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Covering Dates 18th February to 2nd April, 1959.

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COLONY AND PROTECTORATE OF KENYA

LEGISLATIVE COUNCIL DEBATES

OFFICIAL REPORT

11th COUNCIL INAUGURATED
OCTOBER, 1956

VOLUME LXXIX

1959

THIRD SESSION

(Continued)

18th February, 1959, to 2nd April, 1959

List of Members of the Legislative Council

Speaker:

THE HON. SIR FERDINAND CAVENDISH-BENTINCK, K.B.E., C.M.G., M.C.

Chairman of Committees:

*THE HON. D. W. CONROY, O.B.E., T.D., Q.C.

Ministers:

THE CHIEF SECRETARY (THE HON. W. F. COUTTS, C.M.G., M.B.E.).

THE MINISTER FOR LEGAL AFFAIRS (THE HON. E. N. GRIFFITH-JONES, C.M.G., Q.C.).

THE MINISTER FOR FINANCE AND DEVELOPMENT (THE HON. E. A. VASEY, C.M.G.).

THE MINISTER FOR AFRICAN AFFAIRS (THE HON. C. M. JOHNSTON, C.M.G.).

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (THE HON. M. BLUNDELL, M.B.E.).

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (THE HON. J. W. CUSACK, C.M.G., O.B.E.).

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (THE HON. W. B. HAVELOCK).

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (THE HON. W. A. C. MATHIESON, C.M.G., M.B.E.).

THE MINISTER FOR FOREST DEVELOPMENT, GAME AND FISHERIES (THE HON. D. L. BLUNT, C.M.G.).

THE MINISTER FOR COMMERCE AND INDUSTRY (THE HON. A. HOPE-JONES, C.M.G.).

THE MINISTER FOR WORKS (THE HON. I. E. NATHOO).

THE MINISTER FOR COMMUNITY DEVELOPMENT (THE HON. C. M. JOHNSTON, C.M.G.).

THE EUROPEAN MINISTER WITHOUT PORTFOLIO (THE HON. N. F. HARRIS).

THE ASIAN MINISTER WITHOUT PORTFOLIO (THE HON. C. B. MADAN, Q.C.).

THE MINISTER FOR TOURISM AND COMMON SERVICES (THE HON. W. E. CROSSKILL).

THE MINISTER FOR HOUSING (THE HON. M. S. AMALEMBA).

Assistant Ministers:

THE ASSISTANT MINISTER FOR EDUCATION, LABOUR AND LANDS (THE HON. WANYUTU WAWERU, M.B.E.).

THE ASSISTANT MINISTER FOR FOREST DEVELOPMENT, GAME AND FISHERIES (THE HON. SHEIKH MOHAMED ALI SAID EL-MANDRY).

Constituency Elected Members:

European—

THE HON. R. S. ALEXANDER (Nairobi West).

THE HON. F. W. G. BOMPAS, E.D. (Kiambu).

GROUP CAPT. THE HON. L. R. BRIGGS (Mount Kenya).

THE HON. S. V. COOKE (Coast).

†THE HON. W. E. CROSSKILL (Mau).

MAJOR THE HON. F. W. J. DAY (Aberdare).

†THE HON. N. F. HARRIS (Nairobi South).

AIR COMMODORE THE HON. E. L. HOWARD-WILLIAMS, M.C. (Nairobi North).

THE HON. MRS. E. D. HUGHES, M.B.E. (Uasin Gishu).

THE HON. SIR CHARLES MARKHAM, B.L. (Ukamba).

THE HON. J. R. MAXWELL, C.M.G. (Trans Nzola).

MAJOR THE HON. B. P. ROBERTS (Rift Valley).

THE HON. MRS. A. R. SHAW (Nyanza).

THE HON. C. G. USHER, M.C. (Mombasa).

LIST OF MEMBERS OF THE LEGISLATIVE COUNCIL—(Contd.)

African—

THE HON. F. J. KITAMISI (Mombasa Area).
 THE HON. D. I. KIAMBIA (Machakos).
 THE HON. J. G. KIANO, Ph.D. (Central Province South).
 THE HON. B. MATE (Central Province North).
 THE HON. T. J. MBOYA (Nairobi Area).
 THE HON. D. T. ARAP MOI (North Rift).
 THE HON. J. N. MUMJI (Kitui).
 THE HON. M. MULIRO (Nyanza North).
 THE HON. R. G. NGALA (Coast Rural).
 THE HON. J. J. M. NYAGHI (Nyeri and Embu).
 THE HON. A. OGINGA-ODINGA (Nyanza Central).
 THE HON. L. G. OGUDA (Nyanza South).
 THE HON. J. K. OLE TIPPIS (Central Rift).
 THE HON. T. TOWETT (Southern Area).

Asian—

THE HON. S. G. HASSAN, M.B.E. (East Electoral Area).
 THE HON. A. B. JAMNAR (Central Electoral Area).
 THE HON. J. C. M. NAZARETH, Q.C. (Western Electoral Area).
 THE HON. A. J. PANDYA (Eastern Electoral Area).
 THE HON. K. D. TRAVADI (Central Electoral Area).
 THE HON. ZAIRUD DEEN (West Electoral Area).

Arab—

THE HON. SHEIKH MAHFOD S. MACKAWI.
 THE HON. SHARIF M. A. SHATRY.

Specialty Elected Members—

† THE HON. M. BLUNDELL, M.B.E.
 † THE HON. W. B. HAVELOCK.
 LT.-COL. THE HON. B. R. MCKENZIE, D.S.O., D.F.C.
 THE HON. H. SLADE.
 † THE HON. M. S. AMALEMBIA.
 THE HON. J. M. MUCHURA.
 THE HON. N. G. NGOOME.
 † THE HON. WANUTU WAWERU, M.B.E.
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 † THE HON. J. E. NATHOO.
 † THE HON. C. B. NADAN, Q.C.
 THE HON. N. S. MANGAT, Q.C.

Nominated Members:

THE HON. K. V. ADALIA.
 THE HON. K. BECHGAARD.
 † THE HON. D. L. BLUNT, C.M.G.
 * THE HON. D. W. CONROY, O.B.E., T.D., Q.C. (Solicitor General).
 THE HON. M. H. COWIE, E.D. (Director of the Royal National Parks).
 THE HON. AHMED FARAJ, B.E.M. (Northern Province).
 THE HON. MRS. J. T. GECAGA.
 COMMANDER THE HON. A. B. GOORD, D.S.C., R.I.N. (Rid.).
 CAPTAIN THE HON. C. W. A. G. HAMPLEY, O.B.E., R.N.
 THE HON. H. G. S. HARRISON, M.B.E.
 THE HON. SHEIKH MBARRAK ALI HINAWY, O.B.E.
 THE HON. A. W. HUNTER.
 THE HON. A. H. ISMAIL, M.R.C.S.
 COLONEL THE HON. H. R. JACKMAN.

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 THE HON. P. J. ROGERS, C.B.E.
 THE HON. C. W. RUBIA.
 THE HON. KIRPAL SINGH SAGOO.
 THE HON. SHERIFF A. SALIM.
 THE HON. P. H. SMITH.
 THE HON. R. J. M. SWINNINGTON, O.B.E., M.C. (Director of Agriculture).
 THE HON. G. A. TSON, C.M.G.
 † THE HON. E. A. VASEY, C.M.G.
 THE HON. A. J. WALKER, M.D., M.R.C.P. (Director of Medical Services).
 THE HON. A. M. F. WEBB.
 THE HON. THE EARL OF PORTSMOUTH.
 THE HON. SIR ALFRED VINCENT.

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A. W. PURVIS

Clerk Assistant:

H. THOMAS

Sergeant-at-Arms:

MAJOR M. G. ELIOT

Assistant Sergeant-at-Arms:

G. L. STANLEY

Reporters:

D. BUCK

MISS J. M. ATKINS

Hansard Editor:

MRS. J. FRYER

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 THE HON. G. A. TYSON, C.M.G.
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COLONY AND PROTECTORATE OF KENYA

LEGISLATIVE COUNCIL DEBATES

ELEVENTH COUNCIL

THIRD SESSION (Continued)

Wednesday, 18th February, 1959

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

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

PRAYERS

ADMINISTRATION OF OATHS

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

Krishanlal Vithaldas Adalja.

Ahmed Farah.

Alan Wilfred Hunter.

Abdul Husen Ismail.

COMMUNICATIONS FROM THE CHAIR

DEATH OF SIR WILLIAM HORNE—FIRST SPEAKER OF KENYA LEGISLATIVE COUNCIL

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): Hon. Members will have heard with deep regret of the death on 8th February, 1959, of Sir William Horne, our first Speaker.

Both in my capacity as a personal friend and as Sir William's successor I wrote an appreciation of his distinguished career, his personal charm and his most estimable character which was published in the Press.

A wreath and a message of condolence to Lady Horne was sent on behalf of all hon. Members of this Council.

I consider it would be a fitting tribute of our respect to his memory to ask hon. Members here present today to stand in silence for a brief period.

The House stood in silence for one minute.

VISIT OF HER MAJESTY QUEEN ELIZABETH THE QUEEN MOTHER

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): Hon. Members, on Thursday, 5th February, 1959, Her Majesty Queen Elizabeth the Queen Mother was pleased on the very day of her arrival in our country to make the first official visit of her tour to these our Parliament Buildings to meet Members of our Legislature.

It was my happy privilege on this occasion to present on behalf of hon. Members a Loyal Address to Her Majesty, the terms of which were published in the Press and are known to all hon. Members.

As we were not in session at the time, I took this action in consultation with the Leader of the House and have every reason to be confident that the House duly approves. (Prolonged applause.)

THE CHIEF SECRETARY (Mr. Coutts): Mr. Speaker, on behalf of the Legislative Council I beg to endorse the action which you took. By the visit of Her Majesty the Queen Mother our loyalty to the Throne and to Her Majesty the Queen, if that were possible, has been increased.

[The Chief Secretary]

I believe that at Nyeri Her Majesty, when she was talking to some Africans, said that the visit, which terminates today, would be one of her treasured memories. I think, Sir, that on behalf of the Legislative Council I can do no better than echo her phrase and say that for us, too, Her Majesty's visit will be a treasured memory. If the people of Kenya could take a page from her book, a page of her gracious humanity, this, Mr. Speaker, would be a better country.

ASSENT TO BILLS

THE SPEAKER (Sir Ferdinand Cavendish-Bentley): There is one further communication from the Chair. I have received the following communication from His Excellency the Governor informing me that the following Bills, which were passed by this Legislative Council in October, November and December, have been assented to:—

Bill No. 42.—The King's African Rifles Ordinance, 1958, which passed its Third Reading on 16th October, 1958, was assented to on 6th December, 1958.

Bill No. 43.—The Pensions (Amendment) Ordinance, 1958, which passed its Third Reading on 6th November, 1958, was assented to on 6th December, 1958.

Bill No. 44.—The Africans (Life Assurance Control) (Amendment) Ordinance, 1958, which passed its Third Reading on 7th November, 1958, was assented to on 6th December, 1958.

Bill No. 45.—The Control of Nets (Nyanza Province) Ordinance, 1958, which passed its Third Reading on 18th November, 1958, was assented to on 6th December, 1958.

Bill No. 46.—The Consolidated Fund (No. 3) Ordinance, 1958, which passed its Third Reading on 20th November, 1958, was assented to on 6th December, 1958.

Bill No. 47.—The Defence Regulations Continuance Ordinance, 1958, which passed its Third Reading on 4th December, 1958, was assented to on 6th December, 1958.

Bill No. 48.—The Essential Services (Arbitration) (Amendment) Ordinance, 1958, which passed its Third Reading on 4th December, 1958, was assented to on 18th December, 1958.

Bill No. 49.—The Methylated Spirits Ordinance, 1958, which passed its Third Reading on 4th December, 1958, was assented to on 18th December, 1958.

Bill No. 50.—The Entertainments Tax (Amendment) Ordinance, 1958, which passed its Third Reading on 4th December, 1958, was assented to on 18th December, 1958.

Bill No. 51.—The Fencing Ordinance, 1958, which passed its Third Reading on 10th December, 1958, was assented to on 23rd December, 1958.

PAPERS LAID

The following papers were laid on the Table:—

East African Income Tax Department Report for the Period 1st July, 1957, to 30th June, 1958.

East African Industrial Research Organization Annual Report, 1957/58.

The Immigration (Prescribed Organizations) (Amendment No. 4) Regulations, 1958.

(BY THE CHIEF SECRETARY (Mr. Coutts))

The Appropriation, Accounts, Other Public Accounts and the Accounts of the Funds of the Colony and Protectorate of Kenya for the year 1957/58 and Report thereon by the Controller and Auditor-General.

The Price Control (Elgeyo-Marakwet District: Maize and Maize Meal) Order, 1958.

The Price Control (Maize and Maize Meal) (No. 2) (Amendment) (No. 3) Order, 1958.

The Pensions (Amendment) Regulations, 1958.

The Price Control (Sugar) (Amendment) (No. 5) Order, 1958.

(BY THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey))

The Legislative Council (African Representation) (Registration of Voters) (Amendment) Rules, 1959.

The African Courts (Lapsed Deposits) Rules, 1959.

(BY THE CHIEF SECRETARY (Mr. Coutts), on behalf of the Minister for African Affairs)

Ministry of Agriculture, Animal Husbandry and Water Resources Three-year Report, 1955-57.

Egerton Agricultural College, Njoro—Annual Report of the Governing Body for the period 1st April, 1957, to 31st March, 1958.

The Governing Body of Egerton Agricultural College—Balance Sheet as at 31st March, 1958, together with Income and Expenditure Account for the year ended on that date.

Department of Agriculture Annual Report, 1957—Vol. II—Record of Investigations.

Nyanza Province Marketing Board—Second Annual Report, Balance Sheet and Accounts.

The Dairy Industry (Returns, Reports and Estimates) Regulations, 1958.

The Grading of Wheat for Local Purchase Rules, 1953.

The Water (General) (Amendment) (No. 4) Rules, 1958.

The Kenya Meat Commission (Grading) Regulations, 1958.

The Plant Protection Rules.

The Wheat Products Rules, 1958.

The Pig Industry (Quota of Pigs) (Revocation) Rules, 1958.

The Water (General) (Amendment) Rules, 1959.

The Rice Factory Rules, 1959.

The Grading of Maize for Local Purchase (Amendment) Rules, 1959.

The Defence (Control of Maize) (Amendment) Regulations, 1959.

The Cotton (Amendment) Rules, 1959.

The Grading and Baling of Flax (Amendment) Rules, 1959.

The Plant (Tobacco) (Amendment) Rules, 1959.

The Crop Production and Livestock (Transfer of Functions) Rules, 1959.

The Marketing of African Produce (Transfer of Powers) Rules, 1959.

The Land Development Loans (Short-term Development) (Interest) Rules, 1959.

The Guaranteed Minimum Return Advances (Interest) Rules, 1959.

The Agriculture (Scheduled Crops) Order, 1959.

(BY THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell))

The East African Land Forces Organization (Amendment) Order in Council, 1958.

(BY THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack))

The Townships (Accounts) Rules, 1958.

The Townships (Licence Fees) (Amendment) Rules, 1958.

The Townships (Control of Africans) (Amendment) Rules, 1959.

The Public Health (Drainage and Latrine) Rules (Kabarnet).

(BY THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (Mr. Havlock))

Sessional Paper No. 2 of 1958/59—Proposed Setting Aside of Crown Land as a Native Reserve to be known as the Taveta Northern Native Reserve.

Rules for the Administration of the Crown Estates Development Fund for Industrial and Ancillary Purposes.

The Education (School Discipline) (Amendment) Rules, 1958.

The Education (Fees in Government African Schools) Rules, 1958.

The Education (Scale of Fees in African Grant-aided Schools) (Amendment) Regulations, 1958.

The Land Titles Rules, 1959.

The Employment (Provident Funds and Superannuation Schemes) (Revocation) Rules, 1959.

The Education (Scale of Fees in African Grant-aided Schools) (Amendment) Regulations, 1959.

The Emergency (Amendment) Regulations, 1958.

The Trade Testing (Amendment) Rules, 1959.

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

Industrial Development Corporation—Report and Accounts for the year 1958/59.

(BY THE MINISTER FOR COMMERCE AND INDUSTRY (Mr. Hope-Jones))

NOTICES OF MOTIONS

TAVETA NORTHERN NATIVE RESERVE

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Mathieson): Mr. Speaker, Sir, I beg to give notice of the following Motion:—

THAT this Council approves the setting aside, in accordance with section 55 of the Crown Lands Ordinance (Cap. 155), of the area of Crown land described in Sessional Paper No. 2 of 1958/59 as a native reserve to be known as the Taveta Northern Native Reserve.

THE AGRICULTURE (SCHEDULED CROPS) ORDER, 1959

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, I beg to give notice of the following Motion:—

THAT this Council approves the Agriculture (Scheduled Crops) Order, 1959.

SUPPLIES AND TRANSPORT DEPARTMENT

THE MINISTER FOR TOURISM AND COMMON SERVICES (Mr. Crookhill): Mr. Speaker, Sir, I beg to give notice of the following Motion:—

THAT this House reaffirms its support of the policy of Government in setting up the Department of Supplies and Transport in order to provide a central organization for purchasing and holding stores and a heavy repair workshop for Government motor transport.

EAST AFRICAN INCOME TAX (MANAGEMENT) ACT

MR. ALEXANDER (Nairobi West): Mr. Speaker, Sir, I beg to give notice of the following Motion as a group Motion:—

THAT this Council expresses its dissatisfaction with the following provisions of the East African Income Tax (Management) Act, 1958, and urges Government to make representations to the East Africa High Commission to introduce appropriate amending legislation at the next meeting of the East African Central Legislative Assembly:—

Section 21.—Income from Residential Property.

Part VI (Sections 37 to 41).—Controlled Companies and Undistributed Income.

Part VII (Sections 42 to 48).—Retirement Benefits.

Section 59.—Resident non-individual tax.

The Second Schedule.—Capital Deductions.

ORAL ANSWERS TO QUESTIONS

QUESTION NO. 20

MR. ALEXANDER asked the Chief Secretary:—

(a) Is the Minister aware that the increase in use of the Kenya Police Air Wing by Government is taking away business previously done by private enterprise, and seriously reducing the private hire trade.

(b) Does Government acknowledge that it is in its best interests to have a nucleus of private hire aircraft and if so what does it intend to do to encourage such business.

THE CHIEF SECRETARY (Mr. Couitt): The Government accepts that its policy decision, approved by this House in 1956, that in certain circumstances other Government departments should make use of the Police Air Wing, has, in corollary, reduced the number of official passengers carried by air charter companies. The policy has, however, as intended, led both to efficiency and to economy in the expenditure of public funds.

Nevertheless, there has, in fact, been a decrease in the mileage flown by the Kenya Police Air Wing since this policy in regard to its use was approved by this House. The mileage flown in 1956 was, in round figures, 640,000 miles; in 1957, it was 480,000 miles, and the figures so far available for 1958, indicate that the reduction will be maintained.

[The Chief Secretary]

The Government recognizes the value of a nucleus of private line aircraft as part of the communications system. Further, the whole servicing and maintenance of the Kenya Police Air Wing is performed at present by one of the charter companies.

MR. ALEXANDER: Mr. Speaker, Sir, will the Minister state why it has taken since the 2nd October last year—four and a half months—to answer a relatively simple question?

THE CHIEF SECRETARY (Mr. Couitt): Sir, this House has not been sitting.

MR. ALEXANDER: Mr. Speaker, Sir, this Order Paper is full of unanswered questions and has been for a long time. I am not satisfied and I seek to raise this matter on the adjournment.

QUESTION NO. 63

MAJOR ROBERTS (Rift Valley) asked the Minister for Internal Security and Defence in view of the serious loss and inconvenience being caused to farmers in the Rift Valley, Masai Border, from stock thefts, what steps he intends to take to deal with the matter.

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack): (i) Nine police stations and posts are established on the Rift Valley/Masai border at Olokurto, Nairage, Ngare, Of Engoruno, Keringit, Elmencia, Mau Narok, South Lake, Eburru and Akira, respectively.

(ii) Close liaison is maintained between the police in the Rift Valley and Southern Provinces and use is made of a wireless network both to transmit promptly reports of stock thefts and to direct subsequent operations.

(iii) In addition to these permanent arrangements, two platoons of the General Service Unit are at present employed on this border and a third platoon is in close reserve. These platoons are fully mobile and each consists of 30 men under the command of an inspector.

(iv) The General Service platoons are further supported by a special stock theft team and by tracker dogs.

(v) Within the Masai Reserve a committee of Masai elders has been charged, with the control of the *Moran* and with endeavouring to prevent their leaving the area without express permission.

(vi) *Manyatta* have been moved away from the border.

(vii) *Moran* have been prohibited from carrying arms within five miles of the border and since September, 1957 *Moran* have been arrested for disregarding this order.

During the year 1958 these arrangements resulted in the conviction of 24 Masai for stock theft, in the recovery of 125 head of a total of 240 head of cattle stolen, and in the payment of a total of over Sh. 16,000 compensation by the Masai of Narok District in respect of unrecovered cattle.

The following further measures are in train:—

(i) A district officer will be stationed at Olokurto.

(ii) The provisions of the Collective Punishment Ordinance will be applied where appropriate.

(iii) In addition, the co-operation of farmers is to be sought in the following matters:—

(a) The employment only of Masai above the *Moran* age grade.

(b) The screening of all Masai employed on European farms by a district officer and consequential issue of a permit.

(c) The prosecution and return to the Southern Province of all Masai found in the Rift Valley Province, without a pass under the Masai Pass Rules.

I should be grateful for the hon. Member's assistance in bringing these latter matters of co-operation about.

MAJOR ROBERTS: Mr. Speaker, Sir, I am very grateful for that reply.

MAJOR DAY (Aberdare): Mr. Speaker, Sir, arising out of the Minister's reply, would he state whether similar measures are being taken in other areas where stock thefts have increased during the last few months?

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack): Sir, I imagine the hon. Member has in mind the other Masai district—the Kajado District where, in fact, similar measures are being taken.

MAJOR DAY: And the Samburu area?

THE MINISTER FOR INTERNAL SECURITY (Mr. Cusack): Yes, Sir.

QUESTION No. 72

MR. MUCHURA (Specially Elected) asked the Chief Secretary how many Europeans, Africans and Asians have been appointed with inducement pay by the Secretary of State's Appointments Board meeting locally since 1st January, 1955?

THE CHIEF SECRETARY (Mr. Coutts): Since the inauguration of the Secretary of State's Appointments Board in East Africa the Board has recommended, and the Secretary of State has approved, the following numbers of officers for appointment:—

Europeans	63
Asians	11
Africans	7

QUESTION No. 73

MR. MUCHURA asked the Chief Secretary are there Europeans and Asians serving at the present time on the "E" temporary scales, and, if so, how long does the Government intend to continue paying salaries at these enhanced rates?

THE CHIEF SECRETARY (Mr. Coutts): Yes, Sir, there are Europeans and Asians serving at the present time on the "E" temporary scales, but the Government has abolished these salary scales for all new entrants with effect from 1st January, 1959. Serving officers on temporary terms of service will also eventually revert to this attention of the hon. Specially Elected Member, Mr. Muchura, is drawn to Establishment Circular No. 51 of 6th December, 1958, a copy of which I shall be happy to supply to him if he has not already seen it.

MR. BOMPAS (Kiambu): Mr. Speaker, arising from the Chief Secretary's reply, would he elaborate on his use of the word "eventually," Sir?

THE CHIEF SECRETARY (Mr. Coutts): Yes, Sir. In the case of persons on temporary scales, by the end of 1960; in the case of those on contract, at the end of the existing contract.

QUESTION No. 74

MR. MUCHURA asked the Chief Secretary (a) the number of posts in the Civil Service at the level of C5-3 and above; (b) the intake of Africans into these posts annually from 1st January, 1955; and (c) the present distribution of these posts by salary scales to Africans.

THE CHIEF SECRETARY (Mr. Coutts): (a) The number of posts in the Kenya Civil Service at the level of C5-3 (or equivalent and above) as at 1st December, 1958, was 5,345 of which 4,742 were actually filled.

(b) The number of Africans appointed to posts at this level on the recommendation of the Civil Service Commission annually from 1st January, 1955, onwards was as follows:—

1955	7
1956	29
1957	25
1958	19

This gives a total of 80.

(c) The number of Africans at present holding posts at the level of C5-3 (or equivalent and above) is 203 and is made up as follows:—

£3,500	1
£1,560	1
A Scale	27
B Scale	26
C Scale	96
T-B4 Scale	47
N Scale	1
Medical Interns	4

The difference between the figure of 203 (being the total number of Africans in posts) and the figure of 80 (being the number recommended during the last four years for appointment by the Civil Service Commission) is due to the fact that some Africans were converted under the Libby revision to posts at the level of C5-3 or above, and that others have been appointed to posts which do not fall within the purview of the Civil Service Commission.

[The Chief Secretary] I

Although the hon. Specially Elected Member, Mr. Muchura, has only asked for information in regard to posts graded at the level of C5-3 or above, I consider that I should complete the picture by informing him that in addition to these 203 posts to which I have referred there are 43 posts at present held by Africans at the level of C5-4 made up as follows:—

C5-4	9
P2	34

This makes a total of 246 Africans holding posts the minimum of whose salary scale is C5 or above.

QUESTION No. 75

MR. MUCHURA asked the Minister for Education, Labour and Lands:—

(a) What progress has been made in adult literacy over the past two years?

(b) What arrangement is the Government making with the United States Government with a view to renew its contribution towards adult literacy courses at the expiry of the present two years' agreement?

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Mathieson): (a) During the past two years a large number of classes in adult literacy have been established with encouraging result, particularly in the Nairobi, Central Province and Rift Valley areas. Details can be supplied as required.

(b) No such arrangement is contemplated. The financial assistance already received as a stimulus to adult literacy teaching has fulfilled that purpose and the Education Department will henceforth continue the work from its own resources.

QUESTION No. 76

MR. USHER (Mombasa): Mr. Speaker, on behalf of my hon. colleague, I beg to ask Question No. 76.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): By arrangement with the hon. Member?

MR. USHER: I understand, Mr. Speaker, Sir, that the hon. Member did

express her desire to have this question asked, but not to me personally.

SIR CHARLES MARKHAM (Ukamba): On a point of order, Sir, the Order Paper was not available the night before, so she did not know it was coming on, Sir.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): Well, I will allow Mr. Usher to ask her question on this occasion, but I have ruled that, for obvious reasons just at present, questions can only be asked by another Member in the absence of the Member who has put the question at the specific request of the Member who is absent.

MR. USHER, on behalf of Mrs. Shaw, asked the Minister for Commerce and Industry in view of the concern felt by the use of the phrase "the down grading of the Kisumu Airport" in a letter signed on behalf of the Permanent Secretary of the Ministry of Commerce and Industry in reply to the Kisumu Chamber of Commerce, would the Minister give an assurance—

(a) that the present standard of the Kisumu Airport will be maintained and improved where and when finance permits, so that it can be safely used for regular internal and feeder services; and

(b) that Government will press for the introduction of planes capable of operating on the many smaller air strips?

THE MINISTER FOR COMMERCE AND INDUSTRY (Mr. Hope-Jones): (a) Yes.

(b) Yes, where such operations are economic.

STATEMENT

PUBLIC ACCOUNTS COMMITTEE— APPOINTMENT TO

THE CHIEF SECRETARY (Mr. Coutts): Mr. Speaker, Sir, with your permission I would inform the House that the Sessional Committee has added the following Member to the list of Members of the Public Accounts Committee of which I advised the House on 3rd December, 1958:—

The Hon. C. G. Usher, M.C.

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack): Sir, I imagine the hon. Member has in mind the other Masai district of the Kaiado District where, in fact, similar measures are being taken.

MAKOO DISTRICT (And the Samburu area)

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE: Yes, Sir.

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The Hon. C. G. Usher, M.C.

STATEMENT OF BUSINESS

SUSPENSION OF STANDING ORDERS

THE CHIEF SECRETARY (MR. COULTS): Mr. Speaker, I beg to move that Standing Orders be suspended to the extent necessary to enable the Council on the completion of the business on the Order Paper to adjourn until 6.15 p.m. today and to sit thereafter for as long as is necessary to enable the Minister for Finance and Development to make a statement.

In moving this Motion, Sir, which is to a large extent formal, I should like to take the opportunity of informing the Council of the proposals of the Sessional Committee in regard to the business for the week.

It is proposed that the Council should sit tomorrow, Thursday and then adjourn until next Tuesday, 24th February, when it is expected that there will be a full week's work.

I would like to add to that, Sir, that on the present indications it would appear as though this sitting will last until about the end of this month, whereupon the Government will adjourn once again until 1st March.

Mr. Speaker, I beg to move

THE EUROPEAN MINISTER WITHOUT PORTFOLIO (MR. HARRIS) seconded.

Question proposed.

Question was put and carried.

BILLS

FIRST READINGS

The Royal National Parks of Kenya (Amendment) Bill

Order for First Reading read—Read the First Time—Ordered to be read the Second Time tomorrow.

The Maize Marketing Bill

Order for First Reading read—Read the First Time—Ordered to be read the Second Time tomorrow.

The Guardianship of Infants Bill

Order for First Reading read—Read the First Time—Ordered to be read the Second Time Tomorrow.

The Agriculture (Amendment) Bill

Order for First Reading read—Read the First Time—Ordered to be read the Second Time tomorrow.

ADJOURNMENT

THE SPEAKER (SIR FERDINAND CAVENDISH-BENTONCK): That completes the business on the Order Paper, and therefore, in accordance with the Motion which has just been passed, I adjourn Council until 6.15 this afternoon.

The House rose at eight minutes past three o'clock and resumed at fifteen minutes past six o'clock.

MINISTERIAL STATEMENT

FINANCIAL ASSISTANCE FROM THE UNITED KINGDOM

THE MINISTER FOR FINANCE AND DEVELOPMENT (MR. VASEY): Mr. Speaker, I rise, with your permission, to inform the Council of the result of the recent discussions in London on financial assistance to Kenya for the year 1959/60. This afternoon, in the House of Commons, the Secretary of State for the Colonies in reply to a Parliamentary Question will be making the following statement:—

"On 18th February, 1958, I told the House that Her Majesty's Government had agreed to make available to the Kenya Government £1,500,000 to enable them to meet expenditure arising from the Emergency during the United Kingdom financial year, 1958/59.

In consultation with my right hon. friend, the Chancellor of the Exchequer, I have now reviewed the Colony's financial position and future prospects.

Expenditure arising from the Emergency will again be reduced during the coming financial year, and indeed much of it has already been absorbed into the ordinary budget. But it will not be possible for Kenya to meet it from her own resources. The greater part of this money is being spent to good purpose on the rehabilitation of detainees and their resettlement after release. Expenditure arising out of the Emergency in 1959/60 is expected to

[The Minister for Finance and Development] be some £1,750,000. This would include £150,000 for repayment of the first instalment of loan capital, of which £5,250,000 has so far been advanced to Kenya with a moratorium of five years on repayment.

In 1960/61 and subsequent years, however, Kenya can be expected to absorb the whole of the remaining Emergency burden arising on recurrent account. It has, therefore, been agreed with the Kenya Government that 1959/60 will be the last year in respect of which Her Majesty's Government will be asked to help finance recurrent expenditure arising from the Emergency.

To help Kenya meet this expenditure during the years immediately following 1959/60, Her Majesty's Government have agreed that the moratorium on the repayment of all loans for the Emergency expenditure shall be extended by a further three years. This will reduce the 1959/60 estimate of Emergency expenditure to £1,500,000.

Taking this change into account, Kenya will still need substantial help during the coming year. Subject, therefore, to the approval of Parliament, Her Majesty's Government will be prepared to provide Kenya with a further grant of £800,000, and an interest-free loan of the same amount for the United Kingdom financial year, 1959/60. As in previous years, this assistance will be called upon only to the extent that it proves necessary."

That, Sir, is the end of the statement of the Secretary of State for the Colonies.

Sir, this means that by March, 1960, Kenya will have received from Great Britain as assistance towards the cost of the Emergency the sum of £2,500,000 as a free grant and £6,050,000 as interest-free loans with an eight-year moratorium on capital repayment, which means that the Colony will have been given 28 years in which to repay the principal of these interest-free loans. It must be remembered that, in addition, Her Majesty's Government has been responsible for the basic pay of all the British troops used during the Emergency.

Hon. Members will, I am sure, have noted the statement that this will be "the last year in respect of which Her Majesty's Government will be asked to help finance recurrent expenditure arising from the Emergency". Kenya will thus have regained its financial independence by 1st July, 1960, which is in accord with the programme the Government of Kenya set. It also means that Kenya will have to face the burden of financial independence, meeting all its recurrent expenditure from its own resources. The Government has made plans to absorb this Emergency expenditure without imposing too great a strain on our economic structure and I have every confidence that this can be done. I need hardly emphasize the advantage of the greater flexibility in the financial structure which will be gained by the resumption of financial independence.

It will be obvious to the Council that without the generous attitude which Her Majesty's Government has taken in the granting of financial assistance, given without at any time imposing control of Kenya's Government expenditure, financial independence could not have been regained so rapidly. It will be equally obvious that, if financial independence is to be maintained, the services which can be provided to the people of the country will have to be limited to those which can be borne by the country from its own resources without too great a strain being placed on the economy.

I would like, Sir, to express my personal thanks to all who participated in the negotiations, to the Secretary of State for the Colonies and to all those officers of the British Treasury and Colonial Office who took part in the discussions.

I am sure, Sir, I am voicing the opinion of this Council when I ask you to convey to Her Majesty's Government the appreciation of Kenya for this further financial assistance given in such generous measure and for the help given to us over the past years.

MR. ALEXANDER: Mr. Speaker, Sir, I am sure I voice the opinion of all of us on this side of the House, although we are even more depleted than we were at the beginning of today's business, but I am sure I am expressing the voice of

[Mr. Alexander] of all of us in thanking Her Majesty's Government for this additional assistance to us to meet Emergency expenditure, and I am sure also that I express the views of everybody from this side of the House when I say that we owe thanks and congratulate our Minister for Finance on the very great skill that he must have exercised in these financial negotiations, particularly in respect of the moratorium that he has announced in regard to these Emergency loans. Now I am quite certain, knowing him as we do, that in displaying his skill, Mr. Speaker, he has convinced Her Majesty's Government, and the people in Britain, of the reasons and the blame for the continued need of this Emergency expenditure and I hope that when he replies to my comments that he will be able to assure us that he emphasized to Her Majesty's Government that of course he continued need for this expenditure is due very largely to the attitude adopted in this country today by certain of the African leaders who by their actions and by their words are contributing very largely to the continued need for this assistance.

I do also wish to take this opportunity of congratulating our Minister for Finance as being the only unofficial from the whole of the East African territories to be able to gain admission to that very exclusive sanctorium of Chequers—the Governors' Conference that went on at Chequers—whilst he was in London, and I imagine that there, of course, he, as Minister for Finance for Kenya, took the opportunity to talk nothing else but finance, and of course I couple this with our congratulations to him for having been able to place himself in a position to produce a memorandum in connexion with that Governors' Conference at Chequers—I imagine again exclusively, and we must presume, of course, exclusively—related to finances and financial matters in this Colony. It will be of very great assistance to us I know, particularly on this side of the House, to have at least an outline of this financial memorandum, and I do hope, perhaps when the Minister replies to these comments, that he might give us an indication, at least as to what went in it, and I hope in due course that he will be able to show it to us, because I am sure it will

be of very great guidance to those of us on this side of the House, Mr. Speaker, who are so ignorant about these financial matters.

I would like him to say as well as to how quickly this assistance is to be spent in the year 1959/60, because my recollection is that the last assistance we had, that is £1,500,000, was spent by our Government in something like six to eight weeks; although it was assistance for a whole year it was all spent within a very short time. In other words it meant that really the Colony Exchequer as a whole was drawing upon assistance from Her Majesty's Government related only to Emergency expenditure to help with ordinary recurrent expenditure, and whilst he is replying perhaps he would like to tell us, also as part of these financial talks, more about the subject of Exchequer loans. There is quite a lot of disquiet regarding these, and their possible severity, and I think it would be opportune for him to take this opportunity today to dispel some of this disquiet.

And lastly, Mr. Speaker, what would be most useful to us is a summary of the actual impact of these Exchequer loans, or rather these emergency loans, once the moratorium has ceased, so that we do have it firmly in our minds as to what, in the years ahead, now that we are not going to get any more assistance, we will be paying in annual repayment of capital in respect of these loans. If he could give us that information it will also be most helpful.

I do again thank Her Majesty's Government, and congratulate our Minister.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): I thank the hon. Member for his congratulations. He did, I suggest, range just a little beyond the statement I have made, which was only the Secretary of State's announcement of the level of assistance and the financial position. Such matters as Exchequer loans, Sir, they have not been presented in a Bill to Her Majesty's House of Commons, and it would be, to say the least, impertinent for me, and I suggest for anyone else, to suggest as to what the outcome of the debate in the House of Commons on that measure, when it is presented to the House, will be, and I will leave that, Sir, until we know exactly what the proposals are.

[The Minister for Finance and Development]

On the other matters, Sir, the hon. Member can rest assured that in due time he will hear from time to time the results of all the financial discussions that we have had at Chequers and elsewhere. That, Sir, is something on which, too, I do not propose to be drawn, because I have no doubt the Secretary of State will, in his own good time, say what he wishes about those matters.

There is one thing I must correct the hon. gentleman on, if he will forgive me, and that is the question of the rate of drawing down the Emergency expenditure and spending it in six weeks. The fact is that Her Majesty's Government, recognizing the fact that from time to time as our revenue does not come in equal proportions throughout the year, here is a need for short-term assistance, advanced to Kenya the whole of the amount necessary to meet the assistance they have promised, but the whole of that money was spent on Emergency expenditure on nothing else—and at no time was it directed towards the Colony's recurrent expenditure. It was for Emergency expenditure only.

Sir, I do not propose to be drawn into a debate on a simple statement of this kind. I can assure the hon. gentleman there will be many opportunities in the coming months to cover these matters in full when the decisions have been made in the House of Commons, and we shall be able to speak from fact rather than conjecture.

I thank him for his congratulations, and I am sure, Sir, you will convey the feeling of that side of the House also to Her Majesty's Government.

THE SPEAKER (Sir Ferdinand Caven-dish-Bentinck): Before adjourning Council I would again remind hon. Members that this procedure of Ministerial statements is followed both in the House of Commons and in this legislature has been shown to be a very useful procedure, but a Ministerial statement cannot be seized upon as a basis for embarking on an all-embracing debate. All that is permissible is for Members to possibly make short comments on the statement, or to put a short question to the Minister in order to seek further elucidation. Under our

Standing Orders there are opportunities for raising debates on such matters on more appropriate occasions.

ADJOURNMENT

THE SPEAKER (Sir Ferdinand Caven-dish-Bentinck): That completes the business for this evening, and I therefore adjourn Council until 2.30 p.m. tomorrow, Thursday, 19th February.

The House rose at thirty-five minutes past six o'clock.

Thursday, 19th February, 1959

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

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

PRAYERS

ORAL ANSWERS TO QUESTIONS

QUESTION No. 88

MR. RUBIA asked the Minister for African Affairs

(a) Can any claims be accepted for the alteration of the boundaries of a landowner's holding after it has been registered in the District Land Registry Office?

(b) Is the purchaser of a parcel of registered land responsible for having his name entered on the Register as the new owner?

(c) Who is responsible for reporting to the Registry the death of a landowner?

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): The registration has been compiled under the Native Land Tenure Rules, 1956, a period of 30 days is allowed for objections. After this period has elapsed the register is confirmed by the district commissioner and cannot be altered in any way.

(b) Yes. The purchaser of a parcel of registered land must, in his own interests, ensure that he is registered as the new owner, otherwise he will have no title to the land which still, legally, belongs to the seller.

(c) The heirs of a deceased landowner are responsible for reporting the death to the Registry so that they may be registered as owners in place of the deceased.

MR. SLADE (Specially Elected Member): Arising out of the first part of that reply, Mr. Speaker, is the Minister not prepared to consider the possibility of modifying the register even when the clearest injustice is proved or in cases where it is a question of the internal boundaries of a piece, which could not affect the boundaries of any adjoining holding?

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): Mr. Speaker, Sir, in exceptional cases certain alterations have been made, but I must repeat: in very exceptional cases.

MR. RUBIA (Nominated Member): Mr. Speaker, Sir, arising out of the original reply, what would happen if a landowner, for some reason or other, was absent when the boundaries were demarcated?

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): Mr. Speaker, Sir, normally a representative of the landowner is appointed to go round with the land consolidation committee.

MR. COOKE (Coast): Mr. Speaker, when these demarcations are made, would it not be a good idea to keep a certain amount of land in reserve in order to deal with these hard cases which inevitably arise?

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): Mr. Speaker, Sir, in land consolidation the principle has always been adopted that those who have land get it back again and it is not possible to set aside to reserve, in the Central Province certainly, any area of land for hard cases.

QUESTION No. 90

GROUP CAPT. BRIGGS (Mount Kenya) asked the Minister for Internal Security and Defence how many Mau Mau convicts imprisoned for crimes of violence have been released before the completion of sentences and the term of imprisonment served prior to such release.

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack): Separate statistics concerning Mau Mau convicts imprisoned for crimes of violence, and the portions of sentences served, have not been maintained. Generally speaking, Mau Mau convicts have been classified as hard-core or amenable, and statistics are kept on this basis.

The cases of those Mau Mau convicts likely to respond to rehabilitation were considered by the Review Committee on Mau Mau Prison Sentences which was established in 1955. This Committee worked throughout 1956 and 1957 and

(The Minister for Internal Security and Defence)

ceased to function finally in June, 1958. 2,300 Mau Mau convicts were interviewed by the Committee and, as a result of its recommendations, in 1,624 cases the unexpired portions of the sentences were remitted and the convicts were transferred to detention camps, and enabled to qualify for release through the normal rehabilitation process. By 31st January, 1959, all except 177 had been released from detention.

In June, 1958, it was considered that the opportunity of rehabilitation and of progress towards ultimate freedom should be extended to larger numbers of Mau Mau convicts than had been possible under the procedures involving the detailed examination of individual cases and the personal interviews which were carried out by the Review Committee. Accordingly, it was decided to remit the unexpired portions of the sentences of all Mau Mau convicts, with the exception of those convicted of murder and of those convicted of other Mau Mau offences after 1st January, 1958. Under this policy 3,288 convicts were transferred from prisons to detention camps prior to the expiry of their prison sentences, and by 31st January, 1959, all of this number except 726 had been released from detention.

Convicts transferred from prison to detention are only released if and when satisfactorily rehabilitated.

GROUP CAPT. BRIGGS: Mr. Speaker, Sir, arising out of the reply, would the Minister confirm that no convicts originally convicted in connexion with murder have been released?

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack): Yes, Sir, I can confirm that.

SIR CHARLES MARKHAM: Sir, would the Minister tell the House whether or not the convicts released are subject to restriction orders for any period of time after their release?

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack): Mr. Speaker, that rather falls within the sphere of my hon. friend, the Minister for African Affairs.

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): Mr. Speaker, Sir, those convicts who have been transformed into detainees and are released are subject, of course, to the ordinary restrictions which any other detainee has placed upon him. That is to say, he would normally remain in his reserve, reporting to the chief or to the police for a period of between three and six months.

MR. SLADE: Mr. Speaker, am I right in understanding that the policy of reducing sentences which the Ministers describe has been applied quite regardless of the nature of the crime—that is to say, whether it is a crime of violence or any other crime apart from a particular case of murder?

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack): Yes, Sir. The objection of the exercise was directed towards rehabilitation.

QUESTION No. 106

LORD PORTSMOUTH (Nominated—Non-Government) asked the Chief Secretary: has the attention of Government been drawn to a report by the President of the People's Convention Party that rumours are circulating in Nairobi and elsewhere that certain Europeans are attempting to buy arms and arrange armed support from outside Kenya and if so whether the Chief Secretary will make a statement thereon.

THE CHIEF SECRETARY (Mr. Coult): Mr. Speaker, Sir, I would like to reply to this question this afternoon but there is a point in my reply, the veracity of which I must check. I would ask, with the questioner's permission, that this question be stood over until Tuesday, when I hope to be able to answer it.

LORD PORTSMOUTH: In the circumstances, Mr. Speaker, I willingly agree to have the question deferred.

SALE OF ARMS RUMOURS

QUESTION OF PRIVILEGE

SIR CHARLES MARKHAM: Mr. Speaker, Sir, I rise to ask your guidance, and a ruling. I had hoped that Question No. 106 would have been out of the way before I asked this. It involves, Sir, our Standing Orders and the question of taking Erskine May as our ruling, regarding the allegations made by a Member of

Bill—Second Reading.

[Sir Charles Markham] this Council, which appeared in a hand-out issued by Mr. Mboya as President of the Nairobi People's Convention Party, part of which was printed, Sir, in the *Daily Chronicle* of 11th February, 1959. It was alleged Sir that my hon. and gallant friend the Member for Mount Kenya had been concerned in negotiating a sale of arms for a European upstart in this country.

Sir, these remarks are ridiculous, but that is not the subject of my request to you today, Erskine May. Sir, states that no Member may libel another Member without libelling the whole House and I would ask you to rule, Sir, whether such remarks are not improper.

THE SPEAKER (Sir Ferdinand Casson-Bellinck): As Speaker, of course, I am concerned mostly with what happens inside this House and it is more difficult to deal with matters that arise outside the Chamber and outside the precincts of Parliament. I take it you are raising a question of privilege.

SIR CHARLES MARKHAM: Yes, Sir.

THE SPEAKER (Sir Ferdinand Casson-Bellinck): A question of privilege can arise over one Member making statements about another Member or about the House itself outside. On the *prima facie* evidence—I have not seen your papers and I presume you will not doubt hand them to the Clerk afterwards—I would say that the action of the Member in question is improper, but I must reserve my ruling until I am more acquainted with the circumstances.

SIR CHARLES MARKHAM: I would like to thank you for that, Sir. I will officially hand the documents to the Clerk and ask you if you would at your leisure give a ruling on the points I have raised.

BILLS

SECOND READINGS

The Royal National Parks (Amendment) Bill.

Order for Second Reading read.

THE MINISTER FOR FOREST DEVELOPMENT, GAME AND FISHERIES (Mr. Blunt): Mr. Speaker, Sir, I beg to move that the Royal National Parks (Amendment) Bill, 1959, be read a Second Time.

This Bill, Sir, is somewhat of a medley in that it makes amendments in a large number of unrelated matters in the Royal National Parks of Kenya Ordinance. Those amendments fall mainly under six heads, namely, alterations in membership of the Board, alterations in the accounting procedure, a number of amendments to section 12 of the main Ordinance, alteration in the procedure on appeal by prospectors, increases in penalties for offences and alterations of boundaries of the National Parks.

Of these by far the most important is that of increasing the penalties for certain offences under the Ordinance. If I may take the Bill clause by clause, clause 2 merely deletes definitions appearing in the main Ordinance because they are now unnecessary since they appear in the Interpretation and General Provisions Ordinance.

Section 3, Sir, provides in the first place for the appointment of a nominee of the Minister for Tourism, and I think I may be agreed that he should properly be a Member of the Board. It also provides for the appointment on a yearly basis of additional trustees up to the number of three to be appointed on the recommendation of the Trustees by the Governor. This, Sir, has been done in order that we may take advantage of the knowledge possessed by certain individuals, and the first member that has been appointed under this proposal is a world authority on the subject of game, namely Professor Fraser Darling.

Clause 4, together with accounting procedure. Printed together with this Bill is the original clause of the original Bill dealing with accounting, and it will be noted that it is very short and brief and does not make the kind of provisions for accounting that are usual in the case of an important body such as the Royal National Parks Trustees responsible for the expenditure of considerable public funds. It is proposed to amend in Committee, clause 4 as printed in the Bill and the proposed amendments were circulated yesterday with yesterday's Order Paper, so if I may I will take the two together and refer in the main to the amendments proposed in the Order Paper.

The first amendment provides that no balance sheet shall be required, although

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The Minister for Forest Development, Game and Fisheries]

we were originally suggesting that a yearly balance sheet should be produced showing in detail the assets and liabilities of the Trustees. On further consideration it was found that in practice this would create great difficulties that the balance sheet would not be of much practical purpose. Provision is, however, now made requiring that the accounts shall be submitted by the organization to the auditor within a definite period of four months after the end of their financial year unless that period is extended by the Minister, and that the audited accounts shall be submitted to the Minister within six months of the end of the year. It further requires that the Minister shall lay those accounts on the Table of this House within the next 14 sitting days of the House. Provision is further made in this section that a commercial auditor may be appointed by the Minister instead of the Controller and Auditor-General if that is found to be necessary, and further provision is also made whereby the financial year of the organization can be altered if that should be deemed desirable.

Section 5, Sir, of the Bill, has three parts. Sub-section (a) specifically makes it an offence for unauthorized persons to do certain acts. In the Ordinance before it was amended such acts did not specifically constitute an offence, but came under the general penalty clause. This will have the effect of tightening up the provisions of the Ordinance, and will enable contraventions of various kinds to be dealt with more easily.

Sub-section 3 inserts among the exemptions of people who may enter the park only with the authority of the Trustees, officers of the Game Department. At present officers of the administration and of the police may enter the park without authorization, but it will be clear that since officers of the Game Department are in the main responsible for the prevention of poaching activities and such like, it is most desirable that they should be able to follow up into the parks, if necessary, any people that they suspect of poaching activities.

Now sub-section (c) prohibits the possession by any person in a park of any animal or bird's nest without lawful

excuse. That, I believe, will enable prosecutions to succeed against poachers which have not succeeded in the past, for in the past it has been necessary to prove that a man, having in his possession an animal, was responsible for killing that animal, which was often very difficult to do. This provision will, I believe, again help us in dealing with poaching activities in the National Parks.

Clause 6 deals with the procedure of appeal by would-be prospectors in National Parks. It will be recalled that in May, 1957, I moved a Motion appointing a committee of Members of this House, as required under the original Ordinance to consider appeals against refusal of consent by the Trustees to allow prospecting. That Appeal Committee has, I believe, never been required to sit, but it is now proposed to abolish that Committee, and that in future an appeal on this matter shall lie to the Governor-in-Council of Ministers. I believe that that is the proper place for such an appeal to lie since ultimately the Government must be the body responsible for final policy over such matters.

The next clause we come to, Sir, is 8, which deals with penalties, and the proposals within this clause arise from the recommendation made in the interim report of the 1956 Game Policy Committee. It will be recalled that I introduced an amendment to the Wild Animals Protection Ordinance in June, 1957, which was approved by this House, increasing the penalties under that Ordinance.

Now paragraphs 7 and 8 of this Bill provide that exactly similar penalties shall exist for similar offences in the National Parks to those outside the National Parks. There was no specific penalty under the original Bill for unlawfully killing or capturing any wild animal. The general penalty only applied. Now, it is proposed that there be a special penalty of Sh. 20,000 or five years' imprisonment, which is exactly the same as in the Wild Animals' Protection Ordinance. Similarly, the general penalty in this Bill is raised from Sh. 400 and two years' imprisonment to Sh. 10,000 or three years' imprisonment, as in the Wild Animals' Protection Ordinance. I should also make clear a point arising out of 1 (a) of this section 8. At the

[The Minister for Forest Development, Game and Fisheries]

present moment there is racial discrimination in that a European accused of an offence under this Ordinance may demand to be tried by the Supreme Court, whereas members of other races are tried by the Magistrate. This subsection removes that discrimination, and places all races on exactly the same footing, and they can all be tried by the Magistrates, as specified in that clause.

Clauses 9 and 10 both refer to alterations in boundaries. Clause 9 deals with a small exchange which, in fact, took place on the ground some four or five years ago in the Tsavo National Park near Voi Township. It has taken us some time to get the surveys done, but the exchange was agreed between the Trustees and the Mazinga Sial Company, and has been effective for some time. This section will now legalize it. Clause 10 deals with two small alterations in boundaries of the Nairobi National Park.

It will be recalled that a slice was recently cut off that Park. This amendment takes back from that slice two small areas of 12 acres and three acres approximately on the Langata Road in order to make a better entrance into the Park from that direction.

There is one small amendment to be moved in Committee in connexion with the Schedule to section 10 in the fourth paragraph thereof. It will be seen that with reference to a true bearing it is approximately 92° 49'. That, of course, is a misprint. It should be 92° and 49'.

