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COLONY AND PROTECTORATE OF KENYA

LEGISLATIVE COUNCIL DEBATES

OFFICIAL REPORT

SECOND SERIES

VOLUME X

1940

Second Session, 1940: 6th to 14th August

CHRONOLOGICAL INDEX

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List of Members of the Legislative Council

President:

HIS EXCELLENCY THE GOVERNOR, SIR HENRY MOORE, K.C.M.G.

Ex Officio Members:

CHIEF SECRETARY (HON. G. M. RENNIE, M.C.).
ATTORNEY GENERAL (HON. W. HARRAGIN, K.C.).
FINANCIAL SECRETARY (HON. C. R. LOCKHART, C.B.E.).
CHIEF NATIVE COMMISSIONER (HON. E. B. HOSKING, O.B.E.).
DIRECTOR OF MEDICAL SERVICES (DR. THE HON. A. R. PATERSON,
C.M.G.).
DIRECTOR OF AGRICULTURE (HON. D. L. BLUNT).
DIRECTOR OF EDUCATION (HON. A. T. LACEY, O.B.E.).
GENERAL MANAGER, K.U.R. & H. (BRIG.-GEN. THE HON. SIR GODFREY
RHODES, C.B.E., D.S.O.).
DIRECTOR OF PUBLIC WORKS (HON. J. C. STRONACH).
COMMISSIONER OF CUSTOMS (HON. A. W. NORTHROP).
COMMISSIONER OF LANDS AND SETTLEMENT (HON. C. E. MORTIMER,
M.B.E.).

Nominated Official Members:

HON. G. H. C. BOULDERSON (Prov. Commissioner, Coast Province).
HON. H. M. GARDNER, O.B.E. (Conservator of Forests).
HON. C. TOMKINSON (Acting Prov. Commissioner, Central Province).
(1)
HON. S. H. FAZAN, C.B.E. (Prov. Commissioner, Nyanza Province).
HON. A. PHILLIPS (Acting Solicitor General). (2)
HON. R. DAUBNEY, C.M.G., O.B.E. (Director of Veterinary Services).
HON. G. B. HERDEN (Postmaster General).
HON. S. O. V. HODGE (Prov. Commissioner, Rift Valley Province).
HON. J. C. MUNDY (Commissioner of Income Tax). (3)

European Elected Members:

MAJOR THE HON. F. W. CAVENDISH-BENTINCK, Nairobi North.
HON. S. V. COOKE, Coast.
THE RT. HON. THE EARL OF ERROLL, Kiambu.
HON. LADY SIDNEY FARRAR, Nyanza.
HON. S. G. GHERSIE, Uasin Gishu.
MAJOR THE HON. E. S. GROGAN, D.S.O., Ukamba.
LT.-COL. THE HON. J. G. KIRKWOOD, C.M.G., D.S.O., Trans Nzoia.
LT.-COL. THE HON. F. S. MODERA, D.S.O., M.C., Nairobi South.
HON. W. G. D. H. NICOL, Mombasa.
LT.-COL. THE HON. LORD FRANCIS SCOTT, K.C.M.G., D.S.O., Rift
Valley.
HON. E. H. WRIGHT, Aberdare.

LIST OF MEMBERS OF THE LEGISLATIVE COUNCIL—Contd.

Indian Elected Members:

HON. ISHIER DASS (Central).
HON. SHAMSUD-DEEN (Central).
HON. R. KASIM (Western).
HON. J. B. PANDYA (Eastern).
HON. A. B. PATEL (Eastern).

Arab Elected Member:

CAPT. THE HON. SIR ALI BIN SALIM, K.B.E., C.M.G. (R.N.V.R.).

Nominated Unofficial Members:

Representing the interests of the African Community—
DR. THE HON. C. I. WILSON, C.M.G., M.C.
HON. H. R. MONTGOMERY, C.M.G.

Representing the interests of the Arab Community—

HON. SHEIKH HAMED BIN MOHAMED BIN ISSA.

Clerk to Legislative Council:

Mr. R. P. Armitage (Acting).

Reporters:

Mr. A. H. Edwards, Mr. H. Thomas.

- (1) *Vice* Mr. S. H. La Fontaine, D.S.O., O.B.E., M.C.
- (2) *Vice* Mr. H. C. Willan, transferred to Zanzibar.
- (3) *Vice* Mr. H. Izard, Commissioner of Mines.

ABSENTEES FROM LEGISLATIVE COUNCIL SITTINGS

13th August, 1940—

Hon. General Manager, K.U.R. & H.
Hon. Commissioner of Customs.
Hon. Arab Elected Member.
Hon. Nominated Arab Member.

14th August, 1940—

Hon. General Manager, K.U.R. & H.
Hon. Commissioner of Customs.
Hon. Elected Member for Mombasa.
Hon. Arab Elected Member.
Hon. Nominated Arab Member.



COLONY AND PROTECTORATE OF KENYA
LEGISLATIVE COUNCIL DEBATES

SECOND SESSION, 1940

Tuesday, 6th August, 1940

Council assembled at 11 a.m. at the Memorial Hall, Nairobi, on Tuesday, 6th August, 1940. His Excellency the Governor (Sir Henry Moore, K.C.M.G.) presiding.

His Excellency opened the Council with prayer.

PROCLAMATION

The Proclamation summoning the Council was read.

OATH OF ALLEGIANCE

The Oath of Allegiance was administered to the following:—

Temporary Nominated Official Members—

C. Tomkinson, Esq., Acting Provincial Commissioner, Central Province.

A. Phillips, Esq., Acting Solicitor General.

J. C. Mundy, Esq., Commissioner of Income Tax.

COMMUNICATION FROM THE CHAIR

Honourable Members of Legislative Council,

Since we last met there have been three events of outstanding importance so far as Kenya and the East African territories as a whole are concerned: one, the entry of Italy into the war; two, the invasion and overrunning of the Netherlands and Belgium followed by the collapse of our ally France and the consequential uncertainty as to the role which French

Colonial possessions in Africa are to play both in the military and in the economic field during the continuance of the war; three, the arrival of contingents from West Africa and the Union of South Africa to assist us in the defence of these territories. I have already publicly expressed our thanks for this assistance, but I should like to take this opportunity of doing so again. Action speaks louder than words, and the presence of these contingents here proves conclusively the essential solidarity of all parts of the British Commonwealth in Africa in the prosecution of the war.

Naturally these events have brought home to all of us the special part that we are called upon to play inasmuch as Kenya is now an active theatre of war; the response has been immediate and impressive. There is evidence on all sides of a burning desire to be doing some active form of war work, to be making some form of personal sacrifice, so that we all can be identified with the old country in bearing the tremendous burden of the war.

I told you in March last that a further survey of the European man power in the country was being undertaken. That has now been done, and I believe it to be the case that all men who can be spared for the Army have by this time been combed out and that it is unlikely that any more men can now be spared from their civil occupations. I must therefore repeat again what I have said

[H.E. the Governor]

on more than one occasion, namely that those who have now been exempted as key men should remain in their civil occupations. By carrying out the tasks allotted to them, they are doing their duty to the Empire in no less vital a manner than those who have been permitted to join the fighting forces. Government attaches such importance to this that a Defence Regulation has been promulgated which makes it an offence for anyone to leave such civil employment without the permission of the Director of Man Power. Government is proposing to issue National Service badges which all exempted men will be entitled to wear as a proof that they are engaged on civil work of national importance.

The Indian Man Power Committees are continuing their work all over the country, though except in the case of clerks, artisans, mechanics and drivers the demand on Indian man power has not been heavy. At the moment the military requirements for Indian mechanics and motor drivers have not been met, and the Government is prepared on the advice of the Indian Man Power Committee to invoke the Compulsory Service Ordinance, if necessary.

In Mombasa there has been a ready response on the part of the Arabs to join the Indian and Arab Company, and the military authorities are considering the desirability of confining recruitment in that Company to Arabs.

In the native reserves recruiting for the fighting forces of the Colony continues to have excellent results. Many more volunteers have offered themselves than it has been possible to absorb, but arrangements have been made to call them up as and when replacements become necessary. It is also proposed to raise a Military Labour Corps for the making and maintenance of communications in the backward areas behind the front line. It is difficult to forecast at this stage of the campaign what the military demands for labour may be, but their immediate requirements can, it is believed, be met from within our borders without interfering with production either in the Reserves or the settled areas. This Corps will be raised if neces-

sary under the powers contained in the Compulsory Service Ordinance, but it is of great importance that the position should be fully explained by Administrative officers in advance, that recruiting should be distributed as widely as possible over all suitable tribes and not confined to a single area, and that the African people as a whole should feel that they are in this way making an important contribution to the prosecution of the war.

In this connexion I am sure all hon. members will appreciate the importance of maintaining and improving the broadcasting of war news and items of local interest to the natives. While I am aware that there has been some criticism of individual items included in these native broadcasts, they have, I believe, on the whole proved successful and are eagerly listened to by the natives themselves. At present two broadcasts a week are given in Kikuyu and Swahili and one a week in Wakamba and Dholuo. The possibility of providing broadcasts in other native dialects is being explored by the Information Office in consultation with the sub-committee of the Broadcasting Advisory Committee. The policy aimed at is to provide at least one receiving set for each administrative centre. Some twenty-seven sets have been distributed and the Standing Finance Committee has recently agreed to provide funds for the purchase of six additional sets.

In this connexion, too, I am sure you will agree that it is of the greatest importance that so far as possible African schools should continue to function. While at most of these schools the European staff has had to be reduced to one, arrangements have been made none the less to keep them open.

Both in Nairobi and Mombasa the municipal authorities have been attacking the problems of air-raid precautions with great vigour in conjunction with the medical authorities and voluntary organizations such as the Red Cross and St. John. In both cases the Government and the municipality share the cost in agreed proportions. An immense amount of voluntary and unpaid work has been undertaken which I should like to take this opportunity of acknowledging.

[H.E. the Governor]

These precautionary measures have necessarily had their repercussions both upon the Medical and Education Departments. Both in Nairobi and Mombasa additional hospital accommodation for possible air raid casualties has been provided. This matter had careful consideration long before the outbreak of war and schemes had been prepared; as a result, a large number of additional beds in existing or in improvised hospitals were made available for all communities in or near each of these towns, together with an adequate surgical and nursing staff. I am glad to say that none of these beds has so far had to be used for the purposes for which they had been earmarked. Here again I should like to record the appreciation of Government of the great assistance which has been freely offered and given by many private practitioners and others throughout the country in connexion with the establishment of emergency hospitals and first aid work at A.R.P. posts.

To ensure the safety of the school children, all Government schools in Mombasa and Nairobi were closed temporarily on the entry of Italy into the war. Day schools in Nairobi were reopened two or three weeks later and arrangements put in train for the accommodation of boarders in Nairobi schools at up-country centres. In Mombasa, schools were kept closed for a longer period, but it is hoped that it will prove practicable to re-open them in the near future. Government schools outside Nairobi and Mombasa have not been affected except in the matter of release of staff to the Army; in the majority of cases the places of the men released have been filled by fully qualified women teachers. In Nairobi and Mombasa it has been necessary to use certain school buildings for hospital or other emergency purposes. In all cases alternative accommodation has been or is being provided.

I should like now to turn to questions of production and supply. From the farming community now remaining on the land the most important contribution that can be made to the war effort is the production of adequate quantities of

those supplies required by the local population, both military and civil. The presence of the contingents to which I have already referred must inevitably increase enormously the demands made upon our local supplies, while the events of the past three months in Europe have resulted in serious dislocation of East African trade and the loss of formerly established markets. For these reasons intelligent and economic planning of our farming is vitally necessary. The Government has already had to intervene in the economic field. Meat and live stock are subject to control, coffee has more, recently been brought under control, and it is possible that Government control may have to be exercised as time goes on over other crops. If economic planning is to be undertaken satisfactorily, information regarding production and market demands must be available and up to date, and neither of these is easy to secure. The former involves frequent requests for information and questionnaires from producers to determine what they expect to produce in the near future, but it is essential that these facts should be known, and I would appeal to farmers generally to assist to the utmost in providing quickly and accurately the information asked for by the different controllers and the Agricultural Department.

Before I leave the subject of agriculture I should like to say a word on the question of soil conservation. Early in the year, when the Land and Water Preservation Bill was passed by this Council, the position was that there was every expectation of securing considerable assistance from the proposed Colonial Development and Welfare Fund, in order to put the rules made under the terms of the Bill into force. Since that time, however, the position has radically altered. It is doubtful if the necessary funds could now be secured from the United Kingdom and even more doubtful whether this Colony should make application for them at the present time. These funds would have been used largely for the employment of staff to push forward soil conservation measures in both European and native areas. At that time the required staff

[H.E. the Governor] could have been found; now it is not available owing to the release of men for military service. In the European areas, it is manifestly impossible while the owners and occupiers of farms are absent on military service and their farms are being looked after by group farm managers, wives or neighbours, to carry out any large scale anti-erosion measures. None the less, the Government is desirous of doing anything it can to carry out the intentions of the Ordinance. Agricultural officers will be available in all European areas to assist occupiers to the utmost extent of their abilities. In the native reserves, Mr. A. M. Champion has been appointed to undertake propaganda work particularly in connexion with these measures, and has already started. It is therefore proposed that Rules under the Ordinance shall be promulgated which are mainly of a negative character and do not normally require the expenditure of much time, energy or money. These Rules will provide for the prevention of further deforestation, the prevention or limitation of cultivation or grazing on slopes on which adequate steps are not being taken against erosion, and for the control of water discharged by one occupier on to the land of his neighbour. They will also provide for the maintenance of anti-erosion works already established. I hope that all those who are left on the land will do their best to make these Rules effective and take such further measures as may be possible to prevent further soil deterioration.

The work of the Supply Board, in connexion with import control, export control and price control, continues unchanged. As far as price control is concerned, the regulations in force appear to be effective and there have been, on the whole, very few complaints from the general public. I think it is right to say that the majority of traders have patriotically refused to make unjustified increases in prices but, in order to meet the minority who may attempt to profit from the national emergency, the Price of Goods Regulations were issued in May. These Regulations, which are based on those in force in the United

Kingdom, are designed to ensure that the price of certain classes of essential goods is not raised by an amount greater than that which is justified by the inevitable increases of various costs due to the war—the onus being on the seller to prove that any rise in price over the basic, or pre-war, figure can be established. The Board's activities have been extended in order to co-ordinate and control civilian and military requirements of certain commodities. The opening of the East African campaign has placed a certain strain on our resources, and there was a danger of shortage or inflation of prices unless supply and distribution were controlled and competition between civilian and military purchases prevented. The Supply Board has appointed executive sub-committees to deal with these matters and full details of their operations have been published in the Press from time to time. I wish to express my appreciation of the public spirit which has led the gentlemen who serve on these sub-committees voluntarily to undertake such arduous and responsible duties.

In connexion with all these questions of production and supply, the information and experience obtained by the East African Delegation in London has proved of the greatest assistance. It will be remembered that Sir William Lead and Mr. Wakefield, the Director of Agriculture of Tanganyika, who had already proceeded to London, were joined by Colonel Griffiths and Major Cavendish-Bentinck, the latter having been requested by the Government of Uganda to represent Uganda interests, and Mr. Griffin-Smith, of the Uganda Civil Service, being attached to the Delegation as a secretary. I should like to take this opportunity of thanking the Delegation for their valuable services and the tremendous amount of hard work which they put in in London. I should also like to thank Mr. Lockhart for the time he devoted during his short and well-earned leave to assisting the Delegation, and Mr. Wollen who, as Chairman of the Kenya Coffee Board, went over independently to London at the same time. While recent events in Europe, and particularly the collapse of

[H.E. the Governor] France, have seriously disturbed the market position since their return, there can be no doubt that the Delegation definitely improved our position with reference to our wool, flax, maize and timber; while, more important than all, most valuable personal contacts were set up and an intimate knowledge obtained as to the internal working of the various Ministries and Controls in war time.

I have had tributes to the work of the Delegation not only from the neighbouring territories but also from the Colonial Office in London and the home Press, and I think that one of the most fruitful and important of its achievements is that it has served to emphasize both here and still more in London how closely related are the economic problems of these three territories. As the war goes on economic facts, divorced from all political considerations, are impressing the truth of this upon us all, and you will have seen by the recent Governors Conference communique that as a result of a meeting held in Nairobi on the 1st of August under the presidency of Sir Philip Mitchell, K.C.M.G., M.C., Deputy Chairman of the Conference, it was agreed to set up an East African Economic Council on which representatives of the three territories would sit under the chairmanship of Sir Philip Mitchell to co-ordinate, direct and control policy. I feel sure that all hon. members will welcome this proposal as a constructive step towards broadening the basis of our economic effort. That communique also explains what the functions of Sir Philip Mitchell will be as Deputy Chairman of the Governors Conference, and I need not therefore do more to-day than to extend to him a very warm welcome to Nairobi and assure him of this Government's support in his important task.

To turn now to questions of finance. The primary object of this meeting of Council is to invite your approval of additional taxation estimated to yield some £213,000 in a full year. The object of this taxation is twofold: first, to wipe out the estimated deficit on the budget and to ensure that we are paying our way during the current year; second, to

provide a surplus of revenue over expenditure, the proceeds of which will be presented to the Home Government as a free gift towards the cost of the war. Before I refer to these proposals in more detail there are a few observations I should like to make on the contribution which this Government is making towards the general war effort.

In certain quarters there has been criticism because steps have not already been taken to send a substantial cash contribution to His Majesty's Government in the United Kingdom. This criticism arises, I believe, from a quite natural anxiety lest Kenya should appear not to be making sacrifices to the common cause comparable with those made by other colonies, since clearly no sum that we could raise could in itself have any financial effect on the progress of the war. While I have the fullest sympathy with these sentiments, I feel that it arises from a misapprehension of the true facts of the case. As I have just said, this Colony is now in the proud position of being a theatre of war, and unlike other colonies further removed from the scene of conflict, the demands that are being made and will increasingly be made upon us cannot be measured merely in terms of any special contribution that we may be able to set aside towards the general cost of the war. Our first duty is clearly self-sufficiency, so that we may be able to pay our way without asking for assistance from the home country.

What, then, are our immediate commitments? We are already providing some £136,800 a year towards the cost of local military expenditure; while capital expenditure of the order of £80,000 and recurrent expenditure not far short of £100,000 per annum is being incurred in respect of the Kenya Royal Naval Volunteer Reserve and the Auxiliary Air Unit. This makes a heavy drain on our cash resources until each time as the final incidence of cost is settled. Special war expenditure for other than the direct costs of the fighting services amounted in 1939 to £64,000. A sum of £55,920 was voted in the Provisional Estimates for 1940, but the additions to this figure already approved

[H.E. the Governor]

total some £42,000 and we must be prepared for the final cost of civil war expenditure for 1940 to be very substantially in excess of £100,000. Commitments on this scale which are largely due to our proximity to the areas of active military operations must, I am sure you will agree, be taken into account when considering our capacity to assist the common cause financially. The war against the King's enemies is being fought no less in East Africa than around the shores of Britain itself, and I regard our local commitments as our first duty. Our ability to continue to meet them and to assume further obligations depends on our success in enforcing economy in ordinary departmental activities while augmenting the revenue by measures of new taxation. While, therefore, we hope to make as large a contribution as our local commitments allow, we must first be sure that the money is available. To insure that it is available proposals for increased taxation are being laid before you this morning.

In these circumstances, the Government has carefully examined its financial position. At the end of January we had a free cash balance of about £360,000. Revenue collections for the earlier months of the year were well maintained, but there has been a marked decline during the past three months in Customs duty collections, and this decline may well continue. Moreover, it is not unlikely that further cash commitments, over and above those I have already mentioned, will have to be incurred in consequence of the war—for example, the Supply Board may have to increase its trading activities, with a consequent obligation upon the Government to provide working capital. In these circumstances, I am advised that a free cash balance of about £200,000 is necessary and that any lesser sum may not enable us to provide for current needs.

Now that last year's accounts have been closed I can say that revenue just exceeded expenditure by the small sum of £447, after making allowance for depreciation of investments. But it must be remembered that expenditure on the

Kenya Royal Naval Volunteer Reserve and on the Auxiliary Air Unit had been charged to a suspense account since war broke out, and when the incidence of that expenditure has been finally settled Kenya will, of course, have to bear its share, and I have little doubt that that will turn our paper surplus I have just mentioned into a fairly substantial deficit.

When we consider the cash position, the out-turn of last year, and the substantial deficit which we must expect this year on the present basis of taxation, it is abundantly clear that the only way in which we can pay our way locally and at the same time hope to make a contribution towards the war expenditure of the United Kingdom is by an increase in taxation.

It has been suggested in some quarters that we might help by raising a loan locally, the proceeds of which would be devoted towards defraying the cost of the war. The Government has taken up the question with the Secretary of State, and I have had a telegram saying that the home Government has been actively considering ways and means of enabling investors in the Colonies generally to help in this way. Suggestions which have been made by the home Government include issues of local securities, some with lives corresponding with the recent United Kingdom War Loan, others with shorter lives like Defence Bonds, and others on the lines of War Savings Certificates. The Secretary of State has informed me that he has sent out a full despatch on the subject some weeks ago, but owing to the irregular arrival of mails, that despatch has not yet arrived. When it comes, I can assure hon. members that it will receive the immediate consideration of the Government.

In the meantime, the only way we can quickly raise additional funds is by increased taxation, and the Government proposes to introduce three Bills during the present session. The first two, which members will be asked to pass through all their stages to-day under suspension of Standing Orders, are the War Taxation (Customs and Excise Duties) Bill, and the Dangerous Petroleum Tax (Amendment) Bill. The third Bill is the

[H.E. the Governor]

War Taxation (Income Tax) Bill, which has already been published, and which will be debated in the usual way to-morrow. The Customs and Excise proposals should bring in an additional £75,000 in a full year, the Petrol Consumption Tax £46,000, and the additional Income Tax £80,000, or a total of £201,000. In addition, increased postal charges were introduced last week which are calculated to bring in £12,000 in a full year. Thus the total additional revenue from new taxation already imposed or about to be imposed amounts to £213,000 in a full year. If the proposals are regarded as a whole, and not considered from the standpoint of income tax alone it will, I think, be realized that it is proposed to levy increases which in the aggregate cannot be regarded as unsubstantial.

Moreover, hon. members will no doubt remember that, in regard to Customs and Excise duties and Income Tax, it is necessary that the same rates should be levied in other East African territories, and the proposals now put before Council embody the results of an inter-territorial agreement recently reached by a conference at Dar es Salaam. When the Income Tax Bill is referred in due course to a select committee, I hope that this fact will be borne in mind by hon. members who may wish to suggest minor modifications of rates or allowances. The new rates of income tax in Kenya will have retro-active effect as from the 1st of January last, and will consequently affect the instalment of tax due next month. The Governments of Uganda and Tanganyika Territory intend to introduce similar legislation later in the year, and their Ordinances will take effect as from the 1st of January next. The Government of Zanzibar, while not proposing to apply these rates generally, has given an assurance that next year residents of the Protectorate drawing income from the mainland will be taxed at mainland rates in respect of that income.

One common feature of all these Bills is the last clause, which provides that they shall continue in force until the end of December next following the end of

hostilities. This clause has been inserted because the Government regards this additional taxation as of a purely emergency character, which will come to an end as soon as possible after the war. This attitude has been fully accepted by the other East African Governments too.

Of the remaining Bills which you will be called upon to consider, the most urgent is a short Bill to amend the Land and Agricultural Bank Ordinance, 1930, which is being published to-day and which has been prepared to meet certain criticisms raised by the Secretary of State.

Finally, I should like as Joint High Commissioner of the Kenya and Uganda Railway to pay a tribute to the admirable work done by the General Manager and his staff during the last few months. The Railway transport system is playing a vital part in the conduct of the local campaign and I know from the Military authorities that whatever demands have been made upon it have always been promptly and efficiently fulfilled.

On the financial side a loan of £200,000 free of interest has already been offered from the Railway's cash balances, and arrangements are in hand for handing it over to the Command Paymaster, East African Force, for local disbursement. The question of the desirability of making any further contribution from Railway funds will be considered by the Railway Council at their next meeting.

Hon. members, in opening this session of Council, I earnestly trust that, with the blessing of Almighty God, its deliberations may lead towards the promotion of the prosperity and welfare of this Colony and Protectorate.

MINUTES

The minutes of the meeting of 3rd April, 1940, were confirmed.

PAPERS LAID

The following papers were laid on the table:—

By MR. RENNIS (Chief Secretary):
Standing Finance Committee Report on Schedule of Additional Provision No. 4 of 1939.
Mining and Geological Department - Annual Report, 1939.

By Mr. HARRAGIN (Attorney General):
Report of Chairman of Transport
Licensing Board, 1939,
Vehicles Licensing (Amendment) Regu-
lations, 1940,
Inland Water Transport (Licensing)
(Amendment) Regulations, 1940.

By Mr. LOCKHART (Financial Secretary):
Schedules of Additional Provision Nos.
1 and 2, 1940.

The Income Tax (Non-Residents'
Allowances) Rules, 1940.

By Mr. BLUNT (Director of Agriculture):
Report by Mr. C. Maher on a visit to
United States of America to study
soil conservation.

By SIR GODFREY RHODES (General
Manager, K.U.R. & H.):

Report of General Manager on Ad-
ministration of Kenya and Uganda
Railways and Harbours, 1939.

By Mr. NORTHROP (Commissioner of
Customs):

Annual Trade Report of Kenya and
Uganda for 1939.

By Mr. MORTIMER (Commissioner of
Lands and Settlement):

Returns of Land Grants under the
Crown Lands Ordinance for 1st
January to 31st March and 1st April
to 30th June, 1940.

Report of Commissioner for Local
Government for 1938 and 1939.

By Mr. HOOPER (Provincial Commis-
sioner, Rift Valley Province):
Report and Recommendations of
Registration of Domestic Servants
Ordinance Committee, 1939.

STANDING ORDERS SUSPENDED

Under Standing Rule and Order No.
108 and with the consent of His
Excellency, Mr. Harragin moved that
Standing Rules and Orders be suspended
in order that the following Bills be
passed through all their stages this
day:—

The Dangerous Petroleum Tax
(Amendment) Bill.

The War Taxation (Customs and
Excise Duties) Bill.

MR. PHILLIPS (Acting, Solicitor
General) seconded.

The question was put and carried.
Standing Rules and Orders were
suspended.

BILLS

FIRST READINGS

On the motion of Mr. Lockhart the
Dangerous Petroleum Tax (Amendment)
Bill and the War Taxation (Customs and
Excise Duties) Bill were read a first time.

WAR TAXATION (CUSTOMS AND EXCISE DUTIES) BILL

SECOND READING

MR. LOCKHART: Your Excellency,
I beg to move that the War Taxation
(Customs and Excise Duties) Bill be read
a second time.

Your Excellency has explained in your
Communication from the Chair the
necessity for additional taxation mea-
sures, and I propose therefore to confine
what I have to say to a description of
the purposes of this Bill.

It is proposed in the operative clause
to add a surcharge of 10 per cent to the
present customs import tariff with the
exception of tobacco duties. It would,
of course, have been possible, and from
some points of view no doubt preferable,
that this additional customs revenue
should have been obtained by a revision
of the tariff. The arguments against that
are that it would have taken time for
this to have been done scientifically and
with adequate consultation with the
various trade interests, and we have not
the time, not only because of the
urgency of obtaining additional revenue
but also because of the pre-occupation
of those concerned with war duties. It
was therefore decided to leave the basic
tariff as it is and add a surcharge of
10 per cent not on the value of imported
goods but on the assessed customs duty
under the tariff. That, I hope, is clear.
It is not a 10 per cent customs duty but
a surcharge of 10 per cent on the
customs duty.

The reasons for the exception in
regard to tobacco are partly because of
the very drastic increase in relation to
other increases made in November last
and because the price structure of the
tobacco trade in East Africa is a delicate
one, particularly in regard to the native
trade, and until we have had more
experience of the effect of the last
increase of duties it was thought to be

(Mr. Lockhart)
dangerous to the revenue itself to make
any further increase now.

Turning to the excise duties, in the
case of beer and tea, the increase in the
excise duties (which will be found in
clause 3) is equivalent to a 10 per cent
surcharge on the import duty, the object
being of course to maintain the same
measure of protection as exists at
present. In the case of sugar the effect
is also largely the same, but we have
taken the opportunity there to round off
the excise duty to a figure of 2 cents
per lb. of sugar. That has been done
with an eye to the retail price of sugar
for the native trade.

