else appeal to them—the tribal police, the local teachers and many other influential men in the localities and get out, even though legally they ought to be called.

I do feel that it is a very, very unfair arrangement at this stage to have to call the ordinary man to work by force and under a headman when it is a communal duty. Mr. Speaker, I feel that a way could be found where we could all meet, consider the job or do the same thing,

[Mr. Mate] where the chief pays something or the tribal police pay something and I pay something, then I am quite free. But I do feel that it is probably the arrangement and not the principle which is quite wrong.

At the same time, the idea of communal labour kills initiative because supposing there is a district officer somewhere who feels that a certain road should be opened or because the district commissioner is coming round perhaps the playing fields must be cleared, he goes to the locations and asks the chief to call the people, or the headman, who may order the shopkeepers to close their shops and to go and do this particular job. Many of them do not go happily as they are not interested. They do not care, and they hide themselves and they start complaining.

Mr. Speaker, I feel a way could be found where the location itself finds ways and means of taxing everybody to a certain extent—a shilling each, and have a labour gang, and a responsible man to carry out the repairs of schools or bridges or to open up roads in the villages and give the ordinary man equal freedom with me. And, Mr. Speaker, if I may say so, this has been tried in some places and it has worked very well, and if the Minister would like some instances of this I am only too ready to give him the details and the very good reports of the ordinary people where they are all happy and free men.

Mr. Speaker, this communal labour clause does give too many people in the administration power to interfere with the ordinary people and even work against progress in their areas. The agricultural department is not free from this; they are the people who want terraces, they are the people who want people to go and make terraces, but how many people feel like going to make terraces in somebody else's garden? If it is for land consolidation, why does not the man build his own terraces? He is not going to divide the money he gets among the villagers so he should do it. He has his own money and this work should be rather more individual than communal. That is apart from perhaps a hillside or a common job where I think a particular gang is employed and would get paid

and would be directed by the chief perhaps or by some other officer to go and do that particular job. And, Sir, the most important aspect is the general dissatisfaction of the African people on this question of communal labour. Sir, I feel that if the Minister would find his way to amend this clause, and find a different method of reaching the same end, he will do the African community a great good in Kenya.

I am sure we would all applaud and even clap because he had saved them a lot of unnecessary inconvenience which I am sure hinders progress in very many ways.

Sir, that is my most important point about this new Bill—the African District Councils Ordinance—and I do appeal to the Minister most sincerely that he should give this matter his most serious consideration. I am sure, Sir, that he will get a lot of complaints from chiefs, headmen, district commissioners, district officers, who like this way of doing things, but what does it matter if the result is obtained in a different way instead of just satisfying a crowd of officials who themselves have got used to their own way of doing things and may not want to change.

Sir, I do feel this is a very, very important thing—to effect a change in order to find a better system and a better way of encouraging the people to help themselves and to make them feel happy.

Mr. Speaker, with these few words, I beg to support.

MR. NGALA: Mr. Speaker, Sir, I should like to congratulate the Minister for the clear submission he has made in this Bill. It is very important that at this time there should be some amendments on the African District Councils, but I would like to give my few observations on the Bill.

The first thing is that I am very much disappointed that the Minister has overlooked one very serious aspect and that is encouraging and giving more powers to the secretaries to the councils or to the clerks to the councils. All that he has done in this Bill is to remove the chairmanship from the Provincial Commissioner and put it in the hands of one of the local people, but the executive powers which I should have expected would be given to the secretary

[Mr. Ngala] have not been given to the secretary. I should like to have seen more powers given to the clerk or the secretary to the council. Things that have to do with the staff of the council, for example, or any specific powers should be put on the clerk just as it is in many municipalities where the clerk—the town clerk—is a responsible person. I should like a similar status to be considered for the clerks to the African district councils. At the moment, I think the Minister is aware that the clerks are given very limited powers and it is necessary that these powers should be extended and they should have more and more executive powers.

The second observation that I would like to make is that which has already been mentioned by the hon. Member for Central Nyanza. Where the district commissioner gives the final ruling on the removal of any officer, I think it is very unusual. I would suggest to the Minister that there should be some kind of committee or some council provided in a local body such as the African district council so that these matters concerning staff could be considered at the level of the African district councils. In a staff council or in any committee that is provided for such purposes, where there is serious disagreement, I am quite sure that such matters could be forwarded to the Minister for final consideration. I think it would bring about a lot of misunderstanding if a Provincial Commissioner living about 200 miles away made a decision and just said remove Mr. so and so and no other question were made about the position. That would lead to a lot of discrimination and a lot of ill-feeling amongst the people working in the African district councils.

I submit very strongly that it would be very helpful if a committee could be provided such as a staff council or any other appropriate committee could be made available to discuss all these matters in a more peaceful and a more understanding way.

Another point which I would like to bring before the Council is a point which has already been mentioned by the hon. Member for Central Nyanza and also for Central Province, it is the question of communal labour. I do not think I need to say any more on this except to

say I strongly oppose that clause and that provision in the Bill just as other hon. Members have opposed it. I will not add anything more because I do not think I have any figures to add to the hon. Member who has just spoken.

Clause 5 which makes provision for a district commissioner or a district officer or district assistant to attend meetings and to give views but not vote—I should like the Minister to be more specific in that clause. My own suggestion would be that there should be a provision in that clause that a district commissioner attends, and where he fails to attend the district officer should attend or the district assistant. Here, the clause is not very clear as it provides, according to my understanding, that at one meeting the district commissioner can be present, so can the district officer and also the district assistant, although they have no powers to vote, but I think a specific provision should be made so that the Administration can have only one representative at any one meeting of the African district councils. Failing to get the district commissioner. I think a substitute of the district commissioner should appear, but it should be something specific and not a very vague suggestion as provided in clause 5.

I should also like more explanation on the question of the purchase cess. I am not very clear as to the wording in clause 19. I would like the Minister to give me more explanation on that because at the moment, the African district councils have power to levy a cess on the people who produce to go to the market for sale. But mention has been made of people who go to purchase things, so I would like a further explanation on that. Although the explanation will perhaps be forthcoming in the summing up, I would like to express my views on that. I feel that it would be quite unfair to tax those people who go to buy these things because, as you know, Mr. Speaker, the prices of things have risen very considerably these days, and it would be most unfair; although it is a bit fair to put a cess on the producer, it would be most unfair to put a cess on the purchaser. I would like to know more particularly how that would be adopted. I hope the Minister will make that clear.

As far as the powers given to the Provincial Commissioner, I think the

[Mr. Ngala]

Bill has given far too much power to the Provincial Commissioner. Here, in as far as the locational councils are concerned, the Provincial Commissioner can even appoint a chairman of the locational council. Now, I submit very strongly, Sir, that the local people who know their area and know their people, and know who can conduct their meetings more efficiently, those people should be given a chance of appointing their chairman. It should not be the Provincial Commissioner but at the level of the locational council. Perhaps the Minister has special reasons for giving this power to the Provincial Commissioners. I feel that the African contention at the moment is that some people preside over the locational councils as chairman who have no idea of conducting meetings or of how to keep the situation properly under control in a meeting.

5.30 p.m.

Now, I have a feeling that the Provincial Commissioner appoints people who are to the taste of the district commissioner and I feel that such an arrangement must be left to the local people themselves who know their area, and the people, better, and those people should be given a chance to elect their own chairman.

Sir, I think that the African district councils as well should be given a chance to elect their own chairmen. I realize that here they are given a possibility of electing their own chairmen, but there is also a possibility of the Provincial Commissioner electing the chairman. I submit that in all locations, it should be the responsibility of the members themselves to appoint or elect their own chairman and it should have nothing to do with the Provincial Commissioner.

With these few observations, Sir, I beg to support.

MR. MUMI: Mr. Speaker, Sir, I should first of all like to welcome the Bill and to thank the Minister for the very able way in which he presented the Bill to the Council.

I can see, by studying the Bill, some light towards something which the Africans have been asking Government to do in order to assist the status of the administrative bodies right from the

locational councils, the county councils and African district councils. But I would also like to refer to some of the remarks made by my colleagues, because I am rather interested in the affairs of the African district councils.

I would first of all like to mention— if you wish to speak I will give way.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, I note that the hon. Member is very interested in the affairs of the African district councils, but I noticed that he did not pay any attention to that during the debate on agricultural policy.

MR. MUMI: The policy is bad, obviously, but not the African district councils.

The first point I would like to mention is the appointment of chairmen or presidents of the African district councils. Although much has been said by my colleagues it looks as if there is a difference here in sub-section (a) of section 4 where the Minister states that the Provincial Commissioner may appoint the chairman of the council for a period of three years, but if the chairman is elected by the council, he will serve for one year only. I think, in order to give the chairman the experience he will require, and if the purpose of this Bill is to put the African in a position of responsibility, I do not think that one year of office for the chairman is long enough to give him that experience which is required, and I should like the Minister, when he replies, to tell us the difference between one who is appointed by the Provincial Commissioner serving for a period of three years and another elected by the council and serving for a period of one year only.

Well, again, I would like the Minister to lay emphasis on the fact that the vice-chairman of the council should not be a mere token figure in the council, as it has been in the past. Well, the practice in the past has been that where the president—that is, the district commissioner—has been absent from the council, the district officer—in most cases the district officer (1)—presided as the chairman of the council. Well, I feel that the functions of the vice-chairman and those of the chairman would be equal to those which the district commissioner

[Mr. Mumi]

performed when he was the president of the council.

Now, the next point I would like to mention here is the question of the district commissioner, the district officers and the administrative assistants attending the meetings of the council. Well, this is not a new thing to us, because the district commissioner, the district officers and the district assistants have been attending meetings of the council, but I should like to make a comment here again, that the attendance of the district officers or the district assistants at meetings of the council should not tend to influence the proceedings of the council, as it has in the past. I know that in most cases district officers have presided over the committees of the councils as chairman, although I know that under the law they are in no way members of the council.

Again, under sub-section (4) of section 5 the Minister states that the chairman of the council may invite any public officer to address a meeting of the council, but where he invites an outsider—that is, a non-official—the permission of the provincial commissioner must be obtained. Well, in that case I feel that again, as the previous speaker said, the Provincial Commissioner has been given too much power to interfere with the affairs of the council. For example, if a Member of the Legislative Council wanted to address a council in his own constituency, if the Provincial Commissioner felt that he had reason to refuse the Member permission to address the council, he could do so. In that respect, Sir, I feel that the Minister should consider that situation, if it did arise.

Well, the other part that I am strongly concerned about is section 9 of this Ordinance where, in the composition of the committees, it will be required that officers will be included on committees which have something to do with public money—I think that is the way the Minister put it. Well, here again I feel that the officers serving on the committees should only be on an advisory basis. They should not in any way influence the decisions or the proceedings of the committees.

I need not say very much on section 10, because my colleagues have made the

points which I wanted to make; but I would like to say here that at a previous debate in this Council the Chief Secretary did mention that the president of the African district council or the district commissioner had no power to veto the decisions of the council. But here I am rather at a loss, when the Ordinance provides that if any member of the staff of the council is suspended by the chairman, and the matter is referred to the council and the council rules that it does not see reason for the dismissal of such member, then the district commissioner has the power to refer the matter to the Provincial Commissioner, and the Provincial Commissioner makes the last decision. In that case, I feel indirectly the district commissioner vetoes the powers of the council, and also the Provincial Commissioner. Well, I feel that the African district council employees, like Government employees, should be protected and the Minister should consider the question of safeguards of African district council employees.

Now, again I come to the question of the locational councils. Well, I have a knowledge of the creation of the locational councils right from the beginning when the idea of introducing locational councils was brought to the notice of the African district councils. First of all I would like to say here that the locational councils have no statutory powers given to them such as those of the African district councils. I do not know what common seal gives power to the locational councils and it looks here as if the powers now being transferred to the locational councils would tend to give power to the Administration to use the locational councils as instruments only, and therefore I feel all functions of the locational councils should be dealt with from the Provincial Commissioner to the district commissioner, from the district commissioner to the African district councils and from the African district councils to the locational councils. There again I would like to suggest that members of the locational councils should be elected by the people and not appointed by the district commissioner. If possible, I should further like to suggest that the chairman of the locational council should not be an official, because I think the function of the locational council—



[Mr. Muimi]

and I believe it was the objective when the idea of locational councils was introduced—is to serve as an advisory body in the location, to advise the chief, to advise the district commissioner through the chief, and they should not be another executive body in the location.

I should like just to say one other thing about section 18, which I believe my colleagues have put very clearly to the Minister—that it is the wish of the African Members and also the African community that this section of the Bill should be deleted. Well, as I said in another debate this afternoon, the law is very beautiful but the execution of the law is feeble in many ways. Here the Bill or the law states very clearly that one would be required to work for six days per quarter or 24 days in any one year, but you find in practice that it is not true. I could give the Minister examples to substantiate my statement, when I say that in some cases I know people work for four days a week, and therefore 16 days a month. I do not know whether that is within the content of the law. Again, the law lays it down very clearly that the only able-bodied people who would be required to do this kind of work are the male Africans, not females, but I had, I remember, very strong arguments with one of the learned district officers who said it included females, and for that reason every African irrespective of sex was liable to perform this communal work. Well, I know in some districts, for example in Machakos, they have tied this to the Kamba word *mweithya*; *mweithya* means if somebody happens to have some piece of work which he would like his friends to help him with, he sounds a warning and they come and help him at their own wish; but if it is that it is another form in which this kind of minor communal work is taking shape in this district, I still suspect that the long-term policy would be part of this law; that is—and this is where I feel I must speak very strongly—people will be brought to court and prosecuted for not going to the *mweithya*.

5.45 p.m.

Well, as my colleagues have already pointed out, if the people feel there is need for doing a certain kind of work,

that they certainly will do. I should like the Minister to make it very clear what he considers to be this minor communal work. I remember at one time my African district council did table what it considered should be the minor communal work; but then, in the execution of the tasks that the African district council considered to be minor communal work, certain officers such as the chiefs and the officers in the field—I would not like to mention the department—have used the provision of this law to use people in a very irresponsible way, and, therefore, I would like to suggest that any minor communal service should be done by people free of any legislation at all, and I am sure, if such things are encouraged, the Africans would do all that is required to be done without the chief or the headman or the agricultural officer using a whip to make them do these kind of jobs.

The last thing that I would like to mention, Sir, is the relationship between the finances of the African district councils and the Government. Well, the Minister will appreciate that certain moneys which come to the African district councils from court fines—that is, African courts—have very much to do with the acts of the locations, for which the locations and the locational councils are responsible.

**THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (MR. HAYLOCK):** Moneys are not being paid to the African district councils from African courts any more.

**MR. MUIMI:** That is very true, Sir, but I am not merely concerned with the African courts; I am here speaking of the relationship between the finances of the African district councils and the finances of the Government. I leave out any questions of courts. Take, for example, the fees collected from markets. I understand it is now provided that all moneys accruing from collections from traders' plots will go to Government, but fees accruing from the plots themselves will go to the African district councils. Well, who maintains the markets? I think it is the locational councils which maintain the markets. Therefore, instead of that money which is collected from plots in the markets going to the African district councils, I

[Mr. Muimi]

feel that it should go to the locational councils, because the locational councils have not only to maintain the markets and see to the upkeep of everything in the market, but they provide the labour and I am sure, in most cases, they pay for the construction of the whole of the market halls and the paving of the halls and so on. Therefore, if the locational councils are to improve financially, I feel such moneys which accrue from the functions of the locational councils should go back to the locational councils to make them financially strong.

Again, the Minister will, in this connexion, tell us what provision is being made under this Ordinance to make sure that the finances of the locational councils are safeguarded, and that they run according to what the law requires, because it looks as if he only mentions the way the locational council may spend their finances and submit their accounts to the African district councils and hence to the Provincial Commissioner, but I do not see under the Ordinance the ways that the locational councils will raise funds, how their funds will be kept and such and such.

Again, mention is made of the locational councils employing people to do certain things in the locations. I do not understand how they are going to raise money to employ these people and who these people will be.

Now, one last thing. Although the Minister has cautioned me that moneys accruing from courts will no longer go to the African district councils, I would like the Minister to assure the Council how the African Judges in the African courts will be appointed, because it looks as if to-day the very old system of practice is in use. In the first place, say for example, the president of the African court was—

**THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (MR. HAYLOCK):** On a point of order, this has got nothing at all to do with the Bill. The appointment of the presidents of courts has nothing to do with the African District Councils Bill at all.

**MR. MUIMI:** Thank you, Minister. Therefore I think the question of African courts should have been deleted entirely from this Bill if it is nothing to do with

the African district councils. Clause 22, I think, and clause 21 provide for that provision. Well, if that is the case, Mr. Speaker, I should like to ask the Minister to delete the mention of any African court in this Bill entirely.

Now with these few points, Sir, I beg so support the Motion.

**MR. MAXWELL (TRANS NZOIA):** Mr. Speaker, Sir, I wish strongly to support the reasoned arguments put forward by the hon. Member for the Central Province in regard to communal labour under clause 18 of the proposed Bill, and I do hope that the hon. Minister will give serious consideration to the points made by the hon. Member.

Sir, I beg to support.

**MR. MULIRO:** Mr. Speaker, I am reluctant to get up after these speakers, but I would wish to speak because there are some points which have not been covered.

On this Bill, Mr. Speaker, I find that the Minister for Local Government, in acceding to the cries of the African people in this country for responsibility over the matters of African district councils, had actually removed the whole flesh and yet left the bones of the African district councils—that the powers which were very much in the African district council were vested with the president of the African district council. Now the Minister, realizing the going of the president or the going of the district commissioner as chairman of the African district council, has removed more of the powers which were vested in the district commissioner, from the chairman of the African district council. Now those powers are still being retained by the district commissioners, the Provincial Commissioners and the district officers of the divisions where they have to administer certain locational councils.

I admit if we have to move on to a better and firm footing to put the African district councils on a par with other local government bodies, the powers of the Government executive officers should be reduced so that the Council gets more powers, and some executive officers of the council, such as the secretary, become more of real executive officers than they are at present. What I know, Mr. Speaker, is that at present the secretaries of all African district councils are no

[Mr. Muliro] more than clerks of the district commissioners. That is what it is at present. Now because the district commissioners have been the presidents of the African district councils, these clerks were actually responsible to the district commissioners. At present the district commissioner is the chairman, with real powers; still the powers have gone to the district commissioner, so the secretary of the African district council, who is actually the clerk of the district commissioner, will have to inform the district commissioner of the agenda and then the minutes and all those things. What I know is that they will continue doing exactly what they have been doing in the past. This also applies equally to locational councils. I feel, Mr. Speaker, that locational councils just as well as the African district councils should actually be responsible for the general developing of the areas for which they are constituted. African district councils should have the right to deal with all its own problems of developing that district, as they are in the European areas and municipal areas or the City Council of Nairobi, but with the presence of either the district commissioner, the district officer or the district assistant or the Provincial Commissioner, in these meetings, I know what is going to happen, Mr. Speaker. In most cases these Government officials will delete a number of programmes from the Estimates of the locational councils; the decisions of those councils will very much have to be those of the district officer or the district assistant, or the district commissioner in most cases, or the chief. I know cases where the chiefs of the locational councils have done that even before getting the consent of the locational councils—getting up in the locational councils and saying he wants that, he wants that, or that; not because the locational council has discussed these problems and passed them in their council, but simply because probably the district officer or the district assistant or the district commissioner says: "Look here, Chief, we have to do such and such in this location". So I think, Mr. Speaker, the executive functions should be placed more and more in the hands of the elected chairman—or I will use the word "chairmen" as the Minister has already proposed that—all other

local authorities have chairmen and not presidents—and if we want the Africans to be on a par with other local authorities we should adopt the same name for all. But I think I would insist again that these chairmen of the district councils and locational councils should be elected representatives, rather than being either a Government official or a member nominated by the Provincial Commissioner.

6.00 p.m.

I think the powers have been distributed between the Provincial Commissioner, the district commissioner and the district officer, to have the rights in the districts and in the locations.

Another issue I would like to raise on this is the finance of locational councils and African district councils. I have spoken on many occasions in this Council on the need for the Africans to help themselves, to shoulder certain responsibilities in order to develop African areas, because, Mr. Speaker, I have said all the time that unless the Africans themselves do something for themselves there is no other person who can bear the burden of developing Africans effectively in the way Africans would like to develop. Therefore, on this point, Mr. Speaker, I feel very strongly that the Minister for Local Government, the Provincial Commissioners and the district commissioners should usually accede to the wish of the Africans to tax themselves or to raise such funds by way of certain cesses, from their produce or whatever they wish, for general schemes in the district, or particular problems of development.

I am raising this issue now, Mr. Speaker, because I have found on a number of occasions that it is like knocking against a hard wall when trying to get us some money for assisting, say, African students who are going overseas. On one occasion, Mr. Speaker, a location had more than Sh. 30,000. Out of that Sh. 30,000 from the locational reserve fund, they wanted Sh. 4,500 to send a student from that location to America. Now this student had received a bursary from America, from certain beneficiaries there, and he was going to receive free education; and what this location wanted was only Sh. 4,500 out of the Sh. 30,000 which was the reserve fund.

[Mr. Muliro]

The district commissioner—sympathetically—told me: "Look here, Mr. Muliro, I cannot authorize taking money from the locational fund to help any student going overseas". He was a very sympathetic man and I like him; he told me very honestly that it was the ruling from the Minister that prohibited him from doing so. Otherwise he was very sympathetic. I had no alternative; to come to Nairobi again was very difficult; probably I would never have seen the Minister in Nairobi—he might have gone to Mombasa at that time, probably on one of his tours, opening up some social hall.

So I asked the district commissioner to give me permission to collect the funds for that particular student from the district and I asked the adjoining district district to give me this permit. Well, both the district commissioners were very co-operative; they gave me the permit and I raised the funds and this young man is now at California University.

That is what makes me more worried about the measures which have very well-intentioned motives but which in operation can be very harsh on people. Therefore, Mr. Speaker, I think it would be far better if the African district councils or locational councils could be given that latitude for social development. I will give you another instance with regard to these funds. Recently, we in my constituency wanted to start a secondary school. The people feel they should have a school because the children, who have been, thrown out from further study after the Kenya African Preliminary Examination, and who qualified very well, need a school. We have struggled in that district; the district education officer has said that our numbers warrant starting a day secondary school. The area which was going to be served by that school is prepared to raise some funds. Even the parents of the children are prepared to pay higher fees for starting that particular school, but still we have to wait for a ruling from Nairobi, which the Minister for Local Government, Health and Housing has again not given.

The same Minister has to give a ruling whether education is a social service or not. It has been argued by those who

want the school—including myself—that if education is not a social service, what else can it be? But the ruling has to come from Nairobi, from the Minister for Local Government, Health and Housing.

This is a very serious obstacle, in my opinion, to the development of the Africans. I have made this plea in this Council, and I will again make it to-day. I will plead that the Minister, when dealing with financial relationships between local government and Central Government, should take note of this. This measure is removing more and more money from the African district councils to Central Government; I say that when the African is prepared and is willing to tax himself—even to overtax himself—for the general development and for the general good of the African community, he should be allowed to take that upon himself.

As far as this is concerned, Mr. Speaker, it seems all to be dependent on the Minister in Nairobi, who may at some time—I do not say the present Minister is likely to do this, but someone might come up who is against the Africans—make measures against the Africans, and he may make rulings that such and such things cannot be. Therefore, I will be moving—and I have given notice already to the hon. Minister—an amendment on the powers of the Minister.

Another point I would like to raise, Mr. Speaker, is that of the workers or the employees of local government bodies. It is said that a responsible official of a local government body, an African district council, who may be a secretary or a treasurer, will have to pay a certain deposit or make certain sureties or bonds, so that if people lose their money, they will do such and such. I know that a number of locational council secretaries and treasurers are behind bars and this number is quite great. I know there has been a certain case in my own constituency. There are quite a number of people who are serving sentences now because they have lost the council's money. But I think that losing or embezzling money is not a characteristic which is only marked among the Africans. It is everywhere. The City Council of Nairobi has heard worse cases than even the North Nyanza District Council, you just read

[Mr. Muliro]

the newspapers. Municipal councils are suffering from that; Nyanza County Council had worse cases of that.

However, the employees of these organizations or bodies have not been told to give security bonds or deposits. If someone goes to work he goes to work simply because he is poor, Mr. Speaker. Now how can you expect a poor man to give a deposit when he has not got it? If this man has money, he will not be looking for employment. I am a professional teacher, I am going to teach when I am looking for money; but if I have got the money I will probably settle down or establish myself as a coffee farmer. Or else I could go to Italy for a holiday.

That is another amendment I am going to move at the Committee stage, if the Minister will not rectify it, because I feel that these people should be accepted on merit and be trusted because I think security does not outstrip the person you are dealing with. One feels that this person is not going to be trusted with money; now if you start from the negative point of view, you will never be right. Now the Minister wants African district council employees to be started off on the wrong foot.

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Havellock): On a point of order, Mr. Speaker, as a matter of saying the correct thing, it is not only a matter for African district councils; all local authorities have exactly the same enabling powers.

MR. MULIRO: If all local authorities, Mr. Speaker, have that I will still make a plea for all local authorities. African district councils are being put on a level with all local authorities, therefore I would make a plea for all local authorities, even Nairobi City Council.

I have said before, Mr. Speaker, in this Council, and my colleagues emphasized many times by the position of these officials influencing the decision of the African district councils; therefore I will not waste time on that.

The question of joint boards of African district councils or an African district council with a non-African district council is very much welcomed by me. That is a step away from racial-

ism and I am looking forward to the day when North Nyanza District Council will probably be working with Usain Gishu, and Elgon Nyanza will have joined forces with Trans Nzoia, and North Nyanza will be joining forces with Central or South Nyanza. That, Mr. Speaker, is something I welcome. I think it is a move in the right direction. In that, the hon. Minister has my full backing.

That, Mr. Speaker, is the main reason why I say the executive officers of the African district councils should be actually executive officers, because if they are executive officers they will be able to deal with their colleagues in their different district councils on an equal level. Unless they are equal in status they cannot discuss problems equally.

I do not know whether I can continue, Mr. Speaker, I have a little bit more to say.

#### ADJOURNMENT

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): It is now time for the suspension of business and I adjourn Council until 2.30 p.m. tomorrow, Thursday, 20th February.

*Council rose at fifteen minutes past Six o'clock.*

Thursday, 20th February, 1958

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

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

#### PRAYERS

#### MOTION

#### REVIEW AND READJUSTMENT OF THE NATIVE AUTHORITY ORDINANCE

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): Before we embark on this Order I would like to point out that the hon. Member who is proposing this Motion specifically refers in his Motion to Cap. 97, which is the Native Authority Ordinance. This Ordinance was very materially amended, and indeed partially repealed, by Cap. 12 of 1950, which is the African District Councils Ordinance, the amendment to which was the subject of considerable debate yesterday and is on the Order Paper for further debate to-day. It is therefore to some extent *sub jure* and subject to Standing Order 55.

Under the circumstances, I must warn Members that the debate on this Order No. 4 must be limited to those parts of the Native Authority Ordinance which have not been repealed by section 54 of the African District Councils Ordinance, that is, by Cap. 12 to which I have already referred. Debate will therefore be limited to those sections still in force which deal with the appointment of chiefs, powers that are given to such persons, and matters concerning famine relief, and so on.

2.36 p.m.

MR. MATE: Mr. Speaker, Sir, I beg to move:

THAT this Council, being aware of the anomalies in the Native Authority Ordinance (Cap. 97) in the light of changing conditions in African progress urges Government to have it reviewed and readjusted to bring it up to date.

Mr. Speaker, in accordance with your ruling earlier, I propose to concentrate mainly upon Part I of the Native Authority Ordinance.

Sir, before I do so, I would like to draw the attention of the hon. Members to the fact that the Native Authority

Ordinance as such concerns mainly one race in Kenya. The chiefs have jurisdiction on Africans—only so that when debating the Motion, it may sound strange to Members of the non-African races; the Europeans and Asians may quite feel it is a thing they do not know about, and I would therefore beg the hon. Members to give the Motion considerable sympathy in hearing the African point of view about the appointment and duties of chiefs.

Sir, section 4 of the Ordinance provides that the Governor may appoint any African he may think suitable to be the official chief and may at any time suspend or cancel any such appointment. Sir, here the implication is that there can be a person influential in the locality and a leader of his people, but he is not the official chief, and thereby he may not have very much influence. This has a lot to do with what I am going to say later on, because chiefs are supposed to be both Government servants and leaders of their own people. The appointment of the official chief may mean having an individual in an area as the official chief, but traditionally, he has very little or no popular support among his people; whereas in other parts of Africa, chiefs normally are associated with the leadership of their own tribal groups.

Sir, it is very important, therefore, because before the coming of British rule into this country, it was the custom in many of the African areas that a particular group or tribe had a leader or a system of government of their own. It may not have been as elaborate or as detailed as what we know of British administration; but nevertheless it was a form of government respected by the people whether they be agricultural or pastoral and they had some measure of confidence in their leaders or in their government.

Sir, this was not only a question of order within the boundaries of the tribes, but it was the identity by which a group, a tribe or any other group was recognizable by other groups, and respected. Their leaders were the embodiment of this kind of unity of the particular tribe: it gave them an identity and their leader or chief (according to their tribal custom or council) was thereby the centre of their leadership and was, as it were, their rallying point.

(Mr. Mate)

Sir, section 5 goes on to say that the duty of the chief is to maintain order over the Africans residing or being within such area. Sir, it means that whilst the official chief has been appointed, he has jurisdiction over the Africans, but not the other citizens; and, Sir, I would ask—as a Government servant—why should he only have jurisdiction over the Africans when he has other people living in the same area?

Section 6 goes on to say that the chief may employ any person, any person, Mr. Speaker, or persons subject to his jurisdiction to assist him to carry out the duties imposed upon him by this Ordinance. Sir, the question of appointing any person by a chief to help him is a very difficult and dangerous thing. It may have had to do with the idea behind the enactment of this Ordinance that normally a chief would have assistants, and that is very true. But these assistants in the tribal way of life would not be just individuals appointed by one man but individuals who were trusted by their people; they would be trusted leaders, or minor leaders, in their own way. Sir, what we have found to date is that chiefs normally have a whole following of simple ordinary people who usually go with him because of the little beer they can get; or because of any other minor advantage like that. They do give their time to public service, but do not always enjoy the confidence of the people that they ought to have. Here, the chief could employ any person, whether he was or was not a fair person.

Sir, the question is, in the appointment of chiefs, why should a single person be given such power over a tribe or a location without any provision whatsoever for him to have to consult other people in carrying out his duties? I submit, Sir, that in any area, it is not just what one man says that carries weight: it is the general feeling of the people. And here I feel, Sir, that the appointment of a chief should also provide for joint consultation with the local people of that area. The chief would have a Council of Elders, a statutory body recognized by Government to advise him in ruling his people. As it is, he is not obliged to consult, and here, Sir, I may add that, in making these remarks, I

know of many excellent persons in Kenya who have been chiefs, who are chiefs to-day, who are very, very able leaders. And, Sir, I would not like anybody to misconstrue my statement and assume that I am saying that chiefs, as individuals, or their ruling is bad as such. But it is rather the method, or the circumstances in which they find themselves as rulers. I have many friends who are chiefs, excellent chiefs. I know many other tribal leaders who are chiefs, and who do their duty in making sure they rule their people and carry out Government orders. I would go on even to say that I am not saying that all chiefs are "yes" men; and when I say "yes" men, I mean people who just take orders from whoever gives them to them, their superior officer, and who carry them out without even any regard for what the people might think, or what the custom says, or what the tradition says.

2.45 p.m.

Before I go on, I would like to pay tribute to the particular individuals who have occupied these positions and have done very good work in various parts of Kenya; no one at all in their senses would ever decry or pretend to decry their good work.

Sir, coming to my second point, section 8 gives the chief the power to compel persons to attend tribunals if there is a court case. Sir, as regards the word "compel", I maintain that before the British rule in Kenya, the Africans used to have cases; litigation is not a new thing, so that a man who is involved in a court case has to be compelled. There is a danger attending this kind of power which I feel is very detrimental because a chief could compel somebody, not necessarily asking him to attend, but sometimes perhaps using force. Litigation is not a new thing to the African people; they go to court ordinarily, even if they are accused by the chief or the headman; in any case, after that, they would be subject to a fine or acquittal, whichever may be the case. That is the danger of this kind of provision.

Section 9 provides that the chief may issue orders over a range of subjects. I will give examples, Sir: prohibiting or restricting the holding of drinking bouts at a wedding for example.

THE MINISTER FOR COMMERCE AND INDUSTRY (Mr. Hope-Jones): Why?

MR. MATE: Because it is customary to drink beer. If I wanted my garden cleared, I would make some beer and call my friends to come and help me. During marriage, the father of the particular son makes some beer and the in-laws come and have a good time, so that the habit of drinking beer is not a new thing to us; and I think other tribal customs would control it very well.

Sir, another thing would be to prohibit or make restrictions regarding the cultivation of poisonous or noxious plants. Yet another thing would be to restrict or prohibit the carrying of arms. I take it that that means bows and arrows and spears and so on. In some cases, the African has to carry these weapons to guard himself against wild animals or to protect his crops or even to make sure he is guarded against robbers and other people like that. Other duties include the preventing of the pollution of water. I could go on quoting such examples, but my point is this: to-day we have departmental officers and assistants go look after plants, to look after these so-called noxious and poisonous plants. Why should the chief busy himself with such things? We have the Tribal Police to help them to find beer-drinkers, we have the Agricultural Department making rules about what crops to cultivate, we have the health people making arrangements about water being clean, and we have the roads people looking after anything connected with roads. Similarly, with everything else. Is it necessary, Sir, to give the chiefs all these powers to interfere with what I call departmental work? When we have these agriculturalists, these experts, people dealing with trade who could look after these things better, it is burdening the chief to give him all these duties. He could assist them in carrying out these things or in rolling the people together or in calling them, but what right has he, as an individual, to issue orders and rules to be obeyed when the Ordinance does not say whether he has to consult the agricultural instructor or the health inspector or anyone else.

Sir, I shall come to the question of the appointment and the qualifications of chiefs, which will bear much better on

this particular point, but my main point is that they have too much to do and too little to do it with in terms of time and even the ability to think about all these problems.

Mr. Speaker, section 10 provides that the chiefs can make orders about a whole group of other things which might be obeyed by the Africans residing in that particular area in his jurisdiction. One of them is the movement of Africans from his area to another area. By that I take it means from one location to another. Sir, I do not know whether such a thing is desirable or even practicable, unless there was real danger in a person moving from one area to another. It does not define the conditions or the times when the chief would do such a thing; it leaves it free for him to order someone not to go from one location to another, and just because it is the chief who says it that man is obliged to obey. If he does not, the law provides for such a person to be penalized. I suppose the chief might use his common sense in the case of an epidemic in moving people from one location to another, but the law does not provide for anything like that.

One of the other things is requiring provision of baccara animals at current rates of payment for the use of Government servants on tour, or the transport of urgent Government stores. Sir, in these days of motor-cars and railways, I do not know whether that is necessary; perhaps it might be in some far away places in Kenya like the Northern Frontier District, but even there Land-Rovers can easily penetrate. So I do not know whether this kind of provision is necessary to-day.

Another one is the provision requiring the proper burial of deceased persons. Sir, with the Medical Department and all the education we have to-day I doubt whether really the chief needs to be burdened with such duties. Another one, which is one of my favourite complaints, is that requiring able-bodied male Africans to work for any purposes declared to be minor communal purposes. Without Mr. Speaker, contravening your ruling, I would like to elaborate more on this, but, Sir, I would like to point out some of the flicence, as it were, that chiefs have over this particular provision. It is not only the able-bodied male

[Mr. Mate]

Africans who work on these so-called minor communal works, but men and women. This is a fact and it is because the chief to-day is so powerful that he is not obliged to consult anybody; he just reads the law and goes ahead, and the ordinary African is frightened of him.

Sir, this is the position of the chief and the powers he has, some of them very good, others not necessarily needed. Sir, the question is: where does the chief fit in the tribal or official life of the people if he is not obliged by law at all to consult with anyone else on what he does? I submit that they should be chiefs in council, not just as individuals, when making rules for particular areas, and they should as much as possible consult with the local leaders. They might be the wiser, older men who know the traditions and customs; it might be the agricultural instructor or the local schoolmaster, who knows more about education than the chief does, and who could advise him on many other things, or perhaps the court elder who knows more of the new law and old law and would advise him on general matters; then the chief would be better informed about his own work and about the general progress and happiness of the people.

This Council would be able to afford the good judgment of the Africans; it would command the respect and the trust of the local Africans and it would not happen, as it does to-day, that everything is blamed on the chief. I do appeal to the Minister for African Affairs to consider this very seriously because conditions have changed quite a lot to-day and there is a wealth of knowledge and wisdom that a single chief can gain by actively consulting his other local leaders and getting to know what is required. Chiefs are asked to help on educational projects and agricultural projects, but all they do is to make an order—not only the chiefs but the headmen, too—and say to say I have sometimes seen chiefs trying to persuade people on better agricultural methods by using their crown, saying, "I have the crown; you had better do this".

That becomes a bad thing to the ordinary local Africans who are better educated than he is, who are wealthier than he is, who are wiser than he is, and who know the benefits of a different

method of application. I feel the chief would do well to consult with his people.

There are some very good exceptions in some cases; some chiefs already do consult their people and try to work as much as they can with their people, but there is no provision at all and the chiefs can run away with what they like. This is the kind of provision one would like to see in the law.

Sir, another point is that, as I said earlier, some of the duties of the chiefs have been taken away as the result of progress by other people; these are people like the Agricultural Department; they mainly deal with all agricultural matters; the forest people deal with the subject of trees; and the health people with all health matters; so that the chief finds he has very little to do otherwise. The market inspectors look after the cleanliness of the markets; the African district councils say that these departmental people must look after them and yet the chief is supposed to look after them. He has no time. So I feel that the chiefs should have his duties redefined and have his sphere of activity redefined so as to make it easier for him to be useful to the people and make it easier for the people to make their contribution in helping forward the progress of the African people.

Sir, I come to the other side of it, which is the dignity of the chief to-day. To the people whom he does not consult, the chief is held as a Government servant; a man who takes orders from the district commissioner, the district officer or the district assistant, and brings them down to the people; they have very little respect for him. That is very, very general. But he may be in an even worse position in some locations. We might have a district assistant residing in the same camp with the chief, so that there is no distance at all between the chief and the district assistant and the district assistant's orders automatically become the chief's orders, and he has no say at all—unless he has a very strong character—or even arguing back; he takes the orders, tells the people, the people ask him questions and he cannot answer. His own dignity is jeopardized because of the nearness in rank between him and the district assistant or the district officer.

[Mr. Mate]

On the other hand, we have the headmen. In some cases the headman is a more intelligent person than the chief, so he treats his sub-location as a little kingdom for himself, and it so happens that the chief cannot look after all these headmen and it makes it difficult for him to co-ordinate his work. Sometimes these men may be under the influence of one or another—perhaps a pressure group or perhaps another group—and thereby the affairs of everybody are influenced by a single individual who is influenced by another group, because there is no way at all of controlling these individuals by any committee or council unless they choose to consult the local people.

3 p.m.

The other danger, Sir, is the presence in the locations to-day of more informed, educated and perhaps wealthy people; so that if a chief cannot hold his own in convincing the local people that he is their leader then they have very little confidence in him. If he does not consult them they have very little trust in him.

I maintain that the chief to-day is being swamped by the pressure or progress and change, and something must be done to restore his dignity and give him the proper position he should have in his own locality.

The other point is the effectiveness of the chief in ruling on the ground. I consider the position of a chief is even more important than that of a district officer or a district assistant and, in some cases, is even more important than that of a district commissioner, because he lives with the people from day to day and he knows their needs; he knows what they require and he can do a lot to help them if he is the right kind of leader. But, Sir, when you come to their attainments you find that they vary very much. Sometimes the chief may be a T.P. or an ex-college sergeant or instructor who has been called to become the chief, because he is thought to be a good leader among the people, a man who commands respect, a man of wisdom. But in other cases he may be just a man who knows how to obey orders but cannot think for himself.

I do feel that this variation in the ability and standards of chiefs has a lot

to do with whether or not his location progresses or does not progress. Sometimes his ability may be lower than that required, but we expect him to be a leader, a leading light in the locality, and someone who will appreciate what the health, roads or education people have to say, thereby steering the path of progress in each locality, as well as doing his other Government duties of collecting taxes and making sure that offenders are reprimanded in the locality.

I feel that the leadership side of the people in general is much more important because to-day the people generally are aware of when they ought to pay their taxes; they come forward and pay their taxes; and in return they want leadership and help from the Government. On the ground they usually have only their headman or their chief to go to. If the chief cannot help them they blame the Government because of the weakness of the chief. I feel that that is a serious situation to-day.

In accordance with the chiefs' attainments and with their general ability I feel that their power to rule properly would differ equally, so that in some locations everybody loves their chief and in others they do not. In some locations nothing happens just because the chief keeps quiet or at least safeguards his job. He collects the taxes and he makes sure that he is in the good books with the district officer, but he is not in the good books of the people who complain, maybe, about a new hospital or dispensary, because he will say: "This is not my duty." I do feel that the degree of difference between a really good chief and a really bad chief is too wide and something should be done to tidy up this situation in the cause of African progress to-day.

Sir, my suggestion would be that we should have another method of choosing chiefs where the people themselves have a say, because he is their tribal leader. I would suggest that an election of candidates would be a good thing. Such candidates would have the confidence of their own people. On the other hand, if the Government wants to choose these people from whoever they like, then they will lose the confidence of the people who will not be quite so co-operative.

The other important thing is that a chief should be obliged by law to consult

[Mr. Mate] other people in his own area in order that they should advise him; and on the other hand he should work more closely with the local councils and the African district councils in order to promote the progress which we all want.

My final remark, Mr. Speaker, is that generally to the African mind the question of having chiefs with jurisdiction over the Africans alone sounds rather odd, because the Africans are equal citizens with other citizens in Kenya and they feel they should come into the general picture or framework of the administration with other races. I would urge that at the same time more integration should take place so that if in an area the progress warrants it the chiefs can have jurisdiction not because of their own opinion as to what are essential things for the African, but because certain things should suit the citizens of that particular area.

I am sure, Sir, that there will be critics who will think that the African is not advanced enough to be able to take advantage of the new system with other leaders: they will argue that the native is such and such. However, I would like to ask who is this person called a native? I am a native of this country. Many Europeans and Asians to-day are natives of this country; but the meaning in the dictionary, of the word "native" is "a member of a non-European race or a member of an uncivilized race". I submit, Sir, that the African is to-day better qualified to work with members of the other races in Kenya; and we should therefore tend more and more towards integration rather than having these partitions where progress warrants it, for example in cities. I do not see why we should have chiefs in cities when the city councils make laws and by-laws for everybody. In the rural areas it may be different.

In conclusion, I would appeal to the Minister for African Affairs and the Government to give this matter of chiefs very serious consideration and to support the Motion that the Ordinance requires some adjustment and some review to see what better job could be done with this class of leaders—chiefs and headmen.

Mr. Speaker, Sir, I beg to move.

Mr. OGUDA (Nyanza South): Mr. Speaker, Sir, I have great pleasure in rising to second the Motion which, in my opinion, has been very ably presented to this Council by the hon. Mover.

I hope this time that hon. Members on the other side of the Council will not adopt what has of late appeared to be the practice of always opposing Motions moved by Members on this side.

I hope that this time the Government will give this Motion very, very serious, careful and sympathetic consideration as indeed we all feel that the Native Authority Ordinance (Cap. 97) really requires to be reviewed, and very thoroughly so.

The first point, Mr. Speaker, that I will deal with concerns the appointment of chiefs, as stated in section 4 of this Ordinance. The Governor, of course, is the appointer, or is the one who appoints, and might delegate powers to the Provincial Commissioner to come on the day the chief has to be appointed at the chief's *baraza*. Of course, the Government might argue that normally the local people are consulted before any move is made by the Government; but in the olden days, if I can remember quite correctly, Mr. Speaker, chiefs were elected by the people, not by secret vote, but all those prospective candidates lined up in front of the officer who came and all the people would choose that particular person who they wanted and then line up behind him. I am not advocating that we should use exactly that system of electing chiefs, but some sort of election by means of a secret ballot should be introduced by the Government; because, quite rightly, as the hon. Mover has said, not all chiefs are bad—in fact, some of them are liked by their people. That may be true. But of all the chiefs I know that are liked by their own people, most of them—97 per cent of them—are those who were elected by the people under the old system. In fact, it is only some of the old chiefs we have who were elected some 10 years ago when that method was still in use, that command the respect of the people and probably have the confidence of their subjects.

Surely, of course, the people have no say in the choice of their chief. They cannot choose a person of their own liking to be chief. This, of course, might

[Mr. Oguda] lead to very serious repercussions. Therefore, we find these days that people do not seem to give the respect which they would otherwise give to chiefs; and so you do find that in certain locations the chiefs always complain to the Government officers, saying: "There is quite a lot of *fitina* in my area" or "There is quite a lot of *fitina* in that place perhaps because of a person who did not get through the elections last time".

I will just quote one instance to show that the method of appointing chiefs is really out of date. During my tours in Kericho last December I came across a case which, indeed, aroused the people to indignation and I think, in my view, that it was just indignation. Here the Government thought it wise to elect a person from another location to become chief of another location. Probably the Government's contention might be that in that particular location there was no suitable candidate for appointment to the office of chieftainship; but I doubt whether in the whole of Location 6 in the Kericho District somebody would not come up or would not be found who really was suitable to fill that post. I think that people were quite right and I think they were aroused to just indignation.

Surely, it is the person who has always been with the people and who was born in that particular location, who has been brought up probably in the way of life of the people of that particular location, who could serve the needs of his people in that particular location best, rather than appoint a new man who is quite new to the place, who, when he comes, finds certain problems, to which he is quite foreign, and which he will not know how to deal with.

Of course, the hon. Mover said some time ago that he would not think that chiefs were stooges. I do not mean to differ with him here but I want to bring out much more clearly the fact that African opinion at the present moment is that chiefs are Government stooges for the simple reason that they are not elected by the people by popular vote but are appointed by the Government and, in some cases against the wishes of the people.

3.15 p.m.

Some people have said in the Press—I remember reading the *Kenya Weekly News*, I think, some time last year—that we would have better representation in the Legislative Council with chiefs rather than with African Elected Members. I really do not think that chiefs just nominated to this Council—anyway, that is a side issue—would represent the wishes of our people properly, because I do not think they can do that, even in the locations, because they are not our spokesmen; they are the mouthpieces of the Government. In fact, they will never stand up and tell the district officer—"Look here; this is against the wishes of my people. They do not want the Government to force them to do this. Rather than do it the way the Government wants it, we would rather do it the way the people want it". He will not tell the officer that, simply because he knows that he would lose his post.

You have always contended that chiefs are the leaders of the people. As leaders, surely they must act as a sort of liaison between the Government and the people, and I think that contention alone warrants our demand that chiefs should be elected by popular vote and not appointed by the Government. I think that same procedure is followed in the neighbouring territories with remarkable success, and I do not see just why we could not try it here. Go to an African district council member—say in South Nyanza for that matter—and ask him what would he prefer: would he like chiefs to be Government servants, or to serve directly under the African district council. He will tell you: "We would like all chiefs to be directly under our African district councils, as is the case in the neighbouring territories". So you see, a chief in his position as a Government servant is forced, whether he likes it or not, to act as a small dictator enforcing Government policy, even in matters on which his people show very great resentment. I think, Mr. Speaker, that is very serious, and it is a point worth being given very serious consideration by the Government.

With regard to the election of sub-chiefs, I have to say, Mr. Speaker, that my main complaint here is that no proper system of electing these sub-chiefs has ever been devised, and as a

[Mr. Oguda] matter of fact they are only chiefs' nominees. We know instances when people have had to bribe chiefs in order to be appointed sub-chiefs or *mirakus*, whatever you call them. Of course, that makes their position very precarious because they can be dismissed even without notice. I have known cases of one or two, or probably three, sub-chiefs who were dismissed without notice or probably with two or three days' notice. I do not know what terms of service these *mirakus* came under. The hon. Member for Nairobi tells me he will organize it; I must thank him for that.

Under section 6 which states that a chief may employ persons to assist him in carrying out his duties—I think the hon. Mover has spoken about this—we again get the same trouble. You have these days what we call clan elders—or shall I call them parish elders. These people again are the chiefs' personal nominees. I wonder whether these people could go out and do anything against the wishes of the chief.

What probably we would have preferred to see being introduced is what the hon. Member for Central Province who moved this Motion said, rather than have chiefs as individuals, we should have chiefs in council so as to introduce what has been really the pattern of the olden days in African gerontocracy.

Of course, under section 9 we have a string of things which a chief is supposed to do, probably all by himself. Surely we cannot deceive ourselves here. A chief is not a philosopher chief. That is not a true thing in the world of realities. Surely you cannot expect the chief to know everything. He goes in for agricultural and educational work even where you have assistant educational officers and locational education officers—by that I mean all teachers teaching in locations—headmasters and all that group of his. Surely all these matters—sub-section (a) to sub-section (p) could be better dealt with by probably the locational council acting on behalf of the chief instead of the chief being solely in charge of every little thing under that section.

Now, I am not only going to challenge chiefs; but there are some of these purposes which it is intended a chief should

issue orders on to Africans, some of which I think need to be reviewed, and some of which could be left out to advantage. Under sub-section (a) the Native Authority Ordinance (Cap. 97, Laws of Kenya), concerning the prohibition or restriction of the manufacture and consumption of native intoxicating liquor and the supply of such liquor to young persons: surely you cannot expect the chief to be in everybody's house at one and the same time, to supervise all these things, especially to see that this native intoxicating liquor is not supplied to young persons? It has been customary with Africans that young children or boys below the age of 18 do not have to drink native intoxicating liquor, and I am talking of native intoxicating liquor, and more so I am talking against the prohibition and restriction, of the manufacture, the consumption, and the possession of it, I am not talking about the distilling, because probably that brings in the question of the obnoxious Nubian gin. This really causes a lot of inconvenience to Africans: I have known certain African settlement schemes where people have been charged in the African courts because they were found to be in possession of this simple native intoxicating liquor. Whether that is being done with a view to encouraging the trade in European beer while discouraging the trade in African beer, I do not know. After all, encouragement of the consumption of European beer might indirectly give rise to more drinking of Nubian gin. I assure you that I have seen people go with small bottles of Nubian gin into one of these bars, then dilute it with beer.

Section 9, sub-section (d), says that one of the things the chief should do is to prohibit or restrict the carrying of arms. It should depend on what kind of arms the man carries and for what purpose he is carrying them because, surely, if I am walking in my area, probably at night, I would have to defend myself against the attacks of wild animals, like leopards, or probably against the attacks of raiding thieves who come to raid cattle at night. So, if I do not have any bad intentions behind the carrying of a weapon, I really do not see that if I were found carrying it or if I were found walking along a street or anywhere carrying it I should be charged because, if you say that this carrying of arms is to

[Mr. Oguda] be prohibited and restricted, then you must state quite clearly what kind of arms are to be prohibited or restricted, and state clearly which kind of arms can be carried and for what purpose.

It goes on to prohibit any act which, in the opinion of the chief, might cause a riot or a disturbance or a breach of the peace. On that, of course, I would not have very much to say, but it might happen that people, probably at the chief's *baraza*, are not usually allowed to air their views as freely as they would otherwise have liked to. I have noticed several times that at a chief's *baraza* somebody raises his hand and wants to ask a question of the Government officer who has turned up on any issue: then the chief and his associates say, "Well, you sit down", because he is a *filina* man. He is going to ask questions of the officer which are not for the well-being of the location. Probably, when somebody feels that he is oppressed to the extent that he is not allowed even the freedom to speak at the chief's *baraza*, you might have that type of people, or a few of those people, who might be responsible for bringing riots in the country. I think if everybody were given freedom to speak at chief's *barazas* they could exchange their views freely and everything could be done at the chief's *baraza* and there would be no need for the chief to prohibit any act which might cause a riot or disturbance.

I will pass on now, Mr. Speaker, to section 10 of this Ordinance, which gives the chief more powers to issue orders. The hon. Mover has already made some mention of the regulation of the movement of Africans from the jurisdiction of one chief to that of another. Surely, I would have thought that that sort of thing is very unnecessary, because people surely must move and must move freely. In that kind of law I only see the introduction of denying the individual or the citizen the right of moving freely in his own area. If their movements must be regulated at all, it should be only mad people whose movement should be restricted; people with sense and who go about their duty in a proper way should not be in any way interfered with.

Under sub-section (e) it says that this law empowers the chief to require

Africans to attend for any purpose in the interests of good government before a Provincial Commissioner, a district officer or *liwali*, at any time or place appointed by him, or before himself within the local limits of his jurisdiction. Probably the chief and the Government officers, covering themselves by the provisions of section 12, sometimes molest people, under that particular sub-section (e). I have known people who have been put into prison simply because they refused to attend a chief's *baraza*.

3.30 p.m.

Well, I would think that is very serious, if here in Africa, or rather here in Kenya, we have to resort to imposition on every little thing that we have to do. Well, surely people are going to see, or people are going to feel that whatever Government wants them to do, that is always something Government is trying to force down their throats and not something which they would like to accept themselves.

I will leave the question of communal labour—of course, that is a very beautiful name: I think it should be referred to as compulsory free labour—I will leave that question to other hon. Members. Once more, before I sit down, Mr. Speaker, I would really appeal to the Government to give their support to this Motion because, otherwise, if they oppose it, we would be driven, and indeed the entire African population would be led to believe that the policies of our Government here in Kenya are based rather on a theory of "Quod principi placuit legis habet vigorem".

Mr. Speaker, I beg to second.

Question proposed.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): Does any hon. Member wish to speak. If nobody wishes to speak I will terminate the debate.

MR. NGALA: Mr. Speaker, Sir, I stand to support this Motion very strongly, because I feel that the Native Authority Ordinance (Cap. 97) should be reviewed, because it is seriously out of date. In many sections, as the hon. Mover has pointed out, there is a need for the Minister for African Affairs and Government to consider reviewing and adjusting these sections, and to make them appropriate to the present situation.

[Mr. Ngala]

I would like to state my views over this Ordinance at three points. The first point is that at the locational level, I think Government has seriously failed to make use of the indigenous bodies that were existing before the British rule came to Kenya. By this, I mean that it is very necessary to make use of whatever was existing before the British rule came to Kenya. In places like Meru where we have *njuri cheke*, that body is a body which is very much respected by the Meru themselves; and I feel that if the Ordinance had incorporated consultation of the chief of these people, the indigenous council, perhaps the position of the chiefs would be very much better because they would be acting within an indigenous normal council which is recognized by the people themselves. Then the people would have more confidence in such chiefs. The Ordinance at the moment is seriously lacking in that co-operation, and I feel that the Minister could do a lot of service to the African community as a whole if he considered incorporating the indigenous bodies into the working or functions of the chiefs.

There is another example in Taveta, where we have the *niama*. This is another council of elders who are much respected and who command a lot of confidence from the people. Such councils should be made use of. It is very sad, Mr. Speaker, to see that the chiefs are so much detached from the local people, and detached from the feelings of the people; and this is because the Government has not observed seriously the natural councils and natural indigenous bodies that were existing before, and make use of them in the administration of the locations.

Another example of such bodies is the *Kadua Koya* among the Duruma or the Wadigo where you have another council of elders themselves; and if these councils could be used, I feel that chiefs would command more confidence from the people.

Now, we know that the chiefs are acting as agents of the administration or the Government, but it should also be recognized and it should be right that the people think of their chiefs as their own leaders. At the moment, the chiefs are just acting as agents of Government and that aspect of leadership is dis-

appearing very quickly. I feel that the status of the chiefs—if this Ordinance is not reviewed—will be a very precarious one in future. We very much appreciate what the Government has done so far, and what some of the chiefs have done so far, but we feel that there is a great danger if Government overlooks this very important aspect that could be embodied in the Ordinance.

The second aspect that I would like to express my views on is that of chiefs having jurisdiction over Africans only. I think the time has come when chiefs should not only have jurisdiction over Africans. It brings about a lot of embarrassment to the chiefs themselves. It was just the day before yesterday that I received a ring from a certain chief in Mombasa to explain to me the embarrassment that he had over a certain area that he is looking after because in this area he is having other races living with him; he is having Arabs living with him, but he has no jurisdiction over them. Now, they are happily living together, all these races; why should the chief of that location not have jurisdiction over the other races? The embarrassment that the chiefs do experience is that of discrimination. For example, you may find that an African is walking about with a knife unsheathed, and the chief may arrest him according to a certain law. But in the same location, probably the same housing estate, he may find an Arab walking with a knife unsheathed, and when he thinks of arresting him, he remembers that he has no jurisdiction over that man. Now this, to the mind of the African, brings about a kind of discrimination, and brings about a lot of embarrassment to the chief himself.

Now, the time has come when that law should be reviewed; for under the new circumstances and more enlightened circumstances this law is quite out of date and should be reviewed. I hope that the Minister and Government will consider very seriously the new circumstances that warrant a change in this Ordinance.

The other point that I would like to give my views on is the chiefs employing people to assist them in any piece of work. Now, I have no quarrel with the appointment of such chiefs and other

[Mr. Ngala]

people, but I feel that these powers should be revised, because in many places, I know chiefs appoint people who assist them over the administration of a location or a sub-location. These people are not even recognized by Government. I know particularly of some locations in the Tana River District where those people called sub-chiefs and appointed by the chiefs work for a whole year, and all that they get for the whole year is about Sh. 24, Sh. 24 for the year. Well, probably this is not a salary, but it is something that they get for assisting the chiefs for the year—Sh. 24. Now, it might be true that he drinks a lot of beer on top of the Sh. 24, but I feel it is very serious because this person, once appointed by the chief, takes it very seriously that he is an employee of Government. Just last week I wrote to the district commissioner of Tana River on this particular aspect, and he replied to me saying that these people are not really servants of Government. I would like the Minister to answer me on that point, whether these people appointed by the chiefs are not really servants of the Government; or if they are servants of the Government, if they are servants of Government, why are they paid Sh. 24 only a year? That is Sh. 2 a month.

I understood this when I went round the Tana and I saw them working really very hard in their own sub-locations. They seemed to be doing more work than the chiefs and I very strongly submit that their conditions of work should be looked into. But I will probably get an explanation from the Minister.

Now, I would like to underline one point that has been mentioned by the hon. Member, the question of chiefs acting or working in council; that is very important indeed. I feel that if the chiefs are given such councils, particularly the indigenous councils being incorporated into such Ordinance, more and more co-operation would be created. Many people would have more confidence in the chiefs. The chiefs in many areas are not really leaders. They are servants and agents of Government, and they are informers of Government in many locations. This position does not create any harmony between the people or any sense, on the part of Africans of looking on the chiefs as their leaders. I feel that

if there is to be any peaceful government in locations, there should be some kind of combining together the African way of governing before the British rule came, with the British rule itself—those two things combined together, I feel, can give us a lot of peaceful living and a lot of understanding between the chiefs and their peoples.

With these few words, Mr. Speaker, I would like to support the Motion very strongly.

MR. COOKE: Mr. Speaker, would it not be wise of Government at this stage to indicate whether they are prepared to accept this Motion or not? I think the African speakers, while not agreeing with everything they have said, have made out a very good case for a review of the Native Authority Ordinance. It is a very old Ordinance indeed; in fact, when I first joined the administration 40 years ago, it was existing even on that day. There must be, although it has been amended since, there must certainly be a lot of anomalies that should be adjusted. Now, the Africans quite naturally, each Member, that is, has repeated to a great extent what the other Member has already said, and it has been a very repetitive afternoon.

Surely, if Government are going to accept the Motion, as I hope they will, it would be very wise and would save a lot of time to say now that they do accept.

3.44 p.m.

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): Mr. Speaker, Sir, the Government regrets that it cannot accept this Motion—(Cries of "Shame!")—as it stands, since it does not agree that the Native Authority Ordinance is, in fact, out of date.

The Government is, of course, always prepared to consider sensible and practical proposals for amendments. But the points which have been made so far in the debate, Sir, I submit, have not convinced Government that major anomalies or major amendments are, in fact, required at the present time.

The hon. Member for the Coast has said that this Ordinance existed when he was a district officer 40 years ago. I beg to challenge him on that. Some of the sections may be the same but, in



[The Minister for African Affairs] fact, this Ordinance was enacted a new Ordinance in 1937; and since it was enacted in 1937, there have been, I think, eight amendments to it. There have been further new sections dealing with emergencies consequent on flood and fire and disease; and we have amendments under Part II to deal with famine conditions.

I would submit, Sir, that the orders which chiefs may issue are not out-dated. All of those that have been mentioned to-day are in use and have been used, and are necessary for the peaceful development of the Colony and the maintenance of law and order—(Cry of "Shame!")—I do not think there is anything shameful, Sir, about the maintenance of law and order in the Government in this Colony at all.

Now, Sir, if I may just touch on one point before I go on to chiefs and headmen: I would like to say that the hon. Mover has moved this Motion with moderation and with a sense of responsibility that I greatly respect, and I would like to pay tribute to him and to his Second in this debate.

If I may take the points that he has made rather out of the order in which he has made them, I would like just to touch on communal labour, which I think is under section 10 (k) as amended by Ordinance 43 of 1952, that is an amendment to the Native Authority Ordinance.

Now, Sir, under this section, chiefs normally issue orders requiring able-bodied male Africans to undertake minor communal services, subject to the provision of any by-law made under the African District Councils Ordinance, 1950. And the operative Ordinance is, therefore, not the Native Authority Ordinance. It is, of course, so that in areas afflicted by the Emergency, the Emergency Communal Services Regulations, 1953, apply; and my hon. friend, the Mover, may have been slightly misled by the fact that there are two sets of regulations which apply in the Central Province.

Now, Sir, in the course of this debate, hon. Members have said that before the British came to Kenya there was a system of chiefs. Now, Sir, my reading probably has not been very deep into the history of the Colony, or the history of

Kenya before the British came, but I cannot recall, except in two instances, that there were in Kenya anything of the nature that we know now as chiefs, or anything in the nature of chiefs that existed, that exist now on the West Coast.

AN HON. MEMBER: You are wrong.

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): There were certainly the leaders in war, the *Laligwenak* in the Masai who led the *stiris* into battle; there were the *Athamaki* in Kikuyuland, the leaders of the people—the leaders, not the leader, in Meru itself, there was no chief of any kind, but there was this very intricate social development called the *Njuri Ncheke*. So, Sir, I cannot accept the fact that before the British Government came there were, in effect, chiefs among the African people. I submit there were not, Sir.

In the debate on Vote 20—African Affairs, on the 7th June last year, the Member for Nairobi Area asked that the position of chiefs be further defined and their functions and responsibilities either as civil servants or chiefs of the people clarified. Now, we have, I think, Sir, exactly the same question asked here to-day. And exactly the same question was asked then as has been asked to-day; namely, why should chiefs not be elected? Why should they be appointed by Government? Now, my predecessor, when replying to that debate I thought, made the position of the African chiefs very clear, and he explained that they were appointed by the Government and are therefore Government servants. There is no traditional link of chiefs elected by the people. My predecessor then went on to say that the chiefs were not quite the same as ordinary Government servants because they were regarded to some extent as representatives of the people, and they did provide one of the channels through which public opinion can be assessed and reported. Therefore, to some extent, they had a dual function. Since they were primarily civil servants, their appointments must therefore be the responsibility of Government. My predecessor also went on in that debate to point out the chain of events which led to the appointment of a chief and the work which chief were doing both in rural and urban areas to help, guide and assist the populations there. Any popular

[The Minister for African Affairs] election of chiefs would, in my view, expose them to political pressure from which, at the moment, I am glad to say they are reasonably free. When a new chief is appointed, the views of the local people are almost always in my recollection taken into account. Indeed, I remember in my early years in Nyanza at *oyugis*, that so many candidates stood up that there was a free fight, and Kisii stools hurried about the ears of the candidates and of the district officer and myself.

Now, Sir, if I may just go on to certain of the specific points made by the hon. Mover. As regards section 4 of the Ordinance, he did say that the appointment of a chief very often meant that the most influential person in the location was not appointed.

That, of course, may be so, but in my experience it has not by any means always been so. As a rule, the most influential and the best qualified person in the location is appointed as chief. He went on to ask why chiefs should have jurisdiction over Africans alone, and why should he not have jurisdiction over everybody in his location? That is one of the points that I should like to look into. I think he may have something there and I would like to give it further consideration.

He went on again as regards section 6. I think to criticize the people who are appointed to help a chief. It is natural that the chief must from time to time have his own Tribal Police and call upon his headmen. I believe the point the hon. Mover was making was that, in fact, these were not either Tribal Police or headmen, but they were ordinary citizens who were asked to help by the chief. That is not a practice that is very common now, Sir, it is falling into disuse because, for the most part, chiefs have their own Tribal Police attached to them. But it is still necessary, I believe, in certain of the more backward areas.

The hon. Mover went on to ask why the chief should not have a council of elders to assist him. Well, Sir, the principle of a council of elders on whom the chief can rely for advice and from whom he can obtain a broad view of locational feeling is one, of course, that has been accepted. In the Meru district, for in-

stance, from which the hon. Mover comes, the *Njuri Ncheke* are almost always consulted, and the chief sits as a chief in council. In other districts where the same indigenous social organization does not exist, locational councils are often consulted and on occasions called by the chief to give him advice on any particular points of difficulty. But I would find it very difficult to write into the Ordinance a specific piece of legislation to say that the chief will work in council or through council or elders. The development in the various districts is such that we simply cannot, legislate in that fashion, and I would much prefer to see some sort of administrative direction go out so that in certain districts the chief would be able and should be able to make more use of the council of elders or of the locational council.

I may say here, Sir, that I am very grateful to the tributes paid to chiefs by the hon. Mover. I entirely agree with him; we naturally have had our failures, that is the same all the world over. But on the whole, the chiefs have done a remarkably good job of work, and particularly those in the Emergency areas.

The hon. Mover went on to talk about compelling the attendance before an African court of any African within the local area of his jurisdiction, and challenged why that should be necessary. He made the point that litigation was not new to the Africans and, of course, he is perfectly correct.

4.00 pm.

But in fact litigation normally, years ago, was mainly civil litigation and this particular section deals with people who have committed some criminal offence, either under the local by-laws or under the Penal Code and therefore it is necessary to compel attendance for those sort of people before an African court.

The hon. Member for Central Province then made a number of remarks about section 9 and in particular on the restricting and prohibiting of drinking bouts. Well, I think that the operative word there is "bouts"; the chief can and does license normal drinking, but quite clearly he has got to restrict over-indulgence in liquor, and a drinking bout to my mind, is in fact indulgence in liquor.

[The Minister for African Affairs]

The hon. Member made further points about the issue of orders restricting the growing and cultivation of poisonous or noxious plants and the carrying of arms. The chief in this respect is the executive arm of Government in his location; the agricultural instructor comes to him and says that in his particular area or in X's *shamba* there is a lot of *datura stramonium* growing and this is a poisonous plant which should come out. The chief, as the executive officer of Government, issues those orders that it shall come out; if it does not, then he will take the offender before the African court and prosecute him.

All these particular subsections, Mr. Speaker, under section 9 are orders that may be issued by the chief as the executive officer of Government and he issues them generally upon the advice of his technical officers, either the veterinary scout or the agricultural assistant or the agricultural officer.

The hon. Mover also went into the orders issued under section 10 which are slightly different and criticized the fact that the movement of Africans can be regulated under section 10 (d). Now, Sir, it is on occasions necessary to regulate movement, and I advisedly stress the word "regulate" because on occasions, as I think the hon. Mover himself said, there is disease, either human or cattle, which makes it necessary for the chief to issue an order that Africans may not move from this particular location for a particular reason. That, Sir, I submit is a perfectly reasonable order and a perfectly up-to-date order which can be issued.

The hon. Member for the Coast Province mentioned again the question of drinking and the supply of liquors to young persons; he said that that was quite unnecessary since customary law forbade liquor to be given to young persons. I have no doubt that that may have been perfectly true some 20 or 30 years ago, but I regret to say that it certainly is not true now; clearly a chief must have the powers of the prohibition of distilling and consumption of native intoxicating liquors.

He also questioned section 9 (e) prohibiting "any act or conduct which in the opinion of the chief might cause a riot or a disturbance or a breach of

the peace", and indicated that that particular section was used, if I remember him aright, to prevent the free expression in *baraza* of any of the local persons. I am quite certain, Sir, that that is not true. The main use of this section is when there have been dances or illegal gatherings of persons who might cause a riot. It is certainly not used to suppress free speech in a *baraza*.

He also mentioned section 10 (e) requiring Africans to attend for any purpose in the interests of good government before a Provincial Commissioner, district officer, etc. That section, Mr. Speaker, is, I think, still required. It may be necessary to make an important announcement to the people; it is necessary for the chief then to issue the order that people should come and hear it. The Provincial Commissioner has to satisfy himself, for instance, that certain by-laws which have been passed by the council have, in fact, been given full publicity. For that purpose I submit that the chief has to give orders that people should attend at a *baraza* in a certain place, so that such orders should be clearly expounded to the people of the location which it affects.

The hon. Member for the Coast Province mentioned the fact that chiefs had appointed certain people to assist them and gave me to understand that they obtained a very small remuneration—I think he said Sh. 24 a year. They were not perhaps servants of the Government. Now I am afraid I cannot give him an answer at the moment, but I will certainly look into these particular people, and find out what they are paid and what their duties are.

Now, Sir, I have covered rather briefly, I think, the particular points which have been brought up by the hon. Mover and his Second, and I hope I have convinced the Council that the Native Authority Ordinance is, in fact, up to date, and its provisions are being used and are being used wisely and well.

In conclusion I would say that in my view chiefs will be required for many years to come; they play a most essential part in the good government and development of the country, a part that cannot be taken over by local government bodies in the foreseeable future.

I beg to oppose, Sir.

Mr. MBOYA: Mr. Speaker, Sir, it is regrettable that the Government has seen fit to oppose this Motion, especially after the hon. Minister for African Affairs had paid such compliments to the Mover of this Motion for his reasonableness and responsible attitude. I do not wish to introduce any unreasonable issues into the debate, but I should have thought that here is a matter on which the Government, after listening to constant and continuous grievances and objections and various views from the African community, both in this Council and outside it, would have seen fit at least to take the opportunity, because that is all they are being asked to do, Mr. Speaker, to review the particular clauses of the law to which the Africans object.

It is all well and good in this Council for the Government, particularly the Ministers here in the last few months, continuously to tell us how beautiful the legislation which is brought to this Council is, and how nicely it is bound to work out in theory, but we have said time and time again that it is we who live under these laws and we who know whether they are good in application, whether they are fair and so on. I think that when such a reasonable case has been made out, as has been this afternoon by my colleague, at least the Government should have the sympathy to try to look into the situation.

Mr. Speaker, the Government has very often told this country that in the chiefs they look for the liaison between the public and the Government. Indeed the Minister has repeated that statement here this afternoon. The question, I think, which the Government must face is what kind of liaison there is. Is it a satisfactory and effective one or is it unsatisfactory, against which the Africans have been complaining so long? Does it do this country any good to have such a liaison and does it improve the relations between the Government and the public if the public have no confidence in what the Government regards as the only go-between between itself and the people?

I submit, Mr. Speaker, that it is in the interests of this Government and the country as a whole that the liaison between the Government and the African people should be one which is satisfactory and acceptable and effective. Because if it is not, it becomes the root

cause of the various troubles and misunderstanding that we constantly have. The Government relies on these chiefs to interpret to them African opinion, African feelings, African activities in the various locations, and yet the Government is not willing to examine African grievances with regard to the satisfactory selection of the persons who should perform this very important and vital duty. The Government is content to say to us in this Council that the chiefs are the representatives of the Government in African locations and that they are the liaison for them with the African public.

It is not necessary, Mr. Speaker, to repeat the arguments that my colleagues have already put forward, but I rise particularly to express our very grave disappointment in the Government's decision to reject this Motion, because we believed that when we asked the Government merely to review the legislation, namely to give us a better chance this time to discuss with them those aspects in the appointment and function of chiefs with which we are dissatisfied, they would have taken that opportunity to set this matter right once and for all. This they have thrown away. What are we going to be faced with in the future? The same sort of situation, the same grievances, the same dissatisfaction, and before we know where we are, people are frustrated and we are dealing with problems that need not have arisen if we had taken the warning various people had given.

4.15 p.m.

The Mover of the Motion has rightly said that in this Motion is not implied an indictment or a complete condemnation of all chiefs; he has pointed out that in fact we ourselves know of the existence of certain chiefs that we are sure even through an election would be returned, of certain chiefs that the people respect for what they are, of certain chiefs we are satisfied to have, not because they are the educated ones, but because of what they are, even without education in some cases. These are the sort of men we want. But it has also been pointed out that such people are few indeed. They are in fact the exception, if I may say so, and consequently the greater part of the machinery of

[Mr. Mboya]

Government in the African areas is in the hands of people who are either unacceptable to the African community or are unsatisfactory for that type of job.

This, I suggest, is a very serious situation and one which requires urgent attention. But here the Minister stands and tells us that Government is not going to do anything. I do not wish to repeat the arguments or to emphasize the arguments that my colleagues have put forward, except to express in the strongest possible terms our indignation at the Government's attitude.

Mr. Speaker, I beg to support.

MR. MUMBI: Mr. Speaker, Sir, I, like my colleagues, wish to express my disappointment at the Government's attitude over this Motion. I do not want to have to repeat what has been said by my colleagues in paying tribute to the work of the chiefs. I know that some chiefs do perform some very useful work in very difficult times, more especially, as the Minister mentioned, during the Emergency and at other times. But the Minister will appreciate our position when Government fails to see a very clear thing like the Motion before us.