I believe, Sir, that hon. Members will agree that these amendments are reasonable and necessary and that I shall have the support of the House for them.

Mr. Speaker, I beg to move.

Question proposed.

Sir ALFRED VINCENT (Nominated Non-Government): Mr. Speaker, Sir, I greatly welcome these amendments to the original Ordinance because as we develop and as time passes it becomes quite clear that certain alterations to the legislation are necessary; indeed, it is a great tribute to those who originally drew up this legislation that so little amendment has been necessary over the years.

I think, in introducing the amendments in his usual lucid manner, that the hon. Minister has been misinformed on one small point, and that it was proposed that Professor Fraser Darling should be made an honorary Trustee and that he should not come within these three mentioned in the amendments, because these three new Trustees are expected to be in the country and to do some work all the time. That is the reason why we have increased, or requested the Government to increase, the number of these Trustees because the volume of work which has arisen as a result of considerable development makes it essential that we have a larger body of enthusiastic people interested in the game of this country to assist us on our various committees.

The only point that I wish to raise is one which, I think, is serious from the Trustees' point of view. As hon. Members know, Sir, I have been Chairman of the Trustees of the Royal National Parks from the inception, and I would pay tribute to them, as I always do when talking on this subject, for the magnificent task which they have performed. We are bound to recognize the National Parks as something which belongs to the people of the country as opposed to something in the nature of a Government department, and although I have a great respect for Government departments—(not all, but some of them)—in this case I do ask that the Trustees of the National Parks are treated as men of capacity, understanding, ability and integrity instead of a lot of school-boys. Therefore, Sir, I am referring to clause 2 regarding the appointment of auditors. I feel that I should ask—and ask with every good reason—that the Minister agree that the auditors shall be appointed by the Minister on the recommendation of the Trustees. I do hope, Sir, that the Mover will be able to agree to that in his reply.

Now, Sir, I am not being facetious in any way. I have the greatest regard for the Auditor-General, but I have no regard for the accidents that can happen to him and his staff; and, in fact, on one occasion we had no audit for a considerable period—nearly two years—not because his predecessor did not work

[Sir Alfred Vincent] I but because he could only work, I suppose, 24 hours out of the 24. The work got behind and defalcations did arise. Now, the Trustees with all their power cannot order the Auditor-General about, although I would love to on some occasions, but if they do employ qualified accountants and auditors recognized under the laws of this country then they can say, "We wish you to investigate something which is happening at once"—that is, something which is happening in some particular place or department, or place of activity of the National Parks. I see that the new amendments certainly tie the Trustees down to a time in the rendering of accounts, although they do give the Minister a certain amount of latitude in increasing the time if it is necessary and reasonable. But I feel, Sir, that it is very essential that this great body of men who have served for a number of years should be given full responsibility with the closest co-operation with the Minister, and have the right to suggest to him who should audit their accounts.

I beg to support, Sir.

Mrs. SHAW (Nyanza): Mr. Speaker, I rise to support the Bill although the Royal National Parks is not my usual line of country—I am afraid that I do not know a tremendous amount about them. I and the general public enjoy the benefit of those parks, and they are something which I feel anyone who has the interests of Kenya at heart should take a vital interest in, for they are one of Kenya's greatest assets.

In introducing this Bill the Minister has given the most detailed explanation of the necessary amendments and provisions and I should only like to support most strongly and congratulate the Minister, for I know the amount of detailed work entailed, and the time and trouble that has been taken over the drafting of these most necessary provisions.

Sir, I support.

Mr. COWIE (Director of Royal National Parks): Mr. Speaker, I only wish to contribute on two small points concerning this Bill.

Sir, it is not surprising that I should wish to support this Bill because I was

naturally concerned with drafting and promoting a good many of these amendments on behalf of the Trustees.

The first point, Sir, is that I think there is a misconception, certainly in certain circles in Kenya, that this Bill arises from the recommendations of the Game Policy Committee, and that it is therefore an important outcome of the findings of that Committee. In actual fact, Sir, as the Minister explained, only two sections of the amending Bill arise from the recommendations of the first Interim Report of the Game Policy Committee. The other amendments are some that have been on the books for a number of years and have now culminated in a kind of potpourri which is to tidy up the National Parks Ordinance. Therefore, Sir, there is no great matter of policy involved here.

The next point, Sir, is the question of the boundary amendment to the Nairobi National Park. It is very difficult to follow this description here because it outlines the entire boundary of the Park. What it really means is that there will be a small addition of two pieces of land near the military cantonment abutting on the Langata Road. The outcome of this, Sir, will be that, when it is possible to do so, a new gate will be constructed on that road which I think will be a very much better approach to the National Park and it will be of much greater use to many people who live on that side of Nairobi. That is one of the main objects of asking for this amendment to the boundary. It will also lead, Sir, to the construction of a further gate down towards the Airport and I hope that it will lead to better fencing to prevent this rather serious menace of the danger of wild animals being on the airport road and colliding with high-speed traffic.

I do assure all hon. Members that this Ordinance is not, in my view, a matter for a policy debate. It is simply an Ordinance to tidy up a good many items which have been standing for a number of years, and I personally wish to support it.

THE MINISTER FOR FOREST DEVELOPMENT, GAME AND FISHERIES (Mr. Blunt): Mr. Speaker, I should first of all like to thank all those Members who have spoken and clarified points in connexion with this Bill, particularly the

[The Minister for Forest Development, Game and Fisheries] present moment there is racial discrimination in that a European accused of an offence under this Ordinance may demand to be tried by the Supreme Court, whereas members of other races are tried by the Magistrate. This subsection removes that discrimination, and places all races on exactly the same footing, and they can all be tried by the Magistrates, as specified in that clause.

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THE MINISTER FOR FOREST DEVELOPMENT, GAME AND FISHERIES (Mr. Blunt) Mr. Speaker, I should first of all like to thank all those Members who have spoken and clarified points in connexion with this Bill, particularly the

[The Minister for Forest Development (Game and Fisheries)]
 hon. Nominated Member for Commerce and Industry for putting me right as he did on the actual status of the appointment of Professor Fraser Darling.

The other point the other major point which he raised was this question of the appointment of a commercial auditor on the recommendation of the Trustees. As I said, provision is made in this amending Ordinance that such an auditor may be appointed with the agreement of the Minister, and I see no reason at this moment why that should not be done. I will certainly look into it and unless there are any serious objections apparent I would certainly agree to the appointment of a commercial auditor to audit the accounts.

The only other matter which I need refer to at this stage, Sir, is that raised by the hon. Nominated Member, Col. Cowie. He pointed out that this Bill arises from a number of matters that have cropped up during the last few years, and in fact the Royal National Parks Bill is one which must frequently come up for review, for there are continual small alterations to boundaries. There are several matters which have to be referred to this Council. Many of them are quite small and not of much consequence, but the principle has been accepted that they must come to this Council so that I and my successor will continue to bring small amending Bills to the Royal National Parks Ordinance before this House from time to time.

The question was put and carried.

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

The Maize Marketing Bill

Order for Second Reading read.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell). Mr. Speaker in moving the Second Reading of this Bill I would like to emphasize to the House that the maize industry is one of the major agricultural industries. The production which comes on to the market is around 2,000,000 bags a year and has a value of £3,500,000, and the total production of the industry of this staple foodstuff amounts to something like 16,000,000 bags a year.

Before the war the industry was not organized, and producers marketed as best they could in competition with each other. During the war it was necessary to introduce a control for the feeding of the country, and it is now necessary to accept that some long-term planning of the industry is inevitable which will take the place of the wartime and, in certain respects, inflexible controls.

As it is a major industry, Mr. Speaker, I would like to ask hon. Members to bear with me when I give them a short outline of the aspects of the industry which have led to the presentation of this Bill. Maize has not always been a major item in our agricultural production, and indeed up to the 1920's it was almost nonexistent as a crop. In the year 1922, due to the impact of the financial situation on the country generally, a committee under the chairmanship of Sir Charles Bowring, recommended that the country should concentrate on the production of maize as an economic crop mainly for export, and this was done, and as a result of that decision, and the measures taken, the production of maize rose in the European market to the spectacular figure of 1,500,000 bags in 1929, a record which has never been equalled since that date. But the price to the producer was entirely left to the operations of a free market and, as a result, when the effects of the world economic depression became apparent in the thirties, the impact on the maize farmer was severe. From 1930 to 1939 the price received by growers ranged from Sh. 3/50 to Sh. 7/50 per bag, and, at the outbreak of the second World War, the European acreage alone had fallen to 93,000 acres, only just over one-third of that which was obtained in 1929. During the war, with the entry of Italy into the conflict, and the deterioration of the British position in the Mediterranean, the production of food supplies in this country became paramount.

For the first time, in 1942, a minimum price was guaranteed to the European producer but the deterioration—and I would particularly draw the attention of hon. Members to this—the deterioration in the industry resulting from many years of low prices could not be halted overnight, and the situation was aggravated by locusts and drought, with the result that in 1942 and 1943 over 1,500,000 bags of cereals had to be imported into

[The Minister for Agriculture, Animal Husbandry and Water Resources]
 this country to meet a wide-spread food shortage. A commission of enquiry was set up to investigate the causes of this shortage, and it recommended, in dealing with the long-term aspects of the problem, that a basic minimum price should be fixed for all maize. The Commission also envisaged that an organized maize marketing would have to continue after the war. The conclusions of this commission of enquiry, which were accepted by the Government of that day, have indeed formed the basis of Government policy up to the present time.

It had by this time become clear that an important part of our contributions to the war effort must be to feed not only our own population but also the adjacent territories in the Middle East area, and as a result of that, two measures of great importance to the maize industry were taken. The Increased Production of Crops Ordinance, the main provisions of which have since been incorporated in the (New) Control of Maize) Regulations. The maize industry has remained organized on the basis of this legislation till the present time. The legislation achieved its purpose. The industry was stabilized for the period of the war, and for the post-war years as well, to the considerable benefit of the country and of East Africa as a whole. Production was increased, but the assurance of a fair price for the grower for his crop was given at the same price both in the African areas and in the European areas. This price was guaranteed in advance from year to year. Existing trade channels were largely used and Asians were employed for many of the operations.

In the years immediately following the war it took much longer than was expected for normal conditions to return, and shortages and high prices persisted. Due, in part, to the Korean war and to American rearmament, and to strategic stockpiling in other parts of the world it was generally accepted that for those reasons a continuance of the close organization of the industry was necessary. There developed, however, Mr. Speaker, after a reasonable period after the end of the war, a natural desire for some relaxation of wartime control, and in response to this desire, the Govern-

ment appointed, in 1950, a committee under the chairmanship of Sir Alfred Vincent to make recommendations on the development of agricultural marketing. Acting on this Committee's recommendation, the Government appointed a board under the chairmanship of Sir William Ibbotson to take the place of a departmental committee then supervising the maize and produce controls. This board decided that it would function better if, instead of taking over the routine management of control, it concentrated on working out the structure which a future marketing organization would assume. It was thereafter known as the Ibbotson Committee and it presented its report in July, 1952. When the Ibbotson Committee sat we were dealing with a situation where a continuance of wartime conditions was largely prevalent, and in which also the export price of maize was higher than that offered for internal consumption. The committee's report therefore emphasized that, in these conditions, organized marketing must be retained to ensure the equitable sharing amongst all producers of the economic disadvantage of having to provide for the internal market when external prices were very much more attractive. The committee also anticipated the contrary position, i.e. the restoration in the future of normal trade conditions in which the export price might well be below that which was advantageous to the country to maintain internally, and the committee concluded that—in that case also, it would be necessary to ensure some form of organized marketing of maize. The committee recommended that a statutory board or corporation should be appointed to take over certain functions of the Maize Controller, the Board to be responsible to the Minister for Agriculture.

The functions of the Board were to include the collection, the storage and the distribution of the crop, the assessment of the internal requirements, the proportion of the crop available for export, and the maintenance of adequate reserves. The Committee envisaged that the functions of collecting, storing and selling of the crop would be allocated to agents. The Government announced in December, 1953, that it accepted the Ibbotson Committee's report in principle,

[The Minister for Agriculture, Animal Husbandry and Water Resources] but for a number of reasons—the emergency, the financial situation and the severe shortage of maize in 1952-53 which I should like to emphasize to hon. Members because it is not so very long ago that the implementation of the report was delayed. The situation of the maize industry today has radically changed in the meantime because the conditions envisaged by the Ibbotson Committee of export prices being considerably lower than those which it is desirable to maintain locally have now come about.

The provisions of the Bill which I am now moving, Mr. Speaker, substantially put into legislative practice the intentions and recommendations of the Ibbotson Committee.

Now, Sir, there are a number of ways in which the organization and problems of the maize industry can be handled and the Bill does not tie down the Board to any specific policy or directions. It leaves the Board free to explore a number of alternatives, while leaving flexible the adoption of a final policy. We need flexibility in the maize industry. We ought to try and move away as far as possible from the inflexibilities of a more rigid control system, and use to the maximum, agents who will be responsible for storing, collecting and handling the crop, with the object of moving the maize from the producing area to the consuming area at the least possible expense both to the producer and to the consumer. Secondly, one of the primary functions of the Board must be an imaginative examination of an expansion of local markets. In that I feel a large factor must be the price at which maize can move to the consumer, and I envisage that the Board will advise me independently of its opinion in regard to prices, because I am firmly of the belief that some of the problems of the industry can be solved by stimulating consumption through a vigorous attempt to reduce the price of the end-product to the consumer.

Since I have been free of arrangements made by my predecessor in regard to fixing prices with producers, I have progressively, each year, reduced the price. My object has been first of all, to

see that the industry has a more realistic approach to the economic conditions of the day; secondly, to see that reasonable pressures were exerted against inefficient producers; and lastly, to try and expand the local market in competition with other foodstuffs as much as possible. It is, I believe, wrong of the industry not to understand that, in that process, an adjustment of the price factor is essential.

There is, Sir, a school of thought which recommends that there should be no control of the marketing of maize, and that is a solution which Government has rejected. I should like to give hon. Members my reason for recommending that that solution should be rejected. This country is unlike many of the other East African territories. We have two or two major consuming centres—Nairobi and Mombasa. The amount of maize which comes into the free market for consumption by the consumer is often less than 10 per cent of the total production of maize in this country. If we were to have a severely dry year or the invasion of a pest, such as locusts, a very slight disturbance in the whole of the country would immediately present us with a very considerable consumption problem, and we therefore need a balancing factor in production apart from the production of maize in Nyanza which has not always been constant. That factor can only be found in the production in the Scheduled Areas. Every committee which has examined the maize problem—and Hon. Members who have read the White Paper will see that this is a problem which has been with us for many years—has come to the same conclusion. It follows from that, that some guarantee of price is necessary, and if we guarantee the price, it follows from that, that some control of marketing, however, flexible, is necessary.

Today, Sir, the export price of maize has varied between Sh. 15 and Sh. 22 a bag. The surplus production in the country is running at about 800,000 bags. If there was no organized system of marketing, then the local producer would compete for the market until he had forced the production of maize to a level which centred about 50 cents or so only above the price realizable from exports. The result of that would be a

[The Minister for Agriculture, Animal Husbandry and Water Resources] considerable reduction in production in succeeding years. That has already been underlined in the short history which I gave hon. Members when I pointed out that between 1929 and the middle of the 1930s the production of maize fell by two-thirds for that very reason. We are not now in those conditions. We have now got the necessity to feed large and expanding population centres, which was not a demand upon us 25 years ago. If we had to import maize today, for a number of reasons, mainly the differential in railage outwards and in railage inwards, shipping freights, handling charges at the port and matters of that sort, the import price of maize today would be Sh. 50 or around that figure. If there was no organized marketing of the maize industry, together with some assurance of the stabilized price which brings production as closely as possible to consumption in the country, the fluctuation of the maize price from year to year would be in the neighbourhood of Sh. 15 to Sh. 50 a bag, and I do not believe either the producer or the consumer would be better off in those circumstances.

It has often been suggested to me, Sir, that we could rely on Uganda and Tanganyika for maize surpluses when we ourselves were in a position of scarcity. Nothing is further from the truth. If there is any certain fact, it is that the surplus maize production of Kenya is a balancing factor not only for Kenya itself but for Uganda and Tanganyika. In any case the position in those two countries is not comparable to our own, because (fundamentally they can rely on basic peasant production, having no great population centres which make excessive demands upon the food demands of the country. The conclusion therefore, Sir, is that if we are to produce a stable maize industry competent every year to feed the country without an excessive fluctuation in price, we must introduce a structure for the payment of maize which enables the producers in the Scheduled Areas to remain in production. Not to do so, places this country, with its considerably varied urban economy, completely at the mercy, first of the weather, and secondly of the fluctuations and fallibilities of peasant production, and for those reasons,

Sir, I am today moving the Bill which should place the maize industry on a long-term basis and ensure a reasonably stable production.

On this particular aspect of the matter, I should like to tell hon. Members that I have tried to devote a great deal of thought to this problem. I have indicated to producers quite clearly that, as far as the Government is concerned, it will only offer each year a guaranteed price for that element of maize which is needed for internal consumption, leaving it free to producers to produce more maize if they so wish at world prices, and thus augment as much as they can, the income available to them. I am convinced that one of the difficulties that we have been in, in the past, is the excessive preoccupation of the industry in establishing a high price for every bag of maize which is produced. That must inevitably put a premium in many respects on inefficiency. The advantage of the system which I have already introduced this year of buying at the internal price only a proportion of the crop, a proportion which ranged from 1,000,000 to 1,250,000 bags, from growers, is that it underlines that the high producing grower will benefit first, and the low inefficient grower will feel the most economic pressures. I think that must inexorably but gradually move the industry towards more efficient production.

Lastly, Sir, in this particular aspect of the matter, I would like to comment on the provision of quotas. It has been suggested that a quota system should be introduced individually to reduce production only to that which is consumed here locally. Alternatively it has been suggested that the quota system should be eliminated altogether, and I thought it would be wise if I, as Minister for Agriculture, gave my own views on the policy of quotas. I would like to say, Sir, in general that I do not believe that a quota system which is designed to restrict production is in the best interest of this country. I feel so, Sir, for this reason: that whether we like it or not, the demands of the people of this country for expanding services and a rising standard of living can only be met by a rising level of production, and a quota system which is based upon restriction must inevitably reduce the economic resources available to us. I therefore feel, Sir, that every

[The Minister for Agriculture, Animal Husbandry and Water Resources] effort should be made by producers to be as efficient as possible, to expand their production in terms of overseas markets, and to reject as far as possible the temptations of a quota system which reduces them merely to taking in each others washing. Secondly, Sir, I feel that a quota system inevitably tends to underwrite the inefficient in favour of the efficient. Lastly, Sir, we come into difficulties whereby the new and aspiring entrant to production or to the industry finds his way blocked by those who are fortunate enough to have entered before. For all these reasons, such influence as I can bring to bear upon the agricultural industry will be used to influence if away from the principle of restriction of production by quotas except in very exceptional circumstances.

Having dealt with this particular problem of the restriction of production, the flexibility which is necessary to the industry, and the advantages of guaranteeing a local price which should ensure this country a reasonable level of production to meet its internal requirements, I would like, if hon. Members will bear with me, to come forward to deal with one or two clauses of the Bill. I do not intend to weary hon. Members with each clause. I imagine that each hon. Member has some special pet clause of his own on which he will launch forth later during the Committee stage, and I want only to suggest to hon. Members certain aspects of some of the rather more important clauses.

First, Sir, let me emphasize that this Bill has been under preparation for nearly two years. I have had exhaustive discussions with many sections of the public in regard to the Bill. It is largely, as far as the producing side is concerned, legislation of which every aspect has been examined individually by myself with the producers. The Bill has lain 40 days before the public, and I have had a number of representations in regard to certain matters, and I propose therefore, when moving the Committee stage, to introduce a number of amendments to the Bill which are designed to meet the representations which I have already received. That being so, Sir, I thought hon. Members would like an indication of those amendments now,

because it will enable them to sharpen their swords if the amendments are not those they require, or alternatively to return their weapons to their scabbards if their points have been met. Now, Sir, first of all the composition of the Board. I do not intend, Mr. Speaker, to accept any suggestions that the composition of the Board should be varied, and I would like to give hon. Members my reasons. I put that perhaps in rather a dictatorial manner. I did not mean to do so. What I meant to say, Mr. Speaker, was that it would not be my intention to accept amendments in regard to the composition of the Board. There are advantages in a small board, but after examining the problem with producers, I have come to the conclusion that it is necessary to have on this Board not less than three producers or three representatives of producers from the Non-scheduled Areas. I have agreed that with the representatives of those areas. The composition of the Board is based on parity between producer and non-producer and parity between the representatives of the Scheduled and the non-scheduled Areas, and if this figure of three is accepted by the Board automatically, the Board automatically satisfies. Now, Sir, one of my difficulties is that in the African areas there will undoubtedly be a considerable expansion of production in areas other than Nyanza. I think it is necessary to leave representation sufficiently wide on the Board to meet that expansion when it takes place. Secondly, Sir, in regard to the representatives of non-producers, I want to make it clear that it is my intention to allow for representation of the important Asian commercial interests in the maize industry. That being so, I must have sufficient flexibility on the Board to ensure that, and, Sir, I feel that whatever may be hon. Members' views about the desirability of it, it would be unwise to make any reduction in the size of the Board.

In clause 5, Sir, a query has been raised whether there is provision for alternative members of the Board, and there is such provision which is provided in section 48 of the Interpretation and General Provisions Ordinance, No. 38 of 1956.

Clause 13, the functions of the Board. Now here, Sir, I intend to move a most

The Minister for Agriculture, Animal Husbandry and Water Resources] important amendment. Representations had been made to me that it should be mandatory upon the Board to appoint agents, and I had rejected that view, because I felt really that the Board should have freedom to appoint agents, or not. But representations have been made to me recently that it would be wise to make it clear that the Board will not act as a Maize Control under another name, and I believe that the simplest way of indicating the intentions of the Minister to the public is to change the permissive under clause 14 dealing with the appointment of agents, to the mandatory. In other words, I propose to say that the Board shall appoint agents and to move an amendment to that effect except with the agreement of the Minister. I think I must have some let-out, because in some areas there are no suitable agents, and secondly, I do not want the Board to be entirely at the mercy of a single agent. I want the Board, therefore, to have the opportunity, if it so desires, of recommending to the Minister alternative arrangements to an agent. I also want to indicate that whenever possible the Board shall use agents. I believe, Sir, that will remove a lot of the opposition to this Bill, and a lot of suspicions that it is merely Maize Control under another name.

On clause 15, Sir, a number of points have been raised. It has been suggested that sub-section (1) of clause 15 is contrary to section 18 of the Sale of Goods Ordinance, which states: "Where there is a contract for the sale of unascertained goods, no property in the goods is transferred to the buyer unless and until the goods are ascertained." The provision is deliberately contrary in this Ordinance because the vesting in the Board of the maize on harvesting is a fundamental principle of the Bill. This principle is taken from the Grain Marketing Act, 1950, of Southern Rhodesia; it has worked well in practice, and this particular provision was re-enacted by the Central African Federation in 1957. I am certain, Sir, that will be very acceptable indeed to the hon. Member for Nairobi North.

There is a suggestion that again in sub-section (3) of clause 15, there is no let-out in the case of a farmer whose

failure is due to causes beyond his control. I am advised, Mr. Speaker, that that is met entirely by the word "unreasonably" which is included in sub-clause (3). And, again, Sir, it is suggested that there is no clear indication as to "who harvests maize" in sub-sections (2) and (3). That is, Sir, is the owner of the land, the tenant, the harvesting contractor or the landlord distraining for rent? Sir, I am advised that the meaning is quite clear, but I propose to include an amendment, substituting for the word "person" in sub-sections (2) and (3) the words "maize producer", which I think will meet the point.

Again, Sir, it has been represented to me that there is no provision in the Bill for compulsory insurance and it is particularly brought to my attention because if money is to be advanced on crops, then it is unlikely to be advanced unless there is some security through insurance. Now, although the Board, Sir, guarantees the farmer payment for a proportion of his crop, I believe really the issue of insurance, if we once accept the principle that the Board must act through agents, is a matter for the agent to arrange with the farmer to whom he makes an advance. I think it is illogical for agents to suggest to me, as Minister, that they must have a primary function in the handling of this industry, and then attempt to evade, at the first possible opportunity, some of the responsibilities which obviously immediately stem from their position.

A point has been raised, Sir, in clause 16 which is the sale to occupiers by labourers. I propose, Sir, to amend that, to avoid confusion so that it applies to all labour on agricultural land and not only to resident labourers. That, I think, will largely meet those objections which have been put before me in regard to that clause.

Again, Sir, clause 16 will be amended to make it compulsory for an occupier to buy maize grown by labour or resident labourers. This is a point of view which has been consistently presented by the agricultural community to Government ever since the inception of some form of organized maize marketing.

Clause 18, Sir, is deliberately flexible; it will allow the operation of a pool price

The Minister for Agriculture, Animal Husbandry and Water Resources] system. A number of Members have raised that with me and this clause enables a pool system to be introduced. I intend, Sir, to introduce an amendment here to allow for an appeal to the Agricultural Appeals Tribunal against the allocation of an individual quota if such was imposed by the Board.

Clause 19. Sir, representations have been made to me that the agent should deduct the guaranteed minimum return advanced, and this can be done without any amendment to the Bill at all, by delegation of the Board's powers under section 14.

There has been a suggestion, Sir, that the power to allow direct sales under clause 20 should be to the Council of Ministers. After consideration, Sir, we feel as a Government that it should remain with the Minister.

In clause 21, Sir, it has been suggested to me that the rejection of maize and the direction by the Board of maize so rejected, should not be at the direction of the Board but that it should be a function of the Board to approve the disposal of such maize.

I propose to move at the association which I propose to move at the suggestion of hon. Members behind me who support Government.

Clause 26, Sir: it has been put to me that there is not sufficient indication that the Minister has control over exports as well as imports, and I have accepted that and intend to move an amendment to that effect. It is necessary for the Minister to control exports as otherwise we might, of course, create an artificial shortage in the country.

Now, Sir, turning to clause 38, there have been considerable representations to me in regard to Part VIII. But first, Mr. Speaker, and I would like, if hon. Members will not be confused, just to return to clause 39, Part V, which deals with millers. Now, Sir, I would like to make it clear that we do not desire to control the milling industry, except to the minimum extent which is necessary in order to prevent black market activity. For this purpose, we must have the registration of millers and we need the cancellation of a miller's licence where black marketing activities have been indulged in. But we do not intend to interfere with milling

operations more than is necessary. That being so, all existing millers who are now registered under Maize Control will automatically be registered under the new Ordinance.

Lastly, Sir, on the question of milling, the provisions of this Ordinance are very much less onerous than the existing provisions of the Defence Regulations which now, and until 31st July, 1959, control the milling industry.

Now, Sir, turning to Part VIII, there has been considerable criticism of what are called the rather penal powers available to the Board for carrying out the provisions of the Ordinance. Sir, this, I think, the usual difficulty in which Members of the House find themselves,

I find in Kenya that the progress of an Ordinance is as follows: public opinion demands the introduction of a Bill to control something of a section of public opinion does so. There is a considerable pressure upon the Minister until he produces the Ordinance which exercises the control. Then, Sir, in the twinkling of an eye, every voice is directed towards the elimination of any effective method of organizing the control which a section of public opinion has seriously demanded. This being so, Sir, I do not wish this Bill to have its provisions whittled away to such an extent that it merely becomes a form of pious hope upon the Statute Book. I do think, however, that some of the representations which have been made to me in regard to the type of person who can exercise these powers are reasonable, and I intend to move an amendment which will show that officers of the Board who exercise the powers in Part VIII—those of examination, inspection and entry into premises—will only be able to do so if they are people first of all authorized by the Board, and, secondly, certified by the Minister in writing as being sufficiently responsible to exercise the powers conferred under this Part. Whether that would apply to any hon. Members of this Council is not for me to suggest. But at least, Sir, that will give hon. Members an indication that the arbitrary use of these powers by irresponsible people is not envisaged.

Secondly, Sir, I propose to move an amendment in clause 41, dealing with powers of arrest, which will mean that an officer exercising those powers will not be any public officer, as at present, but will

(The Minister for Agriculture, Animal Husbandry and Water Resources] be confined to any police officer which is in accordance with the existing provisions of the Penal Code. I think, Sir, that goes a long way to meeting some of the misgivings which Part VIII has produced.

Finally, Sir, in dealing with the clauses I want to come to clause 47 which is on the subject of appeals. Here, Sir, we always have the conflict of the intention and policy which is inherent in the Bill and the rights of the individual to be properly protected. I think after listening to some of the representations which have been made to me during the period since the Bill has been before the public, it would be wise to amend the provisions for appeal. I therefore, Sir, intend to amend the Bill so that in the case of clause 47 (a), (b) and (c), there shall be an appeal not to the Minister, but to the Agricultural Appeals Tribunal. This also applies in the case of an appeal against an individual quota, which I have already mentioned.

Now, Sir, basically I feel that where possible we should take appeals which divert the individual away from the jurisdiction of the Minister and place them under an impartial tribunal such as the Agricultural Appeals Tribunal. By moving this amendment we shall achieve that. This will leave appeals under (d) which is imports and exports, and (e), registration of millers, to the Minister, and I feel, Sir, that those must remain to the Minister because, basically, they are part and parcel of the policy of the Minister which will be carried out by the Board. It would be intolerable, I think, where the Minister has directed that there shall be no export because of the danger of a national shortage of food, for an appeal to lie outside which would negate the policy of the Government in feeding the country.

Now, I think, Sir, by making those amendments we shall largely meet a number of the objections which have been raised. Before I formally move the Second Reading, Mr. Speaker, I think it would be proper for me just to say a word about Maize Control and the Maize Controller. I have indicated quite clearly to Members that there is no intention under this Bill of perpetuating Maize Control. That is why I have

clearly indicated I will move an amendment that makes it mandatory on the Board to appoint agents and not permissive. I have also indicated to Members that I want the freest possible and most flexible use of existing trade channels, for storage arrangements and for financial arrangements, through agents or existing merchants. That being so, it follows from that that the Maize Control—that excellent servant of the public—will now, on 31st July this year, die. I thought it would be proper for me to pay a tribute to Maize Control. It has been an Aunt Sally, I think, for 17 years. Anyone who wished to divert his constituents from his own delinquencies had only got to stand up and throw a brickbat at Maize Control for the whole pack of grievances to be running in full cry after the brickbat. Therefore, Sir, it is a substantial blow to hon. Members, because no longer will they be able to divert their constituents in this manner.

Nevertheless, Maize Control has been an efficient servant of the public. I would like to record that the actual handling of control operations is performed at less than 5 per cent of the end price of the product, which is most favourable compared with any other commercial or business enterprises.

Lastly, Sir, in saying "Thank you" to the officers of the Maize Control, and bidding them farewell, and thanking them for a good job well done, I would also like to pay a tribute to that personality, the present Maize Controller, who undoubtedly has had a great part to play in feeding the public of this country with the minimum of friction and the maximum of efficiency.

Mr. Speaker, I beg to move the Second Reading of the Maize Marketing Bill.

MR. WEBB seconded.

Question proposed.

MRS. HUGHES (Usain Gishu): Mr. Speaker, I would like to congratulate the Minister on what I think was a most brilliant and able introduction to this Bill. But, Sir, I only hope that by his brilliance he has not diverted the attention of some of the Members on this side of the House and blinded them to some of the major issues, which I think, have been raised in this Bill.

(Mrs Hughes)

I would also, with reservations, welcome the Maize Marketing Bill which, I think, is of the very greatest importance to the country and possibly long overdue. I believe the Board does lend itself to a new look regarding procedure in the agricultural industry.

Mr. Speaker (Mr. Ferdinand Luvuvhi Heronik) (off the Chair)

Mr. Deputy Speaker (Mr. Bhebe) (off the Chair)

The necessity within the industry at the present time for the reduction and streamlining of the very many agricultural boards which are in existence at the moment must, I think, be obvious to everyone and I think that this has been visualized to some extent in section 13, sub-section (1) of the Bill which reads as follows:—“Nothing in this Ordinance shall be deemed to prevent or prejudice the appointment of the Board as an agent under section 14 of the Agriculture Ordinance, 1955, in respect of any crop other than maize.”

Sir, I am wondering, with this in mind, whether it would not be wise to have a special policy-making Board only, whether it would not be wise to change the title of the Bill to the Cereals Marketing Bill, I would put it to the Minister to consider whether that would be wise or not.

Carrying this suggestion further, and in addition with the ultimate view of the consolidation of these existing boards, I feel it is unwise to refer to specific boards as mentioned in section IV. They do there mention two specific Boards and, Sir, I hope that some of these boards may prove to be unnecessary in the future. If you are mentioning certain ones, why not mention others, such as the Kenya Farmers' Association? Also, Sir, I do hope that, in view of the recent referendum that was sent out by the Cereals Board, this new Board will be very much more *au fait* with producer views and interests. This streamlining and consolidation of boards, I think, should bring about a much more economic and more efficient control of the industry and, indeed, I think, prevent the present methods whereby so very often the marketing of produce is undertaken by amateurs. These days, I feel that the marketing of products is a highly

specialized and commercial field, and I do hope that this will leave the Board free to make policy only.

That does bring me to what I think is the major issue in this Bill, that is that the Board should be purely policy-making and advisory only. I do not believe that there should be any attempt to undertake executive duties because there are in existence agents who can very well undertake these duties in an efficient manner.

That Mr. Deputy Speaker, is, I think, the major issue in this Bill. There are a number of other points which will be raised later. I am satisfied that the basic principle of a producer majority on the Board has been covered, but there is the question of the chairman of the Board. It is one of some importance and although we have at the moment a Minister in whom we have a great deal of trust and whom we respect, I do feel that it should be incorporated in the Bill that the Minister shall consult producer organizations before appointing the chairman.

The Minister has indicated his own preference for a member of the Board is away for some time. I wonder if the Minister would explain to us, as this Board has been set up and given statutory powers to manage the maize industry, why it is necessary for him to have the over-riding power of directing this Board. With the ministerial system, I think if there is that power it might in some cases cause delay in procedure.

There are many other points in this Bill, Sir, which I do not intend to speak on now, because I know that my colleagues will be mentioning them, but I would put it to the Minister that this Bill is of such enormous importance to the country and affects policy to such an extent that it would be highly desirable

in fact, I think, absolutely necessary, because of the number of amendments that are necessary to this Bill—and, Sir, that has been proved already by the considerable number of amendments that the Minister himself has put before us today—that this Bill should go to a select committee.

Sir, with that reservation about the setting up of a select committee, I would support the Bill.

Mr. MAXWELL (Trans Nzoia): Mr. Deputy Speaker, Sir, I, too, welcome the introduction of this Maize Marketing Bill, but I regret to say not entirely in its present form, despite the amendments that have been put forward by the hon. Minister. I did intend to deal with section 14, but the Minister's amendment to that particular section has necessitated the return of my sword to its scabbard. Nevertheless, there are so many amendments which are suggested by the Kenya National Farmers' Union and the Kenya Farmers' Association that I do feel it is necessary—and I strongly urge the Minister to do this—to appoint a select committee to consider the Bill and all its implications, especially the broad functions of the Board, which should be those of control, planning and advising generally. I am indeed glad to have the Minister's assurance that in no circumstances will the Board undertake the physical handling, storage, and I hope I heard him say marketing, involved.

THE MINISTER FOR AGRICULTURE, LIVESTOCK AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, I must disabuse the hon. Member. I said:—“In certain circumstances it might be necessary, but wherever possible the Board would use agents and existing marketing organizations”. The hon. Member said “in no circumstances”. I did not say that, I said: “In certain circumstances”.

Mr. MAXWELL: Sir, perhaps I did not put it quite clearly. I said: “In no circumstances would the Board do the physical handling, storage and marketing”.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, I made it clear that, whereas I believe it is possible in the great majority of areas and districts for the Board to use existing commercial and agency channels, there may be certain areas where that is not possible or where it is desirable that the Board has the freedom to use its own organization. In certain circumstances, the Board will be able to do that, but it would only be able to do that under the amendment which I propose to move, with the concurrence of the Minister.

Mr. MAXWELL: Arising out of that explanation from the Minister, it would seem that the Board does envisage, in some respects maintaining or retaining some form of maize control, if it has to do the physical handling. I would suggest that if you appoint sound agents those agents in turn would be responsible for the appointment of sub-agents in certain circumstances, who could undertake the physical handling of maize. I do not think it is part of the Board's functions in any way to undertake those responsibilities.

In view of the fact that there are no less than 20 amendments to be put forward by the organizations I have already mentioned, I do reiterate strongly that the Minister should appoint a select committee to consider the implications of this Bill.

MR. SLADE: Mr. Speaker, Sir, the need for some measure of control over the collection and distribution and storage of maize has been apparent since that committee of enquiry of 1943 to which the hon. Member referred and since the great local shortage of maize that occurred at that time. The reasons for that need have appeared very clearly from the very able historical summary that the Minister gave us in moving this Motion. But, Sir, it is, I think, common ground among all of us that all forms of control are, at the best, necessary evils, and therefore, no statutory control should ever go further than is absolutely necessary in the circumstances of the case. There are particular needs with regard to any kind of control which we must always watch. The first is to see that it permits the very minimum interference with the liberty of the subject in his ordinary way of life. Secondly, to ensure likewise the minimum interference with the freedom of an individual to us his own as he likes to use it. Thirdly, to ensure the minimum interference with ordinary channels of trade and the operation of ordinary economic laws. Fourthly, but not the least important by any means, to avoid unnecessary expense in the setting up of the control, which is bound to fall back in the end on the producer or the consumer or both.

For all those purposes, Sir, it is common ground again, I think, and clearly agreed by the Minister, that flexibility is

[Mr. Slade] an essential feature of any kind of control.

Now, Sir, I think it is agreed—and the introduction of this legislation implicitly acknowledges this—that our existing Maize Control has failed in many of these respects, at any rate in the eyes of the public. I think, Sir, the Minister is absolutely right in not blaming any officer of the Control Board for that failure. I would agree with him in his tribute to these officers. It was the set-up in which they worked, and which we have now got to try to put right because of the need to put that right. Sir, I join with others in welcoming the introduction of this legislation, but I am very anxious to ensure that it will cure the evils of the past and that it will indeed produce a new set-up and not merely repeat the old that it will meet these four considerations to which I have just referred as an essential feature of any control. It is very important that it should do so, and that we should be able to satisfy the public, that it does so. The public are naturally shy of any change, and they are naturally suspicious of replacing previous control. They are naturally suspicious, and they get even more suspicious when there is any suggestion of rush in the legislation, that will have been very clear to us in the past two or three years when we have had new legislation effecting other controls, and it is clear that today we must carry the confidence of the public with us in this matter. For that reason alone, Sir, apart from other reasons I am going to give in a moment, I support other Members on this side in urging the Minister to refer this Bill to a select committee. Sir, if a Bill is going to a select committee—if we have an assurance that it is going there—we do not want to waste the time of this Council with consideration of every possible amendment that might be made, but since there seems to be some question as to whether that wish expressed on this side of the Council will be accepted, I must go through every clause which seems to me to require amendment, to show how much there is for a select committee to do, and how impossible it will be for this Council in Committee to deal thoroughly with all the amendments that may be necessary. I should have

thought that was quite clear from the amendments already promised by the Minister himself—a formidable list to be put on paper and brought before this Council in a single day, even if all the amendments appeared at first sight acceptable to this Council and appeared to cover all the amendments needed even if not mentioned in that list. Even so, I certainly do not envy the draftsman who has to ensure that those hasty amendments, and some of them going to some depth, are going to produce in the end a Bill that is consistent in all its features. But, Sir, there are other amendments that must at least be seriously considered if not accepted by this Council, and which can only be considered by a select committee.

Sir, starting at the beginning of the Bill, clause 1, the hon. and gracious Member for Lasisi (Githu) has already referred to the title. That is an important point. On the face of it this is a Bill to deal with the marketing of maize, both its title and the long description, but we find tucked away in clause 13 that a provision that it has been made in other produce can be brought under the Board to be established by this Bill, so that it may apparently be an Ordinance that covers the control of any kind of agricultural produce. Now, if that is intended, Sir, it should be said so in the title and description of the Bill, and there should be clear provision for general control of any produce that is scheduled under the Ordinance, starting with maize in the schedule, and with power for the Minister or Governor to add to the schedule as the occasion arises. One should not have a nominal Maize Marketing Ordinance which can, by operation of a sub-section of a section be brought in for every kind of other produce you can think of. Now, as to clause 2, Sir, I support the contention which I think I heard from the hon. and gracious Member that we do not need these references to the Cereal Producers (Scheduled Areas) Board and the Nyanza Province Marketing Board. We do not need, in my submission, reference to any boards. It may well be that from time to time, as long as these Boards remain in existence, the Minister wants to consult them, but it is unnecessary and invidious to make reference to the Minister consulting any particular

[Mr. Slade] Board to the exclusion of any others. I do suggest that the definition of those two Boards in clause 2, and the references to them in many other parts of the Ordinance, should be deleted. Still in clause 2, Sir, the definition of maize as it stands would appear to include maize at any stage in its growth, from the moment the seed is formed, while still on the stalk. As far as I can see, the Bill is intended to apply to maize when it has been harvested, and it might be desirable to make that limitation in this definition. True enough, clause 15, which is one of the major operative parts of the Bill does refer only to maize vesting in the Board as soon as it has been harvested, but there are other clauses, such as clause 23 which restrict the sale of maize generally, whether standing or harvested crop. So that wants looking at, I suggest, Sir, that it wants looking at by a select committee.

With reference to clause 4, Mr. Deputy Speaker, the Minister himself has referred to representations regarding the composition of the Board, and suggestions have been made by non-Member on this side. I do suggest that this matter is one that wants a little further consideration before there is an arbitrary decision that the Bill still stands exactly as it is in this respect, particularly in regard to the size of the Board. I would urge on every occasion, Sir, and particularly on this occasion, that the smaller the Board you have, the more effective and the greater individual responsibility every Member feels, and the better value you get from it. I would have thought here, in spite of what the Minister said, it was possible to reduce the producer members to two instead of three from each of the Scheduled Areas and Non-Scheduled Areas respectively, and to have a proportionate reduction in the other non-producer members.

With reference to clause 5, I am rather startled to see that after taking all the trouble to appoint members you are going to say "goodbye" to quite a number of them in the first year. That is very unusual. I see that in the Dairy Industry Board, which was set up last year, the minimum period of service was three years, and I would suggest that that is a more rational period of service

if you want to get any value at all out of the people you are going to ask to serve on this Board, or in fact if you are going to get them to serve at all. There is an interesting reference in clause 6 to the obligation of a member of the Board to declare his interest in any contract with or work done for the Board, or rather the profits of any such contract or work. I suppose one of the most likely interests of a producer member, anyhow, would be in the maize that he is producing and selling to the Board, but it so happens that he will not be doing it under contract. He will be doing it under compulsory sale, and so unless this clause is amended he will not have to declare his interest in any activity of the Board affecting his maize. I suggest that it requires amendment.

Clause 11, Sir, is, I think, very unusual. It means in effect that although you are setting up a Board you are inviting a dictatorship of one man, to provide that at any time the Board is not meeting, the powers of the Board shall, subject to any directions of the Board, be exercisable in the name of the Chairman. That, I suggest, Mr. Deputy Speaker, is a very dangerous provision indeed. One hears quite enough, I think of Boards being "led by the nose" by Chairmen who are much more than Chairmen and regard themselves as Managing Directors and everything else except in name, but if you expressly allow a Chairman to exercise the powers of the Board, there is not much responsibility left to that Board. I understand that there may be occasions when you need urgent action and you cannot convene the Board. That happens with almost any Board, but the answer usually found to that sort of situation is provisions for an Executive Committee which is empowered to take urgent action, and on whose advice the Chairman can take such action. I suggest that is required here.

Clause 13, Sir, is, of course, an important clause describing the functions of the Board. The interesting feature is that sub-clause 1 describes the "primary" functions of the Board when nowhere in the Bill is there any description of its "secondary" functions. It has no other functions at all. If there are really the only functions we had better say so. If there are other functions tucked away, we had better say so. The corresponding

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clause of the Dairy Bill just gives "the functions" of the Board. I think the original draft did provide for "primary and secondary functions", but we eventually came down to plain "functions". I agree, Sir, subject to that criticism of "primary" functions—I agree that the functions described in clause 13 seems to be a very good statement of what is going to be required of this Board, provided that it is clearly understood, as has been emphasized by others, that this is over all regulation control, etc., and not the detailed handling by the Board of supplies. I do not agree, Sir, with hon. Members who suggest that the functions should be merely advisory. If you are going to have a Board of this kind, I do think you want to give them some executive authority. We have that precedent with several other control boards established recently. But if it was accepted that this Board was to be only advisory, or if it is a matter that should be considered by the Council, and it has been expressed quite strongly, that indeed is a matter for a select committee because it involves the whole shape of the Bill. The Bill provides at present that all maize is to be vested in the Board, but if the Board is advisory only you cannot have that—it has to be vested in somebody else. So that if this is a matter which is to be considered at all, it can only be considered in select committee, because of its many implications. It would not be possible for us to discuss it at all in a Committee of the Council. Coming to clause 13 (3), Sir, I would again point out that if you want to have this kind of provision I would suggest that you have a general Bill referring to scheduled crops with maize as the first item of the schedule, and power for the Minister or some other authority to add to the schedule.

Clause 14, Sir. It is very satisfactory to hear of the amendment the Minister proposes to make. It goes a long way, I think, to clarify at any rate the intention of this Bill, that we are not to have another Maize Control Board as it now stands. I do not think it goes the whole way, but it is worth a good deal. I think we may find, Sir—I may be wrong—but I think we may find that incidentally it will necessitate quite a lot of other amendments of the Bill. Another reason

for being a little anxious about slipping through an amendment of this kind in a Committee of this Council.

Clause 15 is, perhaps, the most vital of all in the Bill because it goes right to the root of the form of control.

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

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

This provides for the most extreme form you can have, that is the actual vesting of all maize from the moment it is harvested in the Board. If hon. Members will cast their minds back to the Dairy Bill which was debated just a year ago, they will remember that there the Bill provided for the possibility of various stages of control, starting from the very mildest of fixing standards and prices down to—along to a more drastic measure of directing distribution, canalizing produce, and right at the end the power for dairy produce to be vested in the Control Board.

But that power will need to be exercised with the consent of the Governor in Council after hearing representations, and it was regarded as an extreme and drastic power only to be used in the very last resort. There, Sir, I refer to what was clause 23 of the Bill. I am not quite certain whether it was the same section in the ultimate law, but the same provision was retained. Now, that being so, Sir, the question arises of whether this extreme form of control is really necessary with regard to maize, because if it is not we must have the mildest kind of control that circumstances allow. I would suggest, Sir, for very serious consideration, that you do not want to go to the extent of seizing ownership of every grade of maize the moment it is harvested. In fact you do not want to control any maize until it actually leaves the producer's farm. It cannot matter, I suggest, to the country at large what happens to a farmer's maize as long as it stays in his own farm, for whatever reason it stays there. Once it leaves his farm we may want to canalize it, decide where it is to go, and at what price. But even so, have you got to take possession of it, have you got to own it? Would it not be enough, as the

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Dairy Industry Ordinance provides, simply to have power to direct the maize from farm to specified purchasers? I suggest that it would. It is certainly a matter that I for one would like to consider, with others, in Select Committee before accepting this extreme form of control, which was so carefully guarded against in the Dairy Industry Bill and which may not really be necessary under this Bill. But it cuts right down into the heart of the Bill. We cannot accept this Bill, even on a Second Reading, without being satisfied that that form of control is necessary and right, or that a Select Committee is going to be satisfied.

Now, Sir, still on clause 15, I should like to refer for a moment to sub-clause (a). The Minister referred to it also and he said that he was going to introduce an amendment—a very necessary amendment—to define who does "harvest maize" within the meaning of the Bill. He suggested that failure of that person to comply with the requirements of subsection (2) upon justifiable grounds was protected by the word "unreasonably".

Any person who harvests maize and who unreasonably refuses or fails to comply. . . . I would suggest in that respect, Mr. Speaker, that the word "unreasonably" is the worst possible word to use for a purpose of this kind. To begin with a man might have very good reason for not wanting to comply with the law, but yet he has got to comply with the law, and it should not be any excuse for not doing so. Again, Sir, judges, I know have said often enough that they hate being asked what is reasonable and what is unreasonable, as opposed to what is the law. It is putting an unfair burden of discretion on them. What should appear here I would suggest, Sir, is something more like "lawful excuse", but not this word "unreasonably".

Sub-clause (4) is one which the Minister touched on with regard to insurance. I do not think he went far enough. This sub-clause as it stands does provide for the cost of storage, but it does not provide—I can find no provision anywhere in the Bill—as to who carries the risk of loss until the Board takes delivery. That is a matter that goes beyond the mere question of insurance, compulsory or otherwise. The Minister said

that he thought the compulsory insurance was a matter for the agents to arrange with those producers who they had lent money to. But that is only one aspect. There may be a producer who has not borrowed money from anybody, but who has to keep the maize on his farm for a very long time. Whose risk is it then? Who suffers the loss if it is stolen or burnt while it is still on his farm, much as he would like to have sent it off to the Control Board many months previously? That, I suggest, is the sort of thing which a Select Committee has got to think about, but it is not the sort of thing which this Council can decide on easily on a slip of paper in Committee in one day.

Sir, regarding sub-clause (6) of clause 15, there are certain exemptions. There is one exemption which I should like to see there. I do not see it there, although it is possibly contemplated by a later clause, namely clause 20. That is what is known as "farm to farm" sales of maize. That is a very important side of the dealing with maize which we must provide for. It was provided for under the existing law within rather strict limits, and it must still be possible. That concerns a direct sale from farmer to farmer for farm purposes. As, however, I suspect that clause 20 is intended to cover that, I will refer to it again there.

There is another point on sub-clause (6) (b) of clause 15 where the maize is sold or bartered by an African in a native area in the district in which it was grown. What I would suggest there, Sir, is that the exemption here should not be based on purely racial discrimination of that kind, but should be related to non-scheduled areas. That is not a racial distinction. It is a distinction in degrees of responsibility. If and when any native area is sufficiently highly developed in its methods of farming to come within the scheduled areas, I would suggest it should also come out of these exemptions and under the same restrictions as any other farmer in the scheduled areas.

There is another point, still under sub-clause (6), and that is paragraph (a), "(6) Nothing in this section shall apply to maize—(a) consumed or intended for consumption by the producer, his family or servants, or any resident labourers . . . and so on unless there is an advance outstanding. It is rather startling,

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Mr. Speaker that the farmer cannot use on his own farm even for his own food, a crop he has grown, because somebody has claimed an advance, or indeed anything else. I would like to be assured, if we are going to accept this particular paragraph, that that is the present legal position under the law as it now stands. There is this restriction on the farmer using maize grown by himself for his own food or for his servants, in the event of an advance being outstanding. If there is, then I do not think we can complain: if there is not—if this law is going further—then it is a matter for protest.

Clause 16, Sir, is going to be amended, and I was glad to hear from the Minister of the amendments he is going to make to that clause. They are obviously necessary.

There is a further provision that I would like to suggest. It should come in somewhere about clause 16, although it is not directly related to clause 16, it is parallel. Under clause 16 you have the principle that the farmer is to be treated as a kind of corporate representative of his labourers. The Board will deal with him as a producer, and him alone. Now, Sir, I suggest that it might be very easy, and useful for the simplification of the work of the Board, if the Control Board was allowed to bring in certain other parties in the same sort of way, as corporate producers—take the Nyanza Province Marketing Board itself, if the Control Board could deal with that Board as a producer, and not be concerned with all the hundreds of small producers who supply that Marketing Board, it might be very much more convenient for all concerned. It is only a suggestion for smoothing the course of the Control Board. It is not always that a Board will exercise a power just because it has it, but I suggest that that would be a very desirable power.

With regard to clause 17, Sir, I would suggest a fairly obvious amendment. It is concerned with increased transport costs due to the producer being required to deliver to a greater distance than his nearest loading point. The Board is going to add to the price that he receives, in respect of those extra transport costs, unless the producer has failed to comply with an earlier direction to deliver to his

nearest loading point. The amendment I want to suggest, Sir, is with reference to the word "failure". The passage should read, "... unless the requirement was imposed owing to that person's excusable failure to comply with an earlier direction. . . . the point being of course that there may be failure due to impassable roads or other matters beyond the producer's control, which should not deprive him of the right to extra transport costs.