As to the effect upon consumers, so
far as trade goods are concerned, the
effect of a 10 per cent increase on the
customs duties will in most cases be
comparatively small. It is a considera-
tion which will operate under the Price
of Goods Regulations. It cannot be said
that it will have no effect on the scale of
prices, but as far as ordinary trade goods
are concerned the standard *ad valorem*
duty of 20 per cent becomes 22 per cent.
In the case of a high specific duty such as
Sh. 3, the addition is only 30 cents, and
it is hoped in the case of ordinary trade
goods that the additional cost will be so
widely spread that it will not be notice-
able to the consumer. In the case of
higher duty articles, such as whisky,
the addition will be 85 cents a bottle,
and in the case of beer 40 cents per
gallon or about 7 cents a bottle. The
excise duty on tea means that the price
per lb. will go up by 5 cents, and on
sugar we hope by not more than 1 cent
per lb.

As to the yield, Your Excellency has
explained that the total effect in a full
year is expected to be £75,000. The full
customs duty will yield about £50,000
and the excise/duty £25,000.

As Your Excellency has explained, it
is provided in the Bill that this measure
shall remain in force until the 31st
December following the expiration of the
war. It may, of course, be necessary by
some resolution or Ordinance to bring
this Ordinance to a conclusion before
that date as it might have an adverse
effect on trade if an impending reduction

of duties were hanging over importers
for too long a period, but that is a
matter we can consider when the time
comes.

MR. HARRAGIN seconded.

The question was put and carried.

DANGEROUS PETROLEUM TAX (AMENDMENT) BILL

SECOND READING

MR. LOCKHART: Your Excellency,
I beg to move that the Dangerous
Petroleum Tax (Amendment) Bill be
read a second time.

The effect of this Bill is to increase the
consumption tax by 22 cents a gallon.
The import duty at present is 30 cents
a gallon, so that the effect of the Bill
which has just passed its second reading
will be to add 3 cents a gallon to petrol
in import duty which, combined with the
22 cents consumption tax, will make a
total of 25 cents per gallon of petrol.

The effect on prices will not be serious.
The price of petrol is at present con-
trolled by an order of the Supply Board,
and the Board is meeting to-day to con-
sider the matter. It is impossible for me
to anticipate their decision, but while I
think it may be necessary for distributive
reasons to increase the price by 25 cents
per gallon, within a day or two I hope
we shall be able to effect a reduction of
possibly something in the order of
10 cents a gallon, leaving the additional
10 cents a gallon, leaving the additional

The estimated yield to revenue will
amount to £46,000 in a full year.
Government recognizes that this is a
burden on transport, and so far as the
consumption tax is concerned it is a
burden not carried either in Tanganyika
or Uganda, but in addition to the pre-
dominant consideration of raising re-
venue there is also the fact that for
reasons of public policy in connexion
with the war we wish to diminish the
consumption of petrol by the public and
to that extent the increased price will
operate beneficially.

MR. HARRAGIN seconded.

The question was put and carried.

MR. HARRAGIN moved that Coun-
cil resolve itself into Committee of the
whole Council to consider the Bills
clause by clause.

MR. PHILLIPS seconded.
The question was put and carried.
Council went into committee.
His Excellency moved into the chair.
The Bills were considered clause by clause.

MR. HARRAGIN moved that the Bills be reported without amendment.
The question was put and carried.
Council resumed its sitting.
His Excellency reported the Bills accordingly.

THIRD READINGS

MR. LOCKHART moved that the Bills be read the third time and passed.

MR. HARRAGIN seconded.
The question was put and carried.
The Bills were each read the third time and passed.

BILLS

FIRST READINGS

On the motion of Mr. Harragin the following Bills were read a first time:—
War Taxation (Income Tax) (Amendment) Bill.
The Mining Bill.
The Courts (Emergency Powers) Bill.
The Soldiers (Exemption from Civil Process) Bill.
The Kenya Naval Volunteer and Defence Bill.
The Trading in Unwrought Precious Metals (Amendment) Bill.
The Education (Amendment) Bill.
The District Education Boards (Amendment) Bill.
The Native Authority (Amendment) Bill.
The Pensions (War Service) Bill.
The Applied Indian Acts (Amendment) Bill.
The Patents, Designs, Copyright and Trade Marks (Emergency) Bill.
The Alienation of Immovable Property to Enemy Subjects (Restrictions) Bill.

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

ADJOURNMENT

Council adjourned till 10 a.m. on Wednesday, 7th August, 1940.

Wednesday, 7th August, 1940

Council assembled at the Memorial Hall, Nairobi, at 10 a.m. on Wednesday, 7th August, 1940, His Excellency the Governor (Sir Henry Moore, K.C.M.G.) presiding.

His Excellency opened the Council with prayer.

MINUTES

The minutes of the meeting of 6th August, 1940, were confirmed.

PAPERS LAID

The following papers were laid on the table:—

By MR. RENNIE:

Summary of the recommendations of the Customs Fraud Commission Report with a note of dissent.

By MR. LOCKHART:

Account of Deposits and Withdrawals, Kenya Savings Bank, for 1939.

ORAL ANSWERS AND QUESTIONS

No. 18—INDUSTRIAL SALVAGE

MR. NICOL (Mombasa) asked:—

1. What steps are Government taking to implement the principle of industrial salvage?

2. In view of the fact that on the 20th March Council were informed in reply to Question No. 3 that inquiries were being addressed to authorities in the United Kingdom, why has there been so much delay in making known to the public the results of those inquiries?

3. Why, when the question of industrial salvage was raised in the budget debate and the Financial Secretary informed Council that he would investigate the question, was there so much delay in addressing inquiries to the authorities in the United Kingdom?

MR. LOCKHART:—

1. Investigation has shown that the requirements of Government Departments and Force Headquarters are not sufficient to warrant the setting up of a special organization for the collection and distribution of used raw materials, and they have, therefore, been asked to make their own arrangements.

[Mr. Lockhart]

As regards scrap metal, official intimation has been received that, as regards the United Kingdom, there is little likelihood of the Ministry of Supply being able to utilize scrap from East Africa, even if provided free at East African ports, on account of shipping and other difficulties, and that, as regards the Union of South Africa, buyers are not interested in view of the high transport charges.

Investigation is proceeding into the possibility of local utilization of scrap metal, and arrangements for collection and distribution will be made in the light of the outcome of this investigation.

2. No specific reply to the inquiries addressed to the authorities in the United Kingdom has been received except in regard to scrap metal. In that case, the reply was not received until last week.

3. Enquiries were not addressed to the authorities in the United Kingdom immediately after the budget debate in view of the fact that information received at that time from the Secretary of State appeared to indicate that the Ministry of Supply might be able to make use of various articles and detailed requirements were awaited. It subsequently transpired that the geographical position of this Colony precluded use being made of Kenya supplies.

SCHEDULES OF ADDITIONAL PROVISION

No. 4 of 1939

MR. RENNIE: Your Excellency, I beg to move that the Standing Finance Committee report on Schedule of Additional Provision No. 4 of 1939 be adopted.

This Schedule covers the period from 1st October to 31st December, 1939, and has been examined by the Standing Finance Committee, which has recommended that it be approved. The Schedule provides for a total additional expenditure of £53,120. Savings to the amount of £11,942 have been earmarked against that expenditure, and it is expected that approximately £8,238 will be recovered by increased revenue; £102 is recoverable in the form of reimbursements.

MR. HARRAGIN seconded.

The question was put and carried.

Nos. 1 AND 2 OF 1940

MR. LOCKHART: Your Excellency, I beg to move that Schedules of Additional Provision be referred to the Standing Finance Committee.

These Schedules are in the hands of hon. members and the financial effect is set out in each case in notes in the Schedules.

MR. HARRAGIN seconded.

MR. COOKE (Coast): Your Excellency, there are one or two items on which I should like to have an explanation. Incidentally, I should like to remark that the additional provision, amounting to £64,000, ought to be sufficient answer to those gentlemen in this country who have been clamouring for our surplus balances to be sent away!

The first item I want to mention in Schedule No. 2 is 86. Could I be informed of the facts of the case? because it seems rather peculiar that the first provision was only £5 which subsequently rises to £25.

The next item is the enormous amount of money on account of the evacuation of Moyale. When I was there last, a good many years ago now, I do not suppose the value of the property was much more than £1,000. It is rather surprising to see that over £13,000 is now asked for as compensation when Moyale was evacuated.

With regard to item 91, taken in conjunction with item 63 (purchase of a new lorry), this appears to me to be an example of penny wise and pound foolish, because I think that if the lorry had been purchased when it was first asked for it is probable that the expenditure of £40 on the transport of foodstuffs to Shimo-la-Tewa would not have occurred.

Those are the few points I should like to be assured about.

HIS EXCELLENCY: I would remind the hon. member that the motion is not that the Schedules should be adopted but that they be referred to the Standing Finance Committee. No doubt the

[H.E. the Governor] questions on which the hon. member asks for information will be discussed in that committee, and I think when the time comes to adopt the report on them is really the better time to answer you in full.

MR. COOKE: Thank you. The question was put and carried.

INCOME TAX RULES

DATE OF OPERATION

MR. LOCKHART: Your Excellency, I beg to move: "Be it resolved, that the Income Tax (Non-Residents' Allowances) Rules, 1940, shall come into operation with effect from the 1st day of January, 1940."

When the 1937 Income Tax Bill was considered in select committee, it was decided that any deductions which might be given to non-residents should be prescribed by rules in order to meet varying circumstances. That select committee's report advised that pensioners in receipt of small non-contributory pensions and other non-residents whose incomes were derived to a large extent from this Colony should receive favourable consideration. The grant of deductions to non-residents affects the relief given in the United Kingdom to Kenya companies who pay dividends through their paying agents, and this difficult and complicated factor made it necessary that our rules for relief should be discussed and agreed to by the United Kingdom income tax authorities. As the result of discussions, rules were prescribed and accepted by this Council in December, 1938, and those rules also came into effect as from the 1st January, 1937.

Those rules gave what amounted at that time to the largest of relief to pensioners and other persons deriving small incomes from Kenya that the United Kingdom authorities would agree to. It was known that the difficulties in granting relief from double taxation would mean that a certain additional burden of taxation would be applied to certain persons deriving small incomes from this Colony, but there was no evidence at that time to show the extent of the hardship. Hardships have occurred, and as a result further repre-

sentations were made to the British inland revenue authorities, and they have to a large extent met our case. A further measure of relief is contained in these rules which hon. members are asked to approve now.

They represent in effect a re-arrangement of the original relief. The sliding scale of allowances has been discontinued, and instead one half of the earned income, or £250, whichever is the lesser, is exempted from the provisions of the Ordinance. This is an increased rate of relief from double taxation granted in the United Kingdom and enables a person residing there to be relieved of almost the whole of the tax paid in Kenya. It is almost impossible to devise means whereby the whole of the Kenya tax is set off against the United Kingdom tax, but in the case of small incomes the ultimate result will be an additional burden both in United Kingdom and Kenya tax of not more than £5. Briefly, exemption from the United Kingdom tax granted in respect of a pensioner earning an income is, in the case of a single person, £200, a married man £260, and a married man with four children £460, and thereafter these allowances decrease until up to £300 in the case of a single man, £390 for a married man, and £595 for a married man with four children, the tax payable on all incomes derived from this Colony.

These rules are identical with those already prescribed in Uganda and Tanganyika, and Zanzibar have similar rules under consideration which I think will be adopted.

MR. HARRAGIN seconded.

The question was put and carried.

WAR TAXATION (INCOME TAX) BILL

SECOND READING

MR. MUNDY (Commissioner of Income Tax): Your Excellency, I beg to move that the War Taxation (Income Tax) Bill be read a second time.

The object of this Bill is to increase the revenue from income tax during the present war. Apart from the increases in the rates of the tax, the most important feature is that the personal allowances

[Mr. Mundy]

and deductions have been reduced so as to bring into the income tax net a number of people who were previously not called upon to make any contributions in the way of income tax and who now should be able to make a direct contribution. Hon. members are also aware that up to December of last year substantial personal deductions and allowances were granted, with the rates of tax starting at Sh. 1 in the £ rising to a maximum of Sh. 2/50. The rates were increased by a surcharge of 40 per cent for the current year, but no alterations were made in the personal deductions. The surcharge has not yet had time to take effect so far as the payment of the tax is concerned. This Bill, therefore, which will come into operation from the 1st January of this year, will replace the provisions of the War Taxation Ordinance, 1939, under which the surcharges were made and will affect the instalment of the tax which becomes payable in September of this year.

The Bill is quite a simple one when you consider that it deals with income tax! It makes three important changes to the existing law and a minor alteration in the machinery of collection. Clause 2 adjusts the personal deductions, clause 3 adjusts the rates of tax charged, clause 4 provides for the minor alteration in the machinery of collection, and clause 5 discontinues the deduction on account of the non-native poll tax. It will be convenient to deal with these alterations in this order: The non-native poll tax amendment first, the personal deductions next, then the rates of tax, and finally the small minor amendment.

Poll tax has been allowed as a deduction from income tax liability since the tax was introduced in this Colony, and it produces a rather peculiar result when it is linked up with personal deductions. For instance, with the exemption limit at £350 and the tax Sh. 1 in the £, the fact that the poll tax of Sh. 60 can be deducted from income tax means that single persons with incomes of between £350 and £410 pay exactly the same amount of tax, that is, Sh. 60 only. The same result could have been achieved in the case of small incomes if the

exemption had been fixed at £410 and the poll tax not allowed as a deduction, I have therefore dealt with this proposal first, to discontinue the poll tax as a deduction, because it is a factor which must be taken into account in fixing the revised deductions which apply to individuals with varying family responsibilities.

The first change, therefore, provided by the Bill is that the poll tax will no longer be a deduction, and the whole of the tax charged in the terms of the Bill will be payable.

Turning to clause 2, all personal deductions have been revised after taking into consideration the new poll tax revision. The exemption limit for a single man has been reduced from £350 to £200, and where the income exceeds £200 that deduction is to be further reduced by one half of the amount of the excess. For instance, if a single man has an income of £300 a year, that is £100 in excess of £200, one half of that excess is £50, and his £200 allowance is reduced to £150, leaving him to pay tax on £150 at the rates prescribed. In the case of a married man the deduction at present is £500, and it is proposed to reduce that to £350. The allowances in respect of children are at present £75 for the first child and £60 for each of the next three, giving a maximum of £255. The deductions for children will suffer least, and it is proposed to reduce the maximum from £255 to £200 only. But the allowances for individuals have been rearranged so that the first child will be allowed £80 and then £40 each for the next three. The dependent relative deduction is at present restricted to a maximum of £100, and this will be reduced to a maximum of £60. The allowances in respect of life insurance premiums and pension and provident fund contributions are at present limited to one-sixth of the total income or £200, whichever is less, and they are reduced to one-sixth of the total income or £100, whichever is the less.

Those are the alterations which are to be made, and I have not given any reasons as to why or how these have been reduced. Before doing so, I want to make clear the principle upon which

[Mr. Mundy] : personal deductions are granted for income tax purposes.

Without the most elaborate machinery, it is quite impossible to have regard to the actual cost, for instance, of keeping a wife or maintaining young children. The principle on which personal allowances are made is that a point of income is fixed, after which it is reasonable to ask a person to make a contribution to direct taxation. The deductions, therefore, should be taken in total for each individual and should not be looked at separately. We have first of all the single man called on to pay the tax when his income exceeds £200 a year, the married man when his income exceeds £350, the married man with one child when his income exceeds £430, and a married man with four children or over when his income exceeds £550. It cannot be said with any degree of confidence whether these points are proper for Kenya or not, and that could not be done without a very close investigation into the cost of living and the incidence of other forms of direct and indirect taxation. Taking into consideration the poll tax of Sh. 60 for Europeans, the single man commences to pay direct taxation at £140, and I think the new limits have been lowered sufficiently having regard to other forms of taxation in this Colony.

Turning to clause 3, there is a complete revision of the rates at which the tax has to be paid on the chargeable income. At present the rate of the tax increases with every successive block of income. For instance, a man with a chargeable income of £700 pays all through that income Sh. 1 in the £; immediately his income goes over £700 the rate increases sharply by 50 cents to Sh. 1/50—i am ignoring the 40 per cent surcharge. It is now proposed that the rate of the tax shall increase by a fraction of a cent for every pound of chargeable income above a certain point, with the result that there will be a steady increase in the effective rate of tax payable as the income increases.

This method has been adopted in South Africa and in other African territories, and when the Royal Commission on Income Tax sat in the United King-

dom in 1920 they examined a number of similar methods but were unable to apply them there, although they looked on them favourably, because in the United Kingdom the total income of an individual is not always calculated as it is in this Colony, so it was not possible to apply a formula which depends on calculation of total income in the United Kingdom.

I will deal with the new rates for residents first. The present rates with the surcharge start at Sh. 1/40 and run up to a maximum of Sh. 3/50. Any increase in the rate of tax must take into consideration the fact that the personal deductions have been reduced; for instance, a married man with £600 a year is at the present time called on to pay on £100 at Sh. 1/40 in the £. If, however, his personal deductions are reduced to £350 he is now liable on £250, and if the initial rate were kept at Sh. 1/40 there would be a very severe increase which I do not think he should be called on to bear. It is proposed, therefore, after having regard to the average reduction of personal allowance, to fix the first £250 of chargeable income at a rate of Sh. 1 in the £, and to increase the rate thereafter as the income increases.

The scale which has been adopted in the Bill is equivalent to an increase of 50 cents in the £ for each successive block of £250, but an equivalent result is obtained from such a scale which is smooth and gives an exactly even increase throughout the whole scale by stating it simply in a formula which says that where the income exceeds £250 the rate shall be a shilling increased by the addition of one-tenth of a cent for every £ by which the income exceeds £250. Attached to the Bill are tables showing the results of applying these new rates and deductions, and from those tables you can look at the whole picture, which shows that as compared with the pre-war tax the tax on incomes up to £1,500 a year have approximately been doubled; thereafter the increase is much sharper until at £5,000 the rate of tax is multiplied almost by three. Some limit must, of course, be placed by this progressive formula, as otherwise we should reach

[Mr. Mundy] : It is proposed to fix that limit at Sh. 10, a rate which will apply to a person who has an income of approximately £10,000 a year. While that fortunate person's tax will be in the neighbourhood of £5,000 he will nevertheless be left with an equal amount for his personal needs and comforts, and I do not think it can be said there will be great hardship. The tables will show the amount of each individual's liability, and I think these increases must be looked at not from the point of view of alterations in individual personal allowances or rates but the results which are to be obtained by the application of both and the actual amount of tax which taxpayers will be called on to bear.

In the case of non-residents, the primary rate was Sh. 1 in the £ on the first £700 of income. This was a very convenient arrangement, because the majority of non-residents drawing incomes from this Colony have incomes of less than £700, and it was therefore possible to pay dividends and interest with the deductions at a flat rate and so avoid numerous adjustments and repayment of tax. It is proposed, therefore, to follow that principle, and to fix the rate for the first £750 on a non-resident's income, and the rate which has been taken is Sh. 2 in the £, which compares quite favourably with increase in the tax for residents.

I have not dealt with the company tax, which was increased under the War Taxation Ordinance, 1939, from Sh. 2 to Sh. 3 in the £. The bulk of the company tax in this Colony is derived from companies which are controlled in the United Kingdom and which pay United Kingdom income tax. If, therefore, the company rate were increased these companies would go to the United Kingdom revenue authorities and obtain refunds of the amount of the increase, and it could not be said that such an arrangement would be of any real benefit to the Imperial Government in this time of war. We are left with the local companies, who pay the tax and bear it themselves or pass it on to their shareholders. The rate of Sh. 3 does not apply to an individual until his income reaches

approximately £3,000 a year, and the number of companies who have shareholders with incomes of that amount is very small. It is felt, therefore, that there is no strong case at the moment for increasing the company tax, and the increases are regarded as an individual contribution to the war effort.

I think that covers the picture of the increases which have been made in the tax. There is now the minor amendment which is contained in clause 4 of the Bill.

That is an alteration of the machinery of collection and does not affect the tax ultimately payable. Where a mortgagor pays interest to a non-resident person the payer has to deduct tax before he sends the interest along. The interest which was paid in 1939 will fall to be assessed for income tax in 1940, and it will have to bear tax, if this Bill becomes law, at the rate of Sh. 2 in the £. Quite a number of payments of interest were made in 1939 and this year at rates lower than Sh. 2 in the £. The clause provides, therefore, that where any such deduction has been made the deficiency can be deducted from the next payment of interest, and it will save taxpayers the trouble of having to make a return and pay directly to me the small deficiency which arises. In these times when posts are delayed it would put these non-residents to a lot of trouble to have to pay small amounts separately when they can very conveniently be recovered from the next payment of any such interest.

If the Bill becomes law, the estimated yield from the tax, if conditions remain as they are at present, will be increased from £154,000 in the present financial year to about £235,000 in 1941, an increase of £80,000. I think, however, that it is important to look at the increase in the yield by reference to the year of assessment; that is to say, the income which is actually being taxed. The yield based on the income of 1938, that is charged in the year of assessment 1939, will be roughly £135,000, and the tax at the new rates for the first year in which they operate will come to £235,000, so that these proposals have the effect of increasing the income tax burden from the one year compared with the other

[Mr. Mundy]— That amount can be made up roughly by: the discontinuance of the poll tax deduction, £6,000, the revisions in the personal allowances, £30,000, the increase in the rates of tax for individuals, £34,000, and the increase in the company rate, £30,000, giving a total of £100,000 on the year of assessment.

There is then clause 7, which provides for the Bill expiring on 31st December following the date upon which the present war ends.

I should like to refer to what you said, sir, in your address to Council, that these rates and deductions have been agreed to by the Governments of Tanganyika and Uganda, who will introduce similar legislation to take effect next year. The Government of Zanzibar also gave an assurance that any income derived from the mainland shall be taxed at the mainland rates.

We have at last uniformity of rates throughout the mainland territories, and I think it is a most important agreement to have been reached that we have this uniformity, which is essential to the joint administration of income tax throughout the territories. I do hope hon. members will bear in mind, if they do not quite agree with any of these proposals, that this agreement is an important and most satisfactory thing to have reached at this moment.

Before sitting down, as I am dealing with tax on income, I should like to refer to the question of excess profits tax.

At the present moment, an excess profits tax cannot be said to be suited to the conditions in this territory. The way excess profits duty is worked is, briefly, to take a standard profit by reference to a previous year or an average of years and to compare that standard of profit with the profits which are being made during the taxation years. It is essential, if you apply an excess profits tax, that you should have first of all a standard based on profit made under what may be called normal conditions, and also to have in the year of taxation substantial excess profits which can be taxed. The principle applied in the United Kingdom taxes the excess profit in the taxation year, at the present

moment I think at 100 per cent, but if in the following year the profits do not reach the standard of profit the deficiency is then carried back against any tax which might have been paid in the previous year, and that tax is repaid to the extent of the deficiency.

In this Colony, the position we have is that the years 1931 to 1936 cover a period of very serious trade depression during which many concerns contracted substantial debts. 1937 to 1939 showed some recovery, but the profits made during those years were by no means abnormal. In 1940, which I presume would be the first taxation year, trade profits have varied very considerably as between the various trades and industries. It might be said that to a large extent any increase in profits at the moment has been due to the good rains this season and in some degree to increased military expenditure throughout the Colony. But we shall have to face the possibility that if we have a bad season profits will very rapidly disappear, and the revenue will be faced with having to repay any tax which might have been collected in earlier years and may cause considerable embarrassment to the budget position. When the 1940 income tax returns have been received, there will be evidence available to show to what extent excess profits are being made here, and if then there is reasonable evidence the question of introducing the tax will be reconsidered.

MR. HARRAGIN seconded.

LORD FRANCIS SCOTT (Rift Valley): Sir, I should like to preface my remarks by offering a welcome to the hon. member in charge of the Bill on his first appearance in this Council, and congratulations for the very clear way in which he explained the points of the Bill we have before us. (Applause.)

Sir, this is a war effort. The Bill is for purely war purposes, and I therefore wholeheartedly support it. I am not to-day going to deal with the question as to what should be done with any excess of revenue which may arise from this, as there is a motion standing in my name which will be a more favourable occasion for dealing with that major

[Lord Francis Scott]

question. I think it is the general wish of the community to do whatever is possible to assist in the prosecution of the war by financial methods as well as others, and therefore I think there will be general concurrence and approval of the Bill before us.

When one first looks at it I think the question which comes uppermost in one's mind is as to whether we have gone far enough or not. But it has been pointed out by the hon. mover that this is an agreed measure with the other territories in East Africa, and as I think most of us have been urging for some time that if we were to have income tax the rates should be the same in all these territories, I agreed that this is a great point gained, even though I understood from Your Excellency's address yesterday that Kenya is going to bear this taxation one year ahead of the neighbouring territories.

When the Bill goes to select committee, no doubt the question of allowances will be gone thoroughly into, as to whether they are on the right basis or not. There is sure to be a certain amount of discussion with regard to the difference between the allowance for the first child and subsequent children. But the hon. mover did explain the basis on which these allowances have been arrived at, and I need not now make suggestions or alterations.

I should just like to refer to the final part of his speech when he referred to the question of excess profit tax. Excess profit tax is always something which naturally appeals to the ordinary person as being a very fair way of bringing in increased taxation and so getting increased revenue. But I do agree with the hon. mover that under present circumstances it would be almost impossible to frame such a tax, as the data on which it would have to be based would be almost impossible to arrive at.

I am not going to detain the Council any longer, and beg to support the motion.

MR. NICOL (Mombasa): Your Excellency, I rise to support the motion before Council. I want to make one or two suggestions.

The first one is that I had hoped to see introduced in this measure, as it is a war measure, an additional form of taxation: a non-native poll tax for women. But I understand that would be difficult possibly to operate in this particular year, and I would ask that that be considered when framing next year's budget.

Secondly, I want to suggest an amendment to the Bill, whereby it is obligatory on employers to deduct the tax from their employees before payment. I think that that would certainly help employees, because most people seem to forget about income tax, and it is very difficult to keep back a reserve in your bank balance. I therefore hope that some such amendment can be introduced.

I am perfectly certain that there will be no opposition at all to the Bill from any part of the country, as we all realize that we have got to get down to bed rock if we are going to be able to pull our full weight in this war. There is no doubt about it that the people of Kenya are very anxious indeed that they should have every opportunity to do so, and I think that is amply demonstrated by the speed with which the two Bills for additional taxation went through yesterday, so that I am sure there will be no objection at all to the Bill now before Council.

MAJOR CAVENDISH-BENTINCK (Nairobi North): Your Excellency, I also need hardly add that I support the Bill, and believe most people in this country do the same as a war measure.

The commercial community as represented by the Nairobi Chamber of Commerce discussed this Bill a few days ago, and they obviously not only support it but wish to go further, their first suggestion is that the Bill be amended to provide for taxing incomes from £120 per annum instead of only from £200 as at present provided. In a way I rather support this, but possibly they do not realize that if you make allowance for the poll tax actually a person begins to pay at £140 instead of £200, so possibly their point is met.

They also suggest that provision should be made for the tax to be payable in easy instalments and that the 20 per cent

[Major Cavendish-Bentinck] penalty be abolished. I should like to support the last speaker in his suggestion that this tax should be deducted by employers where possible—that might give a method of easy instalments—and I think there is a good deal to be said for abolishing the penalty. But these are matters I should like to bring up in select committee.

The Chamber also made certain suggestions about children's allowances, which also I will bring up in select committee. I would only suggest here that it might be found easier and less contentious if it is done as in England, where the same allowance is given for each additional child and not different allowances, though the total goes up to the same maximum as at home. I believe that will be supported by my colleague for Nairobi.

The commercial community have also stressed that the extra amount raised from income tax or any other additional war taxation in the three territories should be pooled and put into a general war fund for East Africa. That raises a question which I should like to refer to more fully, or one of my colleagues will, when the motion on to-day's Order Paper is discussed, the point being, of course, that all this extra taxation must be devoted to war purposes in the true sense of the term.

Had it not been for the fact that the three territories have at long last agreed on this particular scale of taxation—and I am given to understand it will be very difficult to get them to agree to anything which differs from these proposals—I should say, as an individual, that this scale is totally inadequate for existing circumstances. I look on this purely as a war measure, and I am quite convinced that we have got to make up our minds very shortly that if we can maintain a bare, reasonable, and decent subsistence during this war, that is all we can expect, and we have got to get down to that. In support of what I say I would quote one or two comparisons between what income tax payers here pay under this Bill and what those in the United Kingdom have been paying not under recent measures of additional taxation but during the last few months.