The Minister has only been able to tell us this afternoon that all is well—at least, that is what I concluded from the Minister's speech. But the Minister also failed to draw attention to the quarters from which most chiefs in this country are drawn. Are they not, some of these chiefs, the retired tribal policemen of whom we have complained so bitterly? Are not the chiefs some of the retired policemen of whom we have complained so much? If the Minister had the sympathy for this problem which the African Members had when they moved this Motion, he would have in mind that some of the grievances that we bring to this Council against such people as the Tribal Police may be the result of the appointment of retired tribal policemen or police as chiefs.

I believe that all the Africans are asking for is a review of a 20-year-old child. The Minister is not in a position to convince me that this child, who is 20 years of age, has not in any way changed, and I believe the law, which

had its last review 20 years ago, surely possesses these anomalies which prompted the Mover to move this Motion. Therefore I feel that the Minister should reconsider his decision and take into account what our grievances are.

With those few points, Mr. Speaker, I beg to support.

MR. MULIRO: Mr. Speaker, after my colleagues have spoken so eloquently and the Minister has replied so poorly to-day, I do not think I will dwell on this point at great length.

The plea which the hon. Mover made was just to review this and not to scrap the chieftainship from the list of Government officials in Kenya completely. I fail to understand the reasons why the Government is against this Motion because even the Minister himself has lamentably failed to prove that the case, as presented very logically by the Member for Central Province, was insufficient to convince him.

The Minister for African Affairs has said that the chief is the leader of his people. This assurance was given to us, when we argued in this Council, by the former Minister for African Affairs. But, Mr. Speaker, we fail to see how these chiefs are actually responsible leaders of the African people, because a responsible leader must have the blessing of all his people, which the present chiefs do not actually enjoy. The present chiefs are chiefs simply because the district commissioner wants them to be there.

The main evil of these chiefs arises not so much from the chiefs themselves but from the Ministry which regards the Africans in this country as a department of State. And I think that is the only reason why even the Minister for African Affairs feels that if he changed that radically, he would be changing these Africans and putting them on a par with others and no longer regarding them as a department of State.

The Chiefs themselves have very limited knowledge—most of them, I do not say all of them. I have got in my constituency one chief with a Makerere diploma. That Makerere diploma is good but my only complaint is that he was not directly elected by the people; if they had elected him he probably would be a far better man than he is.

[Mr. Muliro]

as president. As the hon. Member for Central Province argued, these people do not make sufficient use of the locational councils, say, in areas where they are properly constituted; however, seeing that that is out of order, I will not talk much about locational councils.

Therefore, Mr. Speaker, I contend that these chiefs who have overall powers like the district commissioners for the administration of justice, agriculture, education, cannot be small gods; they are human beings, very fallible and very limited in their own spheres, limited by human knowledge. We cannot expect them to be everything. So I think the Minister should in future ask these chiefs to work more with their councils, seeing that this very good Motion has been rejected.

With these few remarks, Mr. Speaker, I beg to support the Motion.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): Mr. Speaker, Sir, I should like to start by complimenting the Mover of the Motion, the Member for Central Province North, and the Seconder of the Motion, the hon. Member for Nyanza South, and the third Member who spoke the hon. Member for the Coast Rural, on the very logical and reasonable way in which they developed their arguments. Mr. Speaker, it was a pleasure to listen to them.

Sir, there are two main complaints made against the Native Authority Ordinance. Firstly, that the chief does not, before he exercises his powers, have under the legislation, to consult local opinion. Mr. Speaker, as the arguments were developed, I sat and thought how you could write that into the Ordinance and I do not see how such a thing is possible, when you consider what the powers of the chief are and what he deals with. It would be, I think, impossible to put in the law in black and white that before he exercises those powers he has to consult. I understand from my colleague, the Minister for African Affairs, that where there are bodies who can be consulted they are consulted, and that is the Government policy in these matters.

Sir, the second point of complaint was that chiefs should be elected. Well, Mr. Speaker, you look at what the chiefs

have to do. They are civil servants and they are charged with various duties. Now supposing they were elected every year; we have heard so much about stopping drinking bouts. Would a chief who had in the interests of the people in his charge stopped bad drinking bouts be elected in favour of one who was in favour of bad drinking bouts? It simply will not work.

MR. MATE: It would!

THE MINISTER FOR LEGAL AFFAIRS: (Mr. Conroy): Mr. Speaker, there is a great nation, whose name I shall not mention, which appoints a lot of local officers after every election. In my own particular sphere of activity, law and justice, I do not think the results are very good. They are not nearly as good as the results we get by appointing people to do these jobs permanently. Bernard Shaw had a nice little story about this. He said: "When you have elections this is what really happens. It is rather like electing a village postman every year who delivers the letters and looks after the mail, but every year you elect someone who can't read or write. So you have to have a permanent civil servant who reads and writes and who tells him which letter to deliver to which house and which letter to deliver to which person". That, I am afraid, might arise if you had election of chiefs as suggested. But again I am told consultations go on in order to ensure that the best person is appointed.

Mr. Speaker, the chief is a civil servant. Civil servants are rather like beer; there are no bad civil servants, but some are better than others, and I think that largely applies in respect of chiefs: some are very good and some are only ordinarily good. But they have to be appointed.

I will finish by saying this. Although the form of the Motion made it impossible for the Government to accept it, I do not want hon. Members to think that this debate has not served a very useful purpose. The hon. Members opposite have put forward their views which have been listened to with the greatest care by the Government, and, as you have heard from the Minister for African Affairs, many of the points that have been put forward will be looked into by the Government to see

[The Minister for Legal Affairs] whether difficulties do exist and whether they can be solved by Government. Instead, therefore, of the hon. Members feeling that their Motion has been lost, I would suggest that they should go away feeling that they have had a most successful afternoon.

MR. ODINGA: Mr. Speaker, Sir, I think I have been most disgusted because I feel that the Government's attitude towards this very important Motion has not been so favourable as usual. We do not know how we shall carry on with the Government and be reasonable, as the Government would require us to be, because this time we are telling the Government that it has trodden on our foot and that it is paining us. The Government all the time waits for us to push it out of the way by force and shout loudly that it is paining us. The Government clings on and says, "No, it is not painful, oh, I think it's all right," and I am telling the Government that it is paining me, and it says, "No, it is not paining you, it's quite all right, you carry on with it." But it waits until I gather enough strength in order to push him out which I think is not the right thing for him to do.

4.30 p.m.

The Africans have now developed to a stage where anything which you felt was quite suitable for the Africans 25 or 50 years ago you should by now reconsider and find that it will not be suitable to-day. The African has come to a stage where he will only be guided or led by those people in whom he has got the confidence.

The Minister for African Affairs stated here categorically that if he could cast back his mind he knows of no African tribe in this country who had any leader of any kind, which is very undesired indeed. Again, he went on to say that they had war leaders.

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): I thank the hon. Member for giving way.

I did not say that, Sir. What I said was that I could remember one or two cases before the British Government came when there were leaders who approximated to the present chiefs.

MR. ODINGA: Well, anyway, he has admitted that there were only one or

two, which I think is more or less the same thing as what I said, which means that in other areas he admits that there were no leaders. But if he had admitted that there were war leaders that should definitely show him that there were leaders because certainly war could not be led properly without leaders. For example, Mr. Churchill was a leader in the war, but he was not in the war; yet he was a leader of the war.

You must certainly understand that the first Europeans who came to this country were certainly not the type that are now here. They were very humble men and they spoke very sweetly to the Africans indeed; wherever they went they inquired from the Africans to get the right type of leaders, which were produced by the Africans. And those produced were the people who started as chiefs in this country. They were most respectable and they were the leaders of the people. When the Government was established they found that the most suitable way to go on was to elect the chiefs, and in actual fact even recently the chiefs had been elected and many of them who are still alive were elected, and they are very much respected by their people who elected them.

It was only recently when the Government changed their opinion and began by the imposition of the chief, they began very slowly by asking the people to give three names; and after giving three names they chose one to be the chief. At the moment the practice is that anyone can write an application for chieftainship. People are never consulted in any way. Anybody can write an application, whether they are from the police or from anywhere. From among those they will chose who they like: they will appoint anybody they like and go and impose him as a chief. This, I think, has really brought down the prestige of the chiefs, which is what I have been saying here and which is what many of my colleagues have been saying here, to being that the present chiefs are just more or less messengers of the Government in those places.

For a long time the Africans have been complaining and they have said and demanded that they should have divisional chiefs which the Government was not even able to consider. Then, I

[Mr. Odinga] think, as early as 1922 there was from my part of the world a demand from the people for a paramount chief. Well, the Government turned a deaf ear to that and never listened to their case in any way. But I think that if we are to go on properly and if the African has to have proper leaders who will convey his true opinion to the Government; and the Minister mentioned that the duties of the chiefs are doublefold because he is the leader of his people, and at the same time he must be a liaison officer between the Government and his people and as such he goes through a very difficult position indeed.

Well, what we are asking for is not new in this country at all. In other territories for example Tanganyika, there are chiefs, and some of them are hereditary, chiefs who are getting on very well with the Government. Such a thing happens in Uganda and I see no reason why it could not happen here in Kenya. Furthermore, why chiefs should be just civil servants to be dismissed at will I just cannot understand.

Mr. Speaker, Sir, yesterday here I mentioned in passing that the Government should have considered leadership for the African. They should have begun with the chiefs who should be elected and then have the divisional chiefs instead of district assistants or district officers in the districts and then go on to have above the district council the president who will be the overall authority in the district. I know they fear that this will reduce the authority of the district commissioner which he has at present, but I think even in other areas the district commissioner is in an advisory capacity in the districts; and yet the native authority is intact. From the headman and the chiefs and the divisional chiefs it then goes on to the paramount chiefs or the president of the district councils. I think that if this arrangement were to be considered very seriously by the Government they would find that the present African development would progress smoothly and all African grievances would be conveyed to the Government from the responsible leaders upon whom the Government and the people will not levy unnecessary suspicion.

These grievances will be rectified and put right from both sides because these chiefs will be the people who are trusted by the people and the Government. At the same time they would be the effective voice of the people who you can probably listen to more than you can listen to me here.

Now, Mr. Speaker, I would not actually go on to add any more but I would only say that what the hon. Member and the Second and all my colleagues have said about the chiefs in the country, and what we have previously said about the chiefs, is really quite true. I would ask the Government as a whole to start to think that the African of today is not the African of 1907 or 1910. They must realize that the Africans are developing and anything which suited to rule them in those days cannot rule them now.

With these few remarks, Mr. Speaker, I beg to support the Motion.

MR. CROSSKILL: Mr. Speaker, I rise to intervene very briefly in this debate because I believe that the Government is right; but why I believe this I do not know, because I think never have I heard Government say what they believe to be right in such an unimpressive and unenthusiastic manner, and in a manner less likely to convince the opposition than they are right.

I believe the Government case is that they have examined the particular Ordinance and will continue to do so from time to time. We have not heard the familiar phrase which indeed, Sir, would be very apt in this debate, that the situation is "under continuous review"; and I believe that had those words been used to-day they would have brought more comfort than any words which have so far been heard to-day.

I think that we must all realize that the pattern of Government is continually changing in our areas as, indeed, it is changing in the African areas. Therefore, Sir, there are bound to be anomalies growing day by day which must be adjusted, also day by day. I believe that we can always find a situation where there is overlapping between local government bodies, where they have authority and where the Administration has authority, and it must be under continuous review in that manner. I believe

[Mr. Crosskill]

that such a situation may well be arising in the native areas at the present time.

We have heard from almost every speaker that they are by no means dissatisfied with the institution of chiefs, or indeed by the personalities of many of the chiefs; and therefore I believe that with a little greater attention it might be possible to see that the overall picture does satisfy my colleagues on this side of Council.

I believe, for instance, that two steps might be taken. I should like the Government to state whether it is not possible indeed when chiefs are appointed for the African district councils to be consulted. Could they not, in a manner which is quite usual in other spheres, ask for a panel of names to be submitted from which the Government could appoint and select those who they believe would be the best to carry out the duties of chiefs. Again, since it has been expressed so frequently on this side of Council that they are satisfied with their chiefs then there must be difficulties arising on an *ad hoc* basis which the Government should examine. I do urge the Government to state that they will examine the problem in the light of those two suggestions.

We have only had a few scant words of comfort from the hon. Attorney-General; otherwise I do submit that my colleagues here have little reason for being as satisfied with their afternoon as he said they should be.

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones): Mr. Speaker, Sir, I think that the desire of the Government to cushion its refusal to accept this Motion has perhaps been misunderstood by the last speaker. It has not been for any lack of conviction that the Government's case has been put in a conciliatory manner as possible. The reason why the Government cannot accept this Motion is that in fact it would be entirely misleading to do so.

The Motion has been moved for one main purpose, as I understand it, and two subsidiary purposes. The first, the main purpose, was to press for the substitution for the present system of appointment of chiefs, a system of election of chiefs. The first subsidiary purpose was to suggest that chiefs should be required

by positive obligation, written into law, to act only in Council with the advice of a Council of Elders. The third purpose—that is to say the second subsidiary purpose—behind the Motion seemed to me to be to suggest that many of the powers which are at present vested in the chiefs by the existing Ordinance were in fact both unnecessary and inappropriate. Now, Sir, in the course of the debate it has been made perfectly clear that the Government, for reasons which have already been very adequately advanced, cannot accept the principle of elections to the office of chief. I will not recapitulate all the arguments that have been put forward, but the fact remains that the Government is quite firmly convinced that a system of elected chiefs would not serve the best interests of this country or the best interests of the African people.

4.45 p.m.

It has already been explained also, in regard to the first subsidiary purpose underlying the Motion, that it is in fact impracticable to require chiefs to act only in council and with the advice of elders in all cases by means of an express statutory obligation. It has been explained that they do consult very widely and the Minister has indicated that that is entirely in accordance with his own policy and that he will seek to expand by administrative direction the sphere in which the chiefs consult the local elders. Thirdly, it has already been explained that the powers which the Ordinance vests in the chief, although they may appear at first sight to be unnecessary and inappropriate by reason of the fact that there is other legislation on the particular subjects with which these powers deal—it has been explained that the chief is the executive arm of the Government, that indeed he is responsible for carrying out in an executive capacity the requirements of the specialist advisers, the specialist and technical officers, of the Government. He is the person to whom, as has already been explained, a technical officer will say—"Such and such a thing needs to be done". But it rests with the chief to get the thing done, and that is why these powers, which may at first sight appear, quite understandably, to be superfluous, are in fact very necessary.

[The Acting Chief Secretary]

Now that being the attitude of the Government on the main and the two subsidiary purposes which we understand to underlie this Motion, if Government had accepted the Motion it would have been clearly an indication that it had sympathy with these main principles of policy on which the Motion is founded. Government has no wish merely to oppose the Motion for the sake of opposing it, but at the same time it must be honest and forthright with the hon. Members opposite and not give them to understand that by accepting this Motion it was accepting principles of policy which it is firmly convinced it cannot, in the interests of the country, accept, and it is for that reason that this Motion has proved to be unacceptable to the Government and that the Government feels obliged to oppose it. At the same time it has been made very clear by previous speakers from this side of the Council that the Government does appreciate and acknowledge with gratitude the moderation and reasonable manner in which the various points raised by the Members on the other side have been put forward. I should like to repeat the assurances given already, that those points will be given consideration where they do not conflict with the principles of policy to which the Government is firmly attached.

There is very little more I wish to say, Mr. Speaker. One point I want to make, which I think will perhaps give a certain amount of solace to my friend from the Mau, is to point out that this Ordinance is not, as was suggested by the hon. Member for Ukamba, a twenty-year old Ordinance which has not been reviewed in the course of that period. In fact it was enacted, I think I am right in saying, in 1937, and I think it has been subjected to no less than eight amendments in the interim. The last amendment of substance was in 1952. As has already been explained by you, Sir, at the beginning of this debate, a major review, and in fact a major excision from this Ordinance, took place in 1950. This does mean that the facts demonstrate that the Ordinance is kept under constant review, and that situation will continue.

The hon. Member for Mau suggested that in the appointment of chiefs

African district councils should be consulted. With all due respects to him, that argues a complete misunderstanding of the position, and a comparable position would arise if it were to be suggested that the Nairobi City Council should be consulted in regard to the appointment of the Officer-in-Charge of the Nairobi Extra-Provincial District. It is not a function of the African district council or any the local authority to have any say in the appointment of civil servants in their own areas.

The other point which the hon. Member for Mau raised was that he rather got the impression that we on the Government side thought that all our chickens were lovely: all our chiefs, in other words, were first class. But that is not so; as has been made quite clear already by the Minister for African Affairs, and in rather more racy metaphor by my hon. and learned colleague the Minister for Legal Affairs, we realize that some of our chiefs are excellent; we realize that some of our chiefs are good; and we realize that some of our chiefs are not so good. As the Minister for Legal Affairs pointed out when I think the hon. Member for Nairobi Area was out of the chamber, chiefs are like beer; they are all good, but some are better than others. I repeat that with apologies to my hon. and learned friend, for the benefit of the hon. Member who was out at the time. So of course what the hon. Member for Mau called "*ad hoc* difficulties", difficulties of personality, difficulties of character, and that sort of thing, are constantly under consideration whenever such difficulties arise. They are the subject of anxious consideration and consultation by my colleague and by the whole organization which he heads in the provincial administration, and such changes and appointments, such transfers, such, if necessary, discharges as are necessary to overcome these difficulties—including the clash of personalities—are in fact constantly effected.

Finally, Sir, before I sit down I would merely comment in regard to the remark by the hon. Member for Ukamba, who complained bitterly that some chiefs were retired Tribal Police and other chiefs were retired policemen. I cannot accept that there is any logic in that argument: one might just as well say

[The Acting Chief Secretary] that retired schoolmasters make bad politicians.

I beg to oppose.

MR. MATE: Mr. Speaker, Sir, may I begin by thanking the Members from this side of the Council who have supported the Motion this afternoon, and the Government Members who have shown their sympathy for certain aspects of it, and even gone as far as giving assurances on what they felt would be useful points to reconsider. But, Sir, it surprises me that the Government finds it impossible to accept the Motion as it is, especially when the other half of the same Ordinance has been revised by this Council almost three times now since the time it was instituted, and I am sure the Minister for Local Government, Health and Housing would hear me out, that that has happened to the Local Native Councils section of the same Ordinance, and I believe he feels very happy about it, up until now, that it shows improvement. So, Sir, I would try and persuade the Minister for African Affairs to give this matter very serious thought in the same way as his colleague has done for the part of the Ordinance that affects him. Because, Sir, it is not just a question of accepting the Motion but the spirit, if I understand it correctly, because the Minister said that chiefs are not what we understand them to be. They are not necessarily tribal leaders and at the same time Government servants: they are strictly Government servants.

This, Sir, is a serious difference in points of view. Many African people look at the chief as their tribal leader and not just as a Government servant. The chiefs must represent their people to the Government—unity and identification of the tribe—and they are regarded as something more than simply a civil servant. They are classified as fathers of their people. So if my conception of what a chief is, differs from that of the Minister, then I would agree he should see no reason for wishing to change the situation. Otherwise it is the very thing we ought to change, for as the Minister for Legal Affairs pointed out, it would be difficult for the chiefs to do their work and at the same time to see how they could consult the people. That is where we differ: we feel there

there should be chiefs who could consult with their people.

In the same clause, allowance should be made for things they are not obliged to consult the people about. One of them is law and order, which in my first remarks I did not question at all. They must have that power. The father in a family must have power to decide immediately, if need be, what ought to be done if something goes wrong, but on other minor things like changes and when it is found that the chief uses his power to force the people just because they are cleverer than he is, I think they could consult the people, and provision should be made to make it compulsory for the non-progressive chiefs to have to consult their localities.

I do think there is contradiction about the definition concerning the chief on the part of the Minister because, Sir, the Minister says that there was no such thing as law and order in Kenya before the British came. Within the tribe there was discipline. This, Mr. Speaker, is a very important distinction because the chief has jurisdiction over the locations in their own tribal areas just now, and not over all the other areas. So I feel that within the area the traditional leader should have power. Even leaders in other places used to deal with chiefs as people, who represented others, but now there seems to be a slight difference of interpretation.

5.00 p.m.

So, Sir, I do feel that the dual functions raised by the Minister for Legal Affairs warrant very sympathetic consideration. To me there are no contradictions at all.

On the question of electing chiefs—I do not see any necessary contradiction if Government has a panel of two or three names to pick from, in fact it has happened in areas I know where Government ask for names and then they pick and choose from these names. I do not see the contradiction in that, unless those other areas do it illegally—elect chiefs illegally; that is, they try and get an election and ask the Provincial Commissioners to have them baptized or appointed by the Government. So, Sir, in principle I do not see the difference, although in practice it does not come to the same thing. So the question of chiefs

[Mr. Mate]

and, as it were, their position to-day of being intermediaries between the district commissioners and district officers between their headmen and themselves and the citizens, is a rather serious one.

As I mentioned earlier, it is very important, I feel, that the chief should be the most enlightened or the wisest man in the location. I do not see how chiefs can achieve this to-day unless by some good luck—as my friend the Member for North Nyanza said—he happens to have a Makerere diploma, because they have no common training. They may have special courses at a certain school as a matter of expediency to brush up on this and the other point, but they are not trained as common Government servants. They are a sort of medley of individualists in their own way; they do not have the same conditions exactly as other Government servants. Moreover, the Government uses their knowledge of local conditions in employing them. How can such a class of people—such a medley of people with varying standards of education, of knowledge and of wisdom, who are not even given transfers—remain in the same place—do without the local knowledge of the other people there? That is where I think that chiefs in council would be the best thing.

Sir, I would like to know what Government is doing about the training of these chiefs to give them more education: maybe some English, some arithmetic, some other commercial knowledge, or something like that, or even a knowledge of law. Also if they are doing civil servants' work like any simple clerk's work, then give them transfers and let them see how they fare in other areas. A good chief here might help there; a poor chief might improve there. I took them to be local tribal leaders who should work with their own people. I do feel there is a difference in the interpretation of the whole thing.

On the question of communal labour, Sir, I would like to assure the Minister that I was under no misapprehension regarding the Emergency conditions and the normal conditions. I am quite aware of the two differences, because when it comes to the building of a local road, or even building a school, I do not see where Emergency conditions come there, and yet chiefs harass the local people

compelling them to come and work together all because the chief feels he can do it, and because people go on doing it. I am quite aware of that aspect of it.

The other point, Sir, is this: that the Motion asks Government to review, or to agree to review and readjust the Ordinance. We are not saying that it must be done to-day or overnight or that the chieftainship is necessarily an awful thing that should be abolished altogether, but saying there is need for a change. As many hon. friends here have tried to indicate, we are not asking for an overnight change; neither are we saying we do not want chiefs. But we feel that their position and their situation should move with the times, and I do hope very sincerely that Government will not take this as just another change we want, but a sincere kind of suggestion that the whole situation of the African people and the development to-day allows for better leaders and people who are in a position really to lead their people properly.

Sir, I must express my very sincere regret that the Government have not been able to accept the Motion, especially when half of the same Ordinance has been revised only lately. I do feel here, Sir, it might amount to Government just not wishing to see what they ought to see at this time.

Mr. Speaker, I beg to move.

#### DIVISION

The question was put and Council divided.

The question was negatived by 30 votes to 10.

Ayes: Messrs. Cooke, Mate, Mboya, Muimu, Muliro, Nazareth, Ngala, Odings, Oguda, Pandya, Tellers for the ayes: Mr. Muliro and Mr. Nazareth.

Noes: Messrs. Blundell, Blunt, Conroy, Coutts, Cowie, Cusack, Lt.-Col. Gheris, Mr. Griffith-Jones, Capt. Hamley, Messrs. Harris, Havelock, Hope-Jones, Mrs. Hughes, Messrs. Jack, Johnston, Mackenzie, Lt.-Col. McKenzie, Sheikh Mohamed El Mandry, Mr. Maxwell, Sir Eboi Piribhai, the Earl of Portsmouth, Messrs. Riddoch, Rogers, Sagoo, Swynnerton, Tyson, Usher, Sir Alfred Vincent, Mr. Wadley, Dr. Walker. Tellers for the noes: Mr. Jack and Mr. Swynnerton.

## BILLS

## REPORT AND THIRD READING

*The Public Order (Amendment) Bill*

5.18 p.m.

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack): Mr. Speaker, Sir, I beg to move that the Council doth agree with the Committee's said Report.

*Question proposed.*

The question was put and carried.

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack): Mr. Speaker, Sir, I beg to move that the Public Order (Amendment) Bill be now read a Third Time.

*Question proposed.*

The question was put and carried.

The Bill was accordingly read the Third Time and passed.

## SECOND READING

*The African District Councils (Amendment) Bill*

*Continuation of the debate adjourned on 19th February, 1958.*

MR. MULLIRO: Mr. Speaker, I was still going on with the debate on this Bill.

The next point I want to raise is that certain executive officers of the African district councils should be protected. There are, since the adoption of the White Paper, certain services by certain officials, like the medical officer of health, health inspector, who are seconded to local government bodies by the Government and the salaries of those people are to be paid partly by local government and Central Government. These people, who are seconded to African district councils by Government require protection so that they will not be kicked out by the African district councils at their will. But I fail to see the reasons why the secretary, for instance, of the African district councils cannot be dismissed by the African district councils because all are employees of the African district councils and not of the Central Government. On that I will develop more when I come to my next point.

The next point, Mr. Speaker, concerns the senior officers of the African district council such as the secretary to the

African district council, the treasurer and the assistant secretary to the African district council. These people, I feel, Mr. Speaker, should be elected by the members, say, the African district council as a whole, including probably the members of the locational council, to sit as an electoral college to elect these executive officers of the African district council. This is being done in Uganda. You will find the secretary-generals of the district councils in Uganda are elected by their district councils constituted at an electoral college. This is not so in Kenya and therefore these people do assume the powers of rulers of some kind and here I am going to reiterate what the Acting Governor said at Bungoma when he was opening the new district. He said the people who are working for the African district councils should not take upon themselves, or regard themselves as rulers of the public but they should look upon themselves as the servants of the public.

Now, the secretaries of the African district councils do, in most cases, regard themselves as the rulers or probably think that they are also Government servants and they listen to the public whom they are serving. I feel very strongly, Mr. Speaker, that these people, whatever salary they are earning comes from the public and they are not removable. They should be removed by the African district councils themselves, say, for instance, the finance committee which is elected, if it finds that someone is incompetent, it should dismiss him with a recommendation from the general council.

I know that the Minister for Local Government will get up and say that if these people who have been trained for some time are dismissed say, after four years if they have been elected, it means that the money that went in for training them was wasted. I do not think that is really true because the real people who are doing the spade work are not actually going to be subject to elections. Those people who are more competent, trained and specialized are not going to be subject to elections. The secretary or the treasurer, those people who are going to be executive, can actually be dropped off after a few years, because if these people are irremovable from

(Mr. Mulliro) their posts, they can become as bad as anything because they know very well that nobody will remove them, unless the Provincial Commissioner, according to the new amendment can remove them. But the African district council which is paying him is not competent to remove him.

We also saw that the words of the Provincial Commissioner is final no matter what the African district council says, and here we are told by the Minister for Local Government that the African district councils are being given power. I feel they should be given power to remove these people, who should be elected for a term of four years or so; if they are not good they can be dropped and if they they are good they will be re-elected by the people themselves. The people know who is a good servant and who is a bad servant.

Another point I would like to raise on this Bill is that of locational councils. The Minister said yesterday that the African locational councils, when they become statutory bodies are not going to be the children of African district councils, but I think that even according to this very amendment which is going to give the locational councils a new status will still regard them as the children of the African district councils. They are not going to be local bodies in any way. Whatever they are going to do, their Estimates are subject to scrutiny of the African district councils. Firstly, they are scrutinized by the district officer or the district assistant of the location and then they are subject to the scrutiny of the African district councils. Therefore the Minister, in saying that they are not going to be the children of the African district councils is telling us untruths.

With that, Mr. Speaker, I come to the end of my speech and I beg to support the Bill with these reservations which I have raised.

5.30 p.m.

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): Mr. Speaker, Sir, I want to be very brief and just reply to three points that have been raised by the hon. Member for Central Nyanza.

If I heard him aright, Sir, he objected to clause 10 of the Bill which gives certain powers to the district commissioner and the Provincial Commissioner as regards the removal of employees. Now, Sir, naturally we fully appreciate that African district councils should have some discretion in running their own affairs, but they must be able to obtain and retain the services of competent staff in those councils. It has certainly come to my notice in one council in the Nyanza Province, that the district council there has endeavoured to dismiss competent and responsible officers who are doing their duty efficiently. Therefore we must have some means of seeing that these officers have some security, provided they are efficient and responsible officers.

The second point he raised, was the old one of communal labour under clause 18, and I had thought that my hon. and learned friend the Minister for Legal Affairs had explained quite clearly that this particular clause was an enabling clause; that it enabled the African district councils if they wished to pass a by-law of this kind, and it enabled them to declare what should be the minor communal services within the meaning of the paragraph. Communal labour, Sir, is the normal civic obligation for the benefit of the inhabitants of that area, in particular such forms as the erection of schools, and conservation of the soil, and in the present stage of development of most districts it is necessary to have some by-law of this kind. The alternative would be, I think, a drastic and unpopular rise in local taxation.

The third point that the hon. Member raised was in clause 4 where he appeared to be rather worried that the African district councils would be under the Provincial Commissioners and not under the Minister. Well, Sir, the Provincial Commissioners have for a very long time taken a particularly deep interest in the development of African district councils, and in fact for a long time Provincial Commissioners and the Department of African Affairs were responsible for the African district councils. In addition to that, Sir, the Provincial Commissioner, although being directly responsible to the Ministry of African Affairs has also additional responsibility of one kind or another to every other Minister and

[The Minister for African Affairs] must act, and must be responsible for co-ordinating and guiding all actions in his province.

Sir, I beg to support.

MR. HARRIS: Mr. Speaker, Sir, in accordance with Standing Order No. 64, I beg to move that the Mover be now called on to reply. I do not think that any further use can be made of this debate.

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): I am not of the opinion that the Motion is an abuse of the proceedings of this Council. We have had a very lengthy and full debate and there is still the Committee stage of this Bill to proceed with. I therefore propose to put the question.

Question proposed.

The question was put and carried.

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): I now call upon the Mover to reply.

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Havelock): Mr. Speaker, you did call the attention of the Council to the fact that there will be a Committee stage of this Bill, and, no doubt, hon. Members who have not spoken will certainly take advantage of that, knowing hon. Members.

Mr. Speaker, there have been a number of points that have been raised—I must admit that a number of them have been repeated by different speakers—and I will go through as many points as I can from the notes I have and will take first the hon. Member for Central Nyanza.

His first complaint was that the president should now be called a chairman. He seemed to feel; Sir, that with the change of that name, that executive powers were going to be taken away from the head of the local authority and that that was a bad thing.

Now, Sir, there seemed to me, running throughout this debate, a most peculiar misconception of the functions and the responsibilities and the whole basis of local government as hon. Members from the other side put their points forward. It was repeated on a number of occasions that the president should be the boss;

that he should have executive powers; that he should be the man; in fact, it would seem to me, that he should be the man who should dictate the policy and dictate the functions of the local authority. This, of course, is in line with suggestions which have been put forward. I do not know if in this Council, but certainly outside this Council, that the system which has been adopted in the United States and other countries, of the city manager, might be adopted in Kenya. It is the same principle that has been put forward and it is one to which I take the greatest exception and I would have nothing to do with it.

The whole basis of local government is pure democracy. It is much more democratic than even this Council, because there is no Government and Opposition. Every man, every representative of the people, has his voice and makes it heard in deciding policy and, indeed, some detail on matters that are within the purview of the authority of the local authority. This, of course, has disadvantages. It leads to a certain amount of delay. There can be greater efficiency by having one man responsible—either a city manager or a president—responsible for the governing of a local authority's area, but if you have that, you may have efficiency, but you may also have considerable inefficiency and you will certainly have a form of dictatorship, and that is not the spirit of local government and that is not what either the substantive Ordinance or these amendments seek to achieve.

These decisions are taken by the local authority, by the African district councils and there must be one man to keep order in their meetings and he will be the chairman. This is exactly the same throughout any other type of local authority. The Mayor of the City of Nairobi has no executive power; he is the chairman and he has the courtesy title of Mayor. He takes the meetings of the Council and keeps order in those meetings, but has no executive authority, and that is exactly the same principle which is being adopted under this clause for the African district councils. That is a principle that I think hon. Members, especially hon. African Members who are always asking and are always suggesting that we should move further and further towards democracy, I think that

[The Minister for Local Government, Health and Housing] is a principle they should welcome and not criticize.

Sir, again, we have the same argument put forward on the matter of locational councils. They, according to suggestions put forward, should be under the president. Well, again, we have heard a number of points being made in this debate, Sir, and in others, that there should be no discrimination. This is exactly what I said when I moved this Bill. There is less and less discrimination between African local authorities and other local authorities and this Bill provided for less and less again. Why, then, should African Members suggest that a different type of system should be adopted in African district councils to that in other local authorities? That is merely discrimination.

Now, Sir, there is this matter of the Provincial Commissioner and the district commissioner dealing with staff, and this was a point which was raised by a number of speakers. It was raised first by the hon. Member for Central Nyanza and the point is this, if I may take locational councils first. The locational councils as statutory bodies are an experiment. I, personally, believe they will work. I hope very much they will. But they will have to be guided to that they do become successful and do develop into what I said when moving this Bill—into county district councils within the area of the African district council. They need the guidance of experienced men and that is the reason that at the moment it is suggested that the chairman of the locational council shall be appointed by the Provincial Commissioner. The members may well be elected and, as hon. Members know, in many, many areas already the advisory locational councils are elected and I hope that many more will be; but for the moment the chairman to guide their deliberations is to be appointed so that the right man with a knowledge of the procedure as a chairman is put into that place.

I will be very happy—following on the remarks in the previous debate by the hon. Member for Central Province—I will be very happy to review this par-

ticular matter in quite a short time after we have seen how it works.

Now, Sir, we come to the matter of communal work, which was again brought up by numbers of speakers and criticized very harshly. It is the responsibility of the local authority. It is an enabling power. It is not laid down that there shall be communal work; in fact, in many areas the African district councils have not passed such by-laws and it is entirely up to the African district councils to say that they wish such a by-law to be passed, or not. After all, the hon. Member for Central Nyanza, in another context, I think said why should we interfere with decisions of local authorities of the African district councils; they are a body of responsible people—why should we therefore interfere with them. I ask him the same in this instance. There is no compulsion by the Government that there should be communal work. Why should I interfere with the local authorities in this regard if they want to have communal work or not?

MR. ODINGA: That may be so, if the district commissioner and the Provincial Commissioner do not interfere.

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): You are developing a new argument, Mr. Odinga. You cannot develop a new argument, you can only explain what you yourself said.

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Havelock): The remark made by the hon. Member does lead on to the next suggestion he put. He said, Sir, that if administrative officers were to attend locational council meetings, and indeed African district council meetings, that their mere presence would lead to by-laws such as the imposition of communal labour being passed. I cannot understand that. The district commissioner is usually a member with full voting powers on every other local authority, both county councils and municipal councils, and I do not really think that their suggestions are always accepted. Their advice is always listened to—and rightly so—and very often their advice is accepted, but not always and I see no reason why the mere fact of their presence should mean they are



[The Minister for Local Government, Health and Housing] going to "bulldoze" something through in the way of by-laws of that sort. And indeed, of course, it is right and proper that the administrative officers responsible for the district concerned, with such wide interests and such wide experience, should be present at discussions in local authority meetings. Every other local authority that I know—and indeed African district councils that I know and have visited quite recently and discussed matters with them—they have shown great appreciation for the advice and help given them by the administrative officers. And here is discrimination. They are not members. They have no voting powers. In other local authorities they have voting powers.

5.45 p.m.

Now, Sir, if I may turn to the remarks made by the hon. Member for the Rift Valley Province. He, again, on rather the same theme, criticized the fact that the district commissioners would have the minutes of the African district councils and locational councils passed to them and that they would be able to scrutinize them. Well, Sir, there again the answer is just what I have said before, that in other local authorities the district commissioner is an *ex officio* member and he, of course, naturally as a member gets the minutes, scrutinizes them and can pass his advice over as a member. In this case, when he is not a member, still that advice is necessary, and therefore he should be given the minutes and then he can pass the advice either to the African district council or the locational council, whichever the case may be. I can see no reason why hon. Members should think that in this regard authority is being taken away from the locational or African district councils. It is merely that they should be in a position to get the best advice on all problems and I do not think any hon. Member can say in this Council that the district officers, district commissioners and district agricultural officers and others have not very valuable advice indeed to offer to us all.

Another point he made, Sir, was with regard to clause 11. He stated that the Provincial Commissioner could allow elections for locational councils and that the old Bill said that there should be

consultations with the African district council, but in this amendment no consultation with the African district council was provided for. Now that, Sir, bears out my argument and reinforces what I have said before, which other hon. Members—I still have to come to their points—criticize; that the locational councils are going to be independent local authorities. There is no reason why the advice of the African district councils should be sought with regard to elections for locational councils. They are separate local authorities within the same area as the African district council; they will have their separate functions, their separate responsibilities.

The next point, Sir, that the hon. Member raised, was with regard to confiscation of stock. He said that this should not be allowed—that the amendment was wrong in that regard. Well, the point is, of course, that African district councils all over the country have asked for these powers to be given to the courts, not to them, to the courts; and in order that their by-laws with regard to control of stock can be properly implemented they feel that this power is necessary. And I believe also, after discussion with the hon. Minister for African Affairs, that it is a good provision, but please let me remind hon. Members again this is not a power for the African district council. It is a power of the court so to order, and after all the courts have their jurisdiction.

Now, Sir, if I may turn to the hon. Member for the Central Province. I think I have dealt with quite a number of the points he raised, any way. He raised the matter of president and chairman, which I have dealt with, and the Provincial Commissioner dismissing African district council staff. That the hon. Minister for African Affairs has also dealt with, and I would merely like to reiterate what he said. In this connexion the Provincial Commissioner is acting as agent for the Minister for Local Government. He is the man who is on the spot. He knows what is going on and it is much more difficult for a Minister to know what is going on in the wider areas of the African areas than it is in the easier areas around Nairobi. I do not think hon. Members need have fears in that regard. That is not a power which is going to be used indiscriminately. It is merely

[The Minister for Local Government, Health and Housing] going to be used in situations of emergency and in crises.

The hon. Member also mentioned communal labour, which I have dealt with, but I will say this, Sir: he said he had a certain scheme which he would like to put forward as an alternative to communal labour. I should be very happy to receive that scheme, and I will most certainly undertake to send the suggestion to all African district councils, who have the power—not me—to impose this matter, and they can see if they feel it is a good alternative, then there is no reason why they should not use it.

Now, Sir, turning to the hon. Member for the Coast Province, he said, I think, that the power has not been transferred to the secretary like the power has been transferred to a town clerk. Well, Sir, this again is exactly the same principle with which I dealt with regard to the president. Hon. Members seem to think that chief officers of local authorities should be little dictators, should have special powers vested in them and should be able to say exactly what should happen in the areas according to what they wish. That is not so. The chief officers of local authorities are the servants of those local authorities. They take their orders from the committees of the local authorities and they have no powers; none of them have powers vested in them as such; they merely carry out the orders and decisions of their masters, the local authority. That applies throughout any area; certainly it is not any different in a local authority in an African district council area to any other local authority, and may I remind the hon. Member that there is an amendment in this Bill which states that the secretary—the secretary will be the chief officer of the African district council; whereas before the president has been looked upon as the main link and he has been the man to whom letters have been addressed from Government and other authorities, now the secretary replaces the president—as he should—as the town clerk is always addressed and is the channel with any other authority, Government, etc., so the secretary of the African district

council will now be a similar channel. Therefore, he is being put on exactly the same basis—exactly the same footing—as a town clerk or a clerk to a county council.

I do not like the idea, Sir, of a committee to be provided to inquire into the dismissal of local authority officers and African district council officers. I think it is quite wrong. Certainly the African district council itself can have a staff committee if it wishes, and that committee can make recommendations to the full council as to what should happen to the staff, either with regard to dismissals or anything else, but to have an outside committee would certainly be completely trespassing on the authority and responsibility of the African district council itself. Therefore, I do suggest it is an impractical and undesirable suggestion. I repeat, the officers are the servants of the council and it is for the council to say what they want done with them or about them.

A point also was raised, Sir, on the cess on purchases and not on sales. I want to reiterate again what I said before, that this does not mean that there will necessarily be heavier cesses. It certainly does not mean there will be double cesses. It is merely an administrative arrangement to be able to collect cesses more conveniently on certain produce, including natural produce, than is now possible. On the matter of purchases, cess can be collected from the purchaser, if you remember, under this amendment, as against the producer.

I will give an example. It is very difficult indeed, in certain areas, for African district councils to collect cesses on hides and skins from the producers, because they are so isolated and far away, but the man who goes and purchases those hides and skins must bring those hides and skins to some centre to dispose of them and he can be caught and made to pay the cess under this amendment. The same thing applies to fish. Whereas it is not very easy to collect a cess from the fishermen, it may be much easier to collect a cess from the purchaser of those fish. The hon. Member for the Rift Valley Province is not here, but that particular matter arises in his own area at Baringo, where a very flourishing business has been established,

[The Minister for Local Government, Health and Housing] and I want to see that the African district council gets a fair reward or fair income from this particular industry.

The hon. Member for Kitui raised a number of points, Sir, I think most of them have been dealt with. He did ask why the term of office for the chairman who has been appointed should be three years, whereas for a chairman who has elected it should only be one year. There again the appointed chairman will probably be in certain African district council areas where they are not ready yet to elect their chairman, and will probably be the district commissioner, as he is to-day, until they get to the stage where they can elect their chairman. Whoever is appointed will be appointed for a special purpose. He will be appointed because it is necessary, as I said as regards locational councils, it is necessary to have someone there who knows the job and can help to train, and, therefore, a three-year period for him is by no means out of the question. It is by no means illogical. Whereas the one year for the elected chairman, of course, is the usual basis in any local authority. Here again I ask why should I be asked to discriminate on the one hand with regard to African district councils and not with regard to other local authorities. Hon. Members will know that certain hon. Members of this Council have been Mayor of the City of Nairobi, but they were only elected for one year. Some of them, of course, have been Mayor for more than one year, but that was because they were such good Mayors that they were re-elected, and there is no reason why the chairman could not be re-elected as chairman of the African district council.

Anyway, again there is no discrimination here at all, even in local authorities other than African district councils where the chairmen have been appointed, and there are quite a number of them; in fact, it is only just lately that the Kisumu Municipal Board has had its own elected chairman—he was appointed up to a year or so ago. They were appointed for a number of years.

As regards the training—I think that was a point an hon. Member made—that there should be a place for training or

rather that a chairman should be in the chair for longer than one year so that he had a chance to be trained. I suggest that the position for a person to be trained as chairman, is the position of vice-chairman, and that is what is happening to-day. In a number of African district councils—in fact all African district councils, so far as I know, have African vice-chairmen, and that is just what is happening. They are being trained in the procedures and so on to take over the chair in due course.

Another point which was made, Sir, was that in joint committee public officers should not be allowed to vote. Well, I did explain when I moved this, these joint committees mentioned here are joint committees between Government and the local authority to administer money which has been made available by the Government and the local authority. In fact, a lot of these committees will administer money, most of which has been made available by Government, and therefore I think it is only right and proper that the Government representatives should have the power to vote on these committees administering their own money. On the other hand, I re-emphasize that the majority membership of those committees will be members of the local authorities. I think that is a very fair way of putting it; even if they are administering Government money, the local authority representatives will have the majority.

The locational council powers were raised. No powers have yet been given to them, but under the Ordinance I am enabled to give them powers which the African district councils to-day undertake, or powers can be delegated by the African district councils to the locational councils.

6.00 p.m.

These powers, Sir, will vary according to the district and according to the capacity of the locational council itself, but when this Bill has been passed—if it is passed—we will go into the whole matter of the specific basis of each locational council, which is declared a statutory body, and will decide what powers should be given to them. I repeat that the African district council can add

[The Minister for Local Government, Health and Housing] to those powers which I give to the locational councils by delegating further of their own. The type of powers we have in mind are construction and maintenance of dams and water supplies, maintenance of local roads, tracks and bridges, establishment and maintenance of camps for administrative purposes, prevention of destruction of forests, afforestation or planting of grass in denuded areas and so on. That is the sort of thing that locational councils will be asked to undertake.

There was a fear expressed, Sir, that locational councils will become the instrument of the Administration. I again repeat that they will be statutory bodies, with their own authority, their own responsibility, their own power of raising revenue—from a locational rate, from which they will pay their officers and from which they will pay other expenses (which I think was another question put to me). Unless the administrative officers have such very good cases when they put forward their advice that the rightness of their case is recognized by the locational council and therefore it is put into force—there is no other reason why the locational council should always follow what the administrative officers tell them.

I personally believe that in most cases they will, because in most cases the advice will be the right advice.

Markets was a specific suggestion, that locational councils should administer the markets and obtain the money from the rents in order to administer them. There is no reason why they should not under the Ordinance and I would certainly—if any locational council requires that power—consider it. As I say, there is no reason why they should not have it.

The hon. Member for Nyanza North, Sir, raised also a number of points. He said that authority was being reduced; I have dealt with that. He said that Secretaries should become more the real executive officers: I have dealt with that. Of course, he is an executive officer, but he is executive at the order and command of the African district council.

Again he brought up exactly the same point: the presence of the district com-

missioner would mean that the locational council would do exactly what the district commissioner wants. Well, it is up to the locational council; there is no reason why they should, but they will normally because what the district commissioner wants will be what is right.

Then we came to this matter of bursaries and there was a complaint that the locational council was not allowed to spend money on sending someone to the United States of America. I do not know whether it is a good thing that anyone should go there at all—still, that is besides the point. But that is not a proper function for a local authority. Let us get this quite, quite clear. The local authority function is the day-to-day stuff of drains, roads and water—most unexciting, most unexciting, but they are the sort of things which are absolutely necessary for the proper development of any area and any country. They should not be concerned with bursaries and I believe that what the hon. Member did was a very right and proper thing to do. He went round and said, "Here's a deserving man who wishes to be educated but hasn't got the money to go somewhere or other; will you put your money in the hat so that we can send him there?" and they did. He was successful, so he told this Council. I think that was absolutely right and proper and that is the way it should be done. But not through local authorities; that is not one of their functions.

The same thing applies to education, that is, the establishment of schools. Local authorities can become education authorities in certain areas and it might be that sometimes it would be a good thing for African district councils and other local authorities to become education authorities. But the difficulty is this: as hon. Members know only too well, it is not only a matter of money, of building a school, it is a matter of providing teachers, it is a matter of all sorts of other bottlenecks which we have got to overcome and it is no use having a school without it functioning properly. Therefore, with the limited funds at our command with regard to staff and others, the policy and the overall general picture of educational development must be centralized and must remain in the hands of the Minister for Education.

[The Minister for Local Government, Health and Housing]

I should not really be speaking on this particular topic, but I think he would agree with what I have said. We must not therefore upset the balance of the total picture by allowing some people to rush off and put up a school somewhere when others, who may be more deserving, have not been able to do so.

With regard to social welfare, the same thing will apply to African district councils as does to any other local authority, that any scheme of social welfare—which has been defined and hon. Members know the definition—can qualify for a percentage grant from the Government as long as the actual project itself is approved, as it should be. So if any African district council has such a project to put forward, there is no reason why it should not do so and qualify as any other local authority would for a grant.

Now, Sir, another point that was made was a complaint that there should be deposits or sureties made by chief officers of African district councils. The hon. Member who made this complaint said he knew there were quite a number of secretaries and treasurers behind bars. He then said, I think, that the best way of producing honesty among people was to adopt the attitude that they were honest to begin with and not in any way have any suspicions or suspect that they might be dishonest. Well, Sir, I am afraid that as far as local authorities are concerned, we must be a bit more practical than that. Let me remind the hon. Member that the secretaries and the treasurers and indeed all the councillors for that matter, are handling public money. They are not handling their own money; they are handling money which is contributed by the public as a whole, and that means that they have got to be extra careful to see that that money is spent properly and looked after properly.

That means again that African district councils have got to be extra careful to see that the people they employ are people of the right character to look after the money properly for the public. It is not something to play with and this is not a provision that is only in this Bill; the same provision applies to other local authority areas as well, and quite rightly.

There has been too much public money wasted in this way and it is very much the time that we tightened up, to see it does not happen again. It is no real help to the people and the ratepayers that the treasurer is behind the bars; that does not help them, the money is gone. Therefore, the surety or deposit is what we think is the right method of approaching this matter and, of course, it is one which is done in many countries as well, not only here.

I would add one word to that: this provision, of course, is enabling; the African district council does not have to ask for a surety or a bond, but it is enabling for them to do so if they are not very happy about the persons concerned.

I am very glad indeed that the hon. Member welcomed the joint boards. As I said when moving, I think that they are one of the most important developments coming under these amendments, and one which I hope will go a long, long way towards finding common ground between different types of local authorities.

The hon. Member then went on to suggest that executive officers should be elected. I think that was correct. Again I have dealt with this in principle; executive officers are the employees of the local authority; the local authority members are themselves representative of the people, and they should be trusted—that is the whole basis of local government—to employ the right people and to see that they do their work properly. They are the bosses and they must see to it. To have these people elected by some form of electoral college, which I think was to include locational councils as well, would, I suggest, be quite the wrong way of doing it. You do not elect your civil servants; they are the basis of your administration and these officers are the administration of local government. They are not little dictators. Again, I want to stress that; they are not people with specific powers; they are merely the servants of the African district council.

Again there was an objection to the effect that they cannot be removed. The hon. Minister for African Affairs has stated that there are occasions when the Provincial Commissioner has refused to have certain people removed, because he knows that they are good officers and that, shall we say, there has been a

[The Minister for Local Government, Health and Housing]

certain amount of *fitna*. However, the amendment to this Ordinance shows quite plainly that the African district council can take the initiative to remove these officers if it wants to; it can take the initiative, and therefore if the members of it are dissatisfied there is no reason why they should not take that initiative to remove these people. Even those who have been suspended by the district commissioner, the African district council itself has to say whether they should be removed or not. To take away such initiative again would be a very bad thing because I must stress yet again that these men are the servants of the council.

One other point, I think the hon. Member made, Sir, was that he said that the locational councils will be the children of the African district councils. They will not be separate statutory bodies as I had said in my opening speech. And he pointed out that their estimates have to be sent to the African district council under the amendment.

That is quite true, but in fact they are only being channelled through the African district council to the Commissioner for Local Government for submission to me: If they were the children of the African district council there would be no need for their estimates to come to me at all. But they come to me because they are their own individual statutory bodies, with their own individual powers, and even if the African district council has, as is suggested here, the opportunity to make comments, still those estimates must come to me, through the Commissioner for Local Government, and I suggest to the hon. Member that that makes it quite plain that the locational council is a body with its own authority and own responsibility and is not a child of the African district council.

Sir, I think I have dealt with all the points that have been raised. I certainly have no further points in my notes, Sir, and I beg to move.

The question was put and carried.

The Bill was read the Second Time and committed to a Committee of the whole Council to-morrow.

## ADJOURNMENT

THE SPEAKER (Sir Ferdinand-Cavenish-Bentinck): As the time for termination of business is 6.15 p.m. it is hardly worth embarking on a new Bill, I think. So I will adjourn Council till 9.30 a.m. to-morrow, Friday, 21st February.

Council rose at twelve minutes past six o'clock.

Friday, 21st February, 1958

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

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

#### PRAYERS

#### PAPERS LAID

The following papers were laid on the Table:—

The Price Control (Cement) (Amendment) Order, 1958.

(BY THE MINISTER FOR LEGAL AFFAIRS (Mr. Conroy) on behalf of the Minister for Finance and Development (Mr. Mackenzie))

The Cashew Nut Marketing Rules, 1950.

(BY THE MINISTER FOR LEGAL AFFAIRS (Mr. Conroy) on behalf of the Minister for Agriculture, Animal Husbandry and Water Resources (Mr. Blundell))

The Education (Fees) (Amendment) Rules, 1958.

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

Report of the Public Works Department for the Eighteen Months Period, 1st January, 1955 to 30th June, 1956.

(BY THE MINISTER FOR WORKS (Mr. Nathoo))

#### ORAL ANSWERS TO QUESTIONS

##### QUESTION No. 60

MR. MBOYA asked the Acting Chief Secretary to state what steps have been taken to ensure that the terms of the Motion on the elimination of discrimination in hotels, restaurants and public places passed without a division by the legislature on 13th June, 1957 is carried out.

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones): As was made clear in the debate on 13th June last on the motion to which the hon. Member refers, the Government deprecates such discrimination but considers that its removal is an objective which can best be achieved

gradually by the a process of evolution and enlightenment rather than by legislative imposition.

To this end, three Ministers of the Government met a delegation from the East African Hotelkeepers' Association in July last to explain to them the Government's view as expressed in the debate and to enlist their active co-operation, which has been readily forthcoming.

The Government refers to the East African Hotelkeepers' Association any specific and proven complaints of discrimination by members of that Association which may be brought to its attention, so that the Association may use its influence to prevent unwarrantable discrimination in the future.

It will be appreciated, however, that attempts which have been made by certain individuals to create incidents in hotels and restaurants by deliberately courting refusals to serve them have the effect of arousing antagonisms and therefore do more to hinder than to advance progress towards the elimination of such discriminatory practices.

I should add that the Government, notwithstanding its present view that the progressively developing weight of public opinion against discrimination will achieve better and more lasting results than legislative compulsion, is nevertheless examining the effects of any relevant legislation elsewhere on this subject.

MR. MBOYA: Mr. Speaker, Sir, is the Minister aware that we on this side of the Council are very happy to know of the steps the Government took immediately after the passing of the Motion, by meeting the Hotelkeepers' Association, and the influence that this has had on the situation?

Is the Minister also aware that in one instance a hotel manager turned out a European who was being awkward to some visiting persons from Tanganyika, and that we on this side of the Council would very much appreciate what some people are trying to do in this direction?

Is the Minister aware, however, that in one or two instances, particularly related to very much smaller restaurants, there have been incidents that seem to be originating not so much from a lack

[Mr. Mboya]— of understanding or from any provocation by the people who deliberately want to force incidents, but from the people who for a long time have not seemed either to understand the situation or to have belonged to the Hotelkeepers' Association, and what would the Government do to try and influence such people?

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones): Mr. Speaker, Sir, I am very gratified to hear what the hon. Member has said and to recognize that we all in this Council, on both sides, are in identity of view, both in regard to the practice of discrimination and to the best means of eliminating it.

In regard to the latter part of the hon. Member's supplementary, I would say that it is, in the final analysis, the weight of public opinion which is developing so very rapidly that will put an end to instances of individual unwarrantable discrimination, such as the hon. Member has referred to.

MR. NAZARETH: Is the Government aware that the Asian Minister without Portfolio was denied admission to an hotel in Eldoret, and what steps has the Government taken about that, if it is aware of it?

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones): The Government inquired very closely into the incident to which the hon. gentleman has referred, and ascertained that in fact the hotel in question had not refused to accept the Asian Minister without Portfolio, but it had, in fact, expressed its readiness to accept him and a colleague of his on the committee which was investigating, under the chairmanship of the Asian Minister without Portfolio, the operation of rent control. The management had, however, warned that there might be some embarrassment to the Asian Minister without Portfolio by reason of certain prejudices held by certain individual Europeans in the area.

MR. NAZARETH: Is the Government aware that, consequent to the Asian Minister being unable to obtain admission, he cancelled a visit to Eldoret which was intended to be made to Eldoret as chairman of that committee to which the Minister referred?

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones): The Government is aware that the visit of this committee to Eldoret was cancelled, but I reiterate that very careful investigation which the Government made into the matter did not disclose any suggestion that the hotel in question had declined to accept the Asian Minister without Portfolio. The effect of the hotel's warning that there might be embarrassment caused to the Asian Minister without Portfolio was to deprive the residents of that area of the opportunity of making representations to that committee.

MR. HARRIS: Is the Minister aware that it was the European members of the committee who brought the matter officially to the notice of Government, in order to try to prevent similar cases of discrimination in the future?

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones): The Government is so aware and fully appreciated the action of the European members of that committee and took the trouble as a result, to inquire most carefully, as I have said already, into the matter. The trouble, as I have said, arose from certain prejudices held by some European individuals in that area—prejudices which I trust are rapidly diminishing and will shortly disappear.

MR. COOKE: Was this rudeness, deplorable as it was, a sufficient reason for deterring the hon. Minister from doing his duty and attending that meeting?

THE SPEAKER (Sir Ferdinand Cavendish-Bentnick): I will allow one more Supplementary only. This is now becoming a debate, not a Question.

MR. MBOYA: Is the Minister aware that the European, Mr. Cook, who was responsible for the incident at the Queen's Hotel and was turned out by the manager, was also resident from Eldoret?

##### QUESTION No. 78

SIR CHARLES MAREHAM asked the Acting Chief Secretary—

(a) the total number of employees of the United States Information Service in Nairobi and elsewhere in the Colony; and

(b) the total number of the United States Information Service personnel to whom formal consular recognition has been accorded.

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones):—

(a) I am informed by the American Consul-General that the total number of employees of the United States Information Service is 16. This includes three American-based employees and 13 locally engaged. Of the latter, two are messengers and one is a telephone operator. All are stationed in Nairobi.

(b) Two employees of the United States Information Service are consular officers, one is a Consul and the other is a Vice-Consul.

MR. ALEXANDER: Mr. Speaker, is the Government satisfied that none of these people are engaging in political activities in this country to the embarrassment of the people?

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones): Mr. Speaker, Sir, I was asked a question of statistics. I do not think the Supplementary arises.

#### BILLS

##### SECOND READINGS

##### The Election Offences Bill

9.45 a.m.

Order for Second Reading read.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): Sir, the object of this Bill is to prevent election offences, to prevent corrupt practices and to prevent illegal practices in Legislative Council and local authority elections other than elections to African district councils. The purpose of the Bill is to ensure that the results of elections, in so far as it is possible to do so by legislation, reflect the free and honest views of the electorate.

Sir, the Bill is cast in a form which is common in England and various other parts of the Commonwealth and I think I can say fairly that it represents a distillation of the experience enjoyed elsewhere of racketeers and other dishonest persons who try to rig elections.

First of all, the Bill seeks to prevent and punish election offences, which are offences mainly committable by officers charged with the conduct of an election. It secondly seeks to prevent and punish corrupt practices, and here the Bill has obviously drawn on experience elsewhere and indeed is largely a repeal and a

replacement of sections 26, 27, 28 and 29 of the Legislative Council Ordinance, Cap. 38, and deals with impersonation, treaty, undue influence and bribery. I might mention in passing that bribery may well be an offence not only under this Ordinance but also under the Prevention of Corruption Ordinance.

Sir, possibly of more interest to Members of this Council is Part IV, which deals with illegal practices and which introduces matter new to our statute book. Clause 12, if hon. Members would be so good as to turn to that, prohibits certain expenditure. This is to prevent a candidate with a long purse having an advantage over the candidate with a short purse. In other words, it tries to get rid of the unfairness which a wealthy candidate can use against a poor candidate by prohibiting the hiring of transport to take electors to the poll and by prohibiting the hiring of advertisement space. That is the law in England and elsewhere and has been found in practice to work well.

Clause 13 introduces new matter. Clause 13 requires employers to allow employees adequate time to go and vote on polling day. I do not think I need go any more than to draw Members' attention to that provision because it is so obviously and manifestly just, that we may well wonder why it was not in our legislation before.

Clause 14 implements the rule which is generally observed in elections that all is fair until the eve of polling day, and on the eve of polling day everything stops except polling; and it does mean that the turbulence and noise of the hustings dies away on polling day. The intention behind this, Mr. Speaker, is obvious, that on polling day the electorate should have made up its mind and should be concerned with the mechanics of polling.

MR. HARRIS: You are an optimist!

THE MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): Sir, this is our best effort to stop what the hon. Member for Nairobi South thinks will happen.

As I think I have said, Sir, the Bill is largely repealing and replacing and consolidating with improvements what is already the law. I think I ought to say this, too, that the forthcoming African

[The Minister for Legal Affairs]

elections were not aimed at in this Bill. They are not the cause of this Bill being introduced to-day. After the last General Election it was quite obvious that our legislation required overhaul and this is the first step being taken in the general overhaul of the whole of our legislation relating to all types of elections.

Mr. Speaker, I have looked back on my file and I see that really the first request for this draft was made on 11th January, 1956. No one can accuse this Bill of being a premature baby. It has taken some time to appear and it was not timed to appear just before the African elections. It just so happened that it did.

Mr. Speaker, finally, I wonder if I might presume to advise hon. Members. When I was considering this Bill the other evening I went away to the splendid passage in *Pickwick Papers* which deals with the Eatanswill by-election and I can honestly recommend hon. Members to go to their bookshelves and read that chapter. They will be astonished (I think it is probably a fairly true and not over-distorted picture) at what went on in elections in England 150 years ago. Hon. Members will remember the quite astonishing things that went on when the barmaid at the Town Arms Inn "housed" the brandy and water of 14 "free and unpolluted electors". The housing consisted of putting laudanum in their drinks so that they woke up two days after the election.

Now, Mr. Speaker, I do not introduce this for the sake of amusement: I introduce it because I think it will give genuine pleasure to hon. Members to go back and re-read this and also to point out that by legislation such as this, and by an increase in the standard of public honesty, that kind of thing which went on 150 years ago in England has virtually ceased in England. I do think that that is a good reason for this Bill being enacted by this legislature.

I accordingly beg to move, Sir, that it be now read a second time.

MR. JACK seconded.

Question proposed.

MR. HARRIS: Mr. Speaker, Sir I am afraid that I must support this Bill because if I started to advance my theory

that the world has gone wrong since we started the elective principle, I think we should probably be here for a very long time. As I do not propose to prove my theory I have no alternative but to support the Bill.

I think the very nature of the Bill itself, Sir, goes to support my theory that by this principle of election we are complicating an already over-complicated world.

However, Sir, the Mover asked if he might have the right to advise us or if he might presume to advise us. I think that probably inherent in this Bill, Sir, is the advice to all candidates at all elections that they should go to bed three months before an election and stay there for three months afterwards; otherwise I am quite sure they will commit an offence in the meantime.

If it is necessary to have legislation of this nature then I do not think this Bill really goes far enough. Some of the most serious offences are those contained in clause 3 of the Bill for which the penalty is liability to imprisonment for term not exceeding one year or a fine not exceeding Sh. 10,000. Yet, Sir, to lend a saxaphone, under section 14, the fine or the term of imprisonment is in each case half the penalties for these major offences. I think, Sir, that the Government might very seriously consider increasing the penalties in clause 3.

Now, Sir, I have one or two matters where I would like guidance. In section 5 (2) the Bill states that "... every officer, clerk, interpreter, candidate and agent in attendance at the polling station shall maintain the secrecy of the voting in such station". I think that up until there everybody would agree that secrecy is essential. Then it goes on—"... and shall not communicate except for some purpose authorized by law before the poll is closed to any person any information as to the name or number on the Register of Electors of any elector who has not applied for a ballot paper or voted at that station".

The Mover said that this was similar to legislation in Great Britain. But is it a very common practice at elections on election day to rustle up those who have failed in their civic duty to cast a vote. Apparently, Sir, under this a candidate in saying that "Mr. Hope-Jones has not

[Mr. Harris]

yet voted and would somebody ring up the Secretariat and ask him to go along and cast his vote" is committing an offence. I would like clarification on that because it is a very common practice at all elections.

Now, Sir, in section 10 we come to legislation which is similar to that which we have always had and which has never really been understood. I am thinking particularly of the offence or possible offence of offering refreshment to electors either before an election, in order to influence their vote, or after an election in gratitude for their having voted or not voted. I have always interpreted that—and I may have a policeman waiting outside for me when I go out—as meaning that when a person has committed himself to vote for a particular person then bribery does not arise in giving that person refreshment. I believe that is a generally accepted rule, but I would like clarification as to whether that is in fact what we are passing.

I will give an example, Sir, that it is common at elections to have a candidate's committee. The candidate's committee in most cases consists of electors in that particular constituency. The very fact that they are working on behalf of a candidate I would have thought shows an intention that they will vote for that particular candidate. Now, Sir, is it an offence for a candidate at committee meetings to say, "What will you have?"—or should it be an entirely dry and hungry meeting until after the election?

Then, Sir, I am very honoured by the fact that a great number of hon. Members on the other side are constituents of mine. Some of them, for all I know, may have voted for me. If they did, Sir, it is one of the wisest things I have ever known hon. Members on the other side do. But could it be read into this law that if, Sir, I now invite the Acting Chief Secretary to have a glass of beer with me at 12 o'clock this morning, am I in fact committing an offence in that I am saying "Thank you" to him for having voted for me or refrained from having voted for anybody else at the last election?

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones): That would take more than one glass of beer!

MR. HARRIS: I now come to section 12 (1) where the Mover quite rightly said

that it is the intention to prevent the candidate with the long purse having an unfair advantage over one with the short purse. It is, however, also a habit, even with candidates with short purses to rent or to borrow premises—this particularly occurs in urban areas—or a room which can be used as a committee room. It is usually, if he can find such a place, centrally situated so that it is of the greatest convenience to the electors, where they can find out whether they are on the roll and where helpers can come and use that room as a focal point.

Now, Sir, if one hires a shop, say in Delamere Avenue for that purpose, or an office, is it an offence under 12 (1) to put up "Vote for Bloggs" in the window? It appears to me that it would be. I do not know.

10 a.m.

Now, in 12 (3), Sir, we come to this question of a candidate or a person on a candidate's behalf hiring transport for taking people to the polls. It seems that that is qualified by sub-section (5) which says: "Nothing in sub-section (3) . . . of this section shall prevent a vehicle, vessel or animal of transport of any kind being let to, or hired, employed, or used by a voter or several voters at their joint cost for the purpose of being conveyed to or from the poll". Well, it seems to me that it is putting an awful lot on a taxi driver on election day to know whether he is committing an offence or not. I could, through an agent, suggest that he should go, say, to Dagoretti Corner to find three people who had not voted, and to bring them back by taxi. Now, if I did that, Sir, and I gave my agent Sh. 5 to pay the taxi fare, as I understand it under section 12 (3) that would be an offence. If I got my agent to give each of these electors a shilling each, and they paid for the taxi, then under some other section it would also be an offence because that would be read as a bribe.

But, Sir, how is the taxi driver to know, when he is engaged, who is going to pay for the taxi at the end of it? And I am quite sure, Sir, that the hon. Nominated and knightly Member might be able to assist us on this particular practice of the motor industry. But I do feel, Sir, that candidates and taxi

[Mr. Harris]

drivers, as I suggested earlier, should go to bed on election day and stay there.

Now, Sir, in section 13 (1): "Every employer shall, on polling day, allow to every elector in his employ a reasonable period for voting". I wonder, Sir, what a reasonable period for voting is. I would have thought that Government might have considered here that an employer—not a candidate or an agent—but an employer might be encouraged to convey his work-people to the poll. It would not be a compulsion, of course; but if an employer hires a bus from the Bus Company in order to save time, and says: "I will send all my workers to the poll at 12 o'clock. They can have from 12 to 1 to vote; they can have their lunch from 1 to 2, and I will bring them back at 2 o'clock". He at least, Sir, is getting the maximum amount of efficiency in his works, and at the same time giving the work-people a reasonable opportunity to vote. Otherwise, Sir, I believe that election day might easily become a public holiday in granting a reasonable time to vote. But if this employer does hire this bus, then presumably he would be committing an offence under section 12 (3), or (4)—I am not sure which—anyway, under section 12.

I now come, Sir, to the last point I have to make, and that is frightful offence of furnishing musical instruments and loud-speakers. I thoroughly agree about the loud-speakers, Sir; but not necessarily about the musical instruments. And I do not know what to furnish is. If, now, the Minister for Finance should ask me if he could borrow my saxophone, and at the next election day—

AN HON. MEMBER: A piccolo!

MR. HARRIS:—the strains of "I want some money" issue from a house in Selators Road, presumably I am committing an offence because it is my saxophone, and the Minister for Finance—of course, I am assuming that he is a candidate—is also committing an offence. He might even, Sir, want to play: "I can't give you anything but love", but I believe that might also be interpreted as being electioneering in the case of a Minister for Finance. Actually, Sir, we could go on for a long time; I would love to hear, Sir, the hon.

Member for Nyanza Central playing "Buttons and Bows" on a piccolo!

Finally, Sir, I think that there is no doubt that the Member for Nairobi North would be committing an offence if he were seen playing, again, a piccolo and singing: "And I lift up my finger and I say 'Now, now, hush, hush, tweet, tweet, come, come!'"

Sir, I beg to support.

SIR CHARLES MARKHAM: Mr. Speaker, I think it is a pity that when the hon. Member for Nairobi South mentioned all these various songs, we did not ask him to sing them in this Chamber!—because I can think of one or two others as well which I will mention in a minute, affecting the Member for Nairobi South.

Sir, I support this Bill, and I would like to apologize to the Minister in charge of it straightaway now that I shall not be here to hear his reply: I have another meeting starting in a minute.

I have one or two very brief points, Sir, which I would like to raise for his consideration. First, Sir, I think he gave the example of England; I would like to make one point, Sir, which I had hoped would have appeared in this Bill to-day. That is the limitation of expenses such as exists in England; I think in England that it is—it varies by constituency—it is based on a formula of numbers or so much per head, and also bearing on the size of the constituency. But I do think, Sir, that in this country particularly the person who has the money can spread an enormous amount of propaganda by the Press, by pamphlets, by posters, which does prejudice the other candidates. I had hoped we might see an innovation like that in this Bill which would have brought us more into line with England.

The second thing, Sir, I wonder, is who is going to enforce this Bill once it becomes law? There is a mass of stuff you must not do and you must do; but who is going to enforce it? I think perhaps the hon. Member for Central Area will remember the election that took place there prior to the last one, at which the poll had to be cancelled and a new poll taken because of the chaos at the polling booth. Now, Sir, I believe that Government have a certain liability to themselves rather than placing the onus entirely upon the wretched elector; and

[Sir Charles Markham]

I think particularly that it is up to the Government to make quite certain that their own electoral rolls are up to date, that they also are accurate, rather than the wretched person, perhaps not very well educated, going along and finding that he is committing an offence under section 3 because he was not the person entitled to be in possession of a ballot paper. But we have known cases, many cases, particularly in some of the Asian constituencies, where there has been very great difficulty for people to identify themselves and get the paper; with the result, I understand, that at the 1952 election there were the odd cases where people were claimed to have voted two or three times at the same election.

I would like, Sir, as a small perhaps lighter side, to refer to section 3 (g) about putting into the ballot-box anything other than the ballot paper which he is authorized by law to put in. Now, Sir, I thought it was quite a good story the other day about an election in England where a chap put a dead mouse into the election box tied to his own ballot paper, saying that was all he thought either of the candidates were worth. The result was, I suppose, under this he would be committing an offence. It was quite good fun, anyhow, and might be well worthy of the Attorney-General prosecuting.

Sir, I have one or two very small points which I would like to raise. I, like my hon. friend, the Member for Nairobi South, I am somewhat concerned at clause 8 of the Bill, which is the question of "every person being guilty of the offence of treating who corruptly, by himself or by any other person, either before, during or after an election". Sir, I think there should be some time factor in this before elections, because it is very vague, Sir, just saying before, during or after an election. In other words, Sir, we may get some people who announce in the next by-election for the Coast that they want to stand. Now, would they be committing an offence straightaway now if, having announced their intention of competing in that seat, they started giving, perhaps, the sitting Member a drink? I would like to know, Sir, a little bit about that, whether it can be absolutely clear.

Sir, my final point again comes back to musical instruments. I wonder again

who will be guilty of the offence. If I lend my trumpet, which I always blow, to somebody who plays it outside polling station and as the hon. Member for Nairobi South comes in to vote, he plays "Up Colonel Bogey!" or alternatively, if we get a very pretty girl to come and croon lovely songs about the candidates. For example, I have already thought of one: if the Minister for Defence stood as a candidate, he might well have a girl singing "I'm nobody's sweetheart", and hope for the best. Alternatively, Sir, the Member for Nairobi South—he might get somebody with a piano accordion to come along outside and perhaps make some rude noises on a musical instrument—would that in turn be an offence, if it were—without any question of a song—just a derogatory sound which I can make on one or two musical instruments.

MR. HARRIS: That would be my opponent!

SIR CHARLES MARKHAM: Again, Sir, who is going to be prosecuted under this—it says "a person", but will the candidate who causes these instruments to be used and these songs to be sung perhaps be guilty of the offence, or will the person who does it just for the sake of a bit of amusement?

Now Sir, in South Africa, on all election days they close every pub and every bar and every hotel, on the grounds that when a man has had a few, Sir, he is much more inclined to vote for some of the candidates. Now, it is very hard, Sir, if somebody, about half past five or six o'clock, just before the poll finishes, having indulged heavily throughout the day, reels along singing a song "I love you all", or "Old soldiers never die", or other versions, perhaps again with a little miniature band behind him, could be prosecuted. I do not think, Sir, that he is helping any candidate; in fact, he might be doing the opposite. But I want to know again, would be an offence, because it would make an awful laughing matter if it does occur.

Now, again, Sir, what happens on the question of instruments regarding our African friends? Does the beating of toms toms, for example, come under this particular clause? Does, for example, a mass *ngoma* that took place, I believe, during the election of the Member for

[Sir Charles Markham]

Kiuii—he is not here, Sir,—is that included perhaps in the definition under clause 14?