Clause 18 is a very important clause, and it is complementary to the clause 15, by giving the Board power to pay for the maize. There are two features on which I want to touch. Sub-clause (2) apparently contemplates quotas, not for the purpose of restricting production—and there I agree wholeheartedly with the Minister that you should never introduce quotas to restrict production. This kind of quota is a quota designed to give the producer a share of the high price markets, which I agree is a good kind of quota. What worries me here is that quotas are going to be fixed by areas. I cannot find here or anywhere else how, when you have a quota for an area in respect of the high-priced maize you are going to apportion it between the farmers in that area. You have got to do it somehow, surely. I suggest that is the sort of thing we should ask the select committee to decide on.

Then, Sir, we come to sub-clause (4)—the disposal of the surplus, the disposal of maize in excess of the high-priced local market. There I do suggest that one of the best ways of disposing of such surplus maize may be by way of a pool—which has certainly been found to be the case in the dairy industry. At any rate it is essential that the Board should have power to dispose of this surplus maize in that way. Instead of fixing a firm secondary price. It is an alternative power that the Board may or may not use, but it must have that power. If it is to have that power it will take quite a lot of drafting, I suggest, to make the right provision to give it that power.

There is a small worry in this clause which I think should be cleared up; namely to ensure that any person who has a charge by way of mortgage or otherwise is protected, and that he is the person who is entitled to the payment, up to the amount owing to him.

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Clause 19, (I must apologize, Sir, for going on and on through these clauses. This is just to show that we really do need a select committee.) Clause 19 points again to the importance of using agents, and the difficult position you may get into in any case if the Board operates direct without the use of an agent. This is referring to the power to repay agricultural advances and the Guaranteed Minimum Return. Now, Sir, there are other advances that agents make against crops. They are made by the agents, and if the crop is not going to come into the hands of the agents, Sir, how are they going to make advances? It is very important, Sir, from the point of view of the whole of the financing of crop production, that all crops, I suggest, should come through the hands of agents.

Now, coming to clause 20, Mr. Speaker, I believe that in some respects it is too wide and in some respects it is too narrow. It is too narrow from the point of view of the matter to which I referred earlier, and that is the sales from farm to farm, because as it stands it only enables the Minister to authorize direct sales within a specified area, whereas there may be a case to authorize a direct sale by a farmer in one area to a farmer in another area. That has actually been done, I think I am right in saying; particularly during the Emergency, when it was very difficult for people to grow maize in some of the more troubled areas. They may need to do that again, Sir, but it is not possible, under this clause as it stands, for a direct sale to be authorized from one area to another. On the other hand I suggest that the clause is much too wide and general in its operation within the specified area, because it enables the Board with the Minister's authority to direct that any maize grown in a specified area may be sold by producers generally to such person or persons, in such quantity at such price, and subject to such conditions . . . as the Board may declare, which in effect could put that whole area outside the operation of this control. That is too wide. At any rate, Sir, I would suggest that it is not really a power needed at all, especially in such wide terms.

With regard to clause 21, Sir, the Minister is proposing an amendment which will meet the points I was going

to make. I understand that by his amendment the producer of rejected produce will be allowed to dispose of that maize in a way approved by the Board, or not dispose of it at all—he can keep it if he likes. There will be no question of prosecuting him for not disposing of it in one certain way. I will say no more about that clause except that, as it stood it was very peculiar; because it said that the maize might be sold or disposed of in such manner as the Board directed, and then subjected the producer to a penalty if he did not so dispose, thereby giving him in effect no option.

Clause 26, Sir—I believe that the Minister is meeting the point now, that he must observe some right of directing exports, particularly where exports are involved in any interterritorial agreement.

I have another point on clause 26 and that is with regard to the penalty under sub-clause (3). I would have thought that illegal importation of maize was one of the biggest offences that could occur under this Ordinance. There is quite a substantial fine there of Sh. 20,000 but there is no alternative of imprisonment, whereas in other smaller matters, I think, there is an alternative of 'two years' imprisonment to a fine. I would ask for that to be a possible punishment in this case.

Clause 27 (1), Sir, again produces a difficulty, where you find that the Board may reject an application for a milling licence or registration of a mill, without assigning any reason therefor. I do suggest, Sir, that that is not a very good thing. There are times when you have to allow the Government to throw its weight about without assigning any reason, for instance on grounds of security, but why should not the Board give a reason for saying to a man that he cannot have a *posho* mill? I do suggest, Sir, that this kind of provision should never be entertained without very good reasons; and that there is no reason in this case. But I would point out also, Sir, that it is completely inconsistent with clause 47 (e) as it now stands because clause 47 (e) as it now stands (and as I understand it, the Minister intends to leave it) means that any person aggrieved by any refusal by the Board to register him may appeal to the Minister. How on earth is this poor

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man to appeal to the Minister if he does not know the reason why he has been turned down, or the grounds against him? What material has he on which to appeal? The appeal is completely illusory in any such case.

Clause 30 (2) provides for the disposal of any excess of revenue of the Board. It provides that they shall be applied by the Board in such manner as the Minister after consultation with the Board may direct. I do suggest, Sir, that since these revenues will come out of the disposal of maize or cess levied on the proceeds of maize, or on the producers of the maize, the application of these excess revenues must be restricted to the people who produce them, for their benefit—that is to say, Sir, the producers. I suggest, Sir, that the power of the Board to apply these excess revenues should be restricted in application in such a manner as to benefit the producer, and certainly not in a manner to benefit, for instance, the Minister. The Minister thought it was necessary that there should be alternative provision to use it to benefit consumers. That might be considered by the select committee. But it has got to be restricted in some way so that it does not go outside those who are really concerned.

Clause 33, Sir, raises a very serious issue. It is again one which could only be handled by a select committee, and that is the right of producers to criticize publicly and call for explanations: that the Board should be directly answerable on a platform to the producers. Now, Sir, in the Dairy Control Bill, which seems to be parallel to this, there was express provision for meetings of producers. I do suggest that there should be similar provision in this Bill. I cannot see any reason for differentiation just because it is maize and not dairy produce. After all, Sir, clause 33 requires the Board to produce accounts, and those accounts will concern the handling of the maize and the cess on the producer. There must be the opportunity for the producer to say, "I do not like those accounts", and, Sir, "I do not like the way you are handling my maize. I do not like the way you are disposing of the profit you make on the sale of my maize. I do not like the way

you are wasting tax which you are levying on me from the proceeds of this maize." I do suggest, Sir, that such provision must be in this Bill, just as it was in the Dairy Bill.

With regard to clause 34, sub-clause (2), there is power for the Board to deal with the Fund in various ways. I would suggest, Sir, that there is another way in which the Board should be empowered to deal with this, and that is the creation of a separate fund to subsidize exports, and to subsidize the price paid for exported maize—in other words, Sir, if on the sale of maize in general the Board had made more profit than it expected, then it would be desirable for the Board to set aside part of that profit into a special fund with which to pay a higher price later on to the producer himself so as to encourage people to produce a bit beyond the exact margin of what the country needs locally, and it is necessary that the Board should have power to do that. Power should be given for that particular purpose.

Part VIII, Sir—the Minister has, and quite rightly, anticipated a good deal of public anxiety. I need only refer to one or two of the clauses there—clause 38 (1), which enables entry of premises without warrant for all kinds of purposes; and clause 39 (1), which enables vehicles to be detained on suspicion by a number of officers; clause 41, which enables people to be arrested without warrant by various officers for all kinds of reasons; clause 42, which places the onus of proof on somebody other than the prosecutor; and clause 44, which makes principals answerable criminally for the actions of their servants, unless they prove that they did not agree and took all reasonable steps to prevent commission.

Now, Mr. Speaker, those are nasty powers of interference which may be necessary—which the Minister suggests are necessary—to make this control effective; but it takes a lot to persuade the public, let alone Members of this Council, that such is the case, and we must all be quite firmly persuaded that these measures are necessary before we accept them.

I should like to have heard something more specific from the Minister than we

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have heard today as to why such drastic powers are needed, and I suggest that the place for that is a select committee.

Clause 47—it is very satisfactory to hear from the Minister that we are now going to see the Agricultural Appeals Tribunal brought into play here, too, and I welcome the amendments that he proposes.

Clause 52 deals with assets and provides, by sub-clause (2) (a), that "all the property, assets, rights and liabilities, and the benefit and burden of all contracts, of the Maize Controller" shall be vested in the Board, but I wanted to enquire what assets that actually covers. Is it really the case that all the stores and offices—everything now used by the Maize Control—are vested in the Maize Controller personally? It is very surprising it is so, but if it is so or not, we have got to go further and provide here that all these assets and stores that have been used for the purpose of maize control, whether owned by the Maize Controller or somebody else, will now pass over to this Board.

There is also the question of liabilities. I suppose there are some liabilities outstanding which the Maize Controller has contracted, either charged on his assets or otherwise—should they not be passed over to the new Board? If not, what is going to be charged them? We do not want them as a charge on general funds.

That is the end of my questions, Mr. Speaker. I am sure other Members still have other points to raise on this Bill. I would suggest that that long list shows quite clearly the need for the select committee here. These amendments—even those proposed by the Minister—are too numerous and too involved to be coped with by the ordinary Council in Committee. If one is going to discuss questions like whether or not something should be vested in the Board, whether or not there should be individual quotas within areas, how you are going to set up pools and what kind of producers' conferences you ought to have, we cannot do that otherwise than by select committee.

There is another aspect, and that is the need for us on this side of Council to hear the public. The Minister has said that he has been in consultation with the public for over some two years,

and with various interested bodies of all kinds. I am sure he has—I know the trouble he has taken in this matter—but it is not quite enough, Sir, that he alone should hear what interested members of the public have to say. We must hear, too. We have heard enough to make us feel sure that a select committee is necessary. I am sure there are a lot more people the Minister has heard than we have ever heard, and someone in the select committee should hear them before we are satisfied that this Bill, as it stands, should become law.

So, Mr. Speaker, while welcoming the intentions behind this legislation, I shall not feel disposed to support this Second Reading unless I am assured that the Bill will be referred to a select committee.

MR. NOOME (Specially Elected Member): Mr. Speaker, I should like first to congratulate the hon. Minister for his wisdom in producing this Bill.

At the same time there is one point on which I want to make a correction or explanation. I have just heard my learned friend, the Specially Elected Member, saying about maize that it is a food only for Africans, and I would like to explain that no good farmer in this country can run his farm properly unless he has some labourers, and in keeping labourers he must have a certain amount of maize or maize meal. That is not disputed. For that reason, maize is an important food for all races in this country.

I would also comment on my hon. friend, the Specially Elected Member's speech, and I would regard it as a "Sermon on the Mount" in the way he explained or criticized the Bill.

I would support the Bill on the condition that it is referred to this select committee and I reserve my support, Mr. Speaker.

MAJOR DAY: Mr. Speaker, Sir, I should like strongly to endorse the comments of my colleagues who have previously spoken, and of the last two speakers also. It would appear to me, Sir, that one should say at this stage that the Minister has made many amendments which I think will go a long way towards meeting the criticisms which have been held in reserve.

[Major Day]

Nevertheless, I would like to stress one or two points, in particular the point, Sir, about the multiplicity of the boards in this country in so far as the agricultural industry is concerned. It appears to me, Sir, that there must be an endeavour made—and, indeed, it may well be that that endeavour is contemplated—to see that the industry is somehow synchronized—streamlined—so that all branches of the industry can be dealt with by one all-embracing board.

There were one or two points on which I was not entirely clear, Sir. The first one was this: I should like the Minister to explain quite definitely whether the quota system has been completely abandoned. I share and welcome his remarks in connexion with the quota system redounding to the economic—almost, I might say, the economic impossibility of farming when it comes to new settlers who would, of course, not receive a quota or such a small quota that it would be useless for them to grow maize. It may be that I have not grasped the Minister's point.

Another point, Sir, that I would be grateful if the Minister would answer is this—most of these points have already been raised, I know, but I would like some explanation—in all other agricultural industries in this country the boards are answerable yearly to an annual conference where local representatives of various districts attend. I cannot see why, in this particular Board, the same procedure should not be adopted as it is at present adopted in the Coffee Board, the Pyrethrum Board and, I think, the Pig Board. It may well be—and I hope it will be—that the Minister will see no objection in considering this.

Taken generally, Sir, I am not entirely clear either as to what the Minister meant by flexibility. I take it that Maize Control is to be abolished, and yet, at times, one wonders whether it is going to be abolished *in toto*. Perhaps, again, that could be clarified.

I should like to say finally, Sir, that I support without any hesitation the remarks made by the hon. Specially Elected Member in regard to the point on entry and other points which it was thought necessary to embody so as to ensure, I gather, that black market is

made well nigh impossible. I feel, Sir, that as the Minister has, I believe, made some concessions, he might well go further in this matter. That is a feeling, I think, among all races on this point.

I would finally, Sir, say I support this Bill. I should like to congratulate the Minister on what he has done in the way of amendments so far without any pressure exerted on him. I should also like to say, Sir, that I think it is abundantly clear from remarks by the Specially Elected Member, who went into it all at great length, that there may be many points, possibly even legal points, which make it imperative that we should have a select committee. I hope the Minister will agree to that.

I beg to support.

COMDR. GOORD (Nominated Member):

Mr. Speaker, I should like to support the many farmer Members who have spoken in favour of not specifying by name certain Boards in this Bill. There is a very strong feeling among farmers today that we are over-boarded and that the industry must be streamlined, and here it does seem that by not making this specific reference the way would be clear for the elimination, at least, of the Cereal Producers Board, in fact, of the life of me see what justification there is for the retention of this Board once the new Board is in being. It is an expense and a complication; it is just one more of the many satellites that revolve round the Minister.

Turning, Sir, to the suggestion by the hon. and gracious Member for the Usasin Gihlu, that the Minister should consult producer organizations on the appointment of a chairman, I could not agree that this is logical. This is not a producers' board and it would undoubtedly give rise to a great deal of dissatisfaction in other quarters.

The hon. and gracious lady also suggested that the powers of direction under clause 13 (2) were unnecessary and, indeed, undesirable, but I would suggest, Sir, that experience—and an example is perhaps in the operation of the Transport Licensing Ordinance—experience does show that the Minister should have overriding powers of direction, because he is the only person who can assess the national interest. A board of this nature

[Comdr. Goord]

cannot, in the nature of things, see the whole picture. The Minister can.

The hon. and learned Specially Elected Member referred specifically to quotas under clause 18 (3); that is, the allocation of quotas to individuals. I should like to say, Sir, that as a farmer I have been extremely worried recently on proposals which were made for a quota scheme, and I would be very unhappy, enabled proposals such as were brought forward, actually to come into being. They were extremely inequitable and I would like to ask the Minister for some assurance, not only on the subject of the right of individual appeal—to which he has agreed—but also that he would not approve a scheme unless he was thoroughly satisfied that it was a scheme that, in general, would be equitable.

Now I have a small further point, Sir, on clause 16—two points, in fact. Clause 16 (1) says that every resident labourer harvesting maize on his own account shall sell it only to the occupier. I would suggest, Sir, that there is a certain amount of ambiguity there, in that it could possibly imply that he must sell all the maize that he grows, and I would suggest possibly the substitution of the word "may" for the word "shall"—"may sell it only to the occupier".

The other point that arises in this subsection, Sir, is also in connexion with quotas, and that is the situation that might arise if we had a quota system with two prices, and the secondary price of maize was below the price for squatter maize. In that case the farmer who was producing a surplus over and above that for which he would receive the higher price would obviously be extremely reluctant to buy squatter maize at a higher price than that which he was going to get for his own maize.

I beg to support.

LOLD PORTSMOUTH: Mr. Speaker, Sir, I do not propose to spend many minutes of this House's time because in certain instances the Minister himself—in a speech described by the gracious lady speaking after him as brilliant, and I would not only say "brilliant," but extend it to that more difficult thing to visualize, which is a pack of hounds in full cry

after a brickbat—he was particularly lucid.

Now, Sir, I would like very much to endorse what my hon. friend, the ex-Member from the Aberdares, now Specially Elected Member, has said in general on the Bill. He has drawn, Sir, a great many criticisms, which I would otherwise have made myself, and said them much better.

I think a good deal that has been said by Commander Goord, the hon. Nominated Member who has just sat down, shows the need for really seriously going through the Bill as it now stands and with the suggested amendments of the Minister with a toothcomb and with great care and long thought.

Sir, I was going to have spoken at some length on Part VIII, but the Minister has himself dealt with some of the criticisms I would have made, and again on clause 47, but, Sir, I do think that it is vital that we should comb this Bill right through, for it is so easy, with so few lawyers in the House—(cries of "No") who can give time to go into the implications of the Bill, that it is in my view vital that we have a select committee.

MRS. SHAW: Mr. Speaker, I should like to join the hon. Members who congratulated the Minister on the extremely able way in which he introduced this Bill. I welcome the Bill, but do not welcome his statement that he is not going to grant the request of hon. Members that this Bill should go to select committee.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): With due respect, the hon. Member must not make these allegations. I have made no such statement. I must ask the hon. and gracious lady to withdraw.

MRS. SHAW: I do withdraw with pleasure, Mr. Speaker, and I am delighted to hear he has relented.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): The hon. Member should be more careful. I have not relented over any impression I created. I only corrected the hon. and gracious lady in a gross mistake.

MRS. SHAW: Well, I hope he is going to give consideration to the special pleading by my hon. and learned friend,

[Mr. Shaw] who has shown by his very careful and detailed examination of the Bill *in toto* how very necessary it was that it should go to select committee, because every clause seemed to need amendment in one way or another.

I have only one or two points to make and the first is on clause 21. I would like the Minister just to interpret for me when he replies, because either I cannot understand the Queen's English or else there is a misprint, because it seems to be a flat contradiction in this clause, where it says: "issue to the person who delivered the maize a certificate of final rejection, and thereupon such maize shall no longer be vested in the Board and may be sold or otherwise disposed of in such manner as the Board shall direct". I would have thought if it was no longer vested in the Board that the Board had no jurisdiction over its disposal, but it may be due to my lack of understanding of English, but I would like him to elucidate that for me.

The second point is that touched on by the hon. and gracious lady representing Usun Gishu and many others, and that is the clause on appeal to the Minister—Clause 47—which will prevent a repetition of the very serious situation which nearly occurred recently when the Cereal Producers Board very nearly enforced or was able to enforce an individual quota system in a most arbitrary manner under the Agricultural Ordinance, against what was proved to be, after a referendum, the wishes of over 80 per cent of the farming community of this Colony. This clause safeguards, I hope, the farmer against this sort of action.

I was also delighted to hear the Minister speak so strongly against the introduction of an individual quota system, Mr. Speaker, and say how very unfairly it would operate on a certain class of farmer and a very important class for the future of this Colony, and that is the new farmer. For if the young farmer (today), coming to this Colony, or the young settler has the courage to embark on farming as a career—individual farming—I think he should have every help and encouragement. For to do so today, with the high cost of production, is a very courageous venture. The costs

are almost prohibitive and almost always restrictive, and the new farmer usually finds himself short of capital, and sometimes—in fact often—the only way he can overcome his shortage of capital for the development of his farm, and the increase of livestock, or necessary machinery and water system, is by growing, for a period of years in quite a big way, a crop such as maize which will yield a quick return. When this quota system was introduced many of these young farmers found themselves faced with a very serious financial condition, if not faced with bankruptcy, because some of them had bought expensive machinery for this purpose, others had leased land for a period of years with this object, and they would have been in very serious difficulties had this quota system been introduced.

My last question, Mr. Speaker—at the end of the Memorandum of Objects and Reasons it states: "15. It is not expected that any additional expenditure of public moneys will be incurred by reason of enacting this Bill". So it might be wondered if, after the Minister's very graceful tributes to the Maize Control, if that merely meant the Maize Control were actually departing or merely staying in their same offices and changing their hats.

I beg to support, with no reservation.

Mr. ZAFRUD DEEN (West Electoral Area): Mr. Speaker, Sir, while I do not claim to speak for the absent Members of these benches, a few of the points I am going to make I am sure if they had been here they would have done so, and I would ask the hon. Minister carefully to note some of the observations which I am going to make.

Sir, first of all I join with the hon. Minister in paying tribute to the Maize Control, who I am sure and I know through my personal knowledge have done well, although Maize Control at no time had anything to do with the price of maize in this country. That was the main criticism always levelled against Maize Control, but the policy of fixing prices was beyond the control of Maize Control.

Sir, I know that I will be taken to task by the hon. Minister, but this is the opportune time for me to make this point.

[Mr. Zafrud Deen]—that where the question of making appeals comes in, the hon. Minister has assured us that he will look into those appeals; but, Sir, I think that wider opportunities should be given to those who are dissatisfied with the decisions. It has sometimes been noticed by several members of the public that decisions made by the officers of the particular Minister are always upheld. Therefore I think there should be some other men than the Minister—somebody else who should also be asked to look into cases, for instance when registration has been refused and other requests turned down.

With regard to the composition of the Board, it is most essential that the interests of the milling and trading communities should be kept in view. The hon. Minister has said that the interests of the commercial community would be kept in view, but I think that it is the milling industry whose interests cannot be neglected. These are the people who have played a very important role in the maize organization in this country for many, many years and this is a fact which has to be taken into account when co-opting members.

Sir, there is another point with regard to the free trade and the export of maize from this country. Some of these people have mentioned that certain registered firms will be asked to undertake the export of maize; whenever such an occasion arises, from the country. It is suggested that whenever there is surplus maize to be exported, public tenders should be called for and those people who are able to offer the best terms should be given the opportunity of exporting.

Sir, there is the point which I made some time ago, that the majority of the Asian community in the African reserves, particularly in the African reserves, who have dealt in maize as middlemen for a considerable time, for as long as 50 years, should be given a free hand as they have been in the past. Here, Sir, I would take the opportunity or reading out from the Royal Commission Report where it deals with the trading system in this country. It says that "it is efficient and attuned to changes, to world demand and supply, and to the prices which are registered in the world market. It is generally effective and enterprising and would be much

more so if it could be released from many of the restrictions to which it has been subjected".

Sir, I am not wrong in saying that the hon. Minister has supported the recommendations of the Royal Commission Report from time to time in his public statements and this is a very important recommendation which has been made, so as to allow all those interests which have traded, not only the maize organization, but several other trading systems in this country, to continue the businesses and the living they have made. They have contributed, in so doing, towards the progress and the welfare of this country. Sir, this is a very important factor and I would request the hon. Minister, when replying, to assure us that there will in no way be any interference with the present system of trading in the country.

Sir, the other important point is that according to this Bill the onus of proving the illegal storage, buying or selling of maize rests with the person who is going to be prosecuted. I think according to what we understand as British justice it is always the prosecution which proves the guilt of the person concerned. Therefore I consider there must be some adjustment of this.

Before concluding, I would like also to say that if retail trade is allowed, the price of maize will adjust itself, it will find its own level. At present it is the view—and I think it is a very well thought of view—of a very large section of the commercial community of this country that one of the reasons for the present uneconomic situation in which we find ourselves is that the price of maize has for a very long time been much higher than the prices in the neighbouring territories and in the world market generally. I am sure that no one in this country wishes to perpetuate those conditions. The prices will have to find their own level. There will be fluctuations and if there is any fear that in the case of emergency or famine there will be no maize in the country, then the only guarantee could be that a certain quantity of maize should be stored to meet such eventualities.

Lastly, Sir, I think it is the public demand; most of the people I have come across have made this point: that before the final decisions are made a select committee should be appointed which will

[Mr. Zafrud Deen] be advised by all the interests in the country. I am sure the legislation will then have the support and blessing of the general public and Members of this House. I hope that the hon. Minister will seriously consider this request which has been made by several hon. Members on this side.

AIR COMMODORE HOWARD-WILLIAMS (Nairobi North): Mr. Speaker, Sir, I have only a few points to make. I think that this is a Bill which will become a good Bill from possibly being a bad one if it brings down the price of maize and *posho*. I suggest, Sir, with the Noble Earl, the Corporate Member, that it does need combing very carefully indeed, and that perhaps the best way of doing that is through a select committee.

I have got one or two other points to make, Sir. Firstly, I do trust that it is not going to perpetuate Maize Control which, for all the compliments that have been paid, got rather a bad name over maize.

Finally, I would like to make the point, that there does not seem to me to be any real need to store vast quantities of maize, either for our security or for any other reason when we can buy it at the coast for Sh. 15 a bag off the ships.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): On a point of order, Sir, I do feel the hon. Member must be responsible for the accuracy of his statements. It is quite impossible to buy maize at Sh. 15 a bag off a ship at Mombasa. I would not have interrupted but I think it is so outrageous a statement that I must correct it now.

AIR COMMODORE HOWARD-WILLIAMS: I would like to thank the Minister for that correction of my statement. All I can say, Sir, is that I saw that price quoted. It is quite possible I may be wrong, or I may have seen it some time ago. But the Minister will perhaps look himself. Anyhow it can be bought very much more cheaply at the coast at a world price than it can be at present produced here. I am sorry, if I am wrong, I will be very pleased to apologise to the Minister, but I want to be proved wrong before I do so.

That is all I have to say, Sir.

Mr. Webb (Acting Solicitor-General): Mr. Speaker, Sir, we have listened this afternoon to what I can only describe, if he will, forgive me, as a torrent of verbiage from my hon. and learned friend, the Specially Elected Member, Mr. Slade, and I should not like hon. Members to think, that, because he picks a lot of holes in a long Bill, we accept that there are, in fact any holes there. My own Minister has indicated a number of points on which he would propose amendments resulting from representations which had been made to him during the 40 days the Bill has been published, but the smoke screen which my hon. and learned friend has raised this afternoon is by no means as impenetrable as he would have hon. Members believe. I venture to suggest, Sir, that it is hardly accurate to suggest that these matters could not perfectly well be thrashed out on the Floor of this House. Very much more complicated matters are dealt with in the House of Commons in Committee of the whole House than a simple little Bill to deal with maize.

I do not propose, Sir, to go through all the points which he raised in connexion with this Bill. They do not deserve it, Sir! But I might advert to one or two points which he has mentioned. He suggested, for instance, that clause 11, which is the clause which gives powers to the chairman to act when the Board is not actually in session, was unusual. I venture to suggest to him that it is by no means unusual and that there are a number of precedents which this follows, not least that which is referred to. . . . I beg your pardon, it is new in this Bill.

The hon. Member also took exception to clause 15 and the vesting of maize in the Board and suggested that this was a very stringent form of control. He compared it with the provisions which had been made in the Dairy Industry Ordinance last year. Surely, Sir, the circumstances are entirely different. In the first place, dairy produce is something which has to be disposed of comparatively quickly whereas maize has considerable lasting qualities. But perhaps the most important point is the fact that dairy produce is not the subject of the same financial considerations as apply to maize, in the sense that it has not got

[Mr. Webb] the same advances in the form of guaranteed minimum returns and the like attached to it. There is therefore far less reason to vest dairy produce in, say, the Dairy Board.

On the same clause, Mr. Speaker, with reference to sub-section (6), my hon. friend referred to the fact that the clause would not apply as long as any amount was outstanding on account of an advance made to a producer under the Agriculture Ordinance, 1955. But, of course, the fact is that in nearly every case that is the case, and that section 125 of the Agriculture Ordinance in particular attaches to any standing crops, in respect of which an advance has been made, what is, in effect, a chattels transfer. In fact, the Board of Agriculture can register a chattels transfer against all standing crops the moment the G.M.R. or any other advance is made.

The next point I would draw attention to in relation to my hon. friend is Part VIII—the powers of investigation and so forth. These may well be on paper severe, but we are dealing here, as my hon. friend, the Minister, said in moving the Second Reading of this Bill, with what may be a vital crop in the economy of this country, and more particularly, of course, in feeding the population of this country; and if, therefore, there is any attempt to avoid any of the controls which the Board may see fit to impose, a very serious danger may be run, or perhaps a catastrophe.

The hon. Member will remember that, when we were discussing the Dairy Bill, people pointed out how serious it would be if there were a calculated evasion of the control that might be imposed by the Dairy Board, but how much more serious might that be in a matter like this which concerns the stomachs of so many millions of our inhabitants. I would point out in passing, too, to my hon. friend that all these provisions conform to every form of restriction which has been put upon our drafting by those in authority above us, and I think, with the amendments which I think my hon. friend the Minister has proposed, they really cannot be regarded as exceptional in dealing with a matter of this importance.

Finally, Sir, my hon. friend referred to the property, assets, liabilities and so on of the Maize Controller. The Maize Controller is, legally speaking, in rather a curious position. He is not quite in law a corporation sole and yet all the property of the Controller vests in him, the liabilities included, and therefore, they will all be transferred to the new Maize Board. I think that is all I need to say in suggesting to the House, that not all that my hon. friend has said is necessarily true, or that we accept, to quote another hon. Member, that this is a bad Bill.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): Before calling on the next speaker I would suggest that it is improper for an hon. Member to refer to the meticulous submissions of another hon. Member, especially when that hon. Member is learned and is held in high regard in the House, as a "torrent of verbiage" which I cannot admit as being a parliamentary expression—(Cries—"withdraw," "withdraw").

Mr. Webb, Sir, if you, Sir, or the hon. Member feel that there is any reflection in that expression, then I willingly withdraw it.

Mr. MUGITHA (Specially Elected Member): Mr. Speaker, the Bill as it stands is quite clear. However, I do not know very much about the control of maize as I have never been an active farmer.

Today, Sir, I want to go into and deal with clause 15. First of all it says that all maize grown in the Colony shall be subject to the Ordinance. Now, Sir, it goes on to sub-clause (7) and it says, "(7) For the purposes of this section 'native area' means any part of (a) the Native Lands". Further on it says that the Minister may at any time declare that two or more contiguous districts; and two or more native areas in those districts, shall be treated as one for the purposes of paragraph (b) of sub-section (6). Then it says the squatter may only be allowed to sell his maize to the farmer or to the occupier on whose land the maize was grown. One thing that strikes me first is this: Is this going to produce cheaper *posho* for the African who still eats *posho*? Is it not a fact that the more middlemen we have the higher the price will be to the consumer? Sir, it is provided in the Bill that the Board

(Mr. Muchura) can pay out to their agents—either that the producer will have to sell his maize at a lower price than if he were selling to the consumer or that the consumer will have to pay a higher price for his staple food because there are middlemen in between. It is important, Sir, that this question of the *posho*, the staple food of the African, should be taken into account, especially as to the cost of it, because all the ordinary people are affected.

The main Bill does not say very much about the African areas except that they are excused. It does not say what happens if I live in a reserve somewhere and come to Nairobi; whether I may be allowed to bring a bag of *posho* with me. First of all, Sir, if a man from Nyanza brings maize to Nairobi there is no contiguity about the district but all the same, it is for his own consumption. How is this going to be handled, because at the moment, Sir, I do not know that any movement of *posho* is restricted by law; there is a limit as to how much one can carry. Central Nyanza, South Nyanza and North Nyanza are contiguous, and I would like Nyanza to be made one district for the purposes of this Ordinance.

This Bill has not given due consideration to the African areas and their problems. It is their food and they are liable to carry it from the reserve to the towns for perhaps their relatives, friends, and so on. Then, Sir, at the same time it does not say how it will get to the mill. I very well remember, Mr. Speaker, Sir, that recently there was a Motion in this House about the rejection of maize by these maize control centres, and stores in the various districts. A certain man took his maize to one of the stores and he was told that his maize was unfit for delivery. He was told to go back and to return in two weeks or so. He went back and was told, "We cannot take it because it is bad now". Now, Sir, the question of checking up on quality must be gone into very thoroughly, bearing in mind that all the maize is to be declared by the grower, that he has got maize for delivery to the stores; then to be told exactly what to do. I am trying to imagine an old African peasant who is probably in need of a few shillings for his *kodi* and who only has a few bags of maize for sale. What is the process? Can this maize

be bought on any time or should he have declared it at the time it was ready for delivery? What is going to happen about the movement, say, within and without the district? I understand there is a provision that the Minister shall from time to time allow this. Up to what area or extent is he going to allow it? The most important thing is, how it is going to affect the price of *posho*? It may be the same, and I think he should consider reducing it, especially when he can cut down on the middleman.

I agree entirely with the proposal that this should go before a select committee, so that some of these problems should benefit from the experience of a wider group of people. First of all, Sir, people see this in the *Gazette*. They may glance over it and then probably forget all about it. If the select committee invites memoranda it will be drawing more attention to the Bill.

I support the Bill with the suggestion that it should go before a select committee, Sir, before its final reading.

MR. HASSAN (East Electoral Area): Mr. Speaker, I rise to welcome this Bill. Ever since the Maize Control itself came into existence, almost a quarter of a century ago, Sir, it was already complicated and was most unpopular. It was unpopular because it brought about a very immediate change in the price of this commodity which is so essential for the indigenous population of this country; in addition, Sir, its availability was made extremely difficult.

There is no doubt that in the past the European maize growers have been growing maize especially for export purposes and when the export prices were uneconomic then we had to find ways and means by which to bring about fair prices to the producer and increase its consumption within the country. During the war this control was introduced, along with difficulties which war usually introduces in this world, economic difficulties for Africans and others who were buying maize. This complicated matters so that finally the Minister, because of the complaints which were made by the people, came to the conclusion that some change was absolutely essential. He has taken two solid years to do this. That indicates how difficult this control of maize was and how difficult it was to accommodate the people who were in-

(Mr. Hassan) convened by this maize control in the past. The Minister has very kindly suggested that he will have representatives of all interested parties who have anything to do with maize—its sale, production, marketing, import and export. These people will be appointed, and they are very pleased to hear that he will be giving consideration to their points of view. But, Sir, he must not forget one thing—that control of maize has not only been a concern of the producer; it has concerned the whole population of Kenya—producer, market man, merchant and consumer, and all civil servants. Although he has given very serious consideration to this and although he has consulted a lot of people in the framing of this Bill, Sir, I do not think he has given any opportunity to the organized merchant associations or the consumer associations to attend and give their opinions about the future working of the Bill.

The suggestion has been made by all Members on this side, and we are all unanimous although there are not many Members here at the moment, that a select committee should be appointed so that the blessing of this House can be given to this Bill, and not only that of the leaders on the Government Benches, so that the Government will be in a position to deal with opposition which will come from outside later on.

I do not think that the Government can have any reason to disagree with the request which has been unanimously made from this side of the House, and I am sure the Minister for Agriculture, who has been very co-operative with every one of us, will not turn down this request which has been unanimously put to him.

I do not like to criticize any more of the clauses of this Bill because the able and Specially Elected Member has already done that. However, Sir, many associations and other bodies have also criticized the Bill, and it is apparent that there are a lot of points needing attention and discussion which cannot be given to it in this House. These people want to have some opportunity of presenting their points of view before a select committee as it is intended to have something to replace the old Maize Control by this new Bill and as it is also

intended that we should have something permanent in this country for the help and assistance of the producers and the consumers; and there is the added reason that opportunity should be given to those people to express their views about matters which are likely to create difficulties, as was the case with the control of maize previously.

Policy Statement No. 6 was laid in this House, Sir, by the Minister for us to debate, and it is therefore just and reasonable that this request of ours for a select committee should be accepted. It will help and assist the country and it will help to allay all the fears of those people who are interested in the handling of maize, its production, marketing, import and export.

With these few words, Sir, I support the Bill.

MAJOR ROBERTS: Mr. Speaker, Sir, I was hoping that my hon. friend who has just sat down would make one of his usual speeches. I did not wish to speak tonight having a bad throat, but I hope people will bear with me if my speech is a little difficult.

Sir, first of all, I would very much thank the Minister for agreeing to so many amendments when he presented this Bill today. It has, indeed, taken the sting out of the attack which might have come from this side, but I would, Sir, like to deal with sub-section (6) of section 15, paragraph (b). Sir, this section exempts the provision of section 16 applying to maize sold in a native area between Africans who reside in that district. Well now, Sir, I have no quarrel with that so long as that native area is a non-scheduled area, but I feel it should be made clear that this exemption could not apply if that area was to become a scheduled area, and I think that native areas should be encouraged to become scheduled areas and the advantages of doing so made clear to Africans in that, by doing so, they can obtain monetary advances and short-term loans, but with those advantages there must go certain restrictions, and I think the Bill should cater for that eventually.

And now, Sir, I would like to turn to section 16. Quite a good deal has already been said about this section, which I regard as a very important one, and it was rather, loosely worded. I think the

[Major Roberts] Minister has already agreed to certain amendments, but, Sir, I think a further amendment is required. As I understand the clause, the present wording implies that the occupier must purchase the maize, which in turn implies that he must pay cash for it. Well, Sir, this might be embarrassing in certain circumstances, particularly if the occupier did not want to buy that maize for consumption on his farm. I feel it could be worded to the effect that such maize must be sold to agents of the board through the occupier. That would still ensure that control was exercised and it does mean that the occupier himself need not buy it for cash.

I think, Sir, another point is that this clause does not allow maize to be sold by one labourer to another on the same farm. Now that is bound to happen; you cannot stop it, Sir, and I think, therefore, that it should be allowed for in this Bill.

Sir, a number of other amendments and additions have already been raised, and I, too, do urge, that this Bill should be put to a select committee.

I find, Sir, somewhat reluctantly, I am afraid, that I have to support the Bill, as I feel that under prevailing conditions some form of control of the maize industry is necessary today, but, Sir, the whole question of control of the agricultural industry in this country needs a very serious investigation and overhaul. As it is today, Sir, and this has been referred to already by the hon. and gracious Member from Usin Gishu, the whole method of control is top-heavy and cumbersome, causing financial burden on the industry that it cannot really afford to carry. The introduction of yet another Board, the Maize Board, merely adds to the size of that top-heavy burden, and I would remind hon. Members of the burden in the way of boards, committees and other organizations that this industry is trying to carry. I would, Sir, with your permission, just like to list those boards to illustrate what I mean. We have, Sir, the Dairy Board, the Cereal Producers Board, the Tea Board, the Pyrethrum Board, the Pig Industry Board, the Sisal Board, the Coffee Board, the Coffee Marketing Board, the Wheat Board, the Nyanza

Marketing Board, the Central Province Marketing Board, and now the Maize Board. Then, Sir, we have the Board of Agriculture. Well, I cannot quite see where that board fits into the picture today, unless, Sir, it is to nurse that legion of Agricultural Committees and Agricultural Sub-Committees that exist throughout the scheduled area, whose main claim to fame is that they are the best means devised by man to create *filina* between neighbours. Then, Sir, we have the numerous marketing organizations, the Kenya Farmers' Association, the Kenya Co-operative Creameries, the Meat Commission, the Kenya Planters' Co-operative Union, the Kenya Poultry Producers Co-operative Society, Uplands Bacon Factory, Citrus Growers' Association and the Horticultural Co-operative Union and, I believe, the Milk Producers' Company, and there may be quite a number of other marketing agents appointed once the Maize Board becomes operative. Now, Sir, on top of all these we have what I regard as the most important organization to the producers in the country—the Kenya National Farmers' Union—but, unfortunately, that is not realized by many producers, and if they only realized it, Sir, and gave that organization strength; I think it would carry very much more weight, and would be able to carry out many of the functions that today are being carried out by this mass of Boards.

The creation of Boards, Sir, is all very well, but can the industry afford them all. If a farmer was allowed to sit on only one Board or Committee, I doubt if there would be enough farmers to go round, and I feel certain that this whole situation is really absurd. I believe this situation has arisen through the fact that there has been a policy of expanding production without ensuring markets to be available to absorb the produce which is being produced as a result of that expansion. Leaving certain plantation established crops aside, I believe that what is required today is not a mass of independent boards, but a small number of boards and a market research organization, which would advise the producer organization—and here I venture to suggest that that organization is really the Kenya National Farmers' Union—and the amount that can be sold. The

[Major Roberts] producer organizations would, in turn, advise the producer. If farmers failed to take notice of the producer organization, they would have no one but themselves to blame, and in a free market they would soon learn what was best for them. Controls in wartime, Sir, are a necessity. Controls in peace time encourage bad farming and the black market. What I am getting at, Sir, is that rather than create more and more boards to control the agricultural industry it would be more in keeping with economy, and more to the benefit of the industry if the existing boards, or at least some of the existing boards could be amalgamated. The agricultural industry is the backbone of Kenya's economy. Kenya cannot afford to subsidize that industry. On the other hand, Sir, it cannot afford to strangle that industry by controls and regulations that frighten the farmer and discourage him from development. What is required today is not control but ambitious and far-sighted salesmanship. Markets, Sir, exist for our produce. We are in a unique position in Kenya because we can grow on the Equator, temperate climate crops that cannot be grown in many other places in the tropics. This means, Sir, that we are more favourably situated for markets in tropical areas, and more particularly in the Indian Ocean Basin, than are our competitors. These are the markets, Sir, that I deem should be explored. Our present markets are not secure. How can we compete against a farmer in England who today receives enormous subsidies in order to encourage him to develop and produce more agricultural produce to safeguard the lifeline of the country in the case of war. Those subsidies in England today amount to something in the region of £900 per farm, and when one realizes, Sir, the average farm is only 50 acres one realizes just what that means. But it means to us, Sir, that those markets which have been available to us in Europe will no longer exist except in certain items which cannot be grown there, and that we must therefore look elsewhere, and I feel, Sir, that we should turn to the Indian Ocean Basin where already we have seen in recent weeks what potentiality there is in the Persian Gulf. But, Sir, when one hears more and more of the difficulties that have taken

place in negotiations with those markets in the Persian Gulf, one comes to the conclusion that a lot of the trouble is due to the fact, where instead of one high-powered salesman going, a lot of lesser fry have gone and that number is due to the fact that so much of the agricultural industry is in separate parts, and instead of one man going and dealing with the whole subject it is a question that various departments of that industry are going and neither telling exactly the same tale, or using the same technique, and thereby creating a muddle, and that, Sir, I think, points to the fact that what we need is less and less Boards instead of creating more, and I agree with what previous speakers have said, that if you introduce this Board let us have an assurance that you are going to do away with other Boards and thereby streamline the whole industry.

ADJOURNMENT

THE SPEAKER (Sir Ferdinand Cavenish-Bentinck): That brings us to the end of our business for today. I therefore adjourn the Council until 2.30 p.m. on Tuesday, 24th February.

The House rose at twenty minutes past six o'clock.

Tuesday, 24th February, 1959

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

[Mr. Speaker (Sir Ferdinand Cavadish-Bentick) in the Chair]

PRAYERS

ADMINISTRATION OF OATH

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

John Alwyne Richard King.
William ole Nitimama.

ORAL ANSWERS TO QUESTIONS

QUESTION No. 98

MR. BOMPAS asked the Chief Secretary when he will be ready to make the very full statement on the measures the Government is taking to make economies in the Government service "as was undertaken by him on 17th October, 1958"?

THE CHIEF SECRETARY (Mr. Couits): Mr. Speaker, Sir, I beg to reply.

The Government's economy measures will be disclosed in the Financial Statement which will be made on 29th April, 1959, and in the subsequent debates on the individual Votes.

MR. ALEXANDER: Mr. Speaker, how will this arise?

THE CHIEF SECRETARY (Mr. Couits): In the Budget, Sir.

SIR CHARLES MARKHAM: Mr. Speaker, arising out of the last reply, is that not completely contrary to what the Chief Secretary has already assured the House in a statement concerning the immediate future which was, I think, in October of last year?

THE CHIEF SECRETARY (Mr. Couits): I do not remember, Sir, ever making a statement that a statement would be made in the immediate future, nor do I think now, at this stage, that it would be right and proper to anticipate the Budget statement, in the course of which, Sir, we will explain to the House exactly what our economy measures are.

MR. ALEXANDER: Mr. Speaker, arising out of that reply, surely we were interested and the Government knew that we were interested in economies to the present Budget. The Budget state-

ment on 29th April will be concerning the finances of the Colony from 1st July to the following year.

THE CHIEF SECRETARY (Mr. Couits): I think, Sir, it will be quite possible for us to outline all the measures we have taken this year, as well.

SIR CHARLES MARKHAM: But, Sir, did the Chief Secretary not tell us that a statement of details would be made in December of last year?

THE CHIEF SECRETARY (Mr. Couits): Sir, I am not aware that I ever made a statement that it would take place in December.

QUESTION No. 89

GROUP CAPTAIN BRIGGS asked the Minister for Internal Security and Defence the number of K.K.M. convicts who have been sentenced to terms of imprisonment exceeding two years, the duration of the sentences imposed, the dates thereof, and the period of remissions granted so far, if any?

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack): Mr. Speaker, I beg to reply.

Ten K.K.M. convicts were serving sentences of imprisonment exceeding two years on 31st December, 1958.

Of these, two were sentenced on 28th March, 1958, to imprisonment for four years and one to imprisonment for six years.

A fourth man was sentenced to imprisonment for five years on 26th August, 1958.

Two men were sentenced to five years' imprisonment each on 16th October, 1958, and one man to three years' imprisonment on 17th October, 1958.

The remaining two of the ten were sentenced on 18th November, 1958, to four years' and five years' imprisonment, respectively.

A convict undergoing a sentence of imprisonment of three years or more who has been of good behaviour while in prison may be granted a licence to be at large under the terms of Part XIII of the Prisons Ordinance, when he has completed three-quarters of his sentence.

None of the ten convicts concerned has yet qualified for the grant of such a licence.

QUESTION No. 106

MR. ALEXANDER (on behalf of Lord Portsmouth) asked the Chief Secretary has the attention of Government been drawn to a report by the President of the People's Convention Party that rumours are circulating in Nairobi and elsewhere that certain Europeans are attempting to buy arms and arrange armed support from outside Kenya and, if so, whether the Chief Secretary will make a statement thereon?

THE CHIEF SECRETARY (Mr. Couits): The attention of the Government has been drawn to the report mentioned by the hon. Member. The Government cannot believe that anybody whatsoever would be so stupid as to consider introducing arms illicitly into Kenya, but needless to say any attempt, from whatever quarter or by whatever means, to bring armed assistance into this territory will be in defiance of the law and will be dealt with rigorously under the law.

The Prime Minister of the Federal Government, Sir Roy Welensky, has stated, according to the Press, that the question of armed support for Kenya has never been considered by him or his Government.

The Government considers therefore that there is no truth whatsoever in these rumours.

SIR CHARLES MARKHAM: Mr. Speaker, could I ask the Chief Secretary whether the Government appreciates the dangers of such irresponsible statements and other peripatetics?

THE CHIEF SECRETARY (Mr. Couits): Yes, Sir, I do—from more than one quarter.

MR. SLADE: Mr. Speaker, will the Minister consider taking legal advice as to whether this constitutes sedition, being calculated to create ill will between races?

THE CHIEF SECRETARY (Mr. Couits): I am prepared to have it examined.

NOTION FOR THE ADJOURNMENT

THE SPEAKER (Sir Ferdinand Cavadish-Bentick): I would like to say that the Motion on the Adjournment standing in the name of Mr. Alexander will be taken this evening.

I was also asked for a ruling by the hon. Member for Ukamba, Sir Charles Markham, last Thursday. As it is, for obvious reasons, unsuitable to give a ruling today, I propose to give it tomorrow afternoon.

MOTION

SUPPLIES AND TRANSPORT DEPARTMENT— RULES CALLED FOR

MR. ALEXANDER: Mr. Speaker, may I appeal to you on a point of order for a ruling concerning Order No. 15 on the Order Paper, which is a Motion in the name of the Minister for Tourism and Common Services. In asking for this ruling, Sir, and in speaking to this point of order, I do trust you will allow me to refer to remarks that have been made in this House in order that I may substantiate my submission.

I start, Sir, with HANSARD of 11th December, 1957. I contend, Sir, that this order, in fact, takes the matter as *sub-judice*, that is, it is in the hands of a select committee of this House, which takes it out of that and brings it back on to the Floor of the House, quite unfairly to the Opposition on this side of the House, and if I may stick to that, Sir, it started in December of 1957 when there was a request in a debate on the adjournment—a request by myself—in which I said the following:—

"I raised this matter today because there is still time for Government to have an independent enquiry on it, and avoid the policy mistakes which have not yet been implemented. Government have a duty today to agree to such an independent enquiry."

Those words, Mr. Speaker, were impromptu upon by the then Member for the Aberdares, who is with us today as a Specially Elected Member, and this is what he said, and I quote:—

"We do not expect the Minister to give us a complete defence of what is going on, and even if he does he must not think that we are content to leave it at that, because what we are asking for is not a full explanation today, but a halt in this development pending an independent examination and a report. That is a very different thing from the Minister for Finance satisfying himself and possibly a few

[Mr. Alexander]

Members of this Council on the Government side that all is well. An independent examination and a report, and a halt meanwhile, Mr. Deputy Speaker, is the only way by which the public will be reassured."

Then, Mr. Speaker, there was a very important statement by the Minister for Finance, who at that time was the Minister responsible for Finance, or Tourism, or rather for Supplies and Transport, and at that time also he was chairman of the Estimates Committee of this House—the Estimates Committee, and this is what he said in reply to that debate. HANSARD of 11th December, 1957, column 1188. I quote:—

"Or I would suggest another alternative. Sir, which I think could be carried into effect, and that is that we are having sitting an Estimates Committee, which has on it many, many Members of the Council, including the hon. Member for Nairobi West, the hon. Member for Nairobi South, and the hon. Member for Nairobi North, and I think all of whom are intimately concerned with the commercial aspect of this particular matter. We could then discuss this matter in detail. We could call the head of the department in front of us, and ask him to give evidence. We could cross-question him, and then"—this is most important Sir—"and then the Estimates Committee could make up its mind quite clearly on the evidence laid before it, and recommend to this House what it felt should be the steps, and the policy involved."

The present Minister for Common Services himself went a considerable way on 28th May, 1958, to state that this matter is *sub judice*, and this is what he said in reply to questions from myself. HANSARD of 28th May, 1958, column 1026:—

"I would like to give the hon. Member an assurance that there will be no duplication whatsoever. The whole organization, as the hon. Member knows, is under investigation at the present time, and is almost *sub judice* in that it is being investigated by the select committee, of which, I think, the hon. Member is a member. I

think that the proceedings will not be terminated for a further few months, but, as he knows, it is under investigation by that committee."

And he went on further, as a result of some more questioning on the Development Estimates to say this, on 28th May, 1958, HANSARD, column 1042. I quote:—

"Mr. Chairman, if I told the hon. Member the whole truth about this organization"—he was obviously not keen on doing so—"if I told him the whole truth about this organization, I should deprive him of the pleasure of finding it out for himself in the select committee. Should have thought hon. Members opposite would prefer to have a full day's debate on the policy of this organization when the committee has completed its investigations. All I can give the hon. Member at the present time, is the general principle of the supplies and transport organization is, taking into consideration such factors as the ever present possibility of an emergency of one kind or another, to provide all Government departments with their supplies and transport in an expeditious manner, considering both the availability locally and the availability overseas."

He then went on—this is incidental, but rather important—some six months later to make quite an astonishing remark, and coming from a responsible Minister of our Government, really quite an alarming remark, Mr. Speaker, and on 19th November, 1958—HANSARD, column 549—this is what he said, Mr. Speaker: from a responsible Minister of our Government:—

"The hon. Member has referred to this as an Empire. Well, this is the birth of an Empire."

THE EUROPEAN MINISTER WITHOUT PORTFOLIO (Mr. Harris): This is the birth of a speech, too.

THE SPEAKER (Sir Ferdinand Caven-dish-Bentinck): Please confine your remarks to the point of order you are raising.

MR. ALEXANDER: I apologize, Mr. Speaker. The Estimates Committee in its report laid in this House on 14th October, 1958, by the new chairman—

[Mr. Alexander]

by then the European Minister without Portfolio, said this:—

"Evidence has been heard—in paragraph three—from Colonel Yeldham, Controller of Supplies and Transport, and members of his staff, that a visit paid to the temporary godowns department in February, and the new premises—under construction in Government Road, the committee has not been able to complete its enquiries. I accordingly recommend that the minutes of evidence be made available to the Estimates Committee to be appointed for the next session of Legislative Council, in order that the enquiries may be continued."

That committee was, of course, reappointed, and is now available for the continuance of this matter. *Erskine May*, 16th Edition, paragraph 4, page 404, says this:—

"A matter already appointed for consideration by the House, cannot be anticipated by a Motion."

He does also go on to say, which rather confuses my contentions, but I believe is worthy of further enquiry, Mr. Speaker, he says this:—

"The reference of a matter to a select committee does not prevent the consideration of the same matter by the House."