The hon. mover quoted the married man with £600 a year: here, without children, he will pay Sh. 310 and with one child Sh. 230. That same man in England would pay Sh. 1,856 without children and Sh. 1,481, or £70 odd, with one child. Take a man with £700 a year, a single man in England pays £150 tax, and here £50. A £700 a year man here with one child will pay Sh. 335, or £16, whereas in England a £700 a year man with one child pays Sh. 2,111. And so on. In fact, when we get to £1,000 incomes, the difference is even more marked. I do not suggest that you can quite compare the conditions in England with conditions here, but what I do re-fer to is that there is such a vast difference in what we call the cost of living. The cost of living in Kenya is not high, but the standard of living which everybody tries to live up to is ridiculously high, and that is the basis of half our difficulties in this country.

That has got to be faced if we are going to pull through this war, and people have got to be content with a very much more simple standard of living. In that connexion I would say that I do hope there is no reason for the rumour (and I admit it is only a rumour) going around that scales of salaries generally and official salaries in particular may have to be raised on account of the cost of living. All I can say is that if any such proposition is made I cannot but believe that if it came as far as this Council I and my colleagues would unanimously oppose it to the last dieh.

The hon. mover did talk about excess profits tax. He did point out that it would present great difficulties and it might indeed be impracticable to introduce any measure of that kind. I think he is probably right, he knows a great deal more about it than I do and I would accept his advice in a matter of that kind. But the fact remains that certain people are doing very well out of the war in this country. It may be that during the course of the next few months it may be found necessary to have some sort of regular standard wage for various reasons among, say, native labour or possibly low paid artisan labour. If any

[Major Cavendish-Bentinck] measure of that kind were necessary, I say that if we limit the amount a man may earn at the bottom of the scale we have got to limit the amount of the profit of the men at the top, and although an excess profits tax is not practicable I would not like to accept the fact that some measure designed to prevent people making undue profits out of the war in this country should be ruled out.

This concludes all the remarks I wish to make on this Bill.

MR. MUNDY: Your Excellency, I should like first of all to thank the noble lord, the hon. Member for Rift Valley, for the kind words he said to me, which I am quite sure I do not deserve.

It is, I think, a sign of the determination of this Colony to take its part in the war that these increases in taxation are received with so little comment. All I feel I need deal with, other than the matters which will come up in select committee, is the matter raised by the hon. Member for Mombasa regarding the deduction of tax from employees' salaries. At the moment I do not think it is necessary to introduce legislation to cover that. I am always ready to meet any employer who can give me a reasonable guarantee that the money which he deducts from his employees' salaries, by agreement with them, will come into the revenue, and I will enter into a similar arrangement with him as at present operates for Government officials. Such a scheme has already been agreed with one large company in Kenya, and I would welcome the extension of the principle voluntarily in the first place before considering compulsory deductions, which may give rise to some considerable difficulty in cases where no real guarantee can be obtained that the employer will pay the money over immediately to revenue.

The hon. Member for Nairobi North really answered his own question regarding the deductions being reduced to £120. He also referred to deductions at source. So far as the adequacy of these proposals are concerned, I do feel we should look at them not in the light of this particular tax at the moment but what others there are and the increases agreed

to yesterday, before saying that this tax could be really substantially increased. We have not in this Colony a continual circulation of money as in the United Kingdom. If our crops should fail we may be faced next year with quite enough hardship, and it would mean that the tax would be assessed and would never find its way into the revenues of the Colony.

I have said that the question of excess profits will be kept under consideration, and I will link with that the question as to whether any other form of tax would be suitable for this Colony and would provide some measure of restriction where extensive profits are being made particularly as a result of the war.

The question was put and carried.

MR. HARRAGIN moved that the Bill be referred to a select committee consisting of:

Attorney General (Chairman),
Financial Secretary,
Commissioner for Lands and Settlement,
Mr. Mundy,
Major Cavendish-Bentinck,
Mr. Gherisic,
Mr. Nicol,
Mr. Pandya,
Mr. Isher Dass.

MR. PHILLIPS seconded.
The question was put and carried.

COURTS (EMERGENCY POWERS) BILL

SECOND READING

MR. HARRAGIN: Your Excellency, I beg to move that the Courts (Emergency Powers) Bill be read a second time.

This Bill, which is based on the home Act, is designed to protect those who are unable to meet their obligations as a result of the present war. Whether that is a direct result or an indirect result may be considered by the courts. Naturally, in a Bill like this, where we are taking away the rights of creditors, it has to be surrounded with many safeguards, and that is why the Bill is as lengthy as it is, for it must be realized that we are taking away many of the normal processes of the courts and rights of creditors and suspending them

[Mr. Harragin]

during the period of the war. But hon. members should realize that none of the rights are taken away provided that application is made to the appropriate court. The Bill merely provides that before action can be taken an application has to be made to the appropriate court and their leave obtained.

In making provision for assisting debtors in this way, there are certain debts which we cannot take into consideration, and I refer to the debts recorded in clause 3 (1). The first judgment which is not affected in any way by this Bill is with regard to torts. To give a simple example: Assuming someone driving a car runs down another person and does damage, and it is proved in court—because the driver happens to be serving in the army he cannot plead that he is very sorry but that he cannot pay for the damage he has done. Another exception is in sub-clause (b), debts due on a contract made after the commencement of this Ordinance. Again that is a matter of commonsense, because once the Ordinance is in force people are supposed to realize their difficulties and obligations, and if they choose to enter into contracts now they will be expected to pay their lawful debts arising out of a contract, because they did know when they made the contract that there is a war on and they must judge their financial prospects during the war for themselves. Again, in cases of bastardy, maintenance, and affiliation we naturally cannot excuse people from paying those debts, nor in cases where persons go to the courts asking for an injunction when no monetary sum is awarded except costs. Lastly, it must be realized that this Bill in no way affects criminal proceedings.

In sub-clause (2) we then set out the ordinary processes which will not be exercised except by leave of the court. These processes are the ones to be expected—levy by way of distress, taking possession of any property or the appointment of a receiver, re-entry on land, or the realizing of any securities in the hands of creditors.

We then proceed in (a), (b) and (c) of the proviso to exclude from those ex-

ceptions certain special cases, to wit, where a person is actually a mortgagee in actual possession of a property we do not intend by this Bill to permit the mortgagor to reopen the whole proceedings, so that the mortgagee is able to proceed in a normal way and realize the security which in effect he has already although he may not have sold it. In the same way, in the case of a pawnbroker, he will be permitted to sell the security pawned with him.

The most important clause for hon. members to consider is clause 3 (4). There it sets out in specific language that when an application is made to what is called the whole way through the Bill the "appropriate court", the appropriate court may take into consideration the fact—I am now reading from the clause itself—"that the person liable to satisfy the judgment or order, or to pay the rent or other debt, or to perform the obligation, in question is unable immediately to do so by reason of circumstances directly or indirectly attributable to any war in which His Majesty is engaged, the court may refuse leave for the exercise of that right or remedy, or give leave therefor subject to such restrictions and conditions as the court thinks proper." What in effect this Bill does is to give a debtor the right to go before a court and, while admitting the debt, show cause why, owing to the war, he is unable to fulfil his obligations under that judgment, and it is pre-supposed in view of that sub-clause that the court will in all proper cases give him relief. This relief is also given under sub-clause (5) regarding bankruptcy of companies and individuals, but there we have not been as exact in our language, and have merely left it to the court to make such order as they think fit; in effect, to stay the petition as it is called, for such time as the court thinks necessary.

The last sub-clause gives Your Excellency power to limit the rights of bailees if and when a case is put up to you in special cases. Let us take, for example, where a person may have the right to sell a motor car that has been left with him for a certain time to be repaired. It is repaired, and the unfortunate owner of the car, owing to war circumstances,

[Mr. Harragin]

is unable to pay for those repairs. Under certain circumstances the bailee of the car may sell it and repay himself out of the proceeds. Now, if an application is made to Your Excellency, you will be able to make such order as you think just in a particular case.

With regard to the procedure, authority is given to the Chief Justice to make such rules to govern these appropriate courts which will consider the applications made under the Ordinance.

MR. PHILLIPS seconded.

The question was put and carried.

SOLDIERS (EXEMPTION FROM CIVIL PROCESS) BILL

SECOND READING

MR. HARRAGIN: Your Excellency, I beg to move that the Soldiers (Exemption from Civil Process) Bill be read a second time.

I must first apologise to Council for the archaic language in which this Bill is drafted, which makes it, of course, almost impossible for the normal civilian to understand it, much less a soldier. But the only excuse I can give is that it is practically a copy of the Army Act which was passed some time in 1870. The reason why it is a copy is because we naturally want to follow the English law with regard to soldiers as far as possible out here, so that there will be no difference in the terms of service. But actually, in view of the misunderstandings that have come to my notice since the Bill has been printed, when it goes to select committee I have a draft ready which I hope will simplify it and make it understandable by all.

The first point I should like to make is that this is not a panacea for all the financial ills of the unfortunate soldier. In fact, it really was originally passed in order that the military authorities should not be worried by their soldiers being taken away when under orders to perform some particular duty.

In clause 3 all that the Bills does is to order in a rather complicated way that a soldier may not be taken out of his unit on any civil process. I want to make a particular point of that: this has no effect

at all on the criminal liability of a soldier. If a soldier commits a criminal offence he is subject to the law in the same way as any civilian is, but if for a debt which is less than £30 the civil court wishes for some reason to have the soldier's attendance, it is forbidden under this Bill from so doing. In the same way the court is forbidden to take a soldier away from his duties in matters relating to a breach of contract, which includes a contract of service, and that is a rather important matter.

One of the misunderstandings which I have come across is the belief that creditors will not be entitled to sue. That of course is not so. The point is this. When any of us receives a civil summons and is charged with owing a debt of £1 or £100 to our grocer, at the end of the civil process is a statement to the effect that unless we put in an appearance within a certain date judgment will be entered against us. There is no question of having to appear if we do not want to. Naturally you can always appear if you want to, if you can get away from your military duties, and through an advocate in any event. In clause 3 hon. members will see the manner in which a summons may be served, and there is one important assistance given a soldier, and that is with regard to the attachment of his pay. It is laid down quite clearly here that except in a case where the debts were incurred during the six years before the 3rd September last year, no pay may be attached, and then only to the extent of one-third of a soldier's pay.

The application of this Bill will be to units which have been raised in Kenya since the war. The reason is that units like the K.A.R. are already governed by an Ordinance which gives them similar protection. There is nothing peculiar in this Bill, which is exactly the same in effect as that in existence in England to-day. Although it does give a certain amount of assistance to soldiers serving at the present time, as I have indicated to hon. members, such as limiting the amount of attachment of pay to one-third, and then only when the debts were incurred during six years before the war, that is as far as it goes.

MR. PHILLIPS seconded.

COL. MODERA (Nairobi South): Your Excellency, it seems to me that this Bill is not applicable where it should be, and that is that in the schedule which refers to the units to which the Bill will be applicable there is no mention of the Kenya Defence Force. I am glad to hear that the Bill is going to select committee, when there will be an opportunity to make reference to this for amendment. I see no reason why a member of the K.D.F. who has been called up and is doing full time military service should not be protected in the same way as a member of the K.A.R. and other military units.

MR. HARRAGIN: Your Excellency, I can assure the hon. member that this point will be gone into in select committee. There are certain difficulties with regard to the K.D.F., because all the members are not on full time duty, but I can see no argument at the moment which I can put forward with regard to those who are. I can see no reason why anyone doing full time duty in the same way as any other soldier in the country should not be included, and I shall be only too pleased to go into it in select committee.

The question was put and carried.

SELECT COMMITTEE

MR. HARRAGIN moved that the Courts (Emergency Powers) Bill and the Soldiers (Exemption from Civil Process) Bill be referred to a select committee consisting of:—

Attorney General (Chairman),
Mr. Phillips,
Col. Modera,
Col. Kirkwood,
Mr. Patel.

MR. PHILLIPS seconded.

The question was put and carried.

KENYA NAVAL VOLUNTEER AND DEFENCE BILL

SECOND READING

MR. HARRAGIN: Your Excellency, I beg to move that the Kenya Naval Volunteer and Defence Bill be read a second time.

This Bill, as hon. members will know if they read the "Objects and Reasons", is entirely a formal matter and is entirely complementary to the Kenya Naval Volunteer Ordinance, 1940, which we passed last session. Why all this complicated procedure is necessary in order that the Kenya naval volunteer force as we have known it for some considerable time should be absorbed into His Majesty's Navy is more than I can tell you, but the fact is that before our force could become part of the Royal Navy it was necessary that a Bill should be passed as was done last session raising the force for the defence of the Colony within these territorial waters, as it had to be then worded. That was the first thing. This Bill, when it became an Ordinance, was sent home to His Majesty, and it was necessary for him to pass an Order in Council, which was duly published, saying in effect that the Royal Navy was prepared to absorb that force if and when we passed another Ordinance saying that they could serve anywhere under naval discipline as understood in the Royal Navy. That accounts for the Bill now before hon. members.

Clause 3 (1) provides for this Government taking over and joining with other governments in the raising of vessels of war. We are entitled now to join with Uganda, Zanzibar, or anyone you like to think of in raising a vessel of war. The Governor in Council may then offer such vessel of war to His Majesty's Government to be absorbed for general service in the Royal Navy, and I should like hon. members to look at clause 7, which is complementary to clause 3. Under clause 7 we place at His Majesty's disposal for general service in the Royal Navy "such officers and men of the Force as have been entered on terms of accepting such service," so that the Governor in Council is in a position when this Bill passes to offer the vessels we have equipped, either with or without the assistance of neighbouring colonies, together with the personnel willing to serve, to His Majesty's Royal Navy.

Clause 4 provides that those officers and men of the force may serve outside the territorial waters. At the moment,

(Mr. Harragin)

under the old Ordinance, they could not do that.

Clause 5 applies the various enactments that exist for governing the discipline of the Royal Navy to the men we have raised for our force here, and clause 6 states that they must serve as part of the Royal Naval Reserve if and where required.

MR. PHILLIPS seconded.

The question was put and carried.

TRADING IN UNWROUGHT PRECIOUS METALS (AMENDMENT) BILL

SECOND READING

MR. HARRAGIN: Your Excellency, I beg to move that the Trading in Unwrought Precious Metals (Amendment) Bill be read a second time.

I feel that this Bill is simple and self-explanatory. I say it with deep regret, that in this Colony to-day the selling of unwrought metal—and of course hon. members will realize that I am referring particularly to gold, practically the only unwrought metal we have much of in this Colony at the moment—is on the increase. As you know, it is comparatively easy to sell, and it is extremely difficult to detect. It is still more difficult to get a conviction before a magistrate which will be upheld before a court of appeal, for various reasons.

In the Ordinance which we are amending the penalty for a first offence is only a fine up to £1,000 without the power to send the offender to prison at all. The result of that is easy to see. If a person only has a good enough run at receiving or selling gold, in a very short time he will have acquired a great deal more than £1,000, with the result that a fine of £1,000 is not the deterrent it should be. It is true that for a second offence a person can be given one year's imprisonment, but I do suggest that that is totally inadequate where a man has shown himself determined on a life of crime, and for the crime of stealing or receiving let us say gold from a mine we should be able to give something by way of a deterrent of a great deal more than one year. Of course, it bears no comparison with the period of imprisonment which

can be given for stealing cattle. If a man steals cattle he may be sent to gaol for five years.

For that reason this Bill is before Council, and the suggestion in short is that we keep the £1,000 as a fine but make the alternative two years' imprisonment, so that anybody convicted may be fined £1,000 and/or 2 years' imprisonment; for a second offence, up to 5 years. I suggest that that is only in keeping with the other laws existing in the Colony at the present time and is very necessary in this particular Bill.

MR. PHILLIPS seconded.

MR. GHERSIE (Uasin Gishu): Your Excellency, I should like to welcome the introduction of the Bill. I can assure hon. members that they have no conception of the extent to which this gold buying is going on in the mining areas to-day. There are organized gangs without a doubt operating there, and they are becoming so brazen that an incident happened quite recently when a native actually rode a bicycle on to a mine and openly asked the natives if they had any gold to sell. Unfortunately, as the hon. and learned member pointed out, there has been a difficulty in the past in obtaining convictions, perhaps due to a lack of experience on the part of the police in some instances because although one may be convicted in the lower court and sentenced it is proved in the high court on appeal that the police had not proved this was gold amalgam. This stealing is becoming a terrible menace, and no one has any conception of the organized gangs. I most whole-heartedly welcome the introduction of the Bill.

COL. GROGAN (Ukamba): Your Excellency, I also rise to support the Bill. At the same time I suggest it is very necessary to elaborate the machinery to give effect to it, because there is no question about it, there is a very large and well organized industry now engaged in this illicit buying of gold. The Belgian authorities told me the other day that there had been a very large increase in the Asiatic population in the vicinity, and they estimated the loss of gold through illicit buying amounts to a million and a half pounds a month. We all know how

[Col. Grogan]

awfully difficult that class of business is to detect, like the illicit diamond buying in South Africa, and this kind of legislation is useless unless there is the necessary machinery to give effect to it.

The question was put and carried.

EDUCATION (AMENDMENT) BILL SECOND READING

MR. LACEY (Director of Education): Your Excellency, I beg to move that the Education (Amendment) Bill be read a second time.

The amendments contained in the Bill have been under consideration for nearly two years; they have been discussed at meetings of all advisory councils on education and only a brief reference to them is necessary except in the case of one.

The first amendment, in clause 2, gives the Director of Education the opportunity of warning the manager of a school which he considers to be inefficiently or improperly conducted, and giving him a stated time in which to effect improvements. As the law stands at the moment, a manager may be ordered to close his school without being given notice when it is considered inefficient or improperly conducted. Clause 2 also indicates that the responsibility for the efficient conduct of the school is that of the manager, and "manager" is specifically defined in the principal Ordinance.

Clause 3 provides sanctions which are not contained in the principal Ordinance, because a school is not necessarily a building. A school is defined in the principal Ordinance as "an institution or assembly of pupils," and this amendment now makes it possible to take action against anybody who is conducting or controlling any school.

Clause 4 is really the important amendment, and has received very close consideration in this country and by the Secretary of State. In effect, it gives the Governor power to stop the opening of any private school for pupils of whatever race. At the moment, the Governor has power to close a school in certain circumstances; if, for example, it is considered to be conducted in such a way as to

affect children's health and so on, but there is no power to prevent the opening of a new school. Government seeks power not with any idea of restricting in any way the legitimate growth of private institutions. Indeed, private institutions in all branches of education in Kenya are of the greatest possible importance but it is necessary for Government to have powers to enable it to protect the public in necessary cases. Government, for example, should have the right to assure itself as to the *bona fides* of the management.

The point of clause 5 really is to give the Director power not only to prescribe the actual form on which the application should be made, but also the channels through which it should go before it reaches him. The second paragraph of the "Objects and Reasons" is in my opinion misleading. Actually, there is nothing in the Bill which suggests that the Director must follow the recommendations of a district education board. In the case of a school for Africans he obviously would give serious consideration to any recommendation a district board might take, but the final decision is the Director's responsibility. In the same way in the case of European or Asiatic schools, the Director of Education when the application is made through municipal or district councils, would consider their recommendations, but the responsibility of making the final decision would rest on him.

There is a sub-clause in clause 4 which gives a right of appeal to the Governor in Council within 60 days if the Director refuses an application for the establishment of a new school.

MR. HARRAGIN seconded.

MR. NICOL: Your Excellency, I should like to congratulate the hon. Director of Education on at last getting this Bill through. I am very glad indeed that the threat I made in my speech last budget session to open a school has apparently had some effect!

MR. COOKE: Your Excellency, this Bill places very drastic powers in the hands of the Director of Education and while I personally, who have studied the matter quite a bit, have every confidence in the present Director, I think we should

[Mr. Cooke]

be forewarned that in the future he may be succeeded by some reactionary gentleman such as we have had in the past in this country who may use these very wide powers somewhat unjustly. I would just like to utter that warning.

MR. ISHER DASS (Central Area): Your Excellency, I am sorry that I cannot support this Bill, for two reasons.

The first is that this measure was discussed on the 5th May, 1939, at a meeting of the Indian Advisory Council on Education, and after considerable discussion it was passed unanimously that they could not agree with such drastic powers being placed in the hands of the Director of Education, not for any personal reasons—because at the moment we have a very sympathetic Director in the person of the hon. member in charge of the Bill—but because in future there might be a Director who would use these powers otherwise than intended now. So that resolution was passed, and that is one good reason why I cannot support the Bill.

The second thing is that this legislation will place not only drastic powers in the hands of the Director but makes a change in principle. The principle now is that an institution when opened is run by a management committee, and if it is the opinion of the Director that the institution does not comply with the rules and regulations of the Colony or there is some kind of propaganda which he thinks is against the interests of the people the Director, with the sanction of Your Excellency, may close it. The enactment of this legislation will change that principle altogether: in future, the Director will have the sole power to judge whether a school should be started or not. The principle should be that we must treat every individual as a gentleman until he proves otherwise, but the enactment of this Bill means that all are of criminal intent.

I cannot agree to this change of principle. Some of the best institutions in India and elsewhere were founded and started by prominent people who probably at one time did not agree with Government, they were reactionary people; in other words seditious. But

they founded these institutions, well known in India and other parts of the world. I am afraid that if anybody here who had a political record not looked on favourably by Government or the Director of Education, the very fact of him being of a certain political thought would go against him and he would not be granted permission, however good his intentions at heart, to found any institution.

For these two reasons I am sorry I cannot support this Bill.

I should be very glad if the hon. member would inform me if the Advisory Council on African Education, if there is one in existence, has given any opinion on this subject or not and, if it has been given, whether that Council is negative or affirmative? If affirmative, I should like to know how many Africans are members of that Council because I believe there is only one member and all the others are missionaries or unofficial Europeans who cannot speak in the name of the Africans at all.

For those reasons I sincerely regret that I cannot support this Bill at all.

MR. LACEY: Your Excellency, in the first place I would point out that this Bill, if it becomes law, does not put a tremendous responsibility on the Director; in any case, the responsibility of decision in the case of appeal lies with the Governor in Council, and it is not unprecedented.

One of the reasons why I am anxious that the Bill should be passed is because of the experience I have had in other countries, where within the last three or four years the Secretary of State has approved of two other amendments to Education Ordinances on exactly the same lines; that is, that the Director shall have power to refuse an application for a school and that there shall be an appeal to the Governor. While I was in Tanganyika that legislation was not in force, it came into force in 1936; while I was in Nyasaland it was in force and no case came to my knowledge of any injustice of any sort. Although originally about 12 or 15 cases were investigated His Excellency upheld every decision except one.

[Mr. Lacey]

There is, of course, an advisory committee on African education. There are two Africans on it, and the committee has approved of these amendments. I am well aware there is a European majority on the committee, that is almost inevitable, but there was no objection from the African community.

I think it rather unfair to suggest this amending Bill is aimed against any particular race. The hon. member who is upholding the rights of somebody else must be aware that during last year the few schools which had been closed by Government were all allowed to reopen. At home the education authorities have power to refuse the opening of additional aided schools if they consider that it is going to place a hardship on the rate-payers and that an assisted school in a particular area is not necessary. These powers now sought are slightly wider than those of the Board of Education but they have proved necessary in the case of East African dependencies. I repeat, there is nothing unprecedented about it; in fact, we are rather late in the field in assuming these powers.

The question was put and carried.

DISTRICT EDUCATION BOARDS (AMENDMENT) BILL

SECOND READING

MR. LACEY: Your Excellency, I beg to move that the District Education Boards (Amendment) Bill be read a second time.

This is a very brief Bill, and it is found to be necessary for the following reasons. In the principal Ordinance, section 7 refers to the terms "elementary" and "sub-elementary" schools; they are exactly defined as being schools which follow a syllabus approved by the Director of Education. But there is a large number of schools in existence in the reserves which do not follow that syllabus, and we think the district education boards should be interested in them. The idea of the institution of these boards was that they should gradually develop into local African education authorities for the areas they serve, and it is quite right and proper they should take an interest in all schools in their areas.

Clause 3 follows logically and is in line with the Bill which has just passed its second reading. As I have indicated, the idea is that boards shall become more and more increasingly responsible for African education in their areas, and it is only natural the Director of Education should wish to consult them and discuss with them how best to organize the establishment and supervision of schools in their areas.

MR. PHILLIPS seconded.

The question was put and carried.

NATIVE AUTHORITY (AMENDMENT) BILL

SECOND READING

MR. HARRAGIN: Your Excellency, I beg to move that the Native Authority (Amendment) Bill be read a second time. This is a short Bill, and I suggest a not very important Bill, necessary to rectify certain omissions in the principal Ordinance.

The first clause of importance is 2, which gives headmen power to order natives to work on minor communal services. It seems extraordinary that they have managed to act as long as they have without these powers being in existence. I rather think the answer must lie in the fact that perhaps the natives in the reserves did not realize that these powers did not exist. But it certainly is a very necessary amendment that where a communal purpose has been declared under the Ordinance, such as the clearing of land of tsetse fly or making roads, and a thousand and one things, a headman will be able to give orders for the natives to do the work.

The second amendment is in clause 3, which corrects an omission. As the principal Ordinance stands, a Provincial Commissioner has power to remove a native who, for example, is squatting without any right on Crown land and send him back into his reserve, but if the native happens to be squatting on a piece of native reserve where he has no right, the Provincial Commissioner cannot issue any orders whatever because the native is actually in a native reserve. Hon. members will realize that different types of native reserves were created recently such as permanent, temporary,

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reservoir lands and so on, and it is imperative that Provincial Commissioners should be able to move natives who are squatting in parts of the reserves to which they have no right.

The third point of interest is regarding the collection of local rates which, as hon. members know, local native councils have the right to impose. At present, the rather cumbersome procedure is that the native rate is imposed by resolution and when such resolution has been approved by the Governor in Council any native who does not comply with it is brought before the local tribunal. The only punishment for non-payment is a fine or imprisonment, and the amendment which hon. members are now considering is merely bringing the levying of these rates into line with the levying of native hut and poll tax. It is exactly the same procedure for each, and lays down the costs which may be awarded in the event of the rate not being paid being limited to one shilling, which I do not think anybody will consider excessive.

Clause 5 is merely a small amendment in view of the fact that in section 24 of the principal Ordinance special provision is made for the collection of the rates and it is not simply left to the general provision in section 25, which makes it an offence to fail to obey any resolution which a native council has passed.

MR. PHILLIPS seconded.

MR. MONTGOMERY (Native Interests): Your Excellency, I agree with the Bill. I merely rise to ask a question concerning clause 4. Do the last few lines mean that if a native is sentenced to imprisonment for not paying his rate the life of the rate is extinguished, or that if he does not go to prison he does pay the rate? I think that would be wrong, and that he should still have to pay it even though he has been punished.

MR. HARRAGIN: Your Excellency, the position with regard to these rates is exactly the same as with regard to the native hut and poll tax, but I will be quite fair to the hon. member and say that lawyers disagree as to whether imprisonment extinguishes the debt even in the case of the Hut and Poll Tax Ordin-

ance. That will one day have to be decided either by a court of law or possibly by amendment to the Ordinance.

The question was put and carried.

PENSIONS (WAR SERVICE) BILL

SECOND READING

MR. HARRAGIN: Your Excellency, I beg to move that the Pensions (War Service) Bill be read a second time.

As hon. members are probably aware, the Bill is in common form and has been enacted all over the colonial empire. It merely makes provision that for officers in the Civil Service serving on a pensionable basis who join His Majesty's Forces, the time they are in those forces will count towards their pensions. Naturally, as in all Ordinances, there have to be safeguards, and I will refer to one or two, namely, that when a person leaves the Service to join the forces he must do so within three months; he cannot leave to-day and join up in two years' time and imagine that that period will count towards his pension. Similarly, when he returns after the war to his normal occupation, he cannot stay away more than three months without special leave. In the proviso (b) you will notice again that there is a provision which says that if during his military service any period is being counted towards any other pension, naturally he is not allowed to count it towards the pension he will get from Government.

With regard to an officer killed while on active service, as hon. members are aware under the Pension Ordinance to-day if an officer dies in the Service his dependents may be awarded by the Governor in Council one year's salary. As in the Army special provision is made with regard to people killed in action, naturally it is necessary to suspend that section of the Pensions Ordinance as far as the officer is concerned in his civil capacity during the time he is in the Army.

MR. PHILLIPS seconded.

MR. COOKE: Your Excellency, just one point occurs to me. I think in the last war there were certain officers who joined up in East Africa or other forces and when re-appointed to the Service that period did not count for pensionable service. I am not quite certain, but if that

[Mr. Cooke]

is so, would it be possible to make this Bill retrospective to include those particular officers? I think in fairness that should be done.