I have got nothing to add to this Bill, Sir, except that I would like to say to my hon. friend, the Member for Nairobi South, that he has got to have it. It is obvious we have got to have something there, but I wish it had included all the aspects such as exist in England and that we could, ourselves, try to have some limit to the expenses by candidates. Again, I do think as well, Sir, that the candidates should have a liability for a campaign, rather than just spending as much money as he likes depending on the state of his income.

Mr. Speaker, I beg to support.

MR. SLADE: Mr. Speaker, Sir, I support this Bill. There is only one point on which I might possibly make a useful contribution. Two hon. Members have expressed anxiety concerning clause 8 which deals with treating. I am quite sure that the hon. Mover has his answer ready for them, but it may be that neither he nor other Members of this Council are aware that this particular subject received fairly exhaustive treatment in the course of an election petition which took place, I think, in 1944 in this country. It was the occasion of the election of the Member for Aberdare that then was, now Mount Kenya. The election was challenged by the unsuccessful candidate on the grounds that the successful candidate, or rather, his supporters, had been guilty of treating. It was not actually for the purpose of prosecution, but the point is the same. An election can be invalidated on this same ground on which a candidate can be prosecuted.

Now the circumstances of that were that a supporter, an enthusiastic supporter, an enthusiastic supporter of the successful candidate, had laid on a very sumptuous lunch party, to which various people were invited for the purpose of hearing the candidate speak afterwards. That was alleged to be treating. The petition was heard by no less an authority than Mr. Justice Horne, the first Speaker of this Council; and in his judgment, that he gave in favour of the successful candidate, he emphasized among other things that the whole essence of this offence, or the validity of

the election, is a corrupt intent. It does not matter how many drinks you give or take as long as there is no corrupt motive established against you.

He did go further and make a point which can be important in a country like this, I think: that the probability of a corrupt intent depends very much on the people you are dealing with. He rightly or wrongly expressed the view that, in that election, there were not very many voters of the type who were likely to be bought by a drink. Therefore there was all the more presumption in favour of the successful candidate.

These things get lost, Sir; I am not sure whether that judgment was ever reported in the Law Reports, so it might be worth mentioning it to-day.

10.17 a.m.

MR. ODINGA: Mr. Speaker, having had experience of the last election, I am forced to support this Bill. At the same time I have heard some suggestions, especially from the Member for Ukamba, about the expenses on that day. In speaking about, and in consideration of, the rural areas, especially the African rural areas, the constituencies are pretty large, and if the candidates are not allowed minimum expenses for transport alone, it is rather worrying. I feel, you know, we have got so many people who would not be able to manage the transport to go to the polling stations themselves, and if a certain amount was set aside for this it would help the candidate to transport these people, especially the older men. The older men would not be able to move easily to the polling stations and they would certainly need some transportation there.

Of course, I do not know whether that will reveal that so-and-so is going to vote for so-and-so and that is why he takes him. But it did not seem to prove to be correct in the last election, because you could have provided transport and then later on all those people whom you have transported will probably not vote for you but for someone else altogether. Therefore I quite agree, and I would only ask the Minister to consider whether a certain sum could be allowed for these people who have got constituencies for the transportation of disabled and older men who would not be able to manage the transport themselves to the polling stations.

[Mr. Odinga]

With these few remarks, Mr. Speaker, I beg to support this Motion very strongly.

MR. USHER: Mr. Speaker, Sir, there is one point upon which I should like some clarification. I have read the definition of election and if the hon. Member would clear this up I should be obliged. Shortly, as I understand it, we are to have an election of rather a different kind in this Council to selected memberships. Of course, that will come within the definition of elections, we shall all of us have to be most circumspect from now onwards, very much to the detriment, I am afraid, of the interests of the Kitchen Committee.

Sir, I beg to support.

MRS. SHAW: Mr. Speaker, Sir, I rise to support this Bill and I should like to congratulate my hon. colleague, the Member for Nairobi South, on the extremely witty manner in which he presented some of the ambiguities of this Bill. I will make no attempt to follow in his footsteps.

I am sorry to see that in this Bill Government has made no attempt whatever to bring about a more efficient handling of voters' rolls. Just to take an example, a large constituency such as mine with a very small number of European voters at the last election was supposed to have, I think, 1,280 voters. In actual fact 17 were dead, 56, if I remember rightly, had left the Colony for good and all—they had gone to Great Britain, Canada, other parts of the world—and I think 300 had left Nyanza and there were 100 who had never been heard of in the Colony at all.

I naturally ascertained that if the names of those who had left the Colony and had been heard of still appeared on the roll on 11th September, I think it was, on the roll published before the election, it was considered to be perfectly legal to acquire their vote, no matter from what part of the world it came, provided it arrived in time. I had that ruling from the Attorney-General, so I felt I was perfectly safe on that one. But it is complete nonsense really to have the rolls in such a mess, and

as far as I can find out there is nobody who seems to be in a position to put that right. I have been called in, and I spent two days last month trying to help Government to straighten out the rolls as they did not seem to be able to get the required information.

As far as people who are dead are concerned, surely it would be possible, Mr. Speaker, for the Registrar-General to whom you have to report a death through the police immediately, to inform the district commissioner of the area in which that person lived. That would be one possibility. I would have thought.

The other thing I am sorry to see omitted from this Bill is the incorrect filling in of the application forms to appear on the voters' roll. I will give a case in point which also happened in my own constituency in, I think, the very first election I stood for. Several of the members of a religious society—nuns—applied for application to vote. They applied, in the belief that this was correct, to do so under their religious names and not under their worldly names. The Government accepted their application forms and as there was no acknowledgment of the applications—~~it~~ was not before this first election, I think that may have been rectified now—so that they knew whether the application forms had reached the district commissioner and whether consequently they had been registered, they thought that they were properly registered. But when the day of the poll came and they appeared to cast their vote, very properly as citizens, they found that they were not able to do so, because they had incorrectly registered under their religious and not their civil names.

I think Government should in such a case have replied to say that these good ladies had to apply under their civil names, and should have told them that they were therefore not on the roll; they should not have left it until election day.

Taking into consideration the fact that our postal services are so inefficient, I would like to bring forward for consideration the fact that applications should be acknowledged, so that you then know definitely that your name now appears as an elector on the roll.

[Mrs. Shaw]

Those are just a few points which I think it would be as well to clear up.

Mr. Speaker, I beg to support.

MR. MBOYA: Mr. Speaker, Sir, in supporting the Motion, I have only one or two points which I want clarified. Firstly, I must say that I am in full agreement with the points that have been made, particularly by the Member for Nairobi South and the Member for Ukambani.

The only other two points I wish to make are particularly those which will be peculiar to African elections. I noticed at the last elections that at the polling station a lot of supporters of the various candidates tended to group together and on the polling day, during the whole time, made noises similar to the noises made by the type of animals which were symbols representing the candidates? For instance, we had some growling like lions, some crowing like cocks, and so on. I do not know what the position of these voters would be, because some of them voted and then stayed on at the polling station and continued to make this noise. Would they be creating an offence and if so would they be the people liable or would the candidate be liable? We would very much like to know that because it so happens that when our people get together they like to sing and make a bit of noise, particularly when they support a candidate—they want to make it known.

The other point is about musical instruments. Again, I think the hon. Member for Ukambani has raised this point about the African tom-toms and drums and so on. We do not know whether this is included in the definition of musical instruments and if, say, some of our people very often at large gatherings come either with a drum or some other thing, sometimes just with sticks, and they begin beating some sticks together. Would such sticks be regarded as musical instruments, if accompanied by songs?

I join hands with my colleague, the Member for Nyanza Central, on the question of the use of funds on polling day for transportation. He made the point that at least there should be an allowance for some minimum funds that a candidate may use on such a day. We appreciate the intention of the law on

this particular point, but I think we have to be realistic enough to acknowledge that in other more developed countries facilities for transport for practically every sort of voter are very easily available, whereas in this country this is not so much the case. It becomes very often, in order to secure a high percentage of voting on polling day, necessary for those who are actively involved to encourage people to come to the polling stations. Unless the Government is going to assure us that the polling stations will be so placed that it will be within easy reach of practically everybody, it will be a bit hard on the candidates, and particularly their supporters, if by giving someone a lift or encouraging someone to come to the polling station they are committing an offence under the suggested law.

Mr. Speaker, with these few remarks I beg to support.

MR. HASSAN: Sir, I rise to support this Bill. I have one or two points I would like to raise. In section 8 it says that any refreshment given on the polling day by the candidate or others will be considered an offence. I cannot see any definition of refreshment given here. I would like to ask the Minister whether a drink of cold water—which is also a refreshing thing—is included in that.

10.30 a.m.

A smoker would like to have cigarette to refresh himself. Is that also included? Or a cup of tea? Is that considered to be a refreshment and therefore an offence? The usual system of election that I have experienced is that outside the polling station one has to keep a small *banila* or office, so that one's voters come through that *banila* and take a numbered ticket to make it easier for the polling station to take the votes. This is very difficult work which is carried on by the volunteers who are supporting the candidate. Those volunteers had to deal with thousands of people for 48 hours; they had no time whatsoever to leave their table to go home for refreshment or food or anything. Is a cup of tea to such volunteer workers, or a smoke, or a glass of drinking water considered to be a refreshment and an offence?

The next thing is that in clause 5 it is given that no clerk, interpreter or officer may divulge any information as to the number of voters and ballot papers cast in the polling booth; if anyone does and



(Mr. Hassan)

this information is not kept secret, it will be an offence. I usually found that the presiding officer every hour was giving out a number to the candidate through his staff that so many votes had been cast. That gave information to the different candidates as to the number of voters expected to cast a vote in that station, both who had cast votes and who still had to cast votes.

Is it an offence, though it was considered to be quite in order by the presiding officer in the past?

With these few remarks, Sir, I beg to support the Bill.

MR. NAZARETH: Mr. Speaker, Sir, I think I ought to join this chorus that has welcomed this Bill. I should just like to make a few points.

It is particularly welcome to those of us who suffer from the misfortune of possessing very large constituencies, particularly the provision contained in section 12 which prohibits the payment of transport expenses. I have a constituency, I am told, of over 60,000 square miles and I think the Minister for Works represents an even larger constituency. So that this Bill does afford a very considerable measure of relief from unfair competition, one might say, between the poor and the rich, or those with long purses.

Perhaps the Minister will give consideration to the point which has been raised by the Member for Central Nyanza, that is, enabling the payment perhaps of transport expenses incurred in the case of the old and the infirm, those who may find difficulty in getting to the polling station.

There is also one other matter which perhaps might be considered in this Bill and that is the limitation of the charges which may be incurred on postal voting, although that does not perhaps properly figure in this Bill. In the last election I was told that very extravagant charges were levied by medical practitioners and others before whom postal votes were taken. Perhaps the Minister might give his attention to that point.

I am also troubled about the point that has been raised by some of the hon. Members who have spoken and that is how the provisions of this Bill will be

enforced. I should imagine the meat of this Bill will be in the way in which its provisions will be enforced.

The Member for Ukamba has suggested to the Minister that he might consider limitation of expenses for which, apparently, provision is made in English legislation. Seeing that we have not got a party system here, perhaps it might be a good point if the Minister were to give his attention to that. I do not know whether it is possible while he is considering limitation of expenses for him also to consider making it an offence to have a constituency beyond a certain size. That would afford a considerable measure of relief to Members like ourselves who have these large constituencies.

I think the point that was made by the last speaker has been sufficiently answered by the learned and hon. Member for Aberdare when he said that the real point involved in treating was the intent. So if you give water to a voter with a view to corruptly influencing his vote, I suppose you will be guilty of the offence of treating. If you had not the intent, you would not be. I think that is the short answer to it.

I am grateful that this Bill has been introduced and that the Government is taking these steps to equalise the position between those who have a long purse and those who have a short one, because that is a difficulty which particularly appears in those cases where the constituencies are very large and consequently the candidate who has not got a long purse suffers a great disadvantage as compared with the one who has a long purse. It has a great effect in this way: it not only brings about unfair competition between candidates of unequal means, but it prevents persons coming forward to offer themselves as candidates who do not possess large means. That in itself is a very great service which the Bill renders to voters, to candidates and to the public.

THE MINISTER FOR LEGAL AFFAIRS: (Mr. Conroy): Sir, nine hon. Members have raised questions and I see that six of them have not bothered to wait for the answers! I propose to answer their questions with a seriousness proportionate to the gravity in which the questions were asked.

(The Minister for Legal Affairs)

Sir, the hon. Member for Nairobi South asked about refreshments given under clause 8. That was a clause to which other Members also drew attention and asked questions about. Sir, the operative word in the section is "corruptly", and I am most grateful to my hon. and learned friend opposite who made the same point and the hon. and learned Member for Aberdare who made the same point too. If you give a glass of water corruptly—although it is difficult to see how a glass of cold water is going to corrupt anyone—

AN HON. MEMBER: Corrode.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): Corrode, yes, but corrupt, no. If you do give refreshment to anyone with the intention of corruptly—that is, for an improper purpose—inducing them to cast their vote one way or another, then you are guilty of an offence; and you are guilty of an offence whether it is a cigarette, a pinch of snuff or a glass of water, whether it is given six months before the election or six months afterwards, provided it is given for the purpose of corruptly influencing someone to do it. So as regards the voluntary workers who assist the candidate throughout the long and tiring polling day and who are given luncheon or sandwiches—clearly, it appears, in one election offence case that I looked at (I do not know whether hon. Members are so generous nowadays)—or who are given refreshment in the middle of the day, of course it is not an offence because you do not give it to your voluntary workers for the purpose of corruptly inducing them to cast their vote one way or another.

Sir, the next question asked by the hon. Member for Nairobi South was on clause 12, when he asked whether it would be an offence for a candidate who had hired an empty shop as an office to write on the window: "Vote for Bloggs". Sir, if he would look at the words of the section, I think it is fairly clear. What the section prohibits is a payment or a contract with a person for the use of any house or other premises for the exhibition of advertisements. If you hire a shop for the purpose of exhibiting advertisements or an address, or a bill or a notice, then you commit an

offence. But if you hire a shop for the purpose—and make a payment—of using it as an office, then you do not commit an offence. So it would be for the court to say whether in the hiring of the office for the purpose of an office there was any intention also to use it for the purpose of advertisement. It would, I think, be very difficult in some cases to decide just which side of the line the particular circumstances brought the candidate.

Now, Sir, with regard to the transport under clause 12 (5), the purpose is this. The purpose is to allow any voters who wish to do so club together to hire a taxi. The other purpose is to prevent candidates from hiring transport, if they are rich enough to do so, and going round whipping up electors. Sir, you can obviously, in any case, draw attention to circumstances which fall on just one side of the line or just on the other, but, broadly speaking, this clause does, I think, carry out the intention of the Government, which is to prevent this type of abuse.

Then the hon. Member asked what was a reasonable time for voting. I am always sorry when I have to give this answer, but it is the only one: it depends upon the particular facts of the particular case. If a man lives within 100 yards of a polling station, then clearly he wants very much less time in which reasonably to vote than a man who lives five miles from the polling station; and this must depend on what is reasonable in the particular facts of each case.

Then, Sir, we had a lot of sound about musical instruments. Sir, the fundamental purpose of this Bill is to prevent fiddles; those are the musical instruments at which it is principally aimed. If hon. Members would look at clause 14, they will see that it does not stop the hon. Member for Nairobi South becoming a flautist or a timpanist in Sclaters Road, unless he uses the instrument upon a vessel, animal, motor-car, truck or other vehicle. The idea is, Sir, that it stops people touring round and making a beastly noise to the detriment of the enjoyment of their ordinary rights by the ordinary citizen. I here and now give notice that if any loud-speaker on a vehicle comes down my road saying: "Vote for Bloggs". I am going to vote

[The Minister for Legal Affairs] for Bloggs's rival. That is the great sanction against these beastly intrusions into one's privacy. The intention, of course, is that you shall not have loud-speakers—and when I say loud-speakers, I am not referring to candidates, I am referring to the mechanical means through which they speak—going round on vehicles and on animals or any other form of conveyance. The candidates can, if they want to do so, Sir, draw the long bow with their trombones, but they have to do so on their flat feet.

Now, Sir, the hon. Member for Ukamba raised the question of limitation of expenses. Sir, that is a matter to which the Government gave very deep consideration and in the first draft of the Bill we did include provision to limit expenses.

10.45 a.m.

It became clear, however, that it would be wholly unfair to introduce such a measure in the middle of an African election. I do not say this because it is an African election, but it would be unfair to introduce such a measure in the middle of any election. Certainly this point will be reconsidered before the General Election, but I think all Members will agree with me that it would have been quite impossible to introduce it in the middle of an election. There is also this difficulty: that this Bill applies also to local authority elections and it is difficult quite to know whether the provisions for the limitation of candidates' expenses should apply also to local authority elections, and, if so, where the sum should be fixed. That requires very much more consideration, I think, before we can introduce it into the legislation, but it is the Government's intention to reconsider it to see whether it is desirable to introduce it before the General Election.

Sir, the hon. Member for Ukamba also asked how is the Ordinance going to be enforced. Well, Sir, this is one of the types of crime where the defeated candidate always rushes to tell the police. It is not very difficult to find out what has happened, and that is how we find out. I assume when the hon. Member was referring to the manner of enforcement he meant the manner of intelligence. The system of

intelligence is through the defeated candidate as a rule. He is never backward in coming forward with this information.

Then, Sir, the hon. Member for Ukamba asked the question: What would happen if the candidate pushed a dead mouse into the polling-box? Sir, for the benefit of our classical friends, might I coin this phrase, *de minimouse non curat lex*.

Sir, if the hon. Member was referring—when he was talking about enforceability—to the degree of severity with which this Ordinance would be enforced, Sir, I hope I can reassure him by saying it will be enforced with that sweet reasonableness which characterizes all the actions of this Government.

Sir, I thought the hon. Member asked something about an instrument, but I cannot really remember what it was. He also, Sir, made some suggestion about shutting public-houses. I am not quite sure what he was getting at—whether his motto should be *in vino veritas* or "in ale's another man"—so I am afraid I cannot really answer his point because I did not understand it.

The hon. and learned Member for Aberdare, on clause 8, referred to—I think he called it a judgment, although it would be more correct to say the finding of Justice Horne, when sitting as a commission under Chapter 38. Sir, he there drew attention to what I have already said—that the operative word in section 8 is "corruptly", and if a man acts corruptly—if the evidence establishes that he acts corruptly—then he is guilty of treating. If, on the other hand, the evidence establishes that he acted without any corrupt motive, then he is not guilty of treating. It is very difficult, in the drafting, to draw a line and to set out a long list of what will constitute treating and what will not constitute treating, and therefore you leave it to the honesty of the candidate and the investigation of the subsequent election tribunal to discover whether the refreshment or other advantage was given corruptly, or you leave it to the court if there is a prosecution.

There is one lovely case, Sir, that I looked up on this point, where the candidate sold, at some bazaar or fête that he held before the election, a ticket

[The Minister for Legal Affairs] for threepence which after the election entitled the electors to unlimited sandwiches and claret. Now, Sir, clearly that was given for corrupt purposes—clearly for a corrupt purpose. It was not given out of the generosity of the candidate's heart, and quite clearly he was unseated on the election petition.

Now, Sir, the hon. Member for Nyanza Central asked whether expenses could be allowed to candidates in very large constituencies—or rather, could be allowed for the supply of transport to bring in voters who, by old age or being crippled, were unable to go to the polling station. Sir, I am afraid the answer is no, but the solution to the problem can be found in another way. Postal voting rules in respect of the forthcoming election are of greater assistance and more available to the African electorate than they were hitherto. In addition, Sir, I think I am right in saying it is the Government's intention to try to set up so many polling stations that people will be within easy reach of the polling booth. That, of course, is easier where you have six elections than where you have 14, because the mere mechanical machinefy—the wooden boxes and so on—are not so freely available in a large election as they are in a small one, so I hope the point will be met that way.

Sir, the hon. Member for Mombasa asked whether the definition of election would be sufficient to cover specially elected Members when the Order in Council comes into force, and the answer is yes. So, Sir, "Beware in the bar" is the best advice I can give to hon. Members, and always remember that it is the corrupt intention that makes the drink treating.

The hon. and gracious Member for Nyanza dealt with voters' rolls and problems connected with voters' rolls. That, of course, is not within this Ordinance. This Ordinance deals with election offences, but I have made a note of what she said and that will be considered with a view to seeing if it can go into another Bill.

Sir, the hon. Member for Nairobi Area asked me whether it was an offence for supporters to make symbolic sounds which related to the signs

used by each candidate outside the polling station. Provided, Sir, they do not do it with an instrument on a vehicle, they are all right. I think I have answered his point about transport and polling stations.

The hon. Member for the East Electoral Area posed the disarming question of how you could corrupt anyone with a glass of water—cold water. I think I have answered that one; and his voluntary workers I have answered.

The hon. and learned Member for Western Electoral Area asked whether we would give attention to the limitation on charges on postal voting, and I think it was the charges made by doctors and others in respect of the exercise of one's right to a postal vote. Sir, I shall be most grateful if he could give me any particulars of that and we will go into it and see if it can be prevented, but I do not think this is the right Bill in which to do it.

Sir, he asked, with a look of most bland innocence on his face, what appeared to be a very simple question. Nothing depended on it. But, Sir, with the greatest respect, I would say it was the 64-dollar question; and that was—could we not cut down the size of the constituencies? Sir, what is the result of cutting down the size of constituencies? Sir, I will leave hon. Members to answer that one for themselves. Not within this Bill, Sir; it raises very much greater issues.

The point of expenses raised by the hon. Member, I think I have already dealt with.

Sir, those are all the points that hon. Members raised, I think.

MR. HASSAN: 5 (3)—I asked regarding numbers at the polling station.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): Yes, I am sorry, Sir, I missed that one. The normal practice, so far as my experience tells me in other places, is that outside each polling station each candidate has a representative who has a list of the electors who will poll there. He either knows who they are as they go in and ticks them off, or he says: "Are you Mr. Smith?" and the man says "No, I am Mr. Brown", and he ticks off Mr. Brown. By that means he keeps a tag on who has voted and who

[The Minister for Legal Affairs] has not voted, and if necessary he can do some canvassing to persuade the persons who have not voted to come and vote. That is not proscribed by this subsection, the purpose of which is to preserve the secrecy of the vote, and that is absolutely paramount—absolutely paramount. That cannot in any way be whittled down for the convenience of candidates. It is up to candidates to use their own legitimate means, such as the one I have suggested, to find out who has voted. I think it would be wholly wrong in any way to endanger the secrecy of the ballot by allowing particulars to be given out by any officer in charge of a polling station.

Sir, I beg to move.

The question was put and carried.

The Bill was read the Second Time and committed to a Committee of the whole Council to-morrow.

#### The Prevention of Crime Bill

Order for the Second Reading read.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): Sir, in order to explain what this Bill seeks to do, I cannot do better, I think, than draw the attention of hon. Members to the Long Title. It is a Bill entitled: An Ordinance to Prohibit the Carrying of Offensive Weapons in Public Places by Night Without Lawful Authority or Reasonable Excuse.

Sir, it is a very short Bill, but I think it is right for me to say that a very great deal of thought went into it, because the difficulties on both sides were very real. I hope we have reached now a reasonable compromise between the two conflicting interests which it affects.

I think everyone agrees that it is desirable that the carrying of offensive arms unnecessarily should be stopped. The question is—where do you stop it? Now, Sir, there are two solutions to the place in which the line is drawn here. The first is that anyone may carry an offensive weapon at night with reasonable excuse or with lawful authority.

The difference between the two is that a lawful authority is an authority granted by the law—a licence or a permit. A police officer is entitled to carry arms for the purpose of his duty, and that is a lawful authority. Reasonable

excuse is, however, a subjective test. It is a test which exists in the mind of the person carrying the arms. Now, Sir, if I drive my car at night with a roll of tools in the boot, nearly all those tools are offensive weapons within this definition, and yet, Sir, I clearly have a reasonable excuse for carrying it. My car is liable to break down and I must carry the tools with me. Equally, Sir, if I were a herdsman in charge of a herd in a place where he had to look after his beasts, then he would have to carry, in that place, an instrument—a weapon—to defend himself and to look after and defend, say, a newly born calf—to make a screen around it to protect it from hyenas. That is a reasonable excuse and it exists in the mind of the person.

In practice it works out fairly well. It has been the law in England since 1916 that any one found carrying a house-breaking implement by night without reasonable excuse is guilty of an offence. It is quite astonishing what are house-breaking implements. I hesitate to give a list publicly in case it might introduce new methods of housebreaking into Kenya but one would not think that a sheet of paper and a tin of golden syrup is a housebreaking implement, but it is; and I am quite prepared to explain to hon. Members, in private, how it is used.

Now, Sir, clearly some housewife going home after dark with a tin of golden syrup wrapped up in a piece of brown paper has a reasonable excuse—she is taking them home from the shop to her house; however, the gentlemen wandering around in the early hours of the morning clearly has not got any excuse.

The second way in which we try to compromise between the two conflicting interests here is that the prohibition of the carrying of offensive weapons should not apply throughout the territory. I should not think that any one would want to carry an offensive weapon down Delamere Avenue, Nairobi; whereas anyone in the Northern Frontier Province probably does require to carry an offensive weapon at night. Certainly, if I were walking at night in a very lonely and wild part of the Colony, I should feel very much happier if I had a rifle or a revolver with me, or even my "flat and three-pronged blackthorn".

[The Minister for Legal Affairs]

We have therefore provided in clause 1 of this Bill that it shall only apply to such area as the Governor in Council of Ministers may by notice in the *Gazette* declare. The intention is that it should only be applied in the urban areas. If you applied it everywhere it would mean that 999 people out of 1,000 had a reasonable excuse which would really rather make an ass of this law. But if you apply it in urban areas it means that 999 out of 1,000 do not require to carry offensive weapons at night. We do really feel therefore that we have taken the middle of the road in this respect.

Sir, I do not think that there is anything which I can say further which would be of assistance to hon. Members regarding this Bill. If there are any questions which they would like to ask then I will be pleased to do my best to answer them.

Mr. Speaker, I beg to move that this Bill be now read a Second Time.

MR. JACK SEPOSED.

Question proposed.

MR. MBOYA: Mr. Speaker, I was relieved to hear the Minister say that it is the intention particularly to apply this Bill in the urban areas. One of our main concerns was what would happen if it was applied in the rural areas where most of the articles that would come under the definition of offensive weapons are in common use by the African community and where we would have had the fear that the interpretation of the law by the police and so on would probably have caused a great deal of hardship. All I can say at this stage is that we would like to repeat our warnings in previous Bills of this sort about Africans' fear of what sometimes has happened in the past, namely, the unfair interpretation or application of some of the measures that are otherwise necessary and that we ourselves appreciate should exist for the safety of the public.

LT.-COL. GHERSIE: Mr. Speaker, I would just like to briefly welcome this Bill. We fully realize what prompted the Government to introduce this measure: it is to try to safeguard the ordinary law-abiding citizen and protect him against these thugs and gangsters who are at large at night, more particularly, and who carry these

types of weapons with them in order to perform burglaries which are taking place so frequently to-day.

The police are well aware that there is a good deal of burglary taking place and there is a suggestion it is on the increase at the moment; and they are—there is no question about it—armed with weapons which could not only injure a person, but probably end his life. I am sure, Sir, that every reasonably-minded person in the Colony would welcome this Bill wholeheartedly.

MR. SAGOO: Mr. Speaker, one of the five essential symbols of a Sikh is a kirpan meaning a sword. It is carried on the person of a Sikh at all times and is religiously obligatory upon him as a symbol of service.

The Sikh religious institutions have expressed grave fears that the provisions of this Bill may not, in fact, deprive the Sikhs of their legitimate and inherent obligation. In order, therefore, to dispel those fears I would strongly advise the hon. and learned Mover to adopt one of two courses. He could either exclude kirpan from the definition of an "offensive weapon" or he could amend the relevant clause to say that a Sikh carrying a kirpan on his person, by day as well as by night, shall be exempted from the provisions of this Bill.

I do earnestly hope, Sir, that the hon. and learned Mover in his reply will be able to give me that assurance in order to relieve the deep anxiety that prevails in the minds of the Sikh community.

With that particular reservation, Mr. Speaker, I beg to support.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): With reference, Mr. Speaker, to the issue raised by the last Member who spoke, I do not think it is either necessary to exclude kirpan from the definition of offensive weapons nor to amend the Bill in order to ensure that it does not apply to a Sikh carrying his sword.

Sir, religious practice, together with lack of evil intention, is sufficient to take the Sikh who is carrying his sword—whether it be the long ceremonial one or the short vestigial one which he carries on his person—outside the provisions of this Bill. He would have a reasonable excuse. Anyone who has got a reasonable excuse for carrying an

[The Minister for Legal Affairs] offensive weapon at night does not commit a criminal offence.

I most readily and publicly give the assurance that a Sikh who is carrying his sword at night without any evil intention has a reasonable excuse for doing so. I have already written to the Commissioner of Police to that effect.

A more difficult point was raised, and perhaps I am not quite in order in dealing with this point on reply since it was not raised in debate here, but since it relates to this point I may be pardoned if I deal with it. It was raised by the Liwali for the Coast who asked me what about Arabs who wear a ceremonial dagger rather as the eighteenth century English gentleman used to wear a sword. The answer, Sir, to that is the lack of evil intention would take those Arabs either outside the provisions of this law or would make the carrying of their weapon such an inoffensive offence that it would be one of the things in respect of which no prosecution would be launched. If a prosecution were launched it would only result in a nominal fine or no punishment at all. It is not the duty of the Crown to institute proceedings where the circumstances of the commission of the crime are such that it is not desirable in the public interest to prosecute.

I readily give the assurance asked for by the hon. Nominated Member that the Sikh is protected; and, Sir, I am also dealing with the point raised by the Liwali in respect of the Arab gentleman carrying his ornamental dagger.

Sir, I am grateful for the remarks made by the other two Members opposite. I would just give a few statistics to the hon. Member for Nairobi North. Burglary is not on the increase but crimes of violence may be; although perhaps the hon. Member's own experience leads him to doubt what I have said. Those are the statistics, Sir, which I have been given.

LT.-COL. GILCHRIST: As a matter of information, Mr. Speaker, I am sure the hon. Minister for Legal Affairs will be interested to hear that there was another burglary last night and one last Tuesday. He will probably hear about Col. La Fontaine's in due course.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): Individual cases, Sir, do not necessarily alter overall statistics.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): This is not a Bill dealing with burglary, actually—this is a Bill on the carrying of weapons.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): I have nothing more to say.

Sir, I beg to move.

The question was put and carried.

The Bill was read the Second Time and committed to a Committee of the whole Council to-morrow.

#### COMMITTEE OF THE WHOLE COUNCIL

Order for Committee read. Mr. Speaker left the Chair.

#### IN THE COMMITTEE

[Sir Ferdinand Cavendish-Bentinck K.B.E., C.M.G., M.C. in the Chair]

*The Pensions (Validation) Bill*  
Clauses 2 and 3 agreed to.  
First Schedule agreed to.  
Second Schedule agreed to.  
Title agreed to.  
Clause 1 agreed to.

*The Vexatious Proceedings Bill*  
Clauses 2, 3 and 4 agreed to.  
Title agreed to.  
Clause 1 agreed to.

*The Criminal Procedure Code (Amendment) Bill*  
Clause 2 agreed to.  
Title agreed to.  
Clause 1 agreed to.

*The African District Councils (Amendment) Bill*  
Clause 2

11.15 a.m.

MR. ODINGA: I wish to move an amendment to clause 2,—by substituting the words "Provincial Commissioner" and "district commissioner" wherever they appear therein the word "Minister" where normally in other district or

[Mr. Odinga] county council ordinances the word "Minister" is generally used.

Now, Sir, in this one I think it is an exception because I think that at this stage of the district councils' development to leave them to be managed or to be influenced entirely by the district commissioner and the Provincial Commissioner will not actually unify the services of these councils. It would at this stage be better that if they are to be put on the same footing as the county councils and the district councils that they should be directly under the Minister concerned. Well, I do not object at all if the Minister is going to delegate any power or give an advisory capacity to the district commissioner or the Provincial Commissioner; but I feel that the responsibilities of discharging any staff and so on should always be dealt with by the Minister just as he is doing in other district and county councils.

With these few remarks, Sir, I beg to move this amendment.

Question proposed.

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Havelock): Mr. Chairman—I have a certain sympathy for the idea behind this amendment. Unfortunately the hon. Member did not give me much notice of it; in fact, I have only had a few minutes in which to study the amendment. I am advised, also, that the actual form of the amendment is not one that could be acceptable because there are a number of other consequential amendments that might have to be made; and again I have not had a chance to discuss the matter with my colleagues who are particularly concerned.

I would like to say, however, Sir, that, as in the debate yesterday, I indicated that with the development of local government in the African areas this Ordinance is continually under review, and amendments will no doubt be made almost annually whilst developments go on; and I will most certainly discuss this suggestion—or the idea underlying his suggestion—and see whether it would be acceptable to bring in at a later date.

With those remarks, Sir, I am afraid that I have to oppose the amendment.

MR. ODINGA: Mr. Chairman, I would only accept this if the Minister would

assure me that this is going to be reviewed within a limited time. However, if this is going to be left like that indefinitely then of course this, I feel, will really worry the African officials of the district councils; because the chairmen are not well protected while the secretaries are given powers—but it is only the power of secretarial duties. If they are still going to be under the district commissioner then I do not think they will be responsible for their duties; they will think there has been no change of any kind. The changes which are being made now will only be paper changes, but in actual fact the day to day dealings will be more or less just the same because the men will still have to be directly under the influence of the district commissioner.

With regard to the last point raised by the hon. Member, I dealt with that very fully in my reply to the Second Reading yesterday and I cannot accept what he suggests at all. The secretary will have exactly the same powers as the secretary of any other local authority.

As regards a limit of time, Sir, I cannot give an assurance of a limit of time. Firstly, the Government has a considerable amount of legislation before it to be drafted, discussed, and I cannot give any definite date. However, I will say that I will review the matter; and there is no doubt that the Ordinance will have to be amended according to developments in due course; and this particular point will be considered when that time arrives.

MR. MBOYA: I think the Minister himself has said that he has a certain amount of sympathy with this amendment and that he has unfortunately not had the time to study the amendment. Surely, Sir, the Minister is aware that for a long time the African has actually complained of the excessive influence of the district commissioners over African district councils. Many of us feel it would appear that, in spite of the many changes that are contemplated in amendments now, so long as that influence in a way remains intact the African district councils will not develop or that development will be difficult in so far as the real responsibilities are concerned. The African district councils want to develop to a stage where they feel they are directly responsible and under the Minister for Local Government.

[Mr. Mboya]

Of course we feel that the executives in an area would not be left completely out of the local government machinery. But we would want their power to be such that it does not impose unnecessary influence from the Central Government or the executive officers of the Central Government on the working and the activities of the African district councils.

I think, Sir, that the least we could probably expect from the Minister at this stage is some definite statement to the effect that within the shortest possible time he will be prepared to review this legislation.

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Havelock): I have already said that I will review this legislation; it will be done in the time available to the Government for all training. I have already said that I have sympathy for this amendment. However, I cannot accept that amendments to this Ordinance will necessarily mean that the district commissioners and the Provincial Commissioners have excessive influence. If the district commissioner ceases to be the chairman of that African district council, and if the chairman is elected, the district commissioner will not even be a member of the African district council. He will be there to give advice and he will want to see the agenda and the minutes, which is quite right and proper. But as I said yesterday—and I repeat it again to-day—in other local authorities the district commissioner is *ex officio* a member of the local authorities and therefore has much more influence than he will have under this Bill.

MR. ODINGA: When moving this amendment it should not probably be construed that I do not recognize the valuable services of the district commissioners and Provincial Commissioners. In this respect; but seeing that the Provincial Commissioners and the district commissioners are more than six or seven in Kenya I thought that in order to unify the services of the district councils throughout Kenya it would be better that they should be under one responsible Minister as usual and that all the elections and the method of channel of election should be from the

Minister direct rather than as it has been previously.

However, I am persuaded now to consider withdrawing in the light of what the Minister has said that he has the sympathy and that he will consider this and, as such, I am requesting him really to see that this is something which is absolutely necessary and which should be considered in the first instance if possible.

THE CHAIRMAN (Sir Ferdinand Cavendish-Bentinck): Do you wish me to put the amendment to the vote?

MR. ODINGA: I withdraw it, reluctantly, Sir.

*Amendment, by leave, withdrawn.*

Clause 2 agreed to.

Clause 3 agreed to.

Clause 4.

MR. ODINGA: In this clause, Sir, I wish to move an amendment that sub-clause 4 be amended by deleting paragraphs (a) and (b) and inserting in lieu thereof a new paragraph (a) as follows:—

"(a) If he is appointed chairman by the Minister or elected chairman by the Council for a period not exceeding one year."

I was not convinced yesterday by the Minister's explanation that if a person is appointed by the Provincial Commissioner he should go on as the chairman for three years and that if he is elected in the council he should go on for one year. I feel that if it is suitable that a man who is elected in the council should be for one year, and if that is the practice in all district and county councils, I do not see the reason why a man who is appointed should not also be appointed for only one year and after one year he can go and also be appointed if he is good, or, if he is not good then another man might be appointed in his place. At the same time, with the same reasons as I have already stated, I request that the word "Minister" should take the place of the words "Provincial Commissioner" in appointing the chairman, because I felt also, Sir, that this time his appointment should be the work of the Minister and not of the Provincial Commissioner.

*Question proposed.*

11.30 a.m.

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Havelock): Mr. Chairman, the remarks I made with regard to the other amendment apply here, too.

I do not like accepting amendments like this off the cuff without some study as to what the consequences may be in other parts of the Bill. My remarks with regard to the insertion of "Minister" instead of "Provincial Commissioner" again apply as with the last amendment.

But I will do this: I will ask Provincial Commissioners when they are making these appointments, unless there are very strong reasons that the appointment should be for more than one year, then they shall make them in the first place for one year. And as the hon. Member can see, under the sub-section in the present amending Bill, it does say not exceeding three years, so there is no reason why an appointment should not be made for one year. I will do that administratively, but I would rather do it that way than accept the amendment without further study.

MR. MBOYA: Mr. Chairman, I am glad to hear that the Minister will take action administratively. I do not know what difficulty the Minister feels there is in accepting the amendment, particularly the first part of it since in this period of change, it seems to me that the Minister accepted in his main speech during the Second Reading of this Bill brought out arguments to support the need for a longer period for a person appointed by the Provincial Commissioner and only a one-year period for a person elected by the Council. If I recall rightly, when the Minister spoke yesterday in reply to the debate, he was answering a question by one of my colleagues on the fact that the chairman should stay for more than one year in all normal cases. I think my colleague argued that this longer period was necessary as a sort of training period for a better chairman. The Minister said that he thought that the training period would be available at the vice-chairmanship level.

Under the circumstances, Mr. Chairman, it is rather a contradiction for the Minister to say that persons appointed by the Provincial Commissioner

needed to stay for that length of time. I appreciate that the law states that appointment is not exceeding three years; therefore, that appointment could be for less than three years. So far, we are not convinced that there is a need for distinction between a person elected by the Council, and persons appointed by the Provincial Commissioner unless it is being suggested that those appointed by the Provincial Commissioner may enjoy the special trust of the Government which I hope is not the case, because such persons should enjoy the confidence of the council itself, not other persons or bodies.

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Havelock): Sir, I think the hon. Member has rather strengthened my case when he discusses the matter of training people to become chairmen; and I think he accepts my suggestion that the post where training should take place is that of vice-chairman. That is the whole point. There is a number of African district councils where there is, at the moment, nobody with the necessary experience in chairing a meeting, and in procedure, and so on, and it is because of that that if a man is appointed by the Provincial Commissioner to the chair for three years, it gives three years for that man to train the vice-chairman who would then take over. That is the whole principle of the matter. I mentioned when I was speaking to the Second Reading that in many cases, in fact, most of these cases, the appointees by the Provincial Commissioner will be district commissioners as they are to-day in many areas where they are not yet ready to have elected chairmen, and where they have not the personnel who could fill that post. So it may well be that in quite a number of cases, a three-year period would be a satisfactory one for an experienced man to be appointed as chairman, and give him time to train the vice-chairman under him.

I have already given my assurance: if there are not strong reasons for such length of appointment, then I will ask the Provincial Commissioners to appoint only for one year so that from year to year, we can see how things develop and what is required for any specific and particular district council.

MR. ODINGA: Mr. Chairman, in that respect then, what are the difficulties of

(Mr. Odinga) the Minister over just including it here rather than dealing with it administratively, if it is going to mean later on some amendment? I think that would be a lot of trouble later on. If you accepted this amendment in that respect, I think that will only save you time later on, and will be most adequate revising it now.

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Havelock): Mr. Speaker, I said yesterday that there is too much ignorance in certain parts of this country of what happens in other parts. That does not only apply in a racial aspect at all, that Europeans do not know what is going on in African areas; but I can assure you that Africans in certain areas have not got a clue what is going on in other African areas. The reason why I want to keep this in is that the different standards of the different African district councils vary so widely. I do not want to have to apply exactly the same provisions to the African district council of, say, Freretown with, I think, a revenue of £50 as to the African district council of Central Nyanza with a revenue of possibly half a million or more. Those are the different ends of the poles; and therefore, it is much better to have a wider provision of this sort that can be applied according to the circumstances of each area.

LT.-COL. GIBBS: Mr. Chairman, is there not another point: that if this amendment were accepted, it would restrict the appointment of the chairman to one year. It may be desirable that the chairman should continue for more than one year because of his particular capabilities. If the Minister or the Provincial Commissioner were to appoint him for a year and then review it for another year, in order to keep him in for two or three years, the people concerned who opposed the principle would only say it was a wangle. It would really deprive the people of having a chairman who, because of his knowledge and capabilities, should be there for a longer period, I think.

MR. ODINGA: But I do not see, Mr. Chairman, I am not actually convinced. If this man is capable of discharging his duties well, I do not then see how you

are prevented from reappointing him again when the year comes. I am not convinced in that. At the same time, the Minister has pointed out that we people do not actually realize what is going on in other areas, but that should not be so. For the fact that you see us here as African representatives forming a united front and that we support one another here means that our problems are more or less the same everywhere. I know that the development may be varying a little bit everywhere, but that depends on the personalities.

I think, in this particular case, I would not really be convinced why the three years should be retained. One year is plenty, and if the Provincial Commissioner has to reappoint someone, he will be at liberty to do so because it does not say that he will consult the council in appointing some chairman.

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Havelock): One more point on this, Sir, which I have not made. In my travels round African district councils, I have very, very often been asked to provide continuity of administration and chairmen of the African district councils. That is because the African district councils get used to a certain person as their chairman and their district commissioner, and they wish to retain that certain person to provide that continuity. If it was laid down that the appointed chairman, which I repeat will probably be the district commissioner in most cases, is only going to hold office for one year, it will give the indication that he is going to be transferred away, and the continuity will not be there; and certain African district councils, I think, would be very disappointed at that.

Sir, I think I have been very reasonable on this. I said I will try to meet hon. Members administratively. I again repeat that I do not like to accept amendments without some sort of notice and a chance to study them and I have nothing further to add.

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones): Mr. Chairman, I should just point out in support of my colleague that the amendment has come at a late stage, and can I point out to the hon. Member that the lack of study applies perhaps not only to us, but also to himself, since the amendment would

[The Acting Chief Secretary] involve a necessary consequential amendment to paragraph (c) which the hon. Member has only sought to convert into paragraph (b); but the text of paragraph (c) would require further amendment. That is one of the dangers which we are really trying to overcome in this Council by not accepting what I might colloquially term "snap" amendments which we have not had time to consider adequately and in relation to which consequential amendments may arise elsewhere. We have made one or two errors before precisely for that reason, and the statute which has come out of the machine at the end has been defective.

I do, therefore, ask my hon. friend on the other side to accept our assurance that we will do whatever we can to meet his point administratively and not to seek to persuade us to accept an amendment which in itself is not complete, since it does necessarily require that further consequential amendments be made.

MR. ODINGA: Mr. Chairman, in that respect I think the Minister will also excuse me because he knew that it is only yesterday when he completed his submission; and then immediately after that, I found that I had jotted something down. But as I have been assured that they will consider this later on, I will not press any further, but I had better let it again reluctantly be withdrawn.

Amendment, by leave, withdrawn.

Clause 4 agreed to.

Clauses 5, 6, 7, 8 and 9 agreed to.

#### Clause 10

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Havelock): Mr. Speaker, I beg to move that clause 10 be left out of the Bill and the clause of which notice has been given on the Order Paper should be inserted in place thereof.

Do you wish me to read the new clause, Sir?

THE CHAIRMAN (Sir Ferdinand Cavenish-Bentinck): I do not think so, no. I do not think it is necessary to read it, nor do I think it is necessary to have the Second Reading, because this is purely a proposed substitution of an existing clause by a new clause.

Amendment proposed:—

That clause 10 be left out of the Bill and that the following clause be inserted in place thereof—

Replacement of section 16 of the principal Ordinance.—

Appointment and removal of officers and employees.

16. (1) A Council may, subject to the general or specific approval of the Provincial Commissioner, appoint—

(a) a secretary, a treasurer, an engineer and a works superintendent; and

(b) such other employees (not including a medical officer of health or a health inspector) as it may deem necessary;

and may pay them such emoluments and allowances as the Council may, with the approval of the Provincial Commissioner, determine.

(2) A Council may, subject to the general or specific approval of the Minister, appoint a medical officer of health and a health inspector, and may pay them such emoluments and allowances as the Council may, with the approval of the Minister, determine.

(3) No person appointed under paragraph (a) of sub-section (1), or under sub-section (2), of this section shall be removed from office unless and until such removal has been authorized by a resolution passed by a majority of the whole Council and has been approved, in the case of the former, by the Provincial Commissioner, and in the case of the latter, by the Minister.

(4) Notwithstanding the provisions of sub-section

## [Amendment Proposed (Continued)]

(3) of this section a District Commissioner may—

(a) with the approval of the Minister, suspend a medical officer of health or a health inspector; or

(b) on his own initiative suspend any other officer or employee,

from the duties of his office or employment for incapacity, neglect or misconduct pending the decision of the Council as to his removal, and in the event of his removal being duly authorized and, in the case of a secretary, treasurer, engineer or works superintendent, approved by the Provincial Commissioner, such officer or other employee shall be deemed to have been removed from office or employment as from the date of his suspension.

(5) Where a recommendation by the District Commissioner for the removal of any officer or other employee is rejected by the Council, the matter may be referred by the District Commissioner, in the case of a recommendation for the removal of a medical officer of health or a health inspector to the Minister, and in any other case, to the Provincial Commissioner, and the Minister or (as the case may be) the Provincial Commissioner may, notwithstanding the decision of the Council, direct the removal of such officer or other employee.

(6) A Council shall, unless exempted by the Provincial Commissioner from compliance with the provisions of this sub-section, in the case of an officer or other employee appointed by it who, by reason of his

office or employment, is likely to be entrusted with the custody or control of money, either require a deposit of such sum, or the execution of a bond with or without sureties in such sum, as the Council may think fit, as security for the due and faithful execution of his office and performance of his duty and for his duly accounting for all money or property which may be entrusted to him.

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Havlock): I did explain when speaking to the Second Reading the reason for this clause, or the substitution of this clause. It is, in fact, to give the medical officer of health and the health inspector rather more protection by the Minister for Health, as being health employees, they have an overall responsibility to the Minister for Health; or shall we say the other way round: the Minister for Health has an overall responsibility for health anywhere in the Colony, and this is entirely in line with similar provisions in other local authority Ordinances.

The question that clause 10, as it stands, be deleted was put and carried.

The question that there be substituted therefor the new clause 10 as attached to the Order Paper and circulated to all Members was put and carried.

Clause 10, as amended, agreed to.

11.45 a.m.

Clauses 11, 12, 13, 14, and 15 agreed to.

Clauses 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26 and 27 agreed to.

Title agreed to.

## Clause 1

MR. HASSAN: I want to ask, Mr. Chairman, whether in clause 1 in the phrase "African district council", the name "African" could be removed, and it should be named "district council".

My reason for suggesting this, Sir, is that—

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones): On a point of order, Sir, has notice been given of this?

[The Chairman]

THE CHAIRMAN (Sir Ferdinand Cavendish-Bentinck): No, no notice has been given.

Strictly speaking, according to our Standing Orders, you are out of order.

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Havlock): Well, Sir, I do not think it is a practical suggestion in any case, because the substantive Ordinance would have to be altered to begin with; and secondly, if it were named "District Councils Ordinance", we have already a District Councils Ordinance, and it would mean complete confusion.

If the hon. Member will recall, there were district councils in other areas, without any other qualifying adjective to it, and there are now also district councils, county district councils. And although I understand the reason for the hon. Member's suggestion, I am afraid it would lead to very considerable confusion if it were accepted.

What I would like, and what I think will happen—I hope will happen in due course—is that the African district councils may well be able to be brought in under one Ordinance with the county councils, and all would then be county councils. But there are still certain provisions and differences between the two that do not make that practical yet. But that is the ultimate objective.

MR. HASSAN: As a matter of fact, why I suggested that, Sir, is that district councils are developing to such extent now that there are other communities residing permanently in that area, and it is the demand of the district councils that they have certain jurisdiction upon the communities with a view to making things easier for them. So as far as Asians and Arabs are concerned, we do not mind being administered by the councils provided they are not named African district councils. If they are district councils, they will naturally be eligible for membership to all the permanent residents of the reserve and district councils will have jurisdiction over all communities. This was my suggestion, Sir, and I believe when the other main question is dealt with to bring these councils under one, just like county councils, of which every community is a member, it will suit the purpose.

THE CHAIRMAN (Sir Ferdinand Cavendish-Bentinck): I have given a lot of latitude. I cannot allow any more discussion on this, because no notice has been given. It has been laid down in our Standing Orders that if Members wish to suggest amendments in the Committee stage of a Bill, they must give notice of such amendment before the Committee sits. If, in the course of a discussion on an amendment of which notice has been given, as the result of the discussion some very minor amendment then arose, I have no doubt it would then be accepted, but not a major amendment or an original amendment such as the one Dr. Hassan has just suggested.

Clause 1 agreed to.

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones): Mr. Chairman, Sir, I beg to move that the Pensions (Validation) Bill, the Vexatious Proceedings Bill, the Criminal Procedure Code (Amendment) Bill, and the African District Councils (Amendment) Bill as amended be reported to the Council.

The question was put and carried.

Council resumed.

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

## REPORTS AND THIRD READINGS

## The Pensions (Validation) Bill

THE MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): Mr. Speaker, I beg to report that a Committee of the whole Council has considered and approved the same without amendment.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Mackenzie): Mr. Speaker, Sir, I beg to move that the Pensions (Validation) Bill be now read the Third Time.

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

Question proposed:

The question was put and carried.

The Bill was accordingly read the Third Time and passed.

## The Vexatious Proceedings Bill

THE MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): Mr. Speaker, I beg to report that a Committee of the whole

[The Minister for Legal Affairs] Council has been through the Vexatious Proceedings Bill and has approved the same without amendment.

Mr. Speaker, I beg to move that the Vexatious Proceedings Bill be now read the Third Time.

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Coutts) seconded.

Question proposed.

The question was put and carried.

The Bill was accordingly read a Third Time and passed.

#### The Criminal Procedure Code (Amendment) Bill

THE MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): Mr. Speaker, I beg to report that a Committee of the whole Council has been through the Criminal Procedure Code (Amendment) Bill and approved the same without amendment.

Mr. Speaker, I beg to move that the Criminal Procedure Code (Amendment) Bill be now read the Third Time.

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Coutts) seconded.

Question proposed.

The question was put and carried.

The Bill was accordingly read a Third Time and passed.

#### REPORT

##### The African District Councils (Amendment) Bill

THE MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): Mr. Speaker, I beg to report that a Committee of the whole Council has considered the African District Councils (Amendment) Bill and approved the same with amendments.

Report ordered to be considered to-morrow.

#### MOTION

##### DOUBLE TAXATION AGREEMENT WITH THE FEDERATION OF RHODESIA AND NYASALAND

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Mackenzie): Mr. Speaker, Sir, I beg to move:

That this Council approves the arrangements proposed in Sectional

Paper No. 2 of 1957/58 for an agreement between the Government of Kenya and the Government of the Federation of Rhodesia and Nyasaland for the avoidance of double taxation.

Mr. Speaker, Sir, this agreement has been negotiated in continuance of the policy which the Government has endeavoured to pursue of making double taxation agreements with other countries whenever it appeared that such agreements were likely to be of mutual advantage.

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

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

On the last occasion when a Motion of this kind was considered by the Council in June, 1956, my hon. friend, the Member for Nairobi North, expressed a hope that relief in regard to double taxation would be extended as far as other countries in the Commonwealth are concerned. I am now very happy to be able to invite the Council to agree to one such extension in so far as the Federation of Rhodesia and Nyasaland is concerned. I am also happy to be able to say that the agreement will not involve the Colony in any appreciable loss of revenue, and I hope that it will encourage an increase in both investments and trade to the mutual advantage of both countries concerned.

As regards, Sir, the details of the agreement, the general principles are in line with those of the agreement between Kenya and the United Kingdom. There are only one or two minor differences to which I might draw attention. For instance, in article 1, the federal taxes to which the agreement applies are income tax, super tax and the profits tax charged on the undistributed profits of private companies in the Federation. The super tax is, of course, exactly the same thing as the East African surtax.

Article 5 provides for the reciprocal exemption of profits from overland transport as well as shipping and air transport profits, and there are a number of other slight differences.

12 noon

Article 11 is rather important in that under this article East African residents

[The Minister for Finance and Development] will receive credit in East Africa for the territorial surcharge imposed by the territories composing the Federation.

Finally, Sir, in article 13 it is stated that the agreement shall come in to force as from 1953. Until that date the Commonwealth relief provisions of the East African income tax eliminated double taxation in the cases of Northern Rhodesia and Nyasaland, and if the present agreement had any later date there would be a gap in the relieving provisions. That is the reason for this particular date.

Now, Sir, the procedure in negotiating this agreement has been similar to that which was followed in all the earlier agreements and there has been no difficulty up to now in giving effect to an undertaking that was given in 1951 by the then Financial Secretary in dealing with the double taxation agreement between the Colony and the United Kingdom. On that occasion, he said: "I undertake here and now that before the Government enters into a further agreement with any other territory or any other country, it will follow precisely the same procedure as it has on this occasion; that is to say, it will publish that agreement in the Gazette and lay a copy on the Table of this Council so that, if necessary, a debate thereon may be secured".

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

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

This procedure, Sir, has entailed that in the past the draft agreement should be published and laid on the Table of the Council and debated before it has been finally entered into, that is, before it has been signed. In fact, Sir, this has not led so far to any particular differences since all the agreements, as I have already said, which have so far been entered into, have been with Commonwealth countries and they have been, to a very large extent, extensions of the parent agreement between the United Kingdom and the Commonwealth country concerned. But, Sir, there is a difficulty in that shortly it is hoped to enter into double taxation agreements with foreign countries, and I understand that in those circumstances

foreign countries are likely to prefer that the normal procedure, which takes place in respect of agreements between any two States, shall be followed. That is, that the agreement shall be negotiated and entered into at Government level before it is actually debated, and then, when the agreement has been made between the two governments, only then should it be brought to the legislature to receive the approval or otherwise of the legislature. In actual fact, this would not make very much difference, as compared with the existing procedure, since although the agreement would be made, it would not come into effect until the Financial Secretary of the High Commission had declared that it will come into effect, as from a certain date. And an assurance can be given that the Financial Secretary of the High Commission would not declare that the agreement was effective until after it had been approved in Legislative Council.

If this new procedure is adopted, Sir, and if the Council agrees, I think it is in our best interests that we should adopt it since it will then make it possible to proceed with negotiations covering double taxation agreements with foreign countries. If the Council adopts this, Sir, there will be no essential difference, the Council will still have the same control, and if the Council does not like an agreement entered into they are always able to tell us so and in that case it would not be brought into effect. I hope, Sir, that that change in procedure will be generally acceptable.

Sir, I beg to move.

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

Question proposed.

LT.-COL. GHERSIE: Mr. Speaker, Sir, hon. Members on this side of the Council have for some time now urged Government to endeavour to obtain some degree of reciprocity in regard to double taxation with the Rhodesias and Nyasaland, and I merely, Sir, am standing here to thank the Minister and, in fact, congratulate him on having achieved this object.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Mackenzie): Mr. Speaker, Sir, I should only like to say how glad I am to see that this agreement has been accepted by my hon. friends on the other side. I think it will



be very much in all our interests. I certainly hope it will.

The question was put and carried.

### MOTION

#### DOUBLE TAXATION AGREEMENT WITH THE UNION OF SOUTH AFRICA

**THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Mackenzie):** Mr. Speaker, Sir, I beg to move that this Council approves the arrangements proposed in Sessional Paper No. 3 of 1957/58 for the extension to Kenya of the Agreement between the Government of the United Kingdom and the Government of the Union of South Africa for the avoidance of double taxation.

The object of this Motion and this agreement, Sir, is identical as regards the Union of South Africa, with the object and intention of the Motion which has just been approved by the Council, and I have very little to add to what I said in respect of the previous Motion.

The agreement itself is broadly on the same lines as the agreement between the Colony and the United Kingdom and it is generally on the lines of that which has been entered into between the Colony and the Federation of Rhodesia and Nyasaland. Here again, Sir, article 13 provides for the agreement coming into effect for the year 1953 in East Africa and the corresponding year in the Union. Provided there is no undue delay in bringing the agreement into force, I am advised that no difficulty is anticipated in back-dating it to then, Sir.

With those words, Sir, I beg to move.  
Mr. JACK seconded.

#### Question proposed.

**LT.-COL. GIERSE:** Mr. Speaker, there is only one small point I would like to raise, and it was in connexion with what the Minister mentioned when he concluded his remarks. It is in article 13 on the effective date of the agreement, Sir, in the case of the Rhodesian Federation it was very simple because one could interpret that as the actual date of the assessment. In this one, Sir, in regard to the Union of South Africa, it is effective as respects profits derived, or deemed to have been derived, during the year of assessment ending on 30th June, 1954, and subsequent years.

Well, Sir, in regard to East Africa, Kenya in particular, its income being on the 1st January, 1953, that is the income for the period of assessment so there is a difference of 18 months between the effective date of the assessment in the Union of South Africa as opposed to Kenya. I was wondering perhaps if the Minister could explain how that difference arises.

**MR. HASSAN:** Mr. Speaker, we appreciate the good work which is done by the Minister to avoid double taxation. May I know if the negotiations are going to be extended to other Commonwealth countries?

**THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Mackenzie):** Mr. Speaker, I will deal first with the point made by the hon. friend who has just spoken. I did say in introducing the earlier agreement between Kenya and the Federation that this was part of the continuance of Government's policy which has been pursued for some considerable time of making double taxation agreements with both Commonwealth and other countries, whenever it is mutually advantageous to do so, and I can give my hon. friend an assurance that that policy will continue.

As regards the point raised by my hon. friend, the Member for Nairobi North, I am afraid that I do not claim to be an expert on the details of income tax and my brief merely tells me that it will be effective as from 1953 for Kenya and from the corresponding year for the Union. What I will do, however, Sir, if my hon. friend would agree, is look into that matter, and I will let him know what the position is as soon as possible.

The question was put and carried.

#### COMMITTEE OF SUPPLY

Order for Committee read, Mr. Speaker left the Chair.

#### IN THE COMMITTEE

[D. W. Conroy, Esq., O.B.E., T.D., Q.C. in the Chair]

### MOTION

#### £500,000 OFFICE BUILDINGS LOAN

12.15 p.m.

**THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Mackenzie):** Mr. Chairman, Sir, I beg to move:

[The Minister for Finance and Development]

THAT this Council approves a proposal that the Minister for Finance and Development be authorized to negotiate a loan of up to £500,000 on the most favourable possible terms from Barclays Overseas Development Corporation Limited, the loan to be used for the construction of office buildings.

The Governor's consent has been signified to this, Sir. Hon. Members may have noticed that there is a slight verbal change in this Motion as compared with wording when I gave notice but it is purely verbal and it makes no significant difference to the import of the Motion.

The purpose of this Motion is to obtain the Council's approval of the proposal that negotiations should be entered into and that a loan of £500,000 should be raised, for the purpose of constructing office buildings. The buildings in question include a Crown Law Office, a new Ministry of Works, a new Land Office which will, if present ideas are followed, probably be included in the same building as the Ministry of Works, and a new Labour Office.

Hon. Members will remember, Sir, that in paragraph 123 of Sessional Paper No. 77 of 1956/57, it was explained that there was a considerable need for a new Crown Law Office. I am sure, Sir, that you may be aware of the state of the present Crown Law Office; Sir, which I am informed was constructed in temporary materials over 30 years ago, and that it is now not only outdated but that there is a very considerable fire risk and very considerable security risk. The offices in question contain an extensive and valuable library, much of which would, I am sure, be irreplaceable if it were to be destroyed.

The Ministry of Works, Sir, is again housed in conditions which are worse than those of any other major department of Government. This was a point to which passing notice was drawn by Sir Herbert Manzoni in his report. The existing headquarters buildings are dilapidated and insufficient and the conditions under which the staff has to work are extremely poor. The idea is that the main part of the Ministry would move into new quarters if

this loan were negotiated, except for certain branches which would remain where they are, the branches in question being the materials laboratory, the stores, the mechanical engineer's workshop and yard, the training branch which is now being set up in a converted building and the hydraulic branch, which Sessional Paper No. 98 said should come under the Ministry of Agriculture during the post-1960 planning period. The rest of the Ministry would move into the new office building.

The Lands Department, Sir, suffers from the same disadvantages as the Ministry of Works headquarters, and in addition to that the site on which it is built is, I understand, required by the Nairobi City Council for the extension of Kingsway, which is scheduled to begin in 1961.

As regards the Nairobi Labour Office, Sir, this and the employment service organization are accommodated in temporary buildings in Lugard Avenue. This is an unsatisfactory arrangement in itself, and of course it hinders the development of City Square.

As regards sites, I am informed that a site for the Crown Law Office has been selected on Connaught Road opposite this Chamber. A site for the Ministry of Works would be found in Coronation Avenue, between the Treasury building and Connaught Road, and it would be proposed to build the new Nairobi Labour Office on Whitehouse Road near the Government Press.

Hon. Members will no doubt be glad to know that it is proposed that all these additional buildings should be built by contract, and it is hoped—that is, if Council approves the proposed loan and if it is successfully negotiated—to invite tenders for the Crown Law Office before the end of this year, and for the other two buildings in the early part of 1959.

There is one point which may have occurred to Members, and that is that it might be said that if there is an additional £500,000 to be found, why do we use it for office buildings instead of putting it into the general pool for development purposes and using it in that way, instead of putting it into bricks and mortar. The answer to that is that the money in question could only be obtained for the purpose of office buildings, which are most urgently required.

(The Minister for Finance and Development)

As regards the actual details, it is proposed that if the loan goes through it should be secured by giving Barclays Overseas Development Corporation a lease of the land and the buildings until the loan is repaid. The rate of interest would be likely to be of the order of seven per cent and it is probable that the loan would have to be repaid within ten years from the date of the first drawing.

The building of these offices will have a considerable advantage over using rented accommodation; they will be erected on Crown land, in respect of which the Government is already paying quite considerable sums in rates, and the buildings will be conveniently situated from an administrative point of view. The construction of the offices would give valuable employment to the local building industry and generally would lead to the greater efficiency of the Colony's administration.

Sir, I beg to move.

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones) seconded.

Question proposed.

MR. COOKE: Mr. Speaker, I and others suggested some years ago that we should approach the banks for a loan of this nature and we were told that that was impossible; that only a short term loan could be raised under such conditions. Now naturally one is glad to see that Government proposes to do what they have been urged to do for so many years, but I would submit, Sir, that the money should be paid into the Development Fund rather than be hypotheated for these buildings. It is only injecting more money into the economy of this country and will increase the inflationary process which is so badly with us at the moment. These offices, of course, will not be revenue producing. They may save a certain amount of revenue, but they will not be immediately revenue producing and I should have thought that the most economic and sensible use of this would be to ensure that the money is spent on something that will produce revenue, such as tourism or something of that sort. For instance, there is very great need—I do not want to be parochial in this matter—for the improvement of the

aerodrome at Port Reitz, in conjunction with the Nairobi airfield which is about to be opened. The Nairobi airfield is bound to bring a lot of tourists and businessmen to this country and they will need a good airfield to land on at somewhere near Mombasa. There is also very urgent need for improvements in the airfield at Malindi—only a few thousand would be needed—and that would attract from Rhodesia and other places a large number of tourists who would spend money and produce revenue.

I need not mention also the great need of African housing in Nairobi, which we are told now there is no money—at least we were told that a short time ago—for this very necessary project and I suppose it is too late now to change, but I would urge Government to give consideration to using this money and to float future loans in this manner and to provide for revenue producing projects.

LT.-COL. GHERSIE: Unlike my hon. friend, the Member for the Coast, I welcome the principle of raising loans for this particular purpose, always provided, Sir, that when the buildings are erected the accommodation is put to the best possible advantage. I submit, Sir, that the various buildings or office accommodation which were read out by the Minister should be replaced. He referred to the Attorney-General's office, I said it was, and the Land Office, and I think there were very valuable records maintained there and they should have proper accommodation. What worries me, Sir, is this. In recent years—that is, if we go back a few years—we find that the Secretariat was accommodated in the Law Courts. Since then, Sir, additional accommodation has been erected. We have a new Secretariat, a new Treasury, a new Police Headquarters, and still we have insufficient accommodation for this large and expanding machine of Government. I just wonder where it is going to end.

The Agriculture Department have vacated their old building and Agriculture House now accommodates the Department and all the other departments within that portfolio. This might sound a little contradictory but it is not really. Because, Sir, what I have in mind is this enormous sum, which we find in our Budget year after year, of £675,000

(Lt.-Col. Ghersie) which we pay out in rents for houses and offices and in lieu of house allowances.

If we borrowed a much larger sum and created a sinking and interest fund, and if that was a large enough sum, then, over a period of time, we would find that these buildings which could be erected from that loan would have cost the Colony nothing, always provided, of course, that this accommodation was being occupied to the best advantage, then I regard it as in the category of revenue producing. I do not agree with the hon. Member who spoke before me—I do regard this as revenue producing by virtue of the fact that it is saving money that we are at the moment paying out by way of rents. That is why I accept this principle.

However, Sir, I do submit that it ought to be done on a much bigger scale if it is going to be effective, because it just does not make sense to pay out this colossal sum of £675,000 in rents and house allowances.

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones): Mr. Chairman, I beg to move that the Committee do report progress and ask leave to sit again.

Council resumed.

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

## REPORT

LOAN OF £500,000 FROM BARCLAYS OVERSEAS DEVELOPMENT CORPORATION LIMITED

THE MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): Mr. Speaker, I have to report that the Committee of Supply wishes to report progress and asks leave to sit again.

## STATEMENT OF BUSINESS

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones): Mr. Speaker, with your permission, and for the convenience of Members, I would like to make a statement about business for next week.

On Tuesday it is proposed to take the Consolidated Fund Bill through all its stages, followed by the Motion of which notice has been given by the Member for Nairobi Area but which is, in fact,

a group Motion and is therefore being accorded Government time, for the debate on which the Sessional Committee proposes a limitation of two days—that is to say, Tuesday and Wednesday. I shall be moving a Motion to that effect, in accordance with Standing Order 65, at the opening of business on Tuesday.

The Sessional Committee will meet again on Tuesday evening at the rising of Council to consider whether, in fairness to Members of Council on the second day of that debate—that is to say on Wednesday—there should be any limitation on the time allowed for individual speeches.

Following that Motion, which, if it goes the whole way of the time allotted to it, will occupy the whole of Wednesday, there are the Committee stages of three Bills which have been given their Second Readings. There is the Report stage of the African District/Councils (Amendment) Bill of which we took the Committee stage to-day, and there are the Second Readings and subsequent stages of the Tribal Police Bill.

For the convenience of Members therefore, Mr. Speaker, I might say that the indications are that the Council will be sitting for the whole of next week but that it will conclude its outstanding business on Friday next.

Thank you, Sir.

## ADJOURNMENT

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): That brings us to the termination of our business to-day. I adjourn Council until 2.30 p.m. on Tuesday next, 25th February.

Council rose at thirty-two minutes past Twelve o'clock.

Tuesday, 25th February, 1958

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

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

#### PRAYERS

#### ADMINISTRATION OF OATH

The Oath of Allegiance was administered to the following Member:—  
Ronald Johnstone Hillard.

#### PAPERS LAID

The following Papers were laid on the Table:—

Royal East African Navy Annual Report, 1957.

(BY THE ACTING CHIEF SECRETARY  
(Mr. Griffith-Jones))

Appropriation Accounts, Other Public Accounts and the Accounts of the Funds of the Colony and Protectorate of Kenya for the year 1956/57 and Report thereon by the Controller and Auditor-General.

(BY THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Mackenzie))

#### ORAL ANSWERS TO QUESTIONS

##### QUESTION No. 70

Mr. MBOYA asked the Minister for Education, Labour and Lands to state what action the Government was taking to meet the growing unemployment problem in urban areas, in particular Nairobi, and in the rural areas.

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Coutts): As long as sisal and sugar plantations remain short of labour and as long as applicants, as they do at present, refuse employment on the grounds that the work is too hard or the terms insufficiently attractive it is difficult to regard the unemployment situation as unduly serious.

However, officers in charge of African exchanges are being asked to give preference in the filling of vacancies to the more deserving cases, e.g. bona fide residents of the towns.

Greater publicity is to be given at urban exchanges to vacancies on sisal and sugar estates.

Instructions are being issued requiring European and Asian labour exchanges to be established at all labour offices throughout the Colony.

Mr. MBOYA: Mr. Speaker, Sir, arising out of the question, would the Minister not agree that an unemployment situation exists within that element which is the purely urban population?

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Coutts): Sir, I have tried to point out that I do not consider that the unemployment situation is serious. I believe the figures are about 700 in 68,000 in Nairobi.

Mr. MBOYA: Sir, arising out of the reply, would the Minister not agree that the labour exchange facilities need improving, and also agree that in fact he cannot swear to the accuracy of the methods of collecting figures at the moment?

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Coutts): I do not agree to either point, Sir.

##### QUESTION No. 76

Mr. NGALA asked the Minister for Education, Labour and Lands:—

(a) Whether the Minister is aware that the lack of statistics on the African cost of living in Mombasa and the docks seriously hampered the work of the arbitration tribunal in November, 1957?

(b) What steps is the Minister taking to make such statistics available for Mombasa in general, and the docks in particular?

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Coutts): (a) I am aware that there was some inconvenience.

(b) While I accept that there is a real need for published statistics of the cost of living of African employees, at least in the main urban centres, it must be understood that a reliable cost of living index for Africans with higher incomes

[The Minister for Education, Labour and Lands]

than those on the minimum wage level requires a survey of expenditure patterns of the class of person under consideration. Such a survey is now taking place in Nairobi, and although it may be possible to intensify the collection of price data in Mombasa in the near future it will not be possible to carry out a full-scale survey of African expenditure patterns in that town until after the completion of the present survey in Nairobi.

It is not practicable to maintain a separate cost of living index for Africans employed in Mombasa Docks.

CAPTAIN HAMLLEY: Mr. Speaker, Sir, is the Minister aware that not all the members of that tribunal would agree with this statement?

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Coutts): I am not aware of it, Sir.

Mr. MBOYA: Mr. Speaker, Sir, is the Minister aware that the absence of cost of living indices have been a major problem to various tribunals which have been set up in the past? Would he indicate how soon he expects the report of the survey in Nairobi?

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Coutts): Sir, in regard to the first part of the question, I do not myself believe that any of the tribunals in the past have been seriously hampered in this matter.

As regards the Nairobi survey, I am unaware as to when they will be able to report, but if the hon. Member wishes to put that down as a separate question, I will be happy to answer it.

Mr. COOKE: Mr. Speaker, Sir, as a member of a tribunal that was seriously hampered in that respect, I ask the Minister to give serious consideration to the question.

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Coutts): I will give it serious consideration.

##### QUESTION No. 74

Mr. Ngala asked the Minister for Local Government, Health and Housing:—

(a) Whether any definite recommendations have been made to him

by the Special Committee—recently appointed by the Municipal Board of Mombasa on house-rent reductions at Changamwe Housing Estate, Phase I.

(b) Whether in view of the considerable transport expenses experienced by the Changamwe Housing Phase I tenants, to and from their places of work, the Minister envisages any cheaper form of transport to be provided by the Municipal Board, in the near future, instead of the expensive Kenya Bus Services.

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Have-lock):

(a) No, Sir.

(b) I think it is unlikely that the Mombasa Municipal Board will be able to provide transport in competition with the Kenya Bus Services. I am, however, investigating with the authorities concerned, the possibility of providing suitable rail and road transport at concessionary rates. When the Changamwe Industrial Estate is fully developed, it is anticipated that this housing estate will house people working in the area and therefore transport expenses will not arise.

Mr. NGALA: Arising from the answer, Sir, is the Minister doing anything to speed up the findings of this Committee in view of the hardship that is being experienced by the tenants of Changamwe Phase I?

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Have-lock): Mr. Speaker, I am not quite certain which committee the hon. Member is referring to, but a committee was set up and the terms of reference did not include the matter of transport.

Mr. NGALA: I was referring, Sir, to the Committee in Question 74, section (a)—the Municipal Board Committee.