I believe that there have been only two cases in the House of Commons, in the whole of its history where this delicate matter has arisen, and I suggest that remark of *Erskine May's* does need the most careful enquiry.

Furthermore, Mr. Speaker, we are inhibited on this side of the House by Standing Rule No. 36, which reads as follows:—

"No Member shall refer to any proceedings of a select committee before that committee has made its report to this Council."

The Government in handling this matter has got available to it all the information we are denied on this side of the House, and it is quite unfair, Mr. Speaker, that this Motion should be allowed before we have got all our evidence. I do appeal to the Government,

particularly in the circumstances of our constitution, where we have an irremovable Government, to use their good grace, and their courtesy, and withdraw this Motion. If they fail to do so, Mr. Speaker, I have no alternative but to appeal to you for a ruling as to whether it should be allowed to proceed.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Speaker, may I have your leave to speak to this point of order.

THE SPEAKER (Sir Ferdinand Caven-dish-Bentinck): Yes.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Speaker, Sir, in my submission, this is not a point of order, and in the latter part of the hon. Member's long speech he, in fact, completely destroyed and substance to it. The fact of the matter is that at the conclusion of the last session by prorogation the Estimates Committee reported on this matter, and that, so far as this House is concerned, is the end of the matter unless and until there is a re-submission of the matter to the Estimates Committee.

The hon. Member has already pointed out that it is a rule of the House of Commons, however rarely it may have been applied, it is nevertheless a rule, by which we are bound in the silence on the matter of our own Standing Rules and Orders, that the reference of a matter to a select committee does not inhibit the consideration of that matter by the full House. Therefore, Mr. Speaker, Sir, this is in no sense a point of order. It is entirely without substance, in my submission.

THE SPEAKER (Sir Ferdinand Caven-dish-Bentinck): These submissions from both sides do raise a number of complicated issues. In the first place, I must point out, that reference of a matter to a select committee does not necessarily prevent consideration of the matter by the House as a whole, because naturally a select committee is only a fraction of the House as a whole, and any report it makes is invariably considered by the House as a whole. In regard to a further point which was raised, there have been statements made—by responsible Ministers that this particular contentious matter would be examined by the

[The Speaker]

Estimates Committee, and I must say that in my view it would appear that the Estimates Committee is not quite in the same category as an ordinary select committee, in that we have to have an Estimates Committee, as provided for under Part 17 of our Standing Orders. Therefore, it may not necessarily follow that the work of that committee comes to an end because of prorogation. The Estimates Committee with varying personnel lasts as long as the House lasts until we change our Standing Orders.

There arises also the question of evidence which has been made available to the Estimates Committee, and which is in the hands of certain Members who might wish to speak possibly on it, and they would be debarred from doing so if we took it for granted that this matter was still under examination.

Lastly, I am afraid I am a little bit dubious about the wording of this Motion. It is to my mind, in our peculiar circumstances, somewhat strange to have a Motion reaffirming a question that has already been determined by the House. It rather seems to me that it comes under the heading of a reflection on a vote already taken by the House. Motions in the House of Commons are not allowed in that category.

Taking all these questions into account, I would ask hon. Members to allow me to consider this matter and to give a ruling tomorrow. I think I would be very unwise to give a snap decision today, and therefore that will mean, I am afraid, that if this Order comes up today we shall not take it today but ask the Leader of the House to allow me to take it tomorrow.

BILLS

FIRST READINGS

The Rabies (Amendment) Bill

Order for First Reading read—Read the First Time—Ordered to be read the Second Time tomorrow.

The Stock and Produce Theft (Amendment) Bill

Order for First Reading read—Read the First Time—Ordered to be read the Second Time tomorrow.

The Deportation (Immigrant British Subjects) (Amendment) Bill

Order for First Reading read—Read the First Time—Ordered to be read the Second Time tomorrow.

SECOND READINGS

The Maize Marketing Bill

Resumption of debate interrupted on 19th February, 1959.

MAJOR ROBERTS: Mr. Speaker, Sir, when Council adjourned on Thursday I had asked for amendments to be made to two specific sections of the Bill. I also, Sir, made it clear that it was with reluctance that I supported the Bill, for the reason that it created yet another Board of which there are already far too many for the size of the agricultural industry in this Colony.

I gave a list, staggering in its length, of the various boards and committees and organizations which already control in one form or another the agricultural industry. But even so, Sir, I find I missed one board, the Canning Crops Board—which makes a total, Sir, of 14 boards controlling this one industry. This is nearly as large a number as that of the ministries controlling the government of this country.

I note from the Bill, Sir, that under section 13 (3), the Maize Board can deal with other crops other than maize. This should at least prevent the formation of other agricultural boards, such as the Potato Board; and that, at least, is a step in the right direction. There are, of course, Sir, some people who advocate more and more boards and committees and these people are professional committee men. Recently, Sir, I heard a story concerning one of these people, of whom it was said, "He would not be likely to volunteer to ascend in a spinnaker because he wouldn't get travelling allowance".

Sir, I made it clear that maize cannot be treated in isolation from the rest of general farming, and I have contended, Sir, that rather than have the creation of more and more controls, Government should put all their energy into market research. I have pointed out that it is not in Europe that that research should be carried out, but in the Indian Ocean

[Major Roberts]

Basin. There is, Sir, however, a nearer market—the internal market. The exploitation of that market depends on increasing the purchasing power of the Africans. Further, it depends on the encouragement of higher standards of living for the Africans. By this I do not mean that there should be an immediate increase in wages, unless accompanied by an increase in output by the labour. If Government were to devote some energy to the increasing of the output of labour, I feel that the increase in wages would then automatically follow.

There are, Sir, however, other means of increasing the spending power of Africans. These include the encouragement of secondary industries, thereby creating more employment—a matter which a bureaucratic government, to my mind, seems to be doing little about.

Then, Sir, there would be the encouragement of cottage industries. But these, I agree, have little to do with the Maize Bill except in so far as they increase the consumption of agricultural produce, and thereby absorb existing surpluses which in their turn would do away with the necessity for controls in our industry. As such, Sir, I feel I am entitled to comment on such matters in this debate. A strong national market research organization is, in my opinion, a great and realistic urgency for this Colony. Such an organization needs business brains and enterprise of the highest order. It also needs the brains of the producers who are the most affected and who have the most to gain or lose. The organizations that I lead, Sir, have set up a committee to look into the potential markets of the Indian Ocean Basin and the internal market of this country. Not for one minute do I claim that this will give the complete answer; but I do humbly submit that the conclusions we are arriving at will be of some small assistance in this all important matter. We shall make our findings public later in the year and, with due respect, I hope that Government will give that document some consideration and accept our effort in the spirit in which it has been made.

In conclusion, Sir, I do hope that the Minister, after the setting up of this new Board, will consider the possibility of

amalgamating some of the Boards and endeavour to streamline the whole agricultural industry. As a start, Sir, I feel that the Cereals Board, the Wheat Board and the Maize Board, could, with advantages, be brought under one head. I would even suggest that they could be amalgamated under the Board of Agriculture, whose function is now rather difficult to understand.

Further, Sir, I hope that he will do all he can to encourage the Kenya National Farmers' Union and give it the strength to undertake many of the duties of agricultural committees and sub-committees, thereby avoiding much duplication and unnecessary expense, which is the situation today.

Now, Sir, as I feel the Minister is most anxious to inform this House that he is most willing to let this Bill go to a select committee, I will say no more at this stage.

MR. BONPAS: Mr. Speaker, Sir, I had not intended to speak in this debate and I will not detain the House long, but I have come to the conclusion that the point of view of the producer has, if anything, been rather over-emphasized and the point of view of the consumer has, up to now, scarcely been heard. I am prepared, Sir, to support the principles of this Bill, in the words of the Memorandum of Objects and Reasons, as being "in the interests of the Colony's economic welfare". But, Sir, I have two reservations to make. Firstly, I look to the Minister for a most categorical assurance that, even though he cannot predict the future—the future of world prices and price structures—he will constantly and unremittingly apply pressure upon the proposed Maize Marketing Board to ensure that the present differential—disparity—between producer and consumer prices is very substantially reduced.

Sir, the Minister has paid a most generous tribute to the existing Maize Control organization. I believe that tribute is fully justified if one views the control as a well-maintained and smooth-running luxury limousine—something of a "Docker" limousine, in fact. There are, nevertheless, many of us in this country who believe that the task could have been done as effectively and certainly very much more cheaply by a very much more modest vehicle.

(Mr. Bompas)

I was somewhat entertained, Sir, by the Minister's adoption of the 5 per cent factor on his administrative costs. He pointed out that the administration of the existing Maize Control was only approximately 5 per cent of the end product. Now it would not, Sir, be very abnormal costing practice to work on your raw materials, and on this basis the administrative cost is nearer 10 per cent.

My second reservation, Sir, of course, is that this Bill should go to a select committee. I well understand the Minister's reluctance to give of his valuable time to steering a select committee on this Bill. I know he feels that he has, during the past two years, amassed a very great deal of information, of evidence and of opinion. Nevertheless, Sir, there is a strong feeling amongst some of the major consumers, notably in the sisal and coffee industries, that they have still not been fully heard.

Lastly, Sir, I believe that the ease with which the hon. and learned Specially Elected Member was able to drive his legalistic coach and horses through so many clauses of the Bill is of itself an indication that the Bill should be considered in a more leisurely way by a select committee rather than endeavouring to lick it into shape in a full Committee of this House.

Sir, I beg to support.

LT.-COL. MCKENZIE (Specially Elected Member): Mr. Speaker, Sir, I would like to congratulate the Minister on having brought this much-needed Maize Bill forward, and I sincerely hope that he will take heed of what has been said on this side of the House and allow it to go to a select committee. I very much doubt if we are, Sir, especially when one sees what has happened over the last four days when there has been the amassing of great numbers on the other side of the House. I am just wondering if, rather than go to a select committee, the idea is to have a mass vote against it.

Sir, I think the Minister himself has shown us that this needs to go to a select committee because of the many amendments which he brought forward when moving the Second Reading. I often wonder, Sir, if any agricultural Bill has

ever come in front of this House before with so many amendments at a Second Reading.

Now, Sir, I also wonder whether one of the reasons we have not heard from Government whether it is or is not to go before a select committee is that there are perhaps a lot of Back Benchers who may, although they have not spoken up in the Second Reading, may speak up very strongly in the select committee.

Sir, why is it that we have not been told that it is to go to a select committee? And why have we not heard more Government speakers from the other side? Sir, I feel that Government, over the last two years, have been very reluctant in facing fully their responsibilities in connexion with maize. I feel that over these last two years they should have got *posho* down to a more realistic price compared with what the producer is paid on the average. I think also, Sir, that Government have failed to face the fact that some farmers are either inefficient or attempting to grow maize in areas that cannot grow maize economically.

Also Sir, I think they have not faced their responsibilities in looking at the present system of guaranteeing minimum returns and other financial aids to the farmers who continue growing maize in uneconomic areas. I think, Sir, that Government have failed to face the issue over the Cereals Board and Maize Control; and lastly I think that Government out of—even if for nothing else—to have got the best out of this Bill should have discussed this Bill in its first draft form with the groups on this side of the House.

Firstly, Sir, I wonder why there was no debate on the White Paper. I listened very carefully to what the Minister had to say, but I never picked up a word on why we did not debate that White Paper. On this side of the House, Sir, either rightly or wrongly were led to believe at the end of last year that we were going to have an opportunity of debating the Sessional Paper on maize. I maintain, Sir, that had we been able to debate that Paper a tremendous number of the amendments that have come forward from the Minister and will come forward if it goes to a select committee would have been obviated. I also wonder what

[Lt.-Col. McKenzie]

Government were busy doing. Sir, rather than debating that most important Sessional Paper.

Now, Sir, what has been the cause of all this panic on maize? What has caused this worrying surplus? It is really only a surplus of plus or minus 500,000 bags, or under 10 per cent of the maize grown. Now, Sir, the other afternoon, Thursday afternoon, we heard my hon. and gallant colleague, Air Commodore Howard-Williams, mention that maize could come in at Mombasa at Sh. 15 a bag. I think where he got this figure was that at one time our own maize was being exported out of Mombasa at Sh. 15 a bag, f.o.b. boat naked and, in fact, could have been reimported again I take it at very nearly that price. What he did not mention, Sir, was that maize can come in other than through Mombasa, and that is coming from Tanganyika or Uganda even at this moment, Sir, f.o.r. rail at between Sh. 25 and Sh. 29 a bag.

Now, Sir, what has caused this excess of maize? Is it because our internal price over the years has been too high and thus the consumption has been lower than it should have been? Many of the traders and millers tell us "yes". Is it, Sir, because of increased use of fertilizers? I would say "no". Is it because perhaps of better agricultural practice? Again I would say "no", for the simple reason that the major producer, the African, has not altered his method of growing maize over the last 30 years. Is it perhaps, Sir, because of a guaranteed market at a good price to the producer? Some would say "yes". Is it, perhaps, Sir, because of the guaranteed minimum return loans and easy credit facilities, or what were easy credit facilities? Or is it, Sir, because a lot of the high rainfall areas which never grew maize before because *posho* is such a high price are now growing maize? Or is it, Sir, because of increased acreages? Now, Sir, it is not increased acreages, because years of the greatest acreages have not, in fact, been the years of the greatest surpluses or the greatest yields. What is the cause of this excess of maize that has been so upsetting? It is obviously nothing but climatic conditions, and over the last ten years, Sir,

we have averaged 6½ bags per acre in the European growing areas of Kenya at the lowest and over nine at the highest, which is a variation, Sir, of over 2½ bags, caused, I maintain, Sir, by climatic conditions that is rainfall, heat, cold, ground and air temperatures.

If I may quote, Sir, just three lots of figures. In 1949, which was a good climatic year, we yielded in the European areas 1,100,000 bags from 113,000 acres. In 1952, which was a bad year for rain, we yielded 900,000 bags approximately from 140,000 acres, which shows that although we had 7,500 acres more under maize in 1952 we realized just under 250,000 bags less. Now, 1954, which was the greatest acreage year showed us also the greatest yield ever, which was nearly 1,500,000, so there, just in the matter of a year or two, owing to climatic conditions, we had a variation of 500,000 bags.

These figures show that a country within the tropics cannot consider a quota, and also a young agricultural country that must export a lot of maize itself must export the products which maize goes through, such as pig meat, mutton, wool, cheese and milk. I would suggest, Sir, and I think that the Minister touched on this, and I felt that he was in agreement, that anything appertaining to a quota ought to be struck out of the Bill.

Now, Sir, the Minister's Cereal Board, which I maintain has been out of touch with not only the producers but with public opinion—some months ago they envisaged implementing a quota system on maize grown in the European areas. Their idea was that from the years 1952 to 1956 they would take a mean 40 per cent average of what was produced, and that would be one's quota. This was known amongst a lot of us, Sir, as "Old Settlers' Monopoly". New settlers, Sir, who had come in postwar and had perhaps cleared their land in the first postwar years or were brought in by the big rush which came in with the Settlement Board in early 1950's, were going to be penalized. I often wondered, Sir, while this was going on, what the Settlement Board's Chairman's advisory views were to the Minister. He must certainly have found it very very difficult wearing two caps, because in his other capacity he

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was Chairman of the Board of Agriculture.

Well, what happened, Sir, when the Cereals Board, which is the Board which advises the Minister on European grown maize, put forward this idea? Fortunately, Sir, farmers had had enough of this nonsense and the Cereals Board were forced to push out a referendum. They maintained they were right and a lot of the producers maintained they were wrong. What was the ultimate answer to the referendum? Eighty per cent of the producers did not want a quota scheme and threw it out of the window. What did the Cereals Board do, Sir? Did they resign? No, typical of Kenya, Sir, they just say "pat".

Now, Sir, if I may move to Maize Control. Speaking as a producer, Sir, who has produced maize over the last ten years and sold maize, I consider Sir, that I am fortunate in being here today at the funeral of maize controls. I know and appreciate, Sir, the amount of work which has been put in by all the staff of Maize Control and especially Mr. Haller, the Maize Controller himself, but I feel Sir, that it is an old and outgrown control. I felt, Sir, that had Maize Control or the Cereals Board used its initiative they both would not have sat year after year and seen the poor African in the urban areas having to pay the price for *posho* which he has, Sir, I think it is cruel and unkind to say the least of it. It is the African on a low wage income that has had to suffer all these years. Both producers and consumers, I contend, Sir, have had enough of this great differentiation in the price of maize meal in comparison to the average price the producer gets.

Now, Sir, if I may quickly before getting on to the Bill move on to some of, which I maintain has been, the Government's unwillingness to face its responsibilities. In this I mean Government, and not the Minister, because I appreciate that it is a greater issue than just the Ministry of Agriculture. I have touched on *posho*, Sir, and I do not want to go on to it again, other than that I would beg of the Minister perhaps to advise the new Board that is coming in, that once they have dealt with the maize through the agent that the price of maize

and maize products, after they leave the agent, are allowed to run wild. In other words, that would then bring the price of *posho* down to a more realistic price. It is well known, Sir, that if the price of maize is reduced much more than a certain group of farmers in a small area in western Kenya would suffer. It is unfortunate that in that area they grow maize at an uneconomic level. Sir, I would say that it is Government's responsibility to find alternate farming methods for that area, and that we in the rest of Kenya, and especially the consumer, should not have to continue to bear the load because of them. I feel, Sir, that there are other methods and ways and means of finance which could be given to that group of farmers. One suggestion I put forward is cheap farming, perhaps on the spring farming method.

Now, Sir, another one which I feel must be faced up to in the very near future is the Guaranteed Minimum Return, and also the Rehabilitation Loan and the Development Loan. Both these loans, especially the Guaranteed Minimum Return, Sir, is a type of finance which—I think the original intention was excellent. But I think now, Sir, that it has worn out its time and that Government ought to look at some other method of helping agriculture financially. One only has to read the newspapers to see how the Guaranteed Minimum Return has, over the last few years, been abused. If we do not want surplus maize, why do we continue to give a Guaranteed Minimum Return to the more uneconomic yielding land? It seems odd that, on the one hand, Government should give out money on a Guaranteed Minimum Return to grow maize, yet on the other hand the Cereals Board say, "Chums, we don't want you to grow so much maize; there's a surplus". It seems to me as though there is something wrong there, Sir.

My other point is that why was not this most important agricultural Bill discussed in its original draft form with groups on this side of the House? It is ultimately this Legislature which has to pass a Bill and I would have thought, that perhaps for the weal of Kenya the Members within the Ministry would have obtained views from this side of the House. I appreciate fully, Sir, that

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Back Benchers were taken into the picture. I appreciate fully that some European Elected Members were fortunate enough to talk to the Minister on it. I believe either in conjunction with Back Benchers or on their own, but I gather no African Elected Members nor Asian Elected Members nor our group of S.E.M.A. were asked. Now, Sir, we in S.E.M.A. are quite used to not being asked things but I would have thought that perhaps the African and Asian groups might have been asked. I feel, had we all been asked, Sir, many of these amendments which have been put forward, both by the Minister and by this side of the House, would, in fact, have been in the Bill which came before the House.

Now, Sir, in view of the great importance of maize to the economy of this country, both to farmers and consumers, I feel that it is necessary that a guaranteed basic price to the producer is essential, whether one considers this in a nutritional, agricultural, defence, economic or social ground. Not only Sir, is maize the staple diet of the great bulk of the African population, but it is the most important constituent of our livestock feedstuffs. On both counts it exercises a considerable influence on the cost of living within the Colony, and I think it must be recognized by Government as a pivot of all the food-producing systems, both in the African areas and in the European areas. Sir, the producer must continue to have a guaranteed minimum price so that he will maintain confidence in the industry and can continue to grow the crop at a reasonable price in conjunction with other commodities.

Sir, the Minister, I am certain, when he gets up to reply, is sure to attack me on how one could go about increasing the yield per acre. I think there are many ways worth trying, which Government may look at. One is improved management of some of the low uneconomic yielding farms, full use of fixed farm costs, smaller areas, far better done with the use of fertilizer and with compost, and also, Sir, to look at the idea of taking the Guaranteed Minimum Return off the lower producing farms.

Also with the lowering of the price of maize I am sure that Government would find that a lot of the excess surplus would be used in feeding livestock both for wool, milk, mutton and, when the pig industry is running again on oilseed wheels, on pig meal. I think it is ludicrous when we, in a country such as ours, have hungry people and hungry livestock, and one sees maize going down this great railway line of ours past sisal estates, past sisal estates that have to pay Sh. 56 or something a bag for *posho*. Our maize gets to the wharf at Mombasa, it is loaded on a ship, as I gather some of it has been, at between Sh. 15 and Sh. 18 f.o.b. boat naked. I should have thought, Sir, that it was not beyond the capacity of all of us to have this maize used in this country rather than exported to ease the burden of our competitors in Europe.

If I could give three points to the Minister which I should be most grateful if he would put to his new Board. One is, Sir, that they should have stricter grading, so that we have a first-class product to export. I feel if our grading were stricter we would get a better price on the world market for our maize. Also, Sir, if the new Board would consider storage in elevators on a system which is done in Northern Rhodesia, which I was told by the Maize Controller in Northern Rhodesia that they would pay for in 13 years by the saving of loss from rats and on new bags used.

The third point, Sir, now that we have these marvellous insecticides that keep weevil and other pests at bay, is of the possibility of storing strategic grain stocks on the farms themselves rather than at a central storage.

Now, Sir, just for a few moments before sitting down I would turn to the Bill itself. Before starting on the Bill, Sir, I would like to say that I endorse all the points that were raised by my hon. and learned friend, Mr. Humphrey Slade.

Sir, clause 4 of the Bill. I would agree with what has been said, that perhaps right throughout the Bill it would have been far better if the names of the Co-ops, and the Cereals Board were taken out. My reason for that, Sir, is that the Kenya Farmers' Association, which has dealt with European maize for over 30

[Lt.-Col. McKenzie] years—if anybody was going to be mentioned I should have thought that they would have been mentioned. They were one of the first bodies, if not the first body, in the country to take over the marketing and export of maize. The first point I should like to touch on is the chairman. Obviously under the Bill the chairman is going to be the choice of the Minister. Now I would have suggested, Sir, that it would have been far better if the Minister had appointed his chairman after consultation with the rest of his Board. Most important, Sir, I think the chairman should be in for a specified time; we may have a new Minister who does not like the look of the chairman. We have had trouble, Sir, as the Minister well knows, of getting chairman off boards, when there is no time expiry date. When you have eventually got them off the boards there have usually been rather hard feelings. Therefore I suggest that a time should be laid down for the chairman who naturally could be re-elected. It would ease the burden of the Minister if he wants to get rid of the chairman. Also, Sir, I cannot find it in the Bill, but I hope that the producer members who, I take it, are the three under 4 (c), can if the producers get annoyed with them resign in a gentlemanly fashion rather than resign in the pantomimic way they did from the Pig Industry Board. The only way they could resign, was by holding, I gathered, three quick meetings on five days and not attending the meetings. It would seem to be rather an odd way of having to get people off a board. Now, Sir, I feel, with others, that the Board is much too big and I would ask the Minister to reconsider the suggestion which has been put forward that 4 (c), 4 (d) and 4 (e) are two, two and two. Also, Sir, I would like to ask the Minister where in his Board does the consumer come in? I do feel that if he is going to have a big Board he may as well open it up reasonably big and put on a consumer as he did on the Dairy Board.

Now, Sir, if I may go to 5 (3) (g). What I would like to know, Sir, if one were sentenced to over six months and appeared, do you come back for four months like a late colleague, or do you remain in the Board or do you go off the Board?

Clause 5 (4). That also refers slightly to 5 (3) (g). I feel the Minister is given very great *gauleiter* powers under this section. I should like to know what would happen under 5 (3) (g) if your term on going to court was reduced on appeal by a court.

Under 7 (2). Sir, does the Minister envisage that the people on this new Board, or the officers, would have home leave, or not? Under 8, Sir, what type of chairman does the Minister envisage? Does he envisage a part-time, fully paid man—a retired man, or somebody with knowledge of grain or the grain industry, or will it be somebody completely new to, sweep with a clean broom and a fresh breeze?

Clause 11 (1). Sir, What happens if your chairman should act on his own and his Board disagree? Would it, as it stands now—I quite agree that it is very difficult for the Minister to remove the chairman, but if the chairman dug his heels in would it mean his Board would resign rather than the chairman, because under somewhere in the new Bill the Minister can only get him to resign if he has proved insane and such like. He cannot just ask him to leave and expect him to leave.

Under clause 14, Sir, I sincerely hope, as far as the European areas are concerned, that the Minister or the Board will appoint the Kenya Farmers' Association for their agents and also that the Kenya Farmers' Association will take care of the export of the maize. I feel sure, Sir, that would save both the producer money and the consumer money.

Clause 15 (6) (c). Sir, Does that mean that every farmer who sells maize seed must apply to the Board for a licence or a permit before he sells seed to his neighbour or to other farmers, whether direct or through a commercial concern? Clause 15 (7). Sir, I would like the Minister to tell me where the biggest maize producer in the whole of East Africa falls, and that is the East African Railways who, I would say, are by far the greatest maize producers in the country. All one has to do is to climb on a train, a slow goods train during the maize-growing season and you will see maize growing from the Coast to Kitale, to Kampala, up the Moshi line

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all the way along the railway line. I would say, Sir, that they are by far the greatest maize producers in East Africa.

Clause 16 (2). Sir, Surely, for a resident labourer, the fine of Sh. 1,000 and only one month's jail is in the wrong proportion? It might have been that either the jail must go up, Sir, or the Sh. 1,000 must come down. To me it seems completely out of proportion, especially when one realizes what the monthly salary of a resident labourer is. Clause 16 (3). It is beyond me why, as a farmer, I am under this Bill, must be called the occupier and forced to buy my resident labourers' maize.

Clause 17, Sir, I feel in 17 what may happen is that you can have argument over the transport costs. I would like the Minister, if he would, Sir, to explain to me just what would happen over the transport costs. As he well knows, Sir, if you have any transportation there is always a nonsense over the amount of costs because of wear and tear and the continual change in the price of fuel by the petroleum companies.

Clause 18 (1). Surely, Sir, there ought to be set times when the producer is going to know just what he will get for his maize. Here you will see, Sir, in 18 (1) it says "from time to time". I should have thought the producers ought to know well before they plant just how much they are going to get for that crop.

Clause 25 (2) (b). Sir, I wonder if the Minister would be agreeable to tell me what he means by "any territory"? Does that mean Uganda and Tanganyika, or would it mean outside countries?

Clause 26 (3). Sir, Why is there only a fine and no imprisonment?

Under Part VI, will the Minister be prepared to tell us how the Board is going to commence; where is it going to get its finance from? Has Maize Control got money in the kitty or has this new Board got to borrow money to start off with such as the Dairy Board had? If so, where is the money coming from? The Treasury or other places, and at what interest?

Under clause 32 would the Minister give an assurance that if there is any

excess of revenue at the end of the year from this Board that it will go mainly to the benefit of the producer, and maybe the consumer, not to be used as it was used before when stock feed money was used to build agricultural colleges and such like. If it is used outside the benefit of the producer and maybe the consumer the producers ought to be brought into it. I agree with the hon. and learned Member, Mr. Slade said there must be an opportunity for producers to be able to discuss the annual accounts when they come out as in the Dairy Board. Also, Sir, if the Minister would be prepared to tell me under clause 33 just how the Maize Price Equalization Fund stands at the moment.

My last point, Sir, under Objects and Reasons, No. 15—we are told that this Bill will not cost any money. What I would like to know, Sir, is how much this Bill is going to save.

MR. COOKE: Mr. Speaker, I would like to join with the hon. Member for Kiambu when he said that so far in this debate a lot of time has been given up to the producer but not enough time has been devoted to the consumer, and that point was taken up by my hon. friend, the last speaker, when he said that the price of maize to the ordinary African in the town was so big that very few on their present wages, or rather the wages that they have had up to a few years ago, could have afforded that price.

Now Sir, I am entirely opposed to this Bill on principle. Most of the speakers so far have dealt with clause by clause and actually I do not intend to take up the time of this Council in doing so. I would suggest to those speakers that the points they did bring up in this Council might more easily or more readily be brought up either in the select committee if we are going to have one (and I do hope we are going to have one), or during the Committee stage of this Bill.

I oppose this Bill in principle because it preserves and perpetuates all the evils or most of the evils of the old control. I know that my hon. friend, the Mover, rather took the view, I think, that there was not much control about this Bill. If I am taking him up wrongly it is not my fault, because although this Bill was debated last Thursday the amended

[Mr. Cooke]

HANSARD report has not yet been circulated. I think five days is an unconscionably long time to take in circulating the HANSARD. Now without meaning any offence to my hon. friend I find it very difficult sometimes to follow him, because he seems to speak with two voices. He spoke with one voice at Subukia the other day, and he speaks with a second voice before this Council. Now he is reported in one of the leading papers of having said at Subukia that he did not like quota controls, and he did not like the quota system.

But if they were not introduced, Sir, he said "cheap African maize would come into competition with expensive European maize". That is a very queer argument to put up—that the reason for the control was that otherwise the country would be faced with a cheaper maize! Surely, Sir, that is what we are all aiming at. It has been a fundamental political axiom in Great Britain, take the Corn Laws, that the food of the people should be as cheap as possible; yet here we are having the food of the people as expensive as possible. I do think, therefore, that my hon. friend should agree with me that the effect of control is that it puts up the price of maize, and that by doing that of course it puts up the price of all the industries of this country. Mr. Churchill, in his latest book when he refers to the Corn Laws, in England, says that the chief objection to those laws came not necessarily from the consumers but from the industrialists of those days, who found that they had to pay very much higher wages to their workers in consequence of the high price of corn. Of course, Sir, exactly the same operates here, that, the higher the price of maize, up go the wages and up goes the cost of living of the ordinary middle classes and working classes in this country.

Now, Sir, the point has been made that we are doing an injustice to certain farmers in this country if we introduce a quota system. Well, I think—and I agree with every word the last speaker uttered about the growing of maize and what should be done about it—that if a farmer is a sub-marginal farmer he should be allowed to go out of production. I should have thought

certainly it was when I was on Executive Committee ten years ago—that that policy, that people who were sub-marginal farmers should be weaned from sub-marginal maize farming into mixed farming. We paid out no less than £900,000 to enable people to go off from maize production. It would be very interesting—indeed, I am going to ask a question about it—to know how that £900,000 was dissipated, because I, at that time, and I mention facts which came to my knowledge, knew where people who got advances to go into mixed farming used that money for other purposes. I am going to ask a question in this House: I shall ask for an account of that sum of nearly £1,000,000 which was voted in 1951. I do not think we are under any obligation at all towards the maize farmer today when he had every opportunity of turning from maize production—monocultural, whatever they call it—to mixed farming. If he did not do so, he was warned, and I do not think we should have any compunction today about introducing a reduction in price.

Now, Sir, I would admit that food controls sometimes are necessary, for instance in times of war; they save shipping and they ensure that there is a sufficient amount of food for the people, grown in this country; also there are other arguments in favour of control. I would be the first to admit, for instance, that crops like coffee and sisal need control because if they went out of production it would take years and years to re-establish them again. But a common crop like maize, even if it does go out of production, can very easily be re-established in six months or so. Another argument to defend controls was that in time of famine we might find that there was too little maize to feed the people. But that argument, Sir, does not really hold good today in a country where transportation has so immeasurably increased over the years. There would be very little difficulty in bringing food ships to Kenya. For instance, Sir, in the periodic famines which take place in India today grain ships from Australia and Canada can come in their twenties and thirties and resolve the problem of lack of food. Apart altogether from that it would be quite

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possible to keep and store something like 500,000 bags against a contingency such as that. Then that maize could be turned over each year so that there would be a fresh supply of 500,000 in case of any fresh contingencies.

The fact is that we are now paying Sh. 56 a bag for maize which, in a free market and with free movement of maize in the country, should not cost, at any rate, more than Sh. 30 a bag; and, indeed, the producer himself is only getting something like Sh. 26 a bag now, and he himself would not suffer, so far as I can see, by any free movement of maize in this country. As you know, Sir, and as everybody knows, the old system of control has led to all sorts of abuses. We had money paid secretly from hand to hand and we have, of course, the evils of the black market, and those evils will be perpetuated under this new system. I remember one of the maize controllers at Fort Hall telling Col. Ghesrie and myself two or three years ago that 60 per cent of the maize produced in the Fort Hall area went straight into the hands of the black market; and it is still going into the black market. For instance, Sir, we have heard Africans saying in this House that bags of maize—it is a well known thing—pass these posts in the reserves at the rate of Sh. 1 a bag; this is paid to whoever is stationed at those posts to see that no black marketing goes on. All that will still go on, as I see it, under the present system. I know it does not refer so much to maize meal as to maize itself. These statutory crimes are always bad things because they lead to informers and so on. Of course, Sir, I agree with one or two speakers who have said that some of the penalties are really ridiculously high. If they are going to be as high as that it seems to me that the Government recognizes that it does face a very difficult problem and is trying to frighten people in order to stop them committing these crimes; and it is a very good thing that they should; but it is not a good thing that this control should lead to the bribery and corruption which it does inevitably lead to. It leads to informers and, above all, it leads to a great deal of policemen's time being devoted to the statutorily created offences whereas their time

should be devoted to other and much more serious crimes which occur in this country. The expense of the control is very high at a time when we have been warned, and rightly warned, by my hon. friend the Minister for Finance that we must pull our socks up.

I agree and join with my hon. friend the Specially Elected Member who has just spoken in his protests at our not having debated the Sessional Paper. I must say, Sir, I think it is rather discourteous to this House that a Paper of that importance was not discussed first. I believe it was on the Order Paper last autumn and that it was taken off. It was also, I think, rather a slap in the face for those people who went to such tremendous trouble in getting the facts for that report. I personally think it was a most courageous and outspoken report and that it was extremely well put together. That may be the reason why my hon. friends on the other side of the House have feared a debate on the report.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, I must draw the attention of the hon. Member to the fact that I laid the report. He seems to forget that.

MR. COOKE: I congratulate the hon. gentleman! However, I do not seem to remember it having been discussed in this House. It is the first time I have heard that the hon. gentleman had made the report. However, I thought it was time it was—

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): It was laid—not made.

MR. COOKE: Yes, certainly.

Well, I do still say that it was discourteous, and it was not only discourteous, it was uneconomic in the wider sense not to have this report discussed because, as my hon. friend said, it might have avoided a lot of the debate which we are having today and which we had last week.

Now, Sir, I have nothing more to say except to recall my extreme opposition to any kind of maize control. I have been doing it quite consistently for the last ten or 15 years without very much effect.

[Mr. Cooke]

There is another point in favour of the cutting down of the growing of maize, restricting the growing of maize, which I have not dealt with. As my friends in the Department of Agriculture know, Sir, it wastes the soil; it is a great waste of the soil. I know the Director of Agriculture, Mr. Blunt as he then was, and other Directors, have all made this point in their annual reports. They have pointed out time after time that the high prices were encouraging the growing of maize on land which was quite unsuitable for the growing of maize. I think that advice should be taken from those highly professional people and that we should, so far as possible, avoid any encouragement of the growing of maize.

I was a little bit disturbed because I think I heard my hon. friend say that there might be an extension of the growing of maize next year, and I think he was referring to the land consolidation measures in the Kikuyu Reserve. I hope he is wrong. In my recent trip through that Reserve I did notice that maize was being grown in very many areas, more than used to be grown in the old days. I hope that this very valuable land which is now being broken up into economic holdings will not be wasted in the growing of a crop like maize but will be devoted to the growing of cash crops and animal husbandry.

It is too late now, of course, to deter the Government from introducing this control, but at any rate amendments will be necessary and for that reason I wholeheartedly support this request for a select committee.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Dundell): Mr. Speaker, a very great number of points have been raised by hon. Members, and I think it would be as well if I went directly to them and dealt with them.

I would like, arising out of the general remarks on policy made by the hon. Member for the Coast, to touch on some of the aspects which he has raised; but I will do that at the end.

Now, Sir, turning to the points raised by the hon. Member for the Usini Gishu, the hon. and gracious lady recommended that the title should be changed from the Maize Marketing Board to

some other name, and the hon. Specially Elected Member also raised that point on the grounds that under section 13 (3) this Board can be appointed an agent for other crops. Now, Sir, I think that the hon. Members have misunderstood clause 13 (3). It does not give any power to extend the provisions of the Bill to crops other than maize. It merely enables the Maize Marketing Board to be appointed as the Minister's agent for the purposes of marketing a particular crop under the provisions of the Agriculture Ordinance, and I repeat, not for the marketing of such a crop under the provisions of this Bill.

The reason for making this provision is that on 31st July of this year Produce Control comes to an end with the lapsing of the Defence Regulations Continuance Ordinance. When that happens, it is my intention that crops hitherto marketed by the Produce Controller, which are mostly crops grown in the Non-Scheduled Areas, will be handled by the provincial marketing boards. But it did occur to me that circumstances may arise in which it will be desirable to market a crop on a Colony-wide basis. I have one example in mind, Sir, where a serious marketing problem will be facing us towards the end of this year, and that is the potato crop. It is possible for me under this Bill to appoint an agent for marketing the crop in certain circumstances. With the Produce Controller no longer existing and the formation of a Potato Board apparently out of the question now, in view of the remarks of the hon. Member for Rift Valley, the Maize Marketing Board would be a convenient central organization to be appointed as an agent under the Agriculture Ordinance—hence this provision 13 (3). But the marketing of the crop would continue to be done through the Board, acting as the agent of the Minister, under the Agriculture Ordinance, not under this Ordinance; it would continue to be done through agents who would be appointed by this Board for that purpose. This is a decision, Sir, which would enable me to handle scheduled crops without creating new boards, using this Board as the agent which, hitherto, has been the Produce Controller. Therefore, there is no reason whatsoever for altering the title of the Bill.

[The Minister for Agriculture, Animal Husbandry and Water Resources]

Now, Sir, it has been suggested that I should delete from the Bill the mention of the Cereals Producers Board and the Nyanza Marketing Board in connexion with the appointment of members of the Board or elsewhere on the Bill. Now, Sir, a number of speakers made this point, and I would like to say, Sir, that I am in some sympathy with this suggestion. In many ways I would have preferred to have omitted a reference to these two bodies. But I consider that I am bound to retain these in the Bill due to an agreement made by the Government with producers in 1954, which is before I became Minister, to set up a Cereals Producers Board. That was an agreement which was made with the producers as a result of concessions which producers made in regard to finance which was held for the producer account in an equalization fund which was used for other purposes. As a result of that, it was agreed that the Cereals Producers Board should be set up, and that it should be considered the responsible body to which the Minister would refer in the Scheduled Areas concerning matters affecting the maize and wheat industries. Whatever may be my sympathy in the matter with hon. Members opposite, I would consider that I was breaking faith with the producers with whom I have discussed this matter if I accepted any amendments in this regard. If hon. Members feel that there is something that should be done, then I would suggest the proper channel for it to come to me, in view of the fact that the Maize Marketing Board is now established on the assumption that it will be one of the parts of the Bill amended at some future date to meet the views which hon. Members have expressed. Similarly, some hon. Members have expressed the view that we should remove altogether the Cereals Producers Board and allow the Maize Marketing Board to undertake the functions of the Cereals Producers Board. Again, Mr. Speaker, this is possible, but I would consider it a complete breach of faith by Government if I were to accept this suggestion now; because the Producers Board was set up as the result of an undertaking given by my predecessor to the pro-

ducers which I honoured. In the course of this Bill certain of the clauses, which affect the industry and the right of representation to the Minister, I have cleared with the producers' representatives themselves. Again, Sir, I would consider it a breach of faith on my part to accept amendments in those clauses unless the Cereals Producers Board itself agreed to those amendments.

Now, Sir, the drafting of the Bill in these matters before the Council is working which, after vigorous consultation with the producers, I have accepted, and I feel therefore that I could not depart from it.

Just one final point, Sir, on the Cereals Producers Board, which arises out of the speech made by the Specially Elected Member, Col. McKenzie. He suggested that the Cereals Producers Board was out of touch with producers, and that when the quota system was thrown out of the window, they should have resigned. I would only say this, Sir: that the Cereals Producers Board introduced that quota system on an understanding that the differential between the maize purchased by the Government and the maize for export would be very much wider than it was. They could not anticipate that there would be a temporary advance in the export market which would return to the growers 25 a bag, and would thus make the difference between the guaranteed price advanced by the Government for locally needed maize and the export price very much less. That, undoubtedly, I think, influenced the result on the quota system. Secondly, Sir, I think the quota system unduly hit the new producers, but that probably could have been adjusted by consultation with the Board.

What I would like to put forward very strongly, Sir, is this. If the producers are dissatisfied with the Board the remedy lies in their own hands. They can either change the Board: it is an elected Board, with virtually no control whatsoever exercised over it by the Minister; or they can ask for the Board's resignation. Until that is done, so far as I am concerned as the Minister, the members of the Cereals Producers Board are the properly elected and accredited representatives of the maize producing industry. I have got to accept that, I feel, in my dealings with the industry, as opposed

[The Minister for Agriculture, Animal Husbandry and Water Resources] to my dealings with the legislation for the industry, where, up to a point, I have to regard some members, certainly, as representative and accredited.

Now, Sir, the hon. and gracious lady also raised the question of the Chairman, and the hon. Specially Elected Member similarly raised the same matter. I want to make it clear, Sir, that in discussions with the producers I was not able to accept the suggestion that I should consult producer representatives over the chairman, and I am not prepared to do so. I am not prepared to do so for these reasons. First of all, 1,000,000 to 1,250,000 bags which this Board will handle will not be the property of the producers. It will be bought by the Government on certain terms and conditions at the beginning of each year. The Board will dispose of that to the best advantage of the country and the consumers. I did not intend to have this Board dominated by producers at all. I meant it to be a Marketing Board in the best interests of the country. But as so happens that under the arrangements which I have put forward, which are in the best interests of the country, one-third of the crop will still remain, in effect, the responsibility of producers for marketing which will be effected through this Board and its agents. I felt, therefore, that it was reasonable to give producers a rather larger share in the voice of the Board. But I am not going to consult producers over the chairman as a deliberate act of legislative policy. I am perfectly prepared, naturally, to discuss with the Board, when it is constituted, suitable names for a chairman; but the point I want to make is that there is not on this Board, for the reasons I have given, consumer representation as such. That means, I submit, that the chairman must be a man who carries the confidence of the country and who will look after the interests of the consumers as much as those of the producers. I believe that if he cannot be appointed until I have consulted producers that does give the producers, if they were unreasonable, a pressure upon the Minister in the selection of his choice. I am not prepared to accept that.

Lastly, Sir—and I am going to be absolutely frank about this—since I have been Minister I have not been convinced in the slightest that the producers are the best people to choose the chairman, when I look at the number of boards that I have had to pick up and put together again from the financial aspect, I believe it is far better to have a wider choice of chairman, nominated by the Minister. Obviously, if the chairman were to be a moronic character of dubious personality then the whole Board would resent it, and it would then be impossible for the Minister to proceed with his choice. But to write in the Bill that the producers will be consulted is something I have rejected absolutely openly in conversation with the producers because I feel that the chairman must be independent, and because 1,250,000 bags which will be handled by this Board will have to be passed on to the consumer as cheaply as possible.

I thought that the hon. Member for the Coast would say "Hear, hear!" when I said that. But I regret to say that he has not.

I just want to reiterate once more that this Board is not a producer board. This Board is an executive and administrative board for the handling of the maize crop which will operate largely through agents. It is not a producer body. The producer body in the case of Nyanza maize is the Nyanza Marketing Board, and in the case of the Scheduled Areas it will be the Producers Board, Scheduled Areas.

Now, Sir, the hon. and gracious lady also raised the question of the functions of the Board in clause 13. I made it clear, when moving, that only in exceptional circumstances, and with my consent, would the Board actually act executive; in other words, actually physically store, physically handle and physically move, and even physically mill, maize. It would work, except in those exceptional circumstances, and with my authority, through agents. I have already informed the House that I would move an amendment in the Committee stage to cover that point.

I do not feel, Sir, that the Board can be purely advisory, while there may be

[The Minister for Agriculture, Animal Husbandry and Water Resources] circumstances in which it has got to be executive. In any case it has to be executive because the decision as to the agents to be employed, and various matters of that sort, must be taken by the Board and not by the Minister.

Then, Sir, the hon. and gracious lady raised the question of the Minister having overriding powers over the Board. I dealt with that in my opening speech, but very briefly, to repeat, the answer is as follows. The Board is concerned only or mainly with the marketing of maize. I feel that the Minister must be able, in terms of the overall national position, to be able to direct the Board in certain circumstances to the best national interest. I do not believe that in dealing with a substance such as maize, which is really primarily a staple foodstuff for the great majority of the people, I cannot have sufficient authority to direct the Board in matters of national policy where that is necessary. That is what this section gives me.

In my final analysis, Sir, the responsibility for feeding this country lies with the Government and the Ministry of Agriculture. I think in view of that, Sir, that the Minister has got to have overriding powers in regard to this Board. I would direct the hon. and gracious lady's attention to my earlier remarks. This is not a producer marketing Board—it is a marketing Board to handle the maize crop through agents to the best advantage of the country.

The hon. Specially Elected Member—I am glad he is back in the House—in dealing with the Bill clause by clause, had a fair amount to say, and I was tremendously struck with the emphasis he laid on the words "select committee". I felt in a way it had almost become as much of a fetish to him as the words "Round Table Conference" are to some other people, in the belief that it is the panacea for all evils. I propose therefore, Sir, to deal with the points he has raised.

The first point he raised was the definition of maize. I am advised that it is clear in the context of the Bill that the Bill is only concerned with maize after harvesting, and therefore it does not appear to the Government that the fact

that the definition may include maize before harvesting is a valid objection to it. The definition has been very carefully worked out with the best advice available to me, and it is based on the definition in the Defence Regulations which has been generally satisfactory for 17 years. I would submit that if the definition on these lines has run in the Defence Regulations for 17 years it is likely to be an adequate definition for the purposes of this Bill.

Now, Sir, the hon. Member also raised the composition of the Board—a reduction in its size—and I dealt with that when I was introducing the Bill. I do not propose to weary the House further with it, except to say that after very deep consideration I have come to the conclusion that the composition set out in the Bill is one which I must not depart from. I gave my reasons and I do not intend to repeat them.

Now, Sir, the hon. Member raised the question of clause 5—tenure of office. I must confess, Mr. Speaker, I am surprised that the hon. Member is misreading the Bill as drafted.

If he will remember, he referred to the Dairy Industry Ordinance and he contributed very much to that Ordinance with the wealth of his wisdom and experience. He will see that in the Dairy Board, out of 12 members, three members retire after one year. Under this Bill, only two of the 12 members resign at the end of one year, and they are, of course, eligible for reappointment. I have prepared—and will give to the hon. Member now—the rotation of the members.

Under section 4 (2) (c), the first member to retire will be one year in office; the second member to retire will be three years; the third member five years; and the next member after that six years. In clause 4 (2) (d), the first member to retire will be two years in office; the second member four years; the third member six; and thereafter each member six. In clause 4 (2) (e), the first member will retire after one year; the second member will retire after two years; the third member after three years; and thereafter each member after four years.

Now in no circumstances, in all honesty, Mr. Speaker, do I consider that

[The Minister for Agriculture, Animal Husbandry and Water Resources] that arrangement can be criticized on the ground of lack of continuity.

Sir, the hon. Member again raised under clause 6 the question of a producer elected to the Board having to declare an interest. I feel that an enormous number of the small points that the hon. Member raised were raised in order to wave aloft this banner with S.C.—select committee—written on it, and have really no great substance. We have arranged, Sir, in this Bill—and intentionally so—that a member who grows maize and is elected to the Board for the purpose of representing the interests of maize growers shall not be required to declare time after time that he has an interest. I therefore think that no amendment is necessary there. It seems to me farcical to put a man on the Board to represent maize interests and expect him, every time anything is dealt with by the Board, to declare that he has got maize interests.

Now, Sir, if we were to make the amendment the hon. Member suggested

oh, I think I have just turned over two pages at once! The hon. Member will forgive me.

He also raised the question of the word "primary" and I would like to tell him that the word "primary" is deliberately so drafted in clause 13. To omit it would imply that clause 13 contains all the functions of the Board, whereas clause 13 is intended to set out the more important functions only. A number of other minor or secondary functions are allocated to the Board in various parts of the Bill. To specify secondary functions in one clause is unnecessary. They are set out clearly in the appropriate clauses. Again, Sir, I think this emphasis on the word "primary" is merely, as my hon. and learned friend, the Solicitor-General, said a befogging issue over this question of a select committee.

Now, the hon. Member raised the question under clause 15 of the vesting of maize in the Board. My hon. and learned friend, the Solicitor-General, dealt with this point very fully and well. I would only like to add one point to the remarks I made when I first spoke. The vesting of maize in the Board from the moment of harvesting is a fundamental

principle of the Bill, and the hon. and learned Member opposite will appreciate that the main provisions of the Bill, as a result of that, have been built round that.

Now, Sir, this is not some diabolical brain-child conceived by the evil, Kremlin-like oppressors in my Ministry against the protagonists of Magna Carta opposite. This particular phrasing came out of the Grain Marketing Act of 1950 of Southern Rhodesia. Section 17 of this Act reads as follows: "The following controlled products are hereby vested in and shall become the property of the Board: (a) any controlled products grown by a producer as soon as it is harvested." Now, Sir, in 1957 in Southern Rhodesia this Act was repealed and re-enacted in part by the Federation of Rhodesia and Nyasaland. But those freedom-loving Rhodesians, not oppressed by an unremovable Government such as ours, did not remove this particular provision from their Bill and carried it forward to their new Bill, vesting produce or maize in the Board on harvesting. Now, Sir, that should be particularly attractive to the hon. Member for Nairobi North, who is so closely in touch with the people of Rhodesia. Therefore, I shall expect him, at any rate, to support me, when we go through the Committee stage, with generous views.

Now, Sir, the hon. Member raised, in clause 15, failure to comply with the provisions of that clause, and he said that "unreasonably" in sub-clause (3) was the worst possible word to use: "lawful excuse" might be better. Now I am not going to enter into this argument; it is an entirely legal one and is a matter, of course, upon which lawyers thrive. But there are ample precedents for "unreasonably" in the Colony's legislation and it seems to work very well in practice. I am advised, Sir, by my legal advisers—as opposed to those available to hon. Members opposite—that there may be even stronger objections to "lawful excuse": that it would be difficult to find a lawful excuse for breaking the law. However, this is largely a legal point and I think, Sir, that we will find that "unreasonably" is better than "without lawful excuse". I think we will find that the use of the word which I have in the Bill will bear less harshly on the individual than the words "lawful excuse".

[The Minister for Agriculture, Animal Husbandry and Water Resources]

The hon. Member also raised the question, in clause 15 (4): who carries the loss if the crop is destroyed before delivery? Well, I partly dealt with that when I was introducing the Bill, but, Sir, the point is clearly covered by the proviso to clause 15 (1). The loss is the farmer's. The question of insurance of the crop is the question I dealt with, and there is nothing to prevent the agent and the farmer between them acting under the Board and arranging insurance against that loss.

Now, Sir, in clause 15 (6) (b), the hon. Member raised the point that exemption for maize bartered or sold for human consumption should not be on a racial basis, and I do apologize to hon. Members; I had a note when introducing the Bill to say that in the Committee stage I shall be moving an amendment which will place that outside the racial sphere and into Scheduled and Non-Scheduled Areas. However, in the general desire not to delay Members in launching their salvos I ought to mention it, and I have pleasure in saying now that I shall move an amendment which will cover that point.

Now, the hon. Member also suggested, Sir, that we should treat the Nyanza Province Marketing Board as a kind of corporate producer in the same way as the occupier of a farm is treated in the Bill. There is a superficial attraction in this proposal, but we have examined it before the Bill was prepared and rejected it on a number of grounds, chiefly the difficulties arising from applying the penal and exemption clauses to a body such as a provincial marketing board.

Clause 17: the hon. Member suggested that the word "excusable" should be inserted before "failure", and that point had already been brought to my attention during the 40 days between the publication of the Bill and its debate. A suitable amendment will be made by me during the Committee stage.

MR. SLADE: That makes how many?

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Well, Mr. Speaker, I can see no reasons why we should not introduce amendments in the

Committee stage; I felt that that was the object of the Committee stage.