MR. HARRAGIN: I am afraid that this particular Bill only refers to the particular war in which we are engaged at the present time. If it is necessary to meet the hon. member's point, there will have to be another Ordinance to deal with something that happened in 1914-1918.

The question was put and carried.

APPLIED INDIAN ACTS (AMENDMENT) BILL

SECOND READING

MR. HARRAGIN: Your Excellency, I beg to move that the Applied Indian Acts (Amendment) Bill be read a second time.

Hon. members, I suppose, must wonder when they see such a Bill as this, why it is ever necessary to pass any Bills, because although the Indian Acts have been in force for twenty years or more this particular Bill which gives effect to them, through an omission, either by the printer or officer revising the laws in 1926, was omitted from the revised laws of the Colony, and we have been able to get on very nicely without it for something like fourteen years. Only by chance I came across the fact that the old Ordinance, enacted about 1918, had been omitted from the revised laws.

The Bill is entirely formal and speaks for itself. It means, in effect, that where an Indian act is applied to this Colony and where the words used in India are "Governor General in Council", for example, they mean when applied to this Colony "Governor in Council", and so on. It is a necessary Bill, and it is peculiar that this omission was not discovered before. I can only suggest that the reason why is because everyone knew that the officers designated under it always acted as if it had been in existence!

MR. PHILLIPS seconded.

The question was put and carried.

PATENTS, DESIGNS, COPYRIGHT AND TRADE MARKS (EMERGENCY) BILL

SECOND READING

MR. HARRAGIN: Your Excellency, I move that the Patents, Designs, Copyright and Trade Marks (Emergency) Bill be read a second time.

This again is entirely formal, and is being enacted in all colonies.

With regard to such things as patents, hon. members are probably aware that Kenya merely acts as a sub-agent for the United Kingdom. The reasons are obvious: we could not possibly afford the salaries of the people who we should have to employ to examine each patent that was presented for registration. So as a matter of convenience what we do is that if someone wishes to register a patent here we tell him it is necessary to register it in England and that as soon as he gets a certified copy it is entered as a registration here. Many patents—and I also include copyrights, trade marks and all the other matters mentioned in the Bill—before the war had been taken out by enemy aliens, with the result that theoretically, if we were to obey the law, we could not have substitutes in their place. This Bill merely legalizes substitutes being used in the place of articles patented by enemy aliens.

MR. PHILLIPS seconded.

The question was put and carried.

ALIENATION OF IMMOVABLE PROPERTY TO ENEMY SUBJECTS (RESTRICTION) BILL

SECOND READING

MR. HARRAGIN: Your Excellency, I beg to move that the Alienation of Immovable Property to Enemy Subjects (Restriction) Bill be read a second time.

This Bill, which is similar to one passed during the last war, makes provision for the Governor's consent to be obtained before an enemy alien is permitted to buy or acquire land in this Colony during the present war. It is unnecessary for me to stress the reasons, they are perfectly obvious, and clause 3 merely says that an owner cannot sell or lease land to an enemy alien without the consent of the Governor in Council. To make assurance doubly sure, we say

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later on that he cannot even register such a transfer. Lastly, in clause 4, we make it clear that even if a person were under agreement to sell to an enemy alien he is forbidden by this Bill to carry it out.

MR. PHILLIPS seconded.

The question was put and carried.

BILLS

IN COMMITTEE

MR. HARRAGIN moved that the Council resolve itself into Committee of the whole Council to consider these Bills clause by clause.

MR. PHILLIPS seconded.

The question was put and carried. Council went into Committee.

His Excellency moved into the chair. The Native Authority (Amendment) Bill was considered clause by clause. Clause 3.

MR. HARRAGIN moved that the word "remove" be substituted for the word "return" in the marginal note.

The question was put and carried.

The Alienation of Immovable Property to Enemy Subjects (Restriction) Bill was considered clause by clause. Clause 5.

MR. HARRAGIN moved that the words "cause to be registered" be substituted for the word "register".

The question was put and carried.

MR. HARRAGIN moved that the Native Authority (Amendment) Bill and the Alienation of Immovable Property to Enemy Subjects (Restriction) Bill be reported with amendment and the remainder without amendment.

The question was put and carried.

Council resumed its sitting.

His Excellency reported the Bills accordingly.

THIRD READINGS

MR. HARRAGIN moved that these nine Bills be read the third time and passed.

MR. PHILLIPS seconded.

The question was put and carried.

The Bills were read the third time and passed.

ADJOURNMENT

Council adjourned till 10 a.m. on Tuesday, 13th August, 1940.

Tuesday, 13th August, 1940

Council assembled at the Memorial Hall, Nairobi, at 10 a.m. on Tuesday, 13th August, 1940, His Excellency the Governor (Sir Henry Moore, K.C.M.G.) presiding.

His Excellency opened the Council with prayer.

MINUTES

The minutes of the meeting of 7th August, 1940, were confirmed.

PAPERS LAID

The following papers were laid on the table:—

By MR. RENNIE:
Standing Finance Committee Report on Schedules of Additional Provision Nos. 1 and 2 of 1940.

By MR. HARRAGIN:
Select Committee Reports on the War Taxation (Income Tax), Courts (Emergency Powers), and Soldiers (Exemption from Civil Process) Bills.

By MR. MORTIMER:
Annual Report of Commissioner for Lands and Settlement for 1939.

ORAL ANSWERS TO QUESTIONS No. 20.—KORU STATION QUARTERS

MR. KASIM asked:—

(a) Is the Hon. General Manager, K.U.R.H., aware that the existing staff quarters at Koru Station are most unhealthy?

(b) If the reply is in the affirmative, will he state when it is proposed to build new staff quarters at Koru Station?

MR. RENNIE:—

(a) Statistics do not prove that the existing staff quarters at Koru are unhealthy. In fact the health record at this station compares favourably with other stations in this area which have the advantage of more modern buildings.

(b) As the reply to (a) is not in the affirmative, this question does not arise. It may, however, be stated for information, that following the general policy of the Administration, these buildings would be replaced by a more convenient and

[Mr. Rennie] modern type when their useful life has expired. During the period of war this policy has, of course, largely been suspended.

No. 21.—RESIDENT MAGISTRATE'S COURT, KISUMU

MR. KASIM:—

(a) Is Government aware that at present the Resident Magistrate's Court at Kisumu is housed in a small room which entails great inconvenience to the bench as well as to the public?

(b) Will Government give an assurance that the necessary provision will be made in next year's budget for providing proper accommodation?

MR. STRONACH (Director of Public Works):—

(a) The Resident Magistrate's accommodation at Kisumu consists of a Court Room, the Resident Magistrate's Chambers and a general office. This accommodation, though not all that could be desired, is considered, at the present time, to be sufficient.

(b) The Government is unable to give the assurance asked for.

MEASURES FOR COMMON WAR EFFORT

LORD FRANCIS SCOTT: Sir, I rise to move the motion standing in my name:—

Council, whilst welcoming the information conveyed in His Excellency's communication from the chair, considers that more drastic and energetic measures are called for in certain directions in pursuance of the common war effort.

In moving this, I can say that I am speaking on behalf of the European elected members as a body though, of course, there will be other points which individual members will wish to raise besides those I shall deal with.

It has been suggested to me that this motion as it reads is in fact a vote of censure on Government. I should like to say that that was not our intention. We, as the elected representatives of the European community, wish to make it quite clear that not only do we whole-

heartedly support Government in all the actions it has been necessary to take in the prosecution of the war but that we do feel that in certain directions even stronger and more drastic measures will have to be adopted.

The first point I want to deal with is the question of our financial contribution to the Imperial authorities, or you may say our financial contribution to the general war effort. There has been a lot of discussion on this subject and a certain amount of difference of opinion, but I believe that on the fundamental point everybody in the country is unanimous, that is, that we should contribute to the very maximum it is within our capacity to do. At the same time, we must consider in what directions we can really best help this Empire war effort.

You, sir, in your Communication from the Chair the other day, said that we are now very definitely a theatre of war, and that is the point which I think some of those critics are a little bit apt to overlook. Actually, of course, we are becoming more and more an important theatre of war every day. France, under Marshall Pétain's Government, has now completely collapsed as far as war is concerned, with the result that the whole conduct of the war in Africa is now resting on the shoulders of the British forces. This war in East Africa is, I believe, far more expensive than many people realize, and yet it is an integral part of the main war which is now raging throughout the world.

As I see it, from a financial point of view our first duty is to maintain completely stability in this country itself. If we fail in that, we shall be rendering very poor service to the British Empire and certainly very poor service to Great Britain. Our next duty is to do all in our power to help finance this war which is going on in East Africa. But we do believe that, after we have seen to those two objects, then if we do provide any further money that of course should go directly to help Great Britain in her war effort in Europe. But I do suggest that, however much money we raise here, whether by taxation, loan, or private contributions, it will all be required in this involved in Africa itself. The Imperial

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authorities, of course, remain responsible for the major part of financing the war over here as everywhere else, and in my opinion it would indeed be foolish to send money to England which has then got to be returned by England back here.

There is another point which I feel we ought to emphasize. That is, the vast scale of expenditure which is going on to-day. Great Britain is spending about 9 million pounds a day, and while the few hundreds of thousands of pounds which we may be able to raise here and contribute may be of great importance in the local campaign, when it is sent for use in the big war in Europe it is swallowed up in a few minutes of that war. So I do consider it is most important that we should bear this point in mind, that our duty with what money we have got is first of all to use it all we can to assist the Imperial authorities in the conduct of the war in Africa.

You, sir, in your address, showed in figures the many calls which have been made on our financial resources in the prosecution of this local war, and I hope that later on in this debate my hon. friend the Financial Secretary may be able to elaborate that point still more, as I feel it is not fully realized and appreciated by some members of the public. It may be remembered that there was a sort of basic contribution agreed on in the early days of the war, that we should pay the pre-war military expenditure of these various territories and add 25 per cent to that, and that that should be our contribution. That was merely the basis on which we were working, and it was always understood we might be called on to contribute a great deal more, and people who think that that is the limit of our contribution are being misled from the actual facts.

While the Imperial Government is responsible for the purely military expenditure, to which of course we contribute, we must be in a position to finance any other projects which are necessary to the prosecution of the war but which, perhaps, cannot be altogether described as of a purely military nature. It is very easy for us to foresee further calls which will become necessary in the

future and which, while due to the war, might not legitimately be put down to military expenditure. Production must be maintained if the troops are to be fed, and money may be necessary in the way of certain capital expenditure for that purpose. I am thinking of such things as cold storage and other things; roads and communications must be kept up to a proper standard, and every week those of us on the Standing Finance Committee know that fresh demands come along from the military for assistance towards such things as housing, postal facilities, and other services, all of which are essential to the successful prosecution of this war. I submit that to denude ourselves of all our surplus balances would be the height of folly and, if we did so, we should be unable to carry on with our proper duties out here for the successful prosecution of this war.

What I should like to see established is some form of East African war fund, into which the financial resources of all the various East African territories could be put and which would be at the disposal of the military authorities in East Africa. You, sir, said the other day that you were advised that we ought to keep our liquid balances available at about £300,000. I suggest that if these liquid balances are secured, anything over and above which we may get by increased taxation and so on should be put into that East African war fund.

Further calls will no doubt have to be made on the people of the country, taxation may have to be further increased, and if there are such calls I know everybody in the country is only too ready and anxious to do what they can to contribute towards that purpose. But I do feel that the most satisfactory way of raising large sums of money would be by means of a local loan. You did refer to that, sir, in your address, and said you were awaiting further information. I do trust that that information will arrive very shortly and that Government will go into this question very thoroughly and as soon as possible. I believe there are considerable sums of money in this country available to be invested. Normally, such sums of money require high rates of interest, but I am

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confident to-day that anyone who has any money for investment is prepared to loan that money at low rates of interest so long as they thought the money was going to be used for the successful prosecution of this war.

If we have such a loan, I suggest that Kenya could contribute her part by bearing the interest on such money invested, and then we could let the Imperial authorities have it for the prosecution of the war free of interest. Already the Kenya and Uganda Railway have given £200,000 to the Imperial authorities free of interest, though that money is being kept in East Africa, for the prosecution of the war in the same way as I have suggested that this other money should also be kept. Next week the Railway Advisory Council meet at Entebbe, and it is on the agenda that we shall discuss what further contributions can be made from the Railway's reserve funds.

Quite apart from what the Colony can do in the way of providing public funds, personally I consider that the individual and voluntary response to the funds which have been inaugurated here on a voluntary basis and which now amount to over £50,000, has been very fine. We seem to have a curious habit out here, that whatever people do there are always some people who have to find fault and seem to take a delight in criticizing destructively. Personally, I think the response of the public has been good. This is not a country of a lot of rich people or big businesses, everybody has done their utmost I believe to help in those voluntary contributions.

Talking of our contributions to the war effort, it must be remembered that Kenya and all this part of East Africa is the only part of the Colonial Empire which is actually a theatre of war, and therefore our position is entirely different to other colonies in other parts of the world. Our contribution is not measured only by the money we produce but by many other ways—man power, all sorts of ways, but that I will come to later.

I believe that all agree that we must do everything possible to help on the

successful prosecution of the war, but let us see that what we do contribute is the most practical and not merely the most spectacular. I have already said that everyone is only too willing and anxious to contribute all they can. It must, however, be clearly understood by Government that it is for the prosecution of the war and not for an extension of social services. In fact, the public expect all possible economies in ordinary Government expenditure to be insisted on. I am confident, however, that Government themselves are fully alive to this point, and I trust that during the course of the debate the Government spokesman may give us a clear assurance on these points so that no doubt may be left in the minds of anyone.

I should now like to turn to man power. The difficulty with the man power has been to keep the balance even between the needs of the military and the needs of production and other essential services. We have now sent to the military forces practically all the men who can be spared from civil life. If there had not been careful control over the man power of the country, to-day the country would have been denuded of men, because in my experience, with a few striking exceptions, every man in the country, young and old, has wanted to join up in the military forces. Men do not think 75 years a bit too old to join the military forces, while young boys are longing to get away and do their bit before they are old enough. I feel particularly sorry for a large number of young men who have been very keen to join the Army but who have had to be compulsorily kept at their jobs. I know how deeply they feel themselves, and especially I should like to refer to the young men who have been kept in the banks, oil companies, the creameries, and the Administration.

I hope, sir, the Administration may well be able to spare a few more men, but I am afraid the other three institutions I have referred to are very unlikely to be able to let any more go if they are to keep their businesses running as is necessary. At least, that is his opinion, and while we have suggested various ways of amalgamation or pooling, in

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which a few more could be spared, I cannot hold out much hope that that is going to be achieved.

In your address, sir, you pointed out that those people who have been exempted should remain in their posts. I rather wish you had used the word "must" rather than "should". I understand from my hon. and learned friend the Attorney General that under the Defence Regulations it is made quite clear that no exempted man can leave his post to go to any other job or to go into the Army or Air Force or anywhere else without the direct permission of the man power authorities, and that if he does so he is committing an offence. I hope that in the course of this debate my hon. and learned friend will make this point very clear from our chief legal authority, so that there shall be no doubt in the minds of the people in this country, because in spite of various pronouncements made a large number of people do not seem to realize this particular point.

Personally, I think it is unfortunate that at the beginning of the war we did not conscript the whole of the man power, and order them to do whatever job was thought most suitable for them. (Hear, hear.) However, that was not done, and now we have to make the best we can of the present position. I know that many people resent the words "exemption from military service", but to try and give them a feeling that they are doing national service and not merely being exempted from military service, emblems with the letters "N.S." are shortly going to be sent to all exempted people, and I hope when they receive them they will realize that it does show they are doing work of national importance which has been considered by responsible authorities as the most suitable for them to perform.

So far as the land is concerned, I believe there are sufficient men left just to keep production going, but no more, and we are getting near the danger point. It will be essential that steps should be taken to see that the harvesting of this year's crop and the planting of next year's crop are carried through, and

it may well be that some form of compulsory powers may be necessary to be instituted for this purpose, so that we can be assured that the foodstuffs of the country will be kept up to the greatest standard that is possible.

So far I have been dealing entirely with European man power. I hope I have made it clear that we can say that the whole of the European man power has now been mobilized for the war effort, either in the Army or in work on essential services. There are just a few people left who perhaps have not been fitted in to give their best, but the numbers are really negligible.

But it does not apply to the other races in the country, and it does seem to me terribly wrong that in a time of crisis such as this we hear so many stories of Indian artisans leaving one job of national importance to go to another one for the purpose of getting higher rates of pay. I do consider they should equally well be conscripted and ordered to do whatever work of national importance is most important for them to do and be paid fixed wages. The matter has become very serious, and I trust that Government will deal with it immediately and take drastic steps to put the position right.

When we turn to the native population, so far they have responded well, and I understand that recruiting for the armed forces is easy. But even so, sir, in fairness to themselves as well as from the point of view of national emergency, I feel sure that some form of compulsory service will have to be adopted. A committee has recently been sitting dealing with this subject, and though I have not seen their report I believe they arrived at a unanimous report making recommendations on this particular subject, and no doubt we shall know what they are in the near future.

The principle of compulsory service having been adopted, there can be no justification for not applying it equally to all races, instead of confining it only to Europeans.

Another problem I wish to deal with is that of aliens and the question of internment. Some people, I know, advocate

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total internment of aliens of enemy origin. Personally, I do not altogether agree with that. I believe there are a certain number of carefully selected Jewish refugees who are at present doing good work on the farms and are helping to keep production going at this time, when the man power has been so greatly depleted. I think, however, they should be carefully vetted and each individual case should be carefully scrutinized.

Where I feel there is greater danger than from these people is the large number of women who are still at large in this country. We have dealt fairly with the men, but we have interned very few women, and they can be just as dangerous "fifth columnists", if not more so, than men.

Another section of people whom I am nervous about are those who cannot be called enemy aliens but who may, under the guise of some other nationality, be even more dangerous than some actual enemy aliens. We have to realize to-day that even the adherents of the Vichy Government in France must be considered as among those unfriendly.

In a time such as this personal likings must not be allowed to influence people. Only one thing matters, and that is the safety of the State. In normal times under our law everyone is considered innocent unless proved guilty. In times of war, everyone of doubtful origin must be considered suspect until he is proved innocent. (Hear, hear.) No doubt hardships will be inflicted, but that is the inevitable result of war.

Turning to another subject altogether, there has been a good deal of dissatisfaction at the postal facilities for the troops. I have tried to inquire into this, and find that relatives of friends post parcels or send telegrams, or even sometimes air mail letters, at Kenya post offices addressed to their relatives in the forces in some distant part of the country. I understand these letters, telegrams, etc., come into the civil post office in Nairobi and are passed over to the Army Postal Service across the road but, owing to the conditions of war, it may be that the telegram cannot get to its

destination for a week or 10 days. It is felt that if we cannot give the services which are paid for, it is not fair to accept full rates for those services. I fully realize the many difficulties in the way of getting this question satisfactorily settled, but I do hope it will be taken up at the Staff Talks and the matter may be put on a more satisfactory basis, so that the troops shall not feel they are suffering under a grievance.

Recently, there has been a new appointment made, and I feel we all wish to give a very hearty welcome to Sir Phillip Mitchell on that new appointment. By voluntarily relinquishing his governorship so that he can devote himself to the better co-ordination of these territories, he has proved his unselfish patriotism, and all trust that it may be possible for him to make a success of his appointment which I know he is so desperately keen on achieving.

While welcoming this present attempt to achieve better co-ordination, I do feel very strongly, and all my colleagues feel very strongly, that it does not go far enough. I have no wish at this time to enter into the political problem of closer union in peace time, but it does seem absolutely essential that all these countries should be treated as one in war time and have one policy. All their resources, including finance, should be dealt with for the common purpose of the prosecution of the war. Never could it have been better demonstrated what a foolish method it is to have half a dozen British territories contiguous to each other yet all ruled by separate governments independently of each other. I trust this present attempt towards getting this co-ordination may be successful. If it is not, then I trust that the Secretary of State will step in and impose some executive authority which can enforce any co-ordinated action which may be necessary for the prosecution of the war.

Finally, to sum up. Government must look on everyone of every race as at the entire disposal of the State both in person and in property. Government must not hesitate to take any action, however drastic, to ensure that the whole of the resources of the country are being utilized 100 per cent

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towards the successful prosecution of the war. To achieve this end, Government must be prepared to cut right away from Colonial Office routine methods. We cannot afford perpetually to be kept waiting for Colonial Office sanction to this, that, or the other. Nor can we tolerate the normal departmental delays. Decisions must be taken on the spot at once and, if necessary, regrets can be expressed afterwards should the Secretary of State object. (Hear, hear.)

Sir, I have attempted no fireworks. I have not tried to score points off Government. I have tried in simple, sincere language to put before this Council the views which we feel on this side of Council should be taken to enable this war to be prosecuted to a successful finish. (Applause.)

MAJOR CAVENDISH BENTINCK: Your Excellency, I formally second the motion, and reserve the right to intervene in the debate at a later stage.

MR. NICOL: Your Excellency, I rise to support the motion which has been so well proposed by my hon. friend the noble lord the Member for Rift Valley.

In doing so, I want to say that I support to the full the Government's policy in regard to the finance required for running the Colony and for the Colony's war effort. Your Excellency said in your address that in a wire from the Secretary of State, the Secretary of State had indicated that he wished the colonies to do as much for themselves as possible before asking for assistance from the home Government. It is manifestly clear that if we, for the sake of seeing our generosity publicized, send home large sums of money from our surplus balance, we shall very soon become a liability to the home Government instead of being an asset.

The loyalty of Kenya is second to none in the Empire, and the public can be sure that the elected members would very soon protest to Government if they felt that Kenya was not pulling its weight. And we on this side of Council are unanimous in our approval of Government's actions in this matter. In fact, we

can liken those who still persist in urging transfers of sums of money to that type of individual who rushes off to buy a wreath as soon as he hears there is going to be a funeral! If people only took the trouble to go into figures, they will see that Kenya's financial war effort far exceeds what many people imagine.

Turning now to co-ordination, I warmly welcome the appointment of Sir Phillip Mitchell to the post of Deputy Chairman of the Governors Conference. He is a man of drive, and now we stand a good chance of getting something worth while done. In my view, it is the duty of everybody to give him the fullest support. At the last session of Legislative Council I remarked that the Commissioner for Income Tax was no longer a servant of Kenya but a servant of East Africa. That appointment was one step nearer to union. I view the appointment of Sir Phillip as yet another step, if not a stride, nearer that goal which we—at any rate the commercial community—have been aiming at for so long.

I say again, as I have said before, that if these East African territories are to get the fullest benefits of real co-ordination, the dotted line on the maps has got to be washed out. I, too, would wish Sir Phillip Mitchell every success in the great undertaking he has embarked on.

I will now turn to a subject in which I am very interested and in which others beside myself are somewhat concerned. That subject is Fifth Columnists. Rightly or wrongly, I have gathered the impression that Government do not view this dangerous form of warfare very seriously insofar as Kenya is concerned. I am not satisfied that the steps Government have so far taken are anywhere near sufficient to ensure the safety of the State. Surely the experience of Norway, Holland and, more recently, France, must demonstrate to the most lethargic mind that the treachery of the fifth columnists is a very real and live menace?

I have just finished reading a book by a well known journalist entitled "Parachutes over Holland". The author was in Holland from the end of August last year until the day the Dutch surrendered,

[Mr. Nicol] and he managed to get away by the last boat from Rotterdam. His record is an incredible revelation of treachery organized by a master hand. I commend it to all of you to read. People who were looked on as highly respectable and praiseworthy citizens who had been naturalised Dutchmen for many years were in reality nothing more or less than Nazi agents. I was told by the captain of a Dutch steamer the other day, who got his ship out of Flushing on 10th May, that the description in the book I have referred to was absolutely true.

Thank goodness that in England they do realize the danger of the fifth columnists, and very drastic action has been taken against the enemies of the State. Well known public men have been put inside, Members of Parliament and the like, and it shows that England is not afraid to deal with this menace.

As I say, the evidence I have would indicate that this Government does not appreciate the seriousness of the problem. There is a committee which advises the Commissioner of Police to intern people, there is another committee which advises Your Excellency to let internees out. Where is co-ordination? Again, it was only after a very uphill fight that we were able to eventually get the port area of Mombasa controlled. It was not the local authority which obstructed the closing and control of the port—the obstruction came from somewhere up here in Nairobi. The danger of sabotage is a very real and live one, and it is the duty of Government to protect steamers calling at this port. Sabotage is a very easy thing, and if you read that very excellent and clear book on the subject, "The Dark Invader", by Capt. Von Rintelen, you will see how incredibly easy it is to get noxious weapons among cargo. He was sent over by the German Government during the last war to America to organize sabotage. Here is a very grave danger, and one is convinced that sabotage is abroad in other parts of the Empire, and we must protect the port of Mombasa.

Another point: What steps are Government taking to put a stop to subversive talk among all communities?

Subversive talk is a most dangerous form of fifth column activity. Chatterbugs are also fifth columnists if they will only realize it. These alien women are a danger, a great menace. They talk to their natives, and the natives get a wrong idea put into their heads. Are Government countering that? Why do not Government restrict to the fullest extent the movements of all such persons as may be suspected? After all, we are waging a total war, and total methods have got to be adopted.

On the 13th December last year I spoke in this Council on enemy aliens, and I said:

"After all, we are at war with Germany and as such we are at war with the German people—I do not mean those nationals who, by reason of their birth, had to become refugees—but whether the German is Nazi or non-Nazi he is still a German, and we are at war with them despite what other people do tell us to the contrary. Lord Milne in the House of Lords recently made a striking speech in this regard. No matter whether a German be a non-Nazi or not, he or she must, in my view, be treated with the greatest suspicion."

The only type of good German or Italian in my view is a dead one. If a person I suspect pounces on him, it is no good waiting for concrete evidence. Surely suspicion in time of war is good enough on which to act? In these days we cannot run any risk, and it is only right to the community and for the safety of the State that the authorities should have the fullest information of potential sources of danger. I want to urge that the Defence Regulations be amended without delay to require all persons of alien origin to register with the police. This would cover not only naturalized subjects but also those who, having married British subjects, have thereby had the good fortune to assume British nationality. The danger is that these people, with relatives in belligerent countries, are liable to be caught up by agents of those countries.

I make that suggestion in all seriousness, and I do trust Government will take action on it. To defeat the menace

[Mr. Nicol] with which we are faced to-day, we have not only got to think out every conceivable move the enemy is likely to make but have got to be prepared for the most unlikely moves as well. I do urge Government to evince signs of giving more serious thought to this fifth column danger. Is it staff you lack? Is it money? because if it is either you must have it. If the people whose job it is to look after that particular menace are incompetent they must go. How often do you hear of "So and so, such a charming fellow"? After all, we are at war, and we have not got time for charming fellows if they are incompetent.

The whole trouble is that we are not ruthless enough. This is no time to stand on the niceties of good manners. The collapse of France was due to treachery in high places, and the fifth column caused that collapse. Let us be warned, for if we are forewarned we are fore-armed. I am unshakably confident that with the help of Almighty God, Great Britain and the Empire are going to win this war, but we have got to realize we are up against forces of evil the like of which have never before been let loose on the world. To destroy that evil we must leave nothing to chance, we must not do up till to-morrow what we can do to-day.

In conclusion, sir, I would stress that Government have a long way to go before fifth column activities in Kenya and East Africa are destroyed.

COL. MODERA (Nairobi South): Your Excellency, the noble lord the hon. Member for Rift Valley referred to the exempted men and that they felt very much the word "exemption" and that they were unable to take part in military duties. Since the last session of this Council, two important things have taken place in the realm of the Kenya Defence Force. The first is that the role of the K.D.F. has been laid down by Government on the advice of military authorities; a form of training has been laid down, and the numbers to be trained are limited. The second important point is that within the Defence Force there has been called for and formed a Local Defence Corps. The response to the

appeal for that Corps has been magnificent. Men who have been exempted from military service have appreciated that here was an opportunity for them, if they were to stay in their civil occupations, to render some military service.

The number of the Local Defence Corps exceeds 1,300, and that exceeds the number which was authorized for training purposes in the Kenya Defence Force. If the Local Defence Corps is to be the success which is expected of it as a local force against the fifth column and as parashots; I hope that when the authority of Government is asked it will be given, for an increase of the present numbers to be trained in the Kenya Defence Force.