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Have-lock): Mr. Speaker, I repeat the Municipal Board did set up a Special Committee but the terms of reference, for the hon. Member's information, were as follows:—

“To consider the circumstances leading up to the completion of the

[The Minister for Local Government, Health and Housing] Changamwe Housing Estate and make recommendations on the following:—

- (1) What assistance can be sought from the Government in meeting the loss which will otherwise arise until such time as the buildings are fully let;
- (2) The steps to be taken to ensure the early letting of the houses at the estate including the making of an offer to the Railways that accommodation should be temporarily shared with them;
- (3) The steps being taken by the Municipal Engineer to remedy any defects in the buildings;
- (4) Whether any defects are attributable to design or are such as to be referred to the contractors before the final payments is made."

MR. MUOYA: Mr. Speaker, Sir, arising out of the reply, is the Minister aware that unless the transport hardship is resolved as soon as possible, the workers may find it necessary to try to get industry to subsidize their heavy transport costs, which they cannot meet?

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Havelock): I have said already, Sir, that I am looking into this question and will continue to do so.

#### QUESTION No. 75

MR. NOLA asked the Minister for Local Government, Health and Housing:—

- (a) How many cases of hookworm and roundworm have been treated in Kwale and Kilifi Districts during 1956 and 1957 respectively?
- (b) What steps is the Minister taking to prevent or reduce the hookworm or roundworm menace in those two districts which seem to be worst affected in Kenya?

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Havelock): (a) The number of cases of roundworm treated in the Kwale and Kilifi districts is:—

In Kwale in 1956—353 cases; in 1957—339 cases.

In Kilifi in 1956—429 cases; in 1957—1,893 cases.

The number of cases of hookworm treated is:—

In Kwale in 1956—884 cases; in 1957—707 cases.

In Kilifi in 1956—811 cases; in 1957—1,400 cases.

These figures represent the number of persons coming to hospitals or dispensaries specifically for treatment for their worms. In addition there will be other patients, coming to hospital for some other disease, who will be found to be suffering from worms and treated for this condition as well as for the presenting disease. Their numbers are not reflected in the figures I have given.

(b) A constant pressure is being maintained to improve rural sanitation and one of the chief preoccupations of the health staff is to persuade and enforce every household to construct and use a proper latrine. This work has been in progress since 1928 when a special campaign initiated the present drive. African district councils assist by making and distributing latrine tops which are sold at a nominal price.

Every inspector and health assistant is instructed in the importance of educating the community into hygienic habits. The Health Education Unit has published posters and written broadcast talks on the subject.

#### 2.45 p.m.

In the Taita district where roundworm infestation is severe, the Medical Officer has treated whole schools with a new and very effective remedy. The object has been to demonstrate the prevalence of infection and the importance of hygiene so that the normal teaching which is given in all schools on the subject of the prevention of worm infestation is reinforced.

MR. USHER: Sir, would the Minister state whether the figures which he has given us indicate a greater determination on the part of the parasites, or a greater awareness by those who suffer from these parasites of the facilities available to them?

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Havelock): There is, Sir, of course, an ever-increasing and greater determination on behalf of the health staff to inculcate

[The Minister for Local Government, Health and Housing]

into the people who may or may not suffer from these diseases the necessity for hygienic habits. We are not satisfied with the results, although we will continue to press on.

MR. COOKE: Is the hon. gentleman aware that in 1928, the year he quoted, hookworm was practically got rid of in the Kwale district, and can he give an assurance that any new campaign will be followed up subsequently so that we will not have a relapse, as it were, of these diseases.

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Havelock): I did not, Sir, have that knowledge about 1928. I would be very happy to consult with the hon. Member afterwards, whose knowledge of that time is greater than mine. As far as the follow-up is concerned, I repeat what I said before: the activities and enthusiasm of the Medical Department will not be relaxed.

MR. MATE: What further steps, Sir, is the Minister taking to make the population of that area conscious of the danger, and thereby help the Medical Department?

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Havelock): Mr. Speaker, the Medical Department is doing everything it can and has done, and so has the Education Department, to co-operate. I would merely ask that hon. Members of this Council might help the Government in propagating the propaganda.

#### QUESTION No. 87

MR. MBOYA (on behalf of Mr. Muimi) asked the Minister for Legal Affairs to state whether it is the intention of Government to discontinue, in the near future, recognition of legal qualifications obtained in India for the purpose of legal practice in this country?

THE MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): Mr. Speaker, Government has not yet considered the matter.

#### INACCURATE PRESS REPORT

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones): Mr. Speaker, Sir, on a point of order and privilege; and on be-

half of all Members of the Council, I wish to invite your attention and the attention of the Council, Sir, to two articles that have appeared in recent issues of the *East African Standard*. The first, which appeared in the issue of that newspaper on Saturday, the 22nd, referred to a Motion which appears on today's Order Paper as Order No. 11, and reported in effect that the debate on that Motion had been concluded and a decision taken by the Council in regard thereto. In fact, as you will recollect, Sir, the Motion was moved in Committee of Supply and I believe I am right in saying that only two Members had spoken to it when, by reason of the lack of time, the Committee of Supply reported progress and asked leave to sit again, not having concluded its proceedings on that Motion.

The second article was an article which appeared, a leading article which appeared, in to-day's issue of the *East African Standard* in relation to the same matter. The first report, Sir, was factually inaccurate and the leading article of to-day was founded on that inaccuracy.

It is only fair to say, Sir, that I have just a few minutes ago been informed of the receipt of a communication from the editor of the *East African Standard* in which he acknowledges the error of his reporter, the error which was reflected in the original report on Saturday last and again in the leading article of to-day's issue. He tenders his apologies, and he proposes, Sir, to publish a correction in to-morrow's issue of the newspaper. I feel nevertheless that this is a matter which should be brought to open attention in this Council, and I have accordingly brought it to your attention, Sir.

THE SPEAKER (Sir Ferdinand Cavendish-Dentnick): I know that under section 8 of the Legislative Council Powers and Privileges Ordinance certain powers are provided for and we therefore have to take cognizance of such very misleading reports where they affect the proceedings of the Council. But the newspaper in question is a very responsible newspaper, and I feel sure, especially in view of the communication already received, that if on behalf of all Members I communicate with the editor, the matter will, I am sure, be rectified.

MR. COOKE: Is it permitted to comment on this, Sir?

[Mr. Cooke]

You will recollect, Sir, that I saw you on Saturday morning and drew your attention to the inaccuracy. It does not seem to me to have been of all that importance to have been brought up in this Council. Nevertheless, I did bring the Speaker's attention to this matter, because I was under the impression myself that the Motion had been disposed of but you, Sir, assured me it had not been so.

#### ORDER PAPER—CHANGE OF ORDER

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): Before we continue to the next Order, I will ask, under Standing Order 19, sub-paragraph (2), permission of the Council to direct that Order No. 10 be concluded before we proceed with the main business for this afternoon. I think it would be for the convenience of all Members, and in the interests of our business to take the African District Councils (Amendment) Bill Report now, and thereafter to proceed with the other business.

#### REPORT AND THIRD READING

##### The African District Councils (Amendment) Bill

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Havelock): Mr. Speaker, Sir, I beg to report that a Committee of the whole Council has considered the African District Councils (Amendment) Bill and approved the same with amendment.

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones) seconded.

Question proposed.

The question was put and carried.

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (Mr. Havelock): Mr. Speaker, Sir, I beg to move that the African District Councils (Amendment) Bill be now read the Third Time.

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones) seconded.

Question proposed.

The question was put and carried.  
The Bill was accordingly read the Third Time and passed.

#### MOTION

##### LIMITATION OF DEBATE

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones): Mr. Speaker, Sir, I beg to move:—

THAT the debate on the Motion on the Order Paper in the name of Mr. Mboya, Member for Nairobi Area, be limited to Tuesday, 25th February, 1958, and Wednesday, 26th February, 1958, and if the debate is still in progress at the time for the interruption of business on Wednesday, 26th February, Mr. Speaker shall then put all questions necessary to dispose of the Motion.

Sir, I foreshadowed this Motion when I made a statement on Friday on business for this week. I need only add that as I mentioned on Friday, the Sessional Committee proposes to meet this evening at the rising of Council to consider whether or not in this debate tomorrow, that is to say, on the second day of the debate, we should invite the Council by another Motion to limit the time allotted for individual speeches.

To-day, Sir, the first day of the debate, there will be no such limitation on individual speeches.

Sir, I beg to move.

MR. HARRIS seconded.

Question proposed.

MR. USHER: Mr. Speaker, Sir, may I make a short intervention and in no captious spirit at all. We have appointed a Sessional Committee in whom we put our trust, and we are thankful to them for the work that they do.

But there is a growing volume of opinion among those who provide what I may call the sinews of war that a great deal of time is spent upon general motions of this nature apart from the two great occasions of the Budget, and of the Address from the Chair at the opening of the Session. Many people feel that the expenditure of Sh. 25 a minute, £300 a day, £500 a day—my hon. Friend, the Minister for Finance, will no doubt correct me if I am wrong—tends to become excessive.

I believe, Sir, if I may say so, that if these debates led to a better understanding, that better understanding which we all desire, between the races, then they would feel that the money was well

[Mr. Usher] spent. If they do not, I think they will continue to complain and I think they will complain justifiably; and, Sir, I beg to support the Motion.

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones): Mr. Speaker, Sir, I only wish to say in reply to my hon. friend opposite that the Sessional Committee is well aware of the need to avoid an excessive expenditure of time and money on repetitious debates on general subjects. However, the provision in the Standing Orders for the limitation of debate is, as you know, Sir, a relatively new one, and we have been reluctant to apply shock tactics in imposing too great a measure of limitation all at once.

This Motion with which we are concerned now is a Motion of no confidence in the Government. We have not had a Motion of that nature for some time, and although, as I appreciate, it must necessarily be yet another cross-country debate, still there must be a balance struck between too great a limitation and too much licence. We feel that to give a Motion of this nature two days in the present circumstances just about strikes that balance.

The question was put and carried.

#### BILL

##### FIRST READING

##### The Consolidated Fund Bill

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

##### SECOND READING

##### The Consolidated Fund Bill

Order for Second Reading read.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Mackenzie): Mr. Speaker, Sir, I beg to move that the Consolidated Fund Bill be now read a Second Time.

This Bill, Sir, gives statutory approval to the financial provision made in Supplementary Estimates No. 1 of 1957/58 which were approved by Council on the 18th February.

The presentation of the Bill, which is a formal one, is in accordance with the

undertaking given to the Council that each supplementary Estimate would be followed as soon as practicable by a Consolidated Fund Bill giving statutory authority for the expenditure involved.

Sir, I beg to move.

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

Question proposed.

3.00 p.m.

MR. ALEXANDER: Mr. Speaker, although I appreciate this is purely formal business I am very greatly surprised, particularly in these days of such serious money difficulties, that the Government have not taken the chance of this occasion just to tell us briefly where we are with our cash position; because as I said the other day it is quite farcical for us to spend our time in this Council passing Motions such as this if there is no reasonable assurance from the Government that the money is in fact going to be found. It may help hon. Members—and I am sure it will help the public outside—if we just have a brief statement on where we are.

My understanding of it, Mr. Speaker—and the figures become quite alarming—is that we started the year, that is 1st July, 1957, with a deficit on development funds of £2,250,000. We were told the other day by the Minister that in this year the Government has borrowed approximately the same amount of money—£2,250,000; and therefore we can presumably say that we have at least found the money to deal with the deficit as it existed nearly a year ago.

What, then, has been the position since then? The 1957/58 Development Programme tells us, Mr. Speaker, that in the year—of which there are now only four months to go—the Government must find over £6,500,000; and now in this Bill we are told that there is another £500,000, approximately, on Development expenditure, to be found; making a total of some £7,000,000 of loan money to be found in the next few months. In addition there was another £4,000,000 in the 1957/58 Development Programme which was to come from miscellaneous sources, the main one being the Colonial Development and Welfare Grant.

[Mr. Mboya] — people to become more and more anxious about the situation. A large number of our public are beginning to feel that another State of Emergency, or another wave of terrorism and disorder awaits us round the corner. Yet at the same time we have seen that Government and its Ministers have continued to give various assurances of their certainty that there was nothing to worry about. A man walking in our streets might ask himself how deep and how sincere or true this confidence really is with the various incidents that accompany these assurances.

With your permission, Sir, I would like to quote a statement appearing in the *East African Standard* of 31st January this year. The Acting Chief Secretary was reported to state in reference to the discovery of oath-taking ceremonies in the Meru district: "The Government is quite satisfied that the situation is completely under control, but we shall continue to maintain the utmost vigilance". On 8th February the Minister for Local Government, Health and Housing is reported, when addressing a meeting in his constituency, as saying: "The Government is determined to govern and control. We shall not be afraid to bring in measures which will be unpopular with some people at home and abroad". Then he went on to refer to the discovery of the new secret organization in the Kiambu District. The Minister is reported then to have referred to the hot air at public political meetings in Nairobi and their anti-European emphasis which persuaded people to make Europeans their victims. The Minister, Sir, is reported to have given the assurance that, if necessary, he would advocate the return of certain Emergency measures.

In this Council in the course of these weeks we have seen passed legislation, all of which point to one direction; it points to the fact that the Government is itself anxious about the situation, for if it were not so the measures that they have seen fit to bring to this Council, and the legislation that they have seen fit to seek or to include with the present Emergency legislation would be unnecessary.

Sir, the public I believe is entitled to know exactly what the situation is. It

is unfair to the public that they should on the one hand be told that all is beautiful in the garden, that all have nothing to worry about at all and yet in every paper they pick up every morning they read of legislation that the Government wants to introduce to meet an Emergency situation or an anxious situation. They read of Government Ministers speaking at public meetings and expressing very anxious points of view, and I submit, Sir, that when the Minister for Local Government spoke to his constituency, he was speaking as a Minister, for I have it on the words of the Chief Secretary on the 14th November when he stated in this Council in reply to a question by me that when Ministers speak in public, they speak as Ministers.

There is no doubt, Sir, that in the last few months our Government has become increasingly governed by fear, and acted more in panic than in consideration, and in a logical analysis of the situation that we must contend with. The question that we must therefore ask ourselves and to which the public is entitled to an answer, is how far the measures that Government is introducing in this Council every week are going to meet the situation that we have to deal with: how far the measures to which the Government resorts will assure for us permanent peace, stability and harmony in the country. This, I submit, the Government has failed to explore sufficiently, because I believe that in order to do so effectively the Government would have to analyse the root causes of the troubles through which we have passed and analyse the causes of the present wave of secret organizations or other crimes of violence. To illegalize a society such as the *Kiama Kia Mwingi*, or to pass legislation against the carrying of pangas at night, or legislation forbidding people from walking after dark, or requiring them to prove that their after-dark activities are legitimate, is merely to illegalize these activities. It does not in itself solve the situation that must after all be solved. It would control or limit probably the incidents that we have to deal with, but it would not remove the root causes of the problem, and I submit that so long as the root causes remain intact, the Government will always have to take

[Mr. Mboya] — recourse to this type of legislation. In my view, the existence of this type of legislation will lead to frustration and to a situation where the Government rules through fear and not respect and confidence, and I say that any Government which rules merely through fear and terror is not a Government worth its name.

I submit, Sir, that the basis and the proper foundation of any Government that can last or would last, is that which enjoys the respect and confidence of the citizens of the country. We must therefore ask ourselves how far and how much this Government to-day enjoys the respect and the confidence of the citizens of this country; and here I would dare say that I am not only saying how much respect and confidence of the African community, but I would also question how much respect and confidence of the European and Asian community this Government today enjoys. If it does not—and some of us believe it does not—we should ask ourselves why it does not. We should then direct ourselves to trying to do what ought to be done to create that respect and confidence that it needs.

Mr. Speaker, Sir, speaking on the lack of confidence and respect among the African community, I want to make the submission that one of its causes is the absence among the African community of a sense of belonging to this Government.

MR. HARRIS: Who's fault is that?

MR. MBOYA: That may seem a very amusing point, and I see that my colleagues on my right and the Government opposite benches are very amused. If I were in their shoes I would not be amused—

MR. HARRIS: They are not.

MR. MBOYA: —because I think that a Government which knows that people have no confidence in it, the least it can do is to start worrying about why this confidence is lacking, why people have no respect for it, and so on. But it may be, Sir, that it is because of the nature of the Government that we have, and the nature probably of the personalities in it at the moment that they can afford to laugh; that they can afford to ignore that very important question; and yet this

same Government will to-morrow, through its various Ministers, begin to wonder why they do not get the co-operation of the people; why measures which they believe are in the best interests of the country and the people are not given the support that they need or the support that they should have.

I suggest that rather than sit there and grin and laugh, they will direct themselves to the questions which they have so far failed to face.

3.30 p.m.

Mr. Speaker, when I referred to a sense of belonging, I was going on to bring out the point that in my submission, in order that a people may feel they are part and parcel of the Government, that its decisions are as much theirs as the Ministers', that its policies are in their best interests, that legislation passed in this Council is for the good of all, they—the people—must feel that they effectively participate in the Government, that they effectively participate, not only in a Council such as this, but also in the various levels at which plans are drawn, decisions are made and the implementation of the various programmes is decided.

In short, Sir, I am trying to say that it is necessary that the African people should feel that they participate fully and effectively in the planning stages of all the measures that are brought here, and the measures that are introduced by various departments, and that they are fully conversant with and participate fully in the actual implementation of these measures. In the course of my speech, I will try to bring out more clearly what I mean by this particular point.

For the time being, might I just mention very briefly the following points. On the various Government boards and committees, it is my submission that to-day, in some of them, we have African representation, but this falls short in either one of two ways: either that the representation is nominated by the Government and therefore sometimes is completely unknown to the African community, or that the numbers of Africans on the various boards and committees are not such as to be able to influence the decisions of these committees and

[Mr. Mboya] boards. Last year, our organization—the African Elected Members Organization—decided to find out just what boards and committees functioned under the various Ministries, and here, Sir, I have a collection of these boards and committees, through replies from the various Ministries. I seriously suggest that after looking at the replies from the various Ministries, there was no doubt at all left in our minds that the African was right in his frustration over the feeling that he was not sufficiently being consulted in the various boards and committees.

In some committees there is a large African representation—ALDEV is one. But the nature of that representation, the manner of selection, is such that the Africans could not possibly have confidence in the people to-day serving on this Board. Ministers may say, "Question", but the Ministers are aware that at some stage last year, either in the Budget debate, or in the debate on the Ministry of Agriculture—I think it was the debate on the Kenya Meat Commission—we pointed out the shortcomings of the representation on this particular Board, and, at that time, refused to accept the suggestion by Government that the members of this Board should be responsible for appointing or nominating the two Africans who would serve on the Kenya Meat Commission.

It is no use just shouting "Question"; the facts are there, and they are not, as we have often been told here, a manufacture of grievances. I have them on the word of the Ministers themselves, the names were supplied by them, the manner of appointment has been supplied by them. If they want to, they can examine the file.

I seriously suggest, Sir, that the time has come when the African must enjoy effective representation on the various boards and committees, if they are expected to co-operate fully and effectively with the Government in the planning and implementation of the various policies and programmes. If this is not done, then the Government's constant complaints that the Africans are not co-operating cannot be taken seriously.

We know, Sir, too, that in local government—and I am now referring to urban local government—African repre-

sentation again is as yet on the basis of nominated members, and the adequacy or the effectiveness of these members is also left open to question, because we see again that in these local government bodies—urban bodies—the African is so inadequately represented, that even if the two or three nominated members are very good men, they are not always in a position to influence decisions which ultimately must determine the interests of their own community. These same bodies will continually point an accusing finger at the African for lack of enthusiasm, for lack of co-operation and the rest of it.

Mr. Speaker, Sir, in this Council itself I do not need to elaborate because all present can see these benches; all present can ask themselves just how far they are, in a position to be able to convince the African community that by having eight Members in this Council they are adequately and effectively and fairly represented in the highest Council of State in the country. I will, in due course, be dealing with the constitution, and I might reserve my observations on this point for a later time.

Now, Sir, these are important questions because in trying to work out an effective plan for the future, a plan that will ensure for this country stability, peace and happiness, it is evident that one of the most important things is that all of us who live in this country feel that in everything that is determined for their common good they have a say. They should feel that they can effectively influence the various decisions that are made in their interests. My submission is, Sir, that the place to begin is to ensure that the people feel that whatever decisions have been made, that whatever policies are presented, they are parties to those policies. It is only then, Sir, that co-operation will be easy and forthcoming, that suspicion will have been eliminated, and that the various fears which are always expressed, which have made it impossible for various policies to be implemented, will have been completely eliminated. If we cannot direct our attention to this particular point, I doubt very greatly, Mr. Speaker, whether we shall be going about trying to solve this situation in the proper way.

Sir, I have criticized the forms of contact with or participation of the African

[Mr. Mboya] in local authorities, and also in the various Government boards and committees. But it might be interesting to examine in the absence of an effective or direct participation by the Africans, what we have as an alternative at the moment. What are the points of contact between the Government and the African people? This sort of examination might throw some light on the various suspicions, fears and misunderstandings that we are to-day experiencing in this country. It is important, in the interests of the Government and the country that the people should be able to have a clear interpretation of all Government policy. In trying to meet this the agency that is responsible for this interpretation must be above suspicion, because, if it is not, then a lot of what Government may wish to pass on to the people might be regarded as nothing but propaganda, thus being regarded with so much suspicion that in the end all you have is misunderstanding. I am trying to suggest, in the course of my speech, that in fact the agencies which the Government uses to-day are in themselves ineffective. The consequences of that are that we have misunderstanding of Government policy, in the interpretation of various Government projects and so on.

It is also necessary that this sort of contact between the Government and the people should be a two-way affair. The Government should be able effectively to interpret to the people its policies and programmes. But in doing that it is essential that the Government itself should be able to understand fully the fears and suspicions of the people it deals with about its policies and various programmes. There must therefore be an agency that is capable of carrying out this two-way function effectively, and not just be a sort of one-way street affair. At the moment the point of contact between the Government and the people is firstly through the Provincial Administration, which goes down from the Provincial Commissioners, the district commissioners, the district officers, the chiefs and the headmen. This is all done through the Ministry of African Affairs.

Let us examine just how far this agency is effective. Members in this Council—African Members—have tried

from time to time to criticize the effectiveness of the Provincial Administration; and indeed have gone further and criticized the existence of a Ministry for African Affairs. Without wishing to bore the Council in repeating the arguments which we have put forward before this Council time and again, I would only briefly say this. The African community have not been happy to see in existence in this country a Ministry for African Affairs because, as we have already stated, this has implied the treatment of the African as a special department of the Government. It has caused a situation where expert ministries have always to refer to this so-called go-between, the Ministry for African Affairs, on everything, even matters of a specialist and expert nature. The African objects to being so treated; he wants to be treated like any other citizen. The argument that this Ministry protects him no longer applies because he does not see in it that protection. Indeed, Sir, even if we wanted to protect him it is essential that we should know that the African himself appreciates that measure of protection. If he does not, then I think it is only fair and proper that the Government should abolish this Ministry.

3.45 p.m.

The African does not object to the Provincial Administration; indeed we have said in this Council, when moving a Motion for the abolition of the Ministry for African Affairs, that we would still want to see retained the structure of the Provincial Administration, in terms of the Provincial Commissioner, the district commissioner and the district officer. But—and this is important—we would strongly question some of the powers and some of the functions that these people perform to-day, because, in our view, the most important development in this country to which the Government ought to direct its attention to-day is the development of a proper and effective local government system in the African areas. In that development there is no room for the multiplicity of functions and activities as there would exist if you at the same time strengthened the Provincial Administration.

We have had the African district councils now for a period of years and

[Mr. Mboya] no one can submit with any justification in this Council that within that period there has not been some development in these bodies. If it is true that some development has been registered, then it should be equally true that there should be a gradual removal of some of the powers and functions of the district commissioners and district officers to the local authorities or local councils and African district councils.

The question is: how much of this has happened in the last few years? Instead, what do we have to-day? Because of the State of Emergency, and probably because of the fears that emanate from it and the atmosphere that has developed after it, instead of having a gradual diminishing of the powers of the district commissioners and district officers, we are, in fact, intensifying the provincial administration, through the closer administration system. We are increasing the number of district officers in the various districts; we are even increasing the number of district commissioners. We are subdividing the various African district councils. And I know when the Minister for Local Government speaks—as I hope he will—he will probably say that some of the subdivision has been as a result of a demand by or a desire of the Africans themselves.

However, I strongly question this. I strongly question how far the Government itself has tried to discourage such a division. I do not wish to suggest that they have encouraged it, but there have been instances where their activities in those areas have appeared very questionable.

Sir, I submit that going down the ladder, below the district officers whom, as I have said, we are now increasing in the various African areas, we have the chiefs. This is a subject which has been discussed at some length in this Council in the last few days. My friend, the Member for Central Province, in a Motion in this Council, asked the Government to review the Native Authority Ordinance, with the intention particularly of reviewing the position and status of chiefs and headmen.

MR. HARRIS: Mr. Speaker, Sir, on a point of order, the last point which the

hon. Member made was the subject of a debate about three weeks ago; the point he is making now was the subject of a debate a few days ago. Is it in order to have these debates all over again, Sir?

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): Strictly speaking, you should not refer to a subject on which the Council has taken a decision, as it did a few days ago and in the same terms.

MR. MBOYA: Thank you, Mr. Speaker. I do not wish to repeat the debate that took place in the last few days, but in examining these agencies of contact between the Government and the African people, it is inevitable that I must refer to the chiefs, that I must refer to the headmen.

MR. HARRIS: Mr. Speaker, Sir, have you ruled or have you not ruled that repetition of last week's debate is out of order?

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): I was going to wait and hear what the hon. Member said. I have asked him to be careful and not to repeat and put forward the arguments on which Council took a decision last week.

MR. MBOYA: Thank you, Mr. Speaker. I therefore wish to state, Sir, that the views and attitudes of the African community have been quite fully put before the Government in the various debates which have taken place in this Council previously.

Another agency used by the Government—and this was the subject of some questions in this Council, so I hope it is in order for me to refer to matters which have been the subject of questions—

MR. HARRIS: As far as I am concerned!

MR. MBOYA: As far as the Member for Nairobi South is concerned. The other agency that the Government is using is the African information service, which includes the African broadcasting services. On 18th February, in answer to various questions, the Acting Chief Secretary made certain remarks which in themselves did not leave any doubt in our minds as to our suspicions of the effectiveness of this Department agency.

[Mr. Mboya]

Among other things, and I am not quoting the exact words now, the Acting Chief Secretary stated in answer to a question, that the Press Office of the Information Department only handled those documents or statements on matters which, in their opinion, to a large measure agreed with Government policy. The Minister was referring to a question put by me about a statement that had been made by Dr. Leakey, and circularized by, as he said in his own words, "the Press Office of the Information Department". Following the supplementary question it became evident, Sir, that it was the policy—it would probably be interesting this time to read and quote the exact words:—

"With your permission, Mr. Speaker, I should like to answer at any rate part of that question. I feel that the extent to which the African Members' statements are incompatible with Government policy is a matter which is perfectly susceptible of judgment by they themselves. I have my own ideas on the subject, but so far as circularization by the Press Office of the Government of statements made by the hon. African Members is concerned, since those statements almost invariably attack Government policies and in my judgment—they are equally in a position to judge—misrepresent on frequent occasions, factually and otherwise, Government policies, I do not consider that it is part of the function of the Government Press Office to disseminate such material which I regard as misleading."

After further supplementary questions, the Member for the Coast said, "Is the Press Office in existence for propaganda or information?" Now, Sir, these statements are both relevant and important. The Government relies on the African broadcasting service, the Press Office of the Information Department and the Department as a whole, as an agency to interpret to the African people its views, its policies and its schemes or programmes. But we have been told that that agency must only give to the people what in fact the Government agrees with, or what agrees with Government policy or Government's attitude.

Is there not a danger, I ask, that over the years, pursuing this policy, this

machinery has come to be regarded as a propaganda machine, as indeed the hon. Member for the Coast immediately pointed out during the exchanges of questions? If, in fact, that is the case, can the Government seriously state that the Information Department is an effective agency to interpret to the African people Government policy and Government programmes? My submission, Sir, is that it could not be an effective machine or agency, once the people have got it in their heads that it is a propaganda machine. It will always remain a propaganda machine as long as its function remains one of only accepting statements and material from those who agree with the Government. In the words of the Acting Chief Secretary, nothing at all that tended to attack or to disagree, with Government policies.

It is important that in trying to reach the African public the Government should allow opposition, whether it regards it as constructive or otherwise, to be put forward, because it is only then that the African community are in a position to determine the weight and the fairness of Government arguments and Government policy. If opposition is muzzled and if the machinery of this agency is used only to convey to the African what the Government and its various supporters think is right, then it is doomed to fail. My submission is that the Department of Information is a complete failure in the present circumstances. An inquiry should be instituted into the effectiveness of this Department, both in its Press Office and in its African broadcasting service.

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones): Effectiveness from the Government's point of view or from yours?

4 p.m.

MR. MBOYA: Effectiveness from the country's point of view. If the Government believes that only what is right in the opinion of the Government is right, as we are constantly being made to feel in this Council, then I am not surprised that our present Ministers have so many problems to contend with.

Now, Sir, I come to one last aspect of this particular point of contact between the Government and the people. I have just pointed out some of the



[Mr. Mboya] Government uses to-day in seeking to interpret its policies and programmes to the African people. And as I say, if there is going to be any understanding of these policies and programmes, and if there is going to be co-operation and confidence instead of fear and suspicion, the process must be a two-way affair. The Government must not only be in a position effectively to interpret its policies and programmes, but it must also be in a position to receive the reactions of the various people for whom the programmes are meant. The question, Sir, is how far this is effective to-day. I explained earlier that in fact the present representation of Africans on Government boards and committees, on local authorities and, indeed, in this Council, is so ineffective and inadequate as, in my opinion, not to be in a position effectively to bring out to the Government the African reactions to the various policies and programmes.

To-day, it is my considered opinion that one avenue or channel that would act in this respect is the African Elected Members. Here, Sir, I just want to refer to one or two statements made by various people, and even persons as high as the Secretary of State for the Colonies. Members will recall that in November last, on 14th November, speaking in the House of Commons, the Secretary of State was reported to have said, referring to a statement issued by the African Elected Members the previous evening that, in his opinion, this did not represent the views of the African community.

Now, Sir, nothing could be worse, and I say this with a great deal of respect for the Secretary of State for the Colonies, whom I have known personally for some time. He was out here and spent weeks meeting various people and discussing our country's problems. Of the people he met were the African Elected Members. With us, and with us alone, he was content to discuss the African case over the constitution. He was approached to meet various African political organizations, and declined to do so, which implied that in his opinion the African Elected Members were acknowledged and recognized as the true representatives of the African com-

munity. Mr. Lennox-Boyd, the Colonial Secretary, did not question that at that time. He goes back to Britain, and because on the previous evening the African Elected Members had issued a statement rejecting the constitutional arrangements that he wanted to introduce in or impose on Kenya, he then decides all of a sudden that in fact we represent nobody.

That is but an example. In addition to that, there have been various statements made in this country by various people, including some of the Government Ministers opposite, all of them on the same lines; discrediting and refusing to acknowledge that the African Elected Members represent the African people.

Now, Sir, this immediately raises the question: if the Government feel, and if very highly responsible persons representing the British Government feel that the African Elected Members do not in fact represent the African community, then might we ask who does and from whom they get the various views that they constantly tell us are the views of the African community? I said, Sir, that it was important that in this process of Government and African relations there must be an effective two-way system of interpreting (a) Government's policies and attitude to the African people and (b) Africans' reactions to various Government policies, programmes and legislation. I therefore submit that in the present circumstances that two-way system does not exist; and in the words and statements of Ministers in this Council and outside this Council, this position has been made even more difficult by the non-recognition of the truly elected representatives of the people.

Now, Sir, the sum total of what I have said so far is that in fact the channels and machinery of consultation and discussion between the Government and the African people are ineffective, and that it is necessary in the interests of this country that such machinery and channels should be improved upon, and that if we intend to create an atmosphere in which there shall be respect—confidence and respect—it is inevitable that such steps as are necessary are taken without any further delay. The freer agencies that could be used, such

[Mr. Mboya] as African political organizations and other voluntary organizations, African public meetings and so on, on these we know the present Government's attitude, and we also know the reaction of the African community to the present Government attitude to African political activities in general, and also to African public meetings in particular.

As I said earlier, it is sometimes surprising that a Government with this sort of attitude should also feel surprised when all of a sudden it finds that it is faced with secret societies and so on. Here, I must address myself directly to the problem in the Central Province, where, as a result of the State of Emergency, the Government decided not to allow any political associations to be formed, even on the basis of the existing legislation that covers the other districts.

Sir, all Members in this Council are aware that the Central Province of Kenya to-day is one of the busiest provinces in the country. A lot of reconstruction work is going on. Government is involved in so many programmes in that area, and yet this is the area where the Government says that people shall not freely organize in order to speak for themselves. And then the Government is surprised when it suddenly finds it has secret societies in that province.

I do not wish in any way to give the impression that we condone secret societies or violence or terrorism, but we do want the Government to be realistic enough to face these issues, not by just passing legislation to make it illegal to belong to this or that society, but also to do something to remove the causes that drive people to resort to such activities. Because before that is done, you will only make one illegal to-day and you will have another to deal with to-morrow. And let us face these facts, because that situation is with us and we are going to continue to have it unless we are realistic enough to take those measures that remove the root causes of these problems.

Our Government benches might probably be well advised to refer to a statement made by Sir Andrew Cohen, now representative of the British

Government on the Trusteeship Council when he spoke in Los Angeles a few weeks ago.

Mr. Speaker, I cannot conclude this speech without referring to certain aspects of African frustration, drawing attention to certain particular problems, and probably pointing out the African views on some of these problems.

Let me deal first with those that are economic. Here, Sir, I will address myself to a subject that we have only had to deal with this afternoon, labour. On this, I want to draw attention to the fact that sometime in 1953, we had a committee appointed to examine the question of African wages, popularly referred to as the Carpenter Committee. We are all aware of the recommendations that this committee made and the subsequent White Paper that was passed in this Council. There were two main features of the recommendations. One was the reform of the formula on which minimum wages for certain scheduled areas would be determined; and the second was a movement, a progressive and gradual movement, from the stage where we pay only subsistence wages to a stage where we can pay wages that would enable a minimum family man to live within the working areas. The movement was stipulated to take place over several years, whereas I did not and still do not accept myself the recommendations of the committee, and in particular, the Government's White Paper.

4.15 p.m.

I would point out (a) that in the recent developments, it has become obvious that the minimum wages formula as at present exists is inadequate and cannot meet even that subsistence wage for which it was meant, because the determination of what constitutes a desirable composition of the commodities that an African requires is itself inadequate and unrealistic. It fails to include some of the items that in fact an African has to spend money on every day in the urban areas. Findings to this effect can, in fact, be brought to the Government through the various meetings that have taken place and also some of the arbitration tribunals that we have had in the country in the last few months.

[Mr. Mboya]

As to the movement from a subsistence wage to a more realistic minimum family wage, we know that Government on the arguments that economic reasons did not allow, advised against, or did not see fit to move as stipulated in the White Paper. In the first instance, the first year when the movement was due, some small percentage of wage increase was made. In the second year, there was no movement at all and in a statement issued by the Minister for Labour later to explain this, he contended that the economic situation did not allow for such a movement.

Now, Sir, it is well and good for the Minister to argue that the economic situation does not allow for a movement in the wages—and I want the Council to recognize that here we are talking not of the rate for the job, but minimum wage, the wages that we statutorily want every employer to pay in certain scheduled areas. It is not necessarily one which is related to the productivity in the industry or to the worth of the labour to the employer or the firm or the industry. This is the place where the Government states that for economic reasons, no movement would be made. Now, Sir, here is the poor African worker who is doing everything possible to make both ends meet; he is told that for economic reasons, his wages may not be increased. But, Sir, the Government does not see fit at the same time to do anything to control prices or profits.

Here, the Government is blind to the economic situation. Here the Government overlooks the relationship between wages and movements in prices and profit margins. If the Government wants to see a sort of a *laissez faire* situation where employers are free to retain whatever profit margins they want, where business and commerce are free to raise prices as and when they want, then I submit that wages must be allowed to go up. If there is going to be a pegging, as it were, of wages, then there must be a pegging of prices and profits. The Government has miserably failed to handle this situation. The Government has been more determined to show a courage to face our economic situation of problems only where labour is concerned; but where industry and employers are concerned, the Govern-

ment has been content to say: "Oh, we hope they will be wise enough not to do it". Well, if it is hoped that they will be wise enough not to do it, then I say that they must leave the door open for wages to go up. The Government is aware, Sir, that in a country like this, the statutory minimum wage determined by the Government is an important factor in determining the levels of wages in industry generally, because in the absence of voluntary free collective bargaining machinery, the minimum wage has tended to become the maximum wage. Very often, industry pegs its wage levels on the current Government minimum wage, and industry resists any increase in wages very often on the pretext that Government has not seen fit to increase its statutory minimum wage. A lot of education must still be done on industry in this country to appreciate the proper place and function of collective bargaining, and until that is done, the protection to the worker by the statutory minimum wage remains very important.

This afternoon, we heard the Minister reply to the question of unemployment, and I seem to think he dismissed it rather easily. He seems to think or say that in fact no problem exists. I seriously suggest to the Minister that the problem exists, and that probably what is wrong is that he does not want to see it.

The mere fact that to-day we are operating legislation to shut people out in the reserves, to refuse them coming to look for work in the town does not in itself mean that unemployment does not exist, because the Minister would have to show that in the rural areas where we shut them there is some unemployment, or some means of subsistence. We know, Sir, that in the rural areas to-day there is a growing economic problem that will sooner or later be termed unemployment.

In the Central Province, for instance, with land consolidation going as fast as it is, there is no doubt that in a matter of a few months, in the various villages, we shall be dealing with an unemployed population; and the question is, what policy, what steps or what action does the Government intend to take to meet this problem? It is not good enough for the Minister to tell us that in Nairobi there are 700 unemployed and, therefore, unemployment does not exist, that

[Mr. Mboya]

It is not a serious problem. We have got to look at this problem from an overall point of view—the picture of the country as a whole—and ask ourselves just what is the magnitude of the problem that we must handle in the next few months. This is what I submit the Government has miserably failed to do.

I cannot conclude my remarks on labour without saying at least this: that the developments of the last few months have shown a marked improvement in the attitude of employers, and that the formation of various employers' associations will go a long way to improve the development of industrial relations and collective bargaining machinery in this country; and I would like to see it recorded that some of the employers, and particularly the Association of Commercial and Industrial Employers in Nairobi, and the Employers' Association in Mombasa, are doing a good job of work in trying to educate the employer side of industry on labour and industrial relations generally.

Mr. Speaker, I also want, if I may, to take this opportunity also to mention one other point that is probably of some concern, and will become of growing concern in this country. That is, the question of the activities of workers' organizations: I am referring to the trade unions. The responsible organization of trade unions, the Federation of Labour, has made it known that it does not and would not support workers if they thought that they would exploit or use the organizations in a manner that is not conducive to the development of good industrial relations. They have made a statement making it quite clear that they do not support the unofficial strikes that take place from time to time, nor support the existence or incidence of violence during strikes. I want this on record, because I have seen in the last few days that some papers are becoming interested in this matter, and are beginning to make certain statements that would give impressions to the contrary.

I say this in all sincerity, and the record of the Kenya Federation of Labour is there to prove the point that the Kenya Federation of Labour seeks nothing but peaceful and sound industrial relations.

Now, Sir, I will come to the second aspect of the economic problems through which in my view there is a great deal of African frustration. Mr. Speaker, land consolidation: here, Sir, on land consolidation the African Members have again drawn attention from time to time to its various aspects with which the African is dissatisfied. Now let it once more go on record that this does not imply a rejection of land consolidation in principle. All that is being questioned is the manner in which it is being carried out, and the pace; and in our view, this is important. In his Address from the Chair, His Excellency made it known that it was Government's policy that no person, and location or district, would be compelled to consolidate land unless they were freely wanted to do so. In various addresses to this Council, the Minister for Agriculture and the Director of Agriculture have also given us similar statements of assurance. In addition, we have been told of the structure of the machinery used in those areas where land consolidation is taking place. We have been assured in the last Budget debate that all was well. I raised the point here that there was a great deal of dissatisfaction, and to prove my point, I read to the Council a leading article of what I consider to be a responsible paper in this country. The hon. Member for the Coast Province then, on receipt of some letter of complaints from some African people in the Central Province, put a question to the Council and asked whether or not an inquiry could not be carried out to determine how far people were satisfied. This was rejected in this Council and the Government continued to emphasize to us that all was well.

4.30 p.m.

We were told that through land consolidation no one to-day owning any land would lose his land. It was vague as to what steps or what measures would be taken to deal with the landless population that would be created, and I say this in the knowledge that already there exists a landless population, and that the increased landless population would be created as a result of consolidation. Some of my colleagues referred to the existence of those people who, although they did not own land at the moment under the present system,

[Mr. Mboya] lived on land and used it as though it belonged to them, but who must leave that land as soon as consolidation is under way, and particularly if individual titles are to be granted. Again, Sir, the Government made every possible effort to assure us that nothing of the sort—no such problem—would arise.

To-day, with your permission, Sir, I want to take this opportunity to put before the Council a sample of some documentary evidence that I have on the various aspects of the problem that we have before this been assured would not arise. This is the first point I wish to make. Here I have with me the first type of complaint that we have received, and this is only a sample because we have hundreds of letters that we have received from various people complaining. A person working in Nairobi with the East African Railways and Harbours on 21st June wrote to the District Officer, Land Consolidation, Kiambu, and with your permission I would like to read this one because I think it is important—or if I may just give a summary because some of the figures may not be very important to the Council. He says: "I have the honour to submit these few lines for your sympathetic consideration. I beg to bring to your notice this that as a result of land consolidation we, the Mbari ya Kiai recently shared our father's land at Galindu Division which is 144,775 acres—out of these 23,12 acres were bought by four people, who agreed to pay Sh. 6,225 which the land seller demanded in January, 1957. Because our father did not pay the whole cost, hence Mbari gave us permission to own that portion assigned from Mbari's share". He goes on to make some arguments about various things. Then he says: "When dividing these 142,75 acres those 23,12 acres were not excluded, and they were shared by the whole Mbari. This mistake, of course, was not committed deliberately but was due to the hurry as we were requested to submit our calculations immediately to enable the land consolidation to get ahead. In view of the fact that I am the only literate person in my family who could give accurate calculation, but due to the pressure of work in my department it was impossible to be granted leave to be

present at Mangu, therefore I relied on Mbari, who gave incorrect figures. Due to pressure of work at the present time I cannot manage to see you, Sir, but soon I hope to get leave and if you so wish I will contact you personally. I should be very grateful if you would review the shares of the above-mentioned land as shown in the list enclosed herewith. I can assure you, Sir, that I am ready to meet any expenses of resurveying the land, if necessary".

Now, Sir, this is the reply he received on 27th June from the Land Consolidation Officer, Kiambu:—

"Dear Sir,—I refer to your letter of 21st June, 1957. I regret that it is too late to alter or reconsider any land cases as the demarcation has already commenced in Nyamangara. (Signed) District Officer."

Another appeal was directed to the same office and again the following reply was received:—

"I thank you for your letter. As all land in Geta has been consolidated and demarcation completed, I regret that it is not possible to entertain your complaint at this stage. Nevertheless, I should advise you not to take any interest in the persons who laugh at you for supporting land consolidation."

These are replies from responsible Government officials and we have been assured, Sir, that nobody who has land will lose it. Here we have Government officials writing to say in reply to a very sensibly written letter—a person who is even ready to meet the costs of resurveying—"We are sorry, it is too late. We cannot now do it." Then we expect that man to be contented and to say that the decision has been made and it is quite all right, that he will go on and support land consolidation anyway. He is told not to care about those who have laughed at him.

It is not my intention to read to you all these letters because I can see from the faces on the Government benches opposite that they are already certain, themselves, that something is wrong.

There is another case, Sir, from the Dagoretti area, where there is a bunch of correspondence backwards and forwards from the district officer to the district commissioner and then to the

[Mr. Mboya] Minister for African Affairs, then back to the people, back to the district officer, back to the district commissioner, and then back to the Minister for African Affairs. All this happens in cycles; and all that they receive from upstairs—from the Provincial Commissioner and from the Minister for African Affairs—is this reply. "The decision as to the ownership of land is in the hands of the commissioner's tribunal, under the Native Land Tenure Rules. This matter is none of my responsibility and I advise you to apply to your district committee." This is what they are told to do. In other words they are told that the highest point of appeal is the district commissioner's tribunal.

Now, Sir, despite that contention we have evidence, and again I have the letters here, where in several cases—again in the same district of Kiambu—a district committee had ruled that some land belonged to somebody and established the boundaries. This ruling was ignored by the land consolidation officer—the district officer, land consolidation. The matter was referred back to the local land consolidation committee; and again they made the same ruling, confirming the same boundaries and once again the land consolidation officer overruled their decision; whereupon the men took it upon themselves to try to appeal to some higher place. From the higher place they got the same reply. "This is not my responsibility. It is entirely in the hands of the local committee and the district commissioner's tribunal."

Now, Sir, the question is that the Government may now say to us, "Well, that is the mistake of one land consolidation officer". But when we made the point, last year during the Budget Debate, that there were these points to be considered and that it was important that the Government go into them we were told that all was beautiful in the garden.

If I had written to myself these letters then, of course, the Government would say that it was another piece of imagination; but I produce here the facts and documentary proof from the Government's own offices and I am quite willing

to hand these over to the Minister after this debate.

Another point, Sir, is that we have been told that land consolidation will on no condition be carried out by committees from outside the particular area or location; and once again I have here evidence of a district officer and an assistant district officer who saw fit to try to override the rulings of a local land consolidation committee by coming in to make their own ruling with elders drawn from outside the particular location. Again I am quite willing to hand these over to the Minister.

The hon. Member for the Coast will remember that some time ago he received a letter addressed to him, with copies to some of us, complaining of some land consolidation that was going on in an area around Limuru or Kikuyu where the people were again not complaining against the land consolidation committees but against the land consolidation district officers, who it seems—and I regret to say here that one person seems to be notorious in this respect—have constantly sought to override the rulings of the local committees in the various areas. A more interesting case is where a district officer—again land consolidation—around Limuru sought not only to overrule the decision of the local committee but also to ignore some court decision that had been made and confirmed by the Provincial Commissioner for the Central Province. He also sought to ignore an appeal decision that had been made to the level of the district tribunal, that is the district commissioner's tribunal—a tribunal which consisted of some of the most respectable and elderly chiefs in the particular area. If the Minister is interested I will hand over the material to him.

4.45 p.m.

Now, Sir, these are some facts that we constantly get our people coming to us and complaining of, and when we raise questions in this Council all that we receive—or when we try to force the issue to the point where we only ask that an inquiry be held—we are told it is all a lot of manufactured grievances, that there is nothing wrong at all and that the whole system is working so well: that the whole system is worked

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in such a manner that it will not in any way interfere with the land rights of any person and that no person will lose anything.

These are statements that have been made here by responsible Ministers and, Sir, these are facts that the Minister must reply to.

I cannot conclude my remarks on land consolidation without paying some tribute to Mr. Swynnerton for the far-sighted report that he produced. My only observations on it are that it was too little and too late. I would add this, however. That in dealing with land consolidation specifically it would have been more realistic for the Government to foresee these problems; not only the problems in terms of the mechanics of applying the programme, but also the problems in terms of the economic problems that are bound to arise and, whatever the Government says in this Council, will arise.

The question of landlessness is more intensified as soon as land consolidation is completed in these areas and we cannot get away from that fact because if our objective is to produce a class of African farmers who, after consolidation, will produce for the market then we must encourage individual farming, individual thinking and money economy in these areas. This must replace the present social and economic structure. If it does then there is no question that it will release with it certain very definite and specific social and economic problems.

Already, Sir, I have had to address a letter to the Minister for African Affairs about a case in which some person in Kiambu, whose father has the required amount of land to enable him to build his house on his land instead of living in the village and where the ruling is that this man cannot move from the village with his father to live on their land. Now, as I say, I have only addressed a letter to the Minister about this. I have so far received no reply.

These may just be allegations, but if they are true then there is a problem; and this is the problem which the Government has always told us would not arise and does not exist. I submit, that if people will now be told they must

remain in the villages and may not move back to their family land. The question that arises is, what are we providing for them to do in the villages? What useful occupation or employment are we giving them? Is it communal labour? Because if it is then the Government is heading for a lot of trouble. The Africans do not want communal labour.

Mr. Speaker, the Government has suggested in the past that land consolidation will result in an enlarged capacity for the African land to employ more labour and an enlargement in its productivity. I agree with the second part of it. I do not entirely agree with the first part because in the short-term analysis these Africans who have just consolidated their land are in no position to employ anybody. They will need some years in which to be able to build up their economy sufficiently to employ any appreciable number of people. Before that we have the problem to contend with which is the surplus population of persons who have nothing at all to do and who are all collected together in villages and therefore in a position to discuss and plan mischief.

Mr. Speaker, I will just deal with one or two points in the context of the Central Province in connexion with the Emergency Regulations before I move on to other aspects of the economic situation. I want to say a word or two about villages.

We are aware that under some Emergency Regulations Africans in the Central Province are not allowed to move from one village to another without, I understand, a special permit. Equally they can be forced to move from one village to another against their will; and, Sir, here is a case that I think is significant. Even if the Government denies that it is the general rule, this is a pointer to some of the problems that must be dealt with.

On 4th July last year I received a letter that I am afraid was written in some very poor English, but all the same it conveyed the meaning. It said: "We are five people who have been removed from their houses because of action of removing houses at Makadara in Fort Hall. We were imprisoned in the chief's camp with our wives and children and we are not given food and we have got a

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lot of trouble." Now, here I have got a letter from the district officer and a letter which we wrote to the District Commissioner, Fort Hall. I want you to see it and make sure that I am speaking the truth.

After complaints were made to that district officer this is the letter that these people received on 29th June. "Your letter, dated . . . addressed to the District Commissioner, Fort Hall, has been passed on to me for the necessary action. You have been removed from Makadara to Marakifi village. It is the only village where there are vacant plots and which is within reasonable reach of your *shambas* at Makadara. It is therefore possible for you to go and get food from your *shambas*. You are reminded that the orders that were given to you were (a) to move from Makadara to Marakifi and (b) to remove your old dwellings at Makadara. You have not removed your old dwellings. I now draw your attention to the fact that your failure to remove these buildings will not only make you liable to prosecution for failing to comply with legal orders, but will render your unoccupied buildings liable to destruction in accordance with section 7(a) (1) of the Emergency . . . and I hope the Minister for Defence is listening . . . (Movement of Kikuyu, Meru and Embu) Regulations, 1953." It goes on: "I want to make it quite clear to you that while the Government is prepared to listen to all genuine grievances it will not tolerate any nonsense, which appears to be your course."

Now, Sir, here is a person who complains that he was given a particular type of treatment and what does he receive from the Government?—A letter threatening and warning him and not even an attempt to investigate into the complaints that he has made. He is told that the Government will not tolerate any nonsense or moaning from him—language that in my view should not have been allowed at all. In the correspondence of our administrative officials they are serving these people. They are not the masters: that must be made perfectly clear to them. The Government speaks of "genuine grievances" so long as the Government determines what is a genuine grievance. A person has a grievance and, whether the district

commissioner or the district officer thinks it is genuine or not, the district commissioner and the district officer must first investigate and listen to that man's case.

There is another complaint, on a different subject, in the villages. People complained to me about some funds that they were made to pay and the manner in which these funds were collected at night—and always, when they have gone to bed, they were made to wake up with their wives and children and asked to come out of their huts and told to produce one or two shillings that were needed. Most of them were unaware of the purpose of this fund or what kind of tax it was and they wanted to know about it. They were given some receipts. Some of the receipts had a heading "Kikuyu Village Account Fund." Others were merely those sort of receipts one gets when one goes to a cinema in Nairobi and the only thing written on them was "One shilling" or, perhaps, "50 cents." It does not indicate for whom the money is being collected, for what purpose it is being collected, and to which fund it is going.

I addressed a letter to the Minister to find out whether these allegations were true and, if they were, to investigate them; I asked him to find out if the people actually know whether they are required to pay to this fund with this money; whether it was voluntary or compulsory. This is the letter I go from the Minister in reply: "I think that I can best give you information on the subject of your letter of June by forwarding the attached extract from a report from the District Commissioner, Kiambu, on the subject you raised, which is as follows"—and then he quotes the letter. This is the most interesting paragraph to explain the information I had sought from him: "The letter concerned"—this is the District Commissioner speaking—"The letter concerned would appear to refer to funds collected for village purposes. Each village collects money as and when necessary, to help keep the soup kitchens going and to pay the salary of a home visitor who looks after the children. I enclose a copy of the letter from the District Officer, Kikuyu, requesting permission to collect this money, and also a copy of my

[Mr. Mboya] authority to collect, given on the 24th April, 1957."

It follows from these that the collections are voluntary!

Now, maybe I am very dumb, but I cannot connect the two. Mr. Speaker, I am completely unable to follow the piece of reasoning in this paragraph. A letter came from a district officer, Kikuyu, asking the district commissioner for permission to collect funds. The district commissioner on 24th April replied giving authority for the collections.

Therefore the collections are voluntary! Just the authority! Does the authority imply voluntary collections? Authority to whom? The letter does not tell me that. Authority to the District Officer, Kikuyu, to collect funds. Does that imply voluntary collections?

Otherwise it is suggested that a district officer in Kikuyu represents the Africans in Kikuyu, and therefore authority from him or a request from him constitutes a request from the Kikuyu people in that particular area. So, Sir, the letter does not explain that, and I am unable to understand the piece of reasoning.

5.00 p.m.

The last but one point on this is about the passbooks and the passbook regulations. Now, Sir, my understanding of the passbook regulations is that this is the document on which you have got various information or some information on the particular person—every male of the Kikuyu, Embu and Meru tribes; that it would be used as a check on these tribesmen's movement from place to place, to check their residence; and in cases where security requires, the passbook may be cancelled. The cancellation of the passbook means that this person must return to the reserves and is not allowed to take employment anywhere.

Apart from the cancellation, the passbook may be endorsed so that the particular person may not return to a particular area, either for a specified period or indefinitely, at the pleasure of the district officer or district commissioner. I do not, at this stage, wish in any way to quarrel with the regulations as such, but I wish to bring out a point in

the application of the regulations—again that is not quite isolated. This is explained in some correspondence that has been going on between myself and the Administration on behalf of a chap who complained that, in his opinion, his passbook had been unfairly endorsed, restricting him to his area of the reserves for six months—removing him from the area of employment and taking him back to his reserve for at least six months at the pleasure of the Administration. As a result he would have no job; he would have nothing at all, in his submission to me, to live on. So I wrote to the District Commissioner, Kiambu, and I said: "I have been contacted by the abovenamed with a view to obtaining for him permission to look for another employment in Limuru area. He has been employed there as a houseboy since October, 1954 to December, 1957. He is discharged today because he asked for an increase in pay—this is what he told me. It appears that the District Officer, Limuru, has cancelled his passbook and endorsed, on page 24—'Not to be re-employed in settled area for six months from to-day'. If his passbook is cancelled because he demanded an increase in pay, in my view I think this amounts to a misuse of passbooks and I should like to know the reasons which have led the District Officer, Limuru, to cancel the owner's passbook and the subsequent entry, after over three years of employment in this very area, where he is now not allowed re-employment for six months."

I received the following reply from the district commissioner's office. "It is perfectly true that Thiongo Karanj's passbook was endorsed on page 24 'Not to be re-employed in settled area for six months from to-day'. This was not because he asked for an increase in pay, but because of the extremely unsatisfactory nature of his work. He was given a pass to return to his home district, Fort Hall. I cannot agree that this action of the District Officer, Limuru, amounts to a misuse of passbooks."

I strongly question the District Commissioner's contention, because my understanding of the passbook regulations does not include unsatisfactory work. The unsatisfactory nature of somebody's work is dependent, after all, on the employer. Supposing he disagrees with the employer and he is discharged

[Mr. Mboya]—will he be denied the opportunity to look for another employment just because this particular employer contends that his nature of work is not good?

It is within the regulations provided that when a person loses his job, or resigns, he should be given 14 days to look for alternative employment, and this period can be further extended if the merits of the particular case justify it. I submit that Thiongo should have been given the normal 14 days and thereafter been given the normal treatment according to the regulations. I accordingly wrote back to the district commissioner and made that statement—that I was not satisfied with his decision or ruling. I received another reply to my letter. He said: "I appreciate your point, but this is not a question of a passbook being cancelled but of an endorsement on it, which I consider to have been perfectly validly made. We have so many decent and honest men looking for work that we cannot afford to give perpetual opportunities to those who abuse them. Thiongo's passbook was not cancelled. It was, however, endorsed so as to give a chance to someone else who was prepared to do a job of work to obtain employment. I do not see that Thiongo has any cause for complaint. We do not, of course, accept an employer's word without inquiries of our own."

Now, Sir, nothing could be more confusing and nothing could be more manifest of a misunderstanding of the regulations on the part of an administrative officer than this letter reveals. The passbook was not cancelled. The passbook was endorsed that this man may not come back to work for six months. To that man Thiongo, whether the passbook is cancelled or just endorsed is immaterial, because for him it is the denial of an opportunity to work and earn a wage, which is important, and I submit he was denied an opportunity to work and earn a wage and was sent to a place where he would have no job and no wage. To argue that the Administration looked into the matter is to suggest that in these areas the Administration constitute themselves into labour officers for conciliation purposes, and there is nothing to suggest in this letter that the labour office was brought in and that

conciliation was carried out. I submit, Sir, that this was a misuse of the regulations by the Administration and a defence by a superior officer of a subordinate, merely to save face.

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): Mr. Mboya, I must ask you to address the Chair, not to turn your back on it.

MR. MBOYA: Thank you, Sir. The last point is that regarding the movement permits. We have spoken in this Council, time and again, of the hardships experienced by members of the Kikuyu, Embu and Meru tribes regarding movement from their areas to the working areas or the urban areas, and various other forms of movement. I have, myself, been involved on more than one occasion in trying to assist people to get a movement permit to the working areas. I do not, in what I say, wish to imply that I am here quarrelling with the regulations as such, but again I question the Administration's techniques and attitudes where these matters are concerned. There is a case here, Sir, of a young boy of 16 who, having completed his Kenya African Preliminary Examination, went back to his home—his home is some eight miles from the city—and he wanted to have an opportunity to come into the town every day to be able to take up a commercial course. He approached my office and I consulted with the District Commissioner, Nairobi, if he would have any objection to such a movement—a daily movement—permit being issued to this boy to enable him to come and take this course that would enable him to earn a better living and to be a more decent person.

The district commissioner's office in Nairobi addressed a letter to the District Officer, Githunguri in Kiambu, and said: "Subject to your approval, I am issuing the necessary movement permit. I have no objection to the above named visiting Nairobi daily, in the first instance for three months". This chap went to the District Officer, Githunguri, and was told by the district officer that he could not be given that type of permit. I have since addressed a letter to the Minister for African Affairs to which I have not as yet received a reply. But, Sir, here is a case; a chap who has finished school—the Nairobi authorities

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have no objection to his coming into the city daily in order to be able to take a course that would enable him to become a better person—a better citizen; the District Officer, Githunguri, says he cannot come, and the question is, why has he so ruled? Is it on some security grounds? Is it on some unknown ground? Is it on some piece of legislation that is unknown to us? I suggest, Sir, that this is a ruling that, it would seem, is purely dependent on the feelings and whims of this particular person at that particular time. It is a situation that this Council cannot allow to continue. It is a situation that this Council should not tolerate, for even a day longer.

Now, Sir, those are some observations that I wish to make on some of the conditions prevailing in the Emergency area of the Central Province, and these are relevant to the economic frustrations that I have submitted here do exist in this area. Free movement of these persons, easier opportunities to get employment and to train are important in relieving them of their economic burdens, and it goes without saying that so long as we have restrictions of this nature—and, remember, I am not attacking the regulations for the time being, all I am attacking is the Administration's techniques or the attitude of various administrative officers—that leads to a bad situation becoming even worse, in the unfair implementation of the law. And, Sir, if hon. Members will recall, we—the African Members—have constantly referred to this attitude.

The development of our economy, in order to relieve Africans of economic frustrations, needs or requires that the Government look into the various aspects of regulations and legislation that make it impossible for people effectively to engage in economic activities.

Mr. Speaker, speaking about the economic situation, I want, at this stage, to refer to land, and in particular to the White Highlands and, probably for the first time, approach it from an economic as against a political point of view. Members know the Africans' feeling about the White Highlands from a political view. We believe and we em-

phasize this—that the anachronism of the White Highlands must go. Politically that is a prerequisite to many of the things that we want to do in this country. So long as it remains a white area there will always remain a psychological and political problem, and that must be acknowledged by Members in the Government and on my right-hand side.

5.15 p.m.

The East African Royal Commission reported back some years ago, and until now this Government has not seen fit even to place before this Council a Paper on the recommendations of the Royal Commission. A lot of agitation was involved, a lot of money was spent and a lot of tempers were lost in trying to get a Commission appointed and later on in trying to get the Commission to produce a report. After all this loss, what do we have? The report itself is somewhere on the shelf; somebody is sitting on it and we all must wait.

MR. HARRIS: Sitting on the shelf.

MR. MBOYA: Some people here have a very queer way of being able to sit even on the shelf. The fence we leave for some particular Ministers.

Now, Sir, the abrogation of the White Highlands or the opening up of the White Highlands, as I have said, is an important step in trying to secure a solution to our political problems. Approaching it from an economic point of view, we have to solve the congestion problem in the African areas. To do this there will be, inevitably in my view, two processes necessary. One is the raising of productivity within the African areas themselves—the injecting of some industrial activity within the African areas to remove or relieve the African land of the population; and also the expansion of industry in urban areas—again, to attract population from the land into employment in industrial areas. That is a necessary step that must be taken. The first point I made, which was the question of possible resettlement, must also be looked into because our ability and capacity to expand industrially, even in terms of injecting industry into the rural areas, is limited—limited by factors which are well known to Members of this Council. Our ability

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to attract labour or population into urban areas is also limited, again by factors which are well known to Members of this Council. It seems so obvious that when there are large tracts of land lying unused or unexploited or not fully exploited in some parts of this country we should ignore the problem of congestion in some of the areas of the country. The Royal Commission pointed out that in some areas we had a population of something in the region of 700 to 800 people per square mile. However much we may desire to increase the productivity of these people from the land, it is not feasible to think that we can increase it with such a population already squeezed—densely squeezed—in these areas.

An economic approach to this large problem makes it inevitable that these large tracts of land must be open to some settlement programme, and that settlement programme would take into account the fact that this country is an agricultural country—that it is dependent on higher productivity of certain cash crops, and therefore that the terms of the settlement programme would be based in various areas according to the crop in that area, according to the agricultural requirements in that area, and an insistence on the maintenance of standards. But the Government must be courageous enough to take this bold step. It must be courageous enough to ignore the objections of some sections of our community, because this, I suggest, and I submit very strongly and sincerely, is in the interests of this country.

Lastly on the economic situation, I want again to repeat the point I made when I spoke both during the debate on the economic plan and also the Budget debate. At that time I said that it seemed there was a very definite fault in our economic policies. It seems to me that the Government here is relying too much on trying to solve a problem piecemeal, looking around for places where one economic problem exists and going for it, regardless of the consequences and the influences that activity in that area of the economy will produce elsewhere.

What this country needs is an overall economic plan, a plan that will take into account the entire phase of our economic development, a plan that will take into account the probable effects of the various economic projects in one sector of the economy to the other, a plan that will take into account the targets that we set for ourselves. We have to have these targets; we may not attain them, but they are a useful guide. They have proved useful in other countries and there is no reason why they cannot prove useful here. A country like ours, which is and will have to develop very rapidly, requires a dynamic plan. We must get away from the economic theory that the economy of this country rests on European farming and European enterprise as its backbone. This is an old and negative economic theory, because the European community is far too small and too highly subsidized to form the backbone of this country's economy. The economy of this country must change to one which recognizes that the African to-day and in the future will become the key-man of this country's economy—as a producer, as a consumer and as a worker. If it fails to recognize this, it cannot meet the very definite economic development projects that we need, and I submit, Sir, that this is the time that this country must go ahead and produce a realistic and dynamic economic plan.

Mr. Speaker, I want to take issue with the Government because we are often told that this country's economy is dependent on the flow of capital from outside Kenya—a point which I concede. But I think, Sir, that we should be ignoring the facts of our situation if we did not acknowledge that, most important, this country must also gradually come to depend on capital formation from within. How far has this Government produced a policy that will ensure the continued and expanding capital formation from within? Here is a Government which is telling everybody everywhere every time that the country is in hard need of money, that we have not got enough money to go round. It encourages and tries to advise everyone to exercise some economy in their spending, but does this Government exercise some economy in its expenditure? My answer is "No". The Government is to-

(Mr. Mboya)  
day indulging in building palatial offices for every ministry and minister. Everybody is competing to get into the Central Government offices. If it is too small the only solution they have is—build another one. We are told there is no money for this or that essential service—education, roads, marketing facilities and so on, health and probably agriculture.

The position is just this—that some time ago the country was assured that the Government would appoint an Organization and Methods Committee which would advise on producing—I hope I was right in understanding this—greater efficiency which, in itself, would mean reducing costs and expenditure. Now, Sir, only last week we heard in a debate in this Council on the Supplementary Estimates—and I do not know whether again I would be out of order in referring to this—but it is already evident that the Organization and Methods Committee is not effectively being used and that ministries are beginning to say: "Well, we need X number of additional staff and we are going to have them, the Organization and Methods Committee can come in later on and then advise us on whether we should cut down on our expenditure or advise us on whether we should improve on our efficiency". Now I see the Minister for Finance is looking around to find out whether I have explained the situation properly. If so, I would only refer him to the HANSARD of Tuesday, 18th February.

I submit that in a country which recognizes that it needs greater capital from outside, the first person to exercise economy must be the Government itself. I do not say this in terms of the complete exclusion by the Government of certain necessary services, but I say that the order of priority as to which service should receive attention first must be in terms of what is really essential to the country and essential to the efficient running of the Government, and it is my submission that we did not need to have all these palatial offices and all the other extravagant expenses in order to have an efficient Government. We also look around, and find that this same attitude of the Government is going around, even to influence our local authorities. From this building one looks across the

street and one sees one of the most modern, the most luxurious, the most expensive city halls in probably the greater area of Africa. And how much has been spent on this? Millions of pounds.

MR. ALEXANDER: Question.

MR. MBOYA: Thousands of pounds or hundreds of thousands—so says the Minister for Local Government. So, Sir, when we build this big City Hall of ours which we can show to our visiting dignitaries and V.I.P.s, what do we think of those very necessary services to the population—African housing? Here is a local authority that is faced with a housing problem, an acute housing problem. The Government is conscious that the problem exists and yet we allow large sums of money to be spent on that City Hall.

5.30 p.m.

We know that the Minister for Local Government, sitting opposite, in 1955 drew a lot of attention to himself by a housing plan that was then published and which I regret has fallen through almost entirely because he and the City Council—or his Ministry and the City Council, cannot just agree on some—I cannot understand what—factors, and in the meantime they argue for years and the African continues to sleep in the slums and on the streets. In the meantime, they are quite content to build a big City Hall and consider further building for office accommodation.

Mr. Speaker, I see that the hon. Member for Ukamba is not here, but I am sure he would have joined me in this—because I recall that he, too, mentioned one part of the extravagance of this Government—the railway station at Nakuru.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, on a point of order—the Member must be accurate in his statements—the railway station at Nakuru, whether it is an extravagance or not, is no action of this Government.

MR. MBOYA: Mr. Speaker, Sir, is our Government suggesting that it has no influence whatsoever with the High Commission?

THE MINISTER FOR COMMERCE AND INDUSTRY (Mr. Hope-Jones): Mr. Speaker, Sir, on a point of order—is the hon. Member not referring to a self-financing organization?

MR. MBOYA: All the same, Mr. Speaker, the Government here cannot absolve itself of the responsibility that it has led this country and some people and organizations and local authorities in this country to think as it does—and that is extravagantly. Especially on fish—so says the hon. Member for Central Nyanza.

Mr. Speaker, I have one or two other points that I will very briefly run through.

The next point of frustration is education.

Now, Sir, education is important—important to the economic development of this country as well as its political development. I know that from various speeches in this Council, the Minister responsible has from time to time told us how conscious the Government was of the need for education.

THE MINISTER FOR COMMERCE AND INDUSTRY (Mr. Hope-Jones): A darn good Minister.

MR. MBOYA: The Minister for Commerce thinks he is a darn good Minister.

The position here is that as usual I must criticize the existence of racial schools in this country because it means racial expenditure and in some cases a multiplicity of expenditure—unnecessary. This, I think, is an important point and one to which we have drawn attention in the past. I know that once, when speaking on this subject, the hon. Member for Nairobi South, I think, made a statement to the effect when I referred to the disparity of the *per capita* expenditure on education of the various racial groups, he said: "We pay pay higher taxes". That may be true, but I do want to draw the attention of the Council to the fact that education is a national responsibility and that the Minister or the Government or the hon. Members on my right would be deceiving themselves if they thought that by giving every European child an education and leaving out other members of our community that they were serving this country's interests—I say to them, that

illiteracy, wherever it exists, amongst the Africans, Asians or Europeans will affect Kenya, and not just that community. They must accept a joint responsibility in this and it does not matter who pays higher taxes

MR. HARRIS: I am grateful Mr. Speaker, to the Member for giving way, but perhaps he will also remember that it was I who supported a pilot scheme for the compulsory education of Africans in Nairobi.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): Mr. Harris you are quite out of order.

MR. MBOYA: I must anyway, give the hon. Member the compliment that he did in fact support the pilot scheme for compulsory education in Nairobi.

As I was saying—I think this is a national responsibility, and if the attitude of other races is going to be on the basis of—"We pay more taxes, therefore we get more education"—we shall not be serving the best interests of this country.

At the moment I want to criticize the present structure of education for Africans. It is a structure where you have a very wide base, which is no longer a base at all because it is a base to nothing, with constrictions and bottlenecks as you go up. At Standard IV level, an examination is instituted for children who have only had four years' education and who, in my contention, do not appreciate or understand the meaning or seriousness of that examination. It is evident that the only purpose this examination serves is to limit the number of students who may go ahead to the number of schools that exist. Then we have the Kenya African Preliminary Examination at the eight-year point—and here again the flow of students from down below meets with a bottleneck. The most serious aspect of this structure of education, Mr. Speaker, is this—the children that are left at Standard IV level and at Standard XIII level are often in no position and are not in any way equipped with any education which could really help them in life. I did suggest, last year, that it would be appropriate to introduce into the African education system some compulsory education which would include a training in vocational and technical study at

(Mr. Mboya) least to equip the students at Standard XIII level with some useful occupation that they may follow if they cannot go to higher Standards. I suggest that this should be compulsory and I say so because I believe that we shall be solving the problem of having too many youths running around in the towns doing nothing, but being employed in jobs that they believe are not good enough for them—because they believe they are educated—and becoming a pool for potential criminals. Criminals are had enough when illiterate, but when they are literate, Sir, it is a bigger problem to deal with.

The Government, I thought, said last year that they would examine this situation. Until now, Sir, we have heard nothing from them. There is an Industrial Training Bill that is due, I hope, to be discussed in this Council and I think this is a suitable opportunity to so plan the educational system that it fits in with this other supplementary—the industrial training and the apprenticeship schemes in industry, I think this would help in a way to ensure that those children who cannot go up to certain levels of education for lack of schools or funds will be usefully employed and will contribute to the general economic development of this territory. I believe that if the scheme is compulsory, we can give them the type of training that will immediately contribute something to the immediate needs of our industrial development.

I believe, Sir, again, that this country lacks a plan—a proper and definite plan. We have always cried that we have not got enough schools and that we have not got enough teachers. I do not see why we cannot draw up a plan—say we call it a "Ten-year Plan of Education"—and within it put in provisions (a) of the type of education facilities we want to have at the end of the period and (b) from there determine the number of teachers we shall need and then concentrate in the early stages of the plan to train the teachers that we shall need. This may mean that in the early stages we shall have a surplus of teachers, but we shall be in a position to cope with the whole educational programme towards the end of the period that we have planned for. Thereafter, I think,

we shall have caught up with the programme of teachers and shall then be able to progressively continue expanding our educational facilities according to the funds available.

Mr. Speaker, lastly, I am sure that the Council would be expecting that in a debate such as this I would not sit down before I speak on the Constitution.

MR. SLADE: Sir, on a point of order, how can the constitution come within the terms of this Motion which is concerned with the past record of the Ministers and their capacity to pursue policy?

THE SPEAKER (Sir Ferdinand Cavendish-Bentley): I suppose it might be held to come under "frustrations", but I was waiting to hear the hon. Member develop his argument. The hon. Member may place on record his alleged grievances to his community in this regard, but beyond that I think he would be held to be out of order.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, speaking to the point of order, the Motion does quite clearly refer to frustrations and brings in the whole issue of the political field, and I do therefore submit that provided the hon. Member does not take too long he is entitled really to touch on the constitution.

THE SPEAKER (Sir Ferdinand Cavendish-Bentley): I had ruled that I wanted to give the hon. Member every opportunity for developing his argument and he may continue on the subject of the constitution within the limitations I have set.

MR. MBOYA: Thank you, Sir.