Clause 18: the hon. Member asked how the higher price for the internal requirements of the Colony is apportioned to the individual under the regional allocation system. Now, Sir, the answer to that is, of course, that no allowance for individual production can be made in a regional allocation system. The price paid to a producer must be the average between the price realized from sales bought by the Government and prices of sales sold overseas. Provisions for fixing that average price is contained in clause 18 (5). Now, Sir, we come to one development of that which the hon. Member did not refer to. Whereas we can fix an average price over regions, it can only be related to producers where producers are identifiable entities and it should be done, I think, through an organization such as the Cereals Producers Board (Scheduled Areas). I have already, Sir, given my views on individual quotas and I was asked by the hon. Nominated Member, the Commander with a naval background, whether I would give my assurance that before agreeing to any individual quota I would make absolutely certain that it was as equitable as possible. I gladly give him that assurance, bearing in mind the views which I gave to hon. Members generally on quota systems.

Now the hon. Member also raised in clause 18 the possibility of surplus maize being disposed of through a pool system. Now, Sir, I have already indicated—and even given an assurance—that the pool system can be operated under the Bill, and any profit that is made in one year, on account of a higher price being realized for exports than estimated, or on account of a lower total regional allocation than estimated, will be reflected in the price for the following year. The advantage of regional allocations is that profits accruing to a particular region on account of a total production below the estimate in that region can be paid out to that region in the price fixed for the following year. In other words, Sir, it is a little complicated, but may I amplify it as follows? Where a region, or the whole industry, agrees to sell to the Government 1,250,000 bags at, shall we say, Sh. 30 a

[The Minister for Agriculture, Animal Husbandry and Water Resources] bag, and the export price is Sh. 15, if the surplus over and above local consumption is 500,000 bags at Sh. 15, then the overall price to the producer will be less than if the surplus for export was 250,000 bags. This clause does allow flexibility in that regard, and any benefit which accrues from sale of export maize to be passed straight back to the producer.

Clause 26: the hon. Member raised the question of the penalty of imprisonment as well as a fine, and I think it is a valid point. We are looking into it. We will then be able to deal with it in the Committee stage.

Again, Sir, I agree that reasons for refusing to register a miller should be stated and given to the millers and we are looking into that.

Now, Sir, we come to the application of revenues—clause 30—which I think is a controversial one. The hon. Specially Elected Member, late of the Aberdares, said that producers should be consulted regarding the application of excess revenues and it should be stipulated that they should be applied for the benefit of producers. Now at the same time, the hon. Specially Elected Member, Col. McKenzie, raised the same point but in exactly the opposite sense. The Specially Elected Member, Mr. Slade, was desirous that surplus revenues should return to the producer; the Specially Elected Member, Col. McKenzie, was desirous that surpluses should return to consumer and producer.

Now, Sir, I want to make it clear that the maize handled by the Board will be in two parts. The return for maize that is sold overseas will be, whatever the price which accrues, less the administrative expenditure of selling it (which will be calculated, presumably, by the agents), directly returnable in *totu* to producers, subject always, of course, to their right to ccess themselves for specific purposes. Now the maize bought by Government at a guaranteed price to the producer is a final transaction, and the profits accruing from the disposal of that maize through agents will be for the disposal of the Board with the approval of the Minister. It would be intended, Sir, that such money should be used for the general interests of the

country. It might be used, for instance, in certain circumstances for producers; in certain circumstances it might be used for a reduction of the price of *posho*. In other words, Sir, that profit in those transactions is not to the producer; it is to general Colony account in the interests of everyone. I hope I have made that clear.

Sir, the hon. Member raised the question of an annual conference of producers, and he was supported by the hon. Specially Elected Member, Col. McKenzie. I must confess, Sir, that that is not acceptable to Government. If in the light of experience and the running of the Board, and the elimination of the Cereals Producers Board at the request of the producers, a situation developed where this Board was the sole body dealing with maize generally in the Colony, then I might consider it. But I want to emphasize, Sir, that this is a Board which, under the general direction of Government, is going to sell the maize which Government has guaranteed, by contract, to purchase from the producers.

MR. SLADE: Contract?

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Well, the hon. Member can shake his head and say "Contract", but the Government has a different idea, I think, of integrity to that of the hon. Member. If I agree to purchase the producers' maize up to 1,250,000 bags at surplus price, I intend to keep to that.

—Sir, nevertheless, the fact remains that this Board will handle the maize which Government agrees to purchase from producers at a guaranteed price, and if the producers wish to query any particular operation of the Board, I believe the proper place to do it is through the Cereals Producers Board which will put forward three names to this Board. It is not the function of this Board to hold conferences of that sort. In other words, Sir, this Board is not a producer marketing board. I will develop that further because I have no doubt that it will come out in the Committee stage. But it is not my intention to have a conference of producers to chivy this Board; if producers wish to chivy a Board, the Board they can chivy is the Board specially set up to look after their

[The Minister for Agriculture, Animal Husbandry and Water Resources] interests and which elects, or puts forward for nomination, names to this Board.

The hon. Member said, Sir, under clause 34 (2), the Board should be empowered to create a fund to subsidize exports. I think this point is covered by clause 35 (c) which permits the Board to use the Maize Cess Fund in compensation of any shortfall in revenue on the sale of maize surplus to the requirements of the Colony. Perhaps I could dispose of it now, while I am passing: the hon. Specially Elected Member, I think it was, asked what was the condition of the Maize Fund. Well, Sir, in so far as the Maize Fund is concerned, as far as we can see, there will be a slight credit on the producer account at the conclusion of the 58.59 crop year, and a slight deficit on the African (Non-Scheduled Areas) Account, due to the fact that, at the request of that area, they only imposed a cess of Sh. 8 upon themselves, whereas the Scheduled Areas imposed a cess of Sh. 10. The net result of these operations is that there will be a very small deficit against the Non-Scheduled Areas, and no deficit—possibly a small credit balance—against the Scheduled Areas. Nobody, Sir, will give the Government any credit for that, but I would like to record that it was the insistence of the Minister on the quickest possible elimination of that deficit that has left us in the fluid and flexible position in which we shall find ourselves in July, 1959.

Now, Sir, Part VIII: the hon. Member raised the question of the degree of control and the degree of individual freedom. Many of the points which were raised by the hon. Member were dealt with by the hon. Solicitor-General. I would only like to add this: every piece of legislation to some extent involves interference with the liberty of the individual. No one likes that; nor do we on this side of the House. But in order to prevent licence and the abuse of the intention of the Ordinance, and for the good of everyone, it is sometimes necessary to have these controls. We can only hope that as far as possible we do not interfere, with the individual more than is necessary.

Now there is nothing revolutionary in the proposals before the House, but every time they come up hon. Members opposite quite correctly raise them. But the fact remains that it is a perfectly simple issue: are we going to have control or are we not? Well, the hon. Member for the Coast has, quite honourably and properly, said, "No." Every other hon. member has said, "Provided it goes to a select committee." I do not quite know what that has got to do with it. But we say, "Yes." But if we are going to have controls, then obviously we have got to have the mechanism for control. Now, Mr. Speaker, I am going to speak from my own experience as Minister. No one can be the Minister for Agriculture and really get in love with the job. I do not think, Sir, that you were, and I am sure that my predecessor will accept it when I say that some of the babies that were hatched in his time, I have had to clothe and educate. I would like to say this, Sir: there is far too much tendency in this country to ask for control for some purpose which appears to be good, and when that control comes forward before this House, for every man with one accord to strike out every proviso in the Ordinance which enables the control to be properly carried out. That runs right through out national and political life: a capacity for speaking, and, when we come to facing the real facts of life, avoiding them. And that is one remark, I know, which the hon. Member for the Coast will again thoroughly endorse.

Now, Sir, exception has particularly been taken to the powers of entry and inspection under clause 38. I have already indicated to the House that I propose to make, by amendment to the Bill, certain changes which will ensure that only responsible persons exercise these powers and those under clause 41. But I must point out that it is essential to have some such powers if control is to be preserved, and if the interests of the law-abiding citizen is to be protected. We cannot operate control of maize unless, for instance, a marketing officer in Elgon Nyanza is empowered to enter premises in a trading centre in Elgon Nyanza and inspect the stock there. If he has to get a warrant from some superior officer, or the police have to carry out the job, it is too easy for the person in

[The Minister for Agriculture, Animal Husbandry and Water Resources] charge of the store to alter the stock in the intervening period.

Now, Sir, I must point out that in this particular aspect, responsible representatives of producers, which include African representatives, have been fully satisfied in their discussions with me on the Bill that these powers are necessary. They recognize, and we ought to recognize in this House, the essential connexion between black market activity and the price of *posho*. The hon. Member for the Coast himself underlined that in his objection to the Bill generally. Every time a bag of maize passes outside the control system, it increases the differential between maize and *posho* to the law-abiding producer and consumer. That, Sir, I think, is sufficient justification for seeing that we can carry out properly the intention of this Ordinance.

Now, Sir, I think that has rather disposed of a great many of the points raised by my hon. and learned friend under the banner clearly marked "Select Committee."

I would like to turn, Sir, to the points raised by the hon. Nominated Member, Commander Goord. He asked that I would give an assurance that the Minister would not approve a scheme of individual quotas unless thoroughly satisfied that it was equitable. I would go further than that; I will give him that assurance but I would add: equitable and necessary, because I am convinced, as I told the House, that we should only venture upon limitations and restrictions of production for very special and exceptional reasons. So I gladly give him the assurance and add to it.

He said, Sir, that it should be made clear, under clause 16, that the labourer will only have to sell what is surplus to his requirements. I shall move an amendment to cover this in the Committee stage.

He asked, Sir, a rather difficult point: what is the position if the secondary price is below that fixed under clause 16 (3) in regard to squatter maize? This position will undoubtedly arise, and we have examined it, and the only way out of the difficulty is for the price for the

production of the labourer on the farm to be taken as an average figure for the area, so that the average price for the regional quota applies to the squatter as well as to the farm. In other words, resident labourer production will be included for the purposes of assessment of price in the total allocation to a farm.

Now, Sir, the hon. Muslim Member raised with me appeals under clause 47 and I think he was out of the House when I was moving the Bill, because I made it clear that I should move an amendment which would remove appeals on individual matters from the Minister to the Agricultural Appeals Tribunal. Appeals to the Minister will only lie in certain special subjects which cover policy. Those affecting the individual and the rights of the individual will go to an appeals tribunal.

He also raised the onus of proof in clause 42, and I would like to point out that the onus of proof lies on the accused only in exceptional circumstances. That is to say, he is required to prove only the place of origin of the maize forming the subject of proceedings. I have it in mind that the hon. Specially Elected Member, lately of the Aberdares, also raised this particular point. As indicated in the comparative table, the clause was modelled on section 22 (1) of the Control of Imports and Exports Ordinance which was passed in 1935. Similar, though not identical, precedents are to be found elsewhere; I propose to give them to the hon. Member: the East African Customs Management Act, 1952, the Stock and Produce Theft Ordinance, the Coconut Industry Ordinance, the Forest Ordinance and the Native Liquor Ordinance. Now, as a general rule, it is true to say that it is of fundamental importance that the burden of proving guilt lies in the first instance clearly on the prosecution in all cases. That, the Government agrees with. But to this rule, as with others, there are limited exceptions dictated by necessity and justified by the fact that on close examination the exceptions are usually seen to further the ends of justice without imposing any real harsh burden on the defence. The guiding principle in the majority of cases where the onus of proof is shifted to the defence is when it is more or less impossible to identify the

[The Minister for Agriculture, Animal Husbandry and Water Resources] goods concerned or to trace their acquisition it is simple for the man to prove honest acquisition, but to require from the prosecution proof that the goods were stolen or dishonestly acquired would often be virtually impossible. In many cases, of which this Bill is one, it would almost entirely stultify the Ordinance.

Now, Sir, this is not a new thing. I remember this coming up many, many years ago, 20 or more, when some of the more respected Members of this Council were first entering the legislative sphere—I refer to the hon. and Corporate Member, Sir Alfred Vincent, and the hon. Member for the Coast. It came up in the Stock and Produce Ordinance and the constituents of many hon. Members who opposed it strongly supported it at that time.

Now, Sir, I turn to the hon. Member for Nairobi North, and in my opening speech I said that the cost of maize in Nairobi to the consumer, if it was imported, would be in the region of Sh. 50 a bag. The hon. Member, in speaking to this Bill, said that it could be landed from a boat at Mombasa for Sh. 15, and he said he would gladly apologize if it could be proved that he was wrong. Now, Sir, I know the hon. Member is the distinguished producer of a column each week in a newspaper called *Truth*, but I do submit to the House that we have got to have a different standard of truth in this Council Chamber. I propose to put the actual facts before the hon. Member.

Now, Sir, the imported price of white maize from South Africa in bulk is Sh. 420 per bag—

SEVERAL HON. MEMBERS: Question!

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): The hon. Member is quite right: Sh. 420 per ton. I must confess it would please the hon. Member for Rift Valley and the hon. Members for Uasin Gishu and Trans Nzoia if it was Sh. 420 per bag!

The port charges at Kilindini are Sh. 32/80 a ton. The cost of converting the bulk in a ship to bags is Sh. 16/80 a ton. The import tariff is Sh. 78/40 a ton, bringing the total to Sh. 548 or

close, that is to say Sh. 49, per bag of 200 lb. net. With a new bag it would be Sh. 49/90—say Sh. 50. If the hon. Member wants to dispute the import tariff, the figure I gave him was Sh. 50 in Nairobi, and on that basis the cost in Nairobi today at Sh. 420 c.i.f. import price from South Africa would be Sh. 57 to Sh. 58 a bag. These are actual figures, which I give the hon. Member opposite, and I hope he will accept it from me that he was confused between the export price of Sh. 15-00 which all those who batten on the producer have taken their wedge of, and the import price, in which case the wretched consumer has to put out his flesh to those who import it, and there is a very big difference—the difference is Sh. 50 in one case and Sh. 54 in the other. I can understand the hon. Member being confused because he has so many windmills he is tilting at at the moment that it must be difficult to decide exactly which to choose.

Now the hon. Specially Elected Member, Mr. Muchura, has raised with me the question of small quantities of maize to be brought from Kisumu say, to Nairobi, and that is covered in the Bill. The Board can give authority to the agents or to a Producer Board or the Nyanza National Marketing Board, to bring maize down, but there is a human error in the Bill, and I am grateful to the hon. Member for drawing it to my attention, once the maize has been brought to Nairobi there is no provision for the hon. Member's relatives to consume it, and I propose to move a small amendment, which will enable him after he has brought the maize to Nairobi to allow the members of his family to consume it.

And he also raised, Sir, the question of whether the Bill will bring the price of *posho* down, and I propose to deal with that a little bit later on until the points raised by the hon. Specially Elected Member on differentials.

Now, Sir, the hon. Member for Rift Valley raised the question of clause 16 of it being mandatory upon an occupier to purchase maize from resident labourers, or labour. Now, Sir, we intend—we must proceed with that. It is a matter which has been pressed consistently upon Government by the agricultural community through a body which

[The Minister for Agriculture, Animal Husbandry and Water Resources] is dear to the hon. Member's heart. The Kenya National Farmers' Union, and I would not like, especially as he asked me to support that body, to depart from the representations which they have made to me in this matter. Where, Sir, there is a difficulty for a producer in providing finance for the operation, we can provide it administratively from the Board, by the Board allowing agents to provide the necessary credit—that is done today, and I think there is no change from the present position.

Now, Sir, I am grateful to the hon. Member for the point he raised about allowing the sale by one labourer to another on the same farm for his own domestic consumption, and we shall need to amend the Bill slightly in that regard.

Now, Sir, just to proceed very briefly. I felt, Mr. Speaker, the hon. Member took the opportunity of my innocence and rather humble Maize Bill to launch a tremendous diatribe on the question of boards generally. I do not propose to answer it at length. I expect hon. Members will get tired. I would say, however, that if the hon. Member will go to any section of the agricultural industry, and with that honeyed tongue of his induce them to come to me, and ask me to repeal from the Statute Book any Ordinance that sets up a Board, I will gladly do it provided I am convinced it is in the best interests of the agricultural industry, and therefore all the hon. Member has got to do is to sell forth to the boards and convince them that they are unnecessary, and what is much more to convince the people who elect the boards. That is a perfectly simple matter, and I will leave it to the hon. Member.

Now, Sir, I will just turn to the points raised by the hon. Specially Elected Member, and the hon. Member for Nairobi: Kiambu. He asked me whether I would constantly put pressure on to reduce the differential, and a number of Members have dealt with the differential, and all I want to say, Sir, on that at the moment is that it is a matter which we have debated before in the House, nearly every year. Sir, only a small amount of that differential is due to the operation of maize control. The great part of that differential is due to

the fact that we add to the producer basic price rillage, the bag, storage, transit losses and all those things, which are now carried by the consumer. If the differential is to be considerably narrowed, it can only be narrowed in two ways. One, by the consumer carrying some of the burden formerly carried by the producer, which will be open to this Board to recommend to me, or two, by a streamlining of the operation of moving maize from the producer areas to the consuming areas, although I am advised by people more experienced than anybody in this House, that it would not be easy. I believe that by holding maize, stored with modern insecticide on a farm or at railhead, and by eliminating central storage and by having the widest flexibility in the use of an agent, so that the nearer producing areas feed the adjacent consuming areas, we should be able to get some reduction in the differentials. I cannot promise hon. Members, and certainly I am not going to stake my reputation as the Minister for Agriculture on a reduction in the differentials, but I do give an assurance that, as far as my pressures are concerned they will be relentlessly used to reduce differentials. There will be a substantial reduction this year, in passing, which hon. Members will see later as a result of discussions which I have had with the interested parties.

Now, Sir, the hon. Specially Elected Member, Colonel McKenzie, made a great play about consultations with the interested parties on the Bill, and I regret to say I must reject that. First of all, this Bill has been under discussion for many months. I discussed it with all the producer representatives. I had a delegation from the Sisal, Tea and Coffee Boards' representatives. The Bill lay before the public for 40 days, and no member of the sisal industry nor the coffee industry asked to see me on the matter, nor did any single group of Members on the other side. I did discuss it would a number of hon. Members opposite. I gave an opportunity to the Asian Elected Members to discuss this Bill with me, in particular the non-Muslim Asian Elected Members, and the one who was most interested took a journey to India, and asked if I would discuss it when he returned. When he returned he absented himself from this

[The Minister for Agriculture, Animal Husbandry and Water Resources] House, and discussions have not taken place, and I do submit that it is nothing to do with me, and I would say, Sir, the Minister in this Government can be said to be inaccessible to hon. Members of the public, and I would gladly have met any hon. Members to discuss this Bill, and I did so meet any hon. Member who asked me. If I was merely asked why the hon. Members, the Specially Elected Members, were not consulted about this Bill I would say that I have met the Specially Elected Members at regular intervals since they were first elected. Did the hon. Members at any one stage, at any of those meetings, ask to discuss this Bill? The answer is "no".

LE COL. MCKENZIE. If the hon. Member will give way. It is so difficult to get hold of those people.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell). Mr. Speaker, the business of the Government and the business of the country must be properly carried on, so hon. Members cannot expect Ministers to dance attendance on them 24 hours of the day. Most of us do it for 23 and are only too glad to do it.

Now, Mr. Speaker, he also said that Government had failed to bring the price of *posho* down, and I would, at any rate, for the record's sake, Sir, say that as soon as the Government was free of the commitments it has made as a result of the war and postwar discussions with the producers, the price of maize has been each year reduced. I was not free to deal personally in this matter because of commitments which my predecessor, who is well known to this House, made with the maize producers as a result of their sacrifices in the war, but as soon as those commitments were over, I progressively reduced the price of maize, and I intend to do so—to carry on that policy—until maize has reached the point, which in my opinion, is in the best interests of the producer and the consumer.

Now, Sir, he also said we had failed to move farmers from a system of farming in areas such as the Trans Nzoia which is uneconomic and "would bankrupt" them. Now, Sir, again, I deny that. We have embarked for a number of years

upon a policy of shifting those farmers from monoculture to mixed farming, and that policy would have been successful, but for an extraordinary and unfortunate concatenation of events which was a reduction—a severe reduction—in the price of maize, a collapse of the London Butter Market due to dumping by some Iron Curtain countries, together with the recent misfortune to the pig industry.

And lastly, Sir, the hon. Member suggested to me that it might be possible for farmers in uneconomic areas of maize production to make their operations economic if they were to go in for spring calving for their dairy herds. This I entirely accept and agree, but who is responsible for having produced and examined that policy—the research services of the Government. I submit to the hon. Member, although the hon. Member may not agree with me, I do submit to him that it is wrong to say that we have not produced a policy which is designed to meet this particular difficulty—that a number of farmers in the Trans Nzoia are really on uneconomic farms for maize. And he also raised the question of G.M.R. in uneconomic areas. I do not know whether the hon. Member knows this, but he takes a great interest in agriculture. He always seems to pick up all the pieces in agriculture which are falling down, and I cannot see why he cannot have picked this one up. The Board of Agriculture has decided three things. That Production Orders will not be granted for maize in uneconomic areas. Secondly, there will be a reduction in the acreage of production more closely related to the amount of maize which is required in the country, and surely the hon. Member must know Mr. Speaker, that at my request we are examining the elimination of the G.M.R. system and its replacement by a wider system and more flexible system of short-term finance. The hon. Member must know that, and he must also know that you cannot hurry the agricultural industry. If you do, we are clearly told that this is a dictator Government.

Now, Sir, I have dealt with the question of discussions with interested groups, and I now come to the contentious point of debating the White Paper, and here, Sir, let me say, I am partly to blame for that. I did move a Motion

[The Minister for Agriculture, Animal Husbandry and Water Resources] suggesting that the Paper should be debated. Subsequent to that no hon. Member opposite approached me and expressed any interest whatsoever in debating it, and I felt, therefore, possibly that I anticipated a desire which was non-existent. Subsequently the Motion died with the ending of the Council, and then, although I do not make this as an excuse, I was ill, and when I was fit again to move the Motion, the Bill was intended to be published in December, and I could see no object in debating a White Paper in early December when the Bill was scheduled for about the 10th or 14th December. There were delays in the production of the Bill, due to the fact, and I would particularly draw this fact to the attention of the hon. Specially Elected Member with the muff warmers—

LT.-COL. MCKENZIE: Don't be rude

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): —due to the fact I think the hon. Member on this side of the House referred to him like that and I thought it was an established method of reference to him.

LT.-COL. MCKENZIE: I am quite prepared to accept it from the gallant naval Member as he is a member of our senior service.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): I can only add that my service is senior to that of the hon. Member.

Now, Sir, I did not therefore debate the White Paper because the production of the Bill was so close, and I did indicate that to a number of hon. Members opposite. In so far as I did that I must accept the blame.

I have dealt with the question of maize for Sh. 15, and the hon. Member has asked me, Sir, why more maize has been produced. It was suggested it was climatic. I think there are two other reasons. One is the price structure that was attractive to the maize grower, and the second is the great influx of new capital into the farming industry in the mixed farming areas as a result of the war which undoubtedly raised the acreage; but that is also a fact we must

remember before we too arbitrarily tinker with the price.

And, lastly, I would entirely accept what he said about climatic points.

Now, Mr. Speaker, I feel in a way I have been some time, and perhaps I had better leave many of these points which the hon. Member raised.

He suggested three particular points. He wanted stricter grading, which would give a better price in world markets. I have no reason to think that Kenya Flat White No. 2 is not world renowned for its quality, and I do not think there is any necessity to tighten the grading. I think that of all maize producers, we are well known for a quality product, and do often get a premium on that account. I therefore would really submit to the hon. Member that that assurance is not needed from me.

Secondly, Sir, he asked whether we would have storage in elevators. We have examined this very carefully. My answer is that there is nothing to prevent this new Board making recommendations to me on that account, but all the examinations we had on it—and we have had experts from overseas—lead me to believe that the present method of storage with insecticide in the sort of bulk store houses and huts that we have at the present time is the cheapest and best, and that silo elevators would be extremely expensive to the maize industry in the conditions of this country.

He asked me, Sir, whether I would accept that there should be storage on farms rather than central storage, and I have already dealt with that. I replied I think there is a method by which we can cheapen the on-cost to the consumer.

I do not propose to deal with the clauses, clause by clause, which the hon. Member raised, and I would suggest that he deals with those particular points when the clauses come up in the Committee stage.

He raised one particular point of importance, which was finance for the Board. There will be, Sir, a certain amount of money which we can pass to the Board for its operation from the daily working of Maize Control which has accrued from the general operations

[The Minister for Agriculture, Animal Husbandry and Water Resources] of that Control, and the proper place for that money would appear to be that Board. Secondly, we can make the same provisions for finance for the Board as we have done for Maize Control, which is by arrangements with the banks. So I do not see any difficulty in that. There would only need to be some slight adjustment, possibly, where agents are used. I am sure the hon. Member—having put forward the view he has—would not wish the possibility of finance being provided by agents to be excluded. It should not be solely a matter for this Board and Government, because if we are going to have a more flexible and less controlled system, agency finance is something that we should not discard.

Now, Sir, finally I am going to turn to the points made by the hon. Member for the Coast, and I would merely say this: I profoundly disagree with him—or I would not be moving this Bill—because he is absolutely wrong when he says that control makes expensive maize. What it does in this country is to give a stable price for maize and a supply of locally grown maize year after year. If the hon. Member wants to remove control, then he will revert to the system which I outlined in my opening remarks—a catastrophically low price when there is a surplus for export, down to as little as Sh. 15 a bag, and when the hon. Member has successfully bankrupted or driven out of production a number of producers, we shall face an import price of maize—as I have shown already—of Sh. 57 a bag. If this is really what the hon. Member wants to advocate, I think he must be thinking in terms of when he was originally elected to this House. When he was originally elected to this House the maize industry was so reduced in business that it took many years of nourishment during the war to bring it back, and maize production was reduced by 66 per cent of the total. That is what the hon. Member is advocating. As far as the Government is concerned, we are not going to have anything to do with it.

Mr. COOKE: Would the hon. Minister give way? I advocated no such thing. I would like to see farmers get Sh. 26 a bag for maize, but it is the waste between the producer and the distributor that I was criticizing. The maize price

should, I think, be Sh. 30 a bag to the consumer.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): If the hon. Member will show me how I can guarantee a price of Sh. 30 to producers when the export price is Sh. 15 and there is a surplus of maize, I should be pleased to hear how he is going to do it, because I have not yet found it. If I had found it I can assure the hon. Member I would not be bandying words across the floor of the House with him.

Sir, he also raised the question of maize as a waster of soil, and that the high prices would encourage that. No one can say either last year or this year maize had such a high price that a waste to the soil took place, but it will always be my policy, as long as I am Minister, to see maize is as much as possible a cash crop—and I emphasize that, because the hon. Member seemed to eliminate maize as a cash crop—in the balanced farming system, and one of the ways of producing cheaper maize is to see it is properly rotated in a key farming system so that fertility is maintained and higher yields per acre produced. When I tell the hon. Member that I anticipate an extension of maize in Central Province, I do so because in those areas which are not very suitable to coffee, tea and pineapples, maize can be profitably produced with high yields on a rotational system, and I am sure the hon. Member would agree with me that we should encourage the production of that maize which is less uneconomical than maize at six or seven bags an acre, which obviously must be much more costly.

Finally, in regard to the hon. Member, I would like to make one point which he has never accepted; when I was his colleague on the other side and my predecessor was here, my predecessor tried to make him accept it and was unsuccessful, but I intend to make him accept it—whether certain areas are economic producers or uneconomic producers does not matter, if they were forced out of production then the balance which we have in our hands against a severe drought or onslaught of some menace such as locusts is removed. That is the factor—these areas which may lie particularly in the

[The Minister for Agriculture, Animal Husbandry and Water Resources] Scheduled Areas enable us to carry a small stable production of maize every year, which is not at the whim of peasant producer or consumption, nor at the mercy of disease or rainfall, and that merits, Sir, it—would the hon. Member like to interrupt?

MR. COOKE: Yes. The sub-marginal maize producer produces only one-seventeenth of the maize produced by the Europeans. Therefore if they went out of production it would not matter two hoots to the maize production of this country.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Sir, nothing could be a more distorted analysis of the facts. The total production of this country is 15,000,000 bags. Of that 15,000,000 bags, all but 1,000,000 comes from the African areas—leaving 14,000,000 from the African areas. Of that 14,000,000 only from 200,000 to 300,000 bags come on to the market, or less than 10 per cent. It only needs the African producers of this country to produce 10 per cent more babies for that maize to come off the market. That is my justification for keeping it a scheduled industry.

Now, Mr. Speaker, I am afraid I have wearied the House a little, but this is a matter of some importance or hon. Members would not have dealt so thoroughly with it. Some 40-odd points alone were raised during the debate yesterday and I submit that only some five or six have any substance. These I am looking into and I will arrange for the appropriate amendments to be brought forward in each case. Most of the remaining points have been considered by me during the course of drafting the Bill and have been rejected for one reason or another on grounds of policy, and it has not been a hasty piece of legislation. I must emphasize that, I do feel that those Members who said that this is rushed legislation are not really speaking in accord with the facts. This revised draft of the Bill was circulated to many interested people on 3rd October last year, and on the 22nd October I met most of the interested parties and discussed the Bill. Many, or

some, elected Members were present at that meeting. As a result of that, Sir, we came to agreement on the Bill.

I only want to make one point on this. At the very last minute—only a few days ago—a buff-coloured sheet of paper was circulated to every Member from an organization which is interested in maize and, Mr. Speaker, which I see even come in force into the box reserved for the Royal prerogative, to listen to the debate; they circulated that memorandum to hon. Members before this Bill was moved. The real point I want to make is that we do try and work Government by agreement. We discuss with hon. Members opposite and try to incorporate their wishes into Bills, but I see no object, really, in doing that if, after amicable and friendly discussion which is generally agreed, the whole thing is raised again when the Bill comes before the House. As far as I can see, one might just as well wait, publish the Bill, have no discussions and let it take place in the arena of the legislature.

MR. SLADE: Of the select committee.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): I think in many cases it would not be necessary to have a select committee.

This brief outline of the passage of the Bill and the care taken in preparing it will demonstrate how unconvincing a case exists for a select committee upon it.

There are three categories of points that have been raised; those which I have demonstrated clearly—and many of them from the Specially Elected Member, late of the Aberdeens—which have no substance; those which I have fully considered and which, for reasons I have given to the Council, I have rejected; and the remaining ones on which I have already indicated I will move amendments afterwards.

MR. SLADE: How many?

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): I said there were five or six major ones.

I think that obviously the object of the Committee stage is to enable the Bill to be debated in committee, or there would be no object in having it. I have

[The Minister for Agriculture, Animal Husbandry and Water Resources] made it clear that I feel there was really no case for a select committee and I was against it because the control of maize, under the present regulations, ceases, as I thought on 30th June, and I felt that the Maize Controller would not have enough time to divest himself of his trappings and hand over to the new Board if we did not pass the Bill at once I have, however, discovered, Sir, that the regulations continue to 31st July. The Maize Controller tells me that he thinks that if the Bill is through in the first week of April, he will still have time to carry out the reorganization which is necessary in moving from Maize Control to the new Board, and that being so, Sir, I felt that it would be easier for some of these amendments to be discussed in the comfort of the committee room rather than in the contentious atmosphere, sometimes, of this House, and while I think I have effectively disposed of many of the points which appeared to ask for a select committee, in view of the fact that we have a majority and on the clear understanding that hon. Members will help me get the Bill through in the first week of April, I shall be pleased, when I have moved the Second Reading, to move that the Bill goes to a select committee.

The question was put and carried.

The Bill was read the Second Time.

SELECT COMMITTEE— APPOINTMENT OF

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, Sir, I beg to move that the Maize Marketing Bill be referred to a select committee, consisting of the following:—

The Minister for Agriculture, Animal Husbandry and Water Resources.

The Solicitor-General.

Colonel Jackman.

Mr. P. H. Smith.

Mr. Mohindra.

Mr. Rubia.

Lt.-Col. B. R. McKenzie.

Mrs. E. D. Hughes.

Mr. Zafrud Deen.

THE CHIEF SECRETARY (Mr. Coultis) seconded.

Question proposed.

The question was put and carried and the Bill was committed to a select committee.

The Guardianship of Infants Bill Order for Second Reading read.

THE CHIEF SECRETARY (Mr. Coultis): Mr. Speaker, Sir, with your permission, owing to the absence of the Minister in charge of this Bill due to illness, I would ask that this Bill be deferred.

THE SPEAKER (Sir Ferdinand Cavenish-Bentick): I am sure we are all sorry to hear Mr. Havelock is unwell, and for that reason agree that this Order be postponed.

The Agriculture (Amendment) Bill Order for Second Reading read.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, unlike the previous Bill, I do not feel that these amendments need a great introductory speech to hon. Members. A number of amendments were made to the Agriculture Ordinance, 1955, by Ordinance 58 of 1956, since that Ordinance was enacted, experience has shown certain further amendments to be necessary, which are now contained in this Bill. The amendments are not related, I therefore propose to deal with each one separately, if hon. Members agree, without any remarks of an introductory nature. All the amendments have been prepared in close co-operation with the Board of Agriculture, which operates the provisions of the Ordinance.

I beg to move that the Agriculture (Amendment) Bill be now read a Second Time.

THE CHIEF SECRETARY (Mr. Coultis) seconded.

Question proposed.

The question was put and carried.

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

COMMITTEE OF THE WHOLE COUNCIL.
Order for Committee read. Mr. Speaker left the Chair.

IN THE COMMITTEE

[Sir Ferdinand Cavendish-Bentick, K.B.E., C.M.G., M.C., in the Chair]

The Royal National Parks (Amendment) Bill

Clauses 2 and 3 agreed to.

Clause 4

MR. WEBB: Mr. Chairman, on behalf of my friend, the Minister for Forest Development, Game and Fisheries, I beg to move certain amendments to this Bill as he is, unfortunately, in hospital, and the first arises on clause 4.

Mr. Chairman, the Minister gave notice of three amendments to this clause, which were published in the Order Paper last week. Is it your wish I should take these amendments sub-section by sub-section, or altogether?

THE CHAIRMAN (Sir Ferdinand Cavendish-Bentick): I think I would rather take them separately.

MR. WEBB: Very well, Mr. Chairman. The first I propose is that sub-section (1) of the new section 11, which is contained in clause 4, be deleted and that the sub-section of which notice was given is substituted therefor. In the course of his speech on moving the Second Reading of this Bill, the Minister indicated the nature of the amendments of which he had given notice, and the short point on this amendment is simply to delete the requirement that the Trustees shall have to make up a balance sheet each year showing in detail their assets and liabilities.

As hon. Members will readily recognize, many of the assets of the Trustees cannot be valued. That is the amendment, Mr. Chairman, on sub-section (1).

Question proposed.

Question that sub-section to be deleted, and the sub-section to be substituted therefor, be inserted, was put and carried.

MR. WEBB: The second amendment I have to propose to the new section 11 contained in clause 4 is concerned with sub-section (3) of that section. It is proposed that there should be substituted for the words with which that sub-section begins, "The Trustees shall produce", the words: "The Trustees shall, within a period of four months (or such longer period as the Minister may approve) after the end of their financial year, cause to be prepared, signed and transmitted to the auditor such statements of account relating to that financial year as the Minister may require, and shall also, when required by the auditor, produce".

Question proposed.

Question that the words to be deleted, be deleted, and the words to be substituted therefor, be inserted, was put and carried.

MR. WEBB: The third amendment, Mr. Chairman, which I beg to move on clause 4, is that for sub-sections (4) and (5) of the new section 11, there should be substituted three sub-sections, of which notice was given. Perhaps, since notice was given some time ago, Mr. Chairman, I might read the amended sub-sections. The effect of them is really only to rewrite the existing provisions in slightly more felicitous language and to include a new provision that the Trustees shall be able to alter the period of their financial year.

The proposals are that the sub-sections should read:—

"(4) The Trustees shall within a period of three months after the end of their financial year, or within such longer period as the Minister may approve, submit to the Minister a report on their operations during that year, together with the auditor's report and such statements of account as the Minister shall require, and the Trustees shall publish such reports and statements in such manner as the Minister may specify.

(5) Within the next 14 days on which the Legislative Council is sitting after the receipt by the Minister of the reports and statements referred to in sub-section (4) of this section he shall lay them before the Council.

(Mr. Webb)

(6) Where at any time the financial year of the Trustees is changed, the period between the end of the old financial year and the beginning of the new shall, for the purposes of this section, be deemed to constitute a financial year, and the word "annually" in sub-section (2) of this section shall be construed accordingly."

Question proposed.

Question that the sub-sections to be deleted be deleted and the sub-sections to be substituted therefor be inserted was put and carried.

Clause 4, as amended, agreed to.

Clauses 5, 6 and 7 agreed to.

Clause 8

MR. WEBB: Mr. Chairman, I have noticed that clause 8 begins by saying: "Section 19 of the principal Ordinance is amended by substituting for sub-sections (1) and (2) thereof two new sub-sections as follows:—". In point of fact, Sir, there are three new sub-sections, (1), (1A) and (2). I, therefore, propose that the word "three" be substituted for the word "two" at the beginning of clause 8.

Question proposed.

Question that the word proposed to be deleted be deleted and put and carried.

Question that the word proposed to be inserted in place thereof be inserted and carried.

Clause 8, as amended, agreed to.

Clause 9 agreed to.

Clause 10

MR. WEBB: Mr. Chairman, I beg to move a small amendment to which the Minister referred in moving the Bill. It is in the fourth paragraph of the Schedule which appears in clause 10. The amendment is that 92° 49' be inserted in place of 92° 49'.

Question proposed.

Question that the figure proposed to be deleted be deleted and put and carried.

Clause 10, as amended, agreed to.

New Clause

MR. WEBB: Mr. Chairman, I beg to move a new clause, notice of which was given on the Supplementary Order Paper issued today.

Mr. Chairman, this new clause substitutes for the existing description of the boundaries of the Aberdare Royal National Park a new boundary description. The principal reason for this is that in this new boundary description a small area of some 300 acres has been excised from the Aberdare Royal National Park in order that it may be incorporated in due course into the Kikuyu native land unit and then occupied by an African who at present occupies a farm within the Highlands adjacent to this area.

I would like, Mr. Chairman, to record the appreciation of the Government to the Trustees of the Royal National Parks for their ready co-operation in this matter.

Question proposed.

New clause read a First Time.

The question that the new clause be read a Second Time was put and carried.

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

New clause agreed to.

Title agreed to.

Clause 1 agreed to.

MR. WEBB: Mr. Chairman, I beg to move that the Committee doth report to Council that it has considered the Royal National Parks of Kenya (Amendment) Bill, 1959, and has approved the same with amendments.

The question was put and carried.

Council resumed.

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

REPORT

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, I beg to report that the Committee of the whole Council has considered the Royal National Parks (Amendment) Bill (Bill No. 9), and has approved the same with amendments.

Report ordered to be considered tomorrow.

MOTION

SESSIONAL PAPER NO. 2 OF 1958/59:
TAVETA NORTHERN NATIVE RESERVE

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Mathieson): Mr. Speaker, Sir, I beg to move that this Council approves the setting aside in accordance with section 55 of the Crown Lands Ordinance (Cap. 155) of the area of Crown land described in Sessional Paper No. 2, 1958/59, as a native reserve to be known as the Taveta Northern Native Reserve.

The reason why I bring this Motion before the Council, Sir, arises from the provisions of section 55 of the Crown Lands Ordinance where it is stated that when the Governor considers it desirable he may from time to time, with the approval of the Legislative Council, subject generally to the provisions of the Crown Lands Ordinance, set aside by proclamation areas of Crown land as Native Reserves or Temporary Native Reserves for the purpose of satisfying the economic needs, whether temporary or permanent, of any of the African tribes of the Colony.

I have, for what I hope is the convenience of the Council, set out in this very brief Sessional Paper the details of the area concerned. It is bounded on one side by the Tanganyika boundary, on the north, it is contiguous to the Masai Native Land Unit, to the east is the Ziwayi Sial Estate, and to the south is the Taveta BI Native Reserve.

As the hon. Members know, Sir, the establishment of areas of Crown land as native reserves in this category BI arose from the consideration of the Report by Sir Maurice Carter and his colleagues, and it may be of some interest to Members if I could recall the circumstances in which it was recommended that the areas to which it is the Taveta BI Native Reserve to which it is now proposed to add this additional area, the circumstances in which it was recommended that the original native reserve should be established.

The Commissioners stated that so far as they could ascertain the history of the Taveta before the days of the British Administration was that they dwelt in rich and fertile Lumi River forest, and that they had to keep their cattle in their

huts owing to the prevalence of fly and fever of the Masai. After the Protectorate had been declared they began to graze their stock more in the open. Other evidence before the Commissioners was to the effect that although they had kept their cattle in huts for some considerable time they had not restricted them there through fear of the Masai since the witness, Archdeacon Maynard, had come to the country in 1896. The Commissioners therefore found that the claims of the Taveta for more pasture land in that area could not be supported on historical grounds of long and continuous use, but they felt that the tribe were on firmer ground in claiming that they should, for economic reasons, be provided with pasture land sufficient for their needs. Although at that time the Commissioners reported that Veterinary Inspector Hassan told them that a considerable part of the area shown as swamp was good grazing they nevertheless thought that the greater part of the land as a whole was inadequate for the needs of the tribe, and they therefore recommended that the area which is now known as the Taveta BI Native Reserve should be allocated as an area of Crown land to be used as a native reserve for the benefit of the Taveta tribe.

Since that time the economic needs of these people have expanded. It is clear that the present area on which they graze flocks have become overstocked and overgrazed.

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

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

It has been the recommendation of the Provincial Administration, supported by the Coast Land Advisory Board, that this area of unused and unoccupied Crown land lying to the north, with the boundaries which I have described, should be added to the native reserve. Our intention is to ensure that this new land does not become overstocked and overgrazed as happened to the former area of the native reserve. Rules made under the Crop Production and Livestock Ordinance will be applied by the Minister of Agriculture both to this new area and to the former BI Reserve.

[The Minister for Education, Labour and Lands]

Under the provision of the Crown Lands Ordinance, section 55 (3), the Governor may, Mr. Deputy Speaker, provide for the payment by a tribe or tribes, or individual members thereof, occupying a native reserve, of such rent as he deems reasonable, in relation to the fair economic value of the land.

In this case under the grazing rules, grazing fees will be charged to the people who will use this land, and in the circumstances it is our intention—our recommendation—that no rent should be charged under this section of the Crown Lands Ordinance.

I feel, Mr. Deputy Speaker, that this is a fairly simple matter. The details are set out in Sessional Paper No. 2, and I beg to move

Question proposed

MR. MAXWELL: Mr. Deputy Speaker, may I ask one question? Is it proposed that this land be surveyed in plots and separate titles issued?

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Mathieson): Mr. Deputy Speaker, the intention is not that this area of land should be divided up into separate grazing areas and demarcated. Its boundaries are, in fact, surveyed in view of the surveyed boundaries of the contiguous areas but the general area will be grazed by the tribe in communal grazing under the control of the Crop Production and Livestock Rules made by the Minister for Agriculture.

The question was put and carried.

MOTION

THE AGRICULTURE (SCHEDULED CROPS)
ORDER, 1959

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blondell): Mr. Deputy Speaker, I beg to move that this Council approves the Agricultural (Scheduled Crops) Order, 1959. Despite the remarks that the hon. Member for the Coast made earlier today, Mr. Speaker, it is the intention of the Government wherever practical and wise to move to a more flexible system of production and marketing. This Motion removes from

the First Schedule to the Agricultural Ordinance the produce of grams (black, green and yellow), njahi, known as dolichos lab-lab (black), millet (bulrush), pigeon peas, ground nuts, sim sim, cassava, cow peas and linseed. They will not, therefore, be subjected either to guaranteed prices by the Minister for Agriculture, nor to the sale and purchase of them through agents. In effect, for these items a free market will be established.

Mr. Deputy Speaker, I beg to move.

Question proposed.

The question was put and carried.

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

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

MOTION

THE SUPPLY AND TRANSPORT
DEPARTMENT

Order for Motion read.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, on Order No. 15, I think this is surely a matter which is under your consideration. I suggest that we should not proceed with this Motion until his ruling has been given.

Mr. Speaker intimated his concurrence with this course.

MOTION

THE EAST AFRICAN INCOME TAX
(AMENDMENT) ACT

MR. ALEXANDER: Mr. Speaker, Sir, I beg to move the following Motion. That this Council expresses its dissatisfaction with the following provisions of the East African Income Tax (Management) Act, 1958, and urges Government to make representations to the East Africa High Commission to introduce appropriate amending legislation at the next meeting of the East African Central Legislative Assembly:—

Section 21.—Income from Residential Property.

Part VI (sections 37 to 41).—Controlled Companies and Undistributed Income.

[Mr. Alexander]

Part VII (sections 42 to 48).—
Retirement Benefits.

Section 59.—Resident non-individual tax, and lastly

The Second Schedule—Capital Deductions.

Mr. Speaker, this is a group Motion, which I move on behalf of all my European colleagues—elected colleagues on this side of the House—I trust also on behalf of my Specially Elected friends as well—and it will be seconded by my good friend, the Member for Kiambu, and I will leave him to deal rather more specifically with section 21, that is Income from Residential Property, and Part VII concerning retirement benefits, as he knows considerably more about these aspects than I or anyone else on this side of the House does.

This subject of income tax is not unfamiliar in this House now, Mr. Speaker, and it will perhaps be necessary to go on raising this subject at fairly regular intervals in the future until we do knock into shape some of the unsatisfactory features of our present legislation. We did that in 1957, that this was a good opportunity, in February, to raise this matter again in order to provide our own Minister for Finance with food for thought before he comes to deal with these matters, or perhaps not to deal with them, but he may have occasion to touch upon them, because we realize it is High Commission legislation. He may have reason to touch upon them in his budget speech. In point of fact, the whole purpose of the Motion is to urge that our representatives on the East Africa Central Assembly—East Africa Central Legislative Assembly—should press for appropriate amendments to the legislation, and, of course, there is nobody better fitted than our own Minister for Finance to do this. He, of course, is a representative of Kenya on that Assembly, and we look very substantially to him to carry the voice of Kenya, with his colleagues, into that Assembly, and I know when he chooses to use that voice in the most persuasive way he can, so that it is listened to with very considerable attention, and I beg him—I beg him to listen carefully to what we have to say, and I would beg him to make up his mind to use all his

influence to carry this matter further. It is the only remedy we have from this House, and I do hope that our Government will not just lightly dispose of this Motion today, or introduce an amendment that makes it really non-effective, and I do trust he will take the genuineness and sincerity of our arguments from this side of the House to heart, and really make an effort to do something on our behalf.

Mr. Speaker, in debating the present East African Income Tax Management Act, this House has been put to very considerable disadvantage by the select committee of the East Africa Central Legislative Assembly, which, in its wisdom, decided not to detail the reasons for the amendments to the Bill before it. That, of course, puts particularly us on this side of the House at a considerable disadvantage, because we are unable even to begin to guess why some of this muddled legislation has been put on the Statute Books. I do, of course, appreciate, Mr. Speaker, that the select committee of the Central Assembly has been placed in the unenviable position of having to do a rushed job, and it is quite understandable that the normal practice of a select committee to report fully was avoided. However, this is no excuse for the East Africa High Commission not producing a fully explanatory memorandum on the most complex and incomprehensible parts of this very confused—in parts very confused—legislation. I can assure Members of the Government on the other side that there are several experienced practitioners in this country, who are having considerable difficulty in even beginning to understand some of what is written in this Management Act.

It is most unfortunate, too, and quite inexcusable, that the select committee completed its deliberations without a full verbatim record. It is quite impossible to understand how the casual and absentee members of the committee came to their conclusions without a complete record of the proceedings. We, in this House, Mr. Speaker, with the efficiency that is usual here, have that pleasant experience of having our select committee work fully recorded, and in such a manner that every member of the committee, whether he be there or

[Mr. Alexander]

not, at least does have a good idea as to what has gone on and the reasoning behind it. This, of course, Mr. Speaker, has been most unfortunate for our Minister for Finance as a senior member of that select committee, who, if I remember rightly, was never able to attend any meetings. He may have attended one meeting at the beginning, but virtually he was absent because, of course, he was overseas on well-deserved vacation, and important business at the same time for this Colony, but, nevertheless, it has been a most unfortunate inhibition for him because he, in turn, is the Minister in this Government that we rely upon, and he has never been able to get the real feel of the select committee from a verbatim record, although I appreciate his own officers will have reported to him but it is never the same as being able to read the full evidence.

Mr. Speaker, this Motion refers to five main aspects of the Management Act. It is no coincidence that the select committee itself should also have made very particular reference to four of the main subjects which I have chosen because on the first page of its report it says this. With your permission, Sir, I would like to quote from it. This is the first page of the report of the select committee on the East African Income Tax (Management) Bill, 1958, of the East African Central Legislative Assembly. This is what it says: "We take this opportunity to express our appreciation of the care which members of the public thus took to inform the committee of their views which the committee found to be of considerable assistance in its deliberations and the greater part of which referred to four distinct aspects of the Bill: clause 4—the annual value of property occupied for residential purposes; part VI (clauses 37, 38 and 40), the proposed tax on the undistributed income of controlled companies; part VIII (clauses 45 and 46), the provision for pension funds and provident funds; and the Second Schedule, paragraph 7, the classification of buildings on which deductions are allowed".

That I find most interesting, Mr. Speaker, that the select committee should have come to the conclusion—that those four headings—and I have an

additional one in this Motion—should be the most important aspects of the Management Act. And so they are. They cover very substantial legislation. They cover matters very substantially affecting every taxpayer in these territories. It is right and proper that these matters should go on being debated and, as I said earlier, Mr. Speaker, until we get these matters right, certainly from this side of the House we will continue to ventilate our dissatisfaction at what is poor or improper or confusing or unsatisfactory legislation.

Having applauded the evidence on these matters, it is a very great pity indeed—a frustrating pity, that the majority of the select committee seemed to have gained little or no conviction from the great weight of evidence submitted, because, Sir, as hon. Members who were on the select committee from the other side will know, there was not a great deal of amendment from the original Bill. There were many amendments, but in substance they did not go any real way to meet the complaints that had been ranged against them from this side of the House and from very powerful and responsible evidence from outside the House.

The Motion expresses dissatisfaction at existing income tax legislation. It is, perhaps, timely here that we should have an appreciation of the overwhelming and fundamental cause for this dissatisfaction, because if we get this clear in our minds at the outset then a whole mass of detail follows later. It is that income tax is too high and too restricted in its incidence. That, Sir, is the fundamental. If income tax was more equitable, if the distribution of the burden was more equitable, then a whole mass of the argument that has to be directed by us and by others would fall away. A number of undesirable consequences arise from high income tax. It undermines energy, enterprise, initiative and incentive. It encourages extravagance and waste and the attitude that "it doesn't matter because the Minister for Finance pays half of it anyhow". The sooner our Government realize and acknowledge this reasoning, then the sooner we are likely to have a sensible and realistic system of income tax. How fruitful it is so often to hear—and as a practitioner I must say it distresses me

[Mr. Alexander] to hear it—"Well, the Minister for Finance pays half, so why should we worry?" When our thinking has got down to that level, Sir, then our nation, as other nations, is in a sorry state.

Speaking of high taxation, it is perhaps appropriate to quote the Conservative Financial Secretary of the British Treasury, Mr. J. E. S. Simon, speaking at the Conservative Conference in October last year, when he said this (he was speaking of high taxation): "It leads to lower standards of personal and commercial morality. Taxation which is felt to be penal and confiscatory tends towards evasion. Finally, high taxation means that the State is spending part of the individual's income, withholding from him a whole number of choices he could otherwise make and, therefore, restricting his personal freedom."

Those are words, Mr. Speaker, that should prompt and direct our Government. Only stubbornness and obstinacy can ignore such wisdom.

I turn now to the main aspects listed in the Motion and the first one deals with section 21 income from residential properties. My main submission here and let me remind hon. Members that the main part of this will be contributed by my good friend, the Member for Nairobi North, but I merely touch on two aspects. Firstly, that we should move immediately—

Kiambu, I am sorry, The Member for Kiambu, And I am particularly sorry and apologize in view of the events of the last few days.