I had not intended to intervene in this debate except to mention these matters of the Defence Force and Local Defence Corps, both of which have transpired since last session, but while I am on my legs I would like to say that I share the fears of other hon. members regarding the fifth column. As a constructive suggestion, I would like Government to consider the necessity of issuing to all Europeans, male and female, identity cards. It is probable, if it is successful, that the system might be applied further. But I feel quite confident that the issue of such cards would be of great assistance to the civil authorities in compiling their returns of personnel in their districts. Also, I feel confident that it would be of great assistance to the police authorities. I cannot for the life of me see why we should allow people to circulate in this territory, where we have so many non-British subjects, without means of identification. I suggest that consideration be given to the question of the issue of these identity cards.

Finally, the noble lord has referred to the financial position, and to that of the Colony. I would ask that Government so not only practice but preach economy so that all of us in this Colony can appreciate that this is a theatre of war. I feel that in certain ways there can be restrictions imposed which will tend to reduce the amount of money which we see expended in certain manners now. We are all in favour of offering and extending hospitality to the troops who have

[Col. Modern] come to this Colony from elsewhere, and a very considerable amount of hospitality has been given. That can be afforded very well in the home, but I suggest that this is not the time when parties should be indulged in to the extent which all of us here know is going on. Restrictions both in regard to hours and in regard to the consumption of alcoholic liquors and the like will assist very much in an economy campaign. I suggest that there is rather a tendency in the direction of the adage: "East, drink, and be merry, for to-morrow we die," rather too much tendency in that direction, and I do urge that Government in every possible way be the leaders in an economy campaign.

MR. GHERSIE: Your Excellency, I wish to associate myself with certain remarks expressed by previous speakers, and I should like to add one or two for your consideration, more perhaps of a domestic nature.

In the first place, if production is to be maintained, provision must be made now for the necessary organization for reaping the harvest. It would be futile to wait until the period for reaping the harvest is upon us, and I suggest that wide powers be given the Man Power Committee and production committees whereby they are empowered to conscript and pool agricultural plant and machinery and order individuals to assist in the supervision of the harvesting of crops.

While on that subject, Government must seriously consider the native labour question. The very fact that so many natives have joined and are being recruited for various military units is in itself very good reason why we can expect a shortage of labour. In addition, due to the expansion in the planting of crops such as flax and pyrethrum, it is certain the shortage will be all the more apparent.

You stated, sir, in your address that the native community has responded magnificently and that there had been so many volunteers that the authorities had not been able to incorporate them all in the military forces. I think Government

should impress on the natives that production is equally important and that they should be encouraged to assist as far as possible in production in every shape and form.

The up-country districts have been denuded as we know of man power and Government, I suggest, should take steps to appoint justices of the peace to deal with petty cases. For various reasons—one of which is restriction of the consumption of petrol—farmers are reluctant to bring minor cases before the local magistrates. It must also be remembered that in many instances to-day old men are supervising farms and in other cases women, and occasions have arisen where natives have taken advantage of the position and refused to carry out instructions.

I understand there is a committee sitting to consider certain legislation to control grass fires, and I submit that that measure should be brought in as soon as possible, because if we are to maintain our grazing it is a matter of extreme urgency.

I have argued on previous occasions that the frequent transfer of administrative officers and other officials from one district to another is not in the best interests of the Colony, and I suggest that that holds good to-day. A district commissioner is as a rule chairman of the local man power committee and production committee, and is in close touch with farm group managers, district commandants and section commanders, and I suggest that the efficiency of those organizations must be affected during the interim when a new district commissioner is endeavouring to take up the threads.

I should like to associate myself with the remarks made by the noble lord on the subject of liaison and organization with adjoining territories. While I realize that one government cannot dictate to another, I suggest that this co-ordination should not be restricted to adjoining territories but extended to include the Rhodesias and South Africa. If we are to achieve results we must have concentration of effort and drive, and the whole resources and reserves of British

[Mr. Gherrie] Africa should be brought together in a concentration of effort and applied to the best effect.

I support the motion.

MR. HARRAGIN: Your Excellency, not the least interesting of the results of the war has been the fact that, if I had the time and opportunity, having listened to the noble lord's speech in introducing his motion, I would have immediately gone into collaboration with him—as I am associated with him in practically all the matters he touched on—and decided on the reply which should be given!

The two principal points on which he has asked information he really knows, of course, the answer as well or better than I do, but it is only right that he should call on me as Director of Man Power to support him in various of his suggestions and statements which regard to man power.

The first point the noble lord made was with regard to exempted men remaining in their posts. I feel that possibly the fact that the public are not as alive as they might be to the real facts in this matter may in some measure be due to me, because when I was broadcasting a week or two ago it is possible that I did not make the position sufficiently clear. I am sorry the noble lord was not satisfied with the remarks made by you, sir, in your address to Council, where I thought you said specifically that exempted persons, people exempted by the tribunal appointed under section 12 of the Kenya Defence Force Ordinance, were by law, that is by regulation, forbidden from leaving the post or other civil occupation they were in until they have received the consent of the Director of Man Power. That regulation was passed on the 27th May, and in order to put the matter at rest once and for all I would like to read it to hon members. It is extremely short:

"2. Notwithstanding the provisions of section 27 of the Kenya Defence Force Ordinance, 1937, no member of the Defence Force who has been, or who may hereafter be, exempted from military service by the tribunal established under section 12 of the Defence Force Ordinance, 1937, shall

volunteer to serve in any of His Majesty's Regular or other forces except with the permission of the Director of Man Power.

"3. Every member of the Defence Force, to whom the provisions of Regulation 2 of these Regulations apply, shall continue in the civil occupation in which he was, or is, engaged at the date of his exemption as aforesaid, unless he is authorized in writing by the Director of Man Power to change that occupation."

That was passed on the 27th May and, as the noble lord made abundantly clear, it is the duty of every civilian exempted by the tribunal to remain at his post until he can find some good cause for leaving it and has managed to convince the Director of Man Power—who, incidentally, in every case takes the advice of the Exemption Tribunal before he makes a decision as the Tribunal was originally responsible for exempting him, to see whether it is right and proper that the man should move from one occupation to another.

I would like to make it clear that the power given to the man power authorities will be used judiciously. It does not mean that a man who perhaps finds himself enslaved to some employer who for some reason is distasteful to him, or for some reason they do not get on, will necessarily have to stay forever in that employment for the rest of the war. But it is important that in the ordinary course of events no man shall be able to move hither and thither as he thinks fit. The European population is, in fact, conscripted and have to do the work the authorities think right and proper in order to win the war in which we are now engaged.

With regard to Indian man power, I should like to mention one or two things.

Recently, on the advice of the Indian Central Man Power Committee, Government is considering the introduction of compulsory powers with regard to certain classes of people whom the military may require. The position at the present moment is that the military will inform Government as soon as they have definitely decided how many of a

[Mr. Harragin] particular class—there is no great secret about it, I am talking about drivers and mechanics—they want, they will inform the Director of Man Power whether they wish these persons conscripted, and with the co-operation of the Indian Central Man Power Committee, who have everything ready to put the provisions of the law into operation as soon as we desire, these people will in fact be conscripted.

African man power was also referred to, and the use of compulsory powers. That, sir, as you know, has been the subject of an inquiry by a committee appointed by you a week or two ago. As the noble lord said, a unanimous report is being submitted to you. It has been signed by everyone, and I believe it has to-day been delivered in the Chief Secretary's office. I do not intend at this stage to say what is in that report, for that would be a little undesirable, because Government must have an opportunity of considering it, but nothing the noble lord has said to-day leads me to believe that he will disagree with anything which has been recommended in that report.

The noble lord then referred to aliens, and I would like to make the position clear as to aliens and enemy aliens and suspected British persons, because the hon. Member for Mombasa mentioned it later.

The short fact is this. The names of aliens and their dockets in the police files are brought before a committee by the Commissioner of Police. That committee, which consist of myself, the noble lord, and Mr. Sayers, sit weekly, and consider every enemy and every suspect whose name is brought before them, and we advise the Commissioner what steps should be taken.

There is some misunderstanding about the second committee which was appointed under Regulation 24. That committee is presided over by one who has held high judicial posts, and has two or three other members. Their duty is to hear appeals from persons, whether they be British subjects or aliens, who have been detained under Regulation 24. The important point I want to make is that that committee only operates under Regulation 24, and no other.

It is a fundamental principle of justice that when a person has his liberty taken away there should be someone to whom he can appeal. That committee has been appointed under the Regulation to hear those appeals. It is nonsense to suggest that one committee puts them in and the other takes them out, because facts prove it is not so. The short fact is that one committee advises the Commissioner what action to take and the other hears the aggrieved person in person, just like a case is heard in court which hears what answer the accused has to the charges and has the opportunity to consider whether the evidence upon which the Commissioner has acted is sufficient to justify the action which has been taken. For the information of hon. members, I can say that extremely few people have in fact been released. I believe there are five, and I think that three out of that five were British subjects. So that I do not think it can be suggested they let many out that the first committee advise should be put in.

I now come to the speech of the hon. Member for Mombasa. It was an interesting speech, because he managed to tell us, or to give us an idea, of how so many of these rumours and letters we read in the paper, which the noble lord referred to as letters emanating from people who do not know all the facts, come to write those letters.

There were two specific points made by the hon. member. He denounces Government because (a) they have not passed a regulation to deal with subversive chatter, and (b) they have not passed a regulation to make aliens register.

MR. NICOL: Sir, I said persons of alien origin. I made that very clear in my speech that it should cover naturalized subjects and also people who assume British nationality by virtue of marrying a Britisher.

MR. HARRAGIN: The hon. member may have meant to say that, but I took a note of what he said. He said aliens, and in aliens he would include those he has just mentioned. The point of course is, as the hon. member should have known, that both these matters were

[Mr. Harragin] covered months ago. With regard to the first point, there was an order made under the Regulations, which has the same effect as a regulation, on the 16th May ordering every alien to appear before the district commissioner of his district and report. It is a long order of six or seven sections stating exactly what they should do when they get there.

With regard to the spreading of rumours, I suppose this Colony has gone further than any other colony or the home Government. That was done on the 25th June, if the hon. member would read Government Notice No. 580, only part of which I will trouble the Council with at the moment. It says:

"No person shall by word of mouth or otherwise spread any report or utter any information calculated to create alarm or despondency, or which is otherwise likely to prejudice the public tranquility or resolution, unless such report or information is merely a repetition of information which has already been published with the aforesaid sanction (of the officer in charge of the Information Office)."

If the hon. member can suggest any regulation that could go further than this one, I would like to hear what it is.

MR. NICOL: I am not suggesting a regulation but action under the regulations.

MR. HARRAGIN: I have no doubt from that remark that the hon. member must have given information about someone who has been spreading reports and the police have refused to take action. Otherwise it seems to me difficult to believe that he would be justified in making a remark of that description.

I have already dealt with the registration of aliens, and the next point made was that Government was not taking the fifth column seriously. What can the hon. member mean by that? He follows it up by words to the effect that he is glad to see the home Government is taking it seriously. What we are doing here is exactly the same as they are doing at home. In fact, it is interesting to note, if one can go by reports in the newspapers recently, that they have been

relaxing to some extent the rigidity of the rules which they introduced early in the year.

The facts are, as is well known, that every suspect—and when I say suspect I mean every person the police have any reason to suspect—is subject to restrictions. It is quite untrue to say that aliens are not restricted in any way. Their movement is restricted, as hon. members well know. There are many places they are not allowed to visit at all, that is in addition to those who have actually been put into a detention camp.

The next point the hon. member made was that he complained that when Mombasa asked that the port should be made a closed area obstruction was received from Nairobi. The short fact is that the authorities in Nairobi—and I was particularly responsible for this as it was under my authority that the notice would have to issue—when I say my authority I mean it is my duty to put the notice up to Your Excellency—the short fact is that I could not get the authorities in Mombasa, whoever they may be, to define exactly where they wanted to be a closed area. At one period they were going to include a road, but when I pointed out that no one could go along that road without a pass they said they did not mean the road, and it took them a considerable time to decide the exact area which they considered should be closed. I can assure hon. members that the very moment that came through it appeared in the next Gazette. There is not the slightest truth in the suggestion that there was any obstruction to this very proper proceeding which the hon. Member for Mombasa mentioned.

There was one other point made by the hon. Member for Uasin Gishu. He referred to the jurisdiction of justices of the peace being extended. After a meeting between the Chief Justice, myself and the Chief Native Commissioner and one or two others, a proposal will be put before Government. It will not be in exactly the form the hon. member mentioned, though it is along those lines. In fact, if anything is done in that direction—and there are many difficulties, which I am sure the hon. member will be

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the first to realize, with regard to interpreting and recording offences and so on, all of which will have to be provided for—it will be to give third class jurisdiction (or special jurisdiction) is perhaps the better way of putting it) to certain people with experience in the district. It is hoped, and Government itself is as anxious as the hon. member, to be able to do this, because naturally it relieves the police and magistrates and everybody else of a considerable amount of work and also accelerates the rate at which cases can be tried.

I must finish with a plea of guilty with regard to the grass fires committee. I have the honour to be chairman, and it is entirely my fault that the committee has not yet met. I trust that when the stress of this Legislative Council is over I may be able to call the committee together and, I hope, produce a report.

LADY SIDNEY FARRAR (Nyanza): Sir, I rise to support the motion before Council, and wish to express entire agreement with every word said by my hon. colleague the noble lord.

One thing only I would like to add to what has already been said. That is, I should like to draw the attention of Council to the fact, which I think we are losing sight of, that this motion has been put up by the European elected members of the Colony in an endeavour to express a feeling which is undoubtedly abroad in the settler and commercial community of the country, a certain feeling of uneasiness which we are endeavouring to voice, efficiently or inefficiently as it may be, but which we do feel it is our duty to voice and insist that Government should realize there is that feeling in the country, that all is not well in the country where there appears to be a certain element of complacency and self satisfaction in those put in authority over us.

To be perfectly honest, having listened to the one Government spokesman, he appears to think that this Council is in the nature of a debating society. He appears rather to lose sight of the fact that we are endeavouring to govern the

country to the best of our ability, co-operatively if possible, and I am not sure that that feeling of uneasiness is entirely without foundation.

Sir, the country is behind you at the present time. If at any time you find it necessary to make a decision which you fear may be in some respects unwelcome by the Colonial Office when the time comes, should vital decisions have to be made at once in respect of the war in which we are engaged at the present time which do not brook delay—the delay involved by the many weeks which it will take to get information home and the reply back again—we implore you, sir, not to allow your ambition, future advancement, or pension to affect you or your other senior officers before taking those decisions, and I can assure you that if you take those decisions when the time comes you will have at least the whole population of Kenya behind you. I should also like to say in reference to the move made towards co-operation by the formation of the Economic Council among the three territories in particular, that we trust nothing whatever will come between making decisions as a united East Africa and for ensuring the full effort made by East Africa not being tied by red tape.

We feel sure, sir, from the interest you have already shown and the actions you have already taken, that you are entirely whole-heartedly in your support of that advisory body, and we trust that no fear of rebuke from the home Government at any time will prevent you taking action to support its decisions when they are made in any vital matter affecting the full prosecution of the war.

I beg to support the motion.

MR. ISHER DASS: Your Excellency, the motion moved by the noble lord the hon. Member for Rift Valley, as it is worded, seems to imply that one can hardly find himself in disagreement with it. But if one looks at it very carefully and tries to find the object of the motion, then he will find himself in a difficult position in agreeing with the noble lord. I have tried my best to persuade myself to believe the object of the motion.

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but I must confess that I have not succeeded in persuading myself to come to an agreement with the motion. My reasons are very simple and sound.

To begin with, this motion asks for more drastic measures to be taken in the prosecution of the war—in order to win it, and no one can disagree with such a sentiment. But it involves a serious issue in that it raises in the first instance the question as to whether the military authorities and the Government of Kenya are less anxious as to the methods and means to be adopted in the prosecution of the war and in bringing it to a successful end. If it is believed by the hon. mover that Government is less anxious and he has found that the necessity for issuing this motion, then it is definitely a motion of censure on Government and the military authorities in failing to carry out the necessary means and methods and actions in the prosecution of the war.

As he says himself, this is not a vote of censure. Then if he believes that the military authorities of Kenya and the local Government, with the co-operation of all three territories in East Africa, with the limit of the resources at their disposal in man power and finances, have taken all the necessary measures within their means and powers to carry out their duties, there is hardly any necessity for moving the motion, much less issuing a reminder to those in the position of doing their best. On that issue alone I have not succeeded in persuading myself that I can come to agreement with the noble lord.

I am sincere if I say that there is no moral or legal responsibility on my part to defend the authorities, but I frankly admit that I cannot see eye to eye with the noble lord in the arguments he has advanced, for the simple reason that in his main theme he raised six points: The first in regard to financial contributions to the Imperial Government; the second about man power; the third about the internment of aliens and suspected persons and so on; the fourth about the Vichy Government and aliens; the fifth about the Army Postal Service and its inefficient work, and the sixth about co-ordination in all political issues.

I need hardly say anything about the first. On the second point, he himself is one of the members of the Man Power Committee and probably knows as much as other people about the utilization of European man power and other matters connected therewith, so that he cannot say he has not been able to persuade Government to take necessary action, and he would not have asked in this motion that more drastic steps be taken if he previously was not in a position to advise Government and Government had failed to carry out those suggestions.

About the point of financial contributions, it has been explained by Your Excellency and facts and figures have been given. Unfortunately, on this point I must say that we, as members of this Council, should be more responsible and should have raised ourselves above the criticism of this little body of critics who have nothing more to do than to send letters to the Press, and who occupy their time mostly by hanging round the public houses and bars.

Reference has been made to the fact that someone of the European community had posted a letter which had not been received, and they complained of the inefficiency of the Army Postal Service. We know perfectly well that even in peace time letters posted have been received after several years, and these mistakes can happen. About all these small things people take a fancy and pride in writing silly letters to the Press, and probably some hon. members of Council have taken to heart so much fear of criticism expressed by these people in the Press that this motion may have been moved so that they could defend themselves against that unnecessary criticism.

As far as the question of Indian artisans and man power is concerned, two subjects which the noble lord raised, I feel it necessary to answer him. I happen to be a member of the committee appointed by Your Excellency to fix the wages of non-native labour. That committee, under the chairmanship of the Director of Man Power, had two meetings and gave their opinion. They were in possession of all the facts and difficulties, and they knew about the cost of

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living. But the main two factors which the committee are in possession of and which the noble lord does not know, are that there is a shortage of labour in this country and a heavy demand on that labour.

As to his suggestion that artisans move from one place to another because of higher wages that is so uncomplimentary that I cannot accept it, nor could anyone in possession of the information. I will try to convince the hon. member by a simple fact. At the beginning of the war Government contractors and others in responsible positions were asked to carry out certain construction works for the military. This work is always given out under two different systems. One is the tender system and the other the "bill" system. With the former there was hardly any trouble, but under the other the contractors were entitled to charge for all the expense they incurred and, in addition, 10 per cent profit. Those contractors to get more work exploited their position and offered better wages to the artisans and took them from one job to another. The artisans themselves did not move about. I am not wrong in saying that some of these very patriotic contractors not only charged that 10 per cent but employed all their in-laws, whether fit or unfit, and charged Government with their wages. (Laughter.) The allegation that the artisans moved from one place to another is hardly justified, and I am sorry that as a member of the committee I have had to refute it.

In certain directions as Your Excellency mentioned, drivers for instance, the military authorities have had a little difficulty. I was the first man with my colleagues to suggest that there would be no harm in applying conscription. Even in that case I must say the position is very difficult. A taxicab business is a one-man show, and he gets his car on the hire purchase system and is responsible for the payments. Suppose a man got a taxi on the 1st January and has paid only eight instalments on it and he is taken over by the military to-morrow morning, the taxi would be taken back by the company selling it and the man would lose it. We have to take that into consideration.

The Director of Man Power should devise some means so that these one-man businesses may not be spoilt or ruined, and yet the man must be made available for the military. They themselves are the people who suggested that some kind of compulsion should be employed, and there is no harm in that. Therefore any allegation on the part of an hon. member or suggestion that the Indian community is trying to exploit the unfortunate position into which we have been forced by our enemies is one that I have to refute.

One more point before I sit down. A lot has been said about the fifth column in this country and the fact that people move about with full freedom and the people who keep on spreading rumours. Lately, even the Prime Minister in England has suggested that there should not be any curtailment of liberty of individuals in discussing war measures or any subject in reasonable terms and in a proper manner, and even there this question of fifth column is not thought to be so serious as some people imagine. The hon. Member for Mombasa seems to be suffering from a mania on the subject, so much so that he has entirely forgotten that what he has expressed in this Council is likely to create more fear and nervousness in the minds of the outside population in the belief that there is such a serious menace in this country. But Government has taken all serious measures to deal with the matter of the internment of aliens by means of committees which have been set up, the police, the military intelligence department, and the Criminal Investigation Department. I can assure the hon. member that he need have no fear about fifth columnists and that he is not going to be bothered about it, but his remarks are likely to create more harm than good. If there are any people going about he suspects of being fifth columnists or suspicious people, instead of creating panic, he can go to Government and represent officially that such persons, in his opinion, should be dealt with. That would be the very best thing to do. I trust that after the assurance he has received from the Government spokesman, the hon. and learned Attorney

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[Mr. Isher Dass]

General, he will have no fear of the fifth columnists.

DR. WILSON (Native Interests): Your Excellency, I rise to support the motion. I should have thought that that ought to go without saying, and until I heard the last speaker I should have thought there was no question or dispute about this motion, because whatever the war effort that is now being made I am sure we all wish to see a still further effort made.

I support the motion, but I must say I am rather disappointed with the course of the debate so far, because I really cannot see that, to be quite plain, we are getting anywhere. I had expected that there would have been something said about what I consider really necessary, and that is some sort of drive towards getting all the native people of the country convinced that there is a war on and that they have to take part in the effort.

I am sorry to say that, although I tried to follow the last speaker, I feel so dazed that it is extremely difficult to keep a clear line of thought, so I hope I may be excused if I refer to one or two notes I have made on those points of the effort which I think the native population may make or perhaps should be called upon to make.

I should say that the great majority—100 per cent I hope—of British subjects in this country who are educated enough to appreciate world affairs and the present situation, the vast majority are entirely united in wishing to see that every single man in this country of every race and every rank is working his hardest in the attempt to win the war. But one cannot claim that the African is sharing in this object, because one cannot say that every African knows the facts and realizes the situation. Of course, there are many Africans who know and realize exactly what we are up against, but I am afraid there is a great number of whom we have got to ask the question: "Do they know? Have they understood? Have they been told exactly what their duty is?" You referred to that, sir, in your speech at the opening of Council,

and you said it was essential they should know. I welcomed that, because I think that perhaps there have been mistakes in the past when the African has not been told exactly what is expected from him and there has been failure on that account.

If he is to pull his weight in this present war effort, the first necessity is that he should know and he should be told the facts, he should be told them with such insistence that he really gets it into his head that he has got to make a special effort, and whether he is to be called on to do work outside the native reserves or is to be called on to work harder in his own reserve, or whether he is to be called on to pay extra taxes, we must be sure he first of all knows why. It is for Government to see that he really knows why.

In attempting to get the African in this country to make a special war effort we start with one great advantage, and that is that the African has from time immemorial been used to thinking and acting communally. It may be that contact with our special kind of society is weakening that communal feeling. For better or worse, the sophisticated native to-day is more of an individualist than his father, but that sophisticated type is just the fellow who knows exactly the call that is being made upon his services, and there is no excuse for him if he fails to respond to that call, and there should be no hesitation in making him fall into line. But for the great majority the communal feeling still prevails, and that is the feeling we have got to arouse and, if properly aroused, there should be 100 per cent response to any call for war service.

It is very clear to me that the immediate need is for direct contact between Government and the generally ignorant and uninformed mass of the native population. And here we are up against what I might call difficulty No. 1, for the ordinary work of the Administration in time of peace, the Administrative machine has in my opinion for years past been under-staffed. There has, I believe, as a result of that, and perhaps for other reasons, been a defect in

[Dr. Wilson] Administrative control, or, shall we say, government. That defect cannot fail to become greater if the staff of the Administration is still further reduced by men being taken away or allowed to take themselves away for military duties, or for reasons of economy.

As regards the question of economy, which has not been raised to any great extent in this Council but has been discussed in other places, I think that any demand for economy at this time, economy in Government expenditure—I am not talking about private expenditure—has got to be watched very closely. I think there is a danger of some delusion and wrong action in this direction. I am afraid that the call for Government services, the demand for Government services, and the expenditure in connexion with them, is likely to become greater, and is greater in time of war than peace. It is all wrong to talk about social services as though they were luxuries which can be allowed in time of peace but must be dropped in time of war.

We all know, as the hon. mover said, that every department of Government is now being called upon for additional expenditure because of war conditions. I can think of no Government department—with the possible exception of the Department of Education, and I hope my hon. friend will not think I am taking the line of least resistance in singling out that department—but there is no other Government department whose activities could be safely restricted without reducing the total war effort. Take for example the one I know better than any other, the Medical Department. It would be a short sighted policy to restrict expenditure on that department. War conditions always bring more disease, even to the civil population, and apart from that there is obvious need for keeping up the standard of health in order to get the greatest efficiency in man power. I think it would be entirely wrong to attempt to restrict or limit expenditure on the Medical Department at the moment as a war effort. I think rather that such expenditure should be considered as definitely war expenditure.

These social services, for the most part in the native reserves particularly, are not luxuries which can be dispensed with, they are necessities.

There are three ways in which I think the natives might be called on to increase their war effort. The first is by direct use of their man power for military purposes; the second, indirect use of man power; the third, taxation.

As regards direct use of man power, so far as fighting men are concerned we know, as you yourself have said, sir, that whatever the Army requires there will be sufficient recruits coming forward. The Army have only got to say how many men they want and they will be there. Then we have heard about the Military Labour Corps which is now to be formed. That is a step which some of us think should have been taken a long time ago. It will start with one handicap, and that is the memory of the Carrier Corps of the last war. The conditions that existed then must not occur again, and the natives must be convinced they will not occur. If the terms of service are reasonably fair, there is no reason to think that we shall not get quite a number of volunteer recruits.

If conscription is necessary well, then, it must be as fair in its incidence as possible, and this is going to be extremely difficult in practice. If we rely too much on native headmen, we know certainly there will be abuse. On the other hand, wholesale conscription will have to be carried out with the help of the headmen, because obviously it will be impossible for district officers to go into all individual details. But if this conscription is to be carried into effect fairly, I think anyone who has the real interest of the natives in this country at heart will welcome such a scheme by which the idle young men from our reserves and from our towns will be collected into such a Military Labour Corps, where they will experience the benefits of regular work and discipline. One might imagine it as a positive good unexpectedly arising from the evil of this war, and there is no reason why it should not be, because if the conditions are such as to keep them physically fit it might be the making of

[Dr. Wilson] willing work of loyal people. That is what we want, and what we can get if we go the right way about it.

The rate of taxation of our average native is already very high in relation to his available cash. It might be possible to impose additional taxation on certain classes, although it would be very difficult to make it equitable. Unfortunately, the fact is that the hut and poll tax is in itself inequitable, and to increase that without regard to the cash resources of the individual native could not fail to mean unfair incidence. It may be that many Africans, owing to the special war conditions, are at the moment comparatively well off in terms of cash, and if it were possible fairly to make a levy on them so much the better; it would bring those profit-making or wage earning Africans into line with other races who are now suffering from increased income tax. But if a direct levy cannot be imposed on the African, we have to set off against that the fact that he is paying, and has always been paying, a large share in indirect taxation. In this Council I have more than once quoted figures to show how much the native is paying in customs duty alone. I have not worked out the figures lately, but they are large, somewhere between £100,000 and £200,000.

As regards the indirect use of man power, this will be chiefly agricultural work either in the reserves or on European farms. As regards work on European farms, I do not agree with the hon. Member for Uasin Gishu, who said there is sure to be a shortage of labour. I do not think there will be. I think that when there is a scarcity of labour there is always an easily discovered cause for it. Of course, if any essential agricultural production was held up by an actual shortage of labour, then I could conceive the Labour Corps having its activities temporarily extended to cover such emergency. That is a very different matter from the provision of forced labour for individual profit-making farming operations.

As regards agriculture in the reserves, that has to be left to the Agricultural Department and the Administration to organize, but I only hope that at least there is some knowledge of what sort of crops the natives are to be encouraged, or rather compelled, to get down to. If there is no particular crop that has got to be produced, I suggest that every man who is allowed to remain on his own shamba should get on with the job of soil conservation, and that will keep him busy as long as the war lasts.