Now, Sir, in my Motion, I referred to political frustration, and I have already referred to the fact that the African feels frustrated because of the fact that he does not feel that he is effectively represented in the various councils of the Government, and that includes this Council. I have also briefly touched on the question of the attitude of the Government on African political activity and political organizations, which falls within this particular context. Without repeating the arguments I have already made, I only wish to make the following observation.

(Mr. Mboya) 5.45 p.m.

As at present constituted, this Government is not capable of commanding the confidence and respect of the African people and it is vital in the interests of this country that a constitution acceptable to the majority of the people in this country should be found. This Government can, in fact, influence such a course if it so wishes. It advises the British Government, and on its own it is capable of making known certain policies, and I hope that the Government will see the necessity to look more realistically to the constitutional and political problems of this country and try to produce an acceptable solution. In my submission, an acceptable solution must be one which is generally acceptable but which is also the outcome of free and voluntary negotiations and agreement. That excludes any question or any idea of imposition. We know, Sir, that some of our political problems emanate from our racial differences and from some myth leading some people in this country to think that they and they alone are endowed with the powers, the intelligence and the expertise to govern or rule. So long as that situation continues I have no doubt in my mind that our political problems and instability shall continue. The time has come when this myth must be exploded. The time has come when social and economic reforms demand of some sections of our community to accept the realities of the situation in which they live. To accept and acknowledge that the future of this country will from now on, more and more, be determined by the feeling and opinions of the majority.

The time has come when those sections of our community that for a long time retained an upper hand in the Government and other cycles in the life of this country, must realize that these cycles are no longer the preserves of their own community. The time has come when people here must appreciate, acknowledge and accept that we will look on all citizens in their individual worth, and will acknowledge their dignity regardless of their status of education or wealth, because failure to do so by this Government and the various people in our society can but lead to one thing—continued suspicion, mis-

understanding, instability and conflict. We did, in previous debates—the African Members—point out that much as we dislike this Government and much as we dislike "colonialism", we appreciate that certain changes cannot take place in this country overnight. We have conceded that. But that means, too, that if we are to accept that progressive and gradual change, we must know where this change is leading this country. We must know that the road we are being asked to travel—in other words we must be agreed that we are travelling in the same direction because if we are travelling in opposite directions there is no doubt that we are going to be pulling and pulling at each other in opposite directions, and whatever sweet words may be said by this Government or the British Government, whatever multiracial concepts some people may want to introduce in this Government, they will never work.

I think the time has come when this Government and the people of this country must be agreed as to which way this country should travel because, in this light, the solution of some political questions which must be resolved and for which I must hold this Government responsible for the political frustrations that will continue so long as the present structure of Government continues—It is important in the interest of this country and all its peoples that an answer to this question is found as soon as possible. I repeat that at the moment it is evident that all the various groups and the Government are speaking different languages and so long as the languages remain different, whatever we dream of multiracialism will never materialize.

Mr. Speaker, I beg to move.

MR. MUMBI: Mr. Speaker, Sir, I beg to second the Motion but reserve my right to speak later on.

The question was proposed.

5.53 p.m.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, the Government welcomes the opportunity which this Motion gives it to review the activities of Government and to place before the people of this country what is actually being done, rather



[The Minister for Agriculture, Animal Husbandry and Water Resources] than they should see it through a distorted picture presented by persons who give the Government little credit for its action. I think it is significant that in the long speech to which we have listened, much of the great developments which the Government are carrying out in this country to the great benefit of the people have been completely ignored or overlooked.

The Motion covers the widest possible field and therefore the Government will be able to give a general view of its activities in every sphere. My own relates in particular to agricultural development which is making rapid strides, I submit, to solve the problems in the economic field of the African people to which the hon. Mover has so consistently referred. Also, I shall speak briefly and towards the end on the political aspect of the situation in this country.

Now, Sir, may I record at once how significant it is that very little of the speech of the hon. Mover which took place for something like four hours—a record I believe Sir,—Oh! was it three hours—no, two and a half hours! I apologise to the hon. Mover, but I had the impression that it was immensely long. Only yesterday, I started off a motor-car on an endurance test in Nakuru which is going to go for five days and nights.

Now, Sir, I think it is significant that in that long speech, very little real reference was made to the tremendous development which is taking place in the agricultural front and I would like to remind hon. Members, and underline it, that for the thousands of people in the towns of this country, there are millions engaged in husbandry on the land and they are the people for whom the Government of this country has got to exercise great responsibilities, and whom the Government of this country has got to lead forward to a better life. For many years, whatever we do or say, unless fortune strikes upon us unexpectedly, we must be mainly dependent upon agricultural production and that is my reason for devoting the first part of my speech to the tremendous achievements which the Government is making in agriculture and for which hardly one single word

of praise or gratitude has been uttered to-day.

Now, our policies are centred round, in agriculture, four basic main facts. They are—a tremendous increase in research which is necessary if we are to know how to harness the latent potential of an unknown continent to the modern developments of the agricultural industry. Secondly, an acceleration of farm planning based on land consolidation. Now, farm planning is essential if we are to get the orderly movements across the land and the soil of stocks and crops. Without that orderly movement the alternating between one and another, there is nothing ahead of our people but the declining fertility of the soil and the inability to support the great increase in the population which is occurring around us.

I will deal with certain factors of land consolidation later.

Thirdly, a wide development of cash crops and a concentrated effort, fourthly, against bad land usage. Those are our four basic agricultural policies and I propose, Mr. Speaker, to give hon. Members certain aspects of how successfully we are tackling them.

In the four years—1953-1957—we have raised the cash production of agriculture in African areas from £3,500,000 to nearly £5,250,000—or almost 50 per cent increase in only four years. Coffee, for instance, has gone from £58,000 in 1951 to an estimated £2,400,000 in 1957, and from an acreage of 3,800 acres in 1953 to 16,700 acres in 1957—four years later. The average price paid to our African producers, and it is them to whom I am referring in terms of the hon. Member's Motion, because I assume it is they who are feeling so frustrated, the average price paid to them was £480 per ton, which was greatly in excess of the average price paid to the people of Uganda or Tanganyika under Governments which have not, so far as I know, had a Motion of this nature brought against them. Lastly, Sir, in this vast expansion of the coffee industry, we have organized more than 200 individual coffee nurseries and nearly 100 factories for the handling of the crop in that short space of time, and I submit to hon. Members who know anything about the planting of coffee that that is an achievement that

[The Minister for Agriculture, Animal Husbandry and Water Resources] reflects the greatest credit upon the officers of my department who are largely responsible for having engineered it.

Now, Sir, let us turn from this development of cash crops to the whole project of farm planning and land consolidation. In the Central Province alone, out of an estimated total of 1,200,000 acres already in the last few months, 290,000 acres have been demarcated and 14,000 acres have been either planned fully in detail or on a more extensive scale. Those are really tremendous agrarian revolutions taking place in the African areas.

Under farm planning, based on land consolidation—and this is a significant figure which the hon. Mover I would ask would register—we estimate that the incomes in the Nyeri District of Sh. 20 per acre can be raised to Sh. 360 per acre after consolidation and planning. Now, I would submit that in any such wide and extensive and revolutionary agrarian changes, it is inconceivable to me that any Government can carry them out without difficulties in regard to one or two individuals.

6 p.m.

I would submit to the hon. Member that during the course of his speech he made a tremendous play about the fact that the Government had removed from its effective councils the African people, that it did not consult daily with the African people. I would like to ask him in that event how is it that he brought before this Council so many complaints about land consolidation, because the whole basis of our land consolidation is the assessment of the African people themselves of the individual rights and claims to land. So that in this particular case he had the fullest combination of African views and consultation among the African people with the officers of the Government and themselves.

What is the result? The hon. Member stands up and for half-an-hour pours out a series of complaints to us, based on the very system which he is asking the Government to bring into force in this country.

Now, Sir, I only want to say the briefest words on land consolidation, because my hon. colleague, the Minister for African Affairs, will deal, I hope, with the administrative detail of it. I want to present to the hon. Members of the Council certain basic and fundamental problems which they have got to accept. I submit that without land consolidation, under a fragmented and widely dispersed system of land tenure, we cannot raise the productivity of the soil of this country. If we cannot raise that productivity, whatever may be the consequential problems, it is utterly useless for the hon. Member for Nairobi Area to stand up here and talk about raising the incomes of Africans, removing the unemployment of Africans and introducing into this country widespread and increasing industrial development. The reason is that without a consolidated system of land and without a properly planned farm usage, nothing remains to the people of this country but a declining productivity from the soil and an increasing congestion of individuals on it.

Now, these are fundamental basic problems and every time the hon. Members for Nyanza get up and attack the Government's consolidation problem they are quite right to present to the Government the problems that flow from it, but where they are wrong is that they completely shut their eyes to the horror and misery and poverty which must continue in this country if the land is not consolidated. Now, the proof of that to-day is the destitution which is already marching into and encroaching on the land of Central Nyanza and the prosperity and happiness which is beginning to develop in the consolidated areas of the Central Province. Now, I put it to the hon. Members: for goodness' sake, let us be realists, and do not let us waste hours and hours advocating a policy which has nothing but misery and poverty ahead of it. Let us embark boldly on land consolidation, accept the new problems which will arise and which the hon. Member correctly referred to, and deal with them, because the alternative is no advance to this country—it is its gradual impoverishment.

Now, Mr. Speaker, the hon. Member did not refer to the tremendous strides

[The Minister for Agriculture, Animal Husbandry and Water Resources]

This Government has made in the development of agriculture under the successive development plans, and I propose to put this very bright picture to the public of this country—which is, I imagine, fundamentally the object of this debate. In 1946 to 1953, the Government of this country spent £8,300,000 of its development plan on agriculture. In 1954 to 1957, it spent £8,800,000 on agriculture, and in 1957 to 1960—despite the increasing stringency of the financial situation—the Government had the courage to put £10,500,000 to the development of agriculture. I submit that that is Government's contribution to raising the basic poverty of this country and improving the prosperity of its people, because the majority of that money has been spent in development in the African areas.

Now, hon. Members may, when they reply to this debate, admit that this money was spent, and say that the money was grossly misapplied, and I propose before we are accused of that to suggest to hon. Members the answers. In Ukambani, 10 years ago, the country was bare, glaring, red, poverty-stricken, incapable of supporting its population, the great majority of the people compelled to earn their living outside. Indeed, some hon. Members have even had to go into the Education Department to earn their living and finally enter this Council as Members of Legislative Council! We have spent £420,000 on its reclamation, and I would like to draw hon. Members' attention to the success of that reclamation. In 1955, when it was first beginning to show its results, the Province—Ukambani itself, Kitui and Machakos—exported £382,000-worth of produce, and in 1957 £1,141,000-worth of agricultural produce. Now I would submit to hon. Members that that is a startling change from the terribly desiccated, eroded conditions which could be observed by the human eye 10 years ago. Now 60 per cent of that £1,141,000 came from stock and stock products. If any hon. Member of this Council had seen the bare, open, gravel-like stretches of Ukambani and could register that that land was capable to-day of producing £1,141,000-worth of produce in a year, mainly from stock, I think they would agree that the Govern-

ment has made a tremendous contribution to the rehabilitation of that area.

That is borne out, not by the hon. Member in his Motion, who never even referred to it, but by the very sensible, down-to-earth people of Ukamba who are actually on the land, in a resolution which they passed in the Machakos African District Council the other day, congratulating the Government on the immense progress of agricultural rehabilitation in their areas. So we can assume from that, at any rate, that whatever may be the fears, the suspicions, the lack of confidence in some people in the Government, there are others—I flatter myself, farmers, like myself—whose feet are sufficiently on the ground to have given credit where credit was due.

Now, Sir, let me turn to the Tugen area. We are operating now a scheme called the Perkerra Catchment Scheme, which is designed to reforest the headwaters of the Perkerra River with a view to protecting the irrigation scheme on which we are going to spend as much as £350,000 near Baringo. I have specially interested myself within the Ministry in schemes to the value of £55,000 for the rehabilitation of the South Baringo District and the Perkerra Catchment Area.

In addition to that, in Rift Valley, where we have very much the conditions which existed in Ukambani some years ago, to-day more than 200,000 acres are being controlled by grazing schemes on systems of alternate use and rest. Now who, Mr. Speaker, is operating those grazing schemes? Not a remote, wicked, imposed, exploiting Government, not at all. We are carrying out what the hon. Member has urged us to do. We are carrying out active consultation and association with the people and I can assure him that in the grazing areas, for instance, of West Suk, the whole of the grazing scheme is carried out with the willing co-operation of the people themselves, organizing the scheme by themselves. I see no evidence, there of this remote, aloof Government, immune to the pouring forth of the emotions of the African people. I see there a happy and harmonious co-operation between the technical officers of Government and the African people themselves on the ground.

Again, Sir, in Nandi and Elgeyo, we have completed 30,000 acres with the soil

[The Minister for Agriculture, Animal Husbandry and Water Resources]

conservation service of terracing with the active co-operation and willingness of the African farmers.

Now, Mr. Speaker, I have touched very briefly on some of what I consider the outstanding achievements being made within the Ministry for which I am responsible. Now when I read this Motion, I can see that the hon. Members opposite me are suffering and their electorate are suffering from deep frustration at the efforts which I am making in my Ministry to further the prosperity and happiness of that electorate. So I propose, Mr. Speaker, to be quite frank about it and tell the hon. Members that in this country the field of development for agriculture is so enormous that they have only got to get up and speak in the agricultural sphere and indicate to me how frustrated their people are and vote for this Motion, for me willingly to consider a readjustment of these plans. There are many areas in this country, not so directly represented by hon. Members, which would willingly accept the development efforts of my Ministry.

I am going to put it in the clearest possible terms to hon. Members what it means. The hon. Members are embarked upon a Motion which criticizes the policies of the Government and say that they have got no confidence in them. Right, well I am going to ask the hon. Member for the Rift Valley Province if he has no confidence in the recent arrangements which the Government made over the exision of the Lembus Forest for the use of the Tugen people, if indeed he wishes to completely nullify the efforts being made in my Ministry for the Perkerra irrigation scheme and the Perkerra catchment area. I would like to ask the hon. Member for Ukambani whether he wishes me to embark upon a closure of all the work in Ukambani, the Kitui and Machakos districts, so that it can indeed revert to the condition in which it was ten years ago. If he wishes it, he has only got to get up, Mr. Speaker, and vote for this Motion because it is perfectly possible for the Government, in the light of the consultation which is now taking place across the floor of this Council and in the light of the obvious wishes of the African

Members to adjust its policies to suit them.

Lastly, Sir, I would like to ask the hon. Member for Nyanza Central, who certainly shows no signs, from the magnificence of his dress, of poverty or frustration. I would like to ask him whether he wishes me to remove from the Development Estimates the £100,000, which as the result of a tour of Nyanza which I personally made, we inserted in those Estimates to deal with some of the more pressing problems of that area. The hon. Member has only got to say, "Yes", and I can tell him ten other places that would jump at the chance to use that £100,000. I would like to ask the hon. Member for Nyanza South whether he would like me to put into reverse—and I will willingly do so—the whole of the project on which I am embarked in South Nyanza for the development of tea, coffee and pyrethrum in those areas. Hon. Members have only got to say so, they have only got to endorse the severe frustration from which they are suffering, for us, as a Government, to do our utmost to meet that frustration and alter our policies. That is what it means if we do alter our policies and the sooner hon. Members realize it the better.

Now, Mr. Speaker, I would really like to move on to another subject which is rather contentious; there are only three minutes to go, Mr. Speaker.

I would like to move to some remarks which the hon. Member has made in regard, whilst dealing with these agricultural matters, to the economic development which has taken place, arising from the vast extension of agriculture in what are known as the European Highlands. Now, the hon. Member was absolutely right when he said that the backbone of this country, on the economic level, is the production from the European Highlands. The ratio is about as follows: three quarters of the really potential land lies in the African land units and produced, as I have said, over the last four years, between £3,500,000 and £5,250,000 worth of products. One quarter of the highly potential land lies in what is known as the European Highlands and produced no less than five to six times the production of the total of the other areas in terms of exportable



Mr. ROGERS: Mr. Speaker, I would like to second this amendment.

Now, criticism—let us face it—is an excitement to all of us, and it is particularly gratifying to have all the exhilaration of criticizing while, at the same time, to have all the security, comfort and prosperity which is produced by those we are criticizing. But, listening to the speech of the hon. Mover of the Motion, frankly the friendly observer can only stand in bewilderment.

Is this the way forward for Kenya, or is it the way back? I suggest it can only be the way back. Surely this is a doctrine of despair?

Now, Sir, no-one can agree with everything that the Government does—every element of that policy; and indeed for myself, sometimes when I think about the small amount of money we spend on our roads in Kenya, I feel, sitting in this Council chamber, about as happy as I would imagine a communist would feel if he was sitting in the House of Lords in England. But I also realize that the majority of people in this Council, and the majority of people in Kenya, agree with the allocation of our very limited funds. It occurs to me then, that perhaps the majority is right and that I am wrong.

Now, how stands the record of our Ministers? Let us examine some facts, some figures, some results, of the other side of the question. The Ministers I am sure will provide the figures for each of their Departments, and judging by the speech of the hon. Minister for Agriculture, they are under no need of support; they can well take care of themselves.

The hon. Mover of the Motion mentioned African wages and one of course must agree that it is unfortunate we have not been able to move closer to the formula set out in Paper 21 on the Carpenter Report. We must however remember that there are limits to the economy of every country. Perhaps the hon. Member for Nairobi will bear in mind that in the last six years African wages have been doubled. Perhaps he will remember that in the period 1951 to 1956, African earnings in commerce and industry increased by 114 per cent, and giving one point on the strictly economic—the trading side—perhaps the hon. Mover of the Motion does not

know that the turnover in the African areas in the reserves of just one or two trading commodities has increased by over 200 per cent in two years. This is money directly earned by African business men. These figures, I suggest—these results—show no signs of a lack of a sound economic policy by our Ministers and that our African friends are being treated fairly. Judging by other countries where, as we have all seen, the progress is, I suggest, over a very long period. The progress in Kenya has been, I suggest, quite startling in the last few years.

Turning now to the social side: I feel myself that our African friends have no need to feel frustrated on this part of our life. Socially to-day there are ten points of contact and co-operation where only one existed four or five years ago. The Royal Technical College has, for instance, opened the doors of its lecture halls and its hostels to all races. In racially mixed areas, joint committees of African and European farmers have been formed and in the administrative sphere the reforms have been a veritable avalanche.

These statements I have just made on the social side, Mr. Speaker, are actually quotations. Now hon. Members may perhaps think that they are statements made by an ardent imperialist, a strong supporter of Government. On the contrary, they were made by Miss Marjorie Perham. Miss Marjorie Perham is a very distinguished person, but she has been noted for her criticism of colonial policy, and not least, the policy of Kenya.

As I listened to the hon. Mover of this Motion, I could not help feeling that the beliefs he was setting out were held, not logically but emotionally. For my part I am well content with the progress and the ambition of the policies of our Ministers and I am well content that these policies are being implemented with energy and resolution, and as quickly as possible, limited only by the availability of our revenue. These policies are of course undoubtedly directed at one side of one element of our life in Kenya. This element is poverty, hunger, disease and despair.

Now towards the end of his speech, the hon. Mover of the Motion paid a graceful compliment to some of the

[Mr. Rogers] employers' associations which are now operating. May I, Sir, just say this to him? If he assisted in the Government of Kenya as he is assisting in the field of employment, Kenya would be a far happier place.

I beg to second.

THE SPEAKER (Sir Ferdinand Cavenish-Bentinck): The amendment has been proposed and seconded to this effect; that the Motion on the Order Paper be amended by deleting all words after the words "That this Council" and by substituting therefor the following words: "The Government will continue to pursue policies which will promote the political, economic and social interests of all the peoples of the Colony and calls upon the leaders of all communities to co-operate with the Government and with each other to this end."

Hon. Members, the Motion before the Council is a Motion of non-confidence in the Government. A Motion of confidence or non-confidence in a Government, which is of frequent occurrence in the House of Commons, has as yet not been moved in these precise terms in our Legislature. Such Motions either moved by the Government or by the Opposition are one of the few occasions on which, despite our Standing Order 35 (2) or its equivalent in the manual of procedure of the House of Commons, a more or less direct negative to a Motion is permissible and indeed customary. Thus, although this amendment is *prima facie* more or less a direct negative to the Motion moved by Mr. Mboya, it is on this occasion in order.

3.00 p.m.

Furthermore, again pursuance of the forms and usages of the Commons House of Parliament, I propose on this occasion to invoke Standing Order 62 and to direct that the debate on the amendment may include debate on the matter of the Motion because, in my opinion, the matter of the amendment is not conveniently severable from the matter of the Motion, being merely a question of individual opinion or point of view. Therefore, any Member who speaks to the amendment will not be entitled, should the amendment be dis-

posed of, to speak to the original Motion and any Member who has already spoken to the Motion may in speaking to the amendment speak only on any matter raised thereby. In other words, debate on this amendment will include debate on the matter of the Motion, thus avoiding unwarrantable repetition and plurality of speeches.

I will read the amendment as now before Council and at the moment under debate: "That this Council has full confidence that the Government will continue to pursue policies which will promote the political, economic and social interests of all the peoples of the Colony and calls upon the leaders of all communities to co-operate with the Government and with each other to this end."

The amendment is before the Council.

MR. HARRIS: Mr. Speaker, Sir, I support the amendment.

When I was young, Sir—

AN HON. MEMBER: That was a long time ago!

MR. HARRIS: —there was a habit in our family on Guy Fawkes night—and let me assure you, Sir, that this is very relevant to the debate—of inviting children from a nearby institution to enjoy our fireworks. We used to buy, Sir, oranges and bananas, mince pies and cakes, have a bonfire party, and give the children tea; and before they left they were each given a large paper bag and the oranges and the bananas and the mince pies and the cakes were divided among the children. I remember one occasion, Sir, when I was helping to divide out the spoil, one little boy—for all I know, his name was Tom—looked up at me and said: "Ain't yer got no nuts, Mister?"

Now, Sir, it does seem to me that in the debate we have had so far, there has been a complete obliviousness to the oranges and the bananas, the mince pies and the cakes, and the fireworks, and a complete concentration on nuts: Sir, I think probably that the little Tom of my story must have been a politician, because, as you know, Guy Fawkes day falls in November, and the shipment of nuts to Britain is always for the Christmas season, so, in fact, nuts in November are out of season in England. Therefore, the little boy was asking for something

[Mr. Harris] that he quite clearly knew he could not have, with no gratitude for those things he could have.

Sir, having said that as a background, I would like to take the short time which the hon. Member for Nairobi Area has left to us to try and deal with some of the points he has raised and to remind him of some of the oranges and bananas, the cakes and the mince pies, that this Government has provided over a 10-year period. May I say, Sir, that I have heard the hon. Member make very many good speeches in this Council. I think yesterday's marathon—which, Sir, was an endurance test of no mean order, not only for him but for all other hon. Members and, with respect, for yourself, Sir—showed him to be illogical and his speech belaboured. I make two exceptions to that: one was when he spoke on labour matters, it was obviously a man speaking who knew his subject, and was interesting. And, Sir, may I say that I thought his peroration was inspired.

Now, Sir, his speech was illogical because, as was already mentioned by the Minister for Agriculture—and I do not intend to be repetitive, he made a great case for association of the Africans with policy planning in Government, and for over a year many people in this country—have been trying to get the African Members to accept the invitation which has always been open to them to do just that very thing.

It was also illogical, Sir, because he said that he thought, with consolidation there would be increasing pressure on employment in the towns, and yet we must increase the minimum wage. In some extraordinary way, Sir, he seemed to think that the minimum wage had nothing to do with economics. I do not know where he thinks minimum wages come from, but they only come from the fruits of labour, and that labour has got to be economic in order to pay even minimum wages. But, Sir, he was worried on the score that he was afraid of an unemployment problem.

Now, Sir, you cannot have increasing workers coming into the town, increasing the minimum wage per head to each of those workers with any other effect than increasing unemployment.

I say, Sir, that his speech was belaboured. It lasted very nearly two and three-quarter hours. But if one distils that speech, Sir, and evaporates all the verbiage and vapourings, there is very little case left to prove that there is frustration, as is insinuated in the original Motion, among the great majority of the African people. He gave us examples, he gave, I think, altogether, nine examples, and said he had hundreds of letters to substantiate those examples. I am sure I do not need to remind him, Sir, because he has said it on so many occasions himself, that there are five million Africans and more in this country. So to quote a matter of hundreds as an illustration of general frustration, to my mind, is completely out of place.

Now, Sir, in dealing with his speech and making my own comments, I do not intend to be side-tracked by those irrelevancies as to the action of the Secretary of State or the action, even, of the City Council in building a town hall, because I do not think either of those things can be laid at the door of this Government.

The Motion and the amendment both talk of matters political, economic and social, and I would like to start off with matters political. Unlike my hon. friend, I do not intend to dwell at length on the Constitution because there are others in this Council who will be speaking and who are far more able to speak authoritatively on that matter. But, Sir, on the question of political frustration, may I remind the hon. Member, in case he has forgotten it, that it was Kenya that was the first East African territory to elect Africans to a legislature? May I remind him, without repeating last week's debate, that a matter that the Africans have always asked for has now been resolved, that the principle of African chairmen of African district councils has been agreed by the Government?

He complained, Sir, that in local government African representatives are nominated. He knows as well as any other Member of this Council that the Minister for Local Government months ago conceded the principle of elections for African representatives on the Nairobi City Council.

He complained, Sir, that African representation on boards and committees

[Mr. Harris] that they have very little effect. I can give him one very good example Sir, of where the contrary is more than true. On the Board of Commerce and Industry, some time ago, it was represented that the Shop Hours Act should be altered in order particularly to satisfy the African tradesmen in African areas. On that Board sits Mr. Gikonyo who used to be a Member of this Council, and, Sir, in order to meet Mr. Gikonyo's case the matter was placed on the agenda. I should think, six or eight times and in the end a sub-committee was set up and Mr. Gikonyo's recommendations were accepted by that sub-committee and by the Board of Commerce and Industry and by the Minister concerned. So there is one case where African representation on a board, although it was only one African, had the effect of implementing legislation which assisted African tradesmen.

The Minister for Commerce and Industry, Sir, has just pulled a peculiar face which I think meant, "Two members on the Board of Commerce and Industry." The point I was making, Sir, was that the fight for the amendment of the Shop Hours Act was fought by one African Member of the Board of Commerce and Industry.

Now, Sir, the last point I would like to make on political matters is that in his speech yesterday, the Member for Nairobi Area said that Africans were under-represented in that they had only eight Members in this Council. The hon. Member, Sir, is just as aware as he is of the other points that I have made that the new Constitution envisages 18 Members, quite apart from Government Nominated Members.

MR. MBOYA: Question.

MR. HARRIS: Sir, I do not know why the hon. Member says, "Question" unless it is that our education policy is so bad that he cannot read. It is in the new Constitution.

MR. MBOYA: 18 Members? Which Constitution?

MR. HARRIS: Mr. Speaker, might I stop this backchat going on behind me? It is very difficult to concentrate. I am trying to get into 30 minutes what I would like to have taken two hours and 40 minutes to say.

Now, Sir, the last point I wish to mention on political matters is the question of the Highlands. I am not going to be drawn into a discussion on the European Highlands, except to say this: that for the first time the hon. Member reduced the Highlands to a matter of economics and not politics—so he said! What he said was that we want a settlement scheme. Sir, we have had settlement schemes outside the Highlands, at Maktuni and the Shimba Hills. Have those two settlement schemes diminished the feeling of African frustration? If they have, that is all that is necessary. If they have not, then it is quite obvious that it is not settlement schemes in the Highlands that are required. In fact, Sir, I think it is true to say that if Africans were not allowed in the Highlands and we gave them California, they would probably still feel frustrated. In an aside, Sir, it does occur to me that in view of a question we had last week, it might be an idea to put across to the American Consul that we should offer them California!

Sir, although the hon. Member was so insistent that this was a matter of economics, I am quite sure that that was just another way of saying, in fact, that it is political.

I am now going on to the economic matters, Sir, some of which have been covered by the hon. Nominated Member who seconded the amendment. The hon. Member for Nairobi Area did say that although Government had accepted the White Paper on the Carpenter Report they had said that the economic situation of the country is such that they could not implement it fully. The fact remains, Sir, that in 1946, the minimum wage in Nairobi was Sh. 28 per month, less Sh. 5 if housing was provided. Today, the minimum wage in Nairobi is Sh. 100, including housing. That, Sir, is some advance in 10 years.

3.15 p.m.

He asked, Sir, for the encouragement of trades unions. Well, it is no good his saying, "Question" this time, Sir, because I can assure him that some of us have thought that the Government's encouragement of trade unions was going too far. There is no doubt that the encouragement of trades unions is definitely the Government's policy. May

[Mr. Harris]

I remind him, Sir, that the wage bill of all Africans in Kenya in 1946 was £7,000,000; in 1956 it was £30,000,000. In 1946 there were 376,000 employed Africans in Kenya; in 1956, 540,000.

Now, Sir, I am very sorry that what I have to say sounds like a catalogue of figures. I usually try to make my speeches fairly interesting, but as I am trying to condense this, I am afraid that I have not got time to intersperse interesting anecdotes among the figures which I must bring out.

In the economic field, too, considerable assistance has been given in recent years to African traders. Already £54,325 has been advanced to African traders, and 293 Africans have taken advantage of this. That is an effort on the part of the Government to try to encourage African trade in African areas. It has been made possible because by Government policy there is now title to the land on which they can borrow that money.

Now, Sir, what does all this mean economically, this increase in minimum wages, this increase in employment? I will just give a few figures to show what it means in ordinary living standards. In 1946, £16,000 worth of sewing machines were sold in Kenya; in 1956 that figure had gone up to £131,000. In 1946, £6,000 worth of gramophones—and we have heard a good many records in this Council recently—was sold. In 1956 that had increased six-fold and was £36,000. As far as bicycles are concerned, in 1946 £18,000 worth was sold and in 1956 £417,000 worth. But do not think for one minute, Mr. Speaker, that all these Africans are rushing round on bicycles playing gramophones to get to their sewing machines. They are not. In Nairobi in 1946 in the locations, quite apart from private shops, £1,600 worth of beer was sold; in 1956, that figure of £1,600 had gone up to £58,000. We had a report last week on an African trading association which has called Meru Traders Limited, which has got a turnover of £1,000,000 a year. Of that £1,000,000, £104,000 of the turnover was due to beer sales.

Now, Sir, we come to matters social. The hon. Member said that we must have a ten-year plan for education. I would submit, Sir, that we have got one.

I would like to give some comparative figures between 1946 and 1956 in education. All of these are African. In 1946, there were five secondary schools and 2,259 primary and intermediate schools. In 1956, this had increased to 21 secondary schools and 3,506 primary and intermediate. That, Sir, is over 1,200 schools in ten years, which is 120 schools per year, if you like to work this out you will find that it is something like a new school every three days of the year, which is not a bad educational plan for ten years.

The number of pupils at school, Sir, in secondary schools was, in 1946, 395 and in 1956, 2,586. In primary and intermediate: 218,000 in 1946; 442,000 in 1956.

If you think, Sir, or if Members should think that this is merely doubling up in the classes, and not increasing the teachers, the figures for teachers are: for 1946, in secondary 33 and primary 4,800, and in 1956, 171 secondary and 9,500 primary. The expenditure on African education: in 1946 it was £150,000—which was then considered a very high figure—in 1956, the figure was £1,706,000, and that is only recurrent expenditure and does not include such matters as trade and technical education and bursaries, nor, of course, does it include money from Development Funds.

We have seen, Sir, the acceptance by the Government of the principle of compulsory education in Nairobi as a pilot scheme, and I feel that this short catalogue should give some idea that in the field of education the Government is not doing so badly.

As regards health, I will give very quickly some figures. Seven new District Hospitals have been opened in the last ten years. In addition, the King George VI Hospital has been finished, the Infectious Diseases Hospital has been replaced and considerable extensions have been made to Mathari. Fifty-three new Health Centres have been opened in seven years and, Sir, if it is thought that the Government is not making an effort to try to improve the health of the African people, I would just like to quote the staff employed. In 1947, there were 89 doctors and 314 trained assistants, of one sort or another. In 1956, that had increased to 193

[Mr. Harris]

doctors and 1,477 trained other persons. The health expenditure in the same period went up from £408,000 to £1,345,000. The total expenditure, Sir, on Social Services since 1952 has increased from £3,800,000 to £8,360,000.

Here, Sir, I would like to remind hon. Members that in the United Kingdom there is a population in round figures of 59,000,000 and a budget of £4,000,000,000. In this country, to make arithmetic easy, we could say there are 5,000,000 people and therefore in order to get the same sort of social services and the same standards of living as the people of Britain we should have a budget in this country of £400,000,000 a year. In fact, Sir, it is about five per cent of that amount, which would give an idea of what a tremendous effort the Government have made to increase social service expenditure in the way they have over the last ten years.

Sir, 10 years ago it was unusual to see non-Europeans in hotels, certainly in Nairobi. To-day, one can go into the Norfolk Hotel, the New Stanley Hotel, any of the major hotels, and one will find non-Europeans being treated in exactly the same way as Europeans. Ten years ago, Sir, there used to be different queues for different colours in the post offices. You do not find those to-day. And to suggest, Sir, that there is frustration because of all the advances I have outlined, to my mind, is absurd.

Now, Sir, the hon. Member for Nairobi Area said—and it has been quoted by the Minister for Agriculture—that a Government must enjoy the respect and confidence of the people. I believe, Sir, that in the short time available to me I have given many reasons why this Government should enjoy the respect and confidence of the people. And I believe, Sir, that if frustration does exist, it is not because of the action of the Government, it is because the leaders of the African people are far too fond of harping on the nuts that are out of season. I do not believe, Sir, that a case was made out by the hon. Member that there is widespread frustration, and I believe that the Motion is not caused by frustration, but that the speech which was made in moving the Motion might, in itself, well be the cause of frustration.

I believe, Sir, that speeches such as these are the very seeds of frustration because they are born of half-truth and of individual incidents that are built up to appear to be the general rule.

When this Motion was first put on the Order Paper, I took the opportunity of talking to 10 ordinary, every-day Africans, and I asked them, Sir, because I thought that one of the nuts that was out of season and that we might have brought up in this debate was the point that has been mentioned in many statements made by African Members—that what is necessary is Universal Franchise on a Communal Roll. I said to my 10 Africans: "Do you think that what you really want to get over this frustration is Universal Franchise on a Communal Roll?"

Mr. Speaker, six said "Sijui", three giggled, and one said "Shauri ya Wajumbe" (it is the affair of the Members). And I believe it is, Sir, I do not believe that we are getting anywhere by trying to hold out plums to people who do not understand the background and who do not understand the cost.

I hope, Sir, that in the statistics I have given there is sufficient food for thought to realize that this Government, within the financial limitations available to it, is doing a very good job for the African population of this country.

I beg to support the amendment.

12.7 p.m.

THE MINISTER FOR COMMERCE AND INDUSTRY (Mr. Hope-Jones): Mr. Speaker, there is not time to speak in such detail as I would like to do about certain points that the hon. Member for Nairobi Area raised. Some of those points affected my Ministry, most of them affected the Government; and all of them affected his own people. Now, Sir, before I deal with particular aspects of his speech, I would like to remind the hon. gentleman that a very great responsibility rests upon him and his friends in bringing this Motion before the Council. He has got a perfect right to bring such a Motion; he has got a perfect right to criticize the Government; that is one reason why he has been elected to this Council. But I would ask him to reflect on whether in fact he intends the Motion to be critical of Government or whether in fact he wishes this Government to be

[The Minister for Commerce and Industry] replaced. He has set an issue before himself, and on that issue it seems that the hon. gentleman and his friends have got to face up to more than perhaps they have appreciated. I have heard the hon. gentleman on many occasions in this Council refer generously to the work Government has done for his people. I could, if he had left me time, quote from his own speeches, but I have not got that time. I will give him the references outside this Chamber, to prove my point.

I have heard the hon. gentleman and his friends say that in many respects, while reserving the right to criticize, they are behind the Government and yet the hon. gentleman brings this Motion.

Now, Sir, I would like to congratulate the hon. Mover on one particular aspect of his speech and I felt that here he was speaking with sincerity, and, if I may say so, with understanding. It was when he said that he and his friends recognized that the development of this country for the good of all its peoples was dependent upon the importation of capital. He also went on, quite rightly, to say that it was dependent also upon the formation of capital within the country. On both those points, in my view, the hon. gentleman was not only right, but very wise indeed to draw the attention of the Council and of his people to those considerations; but I felt the hon. Mover did not quite follow those points to a logical conclusion. He seemed—and I may be misunderstanding him—he seemed to indicate that perhaps it was better to form capital within the country even if not quite so much came in from outside. Now Sir, there are two or three points that I can make on which I think I can convince the hon. gentleman not that he was wrong, but perhaps that his emphasis was a little out of place. The United States of America, the greatest economic force in the world to-day, was a large net importer of capital right down to 1914. Of course, the formation of capital within the country progressed along parallel lines. Canada, I suppose, to-day, one of the most vital and dynamic economic forces in the world for its size, is still a large net importer of capital. The same process of capital formation goes on inside. There are many countries that would

like to develop in the world, some of them succeed in bringing in capital and some of them do not, and it is a curious economic truth that when capital comes in from abroad because there is confidence in a country, so the process of capital formation inside the country is also accelerated: the two go hand-in-hand. There is not a distinction with a difference; the two processes complement each other.

Now, the reason why I have laboured this aspect somewhat is because, as I say, the hon. gentleman was very wise and far-seeing to bring the point up. But—and here I suggest that he is again faced, he and his friends, with the choice to which I referred when I began my speech—the choice is this: if he, if he and his friends, if all Members of this Council are to promote confidence in this country, then they must be prepared to take (a little more, if I may say so, than my hon. friend is willing to do), the rough with the smooth. Of course, there are many things that this Government is not complacent about.

This Government has made many mistakes, but the record shows—and I believe my hon. friend would find it very difficult indeed to deny this in complete sincerity—the record shows not only good intention but very considerable achievement indeed in terms of the statistical record. My hon. friend knows that, and so do his friends sitting behind him.

Now, Sir, I would suggest to him, through you, Sir, and to those who feel that they should support him, that if the African people, indeed the peoples of this country, are to achieve what they wish, then there must be economic development. Economic development is impossible without two things: it is impossible without skill, and it is impossible without capital, and it is no use the hon. gentleman deceiving himself that it can be done by internal capital formation. It cannot.

Sir, I suggest that he has a choice before him, and a very great responsibility to his own people. I know that the hon. gentleman is completely sincere in his views. I respect him for those views, and I would say that the most significant passage of his speech—and he knows it himself—is the passage I referred to. I would suggest that when

[The Minister for Commerce and Industry] he reflects on what he said in that passage, for which I admire him, he will begin to ask himself whether he is prepared to push his criticism to the point that the Motion implies.

I beg to support the amendment.

MR. COOKE: Mr. Speaker, I would like to congratulate the last speaker on being the first speaker on what I might call the Government side who has brought some logic and reason into this debate. I flatter myself that he and I are graduates of ancient foundations and perhaps are not so given to empty rhetoric and bluster.

When I came into this Chamber just now, the hon. Member for Nairobi South was speaking about beer and bicycles or skittles, and I do not know what on earth beer and skittles have got to do with the Motion, because so far as I read the Motion and listened to the Mover of the Motion, the frustration which the Africans say they are suffering from is what is called, I think, political frustration.

MR. HARRIS: Social and economic.

MR. COOKE: Now, if my hon. friend the Member for Nairobi South will allow me to lend him a book called *Bitter Lemons*, and if he reads that book, he will find that in Cyprus, three or four years ago, the conditions prevailing were very similar to those prevailing in this country to-day, and I think he will learn the lesson from reading that book, which is being read very widely at home to-day, that something more is needed in this country than the mere material benefit of the inhabitants of this country. They are, rightly or wrongly, asking for something more.

Now, I thought myself that the Mover's speech was much too long. I think he ruined a good, what might have been a good speech by too much verbiage, and I had the greatest difficulty in distinguishing one point from another. But this is not to say that I do not agree with a great deal that he said.

I am going to oppose this amendment, because I think the amendment is nearly as bad as the Motion, and I only wish that we could bring to the Government of this country—my hon. friend

the Minister, said that there is no substitute, but I think there is a substitute, and I would like to see, and I think every day it is being more obvious that is the return of Colonial Office rule. I wish to goodness that we had something like that here to-day that would knock together the heads of the warring politicians; then we might have some peace, and then we might be able to concentrate on the economic development of this country.

My hon. friend, the Minister, to my way of thinking was just a little bit too—I will not say bluster—

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Aggressive?

MR. COOKE: —but he did, I think, be a little bit too outspoken, I suppose you would call it—he seemed to get very red and hot under the collar. Well, I do not know what experience my hon. friend has had of the Africans of this country—I should think about 30 years—and I think he ought to have learned by this time that the worst way of dealing with an African is to lose your temper. Perhaps my hon. friend did not lose his temper, but he gave me the impression that he did.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, may I assure the hon. Member I did not: I was thoroughly enjoying myself!

MR. COOKE: I am very glad to hear it—and I was thoroughly enjoying myself, up to a point.

Now, the criticism of the African Members, I thought, was mainly not against the agricultural policy as a whole, and certainly the Mover paid a nice compliment to that dynamic man, the Director of Agriculture. But they did make two points, and with those two points I agree. I think that the Swynnerton Plan is being worked on much too high-falutin' a scale; I believe the scheme to be top-heavy, and I believe there are too many overheads; I believe there are too many bodies, as it were. And secondly, I believe, and the manuscripts which the hon. gentleman had, and from which he quoted, bear me out, that there has been maladministration in the matter

[Mr. Cooke] of the consolidation of African lands. Now, in common with my hon. friend, I had received two or three complaints from Kikuyu about consolidation. I imagine that consolidation as a matter of fact is going pretty well in the Kikuyu country, but I am pretty certain that it is not going as well as it should in Central Nyanza. Instead of Government being annoyed at these matters being brought to their attention, in my opinion, they ought to be very grateful that the matters are brought to their attention, and that they can intervene if necessary before it is too late.

I must say that my hon. friend, the Minister for African Affairs to whom I referred one of these complaints, was extremely good and at once took up the matter; he did show that he, at any rate, was determined to see that justice if possible should be done.

Now, my hon. friend, the Mover, made two or three, I thought, good points. He said to begin with that when Mr. Lennox-Boyd came here, he consulted with the African leaders, and then he went home, and he said that the African leaders did not represent their people. Well, why did he consult with the African leaders if he knew they did not represent their people? Who is going to say whether the African leaders represent their people or not? The Government devised a system of franchise from the brains of my hon. friend, the Minister for Education, Labour and Lands, and said that that in their opinion was the best means of obtaining the opinion of the African people. They obtained that opinion in referring to this Council my eight African friends. Now, the Africans have been asking, and to a certain extent I agree with them in a communal way, for adult suffrage. All right; if Government does not agree that this present system of franchise returns the African leaders, let them give the Africans a universal adult suffrage, and I am sure my friends would be quite happy to have that. But Government cannot have it both ways: if these eight gentlemen are elected here, we must listen to what they say, and we must conclude that they are representatives of the African people.

Now, I know that there are quite a few people on this side of the Council who say to me that I do not know the African people. Perhaps I do not; I have been 45 years in this country, and I do not think anybody knows the African people. Then they go on to say, "Oh, my *nyapara* told me such-and-such a thing," or "my houseboy told me such-and-such a thing"—well, anybody who knows anything whatever about the African people knows that the *nyapara* and the houseboy always tell their employer exactly what they want to be told—I mean, that is a common knowledge the administration in this country; we all know it so well.

Now, there was another point he made, and I think it is a very serious one, and my hon. friend, the Acting Chief Secretary, must take it up. That is the question of passbooks. If these passbooks are being endorsed—I hope I am following the charge correctly—if these passbooks are being endorsed on the complaint of some employer, in this case, apparently because the employee was not working as well as he should (although it is funny that the complaint did not come until he had been three years in employment with this particular employer); but I do submit—I am not *au fait* in the rules governing the issuing of passbooks—I do submit that if in effect this employer did endorse the passbook, and the district commissioner, or district officer, or whoever it was, said "Well, this man will not be allowed to leave his reserve for the next six months," it was a most improper thing to have done. I, as an old district commissioner, request my hon. friend to see that such a thing does not happen again, if it did happen.

Now, that is what gave the *kipandit* a bad name, the registration certificate, because employers started entering on what was merely a record of service various entries which were derogatory to the holders of those *kipandits*. And then—I am sure my hon. friend was not in the country at that time—that is what mainly brought the *kipandit* into disrepute; and if forewarned is to be forearmed, we do not want the same thing to happen about the passbooks.

My hon. friend, regarding the passbooks—Well, perhaps he is right; I

[Mr. Cooke] should think it is very wrong if you can endorse passbooks with a complaint of that nature. If the man was sent to prison, or if he has done something which the court says he is guilty of, then yes, you probably can; but not purely on a complaint from one side—if that has happened I should press for the amendment of the Ordinance which created it.

3.45 p.m.

Now, Sir, I said at the beginning what I was going to say again, I will repeat again, that the position, as I see it in this country, has come to a point of no return. We have got to make a decision as to whether we take the African people with us, or whether we are going to allow them to continue in this frustration and non-co-operation. I myself feel as strongly as anybody else at the African rejection of the Lennox-Boyd proposals. I think, personally, that they have made a mistake in not accepting the proffered seats. I think they gained what might easily be called a great victory, and I, personally, think that my hon. friend, the Mover, and his friends, have made a tactical error in not accepting the Lennox-Boyd proposals. They talk about stooges being returned, or the possibility of stooges being returned for the four selected seats; but by themselves abstaining, and by themselves abstaining from voting, they have made it certain that stooges will be returned, and that does not seem to me to be common sense. No doubt it is too late now to appeal to the elected African Members, but I think they would be very wise, for their own sakes, to give this matter a second thought.

Now, Sir, I deprecate the language which has been used by one or two speakers. I think it was unnecessarily hard and curt, as my hon. friend, the Minister for Commerce and Industry said, the Mover has every right to come into this Council—indeed, it is his duty to do so, and to express his opinions in an earnest, and I think on the whole a helpful, way. If he did make any exaggerated statements about the Ministers on the other side of the Council—well, we have all done exactly the same things ourselves in the past; and I can very

well recollect my hon. friend, the Minister for Agriculture, being one of the greatest thorns in the side of Government when he was on this side of the Council; and I can quite recollect myself in 1938 bringing a vote of no confidence in Government on the other side of the Council; and I can quite recollect that I got very little support. I am going to be as unadvised as to say that if the words I used—and anybody can read them in HANSARD to-day—in bringing that vote of no confidence had been heeded, there might never have been the *Mau Mau* rebellion, because I then did bring censure and verse in 1938, and it is all in HANSARD to-day, warning Government that the line they were taking was bound to lead to tragedy. And although there will never be another *Mau Mau* in this country, it may be something worse, and I do pray to Government to give—although they will not accept the Motion—to give very earnest consideration to the points made by the Mover.

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Coutts): Mr. Speaker, Sir, I feel like beginning "Oh, to flourish now this Motion's here!" I feel that there is so much to be said that one could speak for four or five days, but I will try and cover a few of the points which have been made which have, come within my own portfolio, which, as everyone knows, is a fairly large one.

To follow on what the last speaker has said: Sir, I am no politician and I do not understand a lot of these things which go backwards and forwards. I am only a poor civil servant. I do not intend to bang any heads together, but I would like to say this: that I do feel that part of the Mover's speech was full of a number of inconsistencies and I also feel that it did not give enough credit where credit lay, where the Government have tried to do things in the past; and it seemed to me, Sir, that this indicated to me, at any rate, a lack of co-operation. I feel that if I am going to get anything done in my Ministry, I do need co-operation.

The hon. Member has made quite a point about the fact that the Africans themselves have not been put on various boards at various levels. Now, Sir, in the African Advisory Board, there happens



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to be a majority of Africans. I do not think one can do better than create a majority in a particular committee. On the Labour Advisory Board, the hon. Member, the Mover of this Motion, is himself a Member. He said he had no confidence in the way in which these boards were set up and he said he had no confidence in the way in which people were asked to serve on these boards. Yet the Kenya Federation of Labour was asked to put a member on the Labour Advisory Board and they put the hon. Mover on to it. I take it therefore that he has no confidence in the Kenya Federation of Labour and no confidence in himself.

But being serious, Sir, what I will say is this: that I believe that I can get informed African opinion at these levels; where I do lack informed African opinion is here on this front bench of the Government. I have felt myself for a long time, and I do feel this again, and I will say it again: as a civil servant, if I want good African opinion, they should be with us in the Government, and there should be full co-operation.

Now, Sir, turning to education, I would like to thank my hon. friend, the Member for Nairobi South, for giving us quite a number of educational statistics, particularly on African education. Sir, I feel that it is only fair to those brave men and women, of all races, who are working for the better education of the people of this country to quote some further statistics in what has been done over the last ten years. I would say that mainly this improvement has taken place in the last five years and therefore within the competence of this particular Government. In 1946, as the hon. Member mentioned, the figure of expenditure was actually £148,483; it was 2 per cent on African education of the then total figure of revenue, free revenue for the Colony. It is now, if you take into account what is spent on technical education and take into account what is spent on higher education, very nearly £3,000,000 or ten per cent of the free revenue: that is a movement of 2 per cent on African education alone to ten per cent in ten years.

The schools have doubled, the secondary schools are now six times the number of teaching-training centres has gone up by one and a half times; the number of pupils, two and a half times; the number of teacher-training students, five times; the number of girl pupils, and I consider this an important matter, three times; the number of teachers in service, five times; and the number of passes in School Certificate, eight times. Sir, I do not think that this Government has a great deal to reproach itself with when it quotes figures of that nature. What I do say, Sir, is this: that it shows goodwill and I feel very strongly that if that goodwill can be taken up on the other side, so much more can be done than by the rather destructive attitude which has so far been taken.

The hon. Mover mentioned the question of education as a national responsibility. "The Government educated every European and left out the rest", I think was the expression which he used. Sir, when I say—and I have tried to show in some of the statistics I have given—that there are altogether somewhere about 600,000 Africans in schools in this Colony (the total number of European children is 10,000, that is about one-sixth of the number in African schools), I do feel that this Government, with all its difficulties, and with all the particular financial difficulties that we have had, has shouldered this national responsibility with a considerable amount of effort. After all, Sir, it does come down to the question of the taxable wealth of this country. That is why, Sir, I said that the hon. Member's speech did contain a certain amount of inconsistencies in it. He tells me, Sir, virtually, that I must give compulsory education to every African child; and yet in the same breath—and there were many breaths—he said that he would have nothing to do virtually with land consolidation. Well, the thing, as far as I am concerned—

MR. MBOYA: Question.

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (MR. COULTS):—The thing which I am concerned with is what is going to produce the money which will give me the sinews to improve the educational system? Furthermore, he said that the structure was on too wide a base. Sir, it is on the widest base that we can

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possibly give it and as he well knows, we are doing our best to educate those who will in fact be able to make the best use of the system.

He also mentioned the fact that he had brought up in this Council the difficulty of what we are going to do with failed Kenya African Preliminary Examination students and Post-Standard IV's; and he said he had not seen any results of this. Sir, we do not always tell everyone what we are trying to do, but I can give the hon. Member a very definite assurance that we are making plans for these people.

He also said that the overall plan was lacking. Well, Sir, the plan, as everyone knows, is largely dependent on teacher-training; here is the teacher-training plan, Sir: it is in this file. If he wishes to come and read it, he may do so. The plan is there. One of the main difficulties, of course, is finance. The plan was prepared in 1955 by the African Advisory Council, and the estimated cost of this plan up till 1960 is £1,047,000, that is, to train the teachers required for the system. In this development period up to 1960, even diverting money from other needs, we could only give it £372,900—that is about a third of what the plan demanded.

Well, Sir, without the sinews, and I must come back again to this same point, without the sinews that can only come from the taxable wealth of the country, we cannot carry these things out.

Now, Sir, let me turn to labour, because my time is limited. I would like to join with the hon. Nominated Member in paying a compliment to the hon. Mover about his general labour relations. I have always found in dealing with him that he knows not only what should go on in the labour world (and he knows his regulations); but I have also found that he has been helpful in such matters. I therefore agree with my hon. Nominated friend that he should go further and take part and help the Government directly in all the things that it tried to do. He attacked the minimum wage. The Government, Sir, naturally regrets that it was not possible to increase the minimum wage at the beginning of this year; but, Sir, following on what I said to begin with about credit where credit is due, the hon. Member did not mention,

for instance, that the Carpenter Report, which set up this minimum wage, referred to the economic circumstances prevailing at a particular time; he did not mention that it has been agreed by the Government that the minimum wage should be reviewed in the month of April this year, bearing again in mind the economic circumstances; he did not mention that there was an increase in the housing allowance, and in fact the housing allowance part of that minimum wage is indeed beyond its agreed target; nor did he mention, Sir, a point which to me is most important: that in the field of minimum wage regulations, and in the efforts to raise the general level of wages, this Government is far ahead of almost other non-metropolitan territories. If he likes to pick out any territory he wishes, let him show me that it has done more to bring in minimum wages, or more to assist with the person at the lowest level than this particular Government has done since 1954. Furthermore, Sir, he attacked the minimum wage formula: he said it was inadequate and unrealistic; and it failed to include items on which the African has to spend money.

Now, Sir, this was also dealt with in the Carpenter Report, and I would just like to quote one sentence from it.

4.00 p.m.

"In the present transitory stage of African development the value of such studies appears to lie more in the general indication they can give of African consumption habits and needs than in the provision of exact data for incorporation in a minimum wage formula of more or less country wide application."

It seems invidious for this Government really to decide which part of what an African spends should come within a specific formula. Furthermore there was a human needs factor of 33 per cent which was added to that formula which should take care of any other particular matters which he had in mind. Furthermore this formula was made to apply to an adult male but in fact it applies only to a male under 21—and females—which gives a further scope, a further latitude.

Also, Sir, I would like to mention that this Government has told the hon. Mover that they are prepared to discuss

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this matter with him at any time and in fact I believe that we did make a date to discuss it with him. But he did not come.

Sir, all I can say is that if he does wish to attack these things publicly then I feel that he should have done everything in the first place to discuss the matter with us.

Now, Sir, turning to the next point which he made as regards minimum wages, he said that without free and voluntary negotiation the minimum wage tended to become the maximum wage. All I can say, Sir, is that this is totally untrue. In Nairobi there are only 15 per cent of the total workers employed who are on the minimum wage: that is, 11,000, roughly, out of 68,000 workers. How, also, can he say that there is no free and voluntary negotiation? I do not propose to take up the time of the Council to argue that particular point with him, that the minimum tends to become the maximum wage, when only 15 per cent are believed to be on the minimum.

He then went on to unemployment. Sir, this seems to me to be another inconsistency. If you are talking in terms of minimum wages and pushing up, therefore, the general structure of wages in a country like ours then unemployment must result—that is, unless we are at the same time going to be able—and very few countries have been—to increase the wealth to such a point that unemployment can be wiped out.

I would like to quote this extract from a Report of the Council on Prices, Productivity and Incomes, sitting under Lord Cohen, which was published on Friday, 21st February, and noted in *The Times* of that day, when they said that nobody should be surprised or shocked if there was a further increase in unemployment. They went on to express the view that it was impossible for a free and flexible economic system to work efficiently without a perceptible margin of unemployment of this kind. That, Sir, is a statement which refers to a country like the United Kingdom which is almost virtually fully developed. How much more should it be applied to this country which, after all, is basically poor?

Once again, Sir, I must repeat that the whole question of unemployment, as it does with the question of social services, depends on the expansion of wealth and of taxable capacity. I therefore repeat that unless everyone in this country is prepared to produce more and to produce more in the terms which were very forcibly put to this Council by my hon. colleague, the Minister for Agriculture, then there is no hope for such things as education and also for doing away with unemployment.

Now, Sir, I am about to close, but I am going to say a few words which may sound hard but nevertheless they are true in my view. Giving African labour everything that it has done in the last four, five, ten years in assisting with the build-up of this country, it nevertheless remains true to-day that in the labour field the major obstacle to progress has been the shortcomings of the African worker himself: his lack of responsibility towards employment and his inability to organize effectively for his own advancement, despite the fact that this Government has done everything it possibly can to help him. As long, Sir, as we have got target workers and as long as we have people who are buying leisure we will never build a nation: we will certainly not be able to get the potential wealth which we all need.

Now, Sir, I began by saying that as I am a civil servant—and I hope that nobody will blame me if I say that I have never tried to shirk work in this life—but if we can all work a good deal harder than we have been working then we may see a better return for our efforts.

I beg to support the amendment.

MR. MATE: Mr. Speaker, I wish I could believe with the Member for Nairobi South that everything is lovely in the garden as far as the African is concerned.

Nobody would quarrel with the achievements of the Government in the various fields. I myself know that they have done things in various parts of the country but looking at individual subjects, if we take the Education Department, about which the Minister was talking, I wonder if the Minister could convince an African that his child should be sent home from school at Standard IV. I wonder whether the figures quoted

[Mr. Mate]  
would console the particular parent, because it is not a question of how far we have gone but of how far the needs have been fulfilled. I wonder if the statistics prove that the frustration a parent feels is non-existent. On the other hand, as I have told the Minister, the African is willing to help himself. Let Government allow Africans to put up schools, aided and inspected by the Government to meet the difficulty of shortage of schools. What is the use of letting children taste education and then send them away?

Coming to agriculture, I would give credit to the Minister for what he is doing at the moment, especially as regards coffee. But, Sir, how many African planters have complained to me about the behaviour of the agricultural instructors and the fact that they did not plant enough trees—which was according to their guidance and according to their best efforts. How many ordinary African people have complained that the agricultural officers are too harsh with them? How many find it too difficult to explain their difficulties to some of such officers and then get bewildered? The African wants to increase his acreage of cash crops and get good prices for his produce.

Mr. Speaker, if any of the Government Ministers would convince me that these facts were not true then I would believe the figures. It is not a question of the figures but it is the large African population and what they honestly feel on certain issues, Mr. Speaker, such as agricultural problems, or planting just proper acreage, or marketing which just now is not looked after at all. The present marketing officers are like *askaris* in the trade in produce. The maize control is killing.

What does the producer get in return? A very low price when the consumer goes to buy it he has to pay twice the amount.

Mr. Speaker, how could any Minister of the Government convince me that that was sound economics or even sound fairness to the grower and to the consumer?

In my submission, Mr. Speaker, the methods of price control should be abolished. The African—and other—farmers are the producers. Why should the consumer pay such a high price? Why should our home market suffer and the consumer have to pay so much for local produce? Just because of the bad methods of the maize and produce control.

We want expanded agricultural production.

Therefore, Sir, I ought to say, regarding agriculture, or land consolidation—and my hon. friend the Member for the Nairobi Area yesterday said it—I support it in principle. But here, Sir, and the hon. Nominated Member opposite, Mr. Waweru, will bear me out when I say that the farmers want loans: through farming they want to get rich quickly in order that they can get on. Their loans are small and the planning teams too few.

Mr. Speaker, I am sure this is not just imagination or even a question of raising hues and cries because everybody knows this, and on the question of passes. It is only the wearer of the shoe who knows where it pinches. I am sure that members of other groups in Kenya—Europeans, Asians and others—do not quite appreciate what odds face the Kikuyu, Embu and Meru who have to carry passes.

Only last week a policeman delayed me because he could not read English and did not therefore understand what was written on my pass.

Fortunately after trying to explain my position and my business he let me go. This is no uncommon occurrence or even peculiar to me.

Mr. Speaker, I feel that the question of passes and the Kikuyu, Embu and Meru is a very important thing and I feel the Government should understand the difficulties which arise in connexion with this kind of thing.

People ask me, Sir, "When will the Emergency finish?" I answer them, "I have told the Government that the conditions of the Central Province have improved and I think the Government are going to take the quickest possible action to bring an end to the Emergency

[Mr. Mate] and to revoke the laws which make things so difficult for the people". If to represent here—and to represent honestly—what the people say is called "making up stories" then I do not know whether I would be doing my job if I stopped at that.

The African is ready to help himself. The only trouble is that there are more Africans in this country than there are members of the other races.

The Government has allowed other races to build schools for themselves and to staff them for themselves. This is very good self-help; and the Government should allow us to go ahead on our own. The African should be permitted to put up schools subject to Government supervision and inspection. In other fields, too, more and more self-help should be encouraged.

Let us plant more coffee and then we shall have enough money to pay for whatever we want. We shall be able to pay the taxes, school and other fees and improve our conditions all round.

4.15 p.m.

Coming to the question of the Ministers and their speeches, I recall that last month the Minister for Local Government, Health and Housing was happily opening a health centre at Githongo in Meru and in his remarks to the audience the Minister said that the Government and the Elected Members of all races—including himself, perhaps—were like husband and wife. The Minister could do as he likes, but the Elected Members could shout and shout and nothing would happen. I agree, because he has the voting power behind him.

I do feel that if this was published in *Baraza* or the *East African Standard* it could become an inflammatory speech in Kenya. From a political Minister, like my hon. friend opposite, such remarks to an audience are harmful. They look up to him as a responsible leader who should not make such irresponsible speeches in such comparisons. So I do not think, Sir, that the African politicians to-day would be justly accused of inflammatory speeches when it applies on both sides.

On the question of Ministers—and in particular the Ministry of Local Government, Health and Housing—why should Housing only be offered? One man takes charge now. Why should it be necessary to break it for an African to take charge of just that one portion?

On the question of selective seats, why should the Legislative Council wish to have Members to represent them to themselves, Sir, when the large areas with populations of 30,000 are not represented—at least, adequately?

Why should there be Members to represent Members of Legislative Council to themselves, especially when there are areas like Kiambu not represented adequately? What we want are communal seats to give our people adequate representation. Not the Legislative Council electing Members to represent the Council to itself. What better relationships shall we get that way? It is us, the leaders here, who should get together and resolve our differences, not the mechanics of elections.

The African Members here are handicapped in several ways. They are accused of not knowing English, but I doubt how many other Members of Legislative Council could compete with me in my own language, or Kikuyu or Swahili. I do not think they should speak about languages unless they had learned Kikuyu and Swahili. This is not a thing for anybody to play about with words over.

Mr. Speaker, we are outnumbered. We know we are few. We have a lot to do to represent our people. On the Government side I see too few African faces to make our interests known and our presence felt.

Mr. Speaker, I beg to oppose the amendment.

THE MINISTER FOR WORKS (Mr. Nathoo): Mr. Speaker, last week in this Council the hon. Member for Ukamba accused me of slight discourtesy to the Council by being absent when my Supplementary Vote was being discussed. Sir, in fairness to myself, and to this Council, I would like to say that I had to be on this ministerial tour due to circumstances beyond my control, and it was not with the idea of being discourteous that I kept myself absent.

[The Minister for Works]

Sir, whilst I was away in the Central Province I particularly took an opportunity to look at some of the work which the Agriculture Department, the Veterinary Department and the Administration were doing on African land development, particularly with regard to the land question and the education of the people. Sir, what I saw there convinced me that all these officers are not only doing a job of work but doing it with enthusiasm and a sense of mission which would do credit to any officer anywhere in the world, and from the work I saw I cannot possibly imagine that the frustration, of which the hon. Member for Nairobi Area spoke, can be as ripe and rampant as he led us to believe. That does not mean that the Government wants to say that everything that has to be done has been done. Sir, I would like to say that after about four years in the Council of Ministers, both the Asian Minister without Portfolio and myself feel that there are many times when, during discussions, we have not been able to achieve what we would like to have achieved for our people who we represent on this Council. But, Sir, you have to be in the Council of Ministers to see the amount of goodwill and willingness to find a solution to difficult problems, and for that reason, if for no other, I would like to appeal to the African Members that, with whatever grievances they may have, they ought to give a trial to joining the Government and see how far they can go to help their people and advance the progress and prosperity of their people in this country.

Now, Sir, the hon. Member raised the question of renting buildings, and on which he accused the Government of wasting money. I would like to say this, that if he likes I will provide him with details to show that if Government had built buildings 10 years ago, even with borrowed money, and compare it with the rents they have paid over this period of 10 years, that these buildings would have become free with the same amount of money spent in that time, and I still feel that if the Government of the country is to stay in this country—and it has to, whatever people may say—that they will require premises and that the cheapest way of getting these

premises is to borrow long-term money and build offices for themselves rather than pay 10 and 12 per cent on borrowed capital, which is exploited by the landlords; and rightly so, because nobody will go into building unless they get a fair return. The Government, with the amount of money it can borrow, can build buildings for itself without any extra expenditure to the taxpayers.

Now, Sir, I would like to assure the hon. Member for Nairobi Area that I am as frustrated as he is with lots of things that are happening in this country, and one of them is the fact that I cannot get anywhere near enough money to provide the roads, about which everybody is shouting in this country. But if I decide that, just because I cannot get enough money I will throw in my hand, I do not think we will get anywhere. With our sense of frustration it is our duty, whatever the frustration, to put our shoulders to the wheel and find out the best solution for the prosperity of everybody in this country.

Another accusation has been made, that the Africans are not being allowed to progress as fast as they should. The Indian and Muslim communities, Sir, the latter of which I have the honour to represent in this Council—and I am sure of speaking on behalf of the Asian Minister without Portfolio—that these communities have declared that they are prepared to assist the Africans to achieve their aspirations and that they are willing to do everything they can to help them in achieving their goal. But, Sir, the Africans must realize that their aspirations must be limited by the capacity they show and by the amount of skill and ability they exhibit in the affairs of the country, and I submit, Sir, that the only way that they can convince us that they are capable—and I am sure they are, as capable as we are, perhaps some of them are more—they must come and show us, come and take part in the Government of the country and show they are able to go forward. After having shown their willingness, let them complain if they are not allowed to progress.

The Government has never said that everything is right in the garden; if they had said that, Sir, it was not necessary to appoint Ministers for the various jobs,

[The Minister for Works] They could all go to bed and save the taxpayers a lot of money. But within the limited finance the Government has at its disposal, every effort has been made to see that benefit has accrued to the people of Kenya, and once again I beg of my friends, representatives of the Africans in this country, that they deal with the problems we have with a more co-operative spirit and join us in finding solutions rather than keeping out of it.

I beg to support.

MRS. SHAW: Mr. Speaker, I rise to support the amendment as strongly as I wished to oppose the original Motion. I was most impressed by the resounding manner of the Minister for Agriculture when I listened to his speech; I began to think we were back in the good old days when the hon. Minister was Member of this side of Council and when, after one such outburst, I remember the then African Nominated Member was heard to remark that he was glad that all volcanoes in the Rift Valley were extinct. I believe the hon. Mover's speech was likened to a cross country run: I agree with my hon. friend, the Member for Nairobi South—it was like a marathon test of endurance, possibly more so for his audience than the hon. Mover himself. I do not think I have heard so little said at such great length: in actual fact I did listen with interest to all he had to say about labour, because there he knows his subject and I must admit that I did not sit through the entire length of the rather dreary speech.

Briefly, Sir, I only want to make three points. The first is that it must be of a startling change for the hon. gentleman opposite, who usually from this side are accused of complacency, to be accused of panic—I believe "panicky" was the word the hon. Mover used—and if they are panicky I do not think I have ever seen anybody give a less convincing performance. I would rather say that for once the Government has beaten the gun on security measures and I would like to congratulate them for their foresight and prompt action. The lessons of the Emergency have apparently been well learned.

The second point, Sir, is that while quoting the Royal Commission with such a rhetorical fervour, the hon. Mover

gave a twist to his quote, possibly to suit his purpose, for he gave the impression in this Council—perhaps unwittingly—that the Royal Commission had advocated a policy of throwing open the White Highlands only, when in actual fact they recommend, in the interests of economic progress, the disappearance of all land barriers.

Mr. Speaker, in order not to waste the time of Council, I do not propose to quote the relevant passages as they are rather long, but as I think it should be put on record what the Royal Commission did actually recommend, I should like to quote the summary of those two paragraphs, which under the chapter headed "Conclusion", you find on page 430 of the Royal Commission Report. Of paragraph number 63 it says:—

"The traditional policy of land reservation and safeguarding sectional interests, whether African or non-African, must be abandoned in the interests of the communities as a whole."

And again, of paragraph 66—it is the final summing up of the chapter on land its nature and usage. The summary is thus:—

"In so far as barriers to free land exchange are not removed to that extent, will the prosperity of the peoples of East Africa be retarded?"

Now, Sir, provided all land is adequately—and I repeat adequately—safeguarded under the individual tenure, I do not believe there are any hon. Members in this Council who will quarrel with that opinion, for surely it is an economic truth that no country can be developed to its fullest economic extent without a free flow of skills and capital. That, Sir, brings me to my final point—capital. Although the hon. Mover did not belittle the importance of capital—though I rather thought he did as regards capital from European sources in this Colony—I can assure him that without capital and the fresh infusion of capital from overseas—and there is no doubt that we shall see in the forthcoming Budget a real lack of capital—the frustrations which I would say are largely imagined about his people, become very real indeed. For the welfare services of

[Mrs. Shaw] this country will not be able to go forward and there will be no increase in education, health services and all the other things we all need so badly for the progress of our people.

4.30 p.m.

And yet, Sir, what are the realities of the situation? The recurrence of oathing ceremonies at Meru, the need to proscribe the *Ktama Kuu Mwingi*, a rather unwise speech, born of a very understandable anxiety, made in Mombasa, the threat of strikes and indeed a Motion of this kind, do nothing to help the stability of Kenya, which is essential if we are to attract the capital which is our very life blood.

I wonder whether I am right, for, Sir, I believe that this Motion, calling forth, as it has, an amendment such as the one I am now supporting, and a pronouncement of Government policy and performance—such a strong pronouncement—may have the very opposite effect to that which the hon. Mover believes, namely restoring confidence in the Government's ability and determination to deal effectively with any situation which may arise.

The hon. Minister for Agriculture criticized the hon. Mover's attitude, I suggest, Sir, that the difference between the Government's attitude and that of the hon. Mover could be likened to the difference between perseverance and obstinacy. The one comes from a strong will; the other from a strong won't.

I beg to support the amendment in the strongest terms.

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): Mr. Speaker, Sir, in moving the Motion, the hon. Member for the Nairobi Area devoted a large proportion of his speech to criticism of the Ministry of African Affairs and of the provincial administration. And it seemed to him, it appears, that the Ministry and the provincial administration were one of the main causes for his feeling of frustration.

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

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

He added that he thought there should be a clear interpretation of Government policy by agencies which are effective and beyond suspicion, indicating, I presumed, that the Government officers were regarded with suspicion by the African population. Now, Sir, I submit that Government policy is, in fact, clearly interpreted to all races, and that the officers engaged in carrying out Government policy are doing so effectively and with the confidence of the vast majority, certainly of the rural population in this country. If and when confusion does arise in the minds of some of the African populace, it is, in my view, largely because of the speeches and the contradictory policies followed by some of the hon. African Members opposite.

I take the gravest possible exception, Mr. Deputy Speaker, to the statement by the Mover of the Motion that administrative officers do not listen to the grievances of the people they administer and do not carry out investigations into complaints which have come to them. It is within my own knowledge that this is entirely incorrect and that administrative officers spend a great part of each day listening to complaints of every kind and investigating them thoroughly.

Mr. Deputy Speaker, I do not propose to enter into arguments about my Ministry and the position of chiefs, but I should like to turn directly to what I considered to be the main line of attack which the hon. Mover followed, that is to say, he based, I think, his Motion largely upon a feeling of frustration arising from what he considered to be difficult conditions in the Central Province. Now, Sir, I believe that the hon. Member was fortunate that he was out of Kenya for quite a long period of the Emergency and that he was also fortunate in that he did not have to live in the Central Province. I think he could have spoken with some eloquence of the frustration which the law-abiding citizens faced as the result of intimidation and the threats of death which *Mau Mau* brought in its train. I think he would have every reason to complain of the thousands of coffee trees which were hacked down, of the hundreds of African-grown tea bushes which were uprooted by those gangs. Mr. Deputy Speaker, we are inclined to forget sometimes the horror of the rebellion through

[The Minister for African Affairs] which we have passed. We are still inclined to forget that conditions are not yet normal in the Central Province; gangs are still being contacted, not only in the forests, but in the districts, and we are still releasing a number of detainees every month who were formerly deeply imbued with the tenets of *Mau Mau*. I think, Mr. Deputy Speaker, we must face the fact that for the time being we cannot agree to the formation of political associations as such in the Central Province.

I am satisfied myself that Africans in that Province have recognized channels through which they can express their grievances and bring them to the notice of Government, and I shall later in my speech mention certain aspects of land consolidation which the hon. Mover criticized adversely.

One of the points that the hon. Member for Nairobi Area made was the restriction on movement as far as the Kikuyu, Embu and Meru were concerned, which resulted in an increase in unemployment in the Kikuyu districts. Now, Sir, I do not deny for a moment that there is unemployment in the Kikuyu districts, but this problem must be looked at against the background of what Government has already done. Over 50,000 men, women and children have gone to employment from the Kiambu District. Local employment within the district takes care of another 25,000, and over 2,000 Kikuyu from the Kiambu District are going daily to work in Nairobi. Let me add that when employment was found on the Yatta furrow and the Mwaa scheme, and there were over 1,200 places to be filled at very reasonable rates of pay, 100 of these places only were filled from the Kiambu District.

The other day a number of families went to Usin Gishu; they were carefully recruited and the conditions of service were explained to them. On their arrival in Usin Gishu these families from Kiambu refused to work and had to be returned. The Government has, in addition, a local relief scheme for the employment within each district of detainees coming out of work camps.