I submit most particularly that we should move immediately to the exemption of owner-occupied residential property. The estimated figure of the loss of revenue to do this now is some £165,000 per annum. That, Sir, I do submit is a relatively small figure to deal with now. If we wait and put off this question indefinitely, the figure will grow so large that it will become more difficult to eliminate. I particularly make this plea at a time when we are striving in this House—the Minister for Housing is here. I am glad he is to hear this part—and outside in local government, to encourage the working class people of our country to own their own homes. Particularly at this time do I urge that we

should move to a policy of exempting owner-occupied residential properties. It is little encouragement to people on small wages, who wish to own and occupy their own homes, to find that in doing so they are in fact heading themselves towards an income tax liability. I know that the argument—and I imagine it will be used again—is that: "Well, if you don't invest in property and you do invest in shares, then you are taxed on the income from such share investment." That is perfectly true, Sir, it is a valid argument. But let me answer it this way. In a year in which there is no income from shares, there is no income to tax; but the occupier of property continues to be taxed on a mathematical formula which is notional, whether or not there is real value in that particular period in the ownership of property.

Now, a good example of this anomaly today can be related to Mombasa, where certainly in respect of European residential property it is doubtful in many cases whether there is a market value in Mombasa. There is an over-supply in Mombasa of European residential property, and I doubt whether any income tax collector could substantiate an argument that it has today any market value in most cases.

I believe this move, Sir, now would be a wise political measure because here is nothing that gives stability to a country more than people who own and live in their own homes. That is worth all the loss of revenue, and certainly would be worth more than the loss of £165,000 to our Kenya Government, to have a settled population in their own homes. It would save our Government in cost considerably more, I contend, than £165,000. It would save the Government in respect of those civil servants for whom now they have either to rent or build accommodation, and would certainly save in respect of those hidden subsidies that Government have to grant in the way of free allocation of land so that local government can put up accommodation for working class people. There must be a very substantial hidden subsidy in that particular respect. All this would be gained if Government would move now to a system of exempting from income tax all owner-occupiers of residential property.

[Mr. Alexander]

Mr. Speaker, Sir, I am at the end of a convenient part there if you would care for me to stop now.

ADJOURNMENT MOTION

LEGISLATIVE COUNCIL QUESTIONS

THE SPEAKER (Sir Ferdinand Cavendish Bentinck): That brings us to the time appointed for the suspension of business, but I believe there is a Motion on the Adjournment, Perhaps a Minister would move the Adjournment?

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, I beg to move that this Council do now adjourn.

MR. ALEXANDER: Mr. Speaker, I am grateful for the opportunity to raise on the Adjournment this matter of delay by Government—substantial delay by Government—in very many instances to the answers to questions from this side of the House.

Earlier today Mr. Speaker, I did mention the particular responsibility of our Government because by reason of the very special role that it has—the very privileged role—unlike Governments in more mature countries it cannot be ejected. Because of that it has got a far greater moral responsibility to this side of the House. That moral responsibility must reflect itself in the promptness and the objectiveness with which it must answer questions.

We on this side of the House have a most difficult task to perform, in ignorance because of lack of information much of the time, and I do consider that our Government has got an even greater responsibility than true parliamentary governments to meet us more than we would be met elsewhere.

This particular issue started, Mr. Speaker, when I questioned the Chief Secretary on the matter of a question I had asked on the use of the Police Air Wing. I said—and I quote: "Will the Minister state why it has taken since 2nd October, last year, four and a half months, to answer a relatively simple question?" The answer by the Chief Secretary was—and I quote: "Sir, this House has not been sitting."

Let us analyze that for one second. Mr. Speaker: this House has not been sitting. In fact, the House sat on two occasions after that from 4th November to 20th November, 1958—

THE CHIEF SECRETARY (Mr. Coutts): I thank the hon. Member for giving way. Did I not say in my reply "... most of that time?"

MR. ALEXANDER: Mr. Speaker, I am taking this from the HANSARD: I could do no better.

THE CHIEF SECRETARY (Mr. Coutts): I accept that.

MR. ALEXANDER: Mr. Speaker, remembering that my question was put down on 2nd October, 1958, there were two occasions, two opportunities, from 4th November to 20th November—some two weeks—and from 2nd December to 10th December—approximately a week—when we had another sitting.

I do realize, of course, Mr. Speaker, that the Government need never answer a question, but it is a poor Government that refuses to answer. I believe that our Government really does wish to answer and I must say that I have had no difficulty myself in obtaining answers. All I am complaining about is the delay. I am complaining that the delay is unreasonable and that thereby the Government are withholding—unreasonably withholding—information from this side of the House.

I have already touched upon the Government's greater moral responsibility in this respect and I do hope that they will accept this criticism in this way.

The question I asked on 2nd October needed a relatively simple reply, and I cannot see why, Mr. Speaker, it took some four and a half months before a reply emerged. Then, looking at the Order Paper for Wednesday, 18th February, 1959—the page is not numbered—it contained a list of unanswered questions going up from No. 33 to No. 100. Four questions were all dated between 18th October and 3rd November. Government had an opportunity in November and December to answer them. One of those questions, I notice, was No. 33, dated 18th October, from the hon. Member for Uasin Gishu, which merely asked about the number of

(Mr. Alexander)

I European Kenya born people in Government service. That question is still, so far as I know, unanswered to this very day.

Then, from question No. 79 to question No. 100 there are various delays: questions Nos. 79 to 87—two months' delay, questions Nos. 89 to 96—three to four weeks' delay; and questions Nos. 97 to 100—two weeks' delay. I do realize that today, Mr. Speaker, some of these questions have been answered and I do appreciate Government's action in that respect.

On 23rd and 30th December I gave notice of two questions regarding Supplies and Transport. One did concern figures, but they were not very difficult. One must have been very simple to answer. This is what I said, Mr. Speaker—and I quote. "What steps has he taken in order to avoid any duplication of services for the Supplies and Transport Department to be absorbed either in whole or in part by the Ministry of Works?" Is there any reason why this could not have been answered when we met for business last Wednesday?

Then I have a prize one here. This question was one of mine which was asked on 25th June, 1958. It was answered in Legislative Council on 2nd December. It had taken the best part of five months to answer it. This is what I asked, Mr. Speaker. "What was the balance of payments figure for Kenya at the end of 1957?" It took them five months to work the reply out. The reply was as follows: "No balance of payments figure for Kenya is available". They had from 25th June to 25th July to answer that question. They then had again from 4th November to 20th November to answer it. But that delightfully inspired answer took all that time.

I notice that the question No. 188 asked by the hon. Member for Meru—I am sorry that he is not here today—on 16th July, 1958, has been re-submitted as question No. 7, and I do not want to read the whole thing out. It deals with Kenya students at Makerere, asking the numbers in 1956, 1957 and 1958, and asking for a certain analysis of it. In fact, Sir, I see that that was answered in writing on 21st November, 1958.

All I ask, Mr. Speaker—and I hope that the Government will give us this assurance because this is a matter of great public interest—is that they will introduce, and that the Speaker will instruct his colleagues in dealing with replies. We on this side of the House have a great responsibility to our constituents, and it is very difficult for us to explain to them so often why we are unable to give them information. We say of course, that our questions are not answered, but they, like ourselves, find it very difficult to understand why at times fairly simple questions are not answered. I am not asking Government to commit themselves to complex questions—I know they have many, and if they are complex it is perhaps rather our fault on this side of the House—but I do hope the Government will receive this criticism in the spirit in which I have voiced it and that we will have assurances that this process will be speeded up in the future. I understand that in the House of Commons they literally expect to give answers within hours, and I believe that if our Government will give them within weeks—that is all I ask—then we will have achieved something.

Thank you, Mr. Speaker.

MRS. HUGHES: Mr. Speaker, may I add something to that, particularly as the hon. Member for Nairobi West mentioned one question of mine? I think, possibly, on that particular question that when the Chief Secretary gave me his answer, which would have entailed going through the file of possibly every civil servant in the Government, I should have withdrawn that question because I realized it was rather impossible to answer.

But, Sir, we do ask questions very often in order that we might have the information in order to be somewhat more constructive during debates. I think, Sir, that that is a very important point connected with this Motion brought up this afternoon, because I know in the past that very often the questions have been so long delayed that we have not had that information ready for the debate.

THE CHIEF SECRETARY (MR. COULT): Mr. Speaker, Sir, I rise to answer the

[The Chief Secretary]

Motion which has been brought by my hon. friend, and just for the sake of the record I would like first of all to quote from *Erskine May* on page 357 regarding questions. It is a point which I see the hon. Member has already made in moving his Motion, but I do want to make it quite clear that in *Erskine May* it states, "An answer to a question cannot be insisted upon if the answer be refused by a Minister". Therefore, Sir, once again, for the record, I want to make it quite clear in this House that a question once asked is the property of the Minister of whom it is asked, and he may answer it or not, as he likes.

Turning from that, however, to the points which the hon. Member has made, I would like to point out that quite a number of the questions which are asked are not quite so simple as the hon. Member would have us believe. They, indeed, very often contain questions which require a great deal of research by quite a number of people. They also very often concern more than one ministry, which means people in each ministry corresponding with each other in order to get what we insist on for the particular accurate information for the particular questioner. This means, Sir, that we often have to take quite a lot of time, and very often it costs the Government quite a lot to get the results for that question. I would submit to the hon. questioner—indeed, to quite a number of other hon. Members on the other side of this House—that they might be able to get exactly the same answer, possibly in a shorter time, and certainly at less cost to the Government, if he were able to direct a personal letter to the Minister. I see that the hon. Member shakes his head, but I know that his constituents, of course, would not give him the mood that he particularly wants unless he asks the question here in this House rather than adopting the procedure which I am suggesting.

Now, Sir, I want to go through the position as regards my own Ministry since 14th October, 1958. My own Ministry has been asked during that time 24 questions and we have answered 17 of them. There are two replies ready for

issue and there are five replies in preparation at the present time. These questions work out at an average of a reply every ten sitting days. I suggest that that does not bear out what the hon. Member has said, which is that there is undue delay in the answering of questions, certainly from my Ministry, and I would like to go on now and examine other Ministers and the list which he has himself referred to which is on today's Order Paper.

There are 22 outstanding questions in a list of some 106 which have been asked since this House began to sit again early in October. Of these 22 questions I know that four have already been answered—two of them were answered today—and the answers to two, although not in the hands of the Clerk, are in the hands of the hon. Member who moved this Motion, in order to allow him to take part in a debate which was going to take place today but which has now been put off, and therefore there are really 16 outstanding questions. Of these, Sir, the hon. Member referred to Question No. 6 which is on the Order Paper for my hon. friend the Minister for Education, Labour and Lands. He tells me that part of that question when it was asked was entirely incomprehensible. It had to be referred back to the questioner and no reply has yet been received from the questioner. It is therefore a little difficult for the Minister to reply to a question which is, as yet, so far as he is concerned, incomprehensible.

As regards Question No. 33, Sir, I am grateful to my hon. friend the Member for Uasin Gishu who has informed the House that, by agreement with me, it was suggested that we should not give a formal written answer to this question because it would have involved looking up the actual record of every civil servant in the country. I think the hon. Member will agree that that would have meant an immense loss of time and been a great cost to the Government had we done so.

Therefore, Sir, we are left with approximately 14 questions still outstanding, and seven of these have been asked since the beginning of this month. I do ask you, Sir—Is that really a very bad record? I wonder really if the House

(The Chief Secretary) endorses the fact that the Government does delay unduly in answering questions?

Turning to this particular question, I will say that I agree with the hon. Member that it is a matter of courtesy that we should do our best to answer questions as quickly as we can. I will say that in so far as this particular question is concerned, although I still maintain that the House was not sitting for quite a lot of these four months he was talking about, there may have been some delay; but I do not, and still do not agree, Sir, that the hon. Member should have been able to lay, on that particular question, a charge against the Government as a whole of not answering questions quickly. I think if he looks at the record carefully and if he takes into account what I have said this afternoon he will see, as I maintain, that the Government does treat the House with infinite courtesy, not only in answering questions as quickly as they can but also, I maintain, in being very patient in answering a number of supplementaries, many of which Ministers need not, very often, answer but which they are prepared to do. Therefore, Sir, I am prepared to agree that in respect of the particular question concerning which the hon. Member for Nairobi West has based his charge there may have been an undue delay, but I refute entirely the fact that he should be able to say that the Government unduly wastes time in answering questions.

Sir, I would just like to finish by repeating once again what I said earlier. The question of answering a question is entirely in the hands of the Minister, and I do not feel that the hon. Member had enough ammunition on which to base a Motion on the Adjournment.

MAJOR ROBERTS: Mr. Speaker, Sir, I take rather grave exception to the involution by the Chief Secretary that we ask questions merely to get kudos from our constituents. I can assure the Chief Secretary that it is nothing of the sort. We are repeatedly hammered, not by individuals but by associations, on problems which they are very worried about. They invariably come up not from one association but from several, and I can assure him that we give this matter very

careful consideration before we decide to ask a question in this House.

He said, Sir, that we might be able to avoid some of these questions if we wrote to the Minister concerned. Invariably, Sir, that sort of thing leads to an evasive answer, whereas if we ask a question in this House, Sir, it does make us realize that the Government has got to give it very careful consideration, and that that reply, when it does come, will be based on fact.

What we want, Sir, is quick replies to our questions, because they usually concern matters which are worrying the people we represent. We would be most grateful if the Government could make an effort to hasten replies to our questions.

THE CHIEF SECRETARY (Mr. Coultis): If my remarks have caused any offence to hon. Members on the other side, Sir, I beg to apologize.

The question was put and agreed to.

ADJOURNMENT

THE SPEAKER (Sir Ferdinand Cavendish-Bentnick): That brings us to the termination of our business for today. I therefore adjourn Council until 2.30 p.m. tomorrow, Wednesday, 25th February.

The House rose at thirty-five minutes past Six o'clock.

Wednesday, 25th February, 1959

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

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

PRAYERS

MOTION

LIMITATION OF DEBATE

THE CHIEF SECRETARY (Mr. Coultis): Mr. Speaker, Sir, in accordance with the instructions of the sessional committee, I beg to move that the following limitations be placed on the debate on the Motion standing on today's Order Paper in the name of Mr. Alexander:—

(a) That the Mover be allowed a total of one hour to introduce his Motion and thirty minutes for his reply.

(b) That one Member on the Government side be allowed one hour.

(c) That all other speakers be limited to twenty minutes.

I beg to move.

THE EUROPEAN MINISTER WITHOUT PORTFOLIO (Mr. Harris) seconded.

Question proposed.

THE SPEAKER (Sir Ferdinand Cavendish-Bentnick): In proposing this Motion, I would say that in my opinion, as the hon. Member has started on his introductory speech, it would be somewhat discourteous at this stage suddenly to tell him, after he has commenced his speech, that his time has been limited. I therefore would suggest to the House that they might see fit to allow him one hour from now on, in any case I doubt whether he would use it!

THE CHIEF SECRETARY (Mr. Coultis): With respect, Mr. Speaker, the sessional committee believed that the hon. Member had already agreed that he would only take a further 35 minutes.

MR. ALEXANDER: Mr. Speaker, I do not know where this impression came from or how it has got around; I was asked this morning in another meeting how long I thought I would be. I said I did not quite know. I was asked whether I would be 35 minutes and I said that I might get through in that

time—never realizing of course for one minute, Mr. Speaker, the point that you have just made, that our Government would never introduce really retroactive measures of this kind relating to time that I used yesterday. I do hope that I am not to be limited today.

MR. COOKE:—Mr. Speaker, I, too, rather take objection to this curtailment of debate. When this House was very full, with African Members and others, there were certain reasons for curtailing debates, because time was limited, but time is not so limited now. And I think it is really an intrusion on the rights of this House that we should repeatedly be asked now to curtail debates.

THE EUROPEAN MINISTER WITHOUT PORTFOLIO (Mr. Harris): Mr. Speaker, Sir, may I say, as a member of the sessional committee, that this agreement was reached by that committee not as a Government measure, but with the free will of all the members of the sessional committee, whom we understood had taken advice from their groups wherever that advice was necessary or possible.

SIR CHARLES MARKHAM: Mr. Speaker, just to get this on the record, to avoid any misunderstanding which the speech of the European Minister without Portfolio has caused, there was a Government desire to finish business tomorrow night because there are other things on Friday. That was the reason for the limitation of the debate today. That point must be made; it was Government's request that we do not sit on Friday and hope to finish tomorrow night. Therefore, Sir, we agreed the measures suggested, which I think, Sir, is very different to what has been said.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Speaker, Sir, to make the record straighter, if possible, may I say that the Government is prepared to sit all night tomorrow night, if necessary.

MR. SLADE: Mr. Speaker, I do feel that a desire of Government to get on with some other business outside this Council is the worst possible reason for curtailing debates in this Council. I do know that this time limit is often needed and is very desirable at the right time, but I support what has been said by

[Mr. Slade] the hon. Member for the Coast, that there is no reason, from the point of view of the interests of this Council, whatsoever in using this measure on this debate today. External reasons, I repeat, Mr. Speaker, are bad reasons.

THE CHIEF SECRETARY (Mr. Coultis) Mr. Speaker, may I speak again? Sir, in answer to the last speaker I would like to say that this was merely put to a sectional committee, which is composed of both sides of the House, as a suggestion by the Government. I can assure this House that if the Opposition Members had not accepted it, the Government would not have pressed it. But it was by agreement of the whole sessional committee sitting together.

MR. COOKE. Mr. Speaker, I would submit that these curtailments should be left to the common sense of this House as to whether any speaker is speaking too long or not. I think it is a very bad custom which is creeping in, it has crept in during the last year or two, this curtailment of debates. I must protest against it.

THE SPEAKER (Mr. Ferdinand Caven-dish-Bentinck). Before putting the Motion I must say that it is in my opinion an infringement of the individual rights of members for the sessional committee or anybody else to curtail the speech of a Member after he has started his speech. Before he has started his speech, of course, it is entirely within the rights of the Council, but I am in your hands.

I will put the Motion.

The question was put and carried.

THE CHIEF SECRETARY (Mr. Coultis) Mr. Speaker, Sir, in order to make it absolutely clear, if the hon. Member wishes it to be an hour from now the Government has no objection whatsoever.

MR. ALEXANDER: (Inaudible).
SUPPLIES AND TRANSPORT
DEPARTMENT

SPEAKER'S RULING ON MOTION

THE SPEAKER (Sir Ferdinand Caven-dish-Bentinck): At the commencement of yesterday's proceedings certain submissions were made both by Mr. Alexander and Mr. Griffith-Jones in regard

to a Motion which appeared as Order No. 15 on yesterday's Order Paper, and as the matter is *sub judice* quite properly reappears on today's Order Paper as Order No. 10. The submissions were made on a point of order, but perhaps could be more accurately described as submissions in regard to procedure in this somewhat immature legislature. Mr. Alexander contended that the Motion was out of order because it raised a question which was, in fact, *sub judice*, that the matter had been referred to the Estimates Committee, and that assurances had been given on at least two occasions by responsible Ministers that the reports of the Estimates Committee was being awaited. In addition, Mr. Alexander pointed out that the Estimates Committee which sat last year had only sat on one or two occasions, and that in its report laid on 14th October on the Table of this House, the Estimates Committee specifically recorded that certain evidence had been heard on the question of the Supplier and Transport Department, and recommended that that evidence should be made available to the next sessional committee of Legislative Council in order that those enquiries could be pursued, and brought to finality. It therefore followed, Mr. Alexander submitted, that under Standing Order 56 evidence and information which had been provided to the committee could not, under the circumstances, be referred to by any Member of the House pending the report on the subject by the Estimates Committee, and that this would unfairly curtail the scope of the debate on the proposed Motion.

My hon. and learned friend Mr. Griffith-Jones submitted that at the conclusion of any session by prorogation the Estimates Committee reported on the matter, that so far as this House is concerned that is the end of the matter unless there is a fresh reference of the matter to the Estimates Committee. He also submitted that reference of a matter to a select committee did not prevent consideration of the matter by the full House.

I will deal with these submissions first.

Strictly speaking, a matter already appointed for consideration by the House cannot be anticipated by a

[The Speaker] Motion, but in deciding whether a discussion is out of order on the grounds of anticipation. The speaker must have regard to the probability of the matter anticipated being brought before the House within a reasonable time. It is, however, clearly laid down and universally accepted that reference of a matter to a select committee does not prevent the consideration of the same matter by the House. This for the obvious reasons which I gave yesterday.

In regard, however, to the further point submitted by my hon. and learned friend Mr. Griffith-Jones to the effect that with the prorogation of a session or outstanding business terminates, I would agree that that is normally the accepted procedure. I must, however, add that in the peculiar circumstances of this particular case there are factors which deserve consideration. Under our Standing Orders we must have two Standing Committees of the whole House—the Committee of Supply, and the Committee of Ways and Means, and we further must have three select committees, which are in a sense permanent select committees although their personnel may be varied from session to session. I refer, of course, to the sessional committee, the Estimates Committee and the Public Accounts Committee. Further, although their personnel may or may not change from session to session these particular select committees can only be looked upon as permanent committees of the House.

Under Standing Order 119 the Estimates Committee may examine such annual and supplementary estimates as it shall think fit, or as shall be referred to it by the Council. Now, in this particular instance, although this matter was not, strictly speaking, referred to the Estimates Committee by the Council, an undertaking was given by two responsible Ministers of the Government that the matter would be referred to the Estimates Committee, and that a report would be obtained from that committee. It so happened that the Estimates Committee only sat once or twice last year, and their deliberations on this issue were incomplete at the time of prorogation, and in the report it laid before this House on 14th October last it speci-

cally recommended that the enquiries which they had commenced on this subject should be continued and brought to finality, and although, strictly speaking, we cannot bind the new Estimates Committee to do so without a resolution by the Council, I would suggest that under the peculiar circumstances which I have mentioned, some hon. Members, at any rate, might have been led to believe that this matter had been referred to the Estimates Committee by the Government, that the enquiry would be continued, and that a report would, in due course, be made by them. With this reservation, however, which does not affect my legal interpretation of our Standing Orders, I must rule that the subject matter raised in the Motion is not out of order in that reference of a matter to a select committee does not prevent the consideration of the same matter by the House.

There is, however, one further point, which I wish to make, and I made yesterday, and that is that I am unable to approve the wording of the Motion as proposed. Motions merely reaffirming decisions which have already been taken by the House are not, in my opinion, in order. I have just given my ruling to the effect that the subject matter of the Motion was in order, and can most certainly be debated, but the Motion as worded on the Order Paper could, in my view under the particular circumstances be held to be in some extent anticipatory, and further to be a reflection on a vote already taken. It has always been held to be undesirable to open the path to repetitive debates on questions which have been determined unless, after the lapse of an appropriate period, a Member seeks to alter or annul the decision taken. In this case, the Motion, as worded, is specific and appears merely to seek to take an identical decision once again. I therefore do not propose to allow the Motion as worded, as I consider that the Minister concerned could probably raise any matters which he may wish to discuss without creating what I am convinced would constitute an undesirable precedent.

MR. COOKE: Arising out of what you have just said, and in reference to the Speaker's ruling which has just been

[Mr. Cooke] circulated, may I say with due deference that the wording is not very felicitous. It says "on the instructions of the Speaker the following order in replacement of Order No 10", etc. Now, Sir, while we all very much respect your advice, I think I do question whether you can give an instruction that a Motion shall be replaced by another Motion as the Motion, as I know it, is in the hands of the Mover himself and it is up to him whether he replaces it.

MR. SPEAKER (Sir Ferdinand Cavendish-Bentinck): I entirely agree with Mr. Cooke. I had not seen this note.

THE MINISTER FOR TOURISM AND COMMON SERVICES (Mr. Crosskill): Mr. Speaker, I am grateful to you for your ruling. Having heard your advice yesterday, and in anticipation of such a ruling I have drafted an amendment, and I now ask leave to withdraw and substitute the following Motion in these terms: "That this House, in the light of the progress and development of the Department of Supplies and Transport, endorses the establishment by the Government through the medium of that Department of a permanent Central Government organization for purchasing and holding Government stores and for providing a heavy repair workshop for Government motor transport, and refers Vote 20 of the Estimates for the financial year, 1958/59 being the Vote relating to the said Department to the Estimates Committee under Standing Order 119, section 2." I hope, Mr. Speaker, that you will agree that this is more specific, and also that it refers the matter for consideration by the Estimates Committee.

MR. ALEXANDER: Mr. Speaker, Sir, on a point of order, could we have your ruling as to whether, in fact, this is an amendment or a notice of a completely new Motion.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): I consider that this sufficiently approximates the purpose of the original Motion which I have disallowed and conforms to my ruling.

REPORT AND THIRD READING *The Royal National Parks (Amendment) Bill*

THE CHIEF SECRETARY (Mr. Coult): Mr. Speaker, Sir, I beg to report that a

Committee of the whole House has gone through the Royal National Parks (Amendment) Bill and now reports to the House in consideration of the Bill with amendment. I beg to move that the Council does agree with the Committee in the said Report.

Question proposed.

MR. WEBB: Mr. Speaker, I beg to move that the Royal National Parks (Amendment) Bill be now read the Third Time.

Question proposed.

The question was put and carried. The Bill was accordingly read the Third Time.

COMMITTEE OF THE WHOLE COUNCIL

Order for Committee read Mr. Speaker left the Chair.

IN THE COMMITTEE

(Sir Ferdinand Cavendish-Bentinck, K.B.E., C.M.G., M.C. in the Chair)

The Agriculture (Amendment) Bill

Clauses 2 and 3 agreed to.
Clauses 4, 5, 6 and 7 agreed to.

Clause 8

LT.-COL. MCKENZIE: Mr. Chairman, clause 8 (a), the second to last line, which reads as follows: "Such map, plan or aerial photograph". Sir, I would like to ask the Minister whether this alteration to include an aerial photograph is introduced because of an abuse of the system of the guaranteed minimum return. That being the case, Sir, should it not read, "... such map, plan and/or aerial photograph".

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Chairman, the Board feels in certain circumstances where it is difficult to establish the acreage of fields easily, a map, plan or aerial photograph would be advisable. We therefore wish to be prepared.

I have no objection to the hon. Member moving an amendment if he so wishes.

LT.-COL. MCKENZIE: What is happening is that a number of farmers are having aerial photographs taken of their properties. What would be needed, rather than to take a new one every year because they are very expensive, would be the attachment of a map or a plan with it it would make it easier for farmers if that were done rather than have a new aerial photograph taken every year.

THE CHAIRMAN (Sir Ferdinand Cavendish-Bentinck): But the hon. Member is unable to move an amendment because I have been given no notice of it.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Could I suggest that the hon. Member puts his words in my mouth. If it is acceptable I could move it.

LT.-COL. MCKENZIE: What is needed is the words "and/or". An aerial photograph and a map is needed rather than just the one.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): I am very happy to accept the hon. Member's amendment as it is not a contentious point. I, therefore, beg to move that the word "and" be inserted before the word "or" which is the third word in the penultimate line of clause 8 (a).

Question proposed.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Chairman, I am afraid that I have not been following this particular point. I may say, however, that the expression "and/or" would be a legislative abortion.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): With all due respect to my hon. learned colleague, I do not feel that I, or the hon. Specially Elected Member opposite, have said that. We have suggested that the word "and" should be inserted before the word "or". There was no mention of the word "stroke".

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): That reinforces my point. The phrase would be wholly ungrammatical and, in fact, un-English.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): With all due respect, Sir, it is hardly unknown in drafting.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): But not as drafted by a lawyer.

THE CHAIRMAN (Sir Ferdinand Cavendish-Bentinck): If the principle is agreed then I think that it is not beyond the wit of our learned friends to coin a phrase to cover this point.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): It is perfectly simple, I think, Mr. Chairman. It should be "... accompanied by such map, plan, or aerial photograph, or any one or more such things".

LT.-COL. MCKENZIE: What do you mean by "thing"?

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): "Map, plan or photograph".

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): I am quite willing to meet the hon. Member. But I think that possibly what the hon. Member is getting at is that he is anxious lest every year a new aerial photograph should be caused to be made if one is already in existence. Is that not the point?

LT.-COL. MCKENZIE: My worry is, Sir, that the time will come when you will want an aerial photograph plus a map because the aerial photograph may be a year or two old—too old to show you the field the contention is over.

MR. SWININGTON (Director of Agriculture): This is on the principle, that the farmers adopt good farming principles and rotate their fields, Sir.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): I think I can meet the hon. Member by deleting the word "or" and replacing it with the word "and". It will then read "... map, plan and aerial photograph, and on such scale as the Board may specify". I do not think that we need both words, ungrammatical as they may be, but we merely need "and" to replace "or".

[The Minister for Agriculture, Animal Husbandry and Water Resources]

With your permission, Mr. Chairman, I would like to move, therefore, that the word "or" being the third word in the penultimate line of clause 8 (a) be deleted and substituted by the word "and".

THE CHAIRMAN (Sir Ferdinand Cavendish-Bentick): I take it that you are withdrawing your original proposal?

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Yes.

Question proposed.

Question that the word proposed to be deleted be deleted put and carried.

Question that the word proposed to be inserted be inserted put and carried.

Clause 8 agreed to.

Clauses 9, 10, 11 and 12 agreed to.

Clause 13

LT.-COL. MCKENZIE: Mr. Chairman, I wonder if the Minister would be good enough to explain to us why we have been asked to agree today to increase the fine from Sh. 1,000 to £500, and the term of imprisonment from one month to six months. This was clause 194 in the original Ordinance. Is it that because of the abuse of the present system we have had a lot of convictions, and that because of the small fine and term of imprisonment they have not been successful in stopping the abuse. Or what is the reason? It seems a great increase from Sh. 1,000 to £500.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): The reason for the amendment, Mr. Chairman, is that we have in a certain number of small cases had the provisions of the G.M.R. system, and the advances thereunder, abused.

LT.-COL. MCKENZIE: Sir, would the Minister say that he is satisfied that £500 or six months will stop it?

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): I would submit, Mr. Chairman, that it is more likely to stop it than the clause as it was drafted in the original Bill.

MR. COOKE: At any rate, Sir, that is at the discretion of the Magistrate?

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): The hon. Member is interpreting his power correctly.

Clause 13 agreed to.

Clauses 14, 15, and 16 agreed to.

New Clause

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Chairman, I beg to move that the new clause be read a Second Time.

"The provisions of section 7 of the principle Ordinance shall not apply in respect of maize planted in the year 1959."

Now, Mr. Chairman, in moving the Second Reading of this new clause it is intended to deal with maize planted in 1959 with the agreement of the producers on a system of regional quotas which will operate under the new Maize Marketing Bill it may remain a scheduled crop under the Agricultural Ordinance. We have, under that Ordinance, to gazette a price for 1st March under section 7 of that Ordinance. Now, although we may by virtue of section 11 gazette a price for quota maize and another price for maize exported, we obviously cannot publish a price for exported maize now because we do not know the price which will be obtained by that maize. In the opinion of my hon. and learned friend, the Attorney-General, I cannot legally gazette a price for the quota maize or only a portion of the crop.

The effect of this amendment will be that it will not be necessary to publish a legal price by 1st March. Maize will, however, remain a scheduled crop and therefore subject to production orders, and in the meantime we will be able to publish for information a Gazette notice giving the quota price, that is for the maize purchased for internal consumption under the regional quotas, and say that the final price will depend on the figure fixed later for exports. We will then legalize the price for quota maize in a legal notice as soon as the Maize Marketing Bill has been passed.

LT.-COL. MCKENZIE: Mr. Chairman, on a point of order, are we now doing a Second Reading?

THE CHAIRMAN (Sir Ferdinand Cavendish-Bentick): We are giving the new proposed clause a Second Reading. The new clause can be debated. I will then put the question that it then do stand part of the Bill. At the moment we are discussing this proposed new clause, that is the policy of the new clause.

LT.-COL. MCKENZIE: Sir, this has come as rather a surprise to me, Sir, because yesterday during the discussion of the Maize Bill one of the points I raised was that if we were going to continue to grow maize economically we must at some time or other know the price we are going to get for the end product. In listening to the Minister now, he has said that for this year—what I would like to know from him is, is there any hope that perhaps next year when clause 7 is enacted we will know by the 1st day of March the ultimate price we will get for our maize? What I do not quite gather now, Sir, is that he will give us a price on what we will get for local consumption maize but not the export maize. Therefore, the price he will give us for local consumption, it is obvious to us producers, will mean that we will lose on that. I would have thought that the new Board, coming in, would have had some method of giving the producer some idea of what price he would get. It is very difficult attempting to grow maize without any clear-cut idea of what price he is going to get for it.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Chairman, to answer the first part of the hon. Member's question, this provision will not apply to maize planted after this year. This is solely in respect of the year 1959/60, because we have a regional quota system agreed with producers, agreed with them to help both the scheduled producers and the non-scheduled producers with their particular problems. As the Agricultural Ordinance is now drafted it makes it obligatory upon me to set the price of maize, but I could not do so, as it is now drafted, within the original quota. All this is designed to do, is to enable me to do this for the year 1959/60.

After that the setting of the price of maize will be a matter for the Minister under the Maize Marketing Ordinance which is now before a select committee. In that Ordinance I made it clear that the Minister will declare the price of maize purchased for local consumption. The price of maize grown for export will be a matter for the industry and the markets which it can obtain.

The question that the proposed new clause be read a second Time was put and carried.

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

Title

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Chairman, I beg to move that the long Title of the Bill be amended by adding at the end thereof the following words: "and to make special provision as to the prices for maize planted in the year 1959". This is merely to introduce the long Title and to meet the entirely temporary provision which hon. Members have just passed.

Question proposed.

The question was put and carried.

Title agreed to.

Clause 1 agreed to.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Chairman, I beg to move that the Agriculture (Amendment) Bill has been considered by a committee of the whole House and passed with amendments.

Bill to be reported with amendments.

The question was put and carried.

Council resumed.

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

REPORT

The Agriculture (Amendment) Bill

THE CHIEF SECRETARY (Mr. Coult): Mr. Speaker, Sir, I beg to report that the Agriculture (Amendment) Bill has been considered by a committee of the

[The Chief Secretary] whole House and the House doth report that it has considered this Bill with amendments. I beg to move that this Council doth agree with the committee on the said report.

Report ordered to be considered tomorrow

BILLS

SECOND READINGS

The Rabies (Amendment) Bill

Order for Second Reading read.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, I beg to move that the Rabies (Amendment) Bill be read a Second Time. Mr. Speaker, this is a brief and straightforward Bill the reasons for which are simple. Firstly, the principal Ordinance enables specified persons to take certain measures, that is to size kill or destroy in respect of stray cats and dogs in rabies controlled areas, which are areas to which this Ordinance applies, by the declaration of the Director of Veterinary Services. In the light of experience it has been found that the existing definitions of "stray cat" and "stray dog" have caused difficulty. In these definitions the animal is described as one "wandering at large in a public place and not being under the control or charge of any person". Now this, Mr. Speaker, has proved to be unsatisfactory, as a person can claim to be in charge of an animal even though the animal was some distance away and not under his immediate supervision. It is accordingly to overcome this difficulty that it is proposed to amend the definition as shown in the Bill.

It is a very pleasant task for me, Mr. Speaker, because when this original Bill was moved in the Council and I was the Member for Rift Valley on the other side of the House I supported the Bill but I said this: "We are constantly in this Council passing legislation which in effect cannot be carried out, and there is in this Bill a clear instance of that. I would like to draw the hon. Member's attention to the definition of a stray cat". (The hon. Member, Mr. Speaker, being your distinguished self.) I then quoted the definition of a stray cat, and I said, "Now, Mr. Speaker, I am well

aware that the hon. Member who moved this Bill is, I think, the oldest Member in this Council, and in that time he must of course have learned a great deal, especially in the last five years of Government service. If he can tell me the difference between a stray cat found wandering at large in a public place and not being under the control or charge of any person, and any ordinary cat who belongs to a person who is going across a public place and is not in the charge of that person I should be very much obliged". Well, Mr. Speaker, with the usual polish of distinguished Members of this Council you fobbed me off. It has now fallen to me to correct the error to which I drew the attention of the House on 23rd August, 1951.

Mr. Speaker, secondly the officers of the Department of Veterinary Services are handicapped during the outbreaks of rabies by the fact that they are not able to prosecute successfully owners of animals who are bringing them into the rabies area. The Ordinance at the moment only permits the Director of Veterinary Services to issue orders concerning the exit of animals from a rabies area. It is of course equally important that we should be able to control the entry of animals into an area which has been declared under rabies control as to prohibit their exit therefrom.

The only other amendment proposed in this Bill is to refer to police officers by rank instead of by race. Mr. Speaker, I beg to move.

The Chief Secretary seconded.

Question proposed.

MR. NGOME: Mr. Speaker, I cannot understand the reason why cats have to be called straying. The cat goes after a rat—how can there be a suggestion that it is a stray? I think it should be scheduled properly, so that these animals who, like dogs, have been straying, and the cats who are kept by house owners to clear the rats from the house. If you suggest, Mr. hon. Minister, that cats should be in the schedule of animals who are supposed to be dealt with by the Veterinary people, I do not agree with that. I think that cats are important animals in the house, more than ordinary dogs who are straying. I admit these dogs are many, frequently found wander-

[Mr. Ngome]

ing about the country. I had a report the other day where a veterinary officer issued instructions that diseased dogs should be destroyed. This instruction was welcomed by people in my constituency, but I have never found a veterinary officer issue a report that stray cats should be destroyed. I do not agree to that, Mr. Speaker. I hope that the hon. Minister will make that point very clear, because if a man has kept his cat in the house by chance, and lost it to somebody who has been looking for cats to be destroyed and then he sees from the terms of that law that it should be destroyed—I think that is something that requires a more clear explanation from the Minister. Otherwise I would support the Bill.

Mrs. SHAW: Mr. Speaker, Sir, I welcome this very necessary provision that is being introduced under the Rabies Bill. Often veterinary officers, I agree, are obstructed in carrying out their most necessary duties for the protection of the whole district or area by owners of cats or dogs who have been able to reconcile their action under the rather loose term of stray cats and dogs. However, I would bring to the Minister's attention that very often the Veterinary Department have carried out these poisoning operations in the most haphazard manner, which has been not only to the danger of the animals that are under proper control, but also to human life, especially children. Bait has been thrown out going along a road from a Veterinary motor-car, haphazardly from side to side, on several occasions in districts in the area in which I am resident and has been picked up by native African children and eaten, with the most disastrous results, because rabies is a thing which is very little understood and if the child is brought in after being infected with rabies it is too late to do any good. There have been cases where this poisoning has been carried on haphazardly in European farms, without the knowledge of the farm owner, who may have been away from home. I would ask the Minister, once again, to bring to the notice of the Veterinary Department, in carrying out these very necessary poisoning campaigns, that great control should be

exercised as to where the baits are laid, their position marked, and that all baits so laid should be collected and counted in the morning, because it is a great danger to the public. While the extermination of rabies is a most desirable thing, a most essential thing, to safeguard life, great danger can be caused from this rather haphazard method of baiting.

LT.-COL. MCKENZIE: Mr. Speaker, clause 4 is worrying some pedigree dog breeders up-country. Various areas up-country get into quarantine for rabies or have been in quarantine for a long time, which upsets the breeding season of their pedigree dogs. Clause 4 is the clause which now stops people bringing dogs into the area, and I am wondering when the Minister replies if he would say that the Director of Veterinary Services would take a sympathetic view of pedigree dog breeders bringing in dogs or bitches into the area while there is a quarantine on; if they would adhere to the section 8 (1) (c), and 8 (1) (a) of the original Ordinance.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, in answer to the hon. Specially Elected Member for the Coast area I agree with the hon. Member that it is difficult to define what is or is not a stray cat. That was the difficulty which I presented to the then Member moving the original Bill in August, 1951. I can only assure the hon. Member that I will inform the Director of Veterinary Services that particular care should be taken before destroying the cats to make sure that the cats are stray, because, of course, he is quite right, the cat may have come from the house in pursuance of some other animal and may not be a stray at all. The only way to deal with that is by using, in my opinion, the good sense of the officers concerned, and the appearance and general aptitude of the cat should show fairly easily whether it is a stray or not.

Secondly, Sir, in answer to the hon. and gracious Member for Nyanza, all I can say, Sir, is I think on what the hon. Member has put forward and will discuss it with the Director for Veterinary Services, but I would like to record for the benefit of the House that no single

[The Minister for Agriculture, Animal Husbandry and Water Resources] complaint of that nature has come to me. I do feel that if great danger had arisen from poison bait being unwisely distributed we would have had some calamity which would have brought it to my attention. The hon. Member is certainly right to mention that it is a danger, and I will certainly pursue it.

I to the hon. Specially Elected Member an afraid I must give the answer "no". Rabies is really an extremely dangerous and nasty disease and we must do our utmost to control it. I feel, bearing in mind the unfortunate consequences upon humans of the disease, that the interests of pedigree dog-breeders, after all if they miss a season in their bitches it cannot influence them more than six months—must come second to those of human beings.

LT.-COL. MCKENZIE, on a point of information, Sir, perhaps the Minister does not appreciate that the area of Nyanza has not been out of quarantine for rabies for years and years and years—what would happen if you had no dogs in that area? Or stray cats? I gather they have been in quarantine for thirty years.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, if what the hon. Member says is true, that they have been in quarantine for thirty years, the only assumption I can draw is that there are no dogs or cats in Nyanza, and I do not believe it.

The question was put and carried.

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

The Stock and Produce Theft (Amendment) Bill

Order for Second Reading read.

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): Mr. Speaker, I beg to move that the Stock and Produce Theft (Amendment) Bill be read a Second Time. The main reason for the introduction of this amending Bill is that there have been a number of judicial decisions on section 10 of the present Ordinance and attention has been drawn to the con-

flicting nature of various decisions given in the past. For example, the view has been held that the words "reasonable belief" in section 10 of the Ordinance was one which must be apparent to the person seizing the cattle at the time of seizure. Furthermore, it has also been held that since section 10 of Cap. 206 provides that the person shall in the circumstances mentioned "be deemed to have stolen", he should substantively be charged with theft under section 273 of the Penal Code, and section 10 of Cap. 206 should only be invoked on an evidentiary basis. Now the amendment proposed to section 10 which is in clause 4 of this Bill meets these difficulties and declares possession to be a specific offence under the Ordinance. A consequential amendment to the interpretation section is contained in clause 2, defining the meaning of "possession" while in clause 3 a similar amendment is made in conformity with that contained in clause 4 in respect of produce.

I think, Sir, the reasons for this amending Bill are fully set out in the Memorandum of Objects and Reasons and so further explanation, Sir, I consider is unnecessary. I beg to move.

MR. WEBB seconded.

Question proposed.

LT.-COL. MCKENZIE: Mr. Speaker, clause 3 (a) (1) deals with any farm or the immediate vicinity. Sir, what I would like to know from the Minister is in the European areas a tremendous lot of the theft of maize especially over this last year has come from gangs in road camps and new local government community centres. What I would like to know from him, Sir, when he replies, is: does he envisage that the roadways will be covered; that the road camps belonging to local government and the Ministry of Works—and whether these community centres are covered by the Bill. They are in farming areas. I would also like to know whether he is quite satisfied that as African areas become scheduled and under the growth of land consolidation, that this section 3 (a) (1) will in fact operate in those areas.

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): Mr. Speaker, Sir, in answer to the Specially Elected Member, Colonel Bruce McKenzie, the

[The Minister for African Affairs]

Ordinance itself operates in a certain number of districts already. It has been applied, for instance, to all the districts of the Rift Valley Province, and this amendment is merely designed to make it simpler. It does not alter in any way the areas to which the present Ordinance applies. Therefore the thefts from the road gangs and from communally centres which the hon. Member has described—if they occur in a district to which this Ordinance applies (and I have said it applies to the whole of the Rift Valley as well as to other districts) then exactly the same procedure can take place as does today under the present Ordinance. Most of the African districts, in reply to the second point, Sir, are scheduled under this particular Ordinance, but some are not. I may mention that the majority of the districts in the Central Province are not, but the Provincial Commissioner has recently asked that some of those districts should be scheduled. I hope, Sir, I have answered the hon. Specially Elected Member's question.

The question was put and carried.

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

The Deportation (Immigrant British Subjects) (Amendment) Bill
Order for Second Reading read.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Speaker, Sir, I beg to move that the Deportation (Immigrant British Subjects) (Amendment) Bill be now read a Second Time.

This Bill, Sir, is designed to make a few amendments, a few unrelated amendments, to the principal Ordinance, the first of which is contained in clause 2 and involves the replacement of sub-section (1) of section 15 of the principal Ordinance. Hon. Members will see from the present sub-section which is set out in the copy of the Bill which they have in their possession that the major part of this new sub-section does not in fact depart from the substance of the existing sub-section. It does present it in rather clearer form, and the purpose of this clause is really in sub-paragraph (ii) at the end of the clause, which deals with the power, which we do not at present have,

to pick up by arrest a person contravening a Restriction Order when he is in an area in which he is not allowed to be under the Order and to return him to the area of restriction; that is to return him in custody and to hold him in custody so long as it is necessary to make arrangements for his removal to that area, and of course in transit. Those powers are of course without prejudice to his prosecution for the appropriate offence.

Clause 3 of the Bill increases the penalty for the offence of knowingly harbouring or concealing a person who is in fact contravening a Deportation Order or a Restriction Order. At present the penalty is limited to a fine, and it is considered that it should be increased to include imprisonment. That therefore is the addition, without increasing the maximum limit of the fine. The addition is made by this clause of a penalty up to one year's imprisonment.

The amendment in clause 4, Mr. Speaker, is designed for two purposes. At present the Attorney-General's sanction is required for a prosecution under the Ordinance, by reason of the existing section 17, and in sub-section (2) of the proposed new section 17 it is made clear that the Attorney-General's sanction can be anticipated to the extent of arrest, charging and remand, but the proceedings beyond that stage cannot be proceeded with without the Attorney-General's sanction. Previously the sanction had to be obtained before arrest, which in some circumstances might defeat the object of this penal sanction altogether.

The other part of the new section 17, sub-section (1), is designed to make the appropriate offences under the Ordinance cognizable to the police so that they may arrest an offender without a warrant.

Now Mr. Speaker, I have given notice to the Clerk, and there will be circulated shortly such notice of certain amendments which I shall propose to move in the Committee stage on this Bill. The main amendment will be to substitute a new section for section 14 of the principal Ordinance which deals with the revocation and amendment of Restriction Orders, Deportation Orders and Security Orders. At the moment the powers of

[The Minister for Legal Affairs] amendment or variation are really unnecessarily inhibited, and indeed the existing section is rather oddly drawn, and I think that whilst we are on the task of amending this Ordinance it would be as well to rationalize that section also. The remaining amendments included in the notice are consequential upon that main amendment. Mr. Speaker, I beg to move.

Mr. WENN seconded.

Question proposed.

LT.-COL. MCKENZIE: Mr. Speaker, I want to use this opportunity of asking the Attorney-General a question which I have not been able to ask previously. This comes under 2 (1) (i). Over the last few days we have had various Bills where the term of imprisonment and/or the fine have disagreed tremendously. For instance, this one is one year—twelve months—or Sh. 5,000. We have just passed an agricultural one which was Sh. 10,000 or six months in other words, double the fine but half the time. Yesterday we had one which was one month or Sh. 1,000. What I would like to know is, if the Attorney-General would, when he replies, Sir, tell me how either his department or the Solicitor-General's department come to these figures. Have they a method of doing it or is it just haphazard?

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Speaker, Sir, we do normally apply the criterion—I say normally—of roughly Sh. 5,000 to one year's imprisonment. That must of necessity be a flexible criterion. In a number of offences it is infinitely preferable that penalties should, wherever possible, be financial or monetary penalties—that is to say by way of fine. In other offences, by their nature, it is desirable that they should be visited by imprisonment. In some instances perhaps it is desirable that both types of penalty should be imposed, and whereas we do have this normal yardstick, it is a variable one which we do vary in order to try to meet the circumstances of the particular field in which the sanction which is being imposed.

LT.-COL. MCKENZIE: (Interjection)

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): On the contrary; I

think if the hon. Member would pursue his interest to the extent of going through all the penal provisions in legislation passed in the last five years, he will find a very considerable standard of consistency in them. The solution lies with my hon. friend—but not less than five years, I should say!

The question was put and carried.

The Bill was read the Second Time and committed to a Committee of the whole House tomorrow.

MOTION

EAST AFRICAN INCOME TAX (MANAGEMENT) ACT, 1958

Resumption of debate interrupted on
24th February, 1959.

MR. ALEXANDER: Mr. Speaker, Sir, at the conclusion of normal business yesterday, I was dealing with the exemption from income tax of owner-occupied residential property. In other places and at other times, I have submitted that our greatest competitors in this country, indeed, in these territories, for skill and managerial ability are our good friends, the Central African Federation. Individuals who have to choose a career there or here obviously weigh up very substantially the comparable imposition of income tax. One of the very great advantages in Central Africa is that an owner-occupier, whilst he is, in fact, occupying his own home, does not pay income tax on the beneficial element in that occupation.

Section 21 (3), proviso (2), of this particular legislation concerning residential property limits the assessment to one-eighth of an employee's emoluments. It is most interesting to discover—and I hope the Minister when he replies will tell us the reason for this—that this particular aspect has been reintroduced into the Act at the select committee stage. Was it because the Government and the select committee realized that the notional calculation in the formula for net annual value is too high? Did they suddenly realize that particularly in respect of public servants the ordinary net annual value formula imposes too heavy a burden?

[Mr. Alexander]

This, Mr. Speaker, is a reintroduction into this legislation of another measure that is susceptible, in fact lends itself, to evasion. It does mean that employees who find that their normal net annual value assessment is too high have only got to arrange for their employers to rent the accommodation and put them into it as part of their terms of service, thereby having the assessment limited to one-eighth of their emoluments. This, Mr. Speaker, clearly is another instance of making available a means of eating into the tax base or, in the words of the economist, another example of the erosion of the tax base.

It is most interesting that this element should be reintroduced because, of course, one of the points Coates was completely in opposition to was this very aspect. It is, indeed, surprising now, having had so much of Coates quoted to us in favour of this legislation, that we find that on second thoughts it has been reintroduced. I wonder whether it was reintroduced as the result of any submissions outside Government. Of course, we do not know that because, as I said yesterday, we do not have any details of the evidence or the reasoning behind the select committee's report. But this is what Coates said, on page 153 of his report—the bottom of page 153 to the top of page 154. With your permission, Mr. Speaker, I would like to quote just a very brief extract. "We consider, however, that as annual values are, and will continue for some years to be, assessed below the general level of current rental values, there is no need to depart from the scale values, except in individual cases on their merits". This was their recommendation. Mr. Speaker. There follows: "We accordingly recommend that the practice of limiting the annual value of a house provided by an employer for an employee to 10 per cent of the latter's emoluments should be discontinued".

Of course, all that has happened in the reintroduction of this factor is that that tenth has now become one-eighth. That, Sir, is the only difference between the legislation as it was when Coates dealt with it and came out completely opposed to the continuation of this measure and as it is now.

Part VI, sections 37 to 41, deals with controlled companies and undistributed income, and I am bound to say here that this is perhaps the most cumbersome and obscure of all the legislation introduced into this Management Act. I said yesterday that practitioners were having difficulty and repeat again today that in respect of these particular provisions the most experienced practitioners find it difficult and in some places almost impossible to begin to understand. A full explanation today from the Minister would be extremely timely and very gratefully appreciated. What I certainly would like is a sort of child's guide to the understanding of undistributed income tax as it is described in these particular clauses.

Of course, Sir, the short answer to the whole of this question is to have each case dealt with on its merits. This is not unfamiliar language either on this side or to the ears on the other side of this House. In the absence of a system precisely on its merits, at least we might move to a compromise, which might also avoid petty appeals, of allowing an accumulation of a stated sum undistributed profits and beyond that accumulation dealing with the remainder on the merit test. This is in fact a system applied in the United States of America after many years of experience of this particular problem. I had the great opportunity and advantage of discussing this here some months ago with what I, I suppose, the equivalent on the spending side of the British system, the American Chancellor of the Exchequer, the Director of the Bureau of the Budget. He explained to me how they work it there. I think in America they allow an accumulation of 100,000 dollars without any of the tax authorities questioning whether it is right, reasonable or unreasonable; but thereafter, each case is dealt with on its merits.

What is most consoling, Mr. Speaker, is that there are obviously two Ministers of our Government, experienced and responsible Ministers, who have leanings in this particular direction. It will be most useful, I believe, in this legislature to quote, with your permission, Sir, what they said in the East African Central Legislative Assembly.