There has been nothing said yet about extra taxation for the native to meet because of the nature of the war. That, I think, should be the least important part of the African's contribution to the war effort, because in terms of cash our African population is very poor, and even if the native were taxed to the utmost of his ability to pay the actual financial help towards the war would be trifling. The British Empire is not dependent on the few shillings that can be squeezed out of the natives of Kenya. Any cash contribution they can make would be infinitely unimportant compared with what is important; that is, the

willing work of loyal people. That is what we want, and what we can get if we go the right way about it.

The rate of taxation of our average native is already very high in relation to his available cash. It might be possible to impose additional taxation on certain classes, although it would be very difficult to make it equitable. Unfortunately, the fact is that the hut and poll tax is in itself inequitable, and to increase that without regard to the cash resources of the individual native could not fail to mean unfair incidence. It may be that many Africans, owing to the special war conditions, are at the moment comparatively well off in terms of cash, and if it were possible fairly to make a levy on them so much the better; it would bring those profit-making or wage earning Africans into line with other races who are now suffering from increased income tax. But if a direct levy cannot be imposed on the African, we have to set off against that the fact that he is paying, and has always been paying, a large share in indirect taxation. In this Council I have more than once quoted figures to show how much the native is paying in customs duty alone. I have not worked out the figures lately, but they are large, somewhere between £100,000 and £200,000.

MR. SHAMSUD-DEEN (Central Area): Your Excellency, on a point of order: may I ask the hon. member who has suggested increased taxation of natives? Is he advocating it himself, or is he refuting anybody? I have not heard anybody suggest this morning such increased taxation.

DR. WILSON: I suggest to the hon. member that prevention is better than cure, and I have heard—I do not say in this Council—proposals that there should be increased taxation of the native. Obviously there will come these proposals, that is certain, and it is only fair to make those proposals. I am now putting forward arguments in advance, which I consider I am perfectly justified and right in doing in the interests of the native, before the thing is a fait accompli. Surely it is better to put up a case beforehand when we know it will have to be met sooner or later.

[Dr. Wilson]

This question of cash contribution, as I say, is the least important part of the native's contribution towards our common war effort. We have perfectly good proof that the African is willing to spare what few shillings he has, in the innumerable voluntary contributions to the various war funds. These shillings are a token of his loyalty, but they are not the measure of that loyalty. Your Excellency, I only hope if, as a result of this debate, or on Government's own initiative, steps are taken to increase the war effort of our native population, those steps will be in the direction of harder work rather than heavier taxation.

MR. LOCKHART: Your Excellency, I shall not, I hope, be accused of complacency if I say that the debate so far has shown no criticism—at least, I have heard none—of the financial policy of Government so far as the war effort is concerned.

The noble lord the hon. Member for Rift Valley, in moving his motion, asked that details should be given in expansion of those given in Your Excellency's speech in regard to the expenditure in which this Colony has been involved as a result of the war. I think that actually Your Excellency's communication from the chair did present quite a clear picture of what the incidences are, but I have some additional figures here which I will endeavour to explain.

To some extent, and indeed to a large extent, our commitments are not yet known. As Your Excellency mentioned, there is the question of the Kenya Auxiliary Air Unit and the K.R.N.V.R. Since we began the war to the end of December—that is, from early in September to the end of 1939—we had actually paid out £70,000—£40,000 for the Air Unit and £30,000 for naval expenditure. Up to date, so far as can be seen, the commitments for these services amount to about £160,000. There is then the 1940—I am dealing now with additional expenditure caused by the war—military contribution of an extra 25 per cent, or £27,000, and special war expenditure on actual defence measures of a civilian character. In 1939 we spent £64,000 on civil defence, and in 1940

we estimated for £56,000, and have approved of another £43,000, so that so far it is nearly £100,000 this year. That is a total of £350,000. But we have, of course, additional commitments coming forward every day.

It really is not possible to give the exact figures, nor is it possible to obtain ordinary departmental expenditure under detailed items due to the war. We have, for example, further expenditure in regard to road maintenance. We are negotiating at the present moment with the military authorities—who have been very reasonable about it—but undoubtedly civil funds will be put to substantial extra expenditure in regard to roads used in connexion with the war. There is another complication in connexion with roads. We have assumed liability to the extent of £58,000 for the construction of certain strategic roads. They have been financed by a loan from the Imperial Treasury free of interest, which we have to repay over a period of 15 years. There is also expenditure on the re-equipment of the military forces, which has been dealt with in the same way. The total for East Africa was about £500,000, of which the Kenya share is £306,000. That again had to be financed by advances from the Imperial Treasury, which will be free of interest, but which again will be repaid over a period of 15 years. We have thus a long-term liability of £364,000 or thereabouts.

Apart from our commitments in connexion with actual military expenditure, there are also, as the noble lord suggested, certain economic responsibilities requiring finance. We are now purchasing tea on behalf of the Ministry of Food; we shall soon purchase wool and flax for the Ministry of Supply; and we shall shortly be involved in financing the coffee crop. We are already responsible for financing meat purchases. It is essential, for these reasons, to maintain a balance which is larger than normal. I think that to make the gesture—because it is little more—of paying over £100,000, which costs nobody anything at present in the way of personal sacrifice (although it may eventually do so),

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[Mr. Lockhart]

would be from a financial point of view a very empty gesture indeed until we have covered our local obligations.

The main thing is, what financial responsibilities we are prepared to take as individuals, and that is, to what taxation we are prepared to agree. Hon. members of Council have accepted very willingly indeed the taxation proposals which were placed before them. If there remains anybody seriously dissatisfied, I shall certainly endeavour to provide them with what satisfaction I can in connexion with the budget for 1941 (Laughter.)

The noble lord referred, in regard to military contributions, to the question of an East African war fund. I have not had an opportunity of discussing it with the hon. member, but at first sight it is not clear to me that it would be of any practical effect. The military contributions we make now and any additional ones we can make as a result of the decision which, as far as I know, has been taken in Kenya alone, to pay any surplus of revenue towards the war, are paid to the Command Paymaster in Nairobi, and this money is utilized for their expenditure. Of course, in addition it is necessary to obtain remittances from London. Hon. members may have seen the advertisement asking for tenders for remittances from London in the neighbourhood of half a million pounds.

The next point was regarding a local loan. It is very easy to suggest that, but one of the difficulties in the flotation of a loan, apart from interest rates and so on, is to provide a market. Nobody minds, we hope, in wartime lending money to the State at a low rate of interest, but anyone who exercises thrift must have in view contingencies in which the results of that thrift may be urgently required. He may have to realize some part of his savings, and unless there is a market in which his investment can be sold he may be unable to realize it or have to do so at a loss, more especially if it is a continuing loan open to anyone who wishes to make an investment, so that no one has any particular motive in buying the holdings of a previous investor.

If we wish to raise a loan in order to assist the Imperial Government for the war, the better way is to make investments in Imperial loans available directly or indirectly. I think I can say that the fact that such an investment is not open to the public here to-day is hardly a responsibility which can be laid on this Government, but the need for saving is there. I have some sympathy with the point raised by the hon. Member for Nairobi South as to the need for economy in private expenditure, and I feel that action in this direction could be effectively coupled with something in the nature of a savings campaign. But before urging savings on people and pressing them to restrict their personal expenditure, which necessarily can only be diverted into small units of savings, we should be in a position to offer them suitable opportunities in which to invest. As I say, we are unable to do so at present, but Government is prepared to take the responsibility of pushing a savings campaign. In connexion with a loan issue here, Your Excellency indicated that we are now awaiting details which have been on the way since 21st June.

I think the only other financial point made was the question of economy. I have pointed out on many occasions in a good many places that it is easy to preach economy and to speak about social services. When you start to close schools and return children to their homes, and start to discontinue medical and sanitary precautions in time of war with the risk of epidemics, one is faced with a rather different set of circumstances. I notice the hon. Member for Nyanza has some question on this subject. If we started to close the European schools of the Colony and send the children back, I imagine no one would make a more violent protest than the hon. member herself. I am glad to see her acquiesce (Laughter.) It is when one gets down to these problems in detail, as the hon. member Dr. Wilson pointed out, that the difficulty of applying these exhortations—which are nothing new in time of peace or war—arises.

We did examine the Estimates very carefully, and I think they were cut down to the bare minimum. I think there will

[Mr. Lockhart]

be some small savings, but I am afraid that in some directions we cut votes lower than is really practicable, particularly in the matter of travelling provision. A lot of the police and other services have to travel more in time of war, and we have had to provide the money. I will certainly give the assurance asked for by the noble lord—as I am perfectly prepared to give it at any time—that the supervision of expenditure is as strict as it always has been and will be applied in accordance with normal procedure with the same care as is usually exercised.

COL. KIRKWOOD (Trans Nzoia): Your Excellency, I rise to support the motion, and there are one or two points I should like to put up for Your Excellency's consideration and for the consideration of hon. members.

First and foremost, I should like to state that I did put up a request to elected members to support me in asking Your Excellency to convene a secret session of Legislative Council to discuss the military situation of the Colony, not only from a military point of view, but also as it affects industries, etc. I am sorry to say that I did not get a majority vote, but I still ask Your Excellency to give it consideration. Probably at a later date Your Excellency might give me an opportunity of telling you, not in this Council, my reason. It is a very difficult subject, and I am afraid that from the point of view I have in mind I cannot take it any further this morning, but I have some critical observations to make, and I am waiting for an opportunity to be given to make those observations.

It will be within your recollection that even before the last war General Roberts took every opportunity of lecturing throughout Britain and writing to the Press. He carried on a very intensive campaign. He was dissatisfied with the preparedness of his own country and warned them against the preparedness of the enemy over a period and for several years before he died. It is not unusual, it is very usual, in a time of crisis, which is a time of war, to find somebody who is dissatisfied, and I maintain that there

is every rhyme and reason that if they put up criticism they should be listened to.

I pass on, Sir, to the minor question of our defence, and that is the Kenya Defence Force. I think it is the third or fourth time that I have appealed to this Council to give the backing to the officer responsible for their training to see that they are trained. It is impossible for him to train them if financial provision is not made. Financial provision has not been made, and I am very critical again of that. I cannot understand that when we are at war, and the enemy is within 300 miles of Nairobi, while he is on our frontier within striking distance of vulnerable points in this Colony, there is one single man unarmed and untrained in this Colony. I criticize Government very severely for allowing that situation to continue. Those men have a right to whatever training is necessary, and the right to a rifle at least to defend themselves and their families, and I hope Government will find the finances for training men who are still untrained and still unarmed in this Colony. I have figures here, which I will not quote, but they are details of my own district, and it makes my blood boil when I look at them and realize the man power that is being wasted in this Colony.

My next item I take under the heading of production. Production has not been fostered in this Colony. In fact, there is quite the reverse situation to-day. Production is going to go down, there will be a big drop, and a considerable drop next year. It is probably regrettable. Man power is being absorbed, and we have come down to what is known as group farm management. Men are managing up to three, four or five farms, and under conditions prevailing for years from the world cereal market they have had great difficulty in making a financial success of their own farms. But the farms they are managing are the farms of men who have joined the fighting forces, and they have the right to consider that we who are left behind for various reasons will look after their interests as far as lies in our power, and I maintain that we are not looking after their interests to the extent we should.

[Col. Kirkwood]

A group farm manager who has four farms, or three, and his own to supervise is in an impossible position when he is dependent on native labour. By that I mean with reference to native labour that you cannot expect to get much more than 50 per cent efficiency out of your labour without European supervision, and it is impossible to supervise labour on four farms and do it successfully.

The other point about production is that the minds of producers are very much exercised about their prices. Naturally, shipping is very difficult to get, notwithstanding their claim at home, and I believe it is true, that our shipping position is better now than at the outbreak of the war. We know the reasons for that. But Kenya is not getting the consideration that Kenya is entitled to. Take the maize position. What is it? Approximately, maize is Sh. 9 a bag to-day. What will it be in three months? I prophesy Sh. 5 or less, and that is not the cost of production. That is not going to be a very satisfactory situation to men who have joined the fighting forces, to find that their farms are inadequately run in their absence and are a liability and not an asset.

My reason for prophesying that price is that I understand the K.F.A. is not in a position, or will not be, to buy the present maize crop grown by natives. I have come to the conclusion that, as in the past for a considerable time, the price of maize is going to drop considerably, and the European maize price will drop to the parity of native maize throughout Kenya, which, in my opinion, will be in the region of Sh. 5 inside three months from to-day. If shipping could be procured to take away the surplus and get it abroad—and I have always thought we should produce everything we could in the way of food—if shipping can be got, that undoubtedly will ease the situation, but I see no signs of shipping in Mombasa at the present time, and I doubt if any will eventuate in the near future.

There is one thing I have been wondering this morning: what is going to happen if the group farm managers utilize their group farm labour as a team?

And obviously that is a wise thing to do. That is, to take the natives off three or four farms and put them to harvest one farm until it is cleaned up, then shift to No. 2, and No. 3 and No. 4 farm. Knowing the native, I know he will object, but it would be economic working, and we should get more value out of the native labour under adverse conditions. If that could be agreed to, that a group farm manager would be supported in taking natives from one group farm to another, I am quite sure we should get over a good deal of the labour trouble, and it is anticipated that for the flax people native labour is going to be difficult. Flax is a difficult crop inasmuch as it comes on at different times from the ordinary routine farming we are used to. That means that natives, when the maize harvest is finished, return to the farms or districts where they usually work and are not likely to turn up for the harvest for the flax crop, which they are not aware is in existence. That is the difficulty.

A lot of people suggest conscription because we have conscripted ourselves, both for military purposes and civil purposes. Personally, I am not in favour of it. I think it is the wrong way of going about it. I think that with a little propaganda and work by district officers and provincial commissioners labour could be found in an emergency and in a short time. I found in past years, when the rupee was altered to the florin, that there was great discontent among the natives. We sent all the headmen to the district commissioner at Kitale, who expressed concern to them the facts, and they in turn explained to our native employees, and the natives were satisfied. If the co-operation of district officers is obtained now with regard to group farms and the natives are told they must work as instructed by group farm managers—that all natives in the group must work on all the group farms as one unit when required by the manager—greater efficiency will result. I suggest that if the natives can be told by the district commissioners what the position is, they will accept what he says as gospel truth and will be much happier than to-day, because there is a good deal of unrest, but as I am debarred from

[Col. Klrkwood] speaking on the military situation I cannot give my reasons, but there is a good deal of unrest and distress, and a lot can be got over by the method I suggest. It was successful before, and I am sure it will be again if adopted, but I do not agree in conscripting native labour as understood by the people who advocate it. I think we can get the labour if we approach the native in the right way.

There are many subjects, naturally, which one could talk of; in fact, one could talk for a week, but I do not propose to talk for more than a few minutes.

I wish to thank the noble lord the hon. member for Rift Valley for the way in which he moved his motion. He has not been critical of Government unnecessarily, and from that point of view I am quite sure his speech will do a great deal of good.

Before sitting down, I want to endorse what he said with regard to the appointment of Sir Philip Mitchell. In my notes which I made I have one "co-ordination of Africa," and I think the last one is "closer union". I hope that is what it will lead to. If we can get these territories united with Southern Rhodesia we shall get a whole financially co-operative effort and will get union, and would pull our weight very much better in this war if these conditions existed to-day. I do hope that during my time I shall see closer union right from the Northern Frontier down to Southern Rhodesia.

The debate was adjourned.

ADJOURNMENT

Council adjourned till 10 a.m. on Wednesday, 14th August, 1940.

Wednesday, 14th August, 1940

Council assembled at the Memorial Hall, Nairobi, at 10 a.m. on Wednesday, 14th August, 1940, His Excellency the Governor (Sir Henry Moore, K.C.M.G.) presiding.

His Excellency opened the Council with prayer.

MINUTES

The minutes of the meeting of Tuesday, 13th August, 1940, were confirmed.

ORAL ANSWERS TO QUESTIONS

No. 23.—AGRICULTURAL OFFICERS

MR. KASIM:—

(a) Is it a fact that a large number of agricultural officers who were engaged in the agricultural development of native reserves have been called up for active service?

(b) If the reply is in the affirmative, will the Hon. Director of Agriculture give an assurance that no more agricultural officers will be taken away, as the growing of food is part of the war effort?

MR. BLUNT:—

(a) Out of 22 agricultural officers and assistant agricultural officers allocated to the work of agricultural development in the native reserves seven have been called up for service.

(b) I am not in a position to give the assurance asked for by the hon. member. I can, however, state that the needs of the agricultural industry are fully taken into account by the Government before any officer is released from my department.

No. 27.—INCOME TAX REVENUE

LADY SIDNEY FARRAR:—

Will Government give the assurance that the revenue derived from the introduction of increased income tax will be devoted to direct war purposes and not to increased social services or pension list?

MR. LOCKHART:—

The revenue derived from the introduction of increased income tax will form part of the general revenue of the

[Mr. Lockhart]

Colony, and it is not practicable to earmark it to meet any class of expenditure. I cannot, therefore, give the assurance asked for by the hon. member, but I presume that the hon. member has no longer any apprehensions in this regard in view of the statement which I made yesterday regarding the policy which is being followed in respect of Government expenditure.

No. 28.—RAILWAY LOAN TO IMPERIAL GOVERNMENT

MR. COOKE:—

Will Government mention whence the Railway Advisory Council derives the authority to lend to the Imperial Government £200,000 free of interest, and will they quote the relevant section of the Order in Council or other instrument that conveys that authority. And does not Government consider that the Legislative Council should be consulted before such drastic disposal of public or Railway funds is made?

MR. RENNIE:—

The loans are being made on the authority of the High Commissioner, after consulting Railway Council and Harbour Advisory Board under the provision of Article 14(b) of Kenya and Uganda (Transport) Orders in Council.

This money has not been disposed of. It has been invested with the Imperial Government free of interest. Matters requiring reference to Legislative Council are those referred to in Article 17 of the Orders in Council. This is not one of those matters.

MEASURES FOR COMMON WAR EFFORT

The debate on the motion of the Hon. Member for Rift Valley was resumed.

MR. COOKE: Your Excellency, yesterday I decided not to speak on this motion, but as it has been prolonged to-day I take the opportunity of saying a few words. And I feel that I am very lucky, inasmuch as most of the big guns are already silenced and are not able to reply to my criticisms!

I must say, sir, that I was very disappointed in your Address from the Chair, but in the little criticism I propose to make I am certain that you under whom I served many years will see nothing personal.

We all know that in this address the voice was the voice of Your Excellency, but the words were the words of Your Excellency's Secretariat, and that Secretariat is almost wholly and wilfully ignorant of public opinion in this country. (Laughter.) My chief criticism is directed towards what your address did not contain rather than what it did contain. I did not hear a clarion call to victory, nor could I trace the leadership for which the country is anxious and which everybody, irrespective of race or creed, is prepared to follow however long and hard the road may be. I will not labour that point.

One point I wish to make and to criticize is the failure to call this Legislative Council during the last four months, and during those four months this country and the Empire have been going through a most trying time in their history. I think that Kenya has probably the unique distinction of being the only colony in Africa which has failed to consult its Legislative Council. During that period we have had a lot of criticism in the public Press, and there has been a lot of undignified clamour, and Your Excellency had, or your Government, to put up two or three big noises on the other side of Council to give us talks on the radio. But that is not reassuring the country. During that period we have been under the despotism of a number of gentlemen known as Your Excellency's Executive Council. These gentlemen, I know, like to clothe themselves in garments of sacro-tanctity and omniscience. They may possess what they claim. All I can say is that in my frequent conversations privately and collectively with them I have not been able to find much trace of that claim nor much justification for it. Whether they are or are not the super-men they claim to be, I should personally find it very difficult to consent to a curtailment of the rights and privileges of this Council or

[Mr. Cooke]

the tearing up of the constitution of this country which has been so hardly won by the late Lord Delamere and other big men of the past.

I know there are people in this country and possibly in this Council, who think that democracy is doomed, or perhaps even dead. There is no truth in that. Democracy is not dead nor doomed. For many years in England it underwent an eclipse, due entirely I submit to lack of leadership to vitalize and inspire it. Lord Baldwin, in one of his many speeches, said that democracy was always two years behind dictatorship—under his leadership we were five or ten years behind! (Laughter.) But when we think of the great leaders of the past such as Castlereagh, Pitt and Canning, democracy under those leaders faced the tyrants of Europe and defeated them, and once again democracy under an even greater man, Mr. Winston Churchill, is facing tyrants and most assuredly will defeat them.

There are people in this country—and more especially our pugnacious but rather inconsistent friend the editor of the *Kenya Weekly News*—who say that this Council is a mere talking shop. Perhaps a good many people agree with him, and think that if it is only a talking shop it cannot influence the policy of Government. But that seems to me to be a complete misconception, because one of the primary functions of Legislative Council is that it does assure that on matters of great general import discussion from all sides is brought to bear, and that is the reason why I think it has been so unfortunate that Legislative Council has not been called during the past four months.

If Government fails to call the Council it, of course, falls into errors, and one of the chief errors was, I submit, the giving away—perhaps not the giving away, but lending—of this £200,000 to the Imperial treasury. It was, I think, Edmund Burke who said that because half a dozen grasshoppers under a tree make the meadow ring with their importunate cries they are not necessarily the only inhabitants of the fields.

HIS EXCELLENCY: I do not want to interrupt the hon. member, but I would draw his attention to the terms of the motion to which he is addressing his remarks. The motion is very widely worded, but it is to the effect that "more drastic and energetic measures are called for in certain directions in pursuance of the common war effort". I think this reference to this donation of the Railway Advisory Council is hardly relevant to the present discussion.

MR. COOKE: Thank you. I was trying to develop my argument to show that the country should be more firmly governed and that more use should be made of this Legislative Council.

I am indebted to my hon. friend Mr. Isher Dass for an expression that when some gentlemen met in a bar or an hotel they suddenly came to the conclusion that this country is contributing rather less to war welfare funds than the people in the Solomon Islands or other parts of our far flung Empire, and therefore, proposed to give away this money which I contend we had no authority to give away, and when the Secretary of State realizes it we shall have to pass an act of indemnity to save from all sorts of pains and penalties my hon. friend the Financial Secretary and others!

It will be said at once that we should refrain from criticism at a time like this. But I think it was because there was not sufficient criticism in England that that country was led to the verge of disaster. People should see that this really meant giving more or less a blank cheque to inefficiency. I have been over two years a member of this Council, and during that time the record of Government has been one of muddle and vacillation and of general inability to take a strong line. We had, for instance, the miserable attempt at de-stocking, we had the treatment of Messrs. Liebig, the Indian and Arab Company has been mismanaged, and the K.D.F., and other things, and therefore I am determined to be a critic of Government and to continue a critic until I see signs in Government that they realize they must display more wisdom and more energy and courage in the grave days that lie before us.

[Mr. Cooke]

I should like to associate myself with what the Hon. Member for Trans Nzoia has said, that I think it necessary to have some secret session, so that we can discuss these matters more fully.

I beg to support the motion.

MR. SHAMSUDD-DEEN: Your Excellency, to my mind this is a very pious sort of motion to which the Indian members cannot possibly be opposed, and there is very little to be said. As the last speaker remarked, I also had made up my mind yesterday not to say anything on it, but I think we ought to express our gratitude to the hon. mover of the motion for having given us the opportunity for reviving our debating powers in this Council. Owing to the reason why Government does not call a session of Council more frequently than it has done in the past, our powers of oratory are somewhat pent up (Laughter), and I hope Your Excellency will give us your indulgence by calling sessions of the Council with more frequency than heretofore.

All I have to say is this: I think the noble lord is correct, that at this juncture we are at war, the most deadliest war known in history for quite a long time, and I think it is very inadvisable at this juncture that recrimination of any nature should be made in this Council. It might quite easily be of very great value to the enemy. I greatly appreciated the remarks of the hon. Member for Trans Nzoia yesterday when he said that this session should have been held in secret. But he himself proceeded to mention several facts and things which might easily be of great value to the enemy, though since the proceedings are not being reported by the Press they will not be published. Similarly, I do not want to indulge in acrimony, but the hon. Member for Nairobi South gave the exact number of people employed in the K.D.F. I do question—

COL. MODERA: On a point of order, I mentioned the Local Defence Corps.

MR. SHAMSUDD-DEEN: My point is that they are details of an organization which details should not be placed at the disposal of the enemy at this juncture.

As far as the "more drastic" efforts of the Colony are concerned, I think that one of our greatest shortcomings has been that we do not appreciate exactly what a small and microscopic unit we are in this remote part of the British Empire. One always appreciates the desire to help at such a juncture, and it may be a case of the spirit being willing but the flesh weak, but we must understand that whatever our desires may be without the help of money and men from what is known as the British Empire any efforts on our part can be of little count indeed. I personally think, Your Excellency, that Government have done all they possibly could, and the European man power also, in coming forward even willingly to be conscripted.

I only wish to say this much: As far as the Indian community is concerned, I think they are next to none in their loyalty and desire to serve the Empire, but the most difficult part has been that since September, 1939, the Indian community, including myself, has been asking and begging Government to organize the Indian man power that exists in this country. Only three or four months ago Government saw fit to make use of the Indian man power that exists in this Colony. Reference was made yesterday to the poor response of the Indian artisans and drivers. I hope that hon. members will realize that artisans and drivers - are specialized jobs, and in a small colony like this there is not an unlimited number of that class of people. The response has been quite encouraging in the past, but if they have not been conscripted in the same manner as Europeans I submit it is the fault of Government. The Indian community in the last two years has been asking Government to enlist them. I know a gentleman of the name of Mr. Biss who was first appointed Chairman of the Indian Man Power Committee on the basis of voluntary service. He made admirable efforts in that line, but did not go far enough.

I was not at all pleased by several hon. members again and again referring to European and Indian and natives and so on. I think the present time is such that we should all be fellow British subjects and that there should be little talk

[Mr. Shamsud-Deen] about Europeans and Indians and so forth. At the present moment there is little left of the British Empire in Europe, and the more we talk about the Empire and British subjects the better it will be for everybody.

There was also mention of the fifth column. I have been keeping my eyes open, and so have my friends, and although there may be some in this country among Europeans I can give Council the assurance that there is none among the Indian section of the community. Therefore I do not think we should bother ourselves about that.

We have been keeping up to our traditions in talking a good deal about democracy and Mr. Baldwin and various other things, but I do not think we ought to make any reference to them at all. My main reason for standing up this morning is so that it should not be misconstrued or misunderstood in any section of Council that the Indian members in any manner are less anxious to make efforts to help to win the war than any other race. (Applause.)

MAJOR CAVENDISH-BENTINCK: Your Excellency, I wish to intervene in this debate now because it has wandered through a pretty wide field, and it is the second day of it, and there has been a good deal of discussion about various subjects that I feel there are one or two questions which have been referred to concerning which it is desirable, towards the end of the debate, that the attitude of elected members should be made abundantly clear. There were also one or two matters referred to yesterday which I would like the opportunity of commenting on.

The first question to which at the risk of repetition I would allude was that of the giving of financial assistance to the United Kingdom. On this question I think that I and my colleagues—at any rate the vast majority—entirely support the noble noble who moved this motion yesterday. Our position here differs fundamentally from that of the majority of territories which form an integral part of the British Empire in that, as we all know, this is an actual theatre of war.

Other dependencies not thus privileged naturally do what they can to assist the United Kingdom in the provision of material, men and finance. They send them to the United Kingdom because that is the main seat of the war at the present time. But we who have to bear the actual brunt of hostilities in our own territory which are part of the main war, must obviously do our utmost also to provide men, material and money locally in order to play an effective part in the common war effort.

Self-advertisement, or advertisement for this Colony on broadcast stations from London leaves me cold. I only wish to examine the situation to see whether or not our consciences are clear, whether or not we can say we have played our part up to now, and are playing our part in a manner of which we need have no cause to be ashamed. I suggest that this debate, even if it serves no other useful purpose—which I think it has—at least served this particular purpose and has cleared this issue. The fallacy that we are only contributing some 25 per cent increase on the 1939 Estimates has, I hope, been exploded once and for all. The intervention of the hon. Financial Secretary yesterday clearly shows that we have probably contributed, one way and another, between £750,000 and a million pounds in war expenditure and have many more financial commitments in view.

My only regret is that this debate is not being reported by the Press, and I trust that the intervention yesterday by the hon. Financial Secretary may appear in the Press verbatim.

Quite apart from finance, as pointed out by the noble lord who moved the motion on our behalf yesterday, the man power effort is also one of which we need not be ashamed. I think that in proportion to its size, the man power effort of Kenya is higher than that of any other part of the Empire.