Sir, I really cannot accept the argument that the restriction on movement

has, in fact, meant a substantial rise in unemployment in the Kiambu District or, indeed, in the other two Kikuyu districts, nor can I accept the argument that Government has not made a genuine and, in my view, very successful attempt to deal with and to solve that problem.

The hon. Member for Nairobi Area went on to declare that a major cause of frustration was the method and manner in which land consolidation was carried out. He was good enough to say, Sir, that he had no objection to the principle of land consolidation and I presumed that he had been converted by his colleague, the hon. Member for Central Nyanza, who, I am informed, has recently consolidated his own land. Despite the hon. Mover's plea earlier in his speech for greater African representation on boards and committees, and despite his eloquent plea for African co-operation with Government, he has attacked, in his Motion, a major agrarian and social project which, Sir, is largely being carried out by the Africans themselves with the technical assistance of the Agricultural Department, the Administration and the Surveys, and with, of course, considerable financial assistance from the Government. It is, Sir, ridiculous, in my view, for the hon. gentleman to rely on a series of letters written by some disgruntled persons after their unsuccessful appearances before the land consolidation committees, and before the district arbitration boards. I suggest, Sir, that the hon. gentleman must retain his sense of proportion and remember that for every one of those letters he receives there are hundreds of contented farmers who, assured now of security of tenure, can look forward to the development of their farms without the endless worry of possible court cases.

I do not say, Sir, that there have not been, on occasions, miscarriages of justice, but I do urge the hon. Mover to read the land tenure rules and to note what safeguards exist for the fullest possible investigation of every claim by the persons best qualified to do so, namely, the Mbari, and the Muhiriga elders.

I note, Sir, that in fact the hon. Member most concerned in land consolidation, the hon. Member for the Central

[The Minister for African Affairs] Province, made no such criticism of land consolidation; he urged, if I remember him correctly, that land consolidation should be speeded up, that they want more survey teams, more loans, and more follow-up services. And I submit, Sir, that the hon. Member for Central Province is in a very much better position to know than the hon. Member for Nairobi Area.

I must again refute the claim made by the hon. Mover and certain others that land consolidation creates a landless class. It does nothing of the kind, Sir. All who owned land before consolidation receive the same amount back again, after consolidation, less a small percentage cut for public purposes. There is also provision for a landlord to enter into an agreement with a landless person to become a tenant. And despite what the hon. Mover said, the larger consolidated farms all over the Central Province are steadily employing an increasing number of their landless compatriots.

The figure in Kiambu was given at the end of last year at over 2,000. The hon. Member for Nairobi Area insinuated that land consolidation was not voluntary. Let me tell him that there have been many occasions when the Administration have withdrawn their teams from certain areas at the request of the local inhabitants, only to have most urgent requests later on for these teams to return.

4.45 p.m.

The hon. Member criticized district commissioners giving authority for a village to make a collection of funds for such laudible purposes as soup kitchens and health visitors and water supplies; I think it shows an admirable spirit of self-help in those villages that they should have asked to make those collections, and it is no doubt as a result of a splendid example set by the British Red Cross.

I see, Mr. Deputy Speaker, that my time is getting rather short and I will therefore only make one more point, a point made by the hon. Mover and the hon. Member for the Coast, which concerned the passbook regulations and a certain case in which a Kikuyu has his passbook endorsed.

First of all, there is no provision in the law which enables any Kikuyu, after his discharge, to remain in any area for more than 48 hours. There is an administrative instruction which allows him to remain in Nairobi and the Rift Valley for 14 days to seek work. Secondly, if I may say so, I think the hon. Member for Nairobi Area has confused two separate issues: he has confused a perfectly normal discharge by an employer of an unsatisfactory servant, and the subsequent action that happens in the case of Central Province or Rift Valley, where the discharged person is sent back to his own district, and I submit that it is a perfectly reasonable thing to do, for the administrative officer to endorse upon the passbook the fact that he must return to his district of origin. That has nothing to do with the employer who has already discharged him.

In conclusion, Sir, may I say that I feel the hon. Mover has displayed a lamentable ignorance of the developments and the conditions which exist in the Central Province, and other provinces, of this Colony. Where are men of determination and goodwill, who with the encouragement and active assistance of Government, are engaged in an important task of building up a rich and prosperous Kenya. I am afraid their efforts in this direction have not been assisted by this ill-considered Motion.

Sir, I beg to support the amendment.

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING (MR. HAVELOCK): Time is getting short and I am not going into preliminaries; I am merely going to touch on a few points raised in the debate, and leave the advertising of the success and development of my Ministry to the proper place, that is in the Estimates, when we debate them in a few weeks' time.

The hon. Member for Nairobi Area attacked me personally to some extent on speeches that I have made, and I am not going into the detail of that either: I am merely going to say to him quite categorically that any speech I have made in public, at public meetings, is as made in public, and therefore would reflect the policy of the Government, I would also, merely in passing, say that he accused me I think of being rather

[The Minister for Local Government, Health and Housing] sacrificed, rather frightened—I cannot remember the exact term—in a speech he referred to which I made in Limuru. All I can say to him is that I was attacked by my constituents for being too complacent, so I think on the whole, having heard the story from each pole—one pole being at Limuru, one pole being here—that I was probably right in what I said in a balanced way.

The hon. Member went on with regard to boards of committees and African representations on them and I think mentioned a specified number in my Ministry. I would like to say here that I am very well prepared to ask for or seek the advice, which we have done on certain occasions, of the African Elected Members, on any appointment to a board or committee in my Ministry and I will be glad to do so. He then went on to the matter of local authorities and membership of local authorities. Firstly, I think he was rather a little bit unfair; in fact he was quite unfair, in a number of ways, when he said that at the moment no Africans were elected to local authorities. Of course they are not at the moment—he knows that very well and he also knows well that the Constitution of Nairobi City Council has been changed in the last few months in order to apply the principle of election to African members.

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

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

The actual registrations are now being drawn up. He may also recollect, although he did not seem to think it right to do so, that I have already said that in elections for Africans will take place in the newly constituted Council in Mombasa. So I think that the hon. Member, in trying to make his case—parts of his case are good and parts are bad—according to the attitude one takes up—in trying to make his case should tell the whole truth and not just half-truths.

Now Sir, with regard to nominated representation on other local authorities, there is no doubt—and indeed it is the policy—that elections will take place wherever the local authority concerned is

ready for it and that will be a developing matter. But even meanwhile, whilst nominations are taking place, I always seek the advice of representative African bodies of that particular area before the nominations for African members is made and I have a list in front of me, which I will not waste the time of Council on now, nominations to all local authorities and different bodies who have supported them—Luo Unions, Abaluya Association and so on. So I think that the hon. Member must admit that we do take advice where we can on that matter. I do not think it is a proper function of the African Elected Members to give advice on appointments to local authorities; I certainly would not consider asking the European Elected Members for advice on appointments to local authorities, because I do not think there should be a buffer between the Ministry and the local authorities, but advice is taken from the people interested in the particular location in the particular area.

Now, Sir, I want to re-emphasize that as far as taking advice is concerned from the African Elected Members, I am very well prepared to do so. There has been a considerable amount of talk of frustration, and I would like to honestly put to the African Elected Members—has there ever been occasion when one of their number has come to my Ministry and asked a question about anything, asked me to look into any matter, and that has not been done? And I do suggest that some blame is attached to themselves, that the many matters which have been brought up in this Council by them have been taken into consideration and also we are always open to any Member of this Council to listen to his complaints and any matter which he may wish to raise, even if he raises it outside this Council, I would suggest that a certain amount of blame attaches to themselves for not taking the initiative.

The other points he brought up were, first of all, the housing plan. Again, he was really rather misrepresenting the facts; he said the housing plan had completely fallen through. Talking about African housing in Nairobi, this is not correct. Houses are being built at the moment: 200 houses will be ready for occupation in about three weeks' time, and the total project is 1,400. I have already explained all this in detail to this

[The Minister for Local Government, Health and Housing] Council at least three times and circulated the reasons, although the hon. Member said at the time that he did not know why the agreement had fallen through and did not understand why. I have circulated the details in a long document giving the whole history of this matter to every hon. Member of this Council and if the hon. Member for Nairobi Area does not understand it I am again available to discuss the matter if he so wishes.

There was another matter. He brought up the subject of the expenditure on the City Hall and said that the expenditure by the Nairobi City Council should have been diverted to other things such as African housing. He has every right to hold that view—and many other people hold that view as well. However, there are arguments on the other side.

Firstly, their administration were housed in temporary shabby buildings and they, as the health authorities, having already tried to tidy the city up and having ordered people to get rid of other temporary buildings it was rather invidious for them to use army huts. That was the main reason why extensions to the City Hall offices came about—in fact, of course, this matter was decided very many years ago.

While on this, the other point I think that should be made is that a development programme for a city must be a balanced one. One cannot put all one's eggs in one basket and that indeed is another reason why the administrative centre, the matter of the attraction of tourists and the attraction of international conferences, and so on, are all matters which must be taken into consideration when the whole capital programme of an authority like the City Council is studied. I think if the hon. Member himself would take the trouble to study the capital programme of the City of Nairobi he would find it quite a balanced picture. There again, if he does do so I would be interested to talk the matter over with him.

It is no use getting up and blaming the Government for everything and taking no active part in positively getting the difficulties sorted out. I have been

very disappointed in this regard in this particular debate. It seems to me that the hon. Member especially has been guilty of what he has accused other races of being guilty of in the past—and that is straight racialism. Everything is African this, African that or the other.

Indeed, the other races may well have been at fault in the past, but in the last two or three years it is my opinion—and I am sure that it is right—that mostly owing to the hon. Members in this Council racialism is falling apart and is decreasing very, very rapidly indeed. When I say that it is mostly owing to the hon. Members in this Council I am referring to the hon. Members representing the Europeans and the Asians; and those Members have done this at the risk of their own popularity and often in the most unpleasant circumstances. In particular, one hon. Member who I am looking at now will know what I mean when I say that. He and I have shared very difficult platforms on that subject. For, Sir, it is most disappointing to me to see the whole trend of racialism coming back again through the Africans who always said that the other races were at fault. The mere fact of their suggesting that these specially selected seats should be discarded, and that they should be communal, shows that the attitude of not looking at Kenya as sections of different races, is what they do not want to do, I do suggest to them that that is the only future for this country, and that is the only way it is going to be a happy and prosperous country for all people.

Quickly, Sir, I must just refer to the two remarks made by the hon. Member for Central Province. He referred to a speech of mine at Meru, and did not seem to like it much. I wondered at the time if he would like it, and I was very disappointed that he was not at that particular function, to which he was invited, because I would much rather have made that speech in front of him than in his absence. But as it happens, all I was stating at Meru—and I will continue to state—was to point out that the initiative, the positiveness, remains with the Government, and if the African people wish to share in that initiative and in the positive development, they should be with the Government; and no matter how I describe it

[The Minister for Local Government, Health and Housing] as regards husband and wife, that does not alter the fact that that was the point I was putting over. Also, Sir, if the hon. Member does not think that the portfolio for Housing is sufficiently important for him, well I am very surprised. It is one of the greatest headaches I have got in my portfolio; one of the most important subjects with regard to the stabilization of urban Africans and the whole standard of living of Africans in urban areas especially, and I really think it is the most urgent subject and probably the most important part of my portfolio. I challenge the hon. Member to come and help to solve the problem, which is a very difficult problem for his own people. I have not yet been able to solve it as I would like to. For many reasons which I have explained to this Council before, I am asking him to come and help me, to help his own people.

I beg to support the amendment.

5 p.m.

MR. COWIE: Mr. Speaker, I do not wish to join those who have condemned the Mover for moving this Motion. I think this is probably the right place for him to express those views, where he can receive answers and explanations; far better, perhaps, than elsewhere. But in opposing his Motion I wish to make three points.

The first point, Sir, is the question of the point of view of the African. There has already been much said as to whether or not the African Elected Members represent the Africans. That I do not wish to challenge. What I do challenge is whether they do or do not represent the point of view of the Africans. I have lived in this country, Sir, too long to be misled by flowery speeches in this Council. It may interest the African Members to know that my father was also a Member of this Council, and I will say to them, that if you travel across the plains of the Masai land unit which occupies the southern half of Kenya, you will find many thousands of people there who probably have no knowledge of what is being said in this Council. If you go to the Northern Frontier, you find nomadic tribes there that also have no interest or know-

ledge of it. You come back into the more settled areas and there are many millions of people there who live and have very little knowledge of the points brought forward by the Mover of this Motion.

I therefore, Sir, cannot accept that the point of view which he has represented is the point of view of the African people as a whole. In condemning as he has done, Sir, the Provincial Administration, I again joint issue, because I think the Provincial Administration has been the backbone of many of these rural areas. I can remember the day when the district commissioner, as he still is to-day, was the leader, the guide, the adviser to everybody, and every primitive African knows perfectly well that the district commissioner is his protector. There is no finer record than the Administration has in this country, of administering fair play and benevolence to simple, primitive people.

I therefore think, Sir, that these primitive people require protection from being exploited by their own people. They might easily be exploited by those who think they represent the African point of view, who only know of Nairobi. They are in danger of bribery and corruption which always grows up in any community. They require that protection, and the best people to protect them are the Government of the present day.

The second point, Sir, is that I do commend the hon. Mover of this Motion to assess very carefully what impression a Motion like this might make on the people in Britain, if they have ever time to read it. Whatever one might like to say on this subject, we must admit that the final authority for our defence, for our Constitution, for the approval of our legislation, rests with Her Majesty's Government. Therefore whatever impression is created is of the utmost importance.

I think the hon. Mover will be aware of the reaction—if I can call it that—which was reported in the press to the statement by the African Elected Members that they did not wish to support this Constitution. They invited a certain amount of disfavour from both sides of the Council.

The third point, Sir, which I wish to commend to the hon. Mover is a matter

[Mr. Cowie] of partnership. I like to remember the day when Lord Delamere was able to give us good, sound advice, and he used to say that the only civilized form of government of this country, and for a very long time, was government by agreement; in other words, a partnership. Now the essentials of a partnership are that the partners should have some confidence in each other. If you try to dismiss a partner it virtually means that you must dissolve the partnership, and this Motion, as I understand it, seeks to dissolve the partnership. I think the best way to impress our senior partner, which is after all Her Majesty's Government, is to show that we are able in our partnership here, to resolve our own difficulties. We can have our disputes and we can have our disagreements across the floor of this Council, but in the end we must maintain and preserve that partnership.

So this Motion, Sir, shorn—as I see it—of the support which is claimed for it by the entire African population—which I dispute; shorn of any favour which it might receive from quarters in Britain, and likely to damage the partnership which is essential, is left with nothing whatever to commend it. If the Mover wishes to show his statesmanship, and to show that he has benefited by this debate and learned a great deal from it, I suggest to him, Sir, that he should withdraw the Motion. If he does that, he will rise in my opinion to a position where he is capable of much greater responsibility.

I beg to oppose the original Motion.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Mackenzie): Mr. Speaker, Sir, I beg to support the amendment.

Fortunately, my hon. friend the Minister for Labour has dealt with one of the points I had intended to deal with, and that was when he said it is quite untrue that the Government has pegged wages. There is, Sir, no maximum for wages, and people are quite free to earn what they can and what they are worth. The hon. Member for Nairobi Area also mentioned that wages were pegged and that there was no control of prices. Well, Sir, it has been the Government's policy to get away from price control as far as

possible, but in the interests of the poorer members of the community, there still are certain products which are subject to price control. Those are posho, wheat flour, sugar, wood fuel and charcoal; those goods are still subject to price control, and as I say—in the interests of the poorer members of the community.

Now, Sir, later, the hon. Member spoke about Government planning. He wanted an over-all economic plan. Well Sir, the Government has its plans; it has plans to which my hon. friend the Minister for Agriculture referred, for increasing agricultural production through such measures as land consolidation, planned farming, anti-erosion measures, and the whole apparatus of the Swynnerton Plan. If that is not economic planning, Sir, I am afraid I do not know what is. In addition, Sir, there is planning in the fields of education, local government, health, and indeed, Sir, throughout the whole sphere of activity, both economic and social.

But, Sir, our method is to create conditions in which the people themselves can progress, and increase the wealth of the community. It is not a question of compelling people to do this or compelling people to do that; we create the conditions in which people can make themselves richer than they are at the moment, and it is up to the people to take the opportunities that are given to them. It is through hard work, Sir, that this country will become rich. It is through hard work that this country will form capital from its own resources, to help in the process that is started through the capital that has been imported in the past, and that will, I hope, continue to be imported. It is through hard work, Sir, that if anybody feels frustrated, he is likely to get rid of his frustration.

Now, Sir, another point that the hon. gentleman referred to was economies; he wanted economies in Government expenditure—although in some of the other things he said, he rather gave me the impression that we should have to spend a great deal of money. But he wanted an economy, Sir. He complained about the building of palatial offices. Well, Sir, the answer to that is—as my hon. friend the Minister for Works has already pointed out—that the Government does not provide palatial offices. But, Sir, it does have to provide efficient

[The Minister for Finance and Development]  
offices in which people can work, and I would remind the hon. Member that even economic planners need somewhere to work.

A further point that the hon. Member mentioned was the Organization and Methods Committee. Well, Sir, there is no committee, but there is an Organization and Methods Unit, and I can assure him that it is being used extremely effectively. It is producing economies. It either produces a state of affairs in which less staff is being used, or in which existing staff is being used to better effect. The aim, Sir, is an efficient service, and I would like to point out in case there are any misapprehensions about this, that their primary aim is not to axe staff—their primary aim is to increase efficiency, and in doing so, they do in fact save staff as a by-product.

A further point, Sir, as regards whether the Organization and Methods Unit is being efficiently used: I would like to mention very briefly some of the assignments that have been undertaken. The unit has examined, for example, the organization of Government in Ministries and departments; it has examined establishment control; registry work; the administration of war pensions; the Inland Revenue Department; the Immigration Department; it has looked at a number of methods jobs dealing with accounting forms; with hospital fees; work on pay and accounting; registration of births, deaths and marriages; collection of school fees; the methods of administering irrigation schemes and pass-book control. In addition to all those jobs which have been undertaken and in which extremely useful work has been done, there is a long list of other jobs which could be done if only we had the number of people available to undertake them. The Government realizes quite well, Sir, that there are many more jobs that could be done by the Organization and Methods Unit and this—I would like to say—is one of the points on which the great problem arises as to whether and to what extent it is wise to spend a little more in the first instance in order to solve in the long run.

Now, Sir, turning from the Organization and Methods organization, the hon. Member mentioned the sense of belong-

ing to the Government. He said that Africans felt that they did not belong. Well, I have got some figures about the public service, and they are that in 1949 the total number of established posts in the Civil Service was 13,677, of which 8,777 were held by Africans; that was 64 per cent. By 1955 the number of established posts was 30,968, and of those 21,588, or nearly 70 per cent were held by Africans. Since then, Sir, the service has been put, as a result of the Lidbury Report, on to a completely non-racial basis, and the highest posts in the service are now open to any African who has the abilities to qualify for them, and the statistics are no longer kept on a racial basis.

5.15 p.m.

My time, Sir, is almost up, but there is one final point I would like to mention. That is that the hon. Member spoke of priorities. There again, Sir, the Government has its priorities. My hon. friend, the Minister for Agriculture, in his speech, told the Council what the Government was doing to increase agricultural activity and that is being done particularly, Sir, in the African areas. The Government's main priorities, Sir, are, as the Council has often been told, security, law and order, and economic production—the two go together because you cannot have the second without the first.

The Government, Sir, as I have already said, creates the conditions. By hard work we can succeed in increasing our wealth. I would, Sir, like to take this opportunity of calling on all Members of the Council to encourage our people to follow the lead which has been given by the Government in progressing towards a better and more prosperous Kenya.

Sir, I beg to support the amendment.

MR. MANGAT: Mr. Speaker, Sir, the Englishman is ever eager and ardent in the defence of his rights and when those rights have descended to him from ancient times and are the progeny of traditions stretching back for a millennium, he shows a fanatical zeal in the defence of those rights. Originally these privileges were exercised only by Englishmen. By the term "Englishmen" I mean, of course, as including the Scot, the Welsh and the Irish,

[Mr. Mangat]

Now that equality of status has been granted to all the citizens of the Commonwealth and Colonies, these privileges are being equally vigorously claimed by all British subjects. I acknowledge my deep gratitude to the hon. Mover and his supporters for their making available to me this admirable occasion for exercising one of those privileges. The particular prerogative I have in mind, Sir, is the core and kernel, the heart and soul, indeed the quintessence of those well established principles coming from a noble heritage. It is the privilege which is enjoyed by every Englishman, hence by every British subject—the right, Sir, of his making an ass of himself if he so wishes.

The original Motion, offers a thousand opportunities to the hon. Members of asserting that right. Unfortunately, the hon. Mover of the Motion expended about 950 of them, so I am left with only a few. Sir, I hear a laugh from across the floor of the Council. Sometimes it is an indication that they show a lack of faith in what I am saying, but history is my witness, and perhaps for a few minutes out of those I have been allotted I will have to invoke history to establish the principle which I am discussing.

All of us who read our Bible know that in the fifth century the English invaded Britain and called it England, and that was the first step they took on to the long road of folly. Up to the ninth century the privilege of an Englishman to make an ass of himself was exercisable only within the realm, but after that the British took it to their dominions, colonies and possessions beyond the seas.

As a matter of fact, John the Scot who, in spite of the tribal tab which is attached to his name, was an Irishman—as Chaucer will tell you, in the ninth century "Scotus" meant "Irish"—I do not know why—John the Scot, incidentally, a great scholar of Greek and a sportive neo-Platonist—went so far as to say that he could exercise the right of his making an ass of himself even in France.

Somebody dared him do that, and he was so provoked that he took the first Larne-Stranraer steamer and arrived at Victoria just in time to catch the Dover-

Calais express and entered Versailles next morning to find Charles the Bald, king of France, standing in the courtyard, waving to one of his queens in the Balcony. John the Scot stole up to the king and with the buckled knuckle of his right forefinger gave a smart tap on Baldy's shining dome. The king turned round in all his deificated majesty and exclaimed: "Who are you, making an ass of yourself?" John the Scot drew himself to his full height and said: "To take your second question first, let it be known to Your Majesty and to all those of like mind, that I, as an Englishman, have exercised a right which we claim throughout the world, and to take your first question second, Your Majesty may be further informed that I am Johannes Scotus Erigena of Ireland." That was a mouthful for the king. To us, of course, who know the language, all it meant was John, the Irishman, repeat, the Irishman, from Ireland. But Baldy, after his Kenya Preliminary Examination, had been sent to the modern stream and was not well up in his Swahili. So he thought that it meant John, an Englishman, having something to do with Scotland, had come from Ireland, he, by methods of deduction, calculated that the remaining title, Erigena, must have something to do with the Prince of Wales. He was gravely impressed because it must have been the first time in history that these four countries had merged into one personality. So Charles made it up with John and the arrangement in the future was that Baldy would point out the spot where John would give the requisite rap to kill the itch. How that right was established for us, Sir, is related this way in history.

Now, I know I will be told that this specific right is not set out in the Magna Charta. The explanation is that King John was quite willing to put it in the Charter, but the barons thought that it would look silly in black and white so they asked him to leave it out, but they gave him an assurance that this right would be practised, nevertheless, faithfully, and the English have kept their word, as is borne out by their many acts of asininity, acts like the burning of Joan of Arc, the beheading of Charles Stuart and the polling in the Rochdale by-election.



[Mr. Mangat]

Now, Sir, having dealt with the all-important matter of principle, I turn to the less important one of the merits of the case. For some time past the hon. Mover of the original Motion had been following the Socratic method of dialectics. Of course, the Ministers relished the inconclusiveness of the whole procedure that way, so the hon. Mover, having exhausted his patience, thought of taking direct action and sacking the lot. He has brought this indictment against the whole conclave.

Now, it seems to me that the indictment has been drafted in a manner, that is the original Motion, which prejudices the accused in their defence. In my opinion, it is bad for ambiguity, duplicity, multiplicity, prolixity, redundancy and monotony. At the same time, Sir, the Mover of the original Motion cannot be entirely put out of court because, under the common law of England, an indictment does lie for all nuisances of a public nature.

Now the Mover at the same time has, however, to get over another preliminary point and that point is the point of estoppel. In November last the Mover of the original Motion, his Seconder and his supporters approved the policy of the Ministers, past and present, as it was enunciated in the Communication from the Chair. The question now arises, Sir, can they, just after 110 days, ask this Council to consider the same question once more and return a contrary verdict? Can they ask for the abatement of the nuisance which they welcomed less than four months ago, as there is no proof that that nuisance has aggravated itself in any manner? If we take them at their word, probably that nuisance has been existing at its worst ever since April last year when the hon. Mover entered this Council. I think they cannot.

Now, Sir, Nietzsche, the philosopher, said: "The earth is beautiful but it has a disease called man". The people of this country, in a similar vein, have begun to say that Kenya is beautiful but it has a disease called "the Legco". Who is to be blamed for it? I should think it is the Ministers. They should have known by now that all this wasteful strife is engendered only when the Council is

sitting, otherwise we have long intervals of idyllic tranquillity. Then a sort of fit seizes the Ministers and they request you, Sir, to summon the Council, and this is what happens.

On the other hand, the hon. Mover of the Motion should not blame the Ministers as Ministers. He should appreciate that ministership, like all genius, has an element of chance in it. If Shakespeare had not been caught poaching he would have been a wool merchant. He must appreciate also that shining virtues and huge faults can cohabit and persevere in the same character.

Another philosopher, Helvetius, said that men and ministers are born ignorant, not stupid. They are made stupid later by education.

For my part, I would keep the Ministers where they are. It serves them right—sitting here, listening to indeterminate speeches, day after day, and that is, I think the punishment which adequately fits their crime.

Now, Mr. Speaker, in this sanctuary, we sit in packs, we hunt in packs. Hunt who? Another pack. When one pack chases another pack in a sporting mood, it is good fun; but on the contrary, if a pack bares its fangs and pursues another pack with the intent to draw blood and puts it at bay, I think that is something which spoils the peace of the sanctuary. Not being attached—to any pack, I look upon the ministerial pack as the denizens of a private game preserve. Here we have the noblest of beasts within shooting range. I like to sling my arrows sometimes in their direction, but I never aim at the heart. If I send a shaft at one of them, with an aim, it is for no more than to graze his flank. This makes him toss his mane, stamp his hoof on the ground and perhaps breathe out defiance from his distended nostrils. I see him standing there like Landseer's stag, splendid and magnificent. That spectacle alone, Mr. Speaker, makes me reconcile myself with their wild and sometimes impetuous eccentricities.

Mr. Speaker, I would like to leave them where they are.

5.30 p.m.

MR. NAZARETH: Mr. Speaker, Sir, I think the Council would like me to thank

[Mr. Nazareth]

for the very pleasant diversion that he has given us for the last 10 minutes, but what it had to do with the Motion before the Council, I found it somewhat difficult to understand.

Now, I am expected, I think, to limit myself to five minutes and I hope to keep within them, and within those five minutes I think I shall find it difficult to deal with the subject with any degree of completeness. But I should like to make one or two points. The answer the Government has given to the Motion is that we have done this, we have done that and we have done lots of things. I very much doubt whether there is any government in the world that could not advance similar arguments. If you are in a wood and you seek to get out within a particular time before the night overtakes you, it is no use going at the rate of 10 paces a minute if you require to go at 20 paces a minute. The point is whether within a certain limited period of time you can get out of the wood. It is no use enumerating a large number of things you have done if the things you have done have not been good enough to secure the confidence of the Africans, and that is really the case the Africans have made. They have gone into a great deal of detail trying to make out their case, but in my submission that is essentially the case that they have attempted to make.

Now, I was a little inclined to wonder whether the Africans were not feeling a little too frustrated, and I was wondering whether I could very enthusiastically support the Motion as it stood, but my task is made a little easier by the Government, because they ask me, in a very positive form, to express my confidence in them. Having regard to the contradiction on which the present Government is based, I find myself wholly unable to give them—the Government—my enthusiastic support, or to express my confidence in them. The Government is based upon one inherent contradiction, which has not been resolved up to this day even by the Lennox-Boyd Plan, and that is that there are, in the Government, Elected Ministers who are responsible to mono-racial constituencies and, at the same time, share responsibility with other Ministers who are Civil Service Ministers. We have

been told to-day by the hon. Minister for Agriculture that the decision of one Minister is the decision of all.

Very recently the Minister for Local Government delivered a speech, I think, at Limuru, in which he said that each tribe, including the European tribe, is entitled to control their own tribal land. I am rather wondering whether that is the policy of the Government. If that is so, it is certainly taking us in the very opposite direction to which we ought to be going. We ought to be integrating, but this seems to me to be a plain and simple stand for partition.

Again, the Minister for Agriculture gave us a list of very good things that the Government has been doing for African agriculture. I certainly would like to pay my tribute to the Minister for Agriculture, who has shown great ability in this work, and has been able to take decisions with a degree of knowledge which few Civil Service Ministers could claim to do. One must admire also the eloquence with which he presents his case. But it does seem to me that the Minister for Agriculture, coming from the European settled community, is placing himself in a very difficult position. It has seemed to me for some time that the hon. Minister has been performing something in the nature of a hesitation waltz. He has been toying with the idea of a common roll, he has been suggesting that it is time we looked at the White Highlands policy again, and it has seemed to me that he has been having second thoughts in these directions. But he comes from a community which makes a fetish of what has been called "the sanctity of the White Highlands", and if the progress of this country requires that we abandon this policy of the sanctity of the White Highlands, I should think he would be in a difficult position to initiate measures in those directions, or to advocate a policy in that direction.

Politically the African community feels—it may feel frustrated in many ways, but in regard to the White Highlands—the existence of the White Highlands is mainly a psychological frustration. I very much doubt whether the removal of the White Highlands could solve any economic problems overnight. It would certainly have to be coupled with certain other measures to solve any economic

[Mr. Nazareth] problems. But it is certainly the cause of a great psychological frustration. But when they have the added contradiction in the Government of ministers who are fighting for these out-moded and outdated policies, and they are joined in collective responsibility with Ministers who ought to be going in a different direction—I do feel that a Government of that kind, based as it is on that serious contradiction, cannot take those independent and progressive steps which a Government of the present time ought to take.

As I said, I agreed to limit myself to five minutes and I see my five minutes are up. I regret I am unable to express my confidence in the Government, but I would, at the same time, not wish to be a party to statements that the Government has not done a great deal. For that I think the Government does deserve a tribute, but so far as expressing my confidence in them—I regret I cannot do so.

MR. SLADE: Mr. Speaker, Sir, I support this amendment but that does not mean to say that we think our Ministers are perfect. Indeed, Sir, they seem to be quite satisfied with what they are doing all the time, but we, I am afraid, are only partially satisfied part of the time and I would go so far, Mr. Speaker, as to acknowledge that the hon. Mover made some pertinent criticisms of Government, at least one an hour.

But the fact remains, Sir, that we—speaking for most people on this end of this side of the Council—we think that our Ministers of to-day have done well enough in recent months in the face of considerable difficulties to justify our confidence in their policies and their capacity to give effect to those policies: I would particularly draw attention, Mr. Speaker, to the latter part of this amendment which calls upon the leaders of all communities to co-operate with Government and with each other to the end that is described at the start of the amendment because, Mr. Speaker, it is perfectly impossible for any Government, however well intentioned, to give full effect to noble policies without the co-operation of the public whom it seeks to serve and that co-operation manifestly is dependent first and foremost on the co-operation of the leaders of public opinion.

I am not contending, Mr. Speaker, that co-operation consists simply in saying

“Yes”, all the time; a very important part of it is constructive criticism, but it must be constructive and it must be with the will to help the Government, and not—in the words which are so popular to-day—to frustrate the Government.

Now, it is important to emphasize this to-day, Mr. Speaker, because the question is in the minds of many of us—what sign is there of any desire on the part of certain leaders of the African community to co-operate with the Government, or with certain leaders of other sections of the community. Perhaps the excuse is that which is put forward as the real foundation of this Motion, and that is an alleged political, economic and social frustration of the African people of Kenya.

Mr. Speaker, the whole Motion is based on the assumption that there is this frustration; and therefore, although other speakers have touched on this subject, I should like to touch on it a little further.

Sir, there are two kinds of frustration—there is frustration in fact, and frustration as a state of mind. Now, we all suffer from frustration in fact, as the hon. Minister for Agriculture has pointed out, particularly in childhood. We often recognize afterwards, that that frustration was for our own good. Take as an example the child who is always wanting the other child's toy. It is essential that he learns to take frustration and that he will not always have everything his own way. That, after all, is the meaning of discipline. It is the very essence of that peace and harmony which the hon. Mover professes himself so anxious to secure; but what are the leaders of the African community doing at present to teach those whom they lead of the need for this discipline and the need for acceptance of a measure of frustration?

Then, Sir, there is the other frustration—the frustration as a state of mind to which the hon. Member who spoke last has just referred. The psychological state of mind, unrelated to the facts at all: something which is induced by psychological treatment, and something which has to be removed by psychological treatment. Now, the induction of that is easier than the removal. It is a common practice of mischievous politicians: it is what I would be termed by the hon.

[Mr. Slade] Mover “negative” and even “unrealistic”. It is certainly dynamic—I might say, effectively dynamic—in its capacity for mischief.

Now, who are best qualified to dispose of frustration as a state of mind amongst the Africans? The African leaders themselves. What are they doing about it? That is the question, Sir. We wait to hear or see the answer.

The hon. Mover says that Kenya deserves a better kind of publicity than she gets to-day. Indeed she does. The present picture of strife and hatred which is spread abroad—racial strife and racial hatred—is utterly unreal. It is unreal on the farms and in the towns and it is unreal beyond the borders of Kenya: it is unreal even in this Council. It is all unreal, and the hon. Mover knows it is, but yet who is responsible for this kind of publicity? If it is in any measure at all the African leaders' responsibility, do they really claim that they are representative in fact of their people, and not merely representative by status?

Sir, my time is up, and all I ask earnestly is that my hon. friends on the left do realize their responsibility in this matter—to teach their people to face actual frustration, and that they do realize their responsibility to work with all of us to check, not encourage, that frustration of a state of mind.

I think they now face, as all politicians face continuously, the choice between personal ambition and the desire to serve. I only hope and pray that the desire to serve will prevail.

I beg to support.

5.45 p.m.

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones): Mr. Speaker, Sir, a great deal of ground has been covered in this debate and I do not propose to dilute unnecessarily on themes which have already been expounded.

I should say, Sir, that the outcome of this debate to the objective listener will have been to persuade him that the record of the Government is one of solid achievement. I do not claim on behalf of the Government and my colleagues in the Government any immodest or infallible wisdom. We have, as has already

been said, made mistakes; but we have, despite the incongruity of our composition, to which the hon. Member for Western Area has referred, despite that incongruity, or possibly because of it, we have been able to make these achievements which have been related by my colleagues and to make them with a measure of goodwill and a measure of mutual respect and a measure of reciprocal understanding which I believe was not possible before April, 1954.

Now, Sir, I propose to deal first with one or two points which have been raised which affect the Ministry which is at the moment in my charge. It has been said by the hon. Mover that the Government Information Service has become a mere propaganda machine because it will not allow the dissemination through its facilities and through its media, of the views of the opposition, by which term I take him to mean the African Elected Members.

Well, Sir, I explained recently, in answer to a question, that the Information Services of the Government are a Government undertaking and their function is primarily to explain to the people of this country the policies of the Government. It is suggested that we, in the Government, should allow the hon. African Members to put forward their views to the public of this country through our facilities.

Now, let us just consider, in relation to the view Constitution, what views those are.

Now, I propose to refer the Council to some views which have been publicly stated by the African Members in regard to aspects of the Constitution—publicly stated to audiences of very largely uneducated and gullible Africans.

Now, Sir, in regard to the Council of State, which is a major feature of the new Constitution, the hon. Member for Kitui said at Machakos on the 24th November—some two months before the announcement by the Secretary of State of the basic principles regarding this Council—that it would consist of 24 persons of whom 20 would be Europeans, two Africans and two Asians and would be similar to the English House of Lords with more powers than Legislative Council.

[The Acting Chief Secretary]

The hon. Member for Central Province said at Embu in the middle of November that the Council of State was particularly dangerous as it left Legislative Council very little power.

The Lon. Member for Nyanza South said in the middle of November, that the Council of State was intended as a safeguard for the Europeans and that it would have complete power in the land and that it would amount to slavery.

The hon. Member for Nyanza North said, again in the middle of November, that the Council of State would counteract African power in Legislative Council and would contain one African "Yes-man". A week later—precisely a week later—the same Member slightly varied his view because he said that the Council of State would consist of Messrs. Blundell, Havelock, Briggs and Crosskill or Vasey, thereby leaving the final decisions in the hands of the Europeans.

The hon. Member for Nyanza Central said, in the middle of November, that the Council of State would become the ruling body in Kenya and that it would revoke anything—that is on another occasion—that it would revoke anything passed by the Legislative Council.

The hon. Member for Kitui, again said about a month ago, that the Council of State would be able to overrule anything passed by Legislative Council. The same Member, in November, stated that the new Constitution favoured the Europeans and that although Africans and Europeans would each, eventually, have 18 seats in Legislative Council, four of the African seats would be filled by European informers.

The hon. Member for Central Province, at the beginning of last month, mentioned the 10-year standstill period and stated that except for this condition, the African Elected Members would have considered accepting the new Constitution.

Now I will come to deal with the 10-year standstill period very shortly.

MR. OBIENGA: On a point of order, Sir, is the Minister correct in that he is not going to quote also from other communities.

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones): I will quote where I please, Mr. Speaker.

The hon. Member for Nyanza North said, on 25th January, that the new Constitution was a danger to African progress and that the six extra seats were a trap to catch gullible voters.

Now, Sir, one other remark by, again, the hon. Member for Nyanza North, and that was about a month ago—that no African should accept a ministerial post as he would be an enemy of the people and in the event of his visiting his constituency, he should be stoned and beaten with sticks.

Mr. Speaker, Sir, these, presumably, are the public statements—the opposition to the new Constitution—which my friend the Mover would have me, as the Minister in charge of the Government Information Services, disseminate through the facilities of those services, through the media of the Government Information Services and the African Broadcasting Services.

I leave it to the Council to judge, Mr. Speaker, the Government's decision to decline to put forward views of such fatuous irresponsibility—and I use those words in no unpleasant sense, but in a purely descriptive sense—across to the African public.

Now, Sir, dealing with the new Constitution, and in regard to the Council of State, it seems that I must make it quite clear, so that there can be no misunderstanding on the part of my African friends, that the Council of State will have no legislative powers—that it will have no power to overrule or veto any enactment of this Council. Its function will be to watch the interests of all communities, including the African community, against differentiating legislation. It will exercise its functions by reporting to the Legislative Council and by recommending, where it sees fit, amendments to legislation before this Council. The Legislative Council, while it will be bound to consider such a report from the Council of State, will be in no way bound to accept that report or to adopt the recommendation of the Council of State if it should not feel disposed to do so.

The Council of State will have another function. It will be able to require that a Bill enacted by this Council be reserved for the signification of Her Majesty's pleasure. May I remind the

[The Acting Chief Secretary]

Council that every enactment of this Council has to receive the assent either of Her Majesty or the Governor and that where the Governor assents to a Bill, it is still subject to Her Majesty's power of disallowance. May I also remind the Council that, in regard to the Governor's assent to a Bill, there are in the Constitution certain categories of Bills which he is required to reserve for the signification of Her Majesty's pleasure, and it is open to him in respect of any other Bill, if he so sees fit, to reserve that Bill for Her Majesty's pleasure. This function of the Council of State will therefore be to require the Governor, instead of himself assenting to a particular Bill, to reserve it for the signification of Her Majesty's pleasure. There is even a qualification there that if he, the Governor, is satisfied that the operation of the Bill is urgently necessary in the public interest, he may, nevertheless, assent to it and report to the Secretary of State the fact that he has done so, with his reasons.

Now, Sir, I invite the Council to compare that short summary of the functions and powers of the Council of State with the matter which has been put in the African public by my friends opposite even before the Secretary of State recorded these matters in his Despatch a fortnight ago.

I should like to refer also to the specially elected Members, the 12 new seats in this Council for which the new Constitution provides. The African Members object, as I understand it, to these seats on the ground that the persons elected thereto are likely to be either Government or European stooges. I think I am right in assuming that that is the ground of their objection. They want, in fact, their own stooges.

Now, Sir, these seats give an opportunity to this Council—to the Members of this Council on both sides and of all races—to demonstrate a measure of political maturity and responsibility. It is, in my submission, up to the Members of this Council, when nominating candidates for these seats, to do so in the light of the character of the seats, that is to say with a view to presenting people for election to these seats who will command the widest possible spread of support throughout the Council, on

both sides, and among all groups. The suggestion that they will be Government stooges is perhaps a little odd in the light of the fact that in terms of, at any rate, official Government Members of this Council—remembering that the Elected Ministers will be exercising their part in these elections as Elected Members and not as Ministers—the official composition of this Council is, in fact, restricted to six Official Ministers, and five officials, officers of the public service, among the Nominated Members on the Government side. That makes 11 strictly Official Members. There are, in addition, 13 Nominated Unofficial Members of all races. That, incidentally, includes my friend, the Liwali of the Coast, who is, I think, properly described as an Unofficial, although he also holds office as Arab Adviser.

Now, Sir, does that, in view of the fact that there are on the other side of the Council 38 Members, does that indicate, even on simple mathematics, that the Government 11 Official Members are likely to be able to secure the election of what my friends feel will be Government stooges?

Sir, it is, I think, to be hoped that the Members who are elected to the four specially elected seats reserved for Africans, may, perhaps represent a wider cross section of African opinion than do my hon. friends opposite.

Would it really be a catastrophe if African views contrary to their own were represented in this Council by specially elected Members or some of them? Would it indeed be catastrophic?

6.00 p.m.

The African Members, passing on to other points, Mr. Speaker, complain that in regard to the Government they have no sense of belonging. Well, Sir, this has been mentioned before and it is a blinding glimpse of the obvious, but it should be said again, that if they feel no sense of belonging they have only themselves to blame, because there is the opportunity and the facility for them to shed that unhappy feeling.

The hon. Mover suggests that we must have a constitution which is the result of negotiation and agreement.

MR. MUOYA: Free negotiation.

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones): Free negotiation and agreement. Now I am not sure that I have the same understanding of the word "negotiation" as the hon. Mover, or rather of the phrase "free negotiation", because I recollect very clearly that when the Secretary of State was out here the African Members, having made what they chose to call a demand for a certain specified number of extra seats, and having publicly pledged themselves to accept nothing less, refused to discuss anything else until that demand was met. Sir, that does not connote a willingness to negotiate to my mind.

AN HON. MEMBER: Free negotiation.

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones): Neither to negotiate freely nor to negotiate on payment. Sir, may I seriously suggest to my hon. friends, opposite that the time has passed when they have any right to face this Council and complain that the constitution which is being introduced now is not one negotiated and agreed, because the one obstacle to the start of negotiations was the refusal of the African Members at that time to consider constitutional changes, to discuss constitutional changes, until their demand for a minimum of 15 extra seats had been met. They have no warrant or justification now to complain that the situation which they forced on this country and on the Secretary of State, by compelling him to introduce what he considered to be the fairest constitution to meet in substance all fair and reasonable aspirations, while meeting fully no aspirations, was dictated otherwise than by the intransigence of my friends opposite.

MR. MURRAY: Question.

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones): I cannot accept that there is any question about it, because the facts are now historical.

Sir, we have heard a good deal about the ten-year standstill. It is mentioned in the extracts from the public utterances of my friends opposite which I have quoted, and it has been mentioned in this debate by the hon. Member for the Central Province. It is quite clear that the extent of the so-called ten-year standstill has been misunderstood. May I

remind the Council, Mr. Speaker, of the matters in regard to which the so-called ten-year standstill applies? I quote from paragraph (6) of the Command Paper No. 309:—

"The number of such seats designed to provide representation not based on a purely communal electorate may be increased during the next ten years, but during this period the proportions between and within the groups which I have indicated will not be varied."

Therefore, Sir, the so-called ten-year standstill applies only to the proportions "between and within" the groups of the specially elected seats. That is rather a different interpretation from that which has been spread abroad by my friends opposite, who, I imagine, have misunderstood it.

May I also tell my friends opposite that there is a considerable fund of goodwill towards the African people, not only in this Council and in the Government, but among all other communities. I think that they underestimate the extent of that goodwill and I fear that they are in danger of diminishing that fund of goodwill.

The hon. Mover asks, "Where are we going?" in relation to the Constitution. May I quote, with your permission, Mr. Speaker, the words of the Secretary of State in the House of Commons relatively few days ago? :—

"As to the ultimate status of Kenya, I said when I was there recently that I could not foresee the date on which it would be possible for Her Majesty's Government to relinquish control over the territory. My own view is that, whatever its final evolution, the Constitution in Kenya must enable all who live there, of whatever race, to feel that they have an enduring role to play and see that the high standards set are maintained."

Sir, I believe that both our eventual destination in this country, and our progress towards that eventual destination, should be characterized by one main feature; that is, a common endeavour to contribute, each to his utmost capacity, to the good of this country and of all people who live in it, so that, by God's grace, the peoples of Kenya may one day cease to regard themselves and each other

[The Acting Chief Secretary] as Africans, Europeans, Asians or Arabs, and come to regard themselves and each other as Kenyans.

In this endeavour and in this objective, there is both a challenge and an inspiration. Surely, Sir, it is not beyond the capacity of the people of Kenya and their leaders to meet that challenge and to respond to that inspiration, and to subordinate the parry and thrust of mere politics to that far greater enterprise, the advancement of the peace, prosperity and happiness of this country.

I beg to support the amendment.

MR. MUMBI: Mr. Speaker, Sir, I understand that we have only got five minutes allowed to the African Members—

AN HON. MEMBER: (Inaudible).

MR. MUMBI: You are wasting my one minute!

THE SPEAKER (Sir Ferdinand Cavendish-Bentley): You may have your seven minutes.

MR. MUMBI: Thank you very much, Sir.

I should first of all like to regret very much that it has not been possible to extend the time allowed for this Motion in order to give every African Member especially the chance to express his opinion. So far you have heard only the opinion of the Mover of the Motion and you have not heard from any other African Member at length. I should first of all start by paying my compliments to the Minister for Agriculture on the way that he especially directed his attacks, which I call scandalous, on the Member for Akamba.

I believe, Mr. Speaker, you have warned Members of this Council about such statements made against individuals in this Council. I also remember the Chief Secretary warning this country of the evils so much spoken of here. Well, if it is the attitude of the Ministers of Government to take all matters which come to this Council from the African Members in the way that I felt the Minister for Agriculture was directing his arguments, I am sorry but I do not know where this country is leading to.

I believe, in moving this Motion, the Mover was endeavouring to afford himself an opportunity to bring to the ears of the Government and the public the grievances that we feel the Africans have in the country. When any African Member expresses an opinion I should like the Council to understand that he must have consulted members of the constituency he represents; and therefore whatever any African Member says in this Council is certainly representative of the opinions of the people in his constituency.

The Minister made a good deal of play about the work he has done in Ukambani, and although I had uttered no word he went on to ask me if I wished him to withdraw the help that the Akamba are receiving. Let nobody deceive himself when he thinks that the African does not appreciate the great deal that Government is doing and has done in the past. The Minister further went on to attack the Member for Akamba—that is me—on the point that I am no good as a politician, I am only worth while as a teacher. But I believe it is the teacher who made the Minister, who made the agricultural instructor, and I can assure him that at least 50 per cent of all his instructors in my constituency have gone through my training.

I do not want to waste the time of the Council on any other comments, but I would like just to make a few comments on the last part of the amended Motion, that is, if I understood the amendment correctly, to call on all leaders to co-operate in achieving the aim of the country. Now what are these leaders whom we are calling upon to co-operate. When you say that the eight African Members here do not represent the five million people in this country, what leaders can you mean? Which leaders are you inviting to co-operate with you?

I think I did state in this Council that one thing which the Europeans especially in this country are failing in is to preach leadership which they do not themselves practise, or which they do not show. If the leadership that they preach is that leadership which should lead the Africans to think in terms of everyone in this country being a national of this country and not a European, not an Asian, not an African, I doubt whether the way in which the Europeans are leading the people of this country is the right one.

[Mr. Muimi]

I think Members are very much aware of the answer that was given by the Chief Secretary there. Well, I would like to reserve my right of commenting on a number of points which were made by Ministers at the Budget Speech, which I believe is likely to come very shortly. But before I sit down, I would like just to say a few words on the Constitution according to what the Acting Chief Secretary said. He very rightly commented on my statement that I made in Machakos when I said there would be so many Europeans, so many Africans and so many Asians in the Council of State. Now, I was commenting only on a statement made by one of the Ministers of Government, the Minister for Local Government, Health and Housing.

6.15 p.m.

With your permission, Mr. Speaker, I would just like to quote the exact words of the Minister when he addressed a meeting, I think at Limuru. Now, this is what he said, emphasizing that he could only guess the composition and working of the proposed Council of State which would have the power to make people think again. Mr. Havelock said it would possibly have between 20 and 24 members to be drawn from experienced people in particular walks of life, and probably all outside Legislative Council.

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones): That is not what you said.

MR. MUIMI: Well, then, if I—

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones): On a point of order, the hon. gentleman has just said he was quoting from the Minister's statement on that occasion. Presumably he read the statement before he quoted from it, but the remarks of the hon. Member which I have just quoted referred to 20 European members out of 24.

MR. MUIMI: Well, Mr. Speaker, I believe that the Minister, when he made that statement at a meeting, I believe that he was entitled to divide, to allocate the seat but he actually said there would be 20, between 20 and 24. Neither he nor the Colonial Secretary has ever in-

dicated the composition of the 20 to 24 members of this Council of State.

MR. HARRIS: No one has except you!

THE SPEAKER (Sir Ferdinand Cavenish-Bentick): Order, order. Mr. Muimi is in possession of the Council. He has a right to speak, and nobody else.

MR. MUIMI: Well, then, may I, with your permission, Mr. Speaker, go on to quote what the Minister exactly said. He went on to say it would almost certainly be an entirely separate entity, acting as a brake on legislation which each Member felt was unfair to any community. The Council of State would probably meet only four times a year, and would have, it was believed, advisory, revisionary and delaying powers. It would also have the power of reference to the Secretary of State and in view of its weighty opinion, it would be almost the power of veto—those were the exact words used by the Minister of Government, the Minister for Local Government, Health and Housing.

Then he went on to say that the European Elected Members' Organization had asked that the details of this Council should be ready and implemented before the African elections took place. Then you would suppose that the African Elected Members would be courageous enough to keep quiet, not tell their people. Well, I presume that before he made this statement, he had discussed it with the members of his constituency; therefore I feel that the Africans were quite entitled to express those views to members of their constituencies.

Now, Mr. Speaker, coming to a point that the Acting Chief Secretary made that it was the cause of the African insistence on not agreeing to negotiate that this all came about, and that the constitution would be forced—now, these are the exact words of the Minister for Health and Housing. He said the Colonial Secretary had ruled that all points should be discussed at the same time, and that a deadlock had resulted.

Now, then, his previous words, following that statement, he had said: the Europeans wanted safeguards to ensure that no one community or combination of groups could dominate

[Mr. Muimi]

another. He also wanted communal representation to be limited, and seats created in Legislative Council which would be responsible to all races.

Well, I have only one question to ask before I sit down on that point, Sir. I wonder whether the Europeans and Asian of this country have reached that stage where they can forget their passports, their passports of English or Indian origin and return their passports to take Kenya passports. Well, then, you can answer that yourselves afterwards.

The last point that the Minister made was this: the Africans had insisted that their demand should be met first. He believed they kept their demand to the extra 15 seats, because discussion of the more complicated provisions sought by the Europeans might confuse the electorate and arouse suspicion. Now, that suspicion has already arisen, because it would appear that the European community wanted to make the Constitution their private affair.

Mr. Speaker, may I conclude by saying that I feel a very great sense of responsibility for all the peoples of this country, and if we are to achieve the goal that we are aiming at, surely this co-operation of which the Europeans are preaching so much must be sought from this Council and from outside. But what I fear, Sir, is that certain statements made, especially by Ministers of Government in this Council; and so transmitted to their officers in the fields, tend to retard what development we might want in this country.

With those few points, Sir, I beg to oppose the amendment.

The question that the words to be left out be left out was put and carried.

The question that the words to be inserted in place thereof be inserted was put and carried.

6.25 p.m.

#### DIVISION

The question that the Motion as amended was put and Council divided.

The question was carried by 42 votes to 9.

AYES: Messrs. Alexander, Blundell, Blunt, Group Captain Briggs, Messrs. Conroy, Coutts, Cowie, Crosskill, Cu-

sack, Lt.-Col. Gherrie, Mr. Griffith-Jones, Captain Hamley, Mr. Harris, Dr. Hassan, Mr. Havelock, Sheikh Mbarak Ali Hinawy, Mr. Hope-Jones, Mrs. Hughes, Messrs. Jack, Johnston, MacKenzie, Lt.-Col. Bruce McKenzie, Mr. Mudan, Sheikh Mohamed El Mandry, Mr. Mangat, Messrs. Maxwell, Nathoo, Pandya, Sir Eboob Pirbhai, the Earl of Portsmouth, Messrs. Riddoch, Robinson, Rogers, Sagoo, Mrs. Shaw, Messrs. Slade, Swynnerton, Tyson, Usher, Hillard, Walker, Wanyutu Waweru.

Tellers for the ayes: Mr. Jack and Sir Eboob Pirbhai.

NOES: Messrs. Mate, Mboya, rap Moi, Muimi, Muliro, Nazareh, Ngala, Odinga, Oguda.

Tellers for the noes: Mr. Ngala and Lt.-Col. Bruce McKenzie.

#### ADJOURNMENT

THE SPEAKER (Sir Ferdinand Cavenish-Bentick): That brings us to the termination of the business for to-day. I therefore adjourn Council until 2.30 p.m. to-morrow, Thursday, 27th February.

Council rose at thirty-eight minutes past Six o'clock.

Thursday, 27th February, 1958

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

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

### PRAYERS

### ORAL ANSWERS TO QUESTIONS

#### QUESTION No. 80

MR. SLADE asked the Chief Secretary, with reference to the debate on Commissions of Inquiry, which took place on 26th April, 1956, will the Minister for Legal Affairs please state whether Government contemplates any consequent amendment of the Commissions of Inquiry Ordinance, or any introduction of Rules of Procedure thereunder and, if so, when?

THE MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): As a result of the debate on 26th April, 1956, we have tried to draft appropriate amendments to the Ordinance, and to draft rules thereunder. As forecast in the debate, the range of the Ordinance is so wide that it is a problem of extraordinary difficulty appropriately to amend the Ordinance, or to draft specific rules applicable to all possible commissions. Recent events in England have drawn attention to the complexity of the problem, and our researches into other laws to see how the problem is solved elsewhere have only shown that no one else has grasped this legislative nettle. It may be that the answer is to make specific rules for each specific commission. I am sorry that we have not yet found a complete answer to the problem. In the unlikely event of any commission being established before the answer is found, the point could always be covered by *ad hoc* regulations. I shall keep the hon. and learned Member advised of any progress we make and any further difficulties we encounter.

MR. SLADE: Mr. Speaker, arising out of that question, is the Minister aware of the dissatisfaction that continues even now, two years since, with the manner in which the inquiry into the Nairobi City Council was handled?

THE MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): That is rather a different question. The first question asked me

whether we had been able to contemplate any amendments to the Commissions of Inquiry Ordinance: the other one asks me whether I am aware of continued dissatisfaction. Sir, I am not aware of continued dissatisfaction.

MR. ALEXANDER: Mr. Speaker, Sir, will the Minister state whether in his consideration he will take into account the reimbursement of expenses incurred by innocent parties?

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): That hardly arises out of the question.

MR. SLADE: Mr. Speaker, in view of the fact that two years have now passed and during that period of two years at least one draft of suggested amendments has been submitted, could the Minister give us some latest date by which we can hope for the required amendments?

THE MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): Sir, Legal draftsmen suffer from a congenital deformity: they only have one pair of hands. We keep on hoping that we are getting towards the top of our list of priorities for drafting and then some new surge of drafting comes along which takes priority. Sir, I do not say that this amendment is not important; but I do not think that it can be said to be urgent. At the moment we are coping with urgent drafting problems and I hope that we shall soon be able to get on to less urgent but equally important matters such as this.

#### QUESTION No. 81

MR. MUMBI asked the Minister for African Affairs to state—

(a) Whether he is aware of the disturbances in Shimba Hills Settlement area which have resulted in some of the Akamba settlers quitting the Settlement?

(b) What action, if any, Government have taken to remedy this situation?

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): I am not aware that there have been disturbances of any kind in the Shimba Hills Settlement area.

MR. MUMBI: Arising out of that reply, Mr. Speaker, is the Minister aware that these settlers in the Shimba Hills are now required to pay a rent of Sh. 240?

### MOTION

#### £500,000 OFFICE BUILDINGS LOAN

(Consideration, interrupted on 21st February, 1958, resumed.)

THE CHAIRMAN (Mr. Conroy): The Committee reported and asked leave to sit again.

MR. COOKE: Mr. Chairman, I gave notice of an amendment to this Motion, which I wish to raise to-day, and that is that at the end of the word "limited" to put a full stop in place of a comma and to delete or omit the following 11 words; and that would mean that the Motion would read as follows:—

THAT this Council approves the proposal that the Minister for Finance and Development be authorized to negotiate a loan of up to £500,000 on the most favourable possible terms from Barclays Overseas Development Corporation Ltd.

Sir, when I was speaking on Friday I drew attention to the fact that we were raising this very large sum of money at almost certainly a high rate of interest, and I queried Government's contention that these buildings were necessary at the present moment.

When my hon. and gallant friend, Col. Gherrie, intervened, at a later stage, I think quite unconsciously he misdirected, or, perhaps, rather misinformed the Council when he said that there would be great savings in rates. I do not see how those savings in rates would come about. I think the buildings are all Government buildings; and, at any rate, I do not see how there could be any savings in the rates. Therefore, I argued that this was uneconomic spending—or that it was not revenue-producing expenditure—and that at a time like this when the country is in need of every penny that it can get, that money must be revenue-producing or that expenditure must be revenue-producing. I protested strongly against the hypotheating of this money to the buildings mentioned.

When he moved the Motion, my hon. friend said that it was necessary to give the security to Barclays Bank of, I think, the rents of these new buildings. He gave the buildings, actually, as security, but I cannot see why Kenya should be so

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): That does not arise out of the question, I am afraid.

MR. NGALA: Arising out of the original reply, Sir, is the Minister aware that the Akamba settlers have written to the settlement officer to say that due to the disturbances, alleged in the question, if nothing is done to settle the disturbances they will move away from that Settlement?

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): Sir, I am aware that a few settlers have voluntarily left their holdings there and have turned those holdings over to their friends. In 1956 there were 100 Akamba settlers on that Settlement. Sir, to-day there are 109. The number who have left quite voluntarily is very small.

MR. NGALA: Arising out of that, Sir, is the Minister aware that the departure of these settlers from the Shimba Hills was not voluntary, as he puts it, but was because they had complained to the officer that a rent on the land at Sh. 240 per year had been enforced on them?

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): I am not aware of those facts, Sir.

MR. MATE: Arising out of that reply, Mr. Speaker, would the Minister undertake to find out what the situation is?

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): Sir, I have already been in communication with the district commissioner for the area concerned.

MR. ARAP MOI: Mr. Speaker, Sir, arising out of that question, would the Minister assure this Council that the Government will consider reducing the rent so that many settlers will be able to go to that area?

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): That does not arise out of the question, I am afraid.

### COMMITTEE OF SUPPLY

Order for Committee read. Mr. Speaker left the Chair.

### IN THE COMMITTEE

[D. W. Conroy, Esq., O.B.E., T.D., Q.C., in the Chair]

[Mr. Cooke] uncredit-worthy as to be unable to place its own finances as security for a loan like this. This is really pawnbroking economics to say that in order to raise £500,000 this great country, with a National Debt of something like £150,000,000 could not pledge its own security and credit-worthiness instead of placing these buildings in the hands of Barclays Bank.

2.45 p.m.

Now, if the hon. Member is not prepared—and I do not believe he is so prepared—to accept this amendment then I am going to propose another amendment to put back the raising of this money to a much more future date because the tendency at the moment shows that a recession has started in the United States of America and it is spreading; and it seems to me quite likely that the interest rates of the bank—I have got no previous information from the Bank of England—will fall. To borrow this money now at 7 per cent seems to me to be unjustifiable. So that if the hon. gentleman does not accept my Motion, I am going to try the expedient of, at any rate, postponing the raising of this £500,000.

#### Question proposed.

LT.-COL. GIBBSIE: Sir, merely for the purpose of ensuring that the record is correct, my hon. friend, I think, has misunderstood what I said when this debate was adjourned. I made no reference whatsoever to rates, as stated by him. What I was endeavouring to enunciate was that I was in favour of the principle of a loan policy on a much larger scale than this which might assist us in erecting buildings which would then eliminate this colossal sum of £675,000 which we pay per annum for rent and house allowance in lieu of housing. My idea was a sinking fund and an interest fund which in time would mean that these buildings would have cost us nothing.

I was merely enunciating a principle, Sir, and I made no reference to rates, but purely a sinking fund and an interest fund to cover a loan which would service such construction as I have in mind.

MR. COOKE: Sir, yes, the hon. gentleman is perfectly right; he did not say rates, he said rents; that merely strength-

ens my case because no rents, so far as I know, have been paid at all for the present buildings which are Government buildings.

MR. ALEXANDER: Mr. Chairman, one very disturbing feature of this proposal is that there does not appear to be, in any of the current estimates, money provision for the planning of these buildings, and when we have the reply from the Government benches, perhaps they will tell us exactly out of what funds the planning has been done. I am very pleased to see here the Minister for Works; because we do not always have him with us when his Ministry is under discussion.

Just to look at the various items that are involved, dealing first with the Crown Law Office, the Development Programme of 1957-60, that is, Sessional Paper No. 77 of 1956/57, in paragraph 23, an extract reads as follows:—

"It has been estimated that a suitable building to house the Ministry and its departments with a basement for record storage would cost about £72,000 net. It is not possible to allocate this sum to the project in the 1957-60 programme."

Now as regards the Ministry of Works offices and headquarters, the Development Programme for this year, that is for 1957/58, does not include any funds whatsoever for planning. This is shown on page 53 of this year's Development Programme, and it is under the item New Headquarters Offices for P.W.D. and Ministry of Works: under the estimates for 1957/58 the amount is nil, although I agree that in the three-year programme, that is, for 1957-60, there is a figure of £25,000 shown for planning.

The programme goes on to say, in paragraph 310: "The full cost of the scheme will be in the region of £300,000". Therefore, Sir, we have a situation in relation to these offices where the Development Programme for the three years 1957-60 itself clearly indicates that there is no intention of constructing these until after 1960. There was an intention expressed of planning them to the extent of £25,000 in this three-year period, but not in this year, 1957/58.

[Mr. Alexander]

It may be answered that this figure, the sum, for planning, comes under the overall heading that is called "General Works Staff", but when I look at that in the 1957/58 Programme, I notice that in the £500,000 that has been provided there appears to be no connexion whatsoever with any of these particular schemes that we are being asked to approve to-day. In fact, if one looks at page 86 of the 1957-60 Programme and then page 55 of the programme for this year, under General Works Services, one will see that the headings do not quite match and that the contribution for building planning cost provided for the three years is not shown in the current year.

Turning now to the Lands Office, this is not even mentioned anywhere in the 1957-60 Development Programme, and we have not yet been told how much this is going to cost. Dealing with the Labour Offices, again there is no mention whatsoever in the 1957-60 Development Programme, although paragraph 258 does mention offices in places other than Nairobi. Here again, the Minister, when he was introducing this Motion, did not tell us how much is attributable to offices to house the Labour Department.

We are told that in respect of the Ministry of Works offices, the Lands Office and the Labour Office, the work is expected to go out to tender early in 1959, so it does not seem unreasonable to presume that considerable planning must already have been done on these buildings, and that, I imagine, they are already in an advanced stage. Out of what funds, it is difficult to know.

We are told that Barclays Bank Development Corporation are only prepared to lend this money on these particular office schemes, and here my sympathy is with the Government when they listen to people who tell them they ought to be spending this on other items. If a lender comes to one and says, "I will lend you this money for this purpose and no other purpose", indeed it is difficult to try to convince him that you are going to spend the money in your own way. However, I am bound to say that there seems to be a case for putting to Barclays Bank Development Corporation that this money should be spent on housing. From their point of view

it is easy to see what they want; they want an easily negotiable asset, and I can appreciate that in the terms on which they are prepared to lend this money they are not interested in trying to have security over sewers or roads or street lighting and the like. But in respect of housing, I am bound to say that I think, if the matter is put to them, they might well consider things differently. For when we look at the Development Programme, on page 6, we read this in relation to the housing problem: "Provision has therefore been made for additional staff housing, although the quantity to be provided is still well below that which could be desired. It is hoped, however, to interest private enterprise in the construction of housing, either for rental by Government or for purchase by Government employees". I would here support this amendment on the basis that it gives the Government the opportunity to go back to Barclays Bank Development Corporation and make quite certain that there are no more urgent assets on which they are prepared to lend this money.

I have mentioned housing because that is what the Government themselves have mentioned, but I could think of other easily negotiable assets on which this Corporation might be prepared to lend and which are in more urgent need in this Colony.

Having listened to the debate of the last two days, it is only natural to reflect whether this attitude of Barclays Bank Development Corporation, a very great and fine institution, is a reflection of their doubts on the political stability of this Colony. Here we have a Corporation of this nature saying, "We are only prepared to lend you money on assets which we can easily take over if there is any default". Perhaps my African friends on my left might just notice this as an attitude of capital towards this country.

3.00 p.m.

And whilst this political instability continues, this is just the sort of way in which lenders are going to approach us, and it is a way that is not to our benefit, and it is a way that the Member for the Coast that it would have been far more desirable if this money could have been put into our general development programme.

(Mr. Alexander)

The Minister for Finance, when he spoke, did tell us that the terms of this loan are that it will be for ten years at 7 per cent per annum. I wonder, when he replies, whether he can tell us whether it is in fact going to be funded over ten years, because if it is, indeed, it is going to put a very heavy burden on the annual Budget in respect of the yearly loan charges. Normally, an asset of this kind would be funded over at least 40 years and perhaps longer. When the Minister replies, perhaps he could tell us what effect this is going to have on our annual Budget.

Another disturbing feature of this I have already mentioned Mr. Chairman, and as the Minister particularly likes notices of everything that he is going to hear in this Council from this side, I would remind him, as I did on another subject, that I mentioned this several days ago, and I hope he has been able to prepare himself with the answer. It is this: that in respect of this £500,000 and another £500,000 that has been borrowed for the Embakasi housing, is it not a fact that before ever we reach 1961, that is some two and a half years hence, we have already mortgaged our next development programme to the extent of £1,000,000?

I would put it to the Government that an alternative way to deal with this would be to put it on a rental purchase basis, so that in fact, there would be no addition, no current addition to our public debt, with an arrangement whereby on the last payment of rental over an agreed term, the property would be taken over by the Government. As I understand this arrangement now, it means an immediate addition to the Colony's public debt.

And, Mr. Chairman, as this item does deal so directly with the whole of our development programme and our approach to the borrowing of money, perhaps the Minister would tell us of another aspect of this, which I have also mentioned and thereby given notice to him well ahead, is whether departments are being asked to cut their development programmes by 20 per cent, because, indeed, it is a sorry state if with one hand, we are asked here to vote another £500,000 to-day, and with the other hand, Government is ordering departments to

cut their development Estimates immediately by 20 per cent.

Mr. Chairman, I beg to support the amendment.

MR. ODINGA: Mr. Chairman, the last speaker seems to be worried about what the African feels, but I think his worries are unfounded, because even if the Development Corporation does not lend the money directly to Government, they will still lend it to the private concerns, who will rent the buildings and the Government also will rent those buildings and so they will still pay huge sums of money to them in that indirect way. What actually worries me—and I was almost going to support the amendment put by my friend, the Member for the Coast, because the Minister has not convinced us that by not renting this private building, we shall be saving a substantial amount by erecting this building. If we are convinced that there would be a lot of saving, well, I would not actually have any objection at all to this money's being raised directly from the Development Corporation.

Mr. Chairman, that is what I have to raise now while reserving my final opinion.

MR. PANDYA: Mr. Chairman, Sir, I would like to support the amendment that has been moved by my hon. friend, the Member for the Coast; and in doing so, I would like to make a few observations.

I can quite appreciate the Government's idea for some departments to move into new quarters, and also the fact that they have, at last, decided to give private contracts for the projected work. I can see that the Government departments mentioned by the hon. Member are quite anxious to do this. Some of the departments lately have moved into very good offices, and I think that as a result of that, probably there has been some advantage by the centralization of the various Ministries.

I would have very much welcomed this idea in normal times, but, Sir, in these difficult times of financial stringency such as we are going through now—and particularly with the unavailability of financial resources—one doubts the wisdom of borrowing £500,000 for good office buildings. Many projects of development have been curtailed and

(Mr. Pandya)

indeed halted, and I wonder whether it is fair to all concerned in this Colony to put up these new offices now.

Another question, Mr. Chairman, Sir, that arises is on what favourable terms we are likely to get this loan, with high rate of interest as it exists at the moment. It is quite obvious that the interest that would be chargeable would be the current rate of interest, and I personally believe that there are trends that the bank rate is likely to fall. It is very difficult to say when, but the economic trends certainly tend that way, and I think it might be advantageous to wait for a while, and to study these trends before we negotiate for this particular loan. Moreover, Mr. Chairman, Sir, many people are bound to question the fact as to whether we are right in spending this money on essentially unremunerative enterprises in these days of financial hardship, when we should concentrate more on remunerative enterprises.

The present buildings where the offices are housed are not costing the Government so much in rent that there is an immediate necessity for these new buildings to be put up. I do not believe that so much will be saved by way of rent if we put up these buildings now. I do not think it would be a case where we will save rent, and pay a lower interest than the rents payable now, although I admit that there is bound to be some slight improvement in the efficiency of the departments by centralization.

If, Sir, it is the Government's intention that a loan should be negotiated now, and not be delayed any longer, I feel that a part of it should be earmarked for development projects, particularly those for which money has been voted, but which money has since been withdrawn for other essential projects.

I join hands, Mr. Chairman, Sir, in the suggestion that was made by my hon. friend, the Member for the Coast, in one instance, and that is, the Port Reitz Airport. There is, Sir—and I would like to assure this Council—a genuine sense of frustration; we have used that word quite often in another context, but I do mean it sincerely, Sir, amongst all sections of the coast residents, that their interests which, after all, will be of great benefit to other parts of the country, are in fact being ignored at the expense of other

projects which it is possible to delay for some time while advantage is given of the financial benefit—whatever little we have of it—to other parts of the Colony. Moreover, Mr. Chairman, Sir, I am really surprised that money is not available for development purposes, and that this money should only be earmarked for such buildings; for I know that usually the bank's attitude is that they prefer the development projects rather than tie up money in office buildings and such other things. At least, as far as the bank's policy with private firms is concerned, that is the general position. Probably when the Minister replies, he might throw some light on this peculiar bank attitude as far as the Government is concerned.

I personally would have liked, Mr. Chairman, Sir, to see this Motion delayed, but I am quite prepared that the Government should negotiate this loan for any purposes that this Council thinks should have priority.

Mr. Chairman, Sir, I support the amendment.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Mackenzie): Mr. Chairman, Sir, I think that it is probably time that I said something about this Motion, since there appears to be quite a number of misconceptions abroad.

MR. HARRIS: And here!

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Mackenzie): I would like first of all to deal with some points raised by my hon. friend, the Member for Nairobi West, who raised some fundamental issues in connexion with the Motion and who will probably be quite surprised to discover that in certain ways, his ideas and the Government are not as far apart as he may have expected.

The fact is, Sir, that my hon. friend asked why we were proposing to do this particular work when either the schemes in question were not mentioned in the development programme, or alternatively, when it was said in the development programme that these were projects which the Government would like to undertake but which, for financial reasons, could not be undertaken during the present planning period. The answer to that, Sir, is quite simple: had it been



[The Minister for Finance and Development]

foreseen that it would be possible to raise all the money needed for these, and, indeed, for many other projects which we would very much like to undertake, at the beginning of the current period, obviously they would have been included. But, Sir, these were projects which did not find their way into the plan. At the same time, Sir, it was very necessary that they should be undertaken. The Crown Law Office, for example, is literally falling down. In fact, Sir, I was discussing this with one of the Crown Law officers shortly before this particular proposal came about, the question arose as to what could be done as a matter of urgency to ensure that the law officers had somewhere to live if their roof fell down over their heads, as I believe, so we are advised, is quite probable in their present accommodation.

3.15 p.m.

Sir, the Ministry of Works; as I said in my opening speech, as to the Ministry of Works—we all know what condition their buildings are in. It is quite impossible for people to do efficient work. My hon. friend, the Minister, can say much more about that than I can. He is far more aware of the difficulties; but generally, I think, the whole Council realizes, and has realized for a long time, that it is quite impossible for efficient work to be undertaken in the existing Ministry of Works offices.

As regards the Nairobi Labour Office, there again, Sir, they are working in entirely makeshift conditions in the middle of City Square, and it is highly desirable that they should have something more permanent, more efficient for working in, and also that we should be able to get on with planning City Square. As regards the Land Office, I mentioned, in my first speech that the City Council plan provides for a road going through the middle of what are the existing Land Offices, and quite apart from that, the dangers of fire and of other losses have been dangers which have weighed very heavily with the Government for a very considerable time. There are most valuable records in the Land Office, and it is most important that something should be done if something could be done.