Firstly, I will deal with our Minister for Commerce and Industry, who I am

[Mr. Alexander] pleased to see is here today, and in the East African Central Legislative Assembly on 16th December, 1958, he had two remarks to make. Firstly in column 585, he said this: "I want to confine my remarks to the question of the retained profits aspect of controlled companies and in doing so I would like to say that I was glad that in the words of the hon. Financial Secretary the select committee paid great attention to, and regretted the fact that they were not able for administrative reasons to recommend, some form of appeal from the formula basis, either to a body of commissioners or to the Commissioner or to a tax court". Then he went on, secondly, "I would not wish to go further. I would not wish to suggest precisely what form of appeal there might be and I would emphasize that I am not suggesting that loopholes should be open for avoidance. In point of fact, what I suggest—which is the reason why the Inland Revenue authorities in the United Kingdom prefer this method—is a means by which loopholes can be closed".

Those are wise words Mr. Speaker, of the Minister for Commerce—means by which loopholes can be closed".

In commenting upon this, our Minister for Finance, on the same day, in column 588 said this: "Mr. Speaker, I rise with great pleasure, I think, to support my hon. colleague who has just sat down, who, if I may say so, seemed to be speaking for both the Government and the chambers of commerce in the hope and recognition that although we have found this appeal, with of course, other parts of the opposition put forward by the Associated Chambers of Commerce, impossible of acceptance at the moment, we will have due regard to it in the future".

That, at least, Mr. Speaker, does indicate that at last, from responsible Ministers of our Government, this particular submission is not falling on deaf ears. It is consoling also to note what the hon. Financial Secretary to the High Commission had to say on the same day: "Nevertheless, it was one which the Administration might do well to bear in mind since it is not to be supposed that the committee has succeeded in perfecting the income tax law which

might therefore come up for review on another day".

Mr. Speaker, the present legislation defeats the object it sets out to achieve. In one respect it acknowledges evasion and in another respect it encourages evasion. It acknowledges evasion by allowing to those who do not require it a percentage of retained profits; and it encourages evasion* by the harshness with which it falls upon those who really do need to retain profits for expansion. It would be interesting to learn from the Minister why only 50 per cent of development expenditure is allowed in the calculation concerning property companies. There is no explanation for this whatsoever, and perhaps the Minister will tell us why it could not be 30 per cent or 75 per cent or 100 per cent.

Of course, on this development expenditure, the factor that falls most harshly—and, in fact, makes a myth of much of the formula—is that it is written back in future years. Although development expenditure is allowed in the year in which it is incurred, nevertheless, it is all regained in the calculation in future years.

Another aspect of this which is causing great difficulty, not extensive, but a very real difficulty which the Minister might be able to clear up, concerns companies in liquidation, companies in liquidation who continue to make profits. Of course, under ordinary company law, they are prevented from declaring a dividend, although the liquidator would gladly hand over the profits to the shareholders in order to attract their lesser incidence of tax. Nevertheless, he is prevented from doing so, and finds that the company has to bear the full impact of the rate of undistributed income tax.

Part VII of the Act, sections 42 to 46, deals with retirement benefits, and here I know that my good friend, the Member for Kiambu, will be speaking to this. I would like to ask once again here, because we do not know of the reasoning from the select committee, why provident funds have virtually been eliminated, eliminated in all instances except in the case of lower-paid employees. In respect of pension funds, the attempt to compare those in public service with others is full of mathematical fallacy,

[Mr. Alexander] because it fails to take account sufficiently of the fall in the value of money. The limits of a £2,000 annuity and a £6,000 commutation are unrealistic when applied to commercial, professional and agricultural employees.

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

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

Section 59 deals with resident non-individual tax. This, as I understand it, provides that income of resident companies in Kenya or elsewhere in East Africa shall be charged at the standard rate of the territory of residence, plus any excess over the standard rate in the territory in which the income is derived. Mr. Deputy Speaker, this is unfortunate in two ways. Firstly, international companies with subsidiaries registered in Kenya will be adversely affected in respect of branches in neighbouring territories in Africa or in other areas near Africa where they might be operating from Kenya. Secondly, companies with geographically wide activities will be encouraged to register in countries which do not impose tax on overseas income. I think, as far as I remember, that into this advantageous category comes South Africa.

The last aspect of the Management Act that the Motion deals with, Mr. Deputy Speaker, concerns the Second Schedule. I must say I am pleased, Mr. Deputy Speaker, to see you sitting there because I imagine this will inhibit you from any participation in this debate! I have already in other places referred to your great wealth of experience and advice on this matter.

The Second Schedule deals with capital deductions, and here I return to the old question of the non-availability of capital deductions to commercial and residential premises. Perhaps I can do no better, Sir, than to quote on this the Royal Commission on the Taxation of Profits and Income published in the United Kingdom. This is what it says in two places. This is the copy presented to Parliament in June, 1955. On page 117 in paragraph 379 it says: "The first Tucker Committee concluded that a depreciation allowance should be given for

all commercial buildings. By commercial buildings they meant all buildings which are in use for the purpose of business but which are not within the present definition of industrial buildings. They regarded an annual rate of one and one-third per cent as an adequate allowance, thus giving no relief on a building more than 75 years old".

The Royal Commission then went on to deal with the submissions of the Board of Inland Revenue. I think it is known as in the United Kingdom, who, of course, I suppose, like our own income tax official strongly upheld the withholding of capital deductions from commercial buildings. The Royal Commission report concluded with this remark at the end of paragraph 381: "But we could find no fiscal justification for distinguishing between commercial and industrial buildings and we think both should get the allowance. Accordingly, we endorse the recommendation of the first Tucker Committee".

I need not add to the argument of such eminent authorities.

I know that the Coates Report used the argument—one of the arguments was that balancing charges in the event of disposal would cancel out any allowances or would be likely to cancel out any allowances that would be given, but, Sir, does that apply to industrial assets as well? I cannot see that it is a very valid argument; certainly not in respect of continuing businesses where there is no disposal of assets, and I suggest most businesses are on a continuing basis.

I do beg of our Government to reconsider all these matters in consultation with all those who have to work this legislation, those in commerce, in industry, in agriculture, in the professions and naturally, Mr. Deputy Speaker, I would make a special plea that our Minister for Finance and his assistants should take into their complete confidence the members of my own profession, who perhaps have more to do with this subject than anybody else.

In the absence of any sympathy from the High Commission and the East African Central Legislative Assembly, I would ask our Government to invoke the clauses of the Management Act which permit of our Government acting unilaterally in any matters that affect us

[Mr. Alexander] disadvantageously in Kenya. The Act does not use the word "disadvantageously" but obviously the intention is that a colony that finds itself unable to continue the acceptance of the Management Act has the remedy of acting unilaterally.

I believe our Government should consider this particular attitude in the light of the fact that the mass of people in Uganda do not even pay income tax at all—and it is quite unfair, I believe, on this territory of Kenya (and that is our concern) that we should be judged or legislation should be decided with the voice added to it of a colony, the mass of whose people pay no income tax whatsoever.

Mr. Deputy Speaker, I beg to move.

MR. BOMPAS: Mr. Deputy Speaker, Sir, I rise to second.

Normally, I would have sought to have spoken rather later in this debate but as my hon. friend, the Mover, has said, he has left it to me—or ostensibly he has left it to me—to deal with the aspects of the Motion relating to sections 42 to 48 of the East African Income Tax (Management) Act, 1958, that is the "Special provisions relating to retirement benefits", and section 21 of that Act, which, of course, covers "Income from occupation of premises for residential purposes".

This duty makes me a sort of co-Mover, Sir, and, big-hearted as I am, I thought it only fair to ensure that the first Government speaker would have before him a complete introduction to the Motion.

I may say, Sir, that by his friendly gesture in talking out time yesterday evening, my hon. friend very nearly made for me, that part of my speech dealing with, at any rate, the second subject of my brief. I am however grateful to him for one thing. Although he indicated that I was reasonably well versed in the specific subjects, he at least avoided calling me an expert; you know, one of those who come to know more and more about less and less until they know everything about nothing.

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

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

The hon. Member for Nairobi West used the word "specific" in the context of what I have to say. This may have created the impression that I would be dealing with a few subjects in some detail. That is not my intention for reasons which I hope to make quite evident.

Now, Sir, I mean no disrespect to this hon. Council or to its Members when I say that were I to venture into the morass of detail which could engulf at least the first of the two subjects, the House would "be bored beyond measure". My efforts in fact could be likened to a rather amateurish rendering of Beethoven to a gathering of rock-and-roll fans. Sir, I have not the same ingenuity as the American composer who recently managed to write a popular song on the theme: the square of the hypotenuse is equal to the sum of the squares on the other two sides. Even so far as hon. Members who are fully acquainted with these subjects are concerned, Sir, I have not the ability to take them with me in verbal explanation of what requires a most concentrated study of tabulated and written arguments. Therefore, Mr. Speaker, I do invite the Government, and more particularly, the Treasury, to a repusal outside this House of the extremely able and comprehensive Report of the Standing Committee on Finance of the Nairobi Chamber of Commerce. This Report was dated 11th July, last year. It dealt with paragraphs 22-34 inclusive of Kenya Sessional Paper No. 5 of 1957/58. The Report was adopted by the Nairobi Chamber and together with various resolutions it was communicated to the Government.

As the hon. Mover said in general of the Management Act, Sir, I can say in particular of retirement benefits in their metamorphosis from Sessional Paper to Law they have remained disappointingly unchanged. The only exception of any note that I have been able to find is that the Central Legislative Assembly in respect of approved provident funds magnanimously increased the maximum contribution by the employer upon which tax relief can be obtained from £100 to £120 per annum; it increased the total aggregate of such contribution from £2,000 to £2,500. This aspect lies

(Mr. Bompas) actually under section 46 sub-section (2) (c) (vi) and (vii). Sir, these maxima are so patently absurd, especially when, as was mentioned by the hon. Mover, account is taken of the diminishing value, the diminishing purchasing value, of money; they merely highlight Government's avowed intention to discourage the use of provident funds for all save the lower salary groups, and to force those firms, who desire to make provision for retirement benefits for their staff, into pension schemes operated through insurance companies.

The House may think it a little strange that I, as a local director of a British insurance company, should appear to deery a process which is so obviously conducive to expansion of insurance business. I take this stand, Sir, because I believe that both provident funds—that is, schemes operated by trustees for the firms concerned—and pension schemes—which are, of course, those operated through an insurance company—have their place in accordance with the needs and the conditions attaching in each firm. I believe, Sir, that it is morally insupportable for Government by mere economic pressure to force the election of one particular course, as against the other. If anyone should doubt that this is the Government's declared policy he has only to read the remarks of the Secretary to the Treasury, the hon. Mr. Mackenzie, in column 1960 of HANSARD of 17th June, 1958. I will not take up the time of the House in quoting from those remarks, Sir, or in any way in reading from them. Hon. Members will undoubtedly hear from the Government of the practical difficulties of bringing the tax merits of provident funds and pension schemes into some reasonable and comparable line. I say, Sir, that because of those difficulties, which are not insoluble, but upon which Government has apparently not been prepared to accept the outside aid of persons in commerce, it has in a most high-handed fashion taken the easy way out.

Sir, I challenge Government today to give a coherent and logical account as to why provident funds, save for the bottom income groups, have virtually been outlawed. I ask the Government to say, Sir, that it will agree for

appropriate officers to meet in discussion with a panel of properly qualified non-officials, to thrash out in an objective way those detailed problems, and their solution, which are so obviously incapable of proper ventilation across this Floor.

I further ask, Sir, that Government should examine an increase in benefits so that tax treatment of unofficial contributors to a fund or scheme, may be no less than the taxation benefits enjoyed by the civil servants.

Finally, on these aspects, if Government officers can be satisfied, can be convinced, by discussion in such a panel, will the Government make the representations to the Central Legislative Assembly as are sought in this Motion?

I will now turn, Sir, to the other subject of my brief—Income from residential property. Here let me make it quite clear that I am speaking for the owner-occupier, the man who is occupying his own house.

I have no quarrel with the thought that the man who chooses to lease his house to another should pay tax upon the net return from such a letting, nor have I any quarrel with the principle that the man who occupies his employer's house should be taxed on its proper rental value in the market.

I had made a note, Sir, to make an enquiry of Government into this 12½ per cent factor, the one-eighth, that the hon. Mover mentioned; as he has already put that point I will not pursue it.

Sir, I must, of course, completely agree with the view of the hon. Member for Nairobi West that exemption, complete exemption, for the owner-occupier from the taxation on the net annual value of his house is an ideal to be aimed at. The hon. Mover instanced the Central African territories and what has been done there. I believe that the intangible benefits to the country might well counterbalance the physical loss of revenue. But I greatly doubt whether the Government has the perspicacity to see this; and therefore I feel we must strive towards some form of compromise.

Last July, Sir, I made a plea in this House which I again renew—that Government should revert to its previous

[Mr. Bompas] policy of a very moderate basis of assessment of the owner-occupier net annual value. I concede, Sir, that this did contain an element of subsidy, and, I say, very properly so. I do not propose to repeat the arguments, Sir, that I then advanced, beyond saying that the 2½ per cent or the 2½ per cent times increase, totally unexpected in the taxation element for the owner-occupier, has created a hardship amongst those who in good faith embarked upon the construction of or the purchase of home for themselves—an operation related, in the case of those with fixed incomes, to a very carefully planned budget. The difficulties of those people, Sir, have been heightened, most unfortunately, by events quite beyond their control, and that is the hardening in loan interest rates. In most cases their loans were incurred under a mortgage contract capable, as are so many current mortgage contracts made through building societies and similar organizations, of modification in accordance with current interest trends.

It is noteworthy, Sir, that at the time the method of assessment against the owner-occupier was increased the Government decried criticism from within its own ranks by an upward revision in house allowance. I made this point, Sir, last July. It evoked no response from the Government and perhaps I will get it this time.

Quite apart, Sir, from any plea for reconsideration of the general position of the owner-occupier, I feel that the arbitrary fixing of three-quarters of annual value as the net annual value is quite unrelated to the facts. It was freely recognized before the war that one required a 10 per cent gross return to produce a net 6 per cent return in this country on house property. Since then, Sir, there have been increases in rates, and increases in costs of repairs, more particularly in respect of those houses which were built in the post-war years, when we still had building control with us. Houses were built to rather more austere standards as a result requiring considerable repair. I submit, Sir, that the gross rental required today is much closer to 11 per cent than 10 per cent for a net 6 per cent return. Therefore, Sir, I suggest that a net annual value, taken at 60 per cent,

or better still 50 per cent of annual value would be by no means over-generous.

Mr. Speaker, when I ventured last July to urge the Government to retreat to the old basis of net annual value, I was chided—very kindly chided, I may say—by the Minister for Finance. Rather patiently, as befitted the new boy in the House, the Minister explained that of course had I heard the long and wearisome arguments on this self-same subject which the House had had to submit to, I would not have been so tiresome as to put Government to the trouble of having to answer them all again. Well, Mr. Speaker, I am being tiresome again, but, like the hon. Member, I am quite unrepentant, and like the hon. Member I say that we will not be deterred by Government petulance from returning to the attack, again and again, over all those matters where we believe we are right. We will not be deterred by allegations of obstinacy, when we believe in fact that the "boot is on the other foot". We are not so stupid, Sir, as to believe that taxation can be miraculously reduced. We are prepared to exercise patience—quite considerable patience—so long as we are progressively moving to a point where we can see some reduction, coupled with efficient spending. We do believe, Sir—in fact we know—that the high rate of taxation is inhibiting in a multitude of ways, the development of the progress which our country needs, and which our people, for the most part, richly deserve.

I beg to second, Sir.

Question proposed.

MR. BECHGAARD (Nominated Member): Mr. Speaker, it is always a pleasure to listen to the hon. Member for Nairobi West on the subject of income tax. Yesterday and today I derived particular pleasure from the fact that what he said had already been said by him before on other occasions, thus easing the burden of reply. Some people say that the time needs to be repeated a few times before it can be properly appreciated, and those of that opinion expect, no doubt, that in the fullness of time the hon. Member's speech on income tax will achieve the popularity of that well-known song dealing with—I forget the name—somebody's ragtime band. Others, Keats amongst them, are of the contrary opinion and hold that

[Mr. Bechgaard] while heard melodies are sweet, those unheard are far sweeter and, if I may add to Keats, much less costly.

The hon. Member claimed that a considerable body of professional men find difficulty in the interpretation of some of the provisions of the new Act. If that difficulty does exist—and I am not quite sure whether I ought to declare a personal interest in the existence of those difficulties—it is not one which is peculiar to this Bill or to this particular subject. Whenever the question of statutory interpretation arises it is always one of great difficulty and one of wide divergencies of opinion. This particular legislation, income tax legislation, is fairly complex, but if the hon. Member has any difficulty, I have no doubt that the Commissioner will be grateful to receive any suggestions touching on simplification and clarification of details.

Turning to deal with one or two specific matters raised by the hon. Member, Sir, he recommends, firstly, the immediate abolition of—I think we can refer to it as such for ease of reference

tax on residential owner-occupied property. I must here apologize for retracing some ground already previously covered in debate. In Sessional Paper No. 5 of 1957/58 the Government put forward certain proposals which, I think, can be fairly and briefly summarized as being the achievement of two objects. The first was the adjustment of an apparent imbalance of the incidence of indirect and direct taxation. Whether that imbalance does exist is, of course, a matter of opinion, but the decision taken by Government was, at least at that time, acceptable to the hon. Member, as I understand his views. The second aim was that within the field of direct taxation there should be a redistribution of the burden of income tax as between individuals and companies. This second object was achieved on the one hand by a very considerable increase in the rates of personal allowances. The estimates cost of those is approximately £80,000. At that time, Sir, that part of the proposal was at least acceptable to the hon. Member.

Now, Sir, in order to maintain the revenue at the necessary level compensatory measures had to be taken, and

amongst those were the increasing of the company rate of tax, and another one was the upward adjustment of the sub-economic rate of tax on owner-occupied property. I would observe that even with the present adjustments the rate still remains sub-economic. The estimated yield from this adjustment is of the order of £165,000, and this is an amount which the Government, in the light of concessions then and subsequently made, cannot give up.

Even in the case of an owner-occupier, Sir, the net result, taking into account the increase in personal allowances and the increase in the tax on owner-occupied property results in all but exceptional circumstances in a net balance in the taxpayer's favour. It is therefore, in my submission, wrong to look only at the increased residential tax. You have got to balance that against the greater gain in the field of personal allowances. You have to regard the whole fiscal picture as one.

The hon. Member made a reference to the market values of housing in Mombasa I find that a little difficult to follow in the context of owner-occupied property, because, as he is aware, section 21 places the basis of taxation on net annual and annual value which are computed by reference to the capital cost when incurred. The only time that I can see that the market value in section 21 is of the slightest importance is in the proviso to, I think, sub-section (3). Even then it is of mere academic interest. The proviso to which I refer is the one which grants a concession in certain years where the net annual value of the premises would be greater than the annual rent which a willing tenant might reasonably be expected to pay. That is the only time that the market value comes in; and the market value is not the market value of the house itself, Sir, but it is the market value of the benefit to be derived from residence.

The question of whether or not tax should be imposed on owner-occupied houses is one which has been several times debated in this House. In one way or another it has been with us in the United Kingdom since the Doomsday Book. The Royal Commission considered the problem and came to the conclusion that it should be retained. The Coates

[Mr. Bechgaard] Commission considered the problem in considerable detail and came to the conclusion not only that it should be retained but that there should be upward adjustment to compensate for the personal allowances. Recently, the subject has been much to the forefront of discussion in the United Kingdom and the body of responsible opinion appears to favour its retention.

I have only one more specific point to deal with, as raised by my hon. friend, and that relates to section 59. Again, Sir, I find his reasoning a little difficult to follow, and it may be that it is based upon a misinterpretation of the word "territories," "Territories" as a word used in the Act is defined in section 2 at page 42 of the *High Commission Gazette*. "Territories" means Kenya, Tanganyika and Uganda. There are no other territories. So there is, therefore, absolutely no question of section 59 being affected by companies operating in South Africa or indeed anywhere outside Kenya, Uganda or Tanganyika.

The Motion which stands in the name of the hon. Member, proposes or urges Government to make representations to the East Africa High Commission to introduce appropriate amending legislation at the next meeting of the East Africa Central Legislative Assembly. Mr. Speaker, Sir, I think it must be apparent to everybody here, but I will repeat the chronological facts which we have to face here. The Bill was passed on 17th December, 1958, by the Central Legislative Assembly. It was passed after three sittings and in the end—I think there were three divisions—it was passed with no dissentient vote. It was published on 30th December. Since then some of the necessary subsidiary legislation has been published, but not all of it. We might well ask ourselves: "Has this Act had a fair chance to work?" I submit that it has not. I find it impossible to agree with the Motion as it stands.

Therefore, Mr. Speaker, I propose the following amendment—and notice has been handed in—that all the words after "Council" be deleted and that the following words be substituted therefor: "... notes with approval the enactment by the Central Legislative Assembly of the East African Income Tax (Management) Act,

1958; with confidence that the Central Legislative Assembly will study the working of that Act in practice in case amendments should prove at any time in the future to be necessary or desirable.

Mr. Speaker, I beg to move.

Mr. WEBB seconded.

Question proposed.

MR. MACKENZIE. (Secretary to the Treasury): Mr. Speaker, Sir, I feel pretty weary about having to reply to this particular debate having done so on several occasions during the last eight or nine months. I am sure, Sir, that the hon. Member must be equally weary with making his various submissions. I am sorry, Sir, to see that he does not. At any rate, Sir, I must say that I sympathize with the House that it has on so many occasions to hear quite lengthy speeches on this particular subject of income tax. I must say, Sir, I do not particularly like talking about income tax any more than I like paying it, but in both cases one has certain duty to perform.

I was Sir, just a little alarmed, and even a little more alarmed just now when my hon. friend the Member for Nairobi West said that Members on the other side of the House would continue to ventilate their grievances on this matter until they had obtained full satisfaction about all the matters which had been raised in respect of which they had made submissions. I was a little alarmed, Sir, because it appears that we are going to go on with this debate on a number of other occasions. I cannot say, of course, that I am entirely surprised that this should be mentioned, but, Sir, now that the amendment has been moved I imagine that, or I would hope, that its terms will satisfy hon. Members opposite, and that we may be spared some of the repetitions of this particular debate.

Now, Sir, there was one further point that my hon. friend made yesterday afternoon, and that was he said that the opposition to certain of the contents of the East African Income Tax (Management) Act was genuine and sincere opposition. I fully accept that Sir, I am quite sure that many hon. Members who have spoken, and many people who have spoken both inside and outside the House have spoken in a very genuine and

[Mr. Mackenzie] I would, though, Sir, sincere manner. I would, though, Sir, just like to make one point of caution as regards that, and that is to point out that as, of course, the House is fully aware, the fact that opposition to a Motion or that support for a Motion is genuine and sincere does not necessarily make that opposition and support on the argument behind it any better. In fact, Sir, one could looking through history quote many cases in which most genuine and sincere people have caused a great deal of distress in the world. Anyway, Sir, we have been told that if satisfaction is not given more or less immediately we shall hear more of this matter. I have, however, no doubt that if that were so, other people affected by income tax would put forward other points of view, and I am quite sure, Sir, that if the Government were to too readily give way to the submissions that have been made on behalf of various special classes of people such as those who are fortunate enough to control private companies, if the Government gave way in that way, and therefore had to raise the revenue which it would lose in other manners and from other classes of people that at that stage we should hear a vastly different story from those other people.

Now, Sir, the amendment which has been moved by my hon. friend notes with approval the enactment by the Central Legislative Assembly of the East African Management Act, 1958. The history of this Act is well known. Certain proposals were made first of all in the Coates Commission Report. Subsequently they were incorporated into a White Paper which was brought before this House. That was debated here at considerable length, and at a later stage, and, in fact, during the whole of that period the Government heard representations not only from Members of this House but from various bodies outside the House. During the second part of last year a Bill was introduced into the Central Legislative Assembly, and it was then referred to a select committee of the Central Legislative Assembly in which there was an unofficial majority. I think, Sir, that that is a very important point to note that on that select committee, just as in the Central Legislative

Assembly itself, Sir, there was an unofficial majority.

Now, Sir, yesterday my hon. friend, the Member for Nairobi West, had certain points to make about this select committee. It appears to me, Sir—I may be maligning him—but I did get the impression that he did not altogether approve of the select committee or of its method of working. He agreed that it had—

MR. ALEXANDER: Mr. Speaker, Sir, on a point of order, I never even discussed (inaudible).

MR. MACKENZIE: I am extremely sorry, Sir, if I misunderstood my hon. friend, but he certainly suggested, from certain of the things he said in his speech I got the impression that he did not agree with all the things that the select committee had done, and that certainly he disagreed with the way in which the select committee arranged its procedure. He objected, for instance, that no verbatim record was kept.

MR. ALEXANDER: Mr. Speaker, I am grateful to the hon. Member for giving way. I would like him to tell us how he has drawn his conclusions regarding the approval or otherwise of the select committee. Otherwise I would ask him to withdraw his remarks.

MR. MACKENZIE: Mr. Speaker, Sir, with respect, I do not think that there is really anything to withdraw. The hon. Member objected yesterday that there was no verbatim report kept of the evidence taken by the select committee. That, Sir, I suggest, since the procedure of the committee is entirely a matter within its own competence, suggests that to that extent the hon. Member had not got full confidence that that select committee dealt with its business in the way that he would have liked it to deal with it. Then, Sir, at a subsequent stage, the hon. Member said that members of the committees appeared to have gained little or no conviction from the great weight of evidence which was submitted. That, Sir, I would suggest, is not exactly approval of the methods of the committee, or of their conclusions. Then, Sir, the hon. Member objected—

MR. ALEXANDER: Mr. Speaker, I thank the hon. Member for giving way. He has

[Mr. Alexander]

said that I have criticized the approval of the committee. In other words, he has imputed to me that I have criticized the personnel of the committee. That is not so I have never criticized them once, and I ask for a withdrawal that I have criticized the personnel.

MR. MACKENZIE: Mr. Speaker, Sir, I did not suggest that the hon. Member was criticizing the personnel of the committee. What I suggested was that he was criticizing its method of working and its conclusions, and I must say that when I mentioned this afternoon that it had an unofficial majority I rather got the impression that the hon. Member certainly gave me a rather mocking expression at that. But, Sir, to continue, The hon. Member also had criticism to make about casual and absentee Members. Now, Sir, so far as that is concerned I think he should be aware, and I think the House should know—that at the first meeting of the committee it was agreed by the three Finance Ministers, all of whom, if I may say so, are busy men, that as far as possible they should share the work, and that they should listen to evidence in their own territories. Subsequently Sir, they all shared fully in the discussion that took place in committee, and I think that at least two of them were present for most of the hearings in Nairobi which were the longest hearings, and they had the benefit of hearing all that was—most of the evidence that was given here including, I might say, the evidence that was given by my hon. friend himself.

Now, Sir, another point that the hon. Member made about the—

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): I would draw the hon. Member's attention to the fact that where an amendment has been moved, debate must be confined to the amendment. Therefore, what is before the House now is the amendment. On this occasion as the amendment differed considerably from the original Motion I have not adopted the abnormal course of ruling under the proviso to Standing Order 62 that the matter of the amendment is not conveniently severable from the matter of the Motion, but have adopted the normal procedure. What we are now discussing is the amendment that is before the

House, and I want to dispose of the amendment one way or the other. Later we can discuss the original Motion or the new substantive Motion—and deal with the Mover's speech.

MR. MACKENZIE: Thank you, Sir. The point, Sir, I was hoping to develop was that the amendment notes with approval the enactment of this particular Management Act, and that the enactment followed on certain discussions in a select committee; that in the opening part of the debate, my hon. friend had made certain submissions about the conclusions of the select committee. The point I was coming to, Sir, and which I would like now to make, is that when the select committee report was debated in the Central Legislative Assembly, it was received with a considerable amount of confidence and approval by the Members who were there. For example, I would like to quote merely one statement that was made during that debate in the Central Legislative Assembly by my hon. friend, the Corporate Member for Commerce and Industry. He said, Sir, that the task of the committee was an enormous one, and I quote him, Sir: I think that we have an excellent Commissioner of Income Tax and an excellent Legal Secretary and an excellent Chairman. I think we also have had a first-class select committee, and with all these pages of words which one finds it very difficult to assimilate it is wonderful to me that so few minority remarks were made by the various groups. I know exactly what work was entailed and I am certain we all appreciate the tremendous task that beset them.

Well, Sir, that was, I think, typical of the way in which the work of the select committee was received by the Central Legislative Assembly. The Bill, as it was finally passed, was based on the deliberations of the select committee which met on 18 days, which heard a great deal of evidence from all sorts of responsible people throughout the territories. It might even be said, Sir, it heard evidence from A to Z, and it gave all these people a very patient hearing. As a result of that I got the testimonial which I have just read out from my hon. and Corporate friend.

Now, Sir, what were the results of those deliberations? The result, Sir, was a Report which, as the Member I have

[Mr. Mackenzie]

just quoted, said, was nearly unanimous. I think the very extent to which, during the hearings before the select committee and in discussion in the select committee, points put forward by members of the public were studied—that that is one reason why we have now got a very good—we think, at least, that it is a very good—Management Act, and I think it is also one reason why we can have confidence that the Central Legislative Assembly will, as the amendment states, study the working of the Act in practice in case amendments should prove at any time in the future to be necessary or desirable.

Now, Sir, I find myself in a little quandary. Sir, and I would like to ask your ruling whether, in dealing with the matter, it would be in order for me to deal at this stage, with the five points which my hon. friend made—to reply to the points made.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): No, it would be quite out of order. At the present time an amendment has been produced in the normal way and as I have said, I have not ruled in the abnormal way that the subject-matter of the amendment cannot be conveniently severable from the matter of the original Motion. You can speak to the amendment and speak again to the main Motion once the amendment is disposed of or agreed.

MR. MACKENZIE: Thank you, Sir. As I have just said, I think the House can have every confidence that the Central Legislative Assembly will study the workings of the Act in practice, and I think that it is in everyone's interest that, as my hon. friend suggested, the public and Members of this House should give the administration of the Act time to settle down so that when further representations are made they will be based on solid fact connected with the operation of the Act and not with what, I must say, to a very great extent pure theory. Government will be fully prepared to listen to anything hon. Members may have to say in the light of experience which shows that there are loopholes.

SIR CHARLES MARRHAM: Mr. Speaker, in opposing this amendment I would like to bring one or two points solely concerned with the suggestion contained in

the amendment that the Central Legislative Assembly will study the position and make recommendations in the light of the working of this new Ordinance.

I would like to suggest to the Minister for Finance that the idea behind this amendment is going to be that in practice—and I use the word, Sir, in inverted commas—the "rackets" will develop and then be stopped as time goes on as experience is gained. I would have thought, Sir, rather than waste time with getting experience of the present Ordinance which, in the opinion of many is bad, it would be better to make the amendments now.

If I may give some examples, Sir, where representations were made and have been totally ignored by the Central Legislative Assembly—Sir, I may say now that I support in entirety the final remarks of the Mover of the substantive Motion, the Member for Nairobi West, who criticized the fact that this Bill was passed to a great extent by people who are not even interested in the implications of it—and I would have thought alone we in Kenya had every right to act for our best interests as Kenya, and not think on an East African basis, necessarily, regarding income tax.

Now, Sir, the Secretary to the Treasury talked about the fact that the Central Assembly would investigate the various suggestions in light of experience. If I may give one specific example of where I believe this is dangerous—section 27 of the Management Act refers to averaging and gives the option now of two years; whereas before there would be a five-year period. Nothing, Sir, would be more disastrous to the coffee industry of this country if this two-year period was agreed.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): On a point of order, neither in the original Motion nor in this Motion, have we referred to this particular clause. I suggest, Sir, the amendment now is cutting out specific subjects and accepts with approval the passing of the Bill.

SIR CHARLES MARRHAM: May I speak to the point of order? The amendment does not deal with any specific clause, but asks for general improvement of the East African Income Tax Management Act.

[Sir Charles Markham] of 1958. As there is a request for a general approval of this Act, and I would submit that I am entitled to raise details to show my arguments against this amendment.

THE SPEAKER (Sir Ferdinand Cavendish-Bentley): The hon. Member is quite in order. He is arguing his case against the amendment and supports his argument with specific points.

SIR CHARLES MARKHAM: Thank you, Sir, for your ruling.

If I may continue, Sir—and I will not be very long on this subject—but just to help the Minister, the reason I cannot support the amendment, because it states the word "approval," is if you get the case of a coffee farmer having two good years and knowing that the averaging is on a two-year basis, there will be the temptation to ignore completely the development, and I might even suggest you might get the mining of that land because of the lean years to come.

Anybody who knows anything at all about this industry will accept the fact that coffee has been a very fluctuating crop particularly dependent on rain, and it is not very long ago, Sir, that we had serious droughts in Kenya, with disastrous effects on the coffee crop, and other crops for that matter. I would suggest in all seriousness that this committee suggested by the amendment should look into that case now, before it is too late.

I do not want to develop this argument much further, Mr. Speaker, because I believe representations were made by the Coffee Board of Kenya, but they have been ignored again under this new Management Act.

Now, Mr. Speaker, when the Secretary to the Treasury says in his amendment that they will study—may I have a copy of the amendment?

THE SPEAKER (Sir Ferdinand Cavendish-Bentley): Copies of amendments should be available. We cannot have one copy passing round. We must have amendments available.

SIR CHARLES MARKHAM: It says here, Sir: "Will study the working of the Act in practice in case amendments should prove at any time in the future to be necessary or desirable." Who, Sir, is

going to be the person who decides whether they are necessary or desirable? If, for example, the majority of the people in Kenya think those amendments are necessary and the Central Assembly, through its wisdom, decides they are not, it is suggested then that we can do nothing about it? Why cannot we, at Kenya, take the action now before we wait for the Central Assembly to decide whether the amendments are necessary? I do not think, Sir, that this Management Act will prove the success which is suggested by the Secretary to the Treasury, mainly because the evidence before it has proved already, I think, that it is going to be very lucrative to many of the professional firms such as the Member for Nairobi West.

I hope, Sir, that the Government will withdraw this amendment and accept the feeling of, I believe, responsible commerce, that there are very desirable amendments required to the present Management Act.

It shows you, Sir, how perhaps out of date the Income Tax Department themselves are, because five days ago I got a letter from them in another capacity which said: "Under the Income Tax (Management) Act, 1952, you are required to complete the following form and return to me within 30 days". Sir, if they do not know there is a new Act, how on earth are the public expected to know there is one, and I would have thought that was good reason for rejecting that amendment.

THE MINISTER FOR COMMERCE AND INDUSTRY (Mr. Hope-Jones): Mr. Speaker, in intervening in this debate, I am doing so because I support the amendment. In explaining the reasons why I support the amendment, I hope that I may refer to points to illustrate my reasons, even if they were possibly raised before the amendment was moved. I will do my utmost, Mr. Speaker, to keep within the rules of order and will naturally stop if I go beyond.

Mr. Speaker, reference was made by an hon. Member to a speech that I made in another place in December, which I think in itself illustrates why I can support this amendment, and I hope as this speech was quoted, I too am at liberty to quote from it and also from the reply to the speech I made in that Central

[The Minister for Commerce and Industry]

Assembly, because I think that it is very relevant to the reasons why I find it possible to support this amendment.

With your permission, Sir, I would like to turn to the reply of the Financial Secretary to the High Commission in the Central Assembly. Now, Sir, I am aware that hon. Members who have taken part in this debate are familiar with the general expression of opinion as set out by the Financial Secretary, but I think that it is particularly relevant to the amendment that has been moved, because indeed the amendment, in my view, takes into account the words of that hon. gentleman. He, in fact, appealed to the Central Legislative Assembly to see how the new Management Act worked. He did not claim that that Act was perfect. He did not claim that in the light of experience faults would not be found. In fact, Sir, it would have been foolish if he had made that claim, because in the United Kingdom, between the years 1798 and 1816, when the first income tax was introduced, there were no less than ten major

booms dealing with the management of income tax introduced in that period. The first Bill, in fact, consisted of 300 yards of parchment and there were at least 23 amending Bills, not to mention administrative instructions.

Taxation, as developed in most countries, has called for amendment of management from time to time but in the light of experience! There, Sir, I find it very difficult to agree with my hon. friend who spoke last that we should make the amendments now rather than wait and see what in fact happens as this Act is implemented. I find it difficult to follow his reasoning, simply because I do not really see how it is possible to amend a Management Act which, in itself, is based on the experience of previous Management Acts, without awaiting the results of the implementation of the recently passed legislation I do not see how it is possible.

My hon. friend—I have to be very careful here—the Member for Nairobi West, raised certain points which I think illustrate why I can support the amendment. Some of those points, Sir, were points that I raised myself in the Central

Legislative Assembly, and so did my hon. friend, the Minister for Finance, and I think it is true to say that he would agree with me that the whole nub of the matter is this question of retained profits. I made certain representations there and the Financial Secretary to the High Commission was good enough to indicate that he did not think that those suggestions were altogether unreasonable.

Now, Sir, I do not want to bore the House by repeating my arguments. I again refer to those arguments to illustrate why I believe that the amendment before the House is a reasonable one in the light of the remarks made by the responsible Financial Secretary in the Central Assembly and, indeed, the Commissioner for Income Tax himself. I do not feel that we are faced with a position where we have an Income Tax administration unwilling to consider reasonable suggestions. I know that many hon. Members agree with me on this point. I understand their feelings about the points that have been raised, but I do suggest that they themselves would find their own case was either dismissed in the light of experience or strengthened in the light of experience, if they were prepared to see this Management Act given a fair trial.

Now, Sir, I do not wish to tax your patience and indulgence any further, as I am aware that I have possibly stepped a little outside the bounds of order, but I felt that it was incumbent on me to explain why—in the light of certain suggestions I made myself that were not altogether different from certain suggestions made by hon. Members—why I felt that this amendment was both sensible and one worthy of support by this House.

I beg to support the amendment.

MR. SLADE: Mr. Speaker, I regret that I have only been present to hear the last speech in this debate, but it did raise two points which are of general interest, on which I should like to comment.

I understand that the suggestion of this amendment—certainly the suggestion of the hon. Minister—is that when you are framing legislation or when you have just framed it, even if you see some obvious errors in it you should let it be tried out and see what damage it does before you do anything about it. If

[Mr. Slade.]

I might give an analogy which, I think, is quite a close one—if you were trying to remove a rock from a quarry for a good purpose, you would be rather careful about the charge you put in, not only to ensure you got the rock out but to ensure you did not do a lot of damage, and it would not be very much comfort to anyone injured by a charge wrongly placed or an excessive charge, if, in doing that, you were trying to see how much damage was done before you bothered to remedy it.

The other point I want to make is one being muttered by my hon. friends here. There is a good deal of difference, when you are debating legislation that is just in the process of being enacted or has just been enacted, between points of detail of the mechanics of the legislation—which are open to different opinions, and in which case there may be some justification for saying "wait and see whether our opinion is right or yours"—and points of what are really principle and policy in the legislation.

Now, unfortunately, I did not hear the whole speech of the hon. Member in this case, but what I did hear showed clearly he was dealing with basic policy, and I have understood from his conversation that it was policy all the way through that was the subject of this Motion. Now, taking one example—the question of whether or not you ought to exempt people who own their own houses from being taxed on the value of those houses—that must be something that we ought to have our minds made up about now. Our opinion on that surely cannot depend on the working of the Act. However long we carry on this Act, those of us who think that people with their own houses should not be taxed on the value will remain of that opinion. It has got nothing to do with how the Act works out.

I beg to oppose the amendment.

THE EUROPEAN MINISTER WITHOUT PORTFOLIO (Mr. Harris): Mr. Speaker, Sir, I had not intended to intervene in this debate, but when I learned from my hon. colleague the Minister for Commerce and Industry that the first Income Tax Bill was apparently on 300 yards of parchment, I could not help thinking,

Sir, what a much happier world it would have been had those 300 yards been perforated.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, I rise to support the amendment before the House—the amendment which notes with approval the enactment by the Central Legislative Assembly of the East African Income Tax (Management) Act, 1958, with confidence that the Central Legislative Assembly will study the working of that Act in practice in case amendments should prove at any time in the future to be necessary or desirable.

Now, I am not going to attempt to answer the hon. Specially Elected Member, Mr. Slade, when he deals with the question of the opinion of some bodies, expressed by the hon. Member for Nairobi West in his original speech, as to whether people should be exempted from tax who own their own houses, because we will deal with that when we answer on the original Motion. But I am going to point out to the hon. Member that if he had only come to a little earlier in this debate and if he had listened to the speeches from this side of the House, he would have seen that, indeed, what has happened is that a large number of people have taken a great deal of time over the Income Tax Management Act, the majority of them Unofficial.

They had, indeed, had a select committee report which has, indeed, prepared the charge in the face of the rock. There was a debate, as has already been mentioned, of some three sittings, during which the whole of this Assembly, which has an Unofficial majority, paid great attention to this particular "laying off of the charge," and when the "explosion" took place it was one which had been prepared after great consideration and the charge was one which would not do great damage to the face. Indeed, the charge was one which may well prove to be rather constructive in its final effect than destructive. Had the hon. Member been present during the early part of the debate I am sure that he would have listened to those speeches and he would have paid great attention to them. Of course, the great difficulty about this point is that we do realize that a large

[The Minister for Finance and Development.]

number of hon. Members on the opposite side of the House were not present when the Government speeches were made, so we can hardly expect them to have understood what was behind the moving of this amendment.

MR. SLADE: I thank the hon. Minister for giving way. Of course, I was aware of what he has already told me without having heard the debate today, and I was commenting on the one particular speech I did hear.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Yes, but he did comment on the substance of the amendment without having heard the reasoning put forward by the hon. Nominated Member, Mr. Bechgaard when he proposed the amendment, and had he listened to that speech he would have said, Sir, now what is the situation; the situation is that there have been some months of what I think the hon. Financial Secretary in the Central Legislative Assembly called the "long and weary read of discussion" that started in all three territories some time last May. I think it was, and it has gone on from there. There has been a great deal of representation from many, many people. A select committee with a majority of non-Government people was set up by the Central Legislative Assembly. This committee—and indeed the hon. Corporate Member for Commerce and Industry complimented this select committee on being an extremely fine select committee, as indeed his words will show—this very fine select committee then considered the Act, went round the territories, took the evidence, came back into the Central Legislative Assembly and laid its report before the Assembly.

Now, Sir, having laid that report the Assembly then went into the Committee stage, and in that Committee stage, Sir, only three divisions took place. On the whole of this Bill—only three divisions. One was one which was indeed brought about by myself on behalf of the Kenya Government, when I moved that there should be a certain clause amended which we were not prepared to accept and indeed that was carried. Two others were defeated by 21 votes to 10 and 22 votes to 10, respectively. A large number of clauses were not even ques-

tioned by anyone in the select committee at all. The Central Legislative Assembly, having had a long debate, now proceeded on 17th December, to have its Third Reading without any further discussion once the report stage was over, and the Bill became an Act and was assented to on 30th December by the High Commission.

Thus, Sir, we have now income tax legislation which has been passed by a Central Legislative Assembly on which there are representatives of all the East African territories. They have considered it carefully; they have done all these things which were in their purview to do. I suggest, Sir, that we must now treat this Assembly with a certain amount of respect. We must now give the considered decisions of that Assembly some time to work and operate before we assume—as we indeed seem to from the comments made by some hon. Members—that this Assembly is not competent to do the job that was placed before it and that its legislation is not competent legislation.

SIR CHARLES MARKHAM: How about the minority reports?

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): The hon. Member can be well aware that in the whole of the discussion there were only two divisions on any minority suggestions.

SIR CHARLES MARKHAM: How many minority reports?

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Well, the hon. Member can read the report for himself, but they never forced them to any decision of any kind, nor in many cases were they supported to any great extent.

Now, Sir, having gone through this, having had the Act assented, what in fact is the amendment saying? The amendment is saying that we recognize that the Central Legislative Assembly has considered and passed this Act, that we recognize, therefore, that it must be given a sufficient time to see whether indeed the considered opinion of all the tax experts and of the people on the Central Legislative Assembly is wrong. If it is proved wrong in its economic effect upon the country, then the Kenya representatives in the Central Legisla-

[The Minister for Finance and Development] will be entitled—and indeed the Government would wish them to do so—to make representations on those matters. But not until we have seen that these considerations and the deliberations of this Assembly are not reasonable in their conclusions and in their results.

When this Act has had time to be "understood" by the practitioners of the income tax professions in this country and in the other territories, I have no doubt that they will begin to point out certain weaknesses. I have equally no doubt that they will find out certain loopholes. And indeed the process will start again. The loopholes will have to be closed. But that has been the history of income tax legislation over all the years that taxation of this type has been possible.

However, Sir, I come now to what I think is the final and most serious of all these things—the suggestion, I think, by the hon. Member for Ukamba, supporting a suggestion made by the hon. Member in his original speech, that indeed this Government should actively move, if necessary, towards breaking that pattern of East African unity in tax matters which was one of the recommendations, one of the Coates Commission's and which indeed is absolutely vital to the economic life of Kenya: this East African co-ordination, this East African unity which has been asked for by chambers of commerce both in Kenya and throughout East Africa. Are we, because we are so anxious and ready to pass judgment upon an Act which was only brought into law on 30th December, willing to suggest in this House that we should take action which would immediately bring repercussions from the other territories in ways that might well lead to the destruction of East African unity not only in income tax matters but in many other matters. Sir, I express the wholehearted opinion of the Government of Kenya when I say that it will not be the body or the Government that moves towards the economic break-up of East Africa.

MRS. SHAW: Mr. Speaker, Sir, I am not in a very good position to speak today because I have not got much voice

and in any case I am not a great expert on financial matters. All I say is that I cannot possibly, in the light of the opinion of the people I represent, support this amendment. I could not vote with approval the enactment by the Central Assembly of this Act, nor could I place any confidence in the latter part of the amendment.

It seems to me that the High Commission has ridden rough-shod over a very great weight of public opinion from different sections of this community in enforcing this Act.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): I must ask the hon. Member, Sir, to be accurate. I do not think the High Commission has ridden rough-shod over anyone. This was a Bill passed by the East African Central Legislative Assembly on which there were representatives of Kenya, Uganda and Tanganyika.

MRS. SHAW: I thank the Minister for that correction, Sir. I am merely saying that in the face of overwhelming weight of opinion in this Colony, which was voiced in no uncertain terms, in the face of the alarm and despondency caused amongst large companies which have been operating in the East African territories for over 30 years; in the face of the alarm and despondency which I myself heard voiced by, I think, that respected and representative Board in London, the Joint East and Central African Board, which is made up of representatives of all business interests, and other bodies interested in the future of these East African territories; in the face of their alarm and despondency which was voiced in no uncertain terms at their meeting in June last, the Minister, the Kenya Government views this in so light a manner that when a select committee is set up to go into this Act, the Minister for Finance is not even present in the Colony during its deliberations, so that the committee—

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): On a point of order, Mr. Speaker, the hon. lady must be correct. There was a Minister for Finance in this Colony during my absence on leave—leave which I would suggest was at any rate not an excessive amount of the leave due to me, and a Minister for Finance did operate.

[The Minister for Finance and Development]

Sir, perhaps while I am up I might ask the hon. lady if the Joint East and Central African Board has made any comment on this Bill since the Act was passed.

MRS. SHAW: If the hon. Minister would be good enough to wait until I finished my sentence, Mr. Speaker, I was merely saying that he was not present in the Colony so that the benefits of his long financial experience could be made available to that select committee. But he would not let me finish my sentence.

Therefore, I could not possibly support this amendment because, since the select committee has sat, deliberated for many months, took much evidence, has put forward many recommendations for modification on certain clauses—section 22 on residential property and various other facets of the Management Act—there has been very scant consideration given to these recommendations or modifications by our Minister for Finance and the Central Legislative Assembly. Therefore, in fairness to the people I represent, I certainly could not support an amendment which says: "notes with approval" or "regards with confidence" the fact that the Central Legislative Assembly will study the working of an Act which we know to be injurious to this Colony and therefore will discourage, in the opinion of many people, fresh capital from coming to East Africa.

MAJOR DAY: Mr. Speaker, Sir, I should like to support very strongly the remarks of the last speaker and oppose this amendment. I know the House is probably weary of the discussion of this Income Tax (Management) Bill but nevertheless I cannot believe that the Government are unaware of the amount of opposition that exists in the country—I can speak for my own constituents in particular—to many of the facets of this Bill.

It is all very well to say that it is a Bill, it has been considered sufficiently and therefore we must let it work. That does not fundamentally alter the fact that it involves an increase in income tax out of all proportion to what would normally be considered reasonable in a developing country. That, I think, is the basic thing

which most of us rather simple minded people, who contribute after all most of the cash and most of the additional tax, feel and think.

I consider, Sir, that the Government should take the feeling on this side more to heart because the arguments that have been put forward are to my mind by no means conclusive. You cannot ride rough-shod over the opinion of the people who contribute the greater part of the tax in this country. That is it in a nutshell.

I am not an expert, I could, I suppose, go on talking for a good deal longer, but I would like to impress on the Minister that he perhaps does not realize the amount of opposition that exists towards this Income Tax (Management) Act. I do think that in a case like this more consideration should be given to the depth of feeling in the country.

SIR ALFRED VINCENT: Mr. Speaker, Sir, I was unfortunately not in the country during the whole period the select committee on the Income Tax Bill carried out its task, but I do know this: that the numbers of minority reports were quite considerable and that is why I stated that we had a good select committee. Somebody had said we had good Ministers; and I think I retorted by saying that we also had a very good select committee.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, I wonder if the hon. gentleman would mind if I quote his own words? "It is wonderful to me that so few minority remarks were made by the various groups".

SIR ALFRED VINCENT: That may be the case, Sir, but every clause in every minority report, of which there were three or four, was debated and was put to the vote in that debate. I think only one or two were agreed to, I think that the representations that had been made were thoroughly discussed by the committee. The committee made those minority reports. The debate took place in great detail, but there was evidently a determination to give the substance of the Bill a trial and we were given a very definite undertaking, by not only the Financial Secretary but also the Commissioner of Income Tax, I think at my particular request, that there would be no delay—no delay. I repeat—in putting right anything which showed that the present enactment was unfair in any way.

[Sir Alfred Vincent]

Now it may be a source of amusement to Ministers to deride qualified accountants in this country. I have the greatest respect for them. I believe that they are in a very important position of advising clients, in exactly the same way as another honourable profession, which is the legal profession, and as the Minister said, it may be in time they come to understand the workings of this Act, but I can assure him from the conversations I have already had with a number of chartered and other accountants that they find great difficulty in advising their clients clearly on the procedure to be adopted in this Bill. And also, and one must be forthright, I have always been against evasion in income-tax. I have always pressed for the Investigation Department to be well paid, and indeed to have a special rate of pay in order that those people who leave the country and who are defaulting are brought to book but there is no doubt that under the present system, as has been explained to me, there are, and these have been created by the new Bill, certain avenues of evasion which have got to be dealt with, and I am certain especially in regard to the provident fund and the self-employed provision, that there is still inequity.

Now the Minister may play on 'give the Bill a chance to work'. Now that is why I asked for an undertaking, and it was freely given. Although the Commissioner of Income Tax is here this afternoon, I hope I am not going to embarrass him by saying I have always found him very reasonable and fair, and also the Financial Secretary of the High Commission and of the Central Assembly. They gave that undertaking, but here we have a pressure which I think is proper because already, in the carrying out of this Ordinance these difficulties and inequities are appearing, and therefore I believe that it is essential for us not to have two baling sides.

I believe we are all here in the interest of justice, and I believe that the Government has a responsibility, as much responsibility towards justice as the unofficial Members on this side.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, on a point of personal explanation, I did not

wish to interrupt the hon. Member—the hon. Corporate Member again, but who— which Minister, might I ask, derided the accountants of this country? If he was referring to anything that I said in my speech, I merely quoted the words used by the hon. Member.

SIR ALFRED VINCENT: It was, Sir, in the way they were quoted that I detected derision.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): May I suggest that the hon. Member has no right to assume or impute this.

MR. BOMPAS: Mr. Speaker, Sir, I am extremely sorry that Government has thought fit to draw a red herring across the consideration of the Motion which was before this House in the shape of the amendment, which we now have.