On this subject, I think one has to sound a note of warning. That is, that this war is a total war in every sense of the term, and it is not only being waged by soldiers. We do not want to be too enthusiastic over gleaming fighting men

[Major Cavendish-Bentinck] for the military forces if it entails putting rounds pegs into square holes. I have heard a rumour, which does not really affect this country directly, of a demand that certain chemists at Amani should be spared for the military forces. If they are not wanted for anything else, that is well and good, but they are people highly qualified and may be more urgently needed to perform really vital functions in the war effort for which their qualifications fit them, so that I hope it will be carefully considered before they are taken from duties for which they may be better fitted than fighting.

While discussing this question, I welcome the statement of the hon. and learned Attorney General yesterday about the position of men who have received exemption. He quoted the regulation of 27th May in order, as he put it, to put the matter at rest once and for all. Again, there is no Press report of this session, and although you, sir, did make the matter fairly clear in your Communication from the Chair I would suggest that the statement made by the hon. and learned Attorney General yesterday should also appear in the Press in some form so that it can be read by everybody in the country.

So much for European man power. What about the other races? This matter was touched on yesterday by various speakers. I would only add this: that if compulsion or persuasion or whatever you like to call it is going to be used as regards native man power, I at any rate personally hold the strongest possible views that any policy adopted should be inter-territorial in character and not adopted piecemeal by one territory and not in another territory when both form part of the East African group. An expression of opinion on this subject in this Council may do no harm.

This reference to the inter-territorial aspect of man power brings me to Sir Philip Mitchell. I would add my voice to the expressions already given welcoming him to this Colony; and wishing him all the luck in the very difficult job he has undertaken. I also say that

I am sorry that the plans which I know he has in mind cannot go further at the present stage.

I was present at the meeting which he called a week or two ago, and I say that I must admit my disappointment that all we could reach was an agreement to a scheme which, in my mind, is merely a perpetuation of the present system of affairs which has already been proved to be a hopeless failure in war time. The idea is apparently that certain delegations briefed by their respective governments would appear here with one vote per delegation and sit around a table in large numbers and, I suppose, squabble over the parochial rights of their individual territories.

That is not the way to win the war. What I submit we want are our very best men from all territories who, regardless of which territory they come from, should sit around a table and decide as individuals on the evidence before them what is the right thing to do on behalf of East Africa in pursuance of the war effort of the Empire. Until we get that we have not got what is needed to bring this country through the trials that lie ahead. That does not mean that I oppose what is being done, because I do not. I think that probably my ideas are premature, but as sure as we sit here something of the sort will have to be created before long.

The next point I wish to deal with is that of aliens and potentially dangerous or unfriendly persons. In this connexion, I fear I must join issue with the hon. and learned Attorney General who spoke on this matter yesterday. He stated that he wished to make it clear what had been done in regard to aliens, and I suppose he included in that potential enemies. As far as I am concerned he succeeded. He succeeded in making crystal clear that the present position is extremely unsatisfactory. He first explained that every case—and I refer now to aliens—was submitted to the committee of which he and the noble lord are members. I think he was a little over-enthusiastic, and I submit that not every case but only cases of suspects are submitted to that committee. He then, beaming with professional pride, explained that there was

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another committee which checked the findings of the first committee, which had the advantage of sitting under the chairmanship of a gentleman who had held high judicial posts. The services of a gentleman who has held high judicial posts and who has had vast experience of academic justice are a great advantage in peace time, but in a war such as this war of 1940 I am not at all sure that they may not constitute a grave danger to the State. (Hear, hear.)

We were further informed by way of excuse of this judicial gentleman's activities, that three out of five persons let out were British subjects. That to my mind is no excuse. I consider British subjects, if there is cause for suspicion, are potentially far more dangerous than enemy aliens, and I suggest they should be locked up and with double locks and not let out. In war one cannot afford to abide by ordinary legal formalities that have to be considered in peace time. If there are grounds for suspicion, and there are real grounds for suspicion, I submit it is just too bad if injustice occurs, but in the interests of public security these people had better be shut up until peace comes again.

The hon. and learned member did not answer my colleague the hon. Member for Mombasa in regard to persons of alien origin. I should like the hon. Chief Secretary when he speaks to give us some assurance on that point.

* We were also assured yesterday that every suspect, I think these were the exact words, has his or her movements restricted. I most definitely say that that is not the case. I do not know what was meant by suspect, whether a suspect has to be of a certain nationality, and whether suspicions have to be founded on some sort of legal indictment, or whether the word "suspect" refers to all people of whom the C.I.D. are definitely suspicious. If the latter, I was and still am quite convinced that there are persons who are more than suspicious and who are suspected by the authorities still wandering about this country and who are not subjected to the check suggested yesterday.

It has been said that Legislative Council is not the place to bring these matters up. I am afraid I do not agree. In the first case, one can bring these matters up privately, but if as is the position to-day some of us and the public generally are not satisfied, I submit that in a matter of this kind, which is a matter of principle and of policy, it is our duty to bring this question up openly in Legislative Council, and I only hope that the fact of having brought this up openly in Legislative Council may lead to the matter being taken more seriously than it is at the present time.

Lastly, before I leave that particular subject, I would again express regret that there is not more inter-territorial co-ordination in dealing with aliens and potential enemies in time of war.

The next point I wish to touch on is that of production, which was referred to by the hon. Member for Trans Nzoia. He expressed anxiety as to prices, as to ships, and as to the future of production generally, and he has my support, because I think these are matters of grave import to the country which require very careful consideration and watching.

He quoted particularly the case of maize. I would say, however, as regards maize that the situation, as we know, is extremely difficult. It so happens that at the beginning of this year the Argentine had a surplus production of maize of over 10 million tons. It also so happens that England is not anxious to sever trade relations with the Argentine, and a certain amount of Argentine maize is being bought and will have to be bought. In 1938-9 the total imports of maize into Europe was 37 million quarters, of which the United Kingdom only took 13 to 14 millions. If you work it out, this year's Argentine surplus alone would easily supply more than the total European demand were there no war. Owing to the war, as we all know the largest importing countries in Europe—Germany, Holland, Denmark, Belgium, Norway, etc.—are out of it, and the United Kingdom remains practically the sole buyer. Argentine maize therefore to-day stands at a very low figure indeed, but in spite of this Kenya is selling maize and we are buying native

[Major Cavendish-Bentick]

maize. We are in process of buying 20,000 tons of native maize at the present time to level out the export flow of maize, and we have secured shipping space for it to the extent of 5,000 tons in September, 5,000 in October, 5,000 in November, and 5,000 in December. This maize has been bought by the Cereals Control Board in London at a price which, in view of the circumstances, is by no means bad, very much higher, anyway, than would have been paid for Argentine. It is also probably within the knowledge of members of the Council that South Africa has got rid of its maize at a reasonable price, and Rhodesia not long ago also made a contract with the Cereals Control Board for selling at what under existing circumstances was quite a good price. Although I think the price of maize is bound to go down, I trust it will not go down so drastically as has been anticipated, and I believe that on the whole farmers will get a reasonable price for the crop when it comes on.

I would like to stress here that I think that all that can be done is being done, to watch the general production position, the market position, and the position as regards producing those commodities which are most needed under existing circumstances. We have great difficulties to compete with, and I do not say we do not make mistakes, and I entirely agree with my colleague that it is a matter which wants very constant watchfulness on the part of Government. But I would like to stress that up to now I do not think there has been any grave delinquency in this particular matter.

I do not want to protract this debate, and there is really only one other matter I want to mention. I feel that I must, however unwise it may be, make some retort to what, after all, may be justified but was nevertheless a fairly violent attack on those members on this side of Council who happen to have the honour of serving on Your Excellency's Executive Council. I will categorically deny that we imagine we are born leaders who entirely lose sight of Legislative Council or of the privileges and the constitutional position of members of this Council. I

suppose that really the issue boils down to being a matter of opinion. My hon. friend, I think, without wishing to be offensive, is one of those born leaders who, unfortunately, has not yet been adequately recognized. As such, he is extremely critical of those who feel that in the existing situation our first and foremost job before being too obstructively critical of everything is to try and help things along, and Government, as far as it is possible to do so.

I may be wrong. It may be that our best duty in the interests of those who put us here is to criticize, criticize, and criticize. I have done a bit in this Council in my time, but I do not believe it is the right thing to be constantly critical, and I feel that on an occasion like this it is impossible to sit here and lay back, and some of us have to take the responsibility of trying to help Government. If we get criticized we have got to stand it, and I am quite prepared to stand it.

This does not mean that I entirely disagree with what I believe the hon. member had in mind if he had put it a little less violently. I do not think that all is perfectly well. I do not think Government always goes as far as it should and that, of course, is the unanimous opinion of everyone of us on this side of Council and that feeling, as you know, sir, is the object of this motion. Let it be thought that this motion is just a fatuous expression meaning nothing except a censure of Government, I would, before I sit down, draw Council's attention to the sting in the tail of the speech made by the noble lord when he moved this motion.

He said that, "in order to achieve everything possible in the successful prosecution of the war, Government must be prepared to cut right away from normal Colonial Office routine methods, that we cannot afford perpetually to be kept waiting for Colonial Office sanction to this, that or the other, nor normal departmental delays: decisions must be taken on a subject and taken at once." That fundamentally is what we are all unhappy and nervous about and what the country feels uncomfortable over, that Government does not yet realize that in war time, especially in a war in which

[Major Cavendish-Bentinck] we may be cut clean away from England at one period, they have got to take decisions and have got themselves to take decisions and act, and not continue to always "refer". (Applause.)

MR. HOSKING (Chief Native Commissioner): Your Excellency, it is noteworthy that in this interesting debate there has been no adverse criticism of the part being played in this great war effort by the natives themselves.

The hon. member Dr. Wilson has complained that the African is not being told what is expected of him. Well, I think he cannot even have read the communique that was recently issued with your approval, sir. This communique was reproduced not only in the European papers and in the native paper but has also been broadcast daily in various dialects, while copies have been sent at the request of provincial commissioners to district commissioners, and the gist of it will be communicated in barazas to natives throughout the country. If the hon. member has missed it in the papers, perhaps he will hear it at any baraza which he may attend.

DR. WILSON: I did not complain of information not being given, but hoped that full information was being given. I am glad of the assurance that information has been given.

MR. HOSKING: I will repeat the assurance that information is being given and will continue to be given.

In that communique we have stressed the need for all to play their part willingly and cheerfully, not only in the fighting ranks but in helping production and the industries of this country, both in the reserves and on farms.

The hon. member stressed the need for increased effort, both directly and indirectly. As regards the military, all requirements for the fighting services are filled almost automatically. The only difficulty the military have, I think, is in specialist branches such as motor transport and the like, where they have, not men ready trained to fill requirements. But those offering for training are coming forward willingly and in great numbers. One district alone has

produced many thousands of men for the fighting services, and boasts that it can not only fill all present requirements but raise unaided as many battalions as are likely to be needed in the present war. It would be an insult to the native population to suggest conscription for the fighting units when men actually dodge from one district to another to try and get past the recruiting sergeant into the Army. It is not a matter for complacency but for pride.

As regards the military labour service which is now being inaugurated, I have advocated strongly that we should start straightaway with conscription, and offer my reasons. We do not know what the ultimate requirements of this service are, and I should prefer to start right away with conscription mainly because I think it is the most honest course to see that military service is not avoided by the lazy and work shy, and we can thereby select the best men and put them in the right place. Psychologically it is the right approach. This is the greatest effort we have ever been called on to make, and the whole Empire is mobilized to-day. It is a time for orders to be issued, not mere requests, and incidentally the native, when called on to serve by really competent headmen, is not quite sure whether it is a polite request or an order. It should be clear without doubt that Government is issuing its orders and those orders are to be obeyed.

In raising this corps, as the hon. member Dr. Wilson warned us, we must be most careful both in our organization and handling. Thanks to the system of registration which has now been functioning for the last 20 years, we can assure the native of complete identification, and some of the horrors which occurred at the end of the last war cannot again happen.

The hon. Member for Nairobi North was anxious that we should have an inter-territorial policy. I am all for an inter-territorial policy as regards natives so long as that conforms with the established Kenya policy and we do not have to conform with theirs. I consider this question of identification absolutely vital for the social welfare of the native and for the happy days to come when peace succeeds war.

[Mr. Hosking]

The hon. member asked about exemptions. In that communique we have definitely promised the native that the same facilities for exemption shall be afforded them as to other races who come under the scope of the Compulsory Service Ordinance.

He stressed the need for a communal effort, which is the basis of native society. I agree. But I would stress on the other side that one of the greatest difficulties with which the Administration is faced to-day is the growth of individualism among natives. Whereas in the last war the head of the family would speak for the family and even pay for it and when the able-bodied men went out to earn money for their weaker brethren, to-day the native is an individual. He speaks for himself and pays, or does not, for himself, he does not help his brothers or dependants in the same way that he used to. But communal effort is not lacking. The local native councils of Central Province have already passed resolutions voting thousands of pounds from their surplus balances for a definite purpose in this war effort. They wish to buy a fighting plane. The native wants to further the war. As an old Kikuyu headman who produced Sh. 10 said, "This is to help King George sharpen the spears of his warriors." These sums of money have been voted and the resolutions will shortly come to Your Excellency's Council for approval. In the Nyanza Province I understand they intend to vote money for some local effort to help in the recruiting which will be done in that province and to make things go happily in the process, and to see that the men who leave their province will be contented and satisfied and that they can rest assured their family affairs at home will be looked after in their absence.

The part played by the Administration will, I think, be referred to by the hon. Chief Secretary who may be speaking later. The Administration have, at the request of the military, undertaken the entire recruiting for military purposes, and I am in close contact with the military staff. I have often envied that hard-worked staff because they have only one job of work to do, to carry on the war

We in the Administration have to do our part in carrying on the war, but also at the same time we have to try to carry on the conditions of peace. The hon. member Dr. Wilson referred to the need for the maintenance of our social services, and I am most grateful to him for his support in this matter.

As to the staff, there is not a member in the Administration who would not be only too glad to serve with the military, but we all know that we cannot denude the Administration of all its trained men. I have recently, with the provincial commissioners, gone over the list of all officers available in this country and at home who offered their services, and we are to put up certain proposals to Government on this matter. But I would warn hon. members, in particular the hon. Member for Usin Gishu, that the recall of time-expired officers entails very often the redistribution of staff. These time-expired people cannot be put anywhere, but they must be placed in positions where they can best serve, and that often means dislocation of our existing staff.

Finally, I would put in a plea on behalf of the Administration. We are prepared to replace officers by other officers, but we ask that the Administration cadre shall not be unduly reduced, if we are to carry on all the duties that will fall on us. We may not get the funds we had hoped to get for colonial development, but we shall endeavour to produce our tale of bricks without straw, but are we to be robbed of most of our men and required to make our bricks without our Israelites? (Laughter.)

MR. RENNIE: Your Excellency, the noble lord the hon. Member for Rift Valley made it clear in his opening remarks that the intention behind the motion is not a vote of censure on the Government, and he mentioned that the elected members of the European community felt that in some directions stronger measures in prosecuting the war are required. From the speeches which have been made yesterday and to-day, it is quite obvious to me that all of us here, both officials and unofficials, have the same object in view (hear, hear); we are all anxious, to see that this country does

[Mr. Rennie]— have been released for liaison duty with the South African forces, two more have been seconded for special war work, one has been offered for release to the Navy, and another case is at the present time under consideration. It may be that some hon. members imagine that there are not as many young administrative officers with the Army as there might be, but I should like to make this point clear: that the military authorities have on several occasions asked specifically for officers with certain qualifications, and Government has done its best to meet the wishes of the military authorities in that way.

Despite the remarks which have been made by some hon. members about the self-satisfaction and self-clacency of Government and its very poor efforts to prosecute the war to the best of its ability, I can assure hon. members, and most of them are always aware of this, that during the months which have passed since September Government has spared no effort to achieve the aim which it has in view. I can also assure hon. members that Government will continue to do its utmost to achieve that aim.

This debate has been very helpful in indicating that there are certain directions in which hon. members think that Government has not been entirely effective in its efforts, and has not been entirely efficient. The constructive criticisms which have been made will naturally receive the most careful consideration of Government. Perhaps I may be permitted to make a few remarks dealing with some of the points which have been raised.

To take first the speech of the noble lord. The hon. Financial Secretary has already dealt with the question of economy in Government departments. He is perhaps not aware that in his absence the Acting Financial Secretary and I had a meeting with heads of departments, and at that meeting discussed various ways and means by which we could economize. Many constructive suggestions were made on that occasion by heads of departments, and I have had evidence since then that departments are doing their utmost to see that expenditure is kept down to the minimum.

The noble lord expressed the hope that a few more young men from the Administration might be spared for active service in the Army. I share the noble lord's hope, and I may mention that this question of releasing administrative officers for active service has been under constant review since the beginning of the war. At the present time, ten administrative officers have been released for active military service, two more

have been released for liaison duty with the South African forces, two more have been seconded for special war work, one has been offered for release to the Navy, and another case is at the present time under consideration. It may be that some hon. members imagine that there are not as many young administrative officers with the Army as there might be, but I should like to make this point clear: that the military authorities have on several occasions asked specifically for officers with certain qualifications, and Government has done its best to meet the wishes of the military authorities in that way.

It has made it clear to them on many occasions that we are perfectly prepared to let young men who have expressed their natural desire to serve go, but that we cannot give both the young men and the older men. The Administration has got to be carried on. In these circumstances, the military authorities have left it to us very largely. They come along with their requests for a particular officer for a particular job, and we have met their wishes as far as possible. There is a further point, that young men, fit men, are required for the very arduous duties in the Northern Frontier District and Turkana, and that point must be kept in mind when the release of young administrative officers for military service is being considered. Your Excellency has, however, kept constantly in mind the natural desire of young officers to be released and has considered the question on many occasions and released as many as circumstances permitted.

The noble lord mentioned the question of postal facilities and suggested that that matter might well be brought up at one of the Staff Talks. I can assure him that I will take it up at the next Staff Talk, which will be held this week.

He referred also, and the hon. Member for Nairobi North mentioned the matter, to the question of normal departmental delays and the necessity for speedy decisions. I agree entirely with the words the two speakers uttered. I too, deprecate unnecessary delays, and although I know that I am treading on somewhat dangerous ground in mentioning the word ambition, I may say that right throughout my official career I have

[Mr. Rennie] had one great ambition; that is, to emulate the achievement of a brother officer of mine in Ceylon who was able to boast that any letters he received in his office before noon on any day were answered that same day. So far I have not been able to achieve that ambition, but I mention it in passing in order that I may make it quite clear to the noble lord that I, too, am very anxious to see Government business expedited as much as possible.

I regret that the hon. Member for Mombasa is not here to-day, because I should have liked to have made a few observations as regard his speech. The substance of his speech was, I think, very adequately dealt with by the hon. and learned Attorney General, but perhaps I may add a little to what he has said in respect of aliens, more especially as the hon. Member for Nairobi North has also referred to the question. Hon. members will no doubt realize that there are only two ways of dealing with enemy aliens: we must either put them all inside or we must adopt the selective policy which has been followed both in the United Kingdom and in Kenya as well as in other East African territories.

As regards the selective policy, many people, I think, do not sufficiently realize that no enemy alien is at large at the present time if there is any reasonable ground for suspicion against him. It is not a case of judicial proof. The Commissioner of Police, if he has a report sent to him indicating that there is reasonable ground for suspicion against any enemy alien, has the matter at once investigated, and if he finds that the suspicion is reasonable he takes the necessary steps to put that enemy alien inside. Hon. members will remember that on several occasions recently Government has invited members of the public to make a report to their nearest district officer or local police officer if they have any reason to suspect any enemy alien in their vicinity. It may surprise hon. members if I inform this Council that the only reports which have been received by the Commissioner of Police have been two, two for the last few months! One of them was found to

be a true case, and the enemy alien in question was interned. The second case is under investigation at the present time.

In view of the remarks made by the hon. Member for Nairobi North I should perhaps make it clear on behalf of my hon. and learned friend the Attorney General, that he is not aware that a single person, alien or otherwise, against whom any reasonable suspicion exists has not had his movements restricted, if he has not been actually detained. The fact that someone has heard some statement uttered against a particular alien has not, it often happens on investigation, been found to be sufficient cause to put that particular person under restraint or under detention.

The hon. Member for Nairobi North also asked me to clear up the question which the hon. Member for Mombasa asked yesterday, about persons of enemy origin who are now British subjects. I think the remarks which I have made already cover this point as far as it is possible for a layman like myself to cover it. The point is and the facts are that if there is cause for suspicion against anyone in this country—enemy alien, alien or British subject—if there is cause for suspicion and that cause is reported to the authorities, that particular person will be dealt with under the Defence Regulations if a sufficient case is made out.

Turning to the remarks made by the hon. Member for Nairobi South, I might perhaps say, as regards his reference to the Local Defence Corps and the present position, that a memorandum has been submitted by him. I think I am correct in saying that it has not yet reached Government; at any rate, it has not reached myself. And as I have discussed this matter on several occasions with the hon. member he knows that so far as the hon. member he knows that so far as the Local Defence Corps and the Kenya Defence Force are concerned I sympathize with his efforts to see that that Force and that Corps receive adequate training in present circumstances, and I can assure him that in his efforts to have that Corps adequately trained he will receive the full co-operation of Government.

(Mr. Rennie)

He also referred to the matter of identity cards. That question has been considered by Government on more than one occasion, and the general conclusion that has been arrived at has been that identity cards for Europeans serve no really useful purpose. In view of the remarks made on the subject during the debate, however, Government will have the matter considered again, and no doubt the hon. member will assist Government in consideration of the matter.

Dealing with the speech of the hon. Member for Usin Gishu, I had hoped that the hon. Member for Nairobi North would have dealt with the point he raised about the necessity for making adequate provision for harvesting. I can merely say in the absence of information from the hon. Member for Nairobi North that the Settlement and Production Board have given very careful consideration to this matter and have put forward to Government a very comprehensive resolution which will be considered by the Executive in the very near future.

My hon. friend the Chief Native Commissioner has already dealt with the question of transfers of administrative officers to which the hon. Member for Usin Gishu referred. The hon. Chief Native Commissioner made it clear that one move, and at the present time with releases to the Army certain moves are essential, sometimes necessitated several other moves, but I may assure the hon. Member for Usin Gishu that I have myself had in mind the necessity of reducing moves to the very minimum, especially in time of war, and every move of an administrative officer receives not only very careful consideration in the Secretariat but also His Excellency's consideration when the papers are submitted to him.

Turning now to the speech made by the hon. Member for the Coast, I must confess to a feeling of disappointment that it was not more constructive. The tone of the debate has been constructive, and the hon. member knows perfectly well, because I have made it clear to him on more than one occasion, that if he has any constructive suggestion to put

forward it always receives the most careful consideration. That being the case, I say I was somewhat disappointed at his speech. It may have been a case of deep calling to deep or superman to superman, but as we have no corresponding superman on this side of Council, I am afraid that his remarks went somewhat wide of the mark. (Laughter.)

There are one or two points in the speech of the hon. Member for Nairobi North to which perhaps I may refer. I have dealt with his remarks on the subject of enemy aliens, and I would merely make a very brief reference to one point which he made which may, perhaps, have caused a little anxiety in the minds of some hon. members; that is, the question of inter-territorial co-ordination in dealing with enemy aliens and fifth columnists in time of war. I may mention that steps are being taken in that connexion of which the hon. member might not, perhaps, be aware, and to which this is hardly the appropriate time or occasion for me to refer to in detail.

In conclusion, sir, I would repeat what I have said earlier. Government wholeheartedly agrees with the contention that no effort must be spared to enable this country to make its maximum contribution to the war effort and by every means will do its utmost to achieve that end. The suggestions which have been made by hon. members in the course of this debate will receive very careful consideration, as I have said earlier. But I would ask hon. members not to stop there. The hon. Member for Usin Gishu recently sent me a most instructive letter containing perhaps a dozen useful suggestions. All those suggestions of his received very careful consideration, and when some of them could not be adopted I made it clear in my reply to him why Government thought that they should not be adopted. I would invite hon. members, as I say, not to rest on their oars to-day, but to devote as much time as they can to thinking how we in Kenya can improve our war effort.

No member of Government is labouring under the delusion that only a brain whose impulses are transmitted through the usual channels—lined, some may say, with red tape—can deliver the goods, and

(Mr. Rennie)

there is no question of self satisfaction or complacency on the part of Government. If the hon. Member for Nyanza only knew how much racking of brains there was on the part of Government at times to see where we could improve our war effort, she might realize that her charge of self satisfaction and complacency was very wide of the mark.

I would, therefore, in conclusion, merely say that Government for its part will do as it is doing everything it possibly can to further the prosecution of the war, and any suggestions that hon. members may make now or hereafter will receive our most careful consideration.

LORD FRANCIS SCOTT: Sir, I am not going to take up the time of Council by recapitulating all that has been said, and there are very few points with which I wish to deal.

I am very glad that the hon. and learned Attorney General has once more made it clear as to what the position is about these exempted people. It certainly has been made clear before, and perhaps this time no doubt will be left in anybody's mind.

One other point he referred to was the question of the appointment of justices of the peace to assist in the administration of justice throughout the country. I do realize that there are certain difficulties, but I want this suggestion put forward for the consideration of Government, and that is that some of the group farm managers in various parts of the country might be appointed special constables, so that they could further assist the police in their districts.

The hon. member Mr. Isher Dass I found rather difficult to follow, and I am sorry he is not in the room now. I gathered that he said there was no proof that Indian artisans were moving from one place to another for higher wages and if they did it was the fault of the contractors for offering higher wages. I think that is the reason why both artisans and contractors should be controlled by law so that that sort of thing cannot happen.

My hon. friend Dr. Wilson dealt with the question of the Administration being

under staffed and that social services should not be dropped. I never suggested that social services should be dropped. What I did say was that this extra money should be used for the prosecution of the war and not for the extension of social services, which is a different matter. I do think that I understood from the statement you yourself made, sir, that that was the intention of Government, that any excess revenue found from this extra taxation should go to the prosecution of the war. Obviously social services cannot and should not be dropped altogether. The expense of some of them will automatically be reduced because of many officers joining the military forces and the greater part of their salaries will be paid from military funds, so that there will be a certain economy. But the point is that the extra taxation is willingly being found from the people of the country because they wish it to be used for the prosecution of the war.

Dealing with the question of administrative officers, which was referred to by the hon. Chief Native Commissioner and hon. Chief Secretary, I think we are all agreed it is necessary to keep an adequate staff of administrative officers in the native reserves in time of war, but it must be remembered that there are more officers in the country to-day than ever before because all leave has been stopped, and so there are these extra people. I do put in a plea on behalf of the junior administrative officers who are mad keen to do their bit that nobody unnecessarily should be kept back, but that everyone who can be spared without in any way endangering the security of the reserves should be allowed to join the military forces. I am glad to hear from the hon. Chief Secretary that that question is being considered.

There is no need for me to refer to the remarks of the hon. Financial Secretary, though I hope, as the hon. Member for Nairobi North said, they will be published in full for the information of the public.

I will next turn to the hon. Member for the Coast, who criticized Government because Legislative Council was not called during recent months. I think it only fair to Government to say that this

[Lord Francis Scott] question was discussed among European elected members as to whether we should ask Government to hold a special session to discuss the war at the time Italy came in, and with the exception of the hon. Member for the Coast it was considered by the European elected members that we should not ask Government to do so.

MR. COOKE: On a point of explanation, the question of a secret session was confused with the question of an ordinary meeting of Council.

LORD FRANCIS SCOTT: On a point of order, my memory is more accurate than the hon. member's! We discussed the question of a secret session and an ordinary session, and in both respects it was decided not to ask Government to hold such a session. We all knew it was Government's intention that a session should be held in the middle of July, but for certain circumstances it had to be postponed.

I will not deal any more with the hon. member's remarks about Executive Council and the accusation that we look on ourselves as supermen. I do not think it is worth talking about.

Coming to the remarks of the hon. Member for Nairobi North on the subject of aliens, that has already been dealt with by many people, but he did ask whether it was a fact that the committee on which I sit with the hon. and learned Attorney General as chairman dealt with all aliens. No, we have not dealt with all aliens, but we do deal with any case which is brought to our notice from anybody whatsoever. By degrees we are trying to go through the position of all aliens, but we have not been able to deal with them all yet. Anybody who is suspected in any way comes before us, and not only if they are enemy aliens; even if they are not of enemy alien origin or anything, they are brought before us if there is any question, and certainly we have gone into cases of some people of enemy alien origin who have since become British subjects. Certain people have had their movements restricted, but of course that is not done unless there is sufficient cause to consider they would be dangerous to the public safety if they were not so restricted.