Well, Sir, faced with this problem, the Government began to investigate, was there anything, was there any way in which it would be possible to rehouse these departments in more suitable accommodation, and there was one obvious way that came to mind: that was that office buildings could be rented. Well, Sir, as my hon. friend, the Member for Nairobi North, said on Friday when this Motion first came up, we are already spending a great deal of money on rents, and it seemed to the Government that if we were to rent more accommodation, at the end of, say, a ten-year period, we should probably have paid almost as much as the capital sum needed to build buildings of our own.

So the Government decided, and here, Sir, is where I show my hon. friend, the Member for Nairobi West, how close our thinking can be on occasions, the Government decided that some form of tenant purchase scheme might be worth investigating. The Government is, Sir, very often asked to exercise ingenuity to think of new ways of raising money for the schemes that have to be undertaken, and the Government decided to investigate the possibility of a tenant purchase scheme, and of something corresponding to a normal mortgage arrangement. That is, Sir, in fact what is proposed in this particular case. The money will be made available on terms similar to those in which a normal mortgage arrangements would be entered into between two commercial undertakings. Since in this case, one of the parties is the Government, the details may have to be slightly different, but the general principle is exactly the same as it would be in the case of a commercial mortgage. The idea is that the money will be advanced up to the maximum of £500,000, against each of the three buildings which are envisaged and that it would be repaid in half-annual instalments over a ten-year period. It is, Sir, incidentally, largely because it is this type of a transaction which is envisaged that the Government is prepared to contemplate interest at the rate of 7 per cent. If this were a normal loan in which the money were going into the Colony's general exchequer for general development purposes, quite obviously there would be no question of raising the money at

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as high a rate of interest as 7 per cent. But with a normal mortgage transaction, this seemed to be a very sensible and useful method of providing the Government with buildings that it needed at an economic rate.

Now, Sir, another point that was raised was whether the money would be funded during the ten years. Well, I have given the answer to that already. The intention is that the cost of this transaction, that the money will be repaid with interest during a ten-year period. That, Sir, is the intention and the cost would be spread over that period.

As regards, Sir, the cost of the individual buildings, naturally it is not possible to say what the exact cost will be until a good more detailed planning has been undertaken than has been undertaken so far. But very roughly, it is anticipated that the cost of the new Crown Law Office would be of the order of £70,000 to £80,000; that the Minister of Works building, and the Lands Office, if it is incorporated in the same building, would cost about £350,000, £360,000; and that the balance of £50,000 or £60,000 would be taken up by the new Nairobi Labour Office. That, Sir, is the cost of the buildings.

There was, Sir, one other point which my hon. friend, the Member for Nairobi West, mentioned, and that is, he asked whether I would be prepared to say whether the departments are being asked to cut their development programmes by 20 per cent. I have said, Sir, that I cannot anticipate statements that may be made at the Budget time, or at other times in this Council, and I am very sorry that I cannot gratify him on that particular point.

Now, Sir, it followed from what I had said that Government cannot accept the amendment, or at least, I think I should say that the Government probably could accept the amendment since the omission of the words which it is proposed to omit would merely give the Government greater freedom to use the money in question, and would remove the restriction which the Government had proposed to impose on itself, at any rate, so far as this Council is concerned. Of course, the difficulty is that it would not

necessarily, in fact, it would not remove the restriction in so far as the relations between the Government and the lender are concerned. The proposal is that the money should be lent for this particular purpose, and the Government thinks that it is a purpose for which it is very important to raise money. Therefore, Sir, the Government would see no particular object in accepting the amendment since it might possibly give the impression that the Government was going to borrow the money and then possibly use it for some other purpose than that for which it has been quite clearly stated that it has been proposed to use it.

Sir, there is one other point which I would like to mention about this particular transaction. A good deal of mention has been made of inflation, of deflation, of possible recession, and even of unemployment, of lack of sufficient work in the building trade, and so on and so forth. One of the things that the Government had in mind in proposing to enter into this particular transaction was that it would provide work for the building trade which might be very useful at a time when the boom of the past few years appears to be slackening off; it would provide occupation and employment for both clerk and artisan. At the same time, it would provide the Government with accommodation which is needed; it would mean that valuable land in the centre of the city on which rates are being paid by the Government at this moment would be used; and that larger areas would become available for other purposes as soon as the buildings which are on them at the moment had been removed.

Finally, Sir, the hon. Member for Nairobi West said that he would far prefer that this money should be used for some other purpose such as housing. Well, Sir, so far as that is concerned, this is the first time that the Government has, in fact, entered into a transaction of this particular type, and I can assure all hon. Members that the money would not have been available had it not been tied to a particular project of this nature. The money could just not have been obtained. But, Sir, this does not mean to say that this will be the only occasion on which the Government would examine the possibility of undertaking a transaction of this kind. It seems to me that in

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present circumstances, it is most important that the Government should seek every method, to investigate every possible method of raising money for worth-while projects in the Colony; and most certainly, if it appeared possible to raise similar sums in this way for housing projects, and the Government does spend quite a considerable amount of its time in investigating possibilities; if that seemed possible, most certainly Government would be prepared to look at projects of that kind.

As my hon. friend, the Member for Nairobi North, has said, we are spending a very great deal of money at the present time on renting accommodation, and if we can, by one means or another, put ourselves in the position of buying our accommodation, even over a period as in this particular case—and in particular, Sir, without interfering with the normal sources of development and finance—then, Sir, the Government is perfectly prepared to look at these matters, and will continue to do so in future as it has done in the past.

Sir, I beg to oppose the amendment.

3.30 p.m.

MR. MUIRO: Mr. Chairman, I support the amendment to this Motion from a viewpoint I am going to advance in the course of my speech.

I will find it difficult to agree with the Government for getting this loan to build offices for these Ministries. Only last week, Mr. Chairman, the Minister for Education, Labour and Lands patted himself on the back in this Council, saying that his offices were centralized and that he was making good progress in his own field. Now, Mr. Chairman, I am surprised to see that the same Ministry, which I thought was already housed in one building, is going to build further offices.

Now, Mr. Chairman, Labour, Lands and Education should be in one building; and, as far as I and the other hon. Members in this Council are concerned, we know they are all housed because the Minister said so himself last week.

As the hon. Member for Nairobi West has already said, this was not included in the Government Development Pro-

gramme Estimates; and as this is going to rob more money from the next development programme we find that whether one says "No" or not the Government always says "No", simply because they want to save their own skins.

We are here as representatives of the taxpayers and, as such, we have every say in determining whether this money is going to be used properly or not. Now, I have no objection to the principle of borrowing money provided it was going to advance the country and provided this money was going to be used in a much better way than it is going to be used at the present moment. I feel that projects in agriculture, roads, education and housing for the Government staff in Nairobi would be a better project—or rather projects—than building offices for the various Ministries.

I think that the hon. Minister for Works is hardly in his office, he is moving up and down all the time. He should use the present buildings which he has got, because the country is wasting money over a Minister (who is never there to be seen) is of no use at all and I think the money which was going to be devoted to putting up a building for the hon. Minister should be used on roads. That will be far better than another building in Nairobi.

Furthermore, I think that after 10 years the amount in interest alone will have yielded £350,000. Now, when we finally come to the conclusion it will be something like £850,000. That is over £750,000.

AN HON. MEMBER: Where did you get that from?

MR. MUIRO: That is from my simple arithmetic.

I think that will be a lot of money to be paid by the taxpayers to put in buildings which we do not require at present.

What I would advise the Government to do is this; that they should cut their cloth according to the material we have got. Now, if we really have the money for such schemes then there is the road to Meru which is very bad. That would be much better than putting up a building for the hon. Minister.

I beg to support the amendment.

THE MINISTER FOR WORKS (MR. NATHOO): Mr. Speaker, I am sorry that, in spite of the explanation which I gave yesterday in the course of the debate on the Motion moved by the hon. Member for Nairobi Area, the hon. Member for Nairobi West still persists in the attitude that I deliberately keep absent from this Council.

I explained yesterday, and I think it is my duty to explain further why I was absent when the last Supplementary Estimates were discussed.

I had arranged, Sir, long before the Session of Legislative Council was arranged, to visit the Central Province for about four days from 17th to 21st. When I heard that the Legislative Council was sitting on these dates I tried to change the dates of my visit, but I was informed that all arrangements had been made and that if I did not go as arranged I would not be able to go until after the African elections and that it was necessary that I should visit that area then because there was some work which required my urgent attention.

I see that the hon. Member for North Nyanza is making allegations that I am never in my office. Now, Sir, I would like him to tell me how many times he has tried to contact me in my office. I will tell him the chief reasons. One is that I have two offices: one in the Secretariat and the other in the Public Works Department. I cannot be in both places at the same time. At the same time, Sir, I am expected to go out into the field to see what is happening. The only thing which can be done is to have three Ministers appointed for Works: one for Legislative Council; one for my office; and one for the field.

Coming to the more general aspects of the case, I would like to say that the financial aspects of the scheme have been explained by my hon. friend, the Minister for Finance, and I will say this about the £25,000 which was mentioned—that it was not for the type of work which has already been done. This £25,000 is required for the more detailed work, and if this project is approved by this Council then this money will not be required as the money will be spent on the project from a loan.

We have a person whose constant task is to do the initial thinking for projects

of this sort for all sections of the Government. The initial work for this scheme was simply one of the jobs. We made no difference in so far as the staff were concerned: all the staff appear under the Development Estimates. I might add that this is the normal process of looking slightly ahead, and thinking about the problems of to-morrow is an important part of the Government's work. This is the first time that we have done it on such a large project as this. However, we do it all the time for other Government departments and a great deal of money is saved thereby; I do not think that any suggestion that this is a waste of money will hold any water.

If anyone asks why the detailed work which lies ahead and which consists in getting out schedules of work, etc., is necessary, then I would say that it has to be done before the main part of the work can begin. A little of it, of course, takes place during the actual building operations.

Now, Sir, it has been stated here that we would be much better off if we left everything as it is in the offices and spent the money for other projects. Sir, in 1954, when I had the honour of taking over the Portfolio, the first thing that struck me, Sir, was the fact that we were having a great deal of difficulty in getting both the technical and clerical staff because the site on which the Ministry of Works was situated was quite inconvenient, particularly for the clerical staff. The other point which struck me, Sir, as a businessman, was that a great deal of time was wasted by important officers who were doing their work in offices because they had to do a lot of running about from one part of the building to the other, and because everything was done there on a temporary basis.

Then, Sir, my hon. friend, the Member for the East Electoral Area, said that this is not a revenue-producing scheme. Well, Sir, saving the time that we are wasting of important officers, who are paid so highly, and in getting only second-class clerical personnel when we need first-class staff—if that is not saving and revenue-producing then the only thing I can say is that my economics differ greatly from his.

The other thing he made a remark about was the fact that at last the Government has decided to go out on

[The Minister for Works] contract. May I draw the attention of this Council, Sir, to the fact that on more than one occasion I have said that in the Nairobi area, during the time I have been the Minister for Works, over 80 per cent of the total construction work has always been given out on contract; and this is one of the instances where we do propose again to go on with that policy.

The hon. Member for North Nyanza has said that this money should be spent on roads and not on buildings. Now, Sir, I would like to say that I have, ever since I was on the other side of the Council, and ever since I have been the Minister for Works, and I am sure that the members who are on the Roads Authority will bear me out, that I have done everything I could to get money to provide the Roads Authority with money to build roads which we are badly requiring. But if we were to go to the bank and say that we require £500,000 for building roads, do you for a moment suggest that we would get such a loan?

The other misconception seems to me, Sir, to be that as the Government has tried to borrow, as the Minister for Finance said, on a tenant-purchase scheme and which does not affect the Development Plan, we are told that we are taking our money from the Development Plan which would otherwise be available. The only reason this scheme has been put forward is that there is an opportunity, and I think it ought to be recognized that the Government has made efforts to find this money to build buildings and provide buildings for the departments which badly need them. The buildings which are required for the Land Office, I would like to inform my hon. friend that all the lands, labour and education are not housed in one building; only the headquarters of the Ministers' offices are in that particular building. The land offices are in a place which is required by the municipality under the new planning project by 1960, as I think a road is proposed to that place.

As regards the Legal Department, the Crown Law offices, Sir, you are well aware the great urgency there is in this case, and if this project goes through the first priority has been given to the Crown Law offices, then the Ministry of

Works and the Land offices; then, after that, the Labour Exchange.

Sir, I beg to oppose the amendment.

3.45 p.m.

MR. HARRIS: Mr. Chairman, I am not quite sure whether the hon. Member for Nyanza North gave notice of an amendment that we should reduce this amount and provide a caravan for the Minister for Works, but if he has given such notice I would give it very serious consideration.

Now, Sir, there is only one point I want to raise on this, and that is that the Secretary to the Treasury, when he was Minister for Finance last week, made the point that the building of these offices will have a considerable advantage over using rented accommodation. I understand that now, Sir, he means that, not that they are in rented accommodation at the moment, but if they had to move, the alternative to doing this would be to go into rented accommodation.

Then he goes on, Sir, with another ambiguity: they will be erected on Crown land in respect of which the Government is already paying quite considerable sums in rates. As I understand it, the Government have always paid sum in lieu of detailed rates.

Now, Sir, from the siting of these proposed buildings, as given by the Secretary to the Treasury on Friday last, the Crown Law Office is going to Connaught Road; the Ministry of Works to Coronation Avenue, and the Labour Office to Whitehouse Road, near the Government Printer. I presume that all those are Crown land plots. If they are not, Sir, is there in this £500,000 an element for purchase of land from a private owner? If there is not, Sir, then either the Government or the East African Railways and Harbours, possibly in respect of Whitehouse Road—I am not sure—are already paying rates on those vacant plots. In Nairobi, the system of paying rates is on the unimproved site value; therefore, Sir, it seems to me that at the moment we have six plots: one up by the Norfolk Hotel where the Lands Office is; one up on the hill where the Law Offices are; one in Lugard Avenue where the Labour Offices are—on Crown plots. Those

[Mr. Harris] buildings, or rather the people in those buildings, will now move to three other Crown plots, so that we start off with six Crown plots and we end up with six Crown plots, on which we have been paying rates and, in future we shall pay rates. Until we get an improved site value in Nairobi I cannot see that the rate bill will be any different, except, Sir, that as long ago as 1948, it was proposed to drive a road from Kingsway to Swamp Road, which goes through the Land Office. I do not know if the City Council have got the money to put the road in, but presumably there will be a reduction in Government's block payment in lieu of rates in respect of the piece of land through the present Land Office which is taken up by that road.

May I ask the Government, Sir, whether it is proposed to retain the plot on which the present Law Offices stand, and if so, whether rates will not be payable, or whether they will not be included in the rate element; whether it is proposed to dispose of Lugard Avenue plot or to maintain it; and if either of those two are not being maintained, then I presume, Sir, that some of the proceeds could be used for the repayment of this loan? In any case, Sir, I would have thought that before going ahead with this, the Secretary to the Treasury should have been in a position to tell us what reduction in the Government block payment for rates will be granted by the City Council in respect of the piece of land where their road will go through the present Land Office, and when he can expect that remission rate, because—this is the point I am trying to make—last Friday the Minister for Finance tried to suggest to this Council that there was a rate advantage in moving to the new plots. I would like to know what that rate advantage is, Sir, because, frankly, I cannot see it, unless it is intended to dispose of the plots on which the existing offices now stand.

But, Sir, the Crown would get a much better price for the piece of land opposite here—a much better price; so why cannot they build on their present sites if they are thinking of the saving of money, and rebuild these offices on their existing sites? What they are doing in fact, Sir—and this is a complete bit of nonsense this saving of rates—what

they are doing is that they are moving offices from land which is not in the most highly rated area of the town, to land which is the most highly rated land in the town. Therefore, Sir, I would like an explanation as to this expression used by the Minister for Finance last Friday, from the Secretary to the Treasury.

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Coutts): I think the hon. Member for North Nyanza has disappeared, but I did want to answer the point he made. He obviously misunderstood what I said last week when I was talking about integration. I was talking about, the integration of the Ministry and although we have got the Education Department and the Land Department together in Gill House, we have not got the Lands Office. The Labour Office, to which reference has been made in this Motion, concerns the Labour Office belonging to the Senior Labour Officer, Nairobi, and has nothing to do either with the Labour Department, except in so far as he is under it, or with the Ministry. The Labour Offices which it is proposed to build are the Nairobi Labour Offices—the employment services organization, the training section, the central registration offices and the statistical sections. These, it is proposed, should all go together under one roof.

I also noticed that in the *East African Standard*, in reporting my hon. friend the then Minister for Finance—it appeared to the public as though this was all going to be one office, but that is not so. It is proposed that they should be separate offices.

In reply to the hon. Member for Nairobi West, when he talked about these particular things not being originally in the Development Plan—I think there is a slight misconception there, because he must remember that when one is dealing with a Ministry, one is dealing with a Ministry as a whole and not one particular part of that Ministry. He did not see that original draft which our Ministry put up for development in the present period and that included these two projects.

Now everyone has spoken as though this money should be spent on something different from offices and I think we would all agree with that particular

[The Minister for Education, Labour and Lands]

premise, but the fact is that the money has been promised to us for this particular purpose. Therefore I say, let us take it with both hands, because the Labour Office particularly was sacrificed on the altar of education when it came to us deciding what we were going to do with the actual money available and if we can get a Labour Office which will remove the present unsightly building in Lugard Avenue, which is hindering the development of City Square, and Sir, which will be disposed of and will answer in so far as that part is concerned the point made by the hon. Member for Nairobi South. We are being pressed by the City Council to remove our Crown Law Office because they want it for a park; therefore obviously we are going to have savings in rates there. We want to move the Lands Office, not only because I describe them myself as a concatenation of abominations, but also for the very reason which the hon. Member has said—there will be a road which will eventually go through there and we will save rates on that—but I would also like to add that everyone has forgotten the present commercial value of the Public Works Department plot which will be disposed of.

We do feel on this side of the Council that there is a good deal of advantage in going ahead with this particular project, always remembering that we can only get the money for this particular—

MR. COOKE: No!

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Coutts): The hon. Member, Mr. Cooke said "No", but we do say on this side that we can only get it for this particular purpose. There is an enormous fire risk, not only in the offices occupied by my hon. friend the Attorney-General, but also in the Lands Office, either—

MR. SLADE: That depends upon the extent to which they irritate the public!

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Coutts): Either from a match or in the case of the old Secretariat the wayward kettle. All I can say is that very important documents, would go up in smoke.

Sir, I support the Motion.

MR. COOKE: I submit that my hon. friend, the Minister for Finance, gave his whole case away when he envisaged, towards the end of his speech, that there was a possibility, indeed a probability, of transactions of a similar nature. That is all we are asking him now—if he will postpone using this sum of money for that particular purpose of those particular buildings, and in the meantime, enter into negotiations with Barclays Bank for transactions of a similar nature. That is where my hon. friend, the hon. Minister for Education—when he said the money had to be devoted to this particular purpose—well, surely, if those transactions of similar nature are being envisaged, it would be much better now to enter into negotiations with Barclays Bank, and have those transactions of a similar nature instead of this particular transaction. I was very glad to get an admission from him that was a possibility. He made great play with the desirability of these buildings. We admit that, but are they essential? If they are, why were they not embodied in the original Development Programme?

As we all know, or fear, there is going to be a 20 per cent cut in the original programme. He is really in fact jumping the queue because he is getting buildings erected which were not approved, or were not considered essential when the whole programme was gone into two or three months ago.

My hon. friend shakes his head. He also made great play with falling roofs, and the inability to get men of the highest calibre to work under those conditions, but his case obviously a few months ago must have been put up to the Development Committee, and it was rejected in favour of other projects. Therefore there must be other projects of greater value, at any rate in the minds of the Development Committee, than these buildings which are envisaged now, and I do ask for that reason that we do not go ahead with this transaction, but enter into negotiations with Barclays Bank Limited, and see if they would not be willing to accept some other guarantee than this mortgage. As we said, there is a very high rate of interest, which may quite possibly, in a few months, be at a very much lower rate.

[Mr. Cooke]

I was speaking to two or three very well-known businessmen in the club only yesterday, and they were full of this frustration which the African Members were so full of yesterday about this proposal of Government to go on with these buildings, and it is a matter on which I know there is great feeling in the business field of Nairobi. I do beseech the hon. gentleman to give a little more thought to this, and to accept the amendment.

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones): Mr. Chairman, Sir, I speak at the moment only in regard to my substantive interest, the Crown Law Office, and I should like to explain to members of the Committee that there is no question of a new Crown Law Office being only desirable, but it is, in fact, a matter of urgency. I might explain how the immediate urgency has arisen.

I would first remind the Committee that Crown Law Office has been housed temporarily in its present habitat for something over 50 years. That in itself is no argument for replacing its present habitat with a more permanent one. However, some months ago it was necessary to carry out in the Crown Law Office certain electrical wiring repairs and the electrical engineers, when they descended from the roof of the building, muttered something cryptically about: "I should have that looked at pretty quickly".

4.00 p.m.

We therefore invited the Ministry of Works to send someone to have a look at our roof and I do not want to give rise to any unwarrantable hilarity but they found amongst other things bats in our roof. They also found, I am given to understand, several hundredweights of bat guano. They found, too, that the termites had feasted in the roof and had obviously eaten their fill and moved elsewhere. I will not compare the process with the bats; one might say it was pretty well reversed.

The Ministry of Works engineers were so disturbed—quite seriously disturbed—that they said they really were not quite sure why the roof was still there. It was a Friday morning, at 11 o'clock, Mr. Chairman, when they

informed me of the danger and they put it very high; they had not been able—indeed they did not dare—to examine the sides of the structure but they were fairly certain, by a process of mathematical deduction, that the termites had gone up somewhere and come down somewhere and they had presumably left the same trail of destruction in the sides as they had in the roof. They performed a number of repairs, including the insertion of two large baulks of timber in the middle of the Attorney-General's room, to hold the ceiling up, and, as a measure of reinforcement of the sides of the building, they put on an extra coat of paint!

Now, this may appear, but in fact it is not, particularly funny—for the people who have to live and work in the building. The fact is that they gave the building a life of 18 months, and in the course of that time, if there is not new accommodation available for the Crown Law Office, it will have to move into rented accommodation—if it can find it—and it will have to transfer its library and all its records, many of which are, as my learned friends will know, quite irreplaceable. The library is worth many thousands of pounds. That is a matter of urgency with regard to the Crown Law Office.

I do ask my friends opposite to see this thing in its proper perspective. If they wish to urge the Government to embark on investigation of wider schemes than the one which is at present before them, let them urge the Government to do so, and let my friend, the Minister for Finance, indicate whether that is possible or not. The fact remains that for these office buildings we can raise the finance in this way. If we can raise finance in this or any other way for other projects, desirable or essential, development projects, all well and good. But I do ask the Committee, Mr. Chairman, not to turn its back on this particular project which is a necessary one, one which it is to our advantage in the long run to pursue.

I beg to oppose the amendment.

MR. SLADE: Mr. Chairman, I support the amendment, and I should like first of all to challenge the hon. Minister for Finance in his interpretation of the effect of the amendment. He said that if these

[Mr. Slade]

words were omitted, the effect of the Motion will then be that Government remains free to spend this money on any project it likes, including this project of the particular offices that have been described. Sir, I do not think that is correct. I should be sorry if it was. Surely, if we in this Council vote money to Government without specifying the purpose for which it is to be used, it can only be used for a purpose which has already been approved in one of our programmes for expenditure, whether it be development or the current Budget. That is a vital point here, Sir. When we asked the Minister for Finance to tell us how this is going to fit in with our financial problems, what savings are going to be made here, or where the revenue is going to come from, for another matter, we were told: "Wait for the Budget, wait and see, we will tell you later, we won't tell you now." But if that is to be his attitude over what we want to know, surely, Sir, it must be his attitude also when he wants a vote from us. He is asking us to vote *in vacuo*. He is asking us to vote £500,000 *in vacuo*, not as a part of any plan of revenue or expenditure. That, Sir, I suggest we cannot really be asked to do.

If this amendment is carried, I would suggest that the effect of it will be that the loan is not to be used for the construction of these particular buildings, because they are not at present part of any approved plan. The alternative, Sir, is, of course, that he waits until his opportunity arises to put forward a complete development plan along with the Budget, and we can look at the whole picture, and get the answers to the questions we are asking.

Now, Sir, apart from that, the reason I support this amendment is that I do object to the particular purpose for which this loan is asked at this present time and not entirely for the reasons that other Members have given. There is one point which strikes me very forcibly, Sir; we are told that we can only have this money for this particular purpose, which seems to imply that the Government of this Colony, in borrowing money, is being asked to give specific security. Now if that is so, Sir, it seems to me something almost unprecedented

that Government should be asked to give specific securities and I can hardly believe that our credit-worthiness has shrunk thus far. I can hardly believe that it is a desirable precedent, that the Government, go opposed to some government corporation or semi-detached body and should be required to give specific security for borrowing.

Therefore, Sir, unless this money can be borrowed for general purposes that have already been approved by this Council without special strings or special securities attached, this Motion is altogether undesirable. Now, Sir, I would ask Council to consider for a brief moment this particular question of the buildings that are to be replaced by new offices. These new buildings, Sir, will not be productive in any way except of bums. Nor will they even be saving rents paid elsewhere. If we were going to house in these buildings departments which are at present paying heavy rents elsewhere, there might be a case, as the hon. Member for Nairobi North has pointed out. But the particular departments which are to be housed in these buildings are at present housed in ancient monuments that cost us nothing whatsoever, except for these pillars that have to be put into the Attorney-General's office from time to time.

Now, Sir, surely these buildings have stood the test of time very well and they could last us a little longer. They must be near the end of their time and they will have to be replaced in due course, but is that the right way to spend £500,000 to-day? Indeed, Sir, we are told that in the Attorney-General's office there have been unexpected developments, but there is no intimation that as regards the other offices there has been any special development to change the thinking of Government, which did not see fit to include replacement of these buildings in the last Development Plan. If at that time, when the Plan was made, Government thought these buildings could last, why do they think otherwise now?

Now, Sir, it is suggested that these offices are very inconvenient and very uncomfortable. I am sure it is so, Sir. I have seen them; I know that they are not nearly so nice to work in as our modern buildings. But our good offices

[Mr. Slade]

have worked in them for 50 years and I would not like it to be suggested that the standard of hardihood of the civil servant to-day is not what it was yesterday.

The hon. Minister for Works claims that you have to run about a lot in his Ministry. I think that it is a very good thing, Sir, for an office worker, both for his digestion and otherwise.

Now, Sir, I do believe that we could last out in these offices a little longer. I know not long ago there was a high dignitary at the Ministry of Works who used to be so severe with some of his subordinates and visitors that they wished they could sink through the floor—but they were never able to. The floor is still firm. I know, Sir, the Land Office is an interesting topography in miniature of the lands of this country: hills and dales, but that makes it all the more interesting. I am sure we can last out in that fascinating country a little longer.

Sir, as regards the Attorney-General's office, with which I am more intimate still, I would be awfully sorry to see it go just yet. It is in rather a hazardous state, I know, but after all to keep a roof up you do only need pillars, and apart from the pillars of the law which we have there in such quantity, pillars can be found in our forests for a little while. I have heard it said, Sir, by one of the law officers of the Crown, that you can poke your finger through a wall of this building. But there is no danger of any finger being poked through from outside, because no one would dare poke a finger at the Attorney-General's office; and from inside it rests with the inmates: if they care to poke a hole or two for ventilation, that is their affair.

One has got to consider what is the right atmosphere for lawyers to work in. Surely we all know that the intellect of lawyers thrives best in an atmosphere of antiquity and even decay. I do not know who has changed the mind of the modern Attorney-General so much, Sir, from that of the past. It used to be suggested to the hon. Attorney-General: "Why not come down from your eyrie and live among us, close to all of us who need you?" And he used to say: "No, no, I am much happier where I am, thank you. Anyone who wants to bother me has to

climb a very steep hill, and he won't do it unless it's really something to worry about."

Now you are giving all that up. For what? To pay higher rates, as the hon. Member for Nairobi South has pointed out.

Lastly, Sir, this risk of fire. There might be a risk of fire in those buildings, but there has not been any fire yet in spite of intense irritation on the part of the public with all the departments in turn from time to time. Now I think there is probably less irritation on the whole than there used to be, so there is less risk of fire. I do suggest, Sir that this can wait a little longer. Even the Attorney-General tells us that his building has another 18 months.

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones): Some of it has gone.

MR. SLADE: Some of it has gone, but it could last at any rate until Budget Day.

4.14 p.m.

MR. MACKENZIE (Nominated Member—Government): Mr. Chairman, Sir, I have said several times before and I am going to say once more now that whilst I appreciate the happy frolic which my hon. friends opposite are having this afternoon—I must say that it is almost as good as a Supplementary Estimates Day—whilst I appreciate the happy atmosphere which they have introduced into this debate, I must point out once more that this loan, these particular moneys, can be obtained for these particular purposes, and that if the Council insists on pressing this amendment—here I would like to thank my hon. friend the Member for Aberdare, for pointing that I was wrong in saying that the amendment made no difference: he is perfectly right, of course, and I am most grateful to him for pointing out that particular matter to me. If the Council insists on pressing this amendment the fact is that this money will not be available and that accommodation which will be of considerable value to the Colony will not be provided. Also, Sir, various departments of Government will have to continue to work in quite inefficient conditions. My hon. friend; the Attorney-General, Sir, will have to work in a tent, if what may well have to work in the state of his office is correct.

[Mr. Mackenzie]

This is a very great opportunity both to increase the efficiency of the Government—because there is no doubt about it, as I said yesterday, even planners have to be housed, and the more efficiently any Government department is housed, the greater difference is made to its efficiency; I believe it saves expense as well.

My hon. friend the Minister for Works has mentioned the amount of time which is wasted through officers of his Ministry having to pass from one office to another. Sir, I agree with my hon. friend the Member for Aberdare that for office workers it is a very good thing to take exercise; from the point of view of the taxpayer, it is not a particularly good thing that highly paid officers should spend about half their time in taking exercise. And, equally, it is not a particularly good thing that whenever they wish to consult with the rest of their colleagues in the Government they have to get in their motor-cars and run up expenditure in motor mileage in getting to see them. Unless, of course, Sir, they are to waste even more time in walking on their flat feet from one place to another.

Sir, I do think that this money will be extremely well spent, that it is a very useful project that has been entered into. The Government is often accused of not using its initiative in finding ways of raising money in order to solve the problems that we have ahead of us. In addition to that, Sir, there is the point I made that this will be a useful injection of work into the building industry at a time when the boom has slackened. The cost of doing this will be greater for a short period, whilst loans are being repaid. I cannot give the exact cost although anyone can work out what the approximate annual cost is; I cannot give the exact cost because obviously the money will be taken up at different times as the work begins, and therefore the amount to be repaid will vary. It will cost a little more whilst the loan is being repaid, but at the end of that period, Sir, the Colony will have worth-while buildings on land belonging to the Crown and will have a more efficient service.

Therefore, Sir, I do call on the Council to agree that the amendment should be

rejected, unless, as I would have hoped, my hon. friend is prepared to withdraw it, since, as I say, if it were carried, the only result would be that there would be nothing at all available. Therefore, Sir, I would ask my hon. friend to withdraw the amendment; if he is not prepared to do that I would ask the Council to reject it.

MR. MAXWELL: Mr. Chairman, I have listened with great interest to the arguments put forward by both sides of this Council and I, personally am convinced that Government has put forward a good case for the erection of the proposed office accommodation. I know the Lands Office only too well; it is nothing but a rabbit warren; the Crown Law Office is nothing but a bat and termite warren. I wonder, Sir, how many commercial firms of repute would be content to be housed in accommodation such as we have in the Lands Department and the Law offices.

However, I do want information in one respect; is this money to be repaid from development loans or is it to be repaid out of general revenue?

MR. MACKENZIE: It will be repaid from revenue, Sir.

MR. MAXWELL: Well, I am not too happy to hear that. I feel it should be a charge against development programmes. In view of the fact that the proposed buildings will probably have a life of at least 40 years and this country cannot afford to repay the capital charge over ten years.

The only other point I would like to make is this—and I agree with the hon. Minister for Finance—that at a time when a slight recession does indeed exist, projects such as this, involving expenditure of money, are a good thing and I personally reject the amendment and support the Motion.

MR. ALEXANDER: Sir, having listened to the spokesman for the Government, I realize now just how wise and how sensible it was yesterday for the Member for Aberdare to have entered a reservation on our behalf in respect of those who expressed full confidence in the Government.

There is a misunderstanding, certainly by the Government, as to what we wish done with this money—or some of us

[Mr. Alexander]

who have spoken from this side. The Minister for Finance has just told us that if we do not approve his Motion in its original form nothing at all will be available. Those were his words. Nothing at all will be available. But what he has not told us, Mr. Chairman—and this is a very important point—what he has not told us is whether Barclays Bank Development Corporation have been asked to finance other assets that might suit them. Not one word have we had from the Government side on this. When I spoke I did express my understanding and sympathy with the Government in relation to a lender who says: "I will only lend on these terms". I did expect, with that courteous approach I made to them, that they would have answered the question I put to them. Can they tell us whether Barclays Bank have been asked to finance other assets?

I gave as an example housing and I quoted Government's own words on the urgency of that. I said there were other assets I could think of—and many of us could think of many more—that might be financed in this very way. This, Mr. Chairman, is, as I see it, the advantage of this amendment. It will enable the Government to go back to Barclays Bank and say to them, "Here is a list of assets that we wish financed; are you prepared to finance any of these because they are more urgent than these present office buildings".

I wish now just to deal—and I am sorry he has gone out—with the Member for Nyanza Central who dismissed rather simply and in rather naive language my suggestion that perhaps the attitude of our African friends was forcing finance in this way. He said quite glibly, "Don't worry; if they don't lend it to the Government, they will lend it to private individuals". I can tell him that that is utter nonsense. I can tell him from personal experience, because at this very moment I am in the process of trying to negotiate precisely this amount—£500,000—for clients of mine and the reaction I have had is, "Will you try to make those African friends of yours more reasonable; make the political situation more stable and we are very ready to lend you £500,000". That is the

attitude of finance, of capital, to private individuals, let alone the Government.

The Minister for Finance certainly misunderstood me when he talked about a tenant purchase scheme and this being on the normal basis. I was advocating something quite different, a rental purchase scheme, which did not transfer the liability immediately to the Government but was of such a nature that at the end of a period the rents paid would entitle the Government to take over the asset. The advantage of that is, as I tried to explain, there would be no immediate loading of our public debt.

What we have not been told is out of what funds this planning has been done. I understood the Minister for Works to say that it comes out of the current Colony Estimates, but, if I understood him right, and he is nodding his head, and suggesting that I am right, I would ask him to read paragraph 87 of the Development Programme where it was explained very clearly just what this General Works Staff amount is for. This is what it said: "Very briefly the explanation and justification for this system"—that is the General Works Staff system—"is that development Estimates for such works, unless otherwise stated, are normally expressed in terms of net works cost only. To arrive at the full gross cost of any project, the net works cost has to be augmented by an apportionment to it of its share of the standing cost of the Public Works Department, which is reflected in the cost of the General Works Staff".

When I spoke I tried to prove that there was not even any mention in the item for General Works Staff of these very projects. Therefore, Government has been spending money which we in this Council have not approved.

From the explanation of the Minister for Finance, that this £500,000 is in fact to be refunded over ten years—that is, it is all to be repaid with interest in ten years—a quick calculation I have made, which I think will interest the Council (without my interest tables) is that this will work out at something like Sh. 25 to Sh. 30 per square foot per annum, whereas normal commercial renting in Nairobi to-day for these kinds of offices is something like Sh. 12 to Sh. 14 per square foot per annum.

[Mr. Alexander]

That, Mr. Chairman, is the effect of the finance of this in this way, and I hope that my friend, the Member for Trans Nzola, who is opposing the amendment, will now be convinced as to the startling figures that are involved currently. It is certainly asking us to pay for posterity.

What the Minister did not clarify either, the Minister for Finance (and this was interesting my colleague, the Member for Nyanza North), is the extent to which we are mortgaging the programme from 1961 onwards. He shook his head, and said no, but the facts are, Mr. Chairman, that this £500,000, and the other £500,000 for Embakasi, will have to be approved in some programme or other. It is not in the 1957/60; and presumably it will have to be in the 1961 onwards, and it is bound, it is bound to affect the whole overall development programme. I say this particularly when I read the Development Programme for 1957/60 on page 3 of which it says that Government does not consider it prudent to plan on the basis of more than £23,000,000 for the period. And yet, the Minister for Finance just now was trying to convince us that the Government had suddenly decided that it was prudent to do something else; that is, to borrow this £500,000, and the other £500,000 that I have also referred to.

4.30 p.m.

One very fundamental aspect of this which has not yet been mentioned, which I would like the Minister for Finance to answer, is whether this borrowing, this local borrowing, of £500,000 is in any way likely to prejudice the money, the long-term money, that we have got to borrow currently for our development project. As I have said before, Mr. Chairman, that figure by the Government is £7,000,000 on the current Development Programme, and another £2,500,000 for the Mombasa Water Supply and another £3,000,000 for the Nairobi City Council. And I ask this, Mr. Chairman—it is very fundamental, because a very short while ago, our leading local authority was prohibited by our Treasury from borrowing locally in this way because they were told that it would prejudice the borrowing on the London

market. Is this £500,000 going to prejudice the £7,000,000 that Government have got to borrow almost immediately from the London market? Is London likely to turn round and say: "That £500,000 that you got from Barclays should have been in your overall loan programme on the London market," because that is what they said in relation to £50,000 that a local authority wished to borrow recently and the Government supported London in that view.

I would just like to clear up one misunderstanding with my friend, the Minister for Works. He said, his words were, that I had said that he was deliberately absent from the Council. I said no such words at all; what I did say was that I was very pleased to see him here, Mr. Chairman!

Just one remark by the Minister for Labour, when he castigated me for not noticing that the Development Programme is on a Ministerial basis, as he calls it. In fact, that is exactly how I looked at it and if one looks at paragraph 227, which is the beginning of the Ministerial vote, the heading in fact is the Minister for Education, Labour and Lands—that is on a Ministerial basis—and then if you go to paragraph 258, all under the same Ministerial heading, you see Labour Department Buildings—no mention of these offices—and 259, you see Survey Department—no mention of these offices whatsoever. He did refer to some paper that we had never seen, but it is hardly fair to criticize us on the basis of Government papers that we have never seen. I could only go on what is published.

I do suggest, Mr. Chairman, that this amendment will give Government a chance to establish whether Barclays will lend this money on assets that are more urgent at the moment and I hope the Council approves the amendment.

Mr. JACK: Mr. Chairman, Sir, if I may go back for one moment; I understood the hon. and learned Member for Aberdeen to say that the new buildings would not be productive from a revenue-earning point of view and I beg to doubt the truth of that assertion so far as the Ministry of Legal Affairs is concerned.

A substantial part of the new building, including the whole of the ground

[Mr. Jack]

floor, will be occupied by the Department of the Registrar-General. The Registrar-General embraces the Public Trustee, the Official Receiver, the registration of companies, and business names; of patents and trade marks; of births and deaths and marriages; of banks and building societies, and of trade unions and other societies; and last, but not least, the estate duty office.

There are those present to-day far better qualified than am I to give their support to this proposition that Nairobi is the centre of business in Kenya, and on account of the moderation of its climate, the commercial heart of the whole of East Africa. Persons pay to attend the Registrar-General, and it is proper that the public should be served from a central and efficient office with every modern facility. I have seen with my own eyes banks and other emporia rising from the dust of building operations in Government Road and elsewhere in Nairobi, and I have welcomed it as a sign of healthy development, and I would venture to welcome the emergence of the new Crown Law Office in that same spirit.

Sir, I beg to oppose the amendment.

Mr. ODINGA: Mr. Chairman, I think that the Government lose their case in not taking trouble enough to go deeply into what they want really to present to the Council. For example, if they knew that it would be less expensive when that building is erected, as we have been told every now and then, and that they are a revenue-earning department as the last speaker has just mentioned.

Certainly, it is not difficult for the man responsible to put an estimate for what amount they expect to earn from that department, and the expenses which would be saved in that department. The same thing could be done with the Land Office; the same thing could be done with the Ministry of Works. But generally, they only come, merely telling us, that we feel that when this is done, something will be saved that is all very well. But we cannot be convinced by the mere guess work. I know that the Member for Nairobi West uses very convincing arguments, but again spoils his case by making unnecessary reference to the political attitudes of the Africans.

Does he think that we do not raise loans from the banks? Does he think that if the Africans were running this Government, the banks would not loan because of the African political views.

Mr. MACKENZIE: My Chairman, I must apologize to my hon. friend, the Member for Nairobi West, for doing him a grave injustice in suggesting that he possibly agreed with what we thought over on this side of the Council. I am most sorry, and I should have realized that that could not possibly be so.

But, Sir, to deal seriously with the points that he has made; he says that if this amendment is accepted, it gives the Government a chance to go back to Barclays Development Corporation with a list of other projects, and to say to them: "Would you be prepared to do this project, or that project, or the other project?" The fact is, Sir, that the Government devised this particular way of dealing with this, this particular experiment—and it is an experiment in methods of financing Government work—in order to enable it to rehouse three Ministries, three departments which are badly in need of being rehoused and with one or two possibly, it would have been necessary to obtain rented accommodation before very long. Certainly, I should imagine that before the end of the existing period, because, as the Council has heard, one of the buildings is falling down, and the other is going to have a road put through the middle of it. So it would have been necessary to do something, and the Government has tried, in this way, to rehouse the departments concerned in as economical a way as possible, and to raise the money by a method which will not impinge on the general development programme of the Colony.

Now, Sir, that really is the important point about this: that by raising the money in this way, by a mortgage arrangement, it will not in any way affect Government's ability to raise money either on the local market or in London. That, Sir, is the answer to that particular point which the Member for Nairobi West put forward. Nor, Sir, is there any question of mortgaging the future. This particular transaction is not likely in any way to make it any more difficult to raise for the rest of the existing plans, or for a plan after 1960.

[Mr. Mackenzie]

As regards, Sir, the point that the hon. gentleman quoted from the development plan when he said that it would not be prudent to plan for more than £23,000,000; the hon. gentleman knows perfectly well that what was meant by that was that it was most unlikely that it would be possible to raise more than £23,000,000. It was not the Government's intention that it would not be prudent to spend more than £23,000,000 if it had been possible to raise that, but the Government did not think that they would be able to raise more than that money, more than that amount of money. And quite obviously, you do not plan for the expenditure of money that you do not think you are going to be able to raise. That, Sir, is what was meant by that.

This particular £500,000 is quite separate from any money that we might be able to raise generally through our normal loan processes, and indeed, Sir, it is for that reason that we are coming to the Council in this way to-day in order to ask authority to undertake this particular transaction.

4.45 p.m.

There was, Sir, one further point which the hon. gentleman made, and that was, would it in any way prejudice our borrowing on the London market? He mentioned the fact that it had been suggested that if the Nairobi City Council borrowed locally, that might prejudice their approach to London. Well, I think, Sir, that there again the hon. gentleman knows perfectly well that if the Nairobi City Council had made it known to the authorities in London that they could not raise money here, that they were trying to raise more money in London than would otherwise have been possible, it stood to reason that if they were telling the authorities—the Capital Issues Committee—in London that sort of thing, that they could not at the same time come along and raise money for one project or another in Nairobi. They cannot have things both ways. As far as the Government is concerned it has never been so foolish as to tell anyone, either in London or anywhere else, that it would not do its best to raise the money to the best of its ability wherever it can, both here and in London, and therefore, Sir, the fact that the Govern-

ment is using its initiative to meet its needs in this way will, I can assure you, have no effect whatsoever on the general borrowing position of the Kenya Government.

MR. USHER: Mr. Chairman, I believe the difficulty which most of us feel on this side really amounts to this. We are presented with these three projects and we feel that we have a right to look at the things as a whole—that is, here with the Minister and other Members of the Government—in the selection of the projects for which we are to provide the money. It is with that in view largely that I propose, after one remark, to move an amendment. The remark is this: that I think not much play has been made with the fact that there will be security for the bank in this case, but if it has—and I say this with reference to what was said by my hon. friend the Member for Aberdare—that it is quite a common thing both in local government finance and, I should imagine in Government finance, to go to the bank and to say your security is the revenue, the revenue of the local authorities, the revenues of the government. And now, Sir, I do most urgently ask the Government to consider making some statement of our current capital needs which are assessed now, and to bring back this Motion in a month's time. Therefore, Sir, I beg to move that the debate be adjourned for one month.

THE CHAIRMAN (Mr. Conroy): All we can do is to report progress and ask leave to sit again. I would suggest, however, that if you wish to do so that you move it in that form.

MR. USHER: May I adopt your words, and thank you for the suggestion.

MR. COOKE: No!

MR. MACKENZIE: The Government, Sir, is not prepared to accept the amendment.

MR. SLADE: I would not be able to support that Motion, for reasons which I have given and have not been answered yet. This is a matter of principle and it would be no better if we considered this one month ahead. The right time to consider this is in the annual Estimates of revenue and expenditure. In view of what the Secretary to the Treasury has

[Mr. Slade] told us, that this money is to be repaid over ten years, out of our current revenue—that is as I calculate it; I may be wrong—an item of £67,500 in our expenditure Estimates in each of our budgets for the next 10 years. Now, Sir, for the reason I have given already, the only time to discuss that sort of thing is in the Budget, when we see what other items of expenditure we have to face, and what revenue we have to face it with. I have had no answer yet as to why that is not the right and only procedure.

#### Question proposed.

MR. MACKENZIE: I am afraid, Sir, that the Government cannot accept the suggestion that that this matter be postponed. It is most important, Sir, that the work that is to be done should be pressed ahead as quickly as possible. It is most important for the efficient running of the Government, and the Administration, and it is most desirable that the arrangements which have been so far conducted on an informal basis should be put on to a formal footing and that the departments in question should be able to plan ahead. I am afraid, Sir, that we could not agree to put the matter off, as has been suggested. It seems, Sir, that there is a slight difference of opinion between the two sides of the Council on the question, and I would suggest that in those circumstances the best thing might be for the question to be put.

MR. MBOYA: Mr. Chairman, I find it difficult, Sir, to understand or appreciate the sense of urgency of the Government in trying to construct these buildings. As Members have already pointed out, this sense of urgency seems so peculiar, especially as we have, only a few months back, dealt with the Development Programme and later with the Budget. In regard to both debates no mention was made of any intention to erect buildings or office premises for these particular departments. In the course of the debate this afternoon we are told that on inspection some office premises were found almost falling down. Now, Sir, in trying to arrange its order of priority, one would imagine that the Government would have taken the necessary steps to find out, in revising its building projects, how far its temporary offices needed replacement. It

is most surprising that the electricians should have been the persons to find out that the Attorney-General's office was almost falling to the ground. It either suggests that nobody is particularly interested in the upkeep of these buildings, or that the Ministry of Works is not sufficiently taking seriously its responsibility to ensure that these buildings are in a proper and sound condition. Only a few days ago we had a debate here on Supplementary Estimates: again we were faced with a similar request and a similar sense of urgency, again on matters that could easily have been brought out either in the Budget or in the Development Programme. Now, if any day the Government is going to come here and say all of a sudden, overnight, they have suddenly decided or discovered that something is very urgent, well, we might as well be told the various Ministries have decided that anyone in temporary premises must now compete for some cover in one of the more luxurious modern offices. This, I think, is very unsatisfactory, and I entirely agree with the Member for Aberdare that, rather than just say we report progress and meet in a month's time, I would rather see the whole matter brought up at the proper time, during the Budget Debate.

MR. HARRIS: It seems to me that Government's objection to reporting progress—in other words delaying or adjourning this debate—is because they have got the offer of a loan, they have got a purpose on which to spend the money, and they think that they would lose an opportunity if they do not take it now. Sir, whilst I think that this is very laudable, what we are worried about on this side is not priorities of capital expenditure so much as priorities for recurrent expenditure. Sir, we have got to find £67,500, according to the hon. Member for Aberdare, out of our annual revenue every year for the next 10 years, and we feel that we should discuss this part and parcel with our recurrent budget.

Now, Sir, I would point out that a delay of one month in fact means that a delay until April, when we shall be getting very near the budget. But it does seem to me that if we are to find that money every year for the next ten years, then some other vote has got to go short, or else it means increased taxation.



[Mr. Harris]—Is the Minister for Education willing to take it off the Education Vote? Is the Minister for Defence willing to cut Police expenditure by £67,500? If no Ministry is willing to find this £67,500 for the next ten years, it means increased taxation; and, sorry as I am for the departments working in these present arid-riden abodes, unless they themselves are willing now to say they will cut estimates by £67,500 a year in order to go into better offices, I cannot see where the money is coming from: and with, I imagine, the sort of report that the Minister for Finance has brought back from London, there has already got to be considerable saving, and here is the Government at this stage—without knowing as far as I am aware what news or what intentions the Minister for Finance has in the Budget, which is due in two-and-a-half-months' time—without that knowledge, suggesting recurrent expenditure on loan redemption for these buildings of £67,500 per year, I think, Sir, that the Minister in charge of this department would be very well advised to agree to postpone it, and therefore, Sir, I support the Motion, that we ask leave to sit again.

MR. ALEXANDER: Mr. Chairman, this does raise a very fundamental issue and I would like to agree with my colleague the Member for Nairobi and with the Member for Aberdare.

This is the second occasion on which I have asked for a general appraisal of the situation before we are asked to approve specific items, and in each case the answer has come back—"No, we are not going to tell you that; you wait until the Budget"—and yet, Mr. Chairman, we are asked, without knowing at all where we are and without being told where we are either on capital or on recurrent responsibilities, to approve something to-day. I do beg of the Government to withdraw this so that we can think about it again.

#### Division

The question was put and Council divided.

MR. COOKE: Will the amendment be taken after this?

THE CHAIRMAN (Mr. Conroy): That depends on what happens on this vote. If this vote, in effect, results in an adjournment, then, when the adjourned debate is resumed, the discussion on your amendment is resumed. We will start where we have left off to-day.

If, on the other hand, the Motion is neglected, then we will continue with the debate on your amendment.

The question was negatived by 26 votes to 15.

AYES: Mr. Alexander, Lt.-Col. Ghersie, Messrs. Harris, Mangat, Mate, Maxwell, Mboya, arap Moi, Muliro, Odinga, Oguda, Pandya, the Earl of Portsmouth, Messrs. Slado and Usher, Tellers for the ayes: Messrs. Usher and Rogers.

NOES: Mr. Blunt, Group Captain Briggs, Messrs. Conroy, Coutis, Cusack, Griffith-Jones, Captain Hamley, Mr. Havelock, Sheikh Mbarak Ali Hintaw, Messrs. Hope-Jones, Jack, Johnston, Mackenzie, Lt.-Col. McKenzie, Mr. Madan, Sheikh Mohamed El Mandry, Mr. Nathoo, Sir Eboob Pirbhai, Messrs. Riddoch, Rogers, Sagoo, Swynnerton, Tyson, Vasey, Dr. Walker, Mr. Waweru Wanyutu, Tellers for the noes: Messrs. Jack and Pandya.

THE CHAIRMAN (Mr. Conroy): We are, therefore, thrown back on the debate on Mr. Cooke's amendment.

THE MINISTER FOR WORKS (Mr. Nathoo): Sir, I would like to reply to a couple of points raised by the hon. Member for Nairobi West. I again, Sir, state that no money has been spent on the general planning to which I have referred.

It is, Sir, as stated, part of the Ministry's work to go into projects on a general basis and make a survey and get the general idea as to what is going to happen, and that is the only planning which has been done.

No money has been spent either from the works staff or other revenues of the Colony.

As regards the figures he mentioned, that it is going to cost us between Sh. 32 and Sh. 36 per square foot.

MR. ALEXANDER: I am grateful to the hon. Minister for giving way. I said Sh. 25 to Sh. 30.

THE MINISTER FOR WORKS (Mr. Nathoo): What I would like to know is how he has arrived at that figure. Now, at the moment, Sir, when we go to build a building, we do not have to pay anything for the land, we just spend the money which is required for the building. The other alternative would be if we do not erect a building we would have to rent a building, and if we go to a contractor we would get about the same terms. The landlord will calculate the value of his land for each scheme, he will charge us interest thereon. It stands to reason, therefore, Sir, that if we make calculations we will find that we will be able to occupy the premises at a much cheaper rent than the landlord will be able to provide.

The other thing which we are forgetting is that when we go out to rent buildings—at the moment it is our experience, Sir, from the Government buildings for which we are paying rent for the whole building—it will work out much dearer, at the end of ten years, in respect of buildings and we have nothing to show. Then, Sir, what will happen is that calculating amortization of the loan, Sir, at the end of ten years as the hon. Member for Aberdare says, it is going to cost us £67,500 for ten years—where are we? We are in buildings for which we will not have to pay any rent after that time.

5.15 p.m.

MR. TYSON: I am opposed to the amendment for the very simple reason that as the Minister for Finance has told us, Barclays Bank Development Corporation have told us they are prepared to lend this money for certain specific purposes and presumably, if this last clause is deleted, the bank would be in a position to turn round and say: "We are not interested".

There is one point I would like to emphasize, and that is that to write off buildings of this type over a period of ten years in my opinion places a very heavy, and an undue burden on the taxpayers for the next ten years. A commercial organization would write off these buildings over a period of 30 or 40 years, and I would suggest to the Minister that he might pursue the negotiations with a view to spreading the repayment of the loan over a longer

period so as to lighten the burden which occurs for the next few years.

MR. MACKENZIE: Mr. Chairman, Sir, I thank my hon. friend for his support in this matter and there are one or two points I would like to make. One of them is that I would, with reference to the points that my hon. friend has just made—I would invite the attention of the Council to the terms of the Motion and that is, that the Minister for Finance and Development be authorized to negotiate a loan on the most favourable terms. I did say, I agree, in introducing that Motion, that it seemed possible that the repayment period would be ten years, but the Government has heard the various views put forward and quite apart from that, I can assure the Council that the Government will do its best to ensure that the spread of the loan is over the longest possible period. In the last resort, we do come down to the fact that the longest period is the period that the lender is prepared to negotiate on, and therefore I quite obviously could not give any assurance that it will be possible to negotiate this particular transaction for repayment of over a period of possibly round about ten years, but naturally the Minister will do his best.

There is one further point that was raised by a number of Members opposite, and that is that this will, if the payment is made from recurrent expenditure, as I said it probably would be, it will add a certain amount of money to the current budget. My hon. friend to the Member for Aberdare worked out that this would be £67,500 I believe. I do not claim to have my hon. friend's ability at arithmetic, and I will not attempt to challenge his figures in any way, whether it will be exactly that or exactly some other figure, I do not know. In fact, it will not be an even figure, as I over a period because the money, as I mentioned earlier, will not be taken up at one particular period, but possibly over a two- or three-year period; therefore the amount to be repaid will vary within a certain amount. But, Sir, assuming, for the sake of argument, that my hon. friends were right, I think, Sir, that it is not correct to say that the Government will be adding a sum of this order to recurrent expenditure. In the first place, Sir, the Council has been

[Mr. Mackenzie] told that the Attorney-General's office is falling down. It will have to be replaced by this way, or in some other way—the Attorney-General will have to find some more solid building in which to undertake his business within a very short period. That, sir, involves renting. I may be asked how much the rent will be, and I can quite honestly say that I do not know at the present moment what it will be but it will be a considerable sum of money. There is the fact that the Registrar-General's Department needs to be rehoused with the Attorney-General to whom he is responsible, and there again, Sir, the fact the one Government department is rehoused in another place will mean that the pressure on rented accommodation elsewhere will become less.

There is, Sir, the fact that the Land Office which has been called an "abomination" and which everyone knows is going to have this road put through the middle of it, will therefore have to be moved in a short time. The Land Office, again, will have to be rehoused somewhere. Unless something of this kind is done, the Land Office will have to be rehoused in rented accommodation. Those two costs alone will offset a fair proportion of the additional expenditure.

Then, Sir, we have the Ministry of Works. My hon. friend the Minister has already told the Council that it is envisaged that this will affect considerably the efficient operation of his Ministry which, as the Council knows, spends something like £4,000,000 a year on recurrent accounts, in addition to all the expenditure for which it is responsible on capital account. It has a very large number of senior officers who, at the moment, are wasting a great deal of their time in walking backwards and forwards between the industrial area and the rest of the Government offices. There will, Sir, be a very considerable saving there. It is not a saving for which the Council could expect me to give a figure in money, but it will go quite a considerable way towards meeting this Bill.

Sir, the fact is that the residue that is left over will be, certainly in my opinion, a very small amount. The fact is that this measure is calculated to add a very

considerable amount to that expenditure that has to be met from revenue.

But, Sir, there was raised a further point, and it was made by the hon. Member for Trans Nzoia—would it not be reasonable that at any rate the capital repayment element should be met from the capital side of the Budget. In practice, I do not think that it would make a great deal of difference, and certainly when the difference between the costs of renting and the costs of doing it this way is taken into account, the difference is well under the £50,000 a year or whatever the figure may be, of repayment on capital accounts.

But, Sir, obviously the matter is one which will have to be looked at from year to year, and if the Government were faced with the alternatives of either having to increase taxation or to go a little slower on some other capital project during the period in which this was being repaid in order to make the capital repayment possible, obviously the Government would give very careful consideration, to say the least, to the possibility of meeting it by the second alternative—that is by cutting down on some other capital project during that period. What actually will be done, depends to a very great deal on the circumstances applying at the time, but I will give the Council complete assurance that I can see no likelihood of the Government having to increase taxation or having to make an appreciable cut in recurrent expenditure, or I would say probably any cut in the current expenditure, in order to meet the cost of this particular work.

Sir, with those words, I would once again like to suggest to my hon. friend the Member for the Coast that he may wish to withdraw his amendment and if not, I must again ask the Council to join me in rejecting it.

MR. COOKE: Mr. Chairman, I do not want to prolong the debate, but I thought the hon. gentleman assured us that the arrangement with Barclays Bank was as unalterable as the laws of the Medes and the Persians and now he has said, in reply to the hon. Mr. Tyson, that he will negotiate with the bank over the 10-year period of repayment. If he can enter into negotiations with the bank over the 10-year repayment, he should enter into negotiations with the bank as to how this money should be expended.

THE CHAIRMAN (Mr. Conroy): I think it might be helpful to the Committee if I were to draw their attention to what we are really debating. The original Motion before the Committee was: "That this Council approves a proposal that the Minister for Finance and Development be authorized to negotiate a loan of up to £500,000 on the most favourable possible terms from Barclays Overseas Corporation Development Limited, the loan to be used for the construction of office buildings". An amendment has been moved, and we are now debating it to that Motion to delete the final words "the loan to be used to the construction of office buildings".

So the matter we are really debating is that this Committee approves the proposal that the Minister be authorized to negotiate a loan on the terms set out in the original Motion or on the Motion as amended, and I would ask hon. Members—this matter has had, I think, a fair ventilation on both sides—if they wish to speak further to confine their remarks to new points and not reiterate points that have already been made.

MR. MATE: In supporting the amendment, Sir, I feel that the amendment provides for the use of money for wider purposes—that it is now just for a particular building. As the Chief Secretary was explaining the position of the Crown Law Offices, it reminded me of something I know of in my own particular constituency—the Fort Hall District offices and the Meru District offices which are as old maybe as that particular building. And, Sir, if Government have a way of negotiating for loans from this bank, I feel that they should seek such a loan on the widest possible terms so as to be able to divert the money to these other projects including things like roads which the Minister for Works, I hope saw in some of these areas.

This principle is, I feel, most important, because we have important projects in this country, for example the Port Reitz Airport which the hon. Member for the Coast mentioned, and many others that I could mention, and I feel here, that Government should, if possible, expand the possibility for other equally important projects.

I beg to support the amendment.

5.30 p.m.

MR. ALEXANDER: Mr. Chairman, the last two utterances from the Government benches are, I am perfectly certain, the best justification to-day, in all that has been said, to support the amendment. They do not know whether it will cost £67,500 per annum; they do not know whether perhaps Barclays Bank will negotiate some other terms; they do not know whether it will be 25 to 30 shillings a square foot. All that they do say is that it will not be as high as that. In fact, Mr. Chairman, by and large, if I was to present a prospectus like this, I certainly would not be in business for very long, and I do believe that this amendment will still give the Government an opportunity to come back to us with all the answers to all these questions to-day, which are very important indeed. Not one fact, hardly, has emerged from the Government side in reply to the questions that we have asked.

MR. SLADE: Sir, I do urge the Government to take the amendment seriously. As has been pointed out, if it is passed, they will remain free to borrow money, if they can, for any project which has already been approved as part of the Development Estimates.

If, on the other hand, they still particularly want to use the money they have borrowed for this purpose, they can come back again to us, I suggest, as part of their Budget programme, and they have time to do it in. The argument here, Sir, is that whereas our proposal have, Sir, is that whereas Government at all, if they push ahead in the face of united opposition from this side, it means two things. It means firstly, that they are prepared to ignore all accepted procedure in finance. Secondly, it means that, even in matter of finance, far more serious than anything else, they are prepared to ignore the united expression of Unofficial opinion, and thereby render the proceedings of this Council very near to farce.

MR. MULIRO: Mr. Chairman, the Minister for Works argues that if they move to new offices, they will work more efficiently. Now, I am asking whether efficiency goes by good offices or by good servants. Does he imply that the present servants of his own Ministry are

[Mr. Muliro] inefficient and that they will be efficient when they have a new house?

**THE MINISTER FOR WORKS (Mr. Nalho):** Mr. Chairman, I would like to recommend my hon. friend to read the report of Sir Herbert Manzoni when he attributed part of the inefficiency of the Ministry of Works to bad housing of the officers and the Department. That is the only answer I can give, and I am quite convinced, Sir, that the housing in proper offices which are planned for the work you require, will save a great deal of money both in the officers' time which is, at the moment, wasted, and also in the obtaining of better staff.

**MR. HARRIS:** I have one very quick point, Mr. Chairman—on behalf of the Government this time—and that is that the Estimates Committee, two years ago, went very thoroughly into the whole organization of the Public Works Department as it then was. There is no doubt, Sir, that these offices which they now have add to the inefficiency of that Department, I will not put it any higher than that. But, Sir, it still does not satisfy me that it is necessary for them to get this loan for this particular purpose when, under the amendment, they can still get the loan and come back to us later with all the facts and figures of priorities on which this money could be spent.

**MR. ARAP MOI:** Mr. Chairman, I have not been able to speak on this amendment. I think the problem we face on both sides, particularly the Unofficial side, is whether the Government is able to accept the amendment, because the Unofficial side has shown the signs that the Government tries to force through its own—its own policies—that the Unofficial side do not wish to be forced to accept, when they think that they represent—the taxpayers in particular—and they do not oppose the urgency of these buildings but the way the Government presents its estimates and financial problems, which affect this country as a whole.

I do feel, Sir, that when the Minister for Works stated yesterday that he was supporting the Minister for Agriculture because of crops in Meru and other areas, he did not support his Ministry. I understand and I know the difficulties

of the Minister going from the industrial area to the Secretariat and some other places to discuss matters that affect his Ministry, or officials of his Ministry. Still there are very important projects which he can do, such as a tarmac road from Mau Summit to Eldoret. It has taken years without action taken on his part. What action has he taken in order to improve this very important road which joins the other territory?

Furthermore, Sir, the Crown Law Office—the Minister tells us that it is almost falling down, but the Government had the opportunity to bring this to this Council in the last six or seven months, if they had some important projects to include in the Development Estimates, why did they not do it?

I suggest that if the Government, which is a large army of officials, do not choose to consider the views which the Unofficial side will put forward, I think this side will lose confidence in them. Instead of wasting the time of this Council I think the Government should consider this in the light of the amendment which has been put forward; Government should accept it. If they do not accept it, we shall take the word of the Acting Chief Secretary—that this side has nothing to do with Government policies further, has nothing to do with the financial side of Government. I support the amendment.

**LT.-COL. GHERSIE:** Sir, I move that you call upon the Mover to reply?

**THE CHAIRMAN (Mr. Conroy):** It is possible, under Standing Order 64, to call on the Mover to reply, if I consider that such a Motion would not be an abuse of the proceedings of the Council. I think the matter has been adequately dealt with. Everyone has had the opportunity to say their say, and I accordingly put the Motion that the Mover of the amendment be called upon to reply.

*(Mr. Cooke waived his right of reply.)*

The question that the Motion on the Order Paper be amended by omitting all words after the words "Corporation Limited" was put and negatived.

**THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones):** Mr. Chairman, am I right in supposing that the amendment has been lost?

**THE CHAIRMAN (Mr. Conroy):** The amendment has been defeated.

**THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones):** Then I propose, Mr. Chairman, in view of the sense and the depth of feeling in the Council—I move that we do report progress and ask leave to sit again. I must make it quite clear that I have not in my mind, at the moment, any such deferment as has been mentioned earlier in this debate, but I wish to take the opportunity, since the Council will be sitting again to-morrow, to consult with all my colleagues as to what course the Government should adopt.

*Question proposed.*

The question was put and carried.

**MR. USHER:** On a point of order, Mr. Chairman, what happens to the previous Motion in these terms?

**THE CHAIRMAN (Mr. Conroy):** The previous Motion has been lost.

**THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones):** I hoped I had made it clear that whereas the previous Motion was put on the basis that there should be a deferment of two or three months, my purpose in this Motion was that it should be deferred only until to-morrow; that the matter will remain on the Order Paper and come up again in to-morrow's Order of Business.

**THE CHAIRMAN (Mr. Conroy):** I misunderstood Mr. Usher. When he spoke of "the previous Motion", he meant the penultimate Motion.

*Council resumed.*

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

## REPORT

### £500,000 OFFICE BUILDING LOAN

**THE MINISTER FOR LEGAL AFFAIRS (Mr. Conroy):** Mr. Speaker, I beg to report that the Committee of Supply reports progress and asks leave to sit again.

*Question proposed.*

The question was put and carried.

## COMMITTEE OF THE WHOLE COUNCIL

Order for Committee read—Mr. Speaker left the Chair.

## IN THE COMMITTEE

[Sir Ferdinand Cavendish-Bentinck, K.B.E., C.M.G., M.C., in the Chair]

### The Veterinary Surgeons (Amendment) Bill

#### Clause 2

**MR. ARAP MOI:** Sir, this clause excludes some Africans who have gained diplomas at the University College of Makerere, and I should like to know from the Minister—although I should have given notice to amend the clause—but here it says that the only people included are members of the Royal College of Veterinary Surgeons (London), and nothing about those who study in the University College of East Africa—Makerere—and I should like to know what the Minister is doing to encourage Africans to take up veterinary careers. This would completely discourage Africans who would like to join the Veterinary Service, and I should like to see many Africans come into this, because you find, Sir, that many Africans do not go to London University to study veterinary work. I did raise some time ago that it would be a good thing to allow students to go overseas for education or to gain knowledge, but Government says that we have Makerere College which provides all the facilities for the Africans. But here again this clause discriminates against Africans and means that they are excluded from this.

**THE CHAIRMAN (Sir Ferdinand Cavendish-Bentinck):** Are you proposing an amendment or are you just making general comments?

**MR. ARAP MOI:** I was going to propose an amendment.

**THE CHAIRMAN (Sir Ferdinand Cavendish-Bentinck):** Can we have the amendment? This is not a Second Reading. Perhaps Mr. Swynnerton could clarify the situation.

5.45 p.m.

**MR. SWYNNERTON:** Mr. Chairman, the position is that African graduates of Makerere can only be licensed; they cannot be registered. But just as the Medical Council has recently sent out a committee to investigate Makerere on the medical side and recommend registration of doctors, so the Royal College

[Mr. Swynerton]

of Veterinary Surgeons on 1st April—there is no significance in the date—sending out a member of the Royal Veterinary College (Edinburgh) and a member from London to investigate Makerere College with a view to raising the status of graduates from Makerere so that they can be registered and not licensed.

MR. ARAP MOI: With the hon. Director of Agriculture's comments, Mr. Speaker, I support.

Clause 2 agreed to.

Clauses 3, 4, 5, 6 and 7 agreed to.

Clause 8

MR. USHER: Mr. Chairman, on behalf of my hon. friend, the Member for East Electoral Area, who is unable to be present to-day, I have an amendment to propose. The effect of it is to give the public a little security which the Board of Veterinary Surgeons feels that they should have. I think that the clause, as it stands, is rather too wide and that the amendment would afford greater security to them. I am afraid it came rather late and I must apologize on behalf of my hon. friend for bringing it in this way. The amendment is this, Sir: to delete the words "to practise veterinary surgery or give veterinary treatment or assistance in the course of his duties in such service" which appear at the end of the clause, and to insert in lieu thereof the words: "to undertake in the course of his duties such minor procedures as bleedings, inoculations and the like, as he may be required to undertake by a superior officer who shall be a veterinary surgeon registered or licensed under the provisions of this Ordinance".

MR. SWYNNERTON: Mr. Chairman, I have to say that the Minister for Agriculture is very pleased to accept this amendment, particularly in view of the fact that it has been proposed by the hon. Member for East Electoral Area, whose very wide experience in this field he greatly values.

Question proposed.

The question that clause 8 should be amended by deleting the words "to practise veterinary surgery or give veterinary treatment or assistance in the course of

his duties in such service" was put and carried.

THE CHAIRMAN (Sir Ferdinand Cavenish-Bentinck): Before I put the second part of the question, may I ask if the proposed insertion has been scrutinized by the Legal Department—that wording?

THE MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): I understand it has; I am not certain, but I know Dr. Hassan did give notice of this amendment many days ago and it has been circulated.

THE CHAIRMAN (Sir Ferdinand Cavenish-Bentinck): It was only that I wondered if the phrase "and the like" was legal phraseology.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): I think it is all right.

The question that clause 8 should be amended by inserting the words "to undertake in the course of his duties such minor procedures as bleedings, inoculations and the like, as he may be required to undertake by a superior officer who shall be a veterinary surgeon registered or licensed under the provisions of this Ordinance" was put and carried.

Clause 8, as amended, agreed to.

Clauses 9, 10 and 11 agreed to.

Title agreed to.

Clause 1 agreed to.

#### The Election Offences Bill

Clause 2 agreed to.

Clause 3

MR. PANDYA: May I ask the Minister as to what would be the position of a person who attempts to vote and is, in the process, caught by the presiding officer. He has not completed the process of voting. Would he be covered by the clause 3 (m)?

THE MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): If I understand the question—if someone attempts to vote in breach of clause 3 (m) what is his legal position—is that right? The answer, Sir, is that he can be charged and convicted for the attempt. Of course, an offence is defined in the Interpretation Ordinance to include an attempt.

[The Minister for Legal Affairs]

Mr. Speaker, might I move an amendment to clause 3, of which notice has been given. There are two amendments. The first of them, if I may say so, Sir, a little bit of lawyer's fun. The first amendment is that paragraph (c) of clause 3 be amended by leaving out the words "official mark" and the insertion in place thereof of the words "official perforation, stamp or mark".

Sir, if hon. Members are interested they can turn to page 6 and find the reason for this amendment. Clause 5 (6) (a) uses the expression "official perforation, stamp or mark". It is better drafting to use the same expression each time, otherwise when a court comes to interpret it, they say why did the draftsman alter the expression, and they read in some mystic meaning which was never intended, and also, Sir, it is, I think, more apt to describe the type of matter that we are trying to cover under clause 3. Accordingly, Sir, beg to move the first amendment standing in my name in the Order Paper.

Question proposed.

The question that clause 3 (c) should be amended by deleting the words "official mark" and inserting in place thereof the words "official perforation, stamp or mark", was put and carried.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): Sir, might I move a further amendment, which stands in my name, to exactly the same effect in paragraph (f) of clause 3? The same reasons apply and I think it would be laborious for me to repeat them. I beg to move.

THE CHAIRMAN (Sir Ferdinand Cavenish-Bentinck): I think, Mr. Conroy, you also want the word "authorized" expunged.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): The amendment, Sir, is that paragraph (f) of clause (3) be amended by leaving out the words "authorized mark", and the insertion in place thereof of the words "official perforation, stamp or mark".

Question proposed.

The question that clause 3 (f) should be amended by deleting the words "authorized marks" and inserting in

place thereof the words "official perforation, stamp or mark" was put and carried.

Clause 3, as amended, agreed to.

Clauses 4, 5, 6, 7 and 8 agreed to.

Clause 9

MR. PANDYA: Mr. Chairman, Sir, would this section cover cases where voters are influenced by various methods at the entrance to the polling stations? Would this amount, in the opinion of the Minister, to interference or preventing the free exercise of a vote?

THE MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): Yes, Sir. If any action is taken by anyone, anywhere, to try to influence improperly a person to vote in any one direction or the other—I stress the word "improperly"—then it is an offence. The ordinary civilized means of persuasion by the tongue and by the reason are permitted, but undue influence, wherever exercised, is improper and is a criminal offence.

MR. PANDYA: Would the display of a paper or card to show to the voter where he should put his cross, be considered improper or proper?

THE MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): Sir, the display of such a facsimile of a ballot paper would, I think, neither be a threat of force, violence or restraint, or of any temporal or spiritual injury, damage or loss, or any fraudulent device, trick or deception. It would not therefore come within the clause.

Clause 9 agreed to.

Clauses 10 and 11 agreed to.

Clause 12

MR. PANDYA: May I inquire from the Minister whether it would be an offence if a candidate borrows a vehicle from a person and the person lends such vehicle for the purpose of conveying voters to and from polling stations, where no obvious question of payment is involved, but there is a possibility of abuse by this loophole.