I should like to emphasize it once more, though it has been broadcast and published, that the public who have any cause whatsoever to be suspicious of any person, whether enemy aliens, of enemy origin, or British subjects, or anything else, should come forward and let us have that evidence, so that we can go into it and try and make our control over those people as thorough as possible. I do not know whether that helps to clear up some of these points.

Finally, I come to the speech of the hon. Chief Secretary.

I was delighted to hear him say that Government agreed wholeheartedly with the views put forward by members all over the Council as to the need for the further prosecution of the war and that every step possible would be taken to carry that out. Similarly, I am delighted with his statement that Government is by no means self-complacent and welcomes any suggestions or help from anybody, and that this debate had been very helpful to Government.

Some people have asked why did we have this debate? It has been put forward that Legislative Council has been rather ignored in this business. But if there is a session of Legislative Council it is not of much use to members if it is merely dealing with a few bills, and so the reason for moving the motion was, firstly, that we on this side of Council wished to impress on Government that as representing the people of the country we were wholeheartedly determined to see that everything possible was done in the prosecution of the war; secondly, to give Government the opportunity of stating quite clearly, as I think the hon. Chief Secretary has done, that they are in entire agreement with that point of view; thirdly, to give the opportunity to members of this Council of stating any particular points of view which they wished to make in criticism or to help on the general purpose, the prosecution of the war.

I am glad to hear that Government consider the debate has been helpful and therefore this debate has been justified. I do not think I have anything further to say on this matter.

HIS EXCELLENCY: In view of the hon. member's statement and Government's statement, perhaps he would agree to the motion not actually going to a division but would by leave withdraw it?

LORD FRANCIS SCOTT: I think that in conformity with the custom of the House of Lords and similar places, when a matter has been fully debated and it may in a way embarrass Government if it goes to a division, I will ask your permission, sir, and that of Council to withdraw the motion.

HIS EXCELLENCY: I should just like to say from the Chair that I am sure all hon. members will appreciate that Government at this time is looking for support, assistance, and constructive criticism from all quarters, and insofar as this debate is able to give us an indication as to how members present are feeling on certain important matters I very much welcome what we have heard.

The motion was by leave of Council withdrawn.

SCHEDULES OF ADDITIONAL PROVISION

NOS. 1 AND 2 OF 1940

MR. RENNIE: Your Excellency, I beg to move that the Standing Finance Committee Report on Schedules of Additional Provision Nos. 1 and 2 of 1940 be adopted.

Hon. members will note that Schedule No. 1 covers the period 1st January to 31st March, 1940, and is in respect of a total of £52,257. That amount is off-set by savings and by increased revenue which is expected, and if we deduct the total of those two items from the total of £52,357 we arrive at the figure of £13,122 only.

Schedule No. 2 covers the period 1st April to 30th June, 1940, and the revenue expenditure involved is £64,478 and the loan expenditure £3,500. That figure of £64,478 is reduced to a net expenditure figure of £40,697 if we deduct savings and increased revenue.

In connexion with these Schedules, the hon. Member for the Coast raised several questions last week.

He referred first of all to Special Warrant No. 86 in Schedule No. 2, and he made the remark that it seemed rather peculiar that the first provision was only £5 which subsequently rises to £25. I should like to make it clear that there is no real connexion between the £5 in column 4 and the £25 in column 5. If the hon. member will cast his eye back to Special Warrant No. 67 on page 2, he will see there the figure £5 in column 5 which is the same figure as that shown in column 4 in respect of Special Warrant No. 86. The facts of that particular case to which Item 86 refers are that the sum of £50 was stolen from the office of the District Commissioner, Lodwar. The matter was very carefully considered in Standing Finance Committee, and the Committee agreed that, taking into consideration all the circumstances of the case, it would be equitable to decide that the officer responsible for the loss should be held financially responsible to the extent of £25, and that the remainder of the loss, the other £25, should be written off. This particular item, No. 86 deals with the special warrant to enable that second sum of £25 to be written off.

He mentioned, too, the next item, 87, and, basing his case apparently on his knowledge of the value of property when he was at Moyale many years ago, expressed surprise that over £13,000 was now asked for as compensation when Moyale was evacuated. This particular item received very careful consideration by the Standing Finance Committee, not only at one meeting but at two. The matter was gone into very carefully indeed, and the Committee had before it at the time a full statement of the claims which had been made by various traders and people concerned. These claims amounted to some £27,000, and they were pruned and most drastically reduced to this figure of £13,339. The Standing Finance Committee, after very careful consideration, decided that it was equitable to ask you, Sir, to issue a special warrant for this amount. That action has since been approved by the Secretary of State.

The hon. member then referred to item No. 91, which, he said, taken in conjunction with item 63, appeared to him an example of a penny wise and pound foolish policy. He made the point that if

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the lorry had been purchased when it was first asked for it was probable that the expenditure of £40 on the transport of foodstuffs to Shimo-la-Tewa would not have been incurred. The hon. member is no doubt right, but when the question of replacing the old lorry was considered an investigation was made as to whether foodstuffs could be transported to Shimo-la-Tewa by the ordinary civil transport going that way. It was found that the scheme was not feasible. The Government Coast Agent's next suggestion that a second-hand lorry might be available from the Public Works Department was also investigated and found not practicable. In the circumstances, there was no alternative but to employ transport during that time. This was done, and it was only after the two suggestions put forward were both found to be impracticable that the lorry was finally bought. I trust the hon. member is satisfied that the foolishness has not been excessive.

Hon. members will note that the report of the Committee includes a recommendation that £11,870, authorized by an advance warrant for expenditure against surplus balances pending the raising of a loan, be approved. This expenditure has been incurred on the agricultural training farm at Njoro, a project which hon. members are well aware of and the importance of which, even at the present time, I need not stress.

MR. HARRAGIN seconded.

MAJOR CAVENDISH-BENTINCK: Your Excellency, I should like to ask the hon. mover whether there is any way of explaining that the £13,000 compensation for Moyale will not form a precedent, supposing any other places are affected or damaged, such as Lamu for instance, during the war. It was brought to my notice in another connexion in the event of what Government intends to do.

MR. RENNIE: Your Excellency, this particular point was raised in Standing Finance Committee, but it was made perfectly clear that this was a unique case—the circumstances were without precedent. It was not actually a case of war damage, and in that way would differ from any evacuation that might take place now under actual war conditions.

The question was put and carried.

WAR TAXATION (INCOME TAX) BILL

SELECT COMMITTEE REPORT

MR. HARRAGIN: Your Excellency, I beg to move that the select committee report on the War Taxation (Income Tax) Bill be adopted.

There are only two amendments to the Bill which have been recommended by the select committee. The first refers to those cases where two or more individuals support jointly a dependant, and here we have followed the precedent in the United Kingdom where the deductions to be made will be apportioned between them in proportion to their respective contributions. The second amendment refers to a widower, and grants relief to him when he is supporting a family of one or more children. He will not be treated as a bachelor in that he will have a diminishing allowance. When a person reaches £600 it disappears altogether, but he will be allowed to keep it in view of the fact that he has children to support.

MR. PHILLIPS seconded.

The question was put and carried.

COURTS (EMERGENCY POWERS) BILL

SELECT COMMITTEE REPORT

MR. HARRAGIN: Your Excellency, I beg to move that the select committee report on the Courts (Emergency Powers) Bill be adopted.

The only recommendation made by the committee is to correct a printer's error in putting a small (a) instead of a small (1) in the Bill.

MR. PHILLIPS seconded.

The question was put and carried.

SOLDIERS (EXEMPTION FROM CIVIL PROCESS) BILL

SELECT COMMITTEE REPORT

MR. HARRAGIN: Your Excellency, I beg to move that the select committee report on the Soldiers (Exemption from Civil Process) Bill be adopted.

This report, although longer than the two we have just dealt with, is not really making any amendment in principle whatever to the Bill. The first amendment is

[Mr. Harragin]

with regard to the Kenya Defence Force, which was outlined by the hon. Member for Nairobi South when he spoke on the second reading. We have made it clear now that the Bill will refer to all members of the K.D.F. when on full time military service. It was not realized at the time the Bill was drafted that there were a number of members of the K.D.F. who were doing full time duties, and therefore they should be treated in every way as any other soldier in the Army here to-day.

The re-wording of clause 3 is merely done to clarify the position and make it clear to a layman exactly what his rights are and are not. The only matter I should like to refer to is the proviso to paragraph (c), "that nothing in this section shall be deemed to relieve any soldier from the obligation to attend as a witness before any court of law when duly summoned so to attend." That is following the common practice, and of course it is necessary if the courts are function at all to be able to make a witness in the Army attend or give evidence. I hope it will not have to be used often, but it is necessary they should have that power.

The most important amendment of all was made after consultation with the D.J.A. and adds various other units which, it will be seen, are set out in clause 3 of the report. They are now serving here, and there is no reason why they should not be subjected to the same laws and privileges as our own soldiers.

MR. PHILLIPS seconded.

The question was put and carried.

THE MINING BILL

SECOND READING

MR. HARRAGIN: Your Excellency, I beg to move that the Mining Bill be read a second time.

This is a rather lengthy Bill and, as hon. members know, is a consolidating Bill. It was produced over a long period of time, probably about seven or eight months, under the joint authorship of the late Acting Attorney General, Mr. Willan, and Mr. Izard, the Commissioner of Mines. It is to be regretted that neither is present to produce the finished article to

Council to-day. It has fallen to me to do it at very short notice, and I should like to pay a tribute to Mr. Collier, who is now doing the work for the Commissioner of Mines, for the enormous help he gave me in order that the Bill might be introduced to-day.

There is very little new in this Bill, but as the original Ordinance has been amended practically every year since 1933 the Chamber of Mines requested that the new Bill should be a consolidating measure, because they found it extremely difficult to find out what the law was. The Bill has been carefully vetted both by the Chamber of Mines and the Mining Association, and so far as I can see from the correspondence on the files in my office and in the Mines Department, although in certain cases these bodies would have liked the Bill to go further, nevertheless they welcome the changes as far as they do go.

The first amendment is in clause 2, which makes it clear that although under the regulations a person may be permitted to mine for any common mineral substance such as murrum and so on, he is prevented from mining for precious metals without having the usual mining title so to do. Apparently, in the past these common minerals have been taken out, and a person having found precious metals in them has failed to take out the necessary legal document entitling him to mine precious metals.

The next amendment is in clause 7 (g), and this may be taken as a back-handed compliment to the Director of Public Works, because it has been found necessary, as roads are becoming so wide, to extend from 30 to 60 feet the road area which is precluded from mining. In (h), protection is further given to aerodromes. At the present time, aerodromes are of course excluded from mining, but there is nothing to stop someone from putting up a derrick or some other mining machinery on the immediate boundary of an aerodrome. This has been pointed out as being dangerous, and we now restrict mining from coming within 500 yards of aerodromes, so that no one will be able to put up machinery to endanger the landing or taking-off of aeroplanes.

[Mr. Harragin]

If hon. members will now turn to sub-paragraph (ii) of paragraph (1), this has been put in to make it clear that where an exclusive licence has been granted and a location obtained over any part of that area, and the location has been subsequently abandoned, automatically the area reverts and comes within the exclusive licence once again, and is not forfeited forever as would have been the case with an ordinary location which has been abandoned.

In clause 12 is a slight amendment made at the request of the East African Chamber of Commerce, providing that the Commissioner of Mines may permit samples of minerals extracted for the purposes of assay and/or metallurgical tests to be sent away without royalties being paid.

Clause 13 introduces something new in (b), in that prospecting rights are going to be refused in future to any person who, in the opinion of the Commissioner, is unable to understand the provisions of the Ordinance and regulations. Apparently, certain illiterate people have been obtaining prospecting rights and excusing themselves from carrying out the conditions under which they hold them by saying they are unable to understand what is written on them.

Clause 14 provides for closer control over diamond mining. All over the world, diamond mining is a special type of mining, and this clause, particularly (A) and (B), give the Commissioner of Mines complete power with regard to mining for diamonds. He may give the right to mine for diamonds only in a specified area and under such conditions as he thinks fit.

Clause 17 is a very important clause, and is new. It provides for reopening a closed area subject to conditions, which Your Excellency can lay down. The short fact is that when an area has been closed, let us say, for exclusive prospecting, and some company has gone in there and done a considerable amount of work and may have sunk shafts and carried out innumerable mining operations, or an area where the Government geologist has gone in and done work, permission is given Your Excellency to reopen that area

under such conditions as you think fit. If you think no work of considerable importance has been done, you can reopen it subject to the provisions of the Ordinance, and the ordinary pegging can take place. But where for any reason you think it wise to impose conditions, with regard to rents or labour, or form of licence, you are entitled to do so.

In sub-clause (3) of clause 18 provision is made for granting an exclusive prospecting licence for any precious metals or non-precious metals that Your Excellency chooses to select. At present the position is that when a prospecting licence is granted it is given for precious metals and minerals generally, and the result is a great deal more land is given as a rule than is required and land may be tied up unnecessarily, so that Your Excellency now has power where a man wishes to look for, say, gold only, to give an exclusive prospecting licence to prospect for gold over a certain area which will not preclude anyone else going in and prospecting for tin.

The next amendment is in clause 26 (2), which fixes the time limit in which to appeal to the Commissioner of Mines against compensation offered or demanded. The time is now to be six months. At present, as far as one can see, one is entitled to appeal to the Commissioner at any time within six years. It refers, of course, to compensation for disturbance in a native village or cultivation, and if the native is not prepared to accept the compensation offered or if the miner considers the compensation asked is too great, either party will now have the right within six months to appeal to the Commissioner.

Clause 29 is recast at the request of the Chamber of Mines, and it refers to the time at which a location licence comes to an end. As hon. members are aware, a location is pegged from time to time as the work goes on. For example, in 1940 the first location may be pegged in March and three months later another is pegged. As the law stands at present a location licence can only be renewed for a year at a time, so that next year the holder is in the position of having one location expiring in March and another in June. At the

[Mr. Harragin] request of the Chamber, the Commissioner is given the right, where there are two or more locations, to bring them to the same date, so that mining operations will finish on one particular date.

Clause 34 enables the Commissioner of Mines, where a registered holder of a location has committed some breach of the law, instead of cancelling the licence altogether, power which he has not at the moment to call upon the licence-holder to make good his fault without actually taking forfeiture proceedings against him. To a mere layman this seems a very just and appropriate provision to insert in this law.

Clause 37 deals with the re-pegging of location, and provides that a location-holder may renew a location licence from year to year up to a total period of ten years. Let us assume that he has done all that is required of him for eight years and has renewed from year to year. In the eighth year, if for some reason, illness or whatever it may be, he fails to renew his location licence, immediately he would suffer the penalty of losing that location. If there is a failure to renew a licence for thirty days after the due date the ground is precluded from all mining, and thereafter it is thrown open for prospecting generally. It went further in the old law, under which the location-holder, even if he wanted to, could not re-peg for ninety days. It is now made clear in clause 37 that at any time within thirty days the location-holder may renew his licence.

Then this difficulty occurred. If he took out a new licence within thirty days, he would in effect have another ten years to run, because the law says that a licence may be renewed ten times, the renewal each time being for one year. It is now made clear that where a licence is renewed it will only count as part of the ten years which the holder would have been originally entitled to when he first pegged.

Clause 50 is important. As hon. members are aware, when the Principal Ordinance which we shall repeal now was enacted, we had a great fear that too much land was going to be taken from native reserves. Various discussions took place and inquiries were made with regard to

restricting the amount of land that miners would be able to acquire rights on. With that object in view there was introduced what is called a subterranean lease. Let us assume that a mining company was anxious to get rights over ten square miles. It was pointed out that it was unnecessary for them to have the whole surface area of ten square miles provided they were able to mine beneath that area, with the result that they were in effect given a surface lease for a comparatively small area. In practice it has been found it is almost impossible in large mines to do this unless they are allowed to put down air shafts and do what they call diamond drilling in various places over the surface not transferred to them. For that reason, and as an air shaft and diamond drilling occupy very little space—of course, if they create disturbance or cause damage they have to pay for it—and as we are satisfied that it is essential that the mining industry should be allowed to carry out that work, they are going to be permitted to do so under the conditions set out in clause 50.

Turning to clause 59, the amendment here is merely made to conform with the Native Lands Trust Ordinance. It reduces the time in which tailings must be removed when the lease is given up.

There is then very little of importance until we come to clause 88, in which sub-clause (2) is entirely new, and is extremely necessary. I may say in passing that part of this has been taken from the existing mining regulations. It gives power to the owner or occupier of a mine or his servant duly authorized by him to arrest any person who is likely to cause injury to those on the mines or cause damage to the machinery or plant. Cases—I am glad to say, very few—have arisen where people, to use a colloquial expression, have run amuck on a mine, and there being no police there has been difficulty in detaining them. We have therefore given power in this sub-clause to the owner of a mine and the other persons mentioned in the clause to arrest and detain and hand them over to the police as soon as possible.

Those are the only amendments of any importance which have been made to the existing law. As I have said, they have

[Mr. Harragin] received the blessing as far as they go of everyone interested in the mining laws of the country, and I trust the Bill will receive the support of this Council.

MR. PHILLIPS seconded.

LADY SIDNEY FARRAR: Your Excellency, I rise to support the Bill, which I know also meets with the approval of the mining community as represented by the two bodies referred to. I am glad that the hon. and learned mover has made the point that, although this Bill has been carefully vetted and agreed to by them, it does not follow that it meets all the points they wished to raise. I should like to put on record now that certain points, particularly that of simplification of pegging, will have to be raised again in the near future, and by the wish of the mining community it may be necessary to ask Council to introduce further amendments within the next year or so.

MR. GHERSIE: Your Excellency, I rise to support this Bill, as I feel the whole of the mining community will welcome the amendments, and particularly that all the amendments have been consolidated into one Ordinance. I should like to take this opportunity, however, of urging Government to assist in every way possible and facilitate the regulations in order to assist the industry from a protective point of view. As hon. members are aware, the police officer in any particular mining district is also claims inspector. Last week, I drew hon. members' attention to the organized gangs who were illicit gold buying, and I submit that one of the difficulties of preventing the traffic is because a police officer's travel is so restricted. I implore Government to take the matter very seriously and endeavour to eradicate what is becoming a very serious menace.

MAJOR CAVENDISH-BENTINCK: Your Excellency, I am rising to ask a question. In clause 14 there are special conditions as regards prospecting for diamonds. We all know that the diamond industry is a vested interest if ever there was one, and if any output of diamonds in certain parts of this continent was increased the values would drop very

rapidly. I do not quite see why we in this part of the world without a *quid pro quo* should maintain the price of diamonds for the benefit of people who are not in this country or spending money here. Why cannot we mine them if we wish to? It seems to me very odd.

MR. HARRAGIN: Your Excellency, in regard to the last point, I merely wish to say that this clause will not prevent prospecting and mining for diamonds, but it gives the Commissioner power to control it. Of course, the hon. member has hit the nail on the head when he points out that diamonds might easily be a glut on the market, and for that reason all over the world it is a fact that countries control the output of diamonds extremely carefully. Whether that is wise or not I am not prepared to say.

The point raised by the hon. Member for Usain Gishu is a little bit outside the mining laws. He has really asked for more travelling allowance for police inspectors in mining districts. As I have nothing whatever to do with it, I have no hesitation in giving it my blessing and hope that the Standing Finance Committee will vote all the money necessary! (Laughter.)

The question was put and carried.

LAND AND AGRICULTURAL BANK (AMENDMENT No. 3) BILL

FIRST READING

Under Standing Rule and Order No. 108 and with the consent of His Excellency, Mr. Harragin moved that Standing Rules and Orders be suspended in order that the Land and Agricultural Bank (Amendment No. 3) Bill be passed through all its stages.

MR. PHILLIPS seconded.

The question was put and carried.

Standing Rules and Orders were suspended.

On the motion of Mr. Harragin, the Bill was read a first time.

SECOND READING

MR. HARRAGIN: Your Excellency, I beg to move that the Bill be read a second time.

[Mr. Harragin]

It amends the existing law in three particulars: the first is by limiting the advance which can be made under section 2 (1) (a), which deals with the meeting of current expenditure normally incurred in the production of an annual crop, to 50 per cent of the estimated value of that crop. The second modifies the law with regard to the decisions of the bank under the provisions of this section, by deleting from section 2 (3) the words "and shall not be questioned in any court of law." It has been pointed out that these words went further than, I think, was originally intended, for it made it impossible for anyone to question the decision of the bank no matter how unlawfully they may have acted in coming to that decision. The last amendment provides that the Ordinance shall expire at the end of the war but may be prolonged by a proclamation issued by Your Excellency after the approval of Legislative Council has been obtained.

MR. PHILLIPS seconded.

The question was put and carried.

BILLS

IN COMMITTEE

MR. HARRAGIN moved that the Council resolve itself into a Committee of the whole Council to consider the Mining Bill and the Land and Agricultural Bank (Amendment No. 3) Bill clause by clause.

MR. PHILLIPS seconded.

The question was put and carried.

Council went into Committee.

The Mining Bill was considered clause by clause.

Clause 35 (2) (a).

MR. HARRAGIN moved that the clause be amended by inserting after the word "stock" on the sixth line the words "other than dogs or poultry".

The question was put and carried.

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

The Land and Agricultural Bank (Amendment No. 3) Bill was considered clause by clause.

MR. HARRAGIN moved that the Mining Bill be reported with amendment and the Land and Agricultural Bank (Amendment No. 3) Bill without amendment.

The question was put and carried.

Council resumed its sitting.

His Excellency reported the Bills accordingly.

THIRD READINGS

MR. HARRAGIN moved that the following Bills be read the third time and passed:—

The War Taxation (Income Tax) Bill.
The Courts (Emergency Powers) Bill.
The Soldiers (Exemption from Civil Process) Bill.

The Mining Bill.

The Land and Agricultural Bank (Amendment No. 3) Bill.

MR. PHILLIPS seconded.

The question was put and carried.

The Bills were each read the third time and passed.

ADJOURNMENT

Council adjourned *sine die*.

Written Answers to Questions No. 17—MOVEMENTS OF KIKUYU

BY MR. SHAMSUD-DEEN:

1. Is Government aware that about 30 Wakikuyu families residing at or near Escarpment in the Kiambu district had to migrate from the area where their forefathers had been residing for ages, and that these families took up their abode in Chuka, Meru District, owing (a) to the realignment of the Kenya and Uganda Railways and (b) railway fuel siding encroaching upon their land and also owing to the alienation of a portion of their land to Europeans, about five years ago?

2. Is Government also aware that after five years residence in Chuka, Meru District, and having brought an extensive area of virgin land under cultivation with the knowledge and acquiescence of Government, these 30 families—consisting of 30 men, 34 women, and 76 children (a list of whose names is attached hereto)—were peremptorily ordered to evacuate the area occupied by them at Chuka, without any arrangement having previously been made to allot them any piece of land elsewhere, and that Government have failed or declined to find any place for these 30 families notwithstanding their repeated requests and their readiness to transfer themselves to any suitable location?

3. Is it a fact that the only reason for the ejection of these 30 families was their inability to become "aciarua" and to adopt the pagan rites and customs of Chuka natives, owing to the fact that all these 30 families had embraced Christian faith and could not revert to the pagan customs?

4. Is Government further aware that in the beginning of this year a number of these 30 men were imprisoned without any trial and others were made to pay sums of money as fine also without any trial?

5. Is Government also aware that eventually all the huts in which these 30 families were dwelling were set on fire by the order of the District Commissioner and that all their crops and foodstuffs were confiscated and about 140 souls, including men, women and children were thrown on the road in the most inclement weather, and that at least one man and a child died as a result of the shock after their huts were set on fire?

6. Finally, is Government aware that all these 30 families are still without homes and living on the hospitality of friends and relatives scattered all over the Colony?

7. Will Government consider the case of these 30 families and allot to them some suitable area of land where they can settle down in peace?

Men	Women	Children
1. Jonah Muira, Prison	1 near Kijabe	5
2. Hatahah Osehi, Prison	1 near Kijabe	2
3. Moses Mutai, Paid Sh. 10	1 near Kijabe	3
4. Stephen Karuu, Prison	1 near Kijabe	2
5. Elijah Gitau, Prison	1 Fort Hall	3
6. Isiah Macaris, Prison	1 Magogu (Chief)	5
7. James Oleiru (Died on the way from Chuka)		
8. Shadrach Muturi, Prison	1 Kijabe	1
9. Isiah Gakinya, Prison	1 Kijabe	—
10. Samweli Jhuka, Prison	1 Kijabe	2
11. John Kaguthi, Prison	1 Kijabe	2
12. Ramon Gacili	1 Kijabe	1
13. Oathua Wanyoro	1 Kathunguri near Kiambu	7
14. Njoroge Kiarie	1 Kathunguri near Kiambu	2
15. Getero Kinyuru	3 Kathunguri near Kiambu	8
16. Joel Jhugana	1 Magogu	3
17. Daniel Waite	1 Magogu	—
18. Chege wa Wanjiku	2 Embu	1
19. Charles Munyuko	1 Embu	0
20. Daniel Wanjuga	1 Magogu	2
21. Josiah Njiruna	1 Kijabe	1
22. Jonathan Wamaiyuru	1 Fort Hall	4
23. Hasonon Njoroge	1 Fort Hall	1
24. Joseph Karuu	1 Fort Hall	1
25. Njoroge	2 Kathunguri	2
26. Kabbidu	1 Embu	4
27. Chege wa Kiriko	1 Kathunguri	1
28. Kinyaga	1 Embu	3
29. Chombe	1 Embu	—
30. Mutua Ndle	—	—

*Had six children, one died on the way.

Reply:

1. Government is aware that a number of adult Kikuyu left the Escarpment area of the Kiambu Native Reserve of their own accord in 1934 or 1935. The movement was not concerned with the realignment of the Railway, work on which did not commence till 1939. A railway fuel siding was laid in that neighbourhood with the full consent of the natives and on payment of compensation. Disturbance was of minor nature and did not affect the land position in that area.

2. It is known that these people first settled in Muthamba, south of Chogoria. They subsequently moved to another area further south of their own will.

Government took no part in this settlement, which was merely an arrangement between them and the indigenous population.

Chuka custom rightly maintains certain sanctions which prohibit the cutting of specific land without the approval of the elders; also the cutting of indigenous trees; nor does it allow interference with honey barrels. The natives in question refused to obey the custom, and on the 6th March, 1939, the District Commissioner held a baraza at Chuka in view of the complaints made by the inhabitants against those who failed to obey the customary land usages. Accordingly six months' notice to quit was given to them, and they were ordered not to plant again during the next rains. The order was ignored, and physical resistance was shown by them to the local elders. The Local Native Council, on the 16th of May, 1939, discussed this question, and it was reiterated that Arombi could remain, provided they obeyed the native authorities. In June the position was aggravated owing to the attitude of these Kikuyu, and feelings ran so high that it seemed likely that the Chuka would drive all Kikuyu from that area. On the 26th June, the Acting Provincial Commissioner and the District Commissioner held a meeting at Chuka. It was realized that a very large number of the Kikuyu resided peacefully in the Meru District, but these few families were an exception in that they were disinclined to live in peace. After an interval, two more heads of families agreed to conform with local customs but the remainder were obstinate.

3. In the first instance, the local elders asked them if they wished to become permanent residents and members of that sub-tribe, to whose territories they had moved. Some agreed to become "aciarua". The remainder stated

that they wished to be considered temporary residents, so they remained as "Arombi" or tenants at will. Adoption into that sub-tribe involves nothing repugnant to Christianity.

4. None of these men was imprisoned or fined without trial. On the 17th of August, 1939, the Acting Provincial Commissioner issued an order, under section 12 of the Native Authority Ordinance, for these people to be removed forthwith. The order was duly served. Some had already left the district. It was not till the 18th of January last that they were prosecuted under section 12 of the Ordinance, and sentenced to pay a fine of Sh. 10 or 14 days' imprisonment in default. The relative portion of the Ordinance reads as follows:—

" and any hut or crops belonging to such native on the land from which he has been ordered to remove shall be forfeited to the Government, and may be destroyed or otherwise dealt with as the magistrate in his discretion may direct."

5. The forfeiture of the huts was carried out under the direction of the District Officer. Government is not away that any persons died of shock during the incident.

6. Government is aware that these persons have relatives living in the Kiambu Native Reserve, which they left of their own accord.

7. Government is not prepared to make special arrangements for these natives, who are able to return to their place of origin or to settle peacefully elsewhere, after making the usual arrangements with the original native occupiers, as many hundreds of Kikuyu have done.

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