6. p.m.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): Sir, I think the words of sub-section (3) supply the answer to this one. Sub-section (3) says that a person

[The Minister for Legal Affairs] shall not lend, for the purpose of conveyance of electors or voters to and from the poll, any vehicle of any kind whatsoever which he keeps or uses for the purpose of letting out for hire, and if he does so knowingly—knowing that it is intended to be used for the conveyance of electors or voters to or from the poll, he shall be guilty of an offence. Now anyone who does not come within those words, does not commit an offence. We do not say positively that a person does not commit an offence if he does so and so. We say, negatively, if a person does something or other, he commits an offence. I hope that answers the question for the hon. Member. Anyone who does not come within this definition does not commit an offence. I hope that answers the question for the hon. Member?

MR. PANDYA: I did not mean a person who runs that type of business of hiring vehicles. I only meant if a person borrowed a vehicle from a friend for the purpose of carrying voters to and from the polling station. There would be no obvious question of payment involved. I would like to know whether that would be an offence, or if it is the intention to treat it as an offence.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): As I understand the section, Sir—and I am only expressing an opinion in these matters—there is nothing wrong in lending a vehicle on a friendly basis, provided the lender is not a person who usually lets vehicles for hire. I can think of a certain Nominated Member on this side of Council who could not lend me a vehicle if I were a candidate. On the other hand, I shall be delighted to lend him a vehicle if he were standing, and there would be nothing improper in my doing so.

MR. PANDYA: Sir, I shall, of course, call upon some hon. Members from the Coast in future for these services!

Clause 12 agreed to.  
Clauses 13, 14, 15, 16 and 17 agreed to.  
First Schedule agreed to.  
Second Schedule agreed to.  
Third Schedule agreed to.  
Title agreed to.  
Clause 1 agreed to.

### The Prevention of Crime Bill

Clauses 2 and 3 agreed to.

Title agreed to.

Clause 1 agreed to.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): Mr. Speaker, I beg to move that the Committee do report to Council that it has considered the Veterinary Surgeons Bill with amendments, the Election Offences Bill with amendments, and the Prevention of Crime Bill without amendment, and approved the same.

Bills to be reported with amendments.

The question was put and carried.

Council resumed.

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

### REPORT

#### The Veterinary Surgeons (Amendment) Bill

THE MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): Mr. Speaker, Sir, I beg to report that a Committee of the whole Council has considered the Veterinary Surgeons (Amendment) Bill and approved the same with amendments.

Report ordered to be considered to-morrow.

### REPORT

#### The Election Offences Bill

THE MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): Mr. Speaker, Sir, I beg to report that a Committee of the whole Council has considered the Election Offences Bill and approved the same with amendments.

Report ordered to be considered to-morrow.

### REPORT AND THIRD READING

#### The Prevention of Crime Bill

THE MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): Mr. Speaker, Sir, I beg to report that a Committee of the whole Council has considered the Prevention of Crime Bill and approved the same without amendment.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): When do you wish to take the Third Reading?

THE MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): Now, Sir, Mr. Speaker, I beg to move that the Prevention of Crime Bill be now read the Third Time.

Question proposed.

The question was put and carried.

The Bill was accordingly read the Third Time and passed.

### BILL

#### SECOND READING

##### The Tribal Police Bill

Order for Second Reading read.

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): Mr. Speaker, Sir, I beg to move that the Tribal Police Bill be now read a Second Time.

Sir, in the debate which followed the introduction of this Bill by my predecessor in the Council last year, it was quite clear, I think, that a number of hon. Members were under a misapprehension that the Bill would increase the powers already enjoyed by the Tribal Police. For instance, the hon. Member for the Nairobi Area said in that debate: "We are seeking in this particular case to introduce powers and complete licence, if I may call it that, for the lower type of police force". And he went on to say: "There is no need at the moment to extend the powers of the tribal policeman".

The hon. Member for Akamba also said: "I feel that it is particularly unfortunate that the Minister is introducing this Bill to give more powers to the Tribal Police".

I must, Sir, correct this misconception of the Bill which only seeks to define more clearly and in fact to limit the powers of the Tribal Police by setting out, in more explicit terms, what they may do, instead of leaving their powers vaguely framed. The result has been, of course, that the new Tribal Police Bill is much more detailed and a longer document than the existing Ordinance.

My predecessor, Sir, spoke at some length on the duties of the Tribal Police and I do not propose now to cover that ground again. But I will endeavour as

far as possible to explain to the Council where the new Bill differs from the present Ordinance of 1929, which incidentally is nearly 30 years old.

Part I, Sir, of the Bill is introductory, while Part II, which deals with the establishment and administration of the force, merely expands the present provisions of the Ordinance, and makes no fundamental change. Part III, Sir, sets out the powers and the duties of tribal police officers, and while their duties differ very little from those described by section 4 of the 1929 Ordinance, their powers have been substantially defined and limited.

Under Part III, Sir, clause 9 follows a similar section in the present Ordinance, namely section 7, but clause 10 which is designed to replace the present section 6, is far less wide. Under the present section 6 of the Ordinance, an officer is enabled to enter and inspect without warrant any hut or place of resort of loose or disorderly conduct, and he does not have to have any reasonable cause for so doing. But the new clause—clause 10—gives to the Tribal Police a much more limited power than at present, and sets out quite clearly what a tribal policeman may legally do: that is to say, enter premises, stop of search vehicles or vessels without a warrant.

This is a power which, of course, the Kenya Police already possess under the Criminal Procedure Code and the Penal Code, and the effect of this clause will be to give the Tribal Police similar restricted powers as the Kenya Police now enjoy.

Clause 11, Sir, is based on section 8 of the present Ordinance which allows a tribal police officer to inspect permits, licences and passes and in effect gives no new powers.

Clauses 12 and 13 which concern the power to erect barriers and the power to arrest without warrant are in effect new although section 10 also applies certain sections of the Indian Penal Code in respect of powers of arrest. The new section does set out the powers which tribal police officers have already enjoyed under the provisions of the Criminal Procedure Code.

Under section 8 (a) of the Tribal Police Ordinance, the Tribal Police are

[The Minister for African Affairs] empowered to carry arms under such circumstances and subject to such directions as may from time to time be laid down by the person in whom the superintendence of the Tribal Police is vested.

The new clause, section 14 in the Bill, defines quite clearly in what circumstances a tribal policeman may use arms. This clause, I submit, Mr. Speaker, greatly limits the wide powers conferred upon the tribal police officer by the existing section of the 1929 Ordinance.

Clauses 16 to 18 confer upon the tribal policeman protection similar to that given to the Kenya Police, and Part V, which deals with the discipline of the force, merely omits and amends certain powers which the officer in charge has. One of the notable omissions is that corporal punishment is deleted. Part VI, of course, deals with the rule-making powers and Standing Orders and other similar matters.

Now, I trust, Sir, from this very brief explanation of the Bill, hon. Members are now convinced that this Bill does, in fact, limit the powers of the Tribal Police and defines their powers very considerably. Sir, it may be said that there is no need for a force of this nature and that with the projection of the Kenya Police into the African districts the work which was formerly performed by the tribal policeman has now been taken over by the Kenya Police and that there must, of necessity, be an overlap in their duties. Mr. Speaker, I do not think that this is in fact so. For instance, the Kenya Police is necessarily rather thin on the ground in some areas and initially, therefore, it falls to the tribal policeman to carry out the first investigations of any incident that has been reported.

Then again there are often language difficulties in many areas and the tribal police officers can be, and are, attached to the Kenya Police to help in this matter. Tribal police officers also have great local knowledge which is of value against the specialist training and the specialist duties of the Kenya Police. Therefore, as I say, far from there being an overlap between the two forces, I believe that their duties are complementary.

### ADJOURNMENT

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): It is now time for the suspension of business and I accordingly adjourn the Council until 9.30 a.m. to-morrow, Friday, 28th February.

*Council rose at fifteen minutes past Six o'clock.*

Friday, 28th February, 1958

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

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

### PRAYERS

### PAPERS LAID

The following Papers were laid on the Table:—

The Department of Economic Co-ordination. Report for the period 1st July, 1955, to 30th June, 1957.

(BY THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones))

The Guaranteed Minimum Return Advances (Interest) Rules, 1958.

(BY THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell))

### ORAL NOTICE OF MOTION

ABOLITION OF COMPETITIVE ENTRANCE EXAMINATION AT STANDARD IV

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

THAT this Council being aware of the hardship to children and the short-coming of a four-year education course for African children and the waste in time and money for those who must be eliminated urges Government as a step forward in improving African education to take all immediate necessary steps to abolish the Competitive Entrance Examination now undergone by pupils at Standard IV.

### BILLS

#### REPORT AND THIRD READING

*The Veterinary Surgeons (Amendment) Bill*

THE MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): Mr. Speaker, I beg to move that Council doth agree with the Committee in its report of the Veterinary Surgeons (Amendment) Bill.

*Question proposed.*

The question was put and carried.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RE-

SOURCES (Mr. Blundell): Mr. Speaker, Sir, I beg to move that the Veterinary Surgeons (Amendment) Bill be now read a Third Time.

*Question proposed.*

The question was put and carried.

The Bill was accordingly read the Third Time and passed.

#### REPORT AND THIRD READING

*The Election Offences Bill*

THE MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): Sir, yesterday a Committee of the whole Council considered the Election Offences Bill and approved the same with amendments. I accordingly beg to move that Council doth agree with the Committee in the said report.

*Question proposed.*

The question was put and carried.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): Sir, I beg to move that the Election Offences Bill be now read a Third Time.

*Question proposed.*

The question was put and carried.

The Bill was accordingly read the Third Time and passed.

#### SECOND READING

*The Tribal Police Bill*

*Debate interrupted on 27th February continued.*

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): Mr. Speaker, Sir, when the debate was adjourned yesterday, I had just finished explaining that in my view there was no overlap between the duties of tribal police and Kenya police officers. I would now like to turn to the form of training which is being given to the tribal police officers so as to fit him for his duties.

Through the courtesy of the Commissioner of Police, three-monthly courses are run throughout each year at the Police Training School at Kiganjo for the Tribal Police on similar lines to those which are given to the Kenya Police.

In the Central Province, district training centres are in existence in all the

[The Minister for African Affairs] African districts, while in the other Provinces, provincial training courses have been, or shortly will be, instituted. It is our declared intention to make the tribal police officer as efficient as possible. It is also our aim, Sir, to make him the sort of person the village constable now is in England—the guide, philosopher and friend of all the law-abiding people who live there, but a terror to the evil-doer. On occasions, do doubt, the power placed in the hands of a tribal police officer may have been abused, but I am perfectly satisfied, Sir, from my own experience as a district commissioner, that where such instances do occur they are quickly brought to the knowledge of higher authority. After all, Sir, the force of public opinion against a local man who abuses his powers as a tribal police officer can be pretty strong and can be, and is, effectively aired if necessary.

We are now able, Sir, since the improvements in the salary scale for tribal police officers and the fact that they are now on pensionable terms, to enlist a better all-round type of recruit than in the past. And I would say that there is considerable competition now to enter the Tribal Police Force.

In conclusion, Sir, may I say that I have had an opportunity of talking to the majority of the African Elected Members—I think we have had a full and frank discussion on the principles of this Bill—and I have also had the opportunity of talking to one or two of the European Elected Members, and I hope that I was able to reassure them on the principles if not on all the details of the Bill.

Mr. Speaker, Sir, I beg to move.

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones) seconded.

#### Question proposed.

MR. MULIRO: Mr. Speaker, Sir, in moving the Second Reading yesterday, the Minister for African Affairs argued, after having quoted some speeches from the debate before this was withdrawn, that we opposed this Bill because of misapprehension or lack of knowledge. I want to make it perfectly clear that when we opposed this Bill, although the Minister has quoted some of our speeches on which he bases his present argument that we did not fully under-

stand the Bill, we were in full agreement that this particular Bill is moving in the wrong direction. It is not in the spirit of the present Kenya and that contention, Mr. Speaker, still stands, that this Bill reminds me of places like South Africa, where you find the district commissioners who are known as native commissioners right up to the Minister for African Affairs at the top, the same title which hon. Minister at present enjoys in Kenya. The district commissioner is a magistrate in that country. No African can go before an ordinary magistrate; he will go before the district commissioner, so that he is being looked upon as a peculiar creature, to be dealt with by a department.

We oppose this Bill and we have opposed this Ministry because it regards Africans as a department of State. It is true it has been argued in this Council that this Department looks after the welfare of Africans. No doubt it might have served this purpose in the past, and no doubt in 1929 the tribal policeman had a definite function to perform in the African community. But I think, Mr. Speaker, at this stage the Tribal Police have no definite function to perform in the community.

9.45 a.m.

Now, on Tuesday, Mr. Speaker, I went to attend a meeting of my African District Council of North Nyanza. The African district council wanted land on the border of Nandi Reserve and North Nyanza to put up a police post. We all know, no doubt, that in that area we have got Tribal Police in the locations of Nyongori, Tiriki, Idakho and Isukira, but the people felt that Kenya Police in the area was urgently needed, and the money which has been offered to the owner of the land on which it is hoped to establish a Kenya police post at Tiriki is far more than any money which has been paid in North Nyanza District for other purposes by the Government or the African district council.

What is the reason? The reason is the urgency of the Kenya Police at the border, where our stock crosses to Nandi probably, or stock from Nandi to North Nyanza, which is regarded as very important. Mr. Speaker, did the people not ask for increasing the

[Mr. Muliro] Tribal Police in the area? They know very well that these people, although they are there, in most cases they are incompetent. With the expansion of the Kenya Police, we still see no reason why the Minister for African Affairs says they want to have more Tribal Police or powers of theirs being put in line with the Kenya Police. They have argued here to-day that they enjoy good popularity.

What about localizing the Kenya Police to some extent, say, in their districts, where they speak the same languages? You can have local people as the Kenya Police. For instance, in the Rift Valley, you could get a Kalenjin group working in the Rift Valley predominantly. They know their customs, their habits and their behaviour. They would be able to handle their people. The confusion, I think, which has arisen among the Kenya Police which is being used as an excuse by the Minister for African Affairs in arguing that the Tribal Police enjoy better popularity, is that people have been taken from Northern Frontier, say one of these Merille tribes, to Coast Province or say a Luo from Karachurru to Embu or Meru, so you find, Mr. Speaker, that these people, because they go to completely different tribes, you find they abuse the customs, probably, of those who live there. But localizing them would not be difficult and our main objection—although the Minister has argued very much in favour of this—arises out of the very fact that we do not want to be regarded as a department of State, and on these grounds, Mr. Speaker, I beg to oppose this Bill, as I opposed it originally.

Mrs. SHAW: Mr. Speaker, Sir, having been one of those who criticized some aspects of this Bill and the powers granted under it at its first introduction into this Council, I must apologize for being unavoidably absent when the hon. Minister moved its Second Reading yesterday. As I have been fully reassured on the powers given under this Bill, my objections are, therefore, now removed.

I now rise to support the Second Reading.

Mr. USHER: Mr. Speaker, Sir, I also had some doubts and asked for delay when the Bill was originally introduced,

and I now find myself in the same position as that of the hon. and gracious lady who has just sat down.

I think I may say in extenuation that the statement of Objects and Reasons did not make the position quite clear to me, nor did the opening speech altogether dispose of the doubts that I felt. I may say that those doubts were somewhat disposed of later in that earlier debate by the remarks of the hon. and learned Solicitor-General, and I shall now be very happy to support the Bill.

Mr. NGALA: Mr. Speaker, when the Bill was first brought to the Council I strongly opposed it, because the powers that are included in this Bill are very serious powers, and because I thought they were going to be given to people who were, in many cases, illiterate and untrained. I still wonder whether this is the right time to give them to-day to these people who have very little training. I know that the Minister is trying his best at Kiganjo to train some of these people, but there are many provinces in Kenya that are hardly touched as far as the training is concerned. I am quoting my own province—Coast Province—where very little or nothing has been done as far as the training of Tribal Police is concerned.

In Coast Province I find that most of the Tribal Police are still illiterate and ignorant, and it would be very dangerous to give them these powers. Under the powers of clause 10, for example, these ignorant people are allowed to search any premises without any warrant, and I doubt whether these ignorant and illiterate people would use the powers appropriately. The operative word in the section is "reasonably suspected", but I have some doubts as to whether these people will correctly use their judgment and know which premises to suspect and which premises to search, and I feel very strongly that such powers will be misused.

In clause 14, sections (a), (b) and (c), the Tribal Police are given powers to use firearms without even having been authorized by a higher authority. I think that is a very dangerous move, because I believe that to avoid abuse of firearms they should be authorized by a higher officer before they can use any firearm.

[Mr. Ngala]

The power of arresting without any warrant—that power is also too strong. I feel that it is not an appropriate power to give to such tribal policemen who are not properly trained and, in many cases, illiterate.

I am prepared to support this Bill if the Minister would amend several powers, in particular clause 10 where a search of premises can be made without any warrant. I think it is very dangerous to leave it as it is without qualifying it further, and also in clause 14, sections (a), (b) and (c), where firearms can be used without being authorized by a higher officer.

Throughout the Bill, Sir, one very serious thing is lacking, and that is the protection of the ordinary citizen. There has been some say in the Bill about protecting the people by tribal police officers, but my experience is that so many people are arrested by the Tribal Police for nothing; they are held overnight and in the morning all that they are told is that: "Well, you can go now, we have nothing to do with you; you can go"; and that is after that person has wasted a whole night and undergone all sorts of inconveniences. I feel that the Bill should have incorporated in it some protection to the citizen, because it is causing a lot of lack of confidence in the police, particularly on the part of the Africans when they are arrested, delayed, kept almost for nothing and then told: "You can go; we do not need you now"; and when the person asks why he has been arrested they are not prepared to tell him why he has been arrested. That protection is seriously lacking in this Bill. I should have liked to see that embodied in the Bill.

Another thing, Sir, I think clause 13 is quite unnecessary in the Bill. It is unnecessary because I feel that that should be the power reserved to a higher officer than the tribal police officer.

With these few comments, I support this Bill, provided that the Minister can give me some assurance as to the training and as to the amendment of the executive powers that are given to the tribal police.

MR. MATE: Mr. Speaker, Sir, the doubts I expressed last time in opposing the Bill are still with me, and I wish it

were true, as the Minister for African Affairs said, that the Tribal Police as we know them are also guided by the sentiment the Minister expressed—guides and philosophers to the local paper.

Mr. Speaker, this is a very high standard to hope for. It will come in due course. But I would like to stress, Sir, the importance of getting these Tribal Police trained properly so that they do understand their responsibilities, because, Sir, the Tribal Police can very easily be moved by emotions or feelings of dislike against their neighbour, and can easily become a menace to the community. At the same time, Mr. Speaker, if I may refer to the debate of African district councils, the headmen and the chiefs who are superior officers, I would say some of them require thinking twice before they used the Tribal Police in carrying out orders.

I quote a case of one of my constituents, a school teacher, and this applies not to the Tribal Police but the Kenya Police. He came to Nairobi about three days ago. He is not supposed to carry a pass. When he came into town to see a doctor he was caught hold of by some policemen and they asked him who he was and where he came from. He showed them his papers and told them who he was, but they said to him: "We don't know you". Sir, they should not have known the man, but they were officers, and were supposed to carry out the law, and they ought to know the law. Instead, they took him for a night in a police station here, and the next morning, the officer in charge let him go.

10.00 a.m.

Sir, this is the kind of thing that I fear in giving the Tribal Police this kind of power. I was not able to take any action because the man ran away as quickly as possible the following morning, and I just knew about it only after that from other people that the man had had this experience. I hope to pursue the matter further to find out, but this is the kind of fear I have, and I feel that the Tribal Police, with proper training, would have better chances of carrying out their duties so that they would be liked by the people, ordinary citizens, and they would be doing their work and their duties as Tribal Police.

[Mr. Mate]

Sir, here again, the Minister mentioned the question of recruiting. I would like the Minister to assure the Council that the Tribal Police Force will have people as highly educated as possible; by that, I mean literate people, people who have finished their K.P.E. examinations perhaps the same as the Kenya Police are doing to-day, having better educated people recruited, because this is the key to the success or failure of the Tribal Police in the reserves. I do agree that perhaps the Tribal Police of a particular area who know the customs of the people are better than people who do not know the customs, but that should not be so; with proper training and education, Tribal Police ought to be suitable to serve anywhere in the country.

Sir, the other point I would like to mention is where the Kenya Police and the Tribal Police clash in their duties. The Tribal Police have an inferior position, and the Kenya Police a higher position in the same area, thereby giving them a feeling of inferiority. The effect of this seems to make them be rude to the people because they feel that they are not being regarded. This relationship is very important. I would not go on repeating what my hon. friend, the Member for the Coast said because it is all too clear, and I aired my feelings about it last time.

Well, Sir, any support I can give to this Bill would only be based on the principle that the Minister stated in principle he felt that with proper training and proper attention, the Tribal Police would be liked by the people, and finally, he hoped they might become sort of philosopher policemen for their own areas, so any support I would give personally would be most reserved at this particular stage, because I feel there is much to be desired in this Tribal Police.

Mr. Speaker, with those reservations, I beg to support.

MR. COOKE: I would like to support the Bill, Mr. Speaker, and I would just like to say a few words.

When I first came to this country, we had what were known as tribal messengers, and I think they were rather like the old Bow Street runners of two centuries ago. They used to bring

messages to the chiefs and notices, such as summons, and that sort of thing; and of course, the Colony's police had free entry into the reserves. But after a lot of trial and error, it was found better to improve the discipline of these messengers, and to improve their status, so then we had people who were called *askari kanga*—called *askari kanga*; as everyone knows, from the bright clothing they used to wear. They were not found capable of dealing with the "smart Ales" who used to come from the towns, and therefore, an improvement was made, and the first Tribal Police Force was constituted. There was a great feeling at that time—I am not certain whether yesterday my friend, the Minister, dealt with all these points of evolutionary processes—but there was a feeling that the regular police were abusing their privileges—the African members of it—in the reserves, and the Tribal Police got a great more authority than they had previously had. The Colony's police did duty mainly at district headquarters, and were only sent into the reserves on, I think, the authority of the district commissioner. Then, when the trouble broke out recently, it was felt expedient, and an absolutely wise thing to have done; the Colony police were again allowed free access to the reserves.

Now, I think personally this improvement of the morale and the discipline of the Tribal Police is a very good thing. I think the day must come, Sir, when the Colony's police will not be used very much in the reserves; they will be used all in the towns, and we shall have to train the Tribal Police to be a body of disciplined and intelligent people, English-speaking by preference.

I am a little bit surprised at the argument of one of the African Members here that it would be preferable to have the Colony police acting in the reserve, because we have heard a lot of allegations in this Council that the African members of the Colony police are very susceptible to bribery and corruption. Well, whether that is true or not, I would not say. But surely it must be so that tribal policemen, amongst their own people—this was a point made by the Minister—would be much less susceptible to bribery and corruption. And if they did indulge in these evils, they would be



[Mr. Cooke] much more easily found out. For that reason, I would support very strongly this present Bill.

I would like to see it evolved, as a matter of fact, instead of the Tribal Police in years to come being armed, I think they should be unarmed—of course, that is quite impossible at the present moment—like the old village constable, or parish constable at home, who one moment may be turning away the gypsies out of the town; another moment, he is bringing a sick child to hospital, and the next moment, he is up on the mountains chasing the poachers away. You want a man like that who will have the confidence of the people. But at the present stage of evolution in law and order, it is very necessary, I think, that the Tribal Police be established, and if they are established, they must be put on the basis of discipline as envisaged in this Bill.

Therefore, Sir, I give it my full support.

**THE MINISTER FOR LEGAL AFFAIRS (Mr. Conroy):** Mr. Speaker, if I could answer some of the points raised by my hon. friends opposite.

The hon. Member for Coast Rural asked about clause 14 of the Bill, which deals with the power to use firearms. He said that he thought it was unfortunate that those wide powers were given to tribal policemen and that they should be subject to the authority of a superior officer. In other words, power to use firearms by tribal policemen should only be on the order of a superior officer. Well, Sir, there are two answers to that: the first is that if he goes back and looks at the existing Ordinance, he will find that the power to use firearms is a very general one. The power proposed in this Bill is a specific one, and it limits specifically the power of a tribal policeman to the use of firearms on three occasions, and on three occasions only. Now, Sir, as a matter of general principle, I would agree with what he says about tribal policemen being subject to superior officers' orders in the use of firearms. But I do not think it would be possible in any of the three cases which are referred to in clause 14. If hon. Members would turn to page 6, and look at the Bill. They would see that

a tribal police officer may use firearms only to the extent necessary for three purposes. The first against any person in lawful custody charged with or convicted of a felony (that is, a very serious offence), when such person is attempting to escape or is escaping. Now, Sir, supposing a tribal policeman is conveying a man charged with murder or convicted of murder, or convicted of any other serious crime, in arrest from place A to place B; and the felon, or suspected felon, seeks to escape. It would be clearly impossible to get the authority of a senior officer; he could not wait and say "Please ring up", or send a letter, "Could I shoot this man while he's escaping", because he would have escaped.

The second case is that he can use firearms against any person who tried forcibly to arrest a man in lawful custody, and the same argument applies there. And the third case: he can use firearms only to the extent necessary against a person who uses force to prevent lawful arrest.

Now, Sir, those are cases which arise suddenly. It would be impossible to go away and get permission, and I would also draw the hon. Member's attention to the proviso to the clause, which cuts down this power. It says, in respect of an escaping prisoner, the power can only be used if the officer has reasonable ground for believing that he cannot otherwise prevent the escape. In other words, if there is no real need to use firearms, he is prohibited from using them; and much the same in respect of the other two cases under the proviso.

Then, Sir, he talks about the powers of arrest under clause 13. Those powers are co-extensive with the powers enjoyed by a constable in the Kenya Police, and they are powers, Sir, which are given to the tribal policemen for protection of the ordinary decent citizen. The purpose of a police force is to protect the ordinary decent citizen, be he African, or Asian or European, or any other race, in the quiet enjoyment of his property and in the safety from attack by criminals, and, Sir, these powers are given for that purpose. I am always saying that there is the difficulty of giving too much power, or too little power, and you have to try to find the middle line, and here we have tried to find the middle line.

[The Minister for Legal Affairs]

I think the hon. Member drew attention to clause 13 (h) which says that a tribal police officer may arrest without warrant any person for whom he has reasonable cause to believe a warrant of arrest has been issued. Now, Sir, the hon. Member said he feels that really that should only be exercised under the authority of a senior officer.

Sir, supposing a tribal policeman knows that a warrant of arrest has been issued against a man who is suspected of committing a very serious offence—murder, bad assault, robbery, arson—is he supposed, when the tribal policeman sees someone whom he believes to be that person, to go away and get authority from a senior officer? The person would clearly disappear, and the policeman must enjoy this power of being able to arrest that person, take him along to his senior officer, and say, "I have arrested Bill Sykes because there is a warrant out for his arrest for burglary".

Now, Sir, the hon. Member for the Central Province North said that tribal policemen should be trained properly. I entirely agree, Sir, and that is one of the purposes of this Bill. If he would turn to Part V of the Bill, which is set out on page 8, it deals with discipline; and we have introduced new measures here to give authority for the proper training and the proper disciplining of the Tribal Police. If he would look at the new clause 19, which was not in the old law, he will find that these tribal policemen are specifically stated to be subject to the law and regulations for the time being in force relating to the public service.

Then, Sir, clause 20 goes on to give the powers of punishment over tribal policemen in order to ensure that they do not commit offences. Sir, the only real difference between this and the old, is that under the old Ordinance one of the punishments that could be imposed was 15 lashes. Well, I do not think that in these enlightened days we want to have that kind of punishment imposed on tribal policemen.

10.15 a.m.

I would use this as an example of an argument that I shall be very glad if the

hon. Members who have opposed this Bill would think about.

At the moment we have the Tribal Police Ordinance which was enacted in 1929. This Bill is undoubtedly an advance on that old Ordinance. Now, if the hon. Members were successful in their opposition and prevented this Bill from becoming law then we would be thrown back on the old law; and although they may argue about some of the provisions in this Bill, it is undoubtedly an advance on the existing law, and I think that although hon. Members may be complaining that we are not taking two steps forward, we are certainly taking one step forward. I would ask them to support the Second Reading of this Bill now, and possibly, in due course, we may be able to take the next step forward too.

Sir, there is one other matter that I should like to refer to; and this was again raised by the hon. Member for the Central Province North whom I do not see here at the moment. He said that the Tribal Police had a feeling of inferiority. On that I would say that their feeling of inferiority is not going to be abolished by criticism of the Tribal Police in this Council.

Sir, the principal and proper way to enforce law and order is for the ordinary citizen to feel that he is on the side of law and order. You have a civilized state when the majority of people in the state feel that the policeman is on their side and not against them. That is what we are trying to do; and this is one of the steps the Government is taking to achieve that end, namely, the introduction of this Bill. If we really can aim at a goal of the African feeling that the Kenya policeman and the tribal policeman is on his side, and that they are united together in order to stop the commission of crimes, then we shall have made a very great step forward in the civilization of this country.

Mr. Speaker: I beg to support.

Mr. MUMBI: Mr. Speaker, Sir, after discussing certain provisions of this Bill with the Minister for African Affairs in his office I felt that there was reason to support the Motion, but, like my friend, the Member for the Coast, I should like to ask the Minister to consider certain powers which we think are overriding

[Mr. Muimi]

to see whether they could at this stage be deferred until such training as the Africans have pointed out as necessary has been effected in so far as the Tribal Police are concerned.

Sir, in supporting this Motion I would like to ask the Minister to assure us that the execution of these powers by the Tribal Police will not be discriminatory. May I, Sir, give an example of what I mean by discriminatory execution? When an African passes a barrier which has been erected on the roads he is stopped and searched. But when, say, a non-African passes the same barrier he is not stopped and searched. If the Minister would assure us that where such things happen there will be no kind of any discrimination between the races then I believe the Africans would support this Bill.

Another thing, Sir, which I would like to be assured about, is the methods which the Minister purports to pursue in order to explain these powers to the tribal policemen; because in most cases these tribal policemen are quite illiterate. If it is sometimes difficult to explain these provisions of the law to the regular policemen who have to undergo a course of training at some great length then I do not know what methods the Minister thinks would be suitable to make the provisions of the law clearly understood by the tribal policemen.

With those few points, Sir, I beg to support the Motion.

MR. MBOYA: Mr. Speaker, Sir, the last time the Bill was in the Council my colleagues and I opposed it, but at that time we expressed certain fears. We expressed the fear that we thought that some of the regulations would give extra powers to tribal policemen. This fear was mostly related to our conviction that (a) the record of the tribal policemen, and the police as a whole, has not been one that is very impressive, and (b) that the extension of the regular police force into the reserves made the position of the tribal policemen one of subordinate status or one of inferior force to that of the regular police; we did not quite understand how the two were to work together.

I am myself grateful to both the Minister for African Affairs and the

Minister for Legal Affairs for having explained the position a bit further to-day. However, I must still express our very deep concern in the various aspects of the administration of, or the exercise of the powers so provided to the tribal policemen. My colleagues have already referred to some of these fears. I think we cannot but emphasize these fears and state that one of the solutions to it lies in better training facilities for the tribal policemen and also in the selection of the type of people who should be enrolled for this type of work.

Time and again we have expressed our concern and dissatisfaction with the manner the regular police force has exercised its various duties and responsibilities, and this dissatisfaction has extended right down below to the ranks of the tribal policemen and various other persons.

In the urban areas where in recent years we have introduced chiefs and consequently tribal policemen the situation is sometimes even more difficult and complicated; and here, I think, a special examination of the situation will have to take place. We have problems of demarcation of responsibilities as between the Administration, the local authorities and, in the more recent years, as between the regular policemen and the tribal policemen whom we refer to very often in the urban areas as "Home Guards". I think it is in the interests of our community and the public at large that this demarcation of responsibilities and scope should be made rather more clear both to the public and to those responsible for administering the law. It is, I think, essential that some of the misunderstandings and therefore the confusion that arises should be removed.

I would, as my colleagues have already done, support the Bill with very definite reservations and seeking a very definite assurance from the Government that the training facilities and methods will be improved upon and that the force as such, the discipline of the force as such, and the understanding of the force as such of its responsibilities will be improved upon.

Mr. Speaker, I beg to support.

MR. ODINGA: Mr. Speaker, Sir, I have one or two points to raise because I feel that my colleagues have exhausted some

[Mr. Odinga] of those points which I would have also liked to raise.

The Minister has tried and I am glad, as he has already explained here, that he invited us to his office and he did what he could to show us that this was an improvement on the old Ordinance. But, Sir, we raised some of the points and I think there is a point which I still hold very strongly and which I would like to raise here still.

I would not have actually opposed or reserved myself in support of this Bill if the Minister could assure me of when he feels that the Tribal Police would be put directly under the African district councils; because I feel that if this force is under the African district councils then they, as legislating bodies, could regulate these forces and pass by-laws to control the Tribal Police in their areas.

I know that the Tribal Police were put into the field mainly, as the Minister has already explained, to deal with the local affairs; and in dealing with the local affairs it is most fitting that they should be under the African district councils, which are the authorities in the particular localities. At the moment to leave them directly under the Administration I feel is a duplication of duties because the Administration easily use the Kenya Police Force for all their activities; and I do not see the reason why it should also still be retained in that Department.

At the same time I would also like it if the Minister could assure me of what he is proposing to do if the present Kenya Police, who are, I think, so many reserves in the African reserves, are to go. As it is the Tribal Police are there, and I raised this point last time; I think this is an overlapping of the duties in the African reserves. At the present moment there are a lot of difficulties because the Tribal Police might go to some quarters and search them and then later on the Africans themselves will be complaining that the police—"The police came to my quarters; they searched all round; and quarters; they searched all round; they disturbed us throughout the night". Well, if that report came to me I might go and approach the police officer who go and approach the police officer who will be puzzled because he has not given any orders to anyone to go to search that area. Then, later on, it is found in many cases that the Tribal Police are responsible.

In discussing our problems we have found that the police officers, who are sincere, generally say they get a lot of confusion; and a lot of the blame which they generally get is due to the tribal policemen.

As such, Sir, I would like these two points made clear, that I would like the assurance from the Minister that the present number of the Kenya Police who are in the African areas will be reduced or will be reduced almost to their former numbers before the Emergency. At the same time I would also like to know when he is considering the transfer of the Tribal Police to be directly under the African district councils, to be controlled directly by those authorities.

With these few remarks, Mr. Speaker, I reserve my support.

10.30 a.m.

MR. ALEXANDER: Mr. Speaker, clause 23 deals with expenses and in the Memorandum of Objects and Reasons to the Bill it does say that no additional expenditure of public money will be incurred if this Bill is enacted.

I use these two places, Mr. Speaker, to raise a general question. There are disquieting stories that the police and the forces of law and order generally, including the Administration, are being seriously hindered in the execution of their immediate task of maintaining law and order by reason of the system of mileage quotas and petrol quotas that are at present being applied. The stories are even more disquieting and unrealistic in the unimaginative and unrealistic attitude adopted by the Treasury in the interpretation of these regulations. In fact, it is well known that policemen and other members of the forces of law and order are having to walk to carry out their duties once their mileage quota is finished. I do hope that, particularly at this time of disquiet and some unrest in the Colony, the Government will to this question give us reassurances that these tribal policemen and indeed, these policemen generally, are not going to continue to be hampered in the way that they are at the present moment.

This, I can assure you, Mr. Speaker, is causing considerable disquiet in the minds of the public generally.

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones): I should not like an expression of anxiety such as we have just heard from the hon. Member for Nairobi West to pass without some statement from the Government side.

Accordingly, I give, on behalf of the Government, an unqualified assurance that the needs of law and order and the maintenance of security receive, and will continue to receive, a top priority in the competing claims on our available finances.

That does not mean to say, Mr. Speaker, that we can or will tolerate any profligality in the disbursement of public funds; and we are embarked on a positive and active campaign of economies wherever they are to be found. But economies, obviously, which would reduce the necessary effectiveness and quality of our forces for the maintenance of public order would not be economies in the true sense. We do require all officers to ensure, for instance in regard to mileage—as I fear they have not always ensured in the past—that their journeys, when they make them, are necessary, and that when a number of people are going on the same occasion to the same destination they do not all go in separate vehicles but use, to the best advantage, less transport.

With those necessary qualifications, in which I feel sure the Government will have the certain support of all Members of this Council, I would like to reiterate the assurance which I have just enunciated.

I beg to support.

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): Mr. Speaker, I think that my hon. friend, the Chief Secretary, and my hon. friend, the Minister for Legal Affairs, have answered most of the points of substance that have been made in the course of this debate.

In winding up, therefore, I would merely like to mention one or two points that hon. Members opposite have made.

First of all, the hon. Member for Nyanza North indicated that in 1929 the Tribal Police had some definite purpose to perform but now had not. That is entirely an expression of opinion of his own with which I certainly do not agree. I could quote to him, for instance, the

fact that in the Southern Province 75 per cent of the stock thefts which occur are, in fact, detected by the tribal policemen.

The hon. Member for the Central Province North mentioned the importance of getting tribal policemen trained to understand their responsibilities and duties. I entirely agree with him, Sir, and I had hoped that I had made it fairly plain in my opening remarks on the debate that such was my intention—that I wished tribal policemen to have expanding courses of training. I did not mention that, in district headquarters, courses are held by the district officers themselves, who are in immediate charge of the Tribal Police, explaining to them their powers and duties.

The hon. Member for the Coast Rural, so far as I understood him, said that no course had been held in the Coast Province. If I may correct him on that, Sir, a course was held recently at Kilifi and it is proposed to hold two more this year.

I was grateful to hear that the hon. Member for the Coast supported the Bill: he mentioned that he thought we should come to the time when the Tribal Police should be unarmed. I would like to say that I entirely agree with him. That progress is in fact going on now and even in the Central Province we are carrying out patrols with unarmed tribal policemen.

The hon. Member for Kitui supported the Bill but he did mention the question of discrimination, particularly in respect of barriers which had been erected on the roads. He seemed to imply that although Africans were stopped and searched non-Africans were not. I am rather surprised at that because in point of fact I was entering into the constituency of the hon. Member for the Central Province North which I used to know quite well in my younger days, and in fact I was stopped at the barrier by a tribal policeman who searched my car. I was not, incidentally, wearing my ministerial flag!

The hon. Member for Nairobi Area said that he had opposed this Bill last year for two reasons. One of the reasons he gave, which I regretted to hear, was that the record of the tribal policemen

[The Minister for African Affairs] was not impressive. Now, Sir, may I say at once that certainly in the Central Province, of which I have the greatest knowledge, the record of the Tribal Police was quite outstanding and more tribal policemen were killed in the execution of their duties than in any other arm of the forces of law and order. They were quite magnificent; and I am glad of this opportunity in this Council to say so.

His second point was that he considered the extension of the police into the reserves made the tribal policemen redundant. Now, I hoped that I had covered that point to some extent in my opening remarks, Sir, and I do not propose to go back to them. But he did say—and here I feel some sympathy with him—that there perhaps should be an examination made, in the urban areas, of the responsibilities between the various forces of law and order—the Kenya Police, the Tribal Police, and so on. I agree that probably some examination would be useful and I would propose something of the kind should happen. But I also believe that the hon. Member himself was under some misapprehension because he referred to the Tribal Police as the Home Guard. Now, those are two totally different forces. The Tribal Police have no connexion with the Home Guard.

MR. MBOYA: I said that they were often referred to as the Home Guard.

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): I thank the hon. Member for his correction.

Finally, Sir, the hon. Member for Nyanza Central asked me for an assurance that the Tribal Police should come under the African district councils—the local authorities. Well, Sir, of course, I cannot give that assurance at all. For many years to come the police forces must be under the control of the Central Government, and it would be quite wrong to give any assurance that the Tribal Police Force should come under what is, after all, a comparatively new body, an African district council, which is still going through its teething stages. Nor, of course, can I give any assurance. I regret, as regards a reduction in the number of Kenya Police in the reserves

That, I regret to say, Sir, is not my responsibility.

I hope I have covered adequately the points made by hon. Members in the course of this debate. I am very glad that this time there has been, at any rate, quite a measure of support for this Bill.

Sir, I beg to move.

The question was put and carried.

The Bill was read the Second Time and committed to a Committee of the whole Council to-morrow.

#### COMMITTEE OF SUPPLY

Order for Committee read. Mr. Speaker left the Chair.

#### IN THE COMMITTEE

(D. W. Conroy, Esq., O.B.E., T.D., Q.C. in the Chair)

#### £500,000 OFFICE BUILDINGS LOAN

THE CHAIRMAN (Mr. Conroy): When we reported progress yesterday and asked leave to sit again the amendment had been defeated and we were dealing with the Motion in its original form as set out in the Order Paper.

10.45 a.m.

MR. MACKENZIE: Mr. Chairman, Sir, I should like to thank the Council for the opportunity that has been given to have the consultations regarding this particular Motion, to marshal the various arguments that have been put forward already and go over them once more. They have, Sir, I know, been dealt with at quite considerable length, but I think it might help the consideration of the Motion that is now before the Council if I were briefly to run through them once again.

In the first place, Sir; these buildings are necessary ones. A new Crown Law Office is necessary because the present one is falling down and because in any case the site is needed for other purposes. The Lands Office, Sir, is an abomination at the moment and there are again planning considerations concerned with the site which make it necessary for it to move in any case. The Labour Office is situated in unsightly temporary buildings which should have been cleared away years ago in order to enable development in the centre of Nairobi to take place. The Government has for a long time

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been under very considerable pressure to do something about that particular rabbit warren.

The Ministry of Works—everyone knows how inefficient the present buildings are and that it is most essential that they should be rehoused for the sake of efficiency.

Unfortunately, it was necessary to keep these various buildings out of the Development Programme, although they were all matters which were brought forward by Ministers as being essential, because there was no money available within the general borrowing powers of the Colony. Since then, Sir, various possibilities have been considered, the possibility of renting accommodation has been considered, and then it was considered, for reasons which I will give later, that that would be an expensive way of dealing with this particular problem, and therefore the current basis, which is under discussion now, was gone into. This, Sir, as I have said several times before, provides additional money which would not be available to add to the general development loans of the Colony and which, if it were not used for this purpose, would not be available at all.

This money can be made available for the particular purpose on a mortgage basis, and it is not therefore to be counted against money which the Colony hopes to obtain, both locally and from the London market, for its general development purposes.

In this connexion, Sir, I should say that even if the money for the whole of the existing £23,000,000 programme were not available, this particular £500,000 could not be used for stopping any gap. In fact, Sir, it could not be used for any other purpose; it could not be used for schools or hospitals or airfields or roads or African housing. It is only available for buildings on a mortgage basis and that means, of course, a realizable basis; the buildings have got to be put up somewhere where they could be realized if necessary. The money in question, Sir, is local money and what the Government is doing is ensuring that it remains in the country. It is making certain that this money will be used to develop the Colony. It will assist the building industry and in this connexion I would

like to quote from an article in one of our local newspapers, dated 16th February, where the reporter of this newspaper was speaking to one of our leading builders. He says: "I asked him about his views on the building barometer. 'Potential building work', he said, 'has dropped right off. The contractors here have large staffs to maintain and in order to do this they must try hard to get work for their men to do. The British tight-money policy is undoubtedly going to have an effect on future development, and we shall quite obviously be feeling some of the pinch.'"

Sir, this, amongst other things, is a contribution the Government is making towards easing that particular pinch. In addition, Sir, to that, as I have already said, it would be proposed that the building would be put out to private contract, and this would certainly assist local industry.

Now, Sir, if we did not build now, what would happen? In most of the cases, certainly with the Crown Law Office, the Labour Office and the Lands Department, we should have to build or rent, and in the case of the Ministry of Works, as I have said before, if development is to take place, if we are going to have efficiency, we consider that the case is just as strong for them as for any of these other departments.

Now, Sir, the difference that we are dealing with is really the difference between commercial renting and the combined interest and capital repayment for this sum of money. We have gone into this matter fairly carefully, and in the Government's view it is far more economical to build on these terms than it would be to rent. To take a concrete example, Sir, the Crown Law Office. It is estimated that the cost of this would be approximately £80,000 and that will give, at present building costs, round about 29,000 square feet of plinth area, that is at about Sh. 55 per square foot. The current plinth area rental for buildings in Nairobi is, I am told, round about Sh. 11/65 per square foot. This figure, of course, includes something from maintenance, rates, insurance and land rent. If for these items on a 29,000 square foot building we allow Sh. 2/65, that is, we reduce the rent to Sh. 9 and the value of that is £3,850, this will give an annual rent of about £13,000 per

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annum to compare with £11,390 which would be the annual repayment in yearly instalments for borrowing £80,000 at 7 per cent with equated payments over 10 years. So that, Sir, the annual rent—Sh. 9 per square foot, which is a very reasonable figure, if it could be obtained—would be about £13,000 and the cost of doing it, the way the Government is proposing to do it, would be about £11,390, say, £11,400; and in spite of actually saving money over the 10-year period, the Government, at the end of the 10-year period, would have a building of its own, whereas if the same building were to be rented, at the end of the 10 years we should have no asset whatsoever, and we should be faced still with either having another lease or putting up another building.

Well, Sir, that is an example from one of the buildings involved. Looking at the thing from a general economic point of view, one can develop that particular theme. £500,000-worth of building at Sh. 55 a square foot would give us 181,727 square feet of accommodation. The cost of this again at 7 per cent, with half-yearly payments spread over 10 years, would be £70,361. I might say that if the payments were equated annually the difference is very slight.

Now, Sir, to rent 181,727 square feet of accommodation at Sh. 9 a square foot would cost £82,676, so that here again, on the total job, it shows that it is a very economic proposition. There is a saving to the Government as compared with the cost of renting of £12,000, and I might say that with the Sh. 9 per square foot the allowance has already been made for rates. Of course, it will be obvious to all hon. Members that, as was said yesterday, one of the advantages of undertaking this particular task is going to be that we shall be able to concentrate the staff concerned on a very much smaller area, and we shall be able to release quite a large area of land for development for other purposes. That, again, will be a considerable economy.

Then, Sir, one further point on these comparisons is that if we merely take the Crown Law Office, the Labour Office and the Lands Office, there, Sir, we have a total requirement of some 80,000 square feet. There again, at Sh. 9 a

square foot we should be paying some £36,000 a year in rent. There can be no question that we should have to meet that in the next year or two, if we do not carry on with this. That is £36,000-worth of rent; again the annual cost of the whole proposal for 10 years would be £70,361, which leaves some £34,000 as the cost of rebusing the Ministry of Works, making it much more efficient, saving in officers' travelling time, on the waste of time walking from one office to another, and also freeing considerable areas of quite valuable land in the industrial area for other development. I consider, Sir, that this is very much in the taxpayers' interest.

11.00 a.m.

One point that has been made is that this money, if we do decide to go ahead with this, should be taken from the development side of the budget. In practice, Sir, that I do not think is really a tenable argument. The fact is that even if we did take it from the development side, the interest would still be payable from the recurrent, the interest on moneys raised on the development side, and equally if we were to undertake this work from the development side some other essential project would have to be cut out, because, as I have said before, it would take up development moneys. So there would not be any particular gain. I have already shown that in fact there would not be any particularly great additional burden on the recurrent expenditure of the Colony. In fact, if the economies which I would expect to see take place do come along there might be an overall saving.

There is one further point. I am told that it is by no means uncommon to meet, if it possibly can be done, part of the capital costs of a programme from revenue. I am told, in fact, Sir, that even the Nairobi City Council has accepted a principle of that kind. I believe even at the time when my hon. friend, the Member for Nairobi West, was connected with the Council, that principle had been accepted when it could possibly be done. It is not unreasonable to meet some of the cost of capital development from revenue.

Then, Sir, there is the employment aspect. I have already mentioned that this will give a shot in the arm to the

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building industry and of course in doing so it will help on the employment side. We all know that there is a recession in a number of countries overseas and if we possibly can protect ourselves, even to a small extent, from some of the effects of that, by providing extra work for our people here, I think there is a great deal we should go a long way to do. I would say, Sir, that from point of view alone, this particular project should be regarded as an essential one.

Then finally, Sir, there was one other point which was made and that was since the Government does not make a budget statement and indeed refuses to do so from time to time throughout the year we should hold this up until the budget. Well, Sir, my answer to that is that this money comes along as a fortuitous windfall; it is something that the Government has been able to obtain and negotiate quite apart from the normal budget exercise. The Government, Sir, when it has a problem in front of it, must act as and when it can; we cannot stand around waiting for some particular time of the year before taking action on a matter of this kind. Therefore, Sir, I am afraid that it would not be practical to wait for the budget.

Mr. Chairman, I beg to move.

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones): Mr. Chairman, Sir, I want to add just a few words to say that the Government has appreciated and made good use of the over-night deferment of this Motion in consultation and in consideration of the views that were put forward in the debate yesterday, and to collate, in summary and by way of recapitulation of a long debate of frequent and broken inter-changes, the reasons underlying the proposal the Government has submitted to the Council in this Motion. We have given very careful and serious consideration to the views put forward from the other side of the Council yesterday; we believe that there was a measure of misunderstanding yesterday of the Government's motives and reasons in putting forward this project. I hope that after the deferment of yesterday and the opportunity of reflection which was given to us all, and after the review to-day of the main factors material to this proposal, it is

possible for my friends opposite to regard this Motion in a fresh perspective and perhaps with less misgiving than they entertained yesterday.

I want to make it very clear, Sir, that the views of hon. Members on the other side of this Council, both critical and encouraging, are regarded by the Government as most important and as entitled to receive the most careful and serious consideration. To-day's Order Paper gives, I hope, in its contents two practical demonstrations of the Government's resolve to accord the fullest possible weight to expressions of opinion from the other side of Council. I refer to the Tribal Police Bill and to this Motion, both of which are matters of Government business which have been deferred because of this sort of circumstance.

Having said that, however, Sir, I must also make it clear that the Government cannot in this or any other matter abdicate its responsibility for doing what it believes, after mature consideration and examination of all counter-arguments, to be right. In this matter the Government retains its sincere conviction that the proposal embodied in this Motion will conduce most importantly to the general interests of the country and of the economy of the country. I do not wish to recapitulate all the various factors which have already been reviewed this morning by my friend, the Secretary to the Treasury, but I would merely say in conclusion that we believe that this is an economical proposition, that we will have to have the buildings sooner or later—and in some cases certainly sooner—and I therefore commend the proposal to my friends on the other side of Council for their consideration.

Mr. Cooke: Sir, I do submit that it was a pure waste of time to adjourn this debate. The arguments we have heard this morning we heard four or five times yesterday, and the hon. gentleman must really think we are a lot of simpletons if he thinks we are going to accept them to-day. Is he making an appeal from Philip drunk to Philip sober? If he is, I can assure him that Philip was just as sober yesterday as he is to-day. I do not think there is any chance that any Member on this side of Council for one moment is considering accepting the Government's Motion.

[Mr. Cooke]

Perhaps the hon. gentleman brought up one or two fresh arguments, if you might call them so, but they were all founded on premises—I mean premises, Sir, not the buildings we are talking about to-day!—which no one on this side of the Council, at any rate, would be prepared to accept. So that the conclusions he has reached to-day from his own false premises certainly, so far as I am concerned, have not the slightest chance of changing the views I held yesterday.

Mr. ALEXANDER: Mr. Chairman, I have an amendment to move, but before I do so I just wish to say a few words on what has been said this morning and what happened yesterday.

Firstly, I am sure I am speaking for most of us on this side of the Council when I say how grateful we are to the Secretary to the Treasury for the great deal of trouble he has taken in the few hours available to him since yesterday to produce the figures that he has done. I would only say this, Mr. Chairman, that if the Government have other proposals like this in future—and it has been clearly indicated to us that they might well have such proposals—I go suggest, for the convenience of all of us, that the Treasury should circulate a paper showing quite clearly the financial pluses and minuses in any scheme of this kind. It would have helped us very greatly yesterday. The difficulty this morning in listening to the Secretary to the Treasury was that it was rather like listening to the long economic preamble in the Budget speech. It is such a mass of figures that we are really quite unable to absorb them. Nevertheless I am sure we are truly grateful for the work he has done.

I am sure, Mr. Speaker, I speak for most of us on this side of the Council when I say also how truly appreciative we were of the gracious action yesterday by the Acting Chief Secretary, when he clearly sensed—and had the good sense to sense—the attitude on this side of the Council and enabled us to postpone the debate in the way he did. It had two very important effects; it showed quite clearly that the Government is prepared to take notice of the unified voice from this side of the Council, and it showed—perhaps even more important still—to all of us on this side of the Council what we can

do to Government and to ourselves if we will co-operate and speak with one voice.

What the Secretary to the Treasury has not told us to-day, which we particularly asked of him yesterday, is whether it was possible to go back to Barclays Bank—and there has been time to do it—to ask them whether there is any other arrangement whereby this money could be refunded over a longer period than 10 years. Not that Barclays Bank should be asked to lend for more than 10 years, but perhaps they might agree to an arrangement whereby this money could be refinanced, say, at any time before the end of the tenth year, possibly in the ninth year. My calculation on an annuity basis, that is, equating capital and interest by annual instalments over 10 years, is that this is going to cost us—that is, the whole £500,000—£72,000 a year from our current expenditure in the annual budget.

The Secretary to the Treasury did tell us that it is not unusual to finance capital out of revenue and he went on to cite the example of our leading local authority. I can tell him that it is most unusual to finance long-term assets out of current revenue, and what he is thinking about is the financing of short-lived assets, such as vehicles and the like, out of current revenue. I do hope that he does not think his words are a precedent that we are likely to accept on this side of the Council.

He did also criticize us for, as he put it, asking for Budget statements. Mr. Chairman, we are not asking for Budget statements, but what we are asking for is a general all-round appraisal of where we are either on recurrent or on capital expenditure. This particular Motion relates to capital expenditure and it relates to capital expenditure and it would have been a help—not in a Budget statement but just in round figures—to state us where, at this moment, we are before asking us to add another £500,000 to the burden.

11.15 a.m.

Mr. Chairman, my amendment concerns the construction of the Crown Law Office, because I consider that the only real case made out from the Government side is for the work on the Crown Law Office to proceed as quickly as possible. I see no case whatsoever as to why the other three buildings—not three buildings, but the Works, the Labour and

[Mr. Alexander] the Lands—cannot wait until this matter has had the opportunity of far greater consideration, and therefore the amendment I wish to move, Mr. Chairman, is that in the third line the figure of "£500,000" be deleted, and in place thereof substitute the figure of "£80,000", the rest of the wording of the Motion to remain as it is, but my intention being quite clearly that this £80,000 is so that work can proceed on the Crown Law Office and that the remainder of the work should come back to us after there has been fuller consideration.

Mr. Chairman, I beg to move the amendment.

*Question proposed.*

MR. SLADE: Mr. Chairman, I support that amendment for the reasons that were given from hon. Members on this side of the Council yesterday. I do not think we need repeat those reasons again to-day.

As regards the Crown Law Office, in spite of my sentimental desire to keep it where it is, I realize that the Attorney-General has got to get rid of these "bats in the belfry", and perhaps the time to do it is now. All the same, the principle is there—the principle which has not been adequately answered even to-day. That is, that new ventures of this kind should be brought before us at the proper time as part of a general pattern of Estimates of Revenue and Expenditure.

The effect of this amendment will be that we allow for a very special emergency need; but for the rest, we preserve the principle. I am completely unimpressed by what was said this morning in justification of this new procedure. It was said that the Government must take advantage of windfalls. Well, Sir, if a gift of a £1,000,000 came suddenly from the blue and urgent expenditure was needed, that might possibly command some sympathy, but to describe the opportunity of borrowing £500,000 at seven per cent per annum on fixed security as a windfall, is stretching things rather far.

Mrs. HUGHES: Mr. Chairman, I would like to say how much I appre-

ciate all the information that has been put forward by the hon. Mover to-day. Certainly to me the position is very much clearer and I should like to say how much I do think that it is right we should encourage the building industry at this particular time. There is a recession in the building industry and many of the big firms that set up large workshops here are thinking of leaving the country. If we are to develop this country as we should, I think we have got to do everything in our power to keep them here.

I would support, however, the amendment, because I think the timing of this Motion is wrong and I feel it could have been left over until the Budget debate.

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones): Mr. Chairman, Sir, my baser human instincts lead me to have a certain sympathy with this amendment. My responsibilities as a Minister compel me to reject it on behalf of Government.

I feel that it might assist if I, as very much a layman and amateur in the field of finance and economics, who understands about one word in five when economists and financiers speak, were to review very briefly the compulsions in this project as they appear to me—to me as, perhaps I might be 'forgiven' for borrowing from the literature of my profession, "the man on the Dagoretti Corner omnibus".

Now the projects with which we are concerned this morning, were all among those approved, at the time the Development Plan was under consideration, as necessary. They were approved by the Government, at the time the Development Plan was under consideration, as necessary projects, it being realized that within the course of the next few years, if we were unable to build these buildings, we should have to embark on expensive renting. There was not enough money in the Development "kitty", if I may so put it, to include these particular projects, but in the case certainly of the Crown Law Office and the Ministry of Works, token provision was included to enable planning to proceed. There were other projects also excluded, on an assessment of competitive priorities, from the Development Plan.

[The Acting Chief Secretary]

Now, Sir, extra money in the form of this £500,000 on a mortgage basis has become available, but only for these projects, being projects involving the erection of buildings of a readily realizable character, both in regard to the nature of the buildings, their location, etc. The extra money which is available to us is not available for the other projects which were excluded from the Plan, therefore no question of competing priorities arises in respect of this particular proposal. We can either have the money, on the mortgage basis which has been described, for these projects, or we cannot have the money. This extra money has been negotiated, of course, by the Minister for Finance since the Development Plan was drawn up and approved. If this money is not taken up by the Government—this offer—the opportunity will be lost.

Now the reason for interposing this project at, you might say, an unusual or abnormal time or stage in the normal financial procedure, is that it is an unusual transaction, presenting an opportunity which has to be taken or rejected as it offers. I understand that it is not unusual for governments to take up such chances of raising capital extra to their—what you might call their more orthodox expectations of capital, on a special basis such as this. May I emphasize also that since we have this opportunity at a time which does not fit in with the normal financial procedure—the time of the Budget or the Estimates—we have taken the course of bringing the matter before the Council on an express Motion applying to this matter and this matter alone. We have not in any way attempted, I suggest, to introduce this project without high-lighting it, in fact, before the Council by way of this Motion.

It has the additional economic advantages, which have been explained, of injecting local capital into our own economy and of injecting a most necessary and desirable stimulus into our local building industry, and on the figures which have been quoted—I apologize to the hon. Member that there has not been more time for him to consider them in greater detail—but they do speak, I believe, very loudly in favour of this project. They do show that there is

a very strong economic impetus behind this particular proposal.

I would just like to make one point which relates to a matter raised by the hon. and learned Member for Aberdare yesterday, and that is that so far as the mechanics of carrying out this particular mortgage exercise are concerned, my hon. and learned friend, the Minister for Legal Affairs, and I have already been considering the possibility of using a nominal statutory corporation for the purpose, but I would not wish to go into any further detail in that regard at the moment.

Finally, I can only say, Sir, again that we believe most earnestly that this undertaking is in the interests of the country and of the economy of the country, and of the taxpayer of the country in the long run, and of all persons in the country engaged in the building trade.

Sir, I beg to oppose the amendment.

MR. HARRIS: Mr. Chairman, I would like to add to what the hon. Member for Nairobi West said about the graciousness and the good sense of the Leader of the Council yesterday in putting the steamroller into reverse. In fact, Sir, I was so taken with his action that I was getting prepared to oppose this amendment which has been moved by the Member for Nairobi West, until the Acting Chief Secretary just spoke.

We have again, Sir, had a repetition of this argument that suddenly capital moneys have been made available for a particular project, which is taking the Government's own Development Plan out of its normal priorities. Now, I appreciate the point, Sir, that this money is only available for these particular buildings, but what is worrying me is not the finding of the capital but the repayment of the capital. We only have limited resources in this country per annum to repay capital moneys and interest, and it seems that by accepting £500,000 out of the priority list, we are going to put out of the Government itself something that the Government itself admit was of higher priority and put it below these particular projects in the list.

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones): That, with respect, does not follow at all. It is not what I said.

**[The Acting Chief Secretary]**

I said that these particular projects were among others that were excluded from the Development Plan. But there is no question of competing priorities arising in this particular connexion. I did not suggest there were other excluded projects which would have been given a higher priority than these.

MR. HARRIS: Mr. Chairman, the point I am making is this, that when the Development Plan was introduced there was a gap between the money that we could raise and the money that was required for those projects which were actually on the Development Plan, approved. By taking this £500,000—or rather, by having to repay this £500,000 over the next 10 years, plus interest, it seems to me that there is even that much money less for those projects in the Development Plan for which we have not yet raised the money.

**THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones): No.**

MR. HARRIS: Sir, it is no good saying "No". I have had this argument twice in the last 24 hours and I am getting very tired of it, as I am quite sure the rest of the Council is. But, Sir, I will put it in simple language so even the Minister for Defence can understand.

11.30 a.m.

If we have, Sir, £1,000,000 available each year over the next 10 years to repay capital development projects, we are, by this Motion, committing £71,000 of that £1,000,000 every year for the next 10 years. Therefore, on those items which have a higher priority in the Development Plan, we only have 492,200 or whatever the difference is between £1,000,000 and £71,000.

MR. MACKENZIE: I thank my hon. friend for giving way, Sir, but I would like to make one point about what he has been saying now, because I do think that he is under a slight misapprehension on this question of the Development Plan. The point is, Sir, that the £23,000,000, in which I agree there was a capital gap, was fixed at that figure not because of any difficulties that the Government felt it would have in repaying a larger sum than £23,000,000, not because it was felt that if, for example, we could have got £30,000,000, that it would have been

more difficult to repay it. In fact, in the present state of development of the Colony, if we had thought there was any chance of being able to raise £30,000,000 on the market here, or in London or anywhere else, we would certainly have gone for that, because it would have been an extra stimulus to the development of the Colony. We all know that there are hundreds of things that need to be done—building of roads, aerodromes, schools and many other things that have been mentioned during the course of this debate.

It was not, Sir, £1,000,000 that—

MR. COOKE: On a point of order, Sir, is there not a great deal of repetition going on at the moment?

THE CHAIRMAN (Mr. Conroy): There is a great deal of repetition going on throughout the whole of this debate, and I was going to draw the attention of hon. Members to Standing Orders, which provide that irrelevance and tedious repetition is prohibited. I would ask all hon. Members on both sides of the Council to restrict their remarks to new matters which have arisen and not to the old matters which have been repeated several times and which I am sure we all know very well by now.

LT.-COL. GILLESPIE: Mr. Chairman, I move that the question be put.

THE CHAIRMAN (Mr. Conroy): Well, the new Standing Order, which I think is 64, provides that the Chairman may, if he considers it is not an abuse of the proceedings of the Council, propose the question on it being moved that the Mover be now called on to reply.

There is not strictly speaking in Committee a right of reply, but it is a useful method of applying a closure on a particular issue. I think it would not be an abuse of this proceeding to put the question now—I think we have all had our opportunity to make—

MR. HARRIS: On a point of order, Sir, should not the Member who is on his feet finish what he is saying before the question is put, because in fact I gave way to the Secretary to the Treasury.

THE CHAIRMAN (Mr. Conroy): Mr. Harris, is it your suggestion that both Members who were on their feet should be allowed to finish? I agree with that and I shall give Mr. Mackenzie a right to finish, and Mr. Harris if he so wishes.

MR. MACKENZIE: Well, Sir, all I wish to add to what I have already said is that it was not—I can sum it up, I think, in one sentence—that the borrowing of this money will not in any way affect the question of whether we can or cannot raise the £23,000,000, and it will not in any way affect the question of whether we can repay or cannot repay the £23,000,000. The two are completely unconnected, Sir.

MR. HARRIS: What I wish to add, Mr. Chairman, is this: if this amendment is lost—and it rather looks as if it is going to be—I would appeal to the Government to consider the spirit of this amendment, namely, that would they think very seriously before going on at this time with the two other projects, that is, the Labour Office and the Land Office, and the Ministry of Works. At the same time, I think the Government has the impression that this side of the Council would have no objection to the new Law Offices being erected.

The question that the Mover of the amendment be called on to reply was put and carried.

MR. ALEXANDER: Mr. Chairman, we are completely unconvinced.

The question that the figure £500,000 be deleted was put and negatived, (Cries of "Divide".)

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones): On a point of order, Mr. Chairman there is a lack of adequate support for the division, and I should like to speak to the Motion.

I now beg to move, Mr. Chairman, that the Mover of the main Motion be now called on to reply.

THE CHAIRMAN (Mr. Conroy): Yes, I first rule that there was not sufficient support for a division, and my decision that the noes had it will stand. Secondly, I will—I think without abusing any procedure of this Council—put the question that the Mover of this Motion be called upon to reply.

The question that the Mover of the Motion be called upon to reply was put and carried.

MR. MACKENZIE: I have nothing to add, Sir, to what I have already said.

The question was put and carried.

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones): Mr. Chairman, I beg to move that the Committee do report to Council its consideration of the Motion on the Order Paper and its approval thereof.

Question proposed.

The question was put and carried.

Council resumed.

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

**REPORT****£500,000 OFFICE BUILDINGS LOAN**

THE MINISTER FOR LEGAL AFFAIRS (Mr. Conroy): Mr. Speaker, I have to report that the Committee of Supply has considered a Motion that this Council approves a proposal that the Minister for Finance and Development be authorized to negotiate a loan of up to £500,000 on the most favourable possible terms from Barclays Overseas Development Corporation Limited, the loan to be used for the construction of office buildings, and has approved the same without amendment.

Question proposed.

The question was put and carried.

**STATEMENT BY MR. MBOYA**

MR. MBOYA: Mr. Speaker, Sir, I want to take this opportunity before Council adjourns to make a statement with regard to the Motion or amendment to the Motion of no confidence passed in the Council on Wednesday last. In the amendment to the Motion of no confidence, the Government amendment read: "That this Council has full confidence that the Government will continue to pursue policies which will promote the political, economic and social interests of all the peoples of the Colony, and calls upon leaders of all communities to co-operate with the Government and with each other to this end".

The Council will recall that, in moving the Motion of no confidence, I had restricted myself to saying that this Council, having regard to the recent record of the Government, has lost confidence

[Mr. Mboya]

in the capacity of its Ministers to pursue policies which will remove political, economic and social frustrations of the African people of Kenya.

I wish to state, Mr. Speaker, Sir, that when the amended Motion was put to the Council, we, the African Elected Members, found ourselves in the position where we had to oppose the amendment as such. As a consequence, we are on record probably to have given the impression in the eyes of some people as also having opposed the call upon the leaders of all communities to co-operate with each other and with the Government to the desired end of creating harmony, understanding and stability in Kenya.

I wish to state, Sir, that this is not the case, and that the African Elected Members, on behalf of the African community, make it very clear to this Council and to the country that we are all ready to co-operate, and have always been ready to co-operate with everybody in this country to create a better Kenya for everyone, and I wish that to go on record. All that we did was to express our various grievances in the activities of the Government and the grievances of our people and the fact that they did not, under the circumstances, have confidence in the Government as such.

## STATEMENT OF BUSINESS

THE ACTING CHIEF SECRETARY (Mr. Griffith-Jones): I should just like to make a statement about business, Mr. Speaker, but before I do, I should like to say that we much appreciate the assurances of co-operation from the African Members which we have just heard.

Sir, although we have not, strictly speaking completed all the business outstanding, in that the stages of the Tribal Police Bill subsequent to the Second Reading are still outstanding, I feel that we have all had a sufficiency, if not a surfeit, of proceedings in this Council for the time being, and that it would be a quite unwarrantable charge on the funds of this country if the Council were to reassemble on Tuesday for the purposes only of the Committee stage and Third Reading of the Tribal Police Bill.

Accordingly, the Government is quite content that the outstanding stages of that Bill should be held over until the Council reassembles, and that the Council should now, with your approval, Sir, adjourn *sine die*.

## ADJOURNMENT

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): That being the case, I adjourn Council *sine die*.

*Council rose at forty-five minutes past Eleven o'clock.*

## WRITTEN ANSWERS TO QUESTIONS

No. 48

MR. MBOYA (Nairobi Area) to ask the Acting Chief Secretary—

1 To state:

(a) How many Africans, Asians, Europeans and others are employed in the Department of Information.

2 To give a breakdown of these employees according to the racial grounds in the following categories:

(a) Permanent pensionable

(b) Contract

(c) Temporary and

(d) Subordinate

and further breakdown of the temporary group into married women and others (as per racial groups) and to state how many of these married women holding permanent pensionable posts were appointed by the Civil Service Commission.

3 How many within the above categories and within each racial group have been given letters of appointment?

4 Further to state how many of those appointed by Civil Service Commission were—

(a) Confirmed

(b) Given letters of appointment.

5 How many pensioners are employed by the Department of Information and on what terms of service?

## REPLY

1. Africans .. .. .	205
Asians .. .. .	16
Europeans .. .. .	63
Others:	
Arabs .. .. .	7
Miscellaneous .. .. .	4
Total .. .. .	295

2. (a)

	Africans	Asians	Europeans	Arabs	Misc.	Total
Permanent and pensionable .. .. .	42	8	12	1	—	63
Probationary .. .. .	11	2	8	4	1	26
Contract .. .. .	—	—	15	—	—	15
Temporaries .. .. .	97	6	28	2	3	136
Subordinate staff .. .. .	55	—	—	—	—	55
Total .. .. .	205	16	63	7	4	295

(b) Temporaries

	Africans	Asians	Europeans	Arabs	Misc.	Total
Married Women .. .. .	—	—	22	—	—	22
Others .. .. .	92	6	6	2	3	114
Total .. .. .	97	6	28	2	3	136



**(c) Married Women holding Permanent Posts**

	Africans	Asians	Europeans	Arabs	Misc.	Total
(i) Appointed following advice of C.S.C. ..	—	—	5	—	—	5
(ii) Appointed by authority of Director of Establishments (or Chief Secretary) before institution of C.S.C. ..	—	—	10	—	—	10
(iii) Appointed by Head of Department ..	—	—	7	—	—	7
Total ..	—	—	22	—	—	22

**REPLY**

3. Letters of Appointment have been issued to all members of the staff. An earlier omission to issue such Letters of Appointment to six (6) officers on temporary terms and four (4) on probation was repaired during December, 1957.

4. (a) Of the total Officers now on Probation or Permanent Terms, seven (7) Africans, one (1) Asian, nine (9) Europeans and five (5) others were appointed following the advice of the Civil Service Commission and of these, three (3) Africans, one (1) Asian, two (2) Europeans have been confirmed to the Permanent Establishment.

Letters of Probationary Appointment issued in this respect total four (4) Africans, one (1) Asian and eight (8) Europeans.

5. One pensioner is employed on Agreement which expires in February, 1958.

**No. 51**

MR. MATE (Central Province) to ask the Minister for African Affairs:—

How many families have left villages and taken up residence in their holdings since land consolidation started in the Central Province?

**REPLY**

In the Fort Hall, Kiambu, Nyeri and Embu Districts some 238 families are in the process of moving out of villages on to their consolidated holdings. In Meru

District only a very small proportion of the population were moved into villages and of these the majority have since returned to their holdings.

**No. 54**

MR. MBOYA (Nairobi Area) to ask the Minister for Local Government Health and Housing:—

To state the reasons leading to the breakdown in the joint Government/City Council African Housing Scheme to provide 5,000 homes in Nairobi.

**REPLY**

It would take too long to answer the hon. Member's question verbally, and I have already sent a copy of a statement on this matter to all hon. Members. A copy of my statement is available in the library.

**No. 55**

MR. MBOYA (Nairobi Area) to ask the Minister for Education, Labour and Lands:—

To state whether his recently announced wages policy was meant to apply to wages in general or just the adult minimum wage.

**REPLY**

It is assumed that the Question refers to a report of a statement made by me in the *East African Standard* dated 30th November, 1957.

I was referring to statutory minimum wages in urban areas.

**No. 56**

MR. HARRIS to ask the Minister for Local Government, Health and Housing:—

Whether he will confirm the statement made by him during the debate on the Local Government (Valuation and Rating) (Amendment) Ordinance on 18th April, 1957, that public utilities have had land made available to them at very reasonable terms, and with particular reference to the East African Power and Lighting Company, at a nominal rent, up to about two years ago, without any stand premium and with a direct grant and without the land having to go to public tender.

**REPLY**

I welcome the opportunity given by the hon. Member's question to clarify the statement made by me during the debate on the Local Government (Valuation and Rating) (Amendment) Ordinance on 18th April, 1957.

The position is that land has always been made available by the Crown to the East African Power and Lighting Company Limited for residential and operational purposes by means of direct

grants without the company having to compete in the open market.

In regard to payment for the land, however, the policy was not consistent prior to 1953. In respect of operational sites, seven plots were leased to the company at a nominal rental without payment of stand premium and eight others on payment of stand premium representing 20 per cent of the value of the land and an annual payment of 5 per cent on the balance in respect of rent. This latter method applied to the granting of residential sites during the same period, the only advantage enjoyed by the company in respect of plots in this category being the fact that they were, as stated above, made without competition.

Since 1953 the Government policy has been that in respect of plots granted for operational purposes the Company does not pay stand premium like other commercial enterprises, but merely pays a rent equivalent of 5 per cent of the value of the land. It also receives the advantage of direct grants without competition. In respect of residential plots, the Company continues to pay stand premium and annual rental based on the appropriate value of the plots, but receives the advantage once again of a direct grant.

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VOLUME LXXV

16th January, 1958, to 28th February, 1958

### Explanation of Abbreviations

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