I believe, Sir, that that is, in fact, a red herring. The Motion, whether it is carried or lost, is a perfectly clear cut issue and it showed some four directions in which the House felt investigations and recommendations could be made. Sir, I must oppose the amendment. If I had any doubts on that score before they were removed when I heard the speech of the Secretary to the Treasury, and the speech of the Minister for Commerce and Industry, who appealed for the Management Act to be given time to be worked out in practice. In so many aspects, Sir, there is no time.

If I might pursue the quarry or blasting theme of my friend, the hon. and learned Specially Elected Member, Sir, if the Secretary to the Treasury sees somebody sawing at the throat of one of his friends with a knife is he going to do something about it, or does he wait until his friend starts to bleed? Sir, I feel that this is on all fours with the suggestion that we should wait and see how the Act functions in practice—is on all fours with waiting to see whether the country is going to bleed, and whether in fact it is going to bleed to death before we do something before it. I have suggested, Sir, that there is not time to wait for the outcome of the practical working of the Act. As a case in point, let me say that now there are firms who have had provident funds for many years—provident schemes—who are moving towards, and committing themselves to insurance companies on, long-term pension schemes.

[Mr. Bompas]

Once those people have committed themselves to a particular course of action, Sir, it is quite impossible, or virtually so, for them to retrace their steps without considerable loss and the complete upset of the whole structure of their pension arrangements. It may be thought, Sir, does it matter very much if they are forced from one scheme to another. My answer is most certainly, yes.

Again, Sir, if I might emphasize the words of the hon. and learned Specially Elected Member, when he said, "What possible need is there to wait to see the workings of an Act before one decides whether or not we think there should be modifications in the structure of owner-occupier house tax assessment". Mr. Speaker, it is all very well for the Minister for Finance to suggest that because there was an unofficial majority upon the select committee in the Central Assembly which deliberated upon this Bill, that that necessarily reflects the majority view of the people of Kenya. It is very far from the truth. Sir, in essence, what those unofficial representatives on the select committee were trying to do was to carry out a salvage operation. They had been presented with a Bill. They were appointed as a select committee on that Bill, and they had to make the most of the tools that they were given. I submit, Sir, that it was impossible for them to turn round and say, "We do not approve of the whole of the Bill that has been given to us to examine". They had to deal with what was placed in their hands for review, and do as best they could.

Mr. Speaker, I beg to oppose.

MR. ALEXANDER: Mr. Speaker, Sir, I do oppose this amendment. In proposing it the Mover rather appropriately started by referring to some connexion with myself and the ragtime band. He too, of course, has the pious satisfaction of belonging to a ragtime band—belonging to an obscure and amorphous body that is able to give him that satisfaction in being able to move an amendment like this. A band, again, which is more often than not out of tune with the public that it seeks to serve and that is what this band, Mr. Speaker, is doing to us today—using this overwhelming

weight—shall I say "noise" of saxophone and trumpet to overcome us on this side of the House. I did appeal in moving the Motion to our friends on the other side—it is all that we can do here, Mr. Speaker. We can only appeal to reason and fair play, and I put it to them that the Motion—the substantive Motion—was perfectly reasonable. All we asked for was representations in the Central Assembly. But they have chosen, once again, to wield this great band of instruments to overrule us on this side.

What I find difficult, Mr. Speaker, is that the Mover of this amendment, having obviously been put up as the main speaker on the other side, failed to deal with a large number of the points that I made. In that I consider, Sir, he was being unfair to those of us who have to judge his amendments. He did not explain to us—

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): On a point of order, Mr. Speaker—

MR. ALEXANDER: I was referring to Mr. Bechgaard.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): On a point of order, Sir, you will remember that my hon. friend, Mr. Mackenzie, was trying to deal with this reply when you ruled him out of order, and therefore he can only reply to those arguments when the amendment is either lost or won.

THE SPEAKER (Sir Ferdinand Cavendish Bentinck): That is so.

MR. ALEXANDER: If I remember rightly, the Mover of this amendment put his amendment at the end or towards the end of his speech. In fact, he had every opportunity to answer me completely before he got to the amendment, and I consider it extremely unfair, Mr. Speaker, that he, as the spokesman on the Government side, should have allowed himself to be placed in the position where he failed to answer all the points I made before he placed his amendment before the Council. He did not, for example, tell us why, against—

THE SPEAKER (Sir Ferdinand Cavendish Bentinck): Any Member is entitled, surely to use such arguments as he wishes in his speech, and I think that it is only fair to point out that I think

[The Speaker]

the principal speaker on the Government side was Mr. Mackenzie, to whom I pointed out that he could only at the time speak to the amendment. No doubt we shall hear Mr. Mackenzie again later.

MR. ALEXANDER: Mr. Speaker, we have been asked to express approval of the enactment of the Central Legislative Assembly. I put up various submissions as to why we expressed dissatisfaction.

I said that it was quite incomprehensible. Why, in the new Management Act, should there be this reintroduction of a percentage of emoluments in deciding net annual value? That has not been answered. I asked for an explanation of why only 50 per cent of development expenditure is allowed in connexion with undistributed income tax in respect of properly developed. I asked for a very specific answer to this problem of the liquidator who finds himself with profits which he is unable to distribute as dividends. So far as I know, Sir, there has been no reply so far concerning retirement benefits.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): So far

MR. ALEXANDER:—of capital deductions, and yet, Mr. Speaker, the Minister for Finance says that these are material in bringing us to a conclusion in deciding that we approve the enactment by the Central Legislative Assembly of the East African Income Tax (Management) Act.

The mover of the amendment did say when replying to me—I had said that this was difficult to understand—that his argument to that was that that was not peculiar to this legislation. In fact, Sir, it was appropriate to most legislation. The importance here, though, Mr. Speaker, is that this is legislation; this affects the pockets of everyone in this country. The Government must strive more than ever in that instance to have legislation that is readily understood.

He did go on to say that the Commissioner would be pleased to receive recommendations for simplification. That was in reply to my argument that some of the legislation was obscure. Of course, what he did miss was that we wished to know something which lay one stage before that. We wished to know the meaning of some of this verbiage that is so obscure. I do believe, Mr. Speaker—

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): I am sorry to interrupt you, but I would ask you to keep to the amendment. You will have the right of reply. We are now discussing the amendment.

MR. MAXWELL: Mr. Speaker, may I make one or two comments?

In this original Motion from this side of the House, Sir, it says, "That this Council expresses its dissatisfaction with the following provisions of the East African Income Tax (Management) Act". The amendment is a complete contradiction. Is this possible in an amendment? The amendment is a complete negative of what has been put forward from this side of the House and I ask for your ruling on that.

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): I do not consider that the amendment, read in its entirety, is a negative.

It is a strong amendment, and that is why I insisted that it should be taken as a direct amendment and not non-severable from the original Motion.

MR. MAXWELL: To conclude my remarks, Sir, I would say that the present Income Tax Ordinance is completely contrary to the wishes of the people of this country. We have here a number of races living on different standards of living and I believe that that fact has never been taken into account. I do not intend to proceed with that argument at this stage, but there might be an opportunity at a later date.

I do feel, Sir, that the question of allowances, when studying this Income Tax Ordinance should be drastically altered. There are many other aspects which do not come within the scope of the proposition which has been put forward by the hon. Member for Nairobi West, therefore, Sir, I shall not take up the time of the House at this stage in discussing in detail all the aspects of this Bill.

DIVISION

Question that the words proposed to be deleted be deleted was put and Council divided.

The question was carried by 33 votes to 18.

AYES: Dr. Adajia, Messrs. Amalemba, Bechgaard, Coutts, Cowie, Crosskill, Cusack, Farah, Sheikh El-Mandry, Mrs. Geaga, Commander Goord, Capt. Hamley, Messrs. Harrison, Hope-Jones, Hunter, Col. Jackman, Messrs. Johnston, Jones, Luseno, Madan, Mackenzie, Miller, Mohindra, Nurmohamed, Nzioka, Rogers, Rubia, Sagoo, Smith, Tyson, Vasey, Dr. Walker, Mr. Webb, Tellers for the Ayes: Major Day and Mr. Cowie.

NOES: Messrs. Alexander, Bompas, Group Capt. Briggs, Major Day, Mr. Hassan, Mrs. Hughes, Mr. Mangat, Sir Charles Markham, Mr. Maxwell, Lt.-Col. McKenzie, Messrs. Muchura, Ngome, Lord Portsmouth, Major Roberts, Mr. Shaw, Messrs. Slade, Usher, Sir Alfred Vincent, Tellers for the Noes: Major Roberts and Mr. Mohindra.

Question that the words proposed to be inserted in place thereof be inserted put and carried.

ADJOURNMENT

THE SPEAKER (Sir Ferdinand Cavendish-Bentick): Before we adjourn may I remind hon. Members that only four Members have spoken to the original Motion. As this now becomes the substantive Motion all but four Members could speak again, theoretically.

That brings us to the time appointed for the interruption of business, and I therefore adjourn Council until 2.30 p.m. tomorrow, Thursday, 26th February.

The House rose at twenty-five minutes past six o'clock.

Thursday, 26th February, 1959

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

(Mr. Speaker (Sir Ferdinand Cavendish-Bentick) in the Chair)

PRAYERS

PAPERS LAID

The following Papers were laid on the Table:—

The East African Posts and Telecommunications Administration—Report on the Kenya, Uganda and Tanganyika Savings Banks for the year 1957.

(BY THE CHIEF SECRETARY (Mr. Coutts))

The Land Development Loans Rules, 1959.

(BY THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell))

Report of the Working Party on Higher Education in East Africa: July-August, 1958.

The Domestic Employment (Registration) (Amendment) Rules, 1959.

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

The Methylated Spirits Rules, 1959.

The Methylated Spirits (Amendment) Rules, 1959.

(BY THE MINISTER FOR COMMERCE AND INDUSTRY (Mr. Hope-Jones))

ORAL ANSWERS TO QUESTIONS

QUESTION NO. 86

MR. ALEXANDER asked the Minister for Tourism and Common Services to state what steps he is taking in order to avoid duplication of services for the Supplies and Transport Department to be absorbed either in whole or in part by the Minister for Works.

THE MINISTER FOR TOURISM AND COMMON SERVICES (Mr. Crosskill): None, Sir. The present functions of the Ministry of Works and the Department of Supplies and Transport are clear cut and distinct, and there is no uneconomical duplication of services.

[The Minister for Tourism and Common Services]

There is, however, reason to believe that in the case of Mechanical Workshops owned by the Government in the provinces (which is a sphere in which Supplies and Transport have no responsibilities as yet), there is scope for rationalization and the Government has appointed a working party to examine the matter. Until this working party has reported, it would be premature to express any view as to how the country-wide repair and overhaul of Government motor transport can best be organized.

MR. ALEXANDER: Mr. Speaker, Sir, in view of the fact that the Minister says that these functions are clear cut and distinct, will he state whether consideration by departmental heads or otherwise has ever taken place on the question of integration of the Supplies and Transport with the Ministry of Works.

THE MINISTER FOR TOURISM AND COMMON SERVICES (Mr. Crosskill): If the hon. Member will read HANSARD of 12th May, 1955, he will see a statement made by the Minister for Works in which he said that the Public Works Department as it then was, was unable to undertake the operation of the Supplies and Transport Department.

MR. ALEXANDER: Mr. Speaker, Sir, would the Minister tell us who made that statement?

THE MINISTER FOR TOURISM AND COMMON SERVICES (Mr. Crosskill): The Minister for Works.

MR. ALEXANDER: Mr. Speaker, Sir, my question was as to whether departmental heads had ever considered this matter.

THE MINISTER FOR TOURISM AND COMMON SERVICES (Mr. Crosskill): If the hon. Member, Mr. Speaker, will look at HANSARD he will see it was fully discussed there; statements were made by both the Minister for Finance and the Minister for Works that the matters had been fully considered before this project was set in motion.

MR. ALEXANDER: Mr. Speaker, Sir, I am asking whether it was considered by departmental heads. I am not asking what was said in HANSARD months ago.

THE MINISTER FOR TOURISM AND COMMON SERVICES (Mr. Crosskill): That was the Government statement, Mr. Speaker, and I have nothing further to add.

QUESTION No. 87

MR. ALEXANDER asked the Minister for Tourism and Common Services:—

(a) What is the total estimated operating cost of the Supplies and Transport Department for the year to 30th June, 1959?

(b) The break-down of this total figure under appropriate headings such as salaries, wages, passages, leave pay and insurance, rates, depreciation, repairs and maintenance, sundry expenses, etc?

(c) The amount spent on fixed assets and the annual loan charges in respect thereof?

THE MINISTER FOR TOURISM AND COMMON SERVICES (Mr. Crosskill): I would refer the hon. Member to Vote 20 of the approved Estimates of Expenditure for the current financial year, from which he may see both the total estimated cost of running the Department of Supplies and Transport, and the break-down of that figure. The hon. Member will be aware that such items as depreciation are not taken into account in the Government system.

The amount spent on fixed assets is £361,000. It is not possible to state the annual loan charges on this capital, since loan charges are not raised against specific projects financed from Development Funds.

MR. ALEXANDER: Arising out of that, Mr. Speaker, will the Minister state what the total overheads percentage is?

THE MINISTER FOR TOURISM AND COMMON SERVICES (Mr. Crosskill): That is another question, Sir.

QUESTION No. 97

SIR CHARLES MARKHAM asked the Minister for Internal Security and Defence why do men of the Kenya Regiment doing their National Service not receive N.A.A.F.I. privileges and will he consider the reintroduction of such privileges?

241 Ruling by Mr. Speaker—

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack): Mr. Speaker, Sir, I beg to reply.

During their compulsory military training men of the Kenya Regiment do not receive N.A.A.F.I. privileges because it is not considered appropriate for these trainees serving in their own country to receive special privileges which are not available to the rest of the community.

SIR CHARLES MARKHAM: Mr. Speaker, in view of the reply of the Minister for Defence, would he state why they received these about two years ago?

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack): They were then on active service and were serving beside British troops who received those privileges.

SIR CHARLES MARKHAM: Mr. Speaker, while welcoming the fact that these troops do receive such privileges, would the Minister reconsider his decision that those men who are called up for National Service should not receive some benefits such as N.A.A.F.I. privileges?

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack): I am afraid that I can hold out no hope to the hon. Member of favourable reconsideration on those lines.

SIR CHARLES MARKHAM: Why not?

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusack): I would refer the hon. Member to my original reply, Sir.

SALE OF ARMS RUMOURS

RULING BY MR. SPEAKER

THE SPEAKER (Sir Ferdinand Cavenish-Bentinck): Hon. Members, on 19th February Sir Charles Markham asked for a ruling in respect of allegations made by a Member of this Council regarding another Member of this Council, which allegations appeared in a hand-out issued by Mr. Mboya, part of which was printed in the *Daily Chronicle* of 11th February. At the time the matter was raised I naturally had not seen the papers, which were handed-in by the hon. Member.

In making his submission Sir Charles Markham suggested that here we follow *Erskine May* as our authority in dealing with such matters. This I am afraid is

not necessarily the case. In the United Kingdom questions of privilege as affecting the House of Lords and the Common House of Parliament and Members thereof are, to some extent, recognized by common law and in any event there are centuries of precedents to follow. In this country, any question of privilege is governed by the provisions of the Legislative Council's Powers and Privileges Ordinance, 1952. Thus the extent and field of privilege is very much curtailed and limited as compared to the position in the United Kingdom. It may be that our Ordinance needs a certain measure of review in this regard, but I can only interpret the law as it stands and at present, with one exception, we are limited entirely to occurrences and situations which arise within the precincts of Parliament, that is within these buildings, the one exception being that clause 18, sub-clause (h) of that Ordinance which provides that any person who publishes any, false or scandalous libel on the Council shall be guilty of an offence and shall, on conviction before a subordinate court of the first class, be liable to certain stated penalties. Thus, as I said when the hon. Member made his submission, I fear that generally speaking, as Speaker, I am concerned mostly with what happens inside this House, and it is in most cases under our existing Constitution and Legislative Council Ordinance not practicable for either I or the House to deal with matters that arise outside the precincts of Parliament. I must, therefore, rule that the hon. Member's remedy lies with the courts—that is, with the common law. I would add, however, that I have looked into a number of precedents of recent date, and even in the House of Commons the Speaker has, on many occasions, under similar circumstances, given a ruling identical to this.

SIR ALFRED VINCENT: Mr. Speaker, Sir, with regard to the Ruling you have just given, which is understood and, of course, accepted in the right spirit, may I ask something else which arises regarding the House itself?

In an article which appeared in the local Press on 23rd February, 1959, the following paragraph from the same Member appears: "Here is the answer to the Governor's pious hopes for a

[Sir Alfred Vincent]

round of informal talks and the answer to the non-European in this country, especially those non-European Members who are still lending false dignity to the Legislative Council Chamber.

I would ask you, Sir, if there is no action which you or the Council can take to put an end to this type of statement. I realize the Government, because of loopholes in the law, are unable to stop incredible statements or take any action over these incredible statements. But I do think, Sir, that when this House is accused by a Member of having false dignity, and that sort of thing, we could surely be able to do something about it. If we cannot, Sir, then I say that our regulations and laws are inadequate and I would ask the overworked Legal Department, in their spare time, to have a look at them.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): That, of course, is a most improper phrase to use in describing this legislature, more especially when used by a Member of this House who, himself, sought election to it, and remains a Member of this House. Nevertheless, I would suggest that we should retain our sense of proportion and of values. In this Council we emulate and adopt the procedure of the Mother of Parliaments, the House of Commons, which has survived the ebb and flow of events over a period of six centuries, and I do not believe that the dignity of this our legislature is likely to be seriously jeopardized by irresponsible sniping or ill-considered epithets in questionable taste used in the heat of political controversies outside.

MINISTERIAL STATEMENT

The Rabies (Amendment) Bill

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): During the debate on the Second Reading of the Rabies (Amendment) Bill, the hon. and gracious lady for Nyanza made certain charges in regard to the use of bait by officers of the Veterinary Department, saying that the poisoning operations were carried out haphazardly.

Now these charges, Mr. Speaker, I must refute strongly. The Director has laid down stringent instructions con-

cerning the use of poisons. It is certainly not thrown out of cars as the hon. Member asserted. The utmost care is taken to warn everybody in an affected area that poisoning is to take place. The baits are lethered and flagged to guard against anyone picking them up or birds carrying the bait elsewhere, and the baits not taken are later collected and counted. I said yesterday, Mr. Speaker, during the Second Reading: that I had received no complaints about children being poisoned and I am assured by the Director that during the whole of his 21 years' service in Kenya he has heard of no one, to his knowledge, being killed by a rabies bait.

Now, Sir, I think that these are considerable charges to be brought against the Department of Veterinary Services. I have the greatest respect—I think the whole House has the greatest respect—for the hon. and gracious lady for Nyanza, and I would not have made this statement, Sir, if I did not think in fairness to the officers concerned it was right of me to suggest to the hon. and gracious lady that she should either withdraw her statement or provide me with proof of the substance of it.

MRS. SHAW: Mr. Speaker, I thank the hon. Minister. I can only say that if the Veterinary Officer—the Chief Veterinary Officer—is going back 21 years I can provide the Minister with chapter and verse of what I said, first about the statement of bait being thrown out of cars, which I know from our own farms in Solik, but also bait being mixed in front of a house where children played, whilst we were away from home. That also, again, is personal experience; and I can give chapter and verse and date of that, also my allegation, that native children have picked up bait and been poisoned through eating meat from such bait picked up. I admit none of these happenings have taken place recently, but in the 21 years—it might be a little longer, because my experience in Kenya is 30—I have been here. But I take such a serious view of these things having happened in the past that I think it is always as well, when discussing rabies control, to make perfectly certain that the Veterinary Department is taking every precaution when it does carry out these campaigns, which have often been carried out on people's farms. I can again quote chapter and verse from

[Mr. Shaw] personal experience to the Minister afterwards. I will not weary the House with dates and details, because I would have to get the dates of these happenings, when farms are baited, during the absence of the farms' owners.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, I would like to suggest that the hon. and gracious lady furnishes me with the statements and I will investigate the matter.

REPORT AND THIRD READING

The Agriculture (Amendment) Bill

THE CHIEF SECRETARY (Mr. Couitts): Mr. Speaker, Sir, I beg to report that a Committee of the whole Council in regard to the Agriculture (Amendment) Bill has agreed the same with amendment. I beg now to move that the Council does agree with the Committee in its report.

Question proposed.

The question was put and carried.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, I beg to move that the Agriculture Amendment Bill be now read for the Third Time.

THE CHIEF SECRETARY (Mr. Couitts) seconded.

Question proposed.

The question was put and carried.

The Bill was accordingly read a Third Time and passed.

COMMITTEE OF THE WHOLE COUNCIL

Order for Committee read. Mr. Speaker left the Chair.

IN THE COMMITTEE

(Sir Ferdinand Cavendish-Bentinck, K.B.E., C.M.G., M.C., in the Chair)

The Rabies (Amendment) Bill

Clause 2

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker,

during the Second Reading on this debate the hon. Specially Elected Member who resides at the Coast raised the question of the possibility of his own cat being destroyed as a strayed cat. I promised him I would look into the matter. I would only like to say that a stray cat would only be destroyed if it was definitely suspected of rabies. If it is not so suspected it will be held for three days and the owner is notified before any action is taken. I think that should reassure the hon. Member that his own cat is most unlikely to be destroyed without his having the opportunity of contacting it.

Clause 2 agreed to.

Clause 3 agreed to.

Clause 4

LT.-COL. MCKENZIE: Mr. Chairman, yesterday afternoon I asked the Minister if he would be prepared to accept that the Director of Veterinary Services under this clause would allow animals into the closed areas on condition that they adhered to 81 (c) and 81 (d) of the original Bill, in other words if they could either be put into quarantine or be inoculated, and his answer to me was "no, Sir". I would just like to repeat it because I do not think he got the point that I was trying to put over. It was, Sir, that some of these areas may be closed for anything up to a length of time of 30 years, as Nyanza. People do want to introduce new strains of dogs into those areas. Under the original Bill you could import into a rabies area and that is why there are still dogs in Nyanza. The Minister wondered why there were dogs in Nyanza when there should not have been dogs in Nyanza, and I would like him just to reconsider, Sir, that people in rabies areas can bring in either dogs or bitches under control.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, the point which the hon. Member raises is covered in the original Bill as drafted, and dogs may be moved into and out of a rabies controlled area with the written permission of a Veterinary Officer. This, therefore, does not stop the traffic completely. It allows control to be exercised, and normally we permit movement when animals have been vaccinated, and I

[The Minister for Agriculture, Animal Husbandry and Water Resources] think that covers the hon. Member's point, and shows why dogs and bitches will exist in Nyanza.

Clause 4 agreed to.

Title agreed to.

Clause 1 agreed to.

Bill to be reported without amendment.

The Stock and Produce Theft (Amendment) Bill

Clauses 2, 3 and 4 agreed to.

Title agreed to.

Clause 1 agreed to.

Bill to be reported without amendment.

Deportation (Immigrant British Subjects) (Amendment) Bill

Clause 2

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones). Mr. Chairman, Sir, I beg to move that the clause 2 be amended, first by deleting the words "the Deportation (Immigrant British Subjects) Ordinance, 1949, hereinafter referred to as"; secondly, by deleting all the words appearing in paragraph (b) of the proposed new sub-section (1) after the word "aforesaid"; thirdly, by inserting, immediately after the said paragraph (b) the words "or if a person in respect of whom a restriction order is in suspension contravenes any condition attached to an order made under paragraph (c) of sub-section (1) of section 14 of this Ordinance"; and fourthly, by substituting for the words "Ordinance No. 37 of 1949" in the marginal note thereto the words "the principal Ordinance".

Mr. Chairman, Sir, these amendments are all consequential upon the new clause which is contained in the same notice. In the first of the four amendments which I have read out the words become unnecessary because the new clause will be inserted before the section which clause 2 of the Bill deals with, and the second of the four amendments is directed to deleting the cross-reference to section 14, which is the section dealt with in the new clause and which is to be substituted for the existing section 14.

The third of these four amendments introduces the alternative and proper cross reference to the new section 14, as it will be if the clause is accepted. The fourth of these four amendments is purely formal and concerns only the marginal note.

I am sorry if this appears rather involved, Mr. Chairman, Sir, but these amendments are purely consequential.

Question proposed.

Question that the words to be deleted be deleted put and carried.

Question that the words to be inserted be inserted put and carried.

Question that the words to be left out be left out put and carried.

Question that the words to be substituted in place thereof be substituted, put and carried.

Clause 2 as amended agreed to.

Clauses 3 and 4 agreed to.

New Clause

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones). Mr. Chairman, I beg to move that the following new clause be now read a Second Time:—

"Replacement of Section 14 of Ordinance No. 37 of 1949"

There shall be substituted for section 14 of the Deportation (Immigrant British Subjects) Ordinance, 1949, hereinafter referred to as the principal Ordinance, a new section as follows:—

Revocation and Amendment of Orders

14. (1) The Governor in Council of Ministers may at any time by order—

(a) revoke or amend any deportation order, restriction order or security order;

(b) suspend a deportation order, for a specified period or purpose or indefinitely, so as to permit the person to whom it relates to enter or remain in Kenya subject to such conditions, whether as to the provision of security or otherwise, as he may think fit;

[The Minister for Legal Affairs]

(c) suspend a restriction order, for a specified period or purpose or indefinitely, so as to permit the person to whom it relates to enter or leave any specified area, which he is prohibited by the restriction order from entering or leaving, subject to such conditions, whether as to his remaining in custody while in or outside any such specified area, as to restrictions on his movements or residence, as to his reporting his movements or places of residence, as to the provision of security, or otherwise, as the Governor in Council of Ministers may think fit;

(d) revoke or amend any order under paragraph (b) or (c) of this sub-section.

(2) Where, in pursuance of any order made under sub-section (1) of this section or of any condition imposed by any such order, any person is held in custody, such person shall be deemed to be in lawful custody.

(3) A deportation order, restriction order or security order, and an order made under sub-section (1) of this section, shall not be questioned in any legal proceedings whatsoever.

(4) As soon as practicable after an order has been made under sub-section (1) of this section, a copy thereof shall be served on or sent to the person in respect of whom it is made."

Mr. Chairman, the purpose of this amendment is to broaden the power of variation or amendment of deportation orders, restriction orders and security orders made under the principal Ordinance. At the moment, as section 14 of the principal Ordinance is drafted, there are only restricted powers of variation. There is, for instance, no power to vary the specification of the officer whose permission is required for a person under restriction to leave the restriction area. And it is unnecessarily inhibitive. → There are provisions in the existing section for the suspension, in effect, of a

deportation order or of a restriction order, but they are not very clearly expressed and indeed they are expressed as a power of variation which is really rather different. Accordingly, the section has been redrawn in rational form and with, I trust, greater clarity.

The main substance of the section has not been substantially altered. The requirement that an order be served, a variation order be served, on the person in respect of whom it is made is already in the section and the provision that orders shall not be open to challenge is also already in the existing section.

Sub-section (2) of the proposed new section relating to custody is, in fact, *ex abundante cautela* and largely declaratory.

As I am quite sure that the hon. Member for Ukamba now has this matter completely at his fingertips, I beg to move.

THE CHAIRMAN (Sir Ferdinand Cavenish-Bentinck): I would point out that it is customary when we are seeking the agreement of Council, to alter considerably a section of an existing Ordinance which the section of the existing Ordinance which it is proposed to alter is, for the information of Members, so that they may know what they are asked to do, printed after the proposed clause. In this case you have given us section 15, to which considerable alterations are proposed, but we have not got before us section 14 of the original Ordinance which I think, as Speaker, makes it a little difficult for Members to know exactly what they are asked to do.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): I accept the reproach, Mr. Chairman, but may I in mitigation point out that it is not I who do the circulation to Members?

THE CHAIRMAN (Sir Ferdinand Cavenish-Bentinck): It is provided for in our Standing Orders where a Bill seeks to amend a section of the existing Ordinance: "the text of the relevant part of such section shall be printed in the copy of the Bill which is despatched to Members". It does not specifically say whose responsibility it is, as I understand, but it has usually been done by the department concerned.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): With all due respect, Mr. Chairman, I think, in fact, it is done by the Office of the Clerk—I think that is so. That Standing Order relates to a Bill and not to an amendment. I entirely agree with you, if I may say so, Sir, that it would be very desirable that the section to be amended should be included in the publication of notices by the Clerk's Office of amendments submitted by Members.

SIR CHARLES MARKHAM: On a point of order, Mr. Chairman, could I ask—

THE CHAIRMAN (Sir Ferdinand Cavendish-Bentnick): Remember that this was only received at 10 a.m. this morning.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): I can only say that it was despatched two days ago.

SIR CHARLES MARKHAM: On a point of order, Mr. Chairman, could I ask this person who signed as E. N. Griffith-Jones, Attorney-General, in the Objects and Reasons, why this clause is not mentioned, Sir. Under Standing Orders there has to be a publication of 40 days. This clause is completely new, Sir, and I wonder whether you would like to rule, as Chairman, or if we report progress and ask the Speaker to rule, whether it is allowed.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Chairman, the hon. Member could hardly have mis-conceived the position more completely. I would be prepared to undertake a course of instruction for him in the provisions of the Constitution regarding the publication of Bills. If we were to have to publish every amendment to a Bill, taken in a Committee stage on that Bill, for 40 days before it was taken, this House would be sitting almost indefinitely.

SIR CHARLES MARKHAM: Sir, on a point of order that is completely untrue. This Bill—(Cries of Order.)—introduces—

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): On a point of order, Mr. Chairman, I do challenge that statement. May I ask the hon. Member to withdraw it? I will, if necessary, justify my recent submission with

references both to Standing Orders and to the Constitutional Order in Council.

SIR CHARLES MARKHAM: If I may speak to that point of order, Sir—

THE CHAIRMAN (Sir Ferdinand Cavendish-Bentnick): I must ask you to withdraw that—

SIR CHARLES MARKHAM: Withdraw, Sir?

THE CHAIRMAN (Sir Ferdinand Cavendish-Bentnick): Whatever happens you cannot accuse a Member in the House of a falsehood.

SIR CHARLES MARKHAM: Did I say a falsehood, Sir?

THE CHAIRMAN (Sir Ferdinand Cavendish-Bentnick): Well, as near as could be.

SIR CHARLES MARKHAM: I thought I was rather careful on the wording. If I did give the impression of accusing a Member of a falsehood, I withdraw, Sir.

THE CHAIRMAN (Sir Ferdinand Cavendish-Bentnick): That is all we want.

SIR CHARLES MARKHAM: But, Sir, this Bill publishes certain clauses, 1, 2, 3 and 4 with amendments, but there is nothing anywhere in this particular Bill, Sir, with respect, which suddenly introduces a new clause that there should be substituted for section 14 of the Deportation Ordinance a clause. That was my point about the 40 days. If I am wrong, Sir, but I very much doubt if I am, then, Sir, I will withdraw, but I would suggest, Sir, that the Attorney-General is in this instance, pulling a red herring across the scene.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Chairman, Sir, I would hardly have thought it possible that any Member of this House would be so uninformed on the procedure of the House. In Standing Order No. 89 there appear these words: "In considering a Bill in Committee the various parts thereof shall be considered in the following sequence—

- (a) clauses as printed, excluding the clause providing for the citation of the Bill;
- (b) new clauses;

[The Minister for Legal Affairs] Now, Sir, in the Constitution—I speak from recollection, but I think it is in this book at the back—there is in section 40 precisely—sub-section (3) of section 40 of the Order in Council: "No Bill shall be introduced in the Legislative Council unless it has been published in the Gazette and unless, in the case of a Consolidated Fund Bill a period of seven days, in the case of an Appropriation Bill (other than a Consolidated Fund Bill) a period of 14 days, and in the case of any other Bill a period of forty days, beginning in each case with the day of such publication, or such shorter period as the Council may resolve with respect to the Bill, has ended".

Now, Mr. Chairman, this is merely getting down to elementary fundamentals. A Bill is published in the Gazette forty days then elapse, have to elapse, before it is introduced by way of a First Reading in this House. It is then read a First Time. We then have the Second Reading and it is read a Second Time. The next stage provided for in the Standing Orders is the Committee stage of the Bill. In the Committee stage of the Bill—and I do apologize, Mr. Chairman, for having to go through these elementaries—there is provision for the amendment of the Bill or for the addition of new clauses, or for amendments to preambles or for amendments to the title. That is the whole purpose of the Committee stage of the Bill: to amend or to introduce new clauses or new schedules. And that, Mr. Chairman, is so precisely provided for in the Standing Orders that they expressly provide in relation to the Committee stage of a Bill for the moving of a Second Reading of a new clause. There is no question of forty days' publication. It is not a Bill. And that is precisely the procedure which we have been following on this Bill. The hon. Member, as I said before, could hardly have misconceived the procedure or the position more thoroughly.

SIR CHARLES MARKHAM: Therefore, I presume, Sir, that, in future, we will not both about any clauses at all. We will just have the headings of any Bills we publish, and therefore we can bring in a new clause any time we like in the Committee stage. The reasoning of the

Attorney-General, Sir, is beyond any normal person, other than perhaps a lawyer, Sir.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Chairman, I am not reasoning, Sir. I am merely recounting the constitutional facts of the Order in Council and of the Standing Rules and Orders of this House, passed by this House, and the hon. Member surely must accept the procedure of the House, which is being followed. (Hear, hear.)

THE CHAIRMAN (Sir Ferdinand Cavendish-Bentnick): The hon. Member is correct, but at the same time one hopes that when there are going to be considerable new clauses in a Bill that those might be mentioned and carefully considered when the Bill is read for the Second Time. Did you mention this clause?

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): I mentioned it in my speech on the Second Reading.

THE CHAIRMAN (Sir Ferdinand Cavendish-Bentnick): I beg your pardon. If that was mentioned during the Second Reading I think there is no room for further argument.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): I am obliged to you, Mr. Chairman.

The question that the new clause be read a Second Time was put and carried.

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

Title agreed to.

Clause 1 agreed to.

Bill to be reported with amendments.

THE CHIEF SECRETARY (Mr. Coultis): Mr. Chairman, Sir, I beg to move that it be reported to the Council that a Committee of the whole House has considered the Rabies (Amendment) Bill and agreed the same without amendment; It has considered the Stock and Produce Theft (Amendment) Bill and agreed the same without amendment, and It has considered the Deportation (Immigrant British Subjects) (Amendment) Bill and agreed the same with amendments.

Council resumed.

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

REPORTS AND THIRD READINGS

The Rabies (Amendment) Bill

THE CHIEF SECRETARY (Mr. Coutts): Mr. Speaker, Sir, I beg to report that a Committee of the whole House has been through the Rabies (Amendment) Bill and agreed the same without amendment. I beg to move, Sir, that the Council doth agree with the Committee in that report.

Question proposed.

The question was put and carried.

THE CHIEF SECRETARY (Mr. Coutts): I beg to move that the Rabies (Amendment) Bill be now read a Third Time.

Question proposed.

The question was put and carried.

The Bill was accordingly read the Third Time and passed.

The Stock and Produce Theft (Amendment) Bill

THE CHIEF SECRETARY (Mr. Coutts): Mr. Speaker, Sir, I have to report that a Committee of the whole House has considered the Stock and Produce Theft (Amendment) Bill and agreed the same without amendment. I beg to move that the Council doth agree with the Committee in the said report.

Question proposed.

The question was put and carried.

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): Mr. Speaker, I beg to move that the Stock and Produce Theft (Amendment) Bill be now read a Third Time.

Question proposed.

The question was put and carried.

The Bill was accordingly read the Third Time and passed.

The Deportation (Immigrant British Subjects) (Amendment) Bill

THE CHIEF SECRETARY (Mr. Coutts): Mr. Speaker, Sir, I have to report that a Committee of the whole House has been through the Deportation (Immigrant British Subjects) (Amendment) Bill, has agreed that Bill and has reported it with amendments.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Speaker, Sir, if the Council is going to sit tomorrow

I would ask that the consideration of the report be taken tomorrow. If the Council is not going to sit tomorrow, in view of the fact that when it rises from the present sitting it is not contemplated that the House will reassemble for several weeks I would ask your leave to allow the Report stage of this Bill and the Third Reading to be taken later today.

THE SPEAKER (Sir Ferdinand Cavenish-Bentinck): It does not rest with me, but it is a Standing Order, I think.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): It has been your ruling, Sir, that normally where a Bill has been amended the Report stage should not be taken on the same day as the Committee stage, but there is in fact no absolute prohibition to that effect in the Standing Orders.

THE SPEAKER (Sir Ferdinand Cavenish-Bentinck): I stand corrected, but I had hoped that I had succeeded in getting that in the Standing Order. But the Third Reading cannot be taken on the same day without my leave—I would draw Council's attention to this. This is a Bill which affects the liberties of certain persons. The amendments proposed are so complicated that, simple as I am no doubt, I nevertheless had considerable difficulty in following them. We also had the addition of a very long clause repealing a clause in an existing Ordinance which we did not see, and we have agreed this new clause as a replacement of the existing clause. If ever there were a case in which I would submit *bona fide* Members should be given an opportunity of seeing what precisely they are passing before the Third Reading is taken I should say it is this. I am afraid I am not concerned with Government convenience and pressures. I am concerned with the individual rights of Members who are elected to this House and on whom the moral responsibility rests for the protection of certain persons, and that is why I have always been so particular in regard to this particular procedure.

SIR CHARLES MARKHAM: Mr. Speaker, could I ask if you could give a ruling, Sir, in the light of remarks by the Attorney-General. We do not want on this side, at all, Sir, to oppose this Bill. I should like to make it perfectly clear.

[Sir Charles Markham]

Sir, His remarks about finishing today— it is now, Sir, half-past-three, and by the time I have finished speaking it will be 3½ minutes past. Could you rule, Sir, whether we are going to meet tomorrow? It would help to know what the plans of Government are. I know it is perhaps not concerned with this Order, but it may, Sir, affect your ruling regarding the Third Reading of this Bill at the moment.

THE CHIEF SECRETARY (Mr. Coutts): Mr. Speaker, Sir, the sessional committee did suggest that if it were possible perhaps the Standing Orders should be suspended later today in order to complete the business on the Order Paper. I think my hon. friend knew this from being a member of the sessional committee, and that is still agreeable to the Government side if it is agreeable to Members of the Opposition. I would suggest in respect of the Deportation (Immigrant British Subjects) (Amendment) Ordinance that a decision on this be deferred until the end of business today.

THE SPEAKER (Sir Ferdinand Cavenish-Bentinck): Then I conclude the present suggestion is that the Report stage will be taken tomorrow.

THE CHIEF SECRETARY (Mr. Coutts): Provided, Sir, you are prepared to reconsider that decision at the end of the day.

THE SPEAKER (Sir Ferdinand Cavenish-Bentinck): It will not make any difference to me. I have expressed my views, and my views are merely those of any Speaker, I think, who is responsible for and obliged to safeguard the rights and interests of Members in regard to their responsibilities.

MOTION—

EAST AFRICAN INCOME TAX (MANAGEMENT) ACT, 1958

THE SPEAKER (Sir Ferdinand Cavenish-Bentinck): We have now before us the amended Motion which appears on the Order Paper and has now become the substantive Motion which is now before the House.

LORD PORTSMOUTH: Mr. Speaker, naturally we bowed yesterday to your ruling that the Government amendment

was not a direct negative, but that part of the amendment which saved it from being a direct negative only really contained, in fact, a rather vague promise that when the fiscal body politic, which is already a sick man, is dead, the High Commission should be asked to call in an undertaker to see how the body can be removed.

Sir, for these reasons I cannot support the amended resolution.

MR. MACKENZIE: Mr. Speaker, Sir, the original Motion which was before the House and which was moved yesterday by my hon. friend, the Member for Nairobi West suggested that this Council should express its dissatisfaction with certain provisions of the East African Income Tax (Management) Act and urged the Government to make representations to the East Africa High Commission to introduce appropriate amending legislation at the next meeting of the East African Central Assembly in respect of five particular parts of the Act.

The amended Motion, Sir, which is now before the House, notes with approval the enactment by the Central Legislative Assembly of the Management Act and expresses confidence that the Central Legislative Assembly will study the working of that Act in practice, in case amendments should prove at any time in the future to be necessary or desirable. I suggest, Sir, that the very terms of the amended Motion dealt with the suggestion that has just been made by the hon. Member who has just spoken and also suggestions that were made by one or two hon. Members yesterday. The fact is that the amended Motion shows that the working of the Act will be watched and indeed, Sir, I can say that it is being watched throughout and will continue to be watched, and that if any amendments should be necessary the Government and the High Commission, I am quite sure, will take steps to see that they are introduced.

Now, Sir, I should like to tell the House why I believe that the original Motion was ill-conceived and premature, and why I think that the House has done well to pass the amendment which was approved yesterday and why the House will do well to accept the amended Motion. As I said, Sir, I consider that as regards the specific points

[Mr. Mackenzie]

made in the original Motion, review of these points is both unnecessary at the present time and premature some seven or eight weeks after the Act has received the assent of the High Commission. How can any hon. Member of this House, Sir, suggest that within eight weeks the Administration or, indeed, the public can have had any specific experience of the way in which this Act works, and suggest that certain amendments should be made?

To deal, Sir, with the points which were made by my hon. friend in order, I would first like to deal with the points regarding owner-occupiers. The select committee of the East Africa High Commission which dealt with this Bill heard a great deal of evidence on this subject, including the evidence of my hon. friend the Member for Nairobi West, at some length, and, as a result of the evidence that it heard from various organizations in East Africa, two amendments were made. The first, Sir, was that the difference between annual value and net annual value was increased from five-sixths to three-quarters a definite relaxation in favour of the citizen, and as it is stated in the report of the select committee this was done specifically to assist owner-occupiers with maintenance and other expenses connected with the occupation of a house by its owner.

The second amendment, Sir, was that a limit of one-eighth of the salary was introduced for employees who are occupying free or subsidized quarters provided by their employers. Now, Sir, the hon. Member for Nairobi West suggested that this amounted to an erosion of the tax base. All I can comment on that, Sir, is that he would apparently, in this particular aspect of the matter, remove the whole structure of the tax which is going a good deal further than erosion. If hon. Members have studied, as I am sure they have, the report of the select committee they will have seen that this particular amendment to clause 21 was intended to provide a reasonable upper limit on the charge made on an employee in relation to free or subsidized housing provided by the employer. The hon. Member asked me why this amendment was made. The

answer is, Sir, that the select committee were satisfied from evidence which had been adduced, that the scarcity of housing continued to be such in many cases and places that employers were not yet able to house their employees in suitable accommodation. In these circumstances it would have been very difficult to apply the new values in an equitable manner and it was felt desirable to continue the limit in such cases, but at the higher level of 12½ per cent salary. That, Sir, is the reason why this particular amendment was introduced.

Now, Sir, as regards the general question of exempting owner-occupiers from paying income tax on the value of their property, the select committee, as I say, heard a great deal of evidence on this question, and they were not sufficiently impressed with this evidence to agree that any amendment should be made. That may, as the hon. Member said, be frustrating, but it was the business of the select committee to weigh the evidence, and, as I say, they weighed it and they found that the case for an alteration was too light. So Sir, as I said yesterday, my hon. friend the Corporate Member for Commerce and Industry said that this was a first-class select committee and he expressed surprise that so few minority remarks were made by the various groups. Well, Sir, this is one of those cases where there were no minority remarks at all. No minority remarks were made in respect of owner-occupation of housing. There is nothing so far as I can find—in any of the minority reports on that particular subject on section 21 of the Act. In fact, there was no debate in so far as the principle was concerned on this subject at the meeting of the Central Legislative Assembly. There was a debate on clause 21 but it was not on this particular question of whether annual values should be subject to tax. I assume, Sir—in fact, I know—that the select committee took the view that there should be equity as between various classes of taxpayers irrespective of whether they were occupiers of houses or whether they were less fortunate people who happened to be tenants. Equally, Sir, the select committee considered that there should be equity as between two people, one of whom makes an investment in a house

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and the other who makes an investment in some other type of, shall we say, business, in a farm, or in some other income-earning occupation.

That Bill was accepted and I assume that it must also have been accepted by the Central Legislative Assembly since it certainly was not challenged in Committee by that Assembly.

Incidentally, Sir, I noticed that there had been a somewhat similar debate in the United Kingdom, going on in the newspapers which deal with financial matters; and I noticed the other day, as a matter of interest, that it was stated in one letter that the English professional body to which my hon. friend belongs, at any rate, did not support any change in so far as this was concerned, although I am very sorry to say that the Scottish one showed a certain amount of illogicality by doing so. But one must assume that the heavier weight lies in the larger and more populous territory.

MR. ALEXANDER: I thought you were a Yorkshireman!

MR. MACKENZIE: Exactly, it is a fine thing to be.

The point is, Sir, that it simply is not equitable in terms of taxation to exempt this particular class of income and I would say, as I have said before, that if we are to subsidize owner-occupation or housing in any way let us do so in an open manner by voting money and do not let us do so in the way that is suggested which hides away a subsidy. The fact is that if assistance is given in this way it has exactly the same effect as if a subsidy were to be voted.

MR. ALEXANDER: What about the hidden subsidy?

MR. MACKENZIE: Finally, Sir, there is the point the hon. Member made that we were doing what we could to encourage working-class people to own their own houses. Well, Sir, I must say I was rather puzzled as to the bearing of that particular aspect of the matter on this point. I wondered, Sir, who were the working-class people who were to be encouraged to own their own houses by relief from income tax. As the House knows, Sir, hardly anyone in this country with an income of under £700 a year

who happens to be married and have one child pays income tax at all, and I would have thought, Sir, that the mass, the very great mass, of the working-class people of this Colony, fell well below that particular level.

Now, Sir, to turn to the next point which the hon. Member made—that is Part VI of the Act, covering controlled companies and undistributed income. Here, again, Sir, the select committee heard a great deal of evidence of, I must say, various types, and the committee was impressed by the view that was put forward that the ideal system would be one in which every controlled company should be dealt with, in so far as its tax position was concerned, on its merits. For reasons with which I need not detain the House which have been explained on several occasions, Sir, that was not found to be acceptable. I should like to make the point that the whole of the select committee unanimously agreed that that was so—that the principle of undistributed income tax, as enshrined in the Act, was unanimously accepted by the whole of the select committee. There were, however, certain amendments which were made in response to the evidence that was given. The majority of the committee, Sir, took note of evidence and were impressed by the view that a certain flexibility should be introduced in so far as this was possible under a formula. The result was, Sir, the amendment whereby the initial allowance for agents and people like that will in future only be 15 per cent. That again, Sir, was a proposal which was adopted unanimously. Nor, Sir, was it challenged when the Bill came to the Central Legislative Assembly.

The majority of the committee also considered that in addition to allowing an allowance of 27½ per cent to development companies in addition to development expenditure, they should give the alternative of 32½ per cent initial allowance to companies which had no development expenditure. This was done, Sir, in answer to the strongly expressed plea that these companies would need some additional incentive to finance their stocks and that kind of thing. The majority of the committee accepted that plea—not, I might say, without thinking that it was being somewhat generous in the interests of the business community

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of these territories—but the plea was accepted.

Now, Sir, the important point about all this, so far as this debate is concerned, is that when the matter came to be reported in the select committee the only point on which the minority differed from the majority was as to this additional relief of 5 per cent. That was the only point. The minority of the committee would have liked a flat rate of 12½ per cent to have been applied overall. One Member actually would have liked it to have been 40 per cent, but four would have liked it to have been 32½ per cent overall. The committee, as I say, did not accept that view. They considered that some flexibility should be introduced, and that was the majority view which again, Sir, was accepted in the Central Legislative Assembly without a division. I would suggest, Sir, that this question of 5 per cent is hardly something which would make it worth while referring the matter back to the High Commissioner for further consideration at this particular stage.

A further point which the hon. Member made in his speech was that Part VI was cumbersome and obscure and that practitioners were having considerable difficulty in interpreting it. He asked, indeed, Sir, for a child's guide to the section. Well, I am very glad to be able to tell him, Sir, that I understand that a code of practice is in fact being prepared and I am told that some 600 copies of it have already been ordered before publication.

Then, Sir, he also asked, and I must say that this puzzled me, and I quote his words: "It would be interesting to learn why only 50 per cent of development expenditure is allowed in the calculation concerning property companies. There is no explanation for this whatsoever and perhaps the Minister will tell us why it could not be 30 per cent or 75 per cent or 100 per cent." I must say, Sir, that this rather puzzled me because there is, so far as I know, no specific reference in the section of the Act under consideration to property companies. I think, Sir, that probably what he may have been thinking of was the allowance which has been made under section 38 (5) (b) of the Act for commercial buildings. On page 8

of the report of the select committee it is stated that one of the amendments to allow 50 per cent of the cost of erecting, extending, or replacing a commercial building which is in use as a shop, office, showroom, warehouse or workshop. I think, Sir, that that is what the hon. Member must have had in mind when he made this reference. The reason for that was that the select committee and subsequently the Central Legislative Assembly decided that it might be justified in tempering the wind a little further to the shorn lambs and for that reason, Sir, this particular very considerable alleviation was introduced. It is, Sir, something that will assist those private companies which are chiefly engaged in commercial work to a very great extent. But the select committee did not feel it would have been justified in going any further.

Now, Sir, generally, in so far, as this particular part of the Act is concerned, I still feel, as I have felt for a long time, that, as we—

MR. ALEXANDER: Mr. Speaker, on a point of explanation, could the Secretary to the Treasury please look at clause 38 of the Bill, proviso, section 5, at the bottom of page 103, concerning development expenditure, and then turn over the page and look at (b): he will then understand what I am talking about.

MR. MACKENZIE: Yes, Sir, that was precisely the section to which I invited my hon. friend's attention. It refers to the rates and extension or replacement of any building used or to be used as a shop, office, showroom, warehouse, workshop or ancillary building in connection therewith, or on the alteration of any such building where no deduction has been allowed in respect of such expenditure under paragraph (d) of sub-section (2), section 14, for such controlled company for the purposes of its trade or profession. This part, Sir, is directed, and it is intended to assist commercial houses in so far as their commercial buildings are concerned.

MR. ALEXANDER: What is the reason for the 50 per cent?

MR. MACKENZIE: The reason, Sir, for the 50 per cent has been explained. It was considered that this would be a

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reasonable extent to assist the shorn lambs, but the select committee did not consider that it could go any further in giving this form of assistance. That, Sir, is the answer.

As I say, Sir, I fear that this particular part of the Act has not been studied throughout the territories as carefully as it might have been. I believe, and certainly the majority of the select committee and the majority of the Central Legislative Assembly believed, that this part will in fact be of the greatest assistance to those people who are developing these territories, and in particular to the mixed farmer who is developing his farm. It will also be of the greatest assistance to industrialists who are developing their businesses. This part will, Sir, at the same time, help to check evasion. It will close a number of loopholes which existed before; and while it cuts down the relief afforded to those people who are not developing and therefore who do not need assistance of this kind it still allows people to obtain some tax benefits from incorporation. I would say, Sir, that the legislation for incorporating companies, I am quite certain, was not originally introduced in order to limit the liability in so far as tax was concerned. The fact remains that some gains from this point of view are still allowed.

Now, Sir, the next point that was dealt with was retirement benefits, and here again, Sir, a great deal of evidence was heard by the select committee and certain relaxations were made as regards the limits and as regards the existing schemes—existing pension schemes—but four members of the select committee in a Minority Report recommended that there should be a further degree of relaxation. In so far as the majority was concerned this was not accepted, and I would again point out that although the matter was debated in the Central Legislative Assembly there was no division. I assume, Sir, that that was because of the extremely clear reasoning produced by my friend the Commissioner for Income Tax on that occasion.

Now, Sir, the hon. Member for Nairobi West asked why provident funds had been virtually eliminated. The answer, Sir, is, in the first place, that

they have not been virtually eliminated. But I would like, for the benefit of the House, to read what the Commissioner for Income Tax said on this subject during the debate. He said, Sir, "As regards provident funds, it occurs to me that the problem here might be clarified if I gave a simple example. If an employer wishes to put away, say, £20 a month to a provident fund for a particular employee then he can make the payment in two parts. He can pay £10 a month to an approved fund, for which, of course, he will get immediate tax relief and the accumulated interest on which will be exempted from tax, and he can pay the other £10 into a reserve fund which will bear tax as it is created but for which he will get repayment of tax, or set-off against current liability, when he pays out the gratuity. With that in mind, I think that hon. Members will agree that there is, in fact, no discrimination against provident funds in these proposals".

I might say, Sir, that the Commissioner went on and dealt with the principle of provident funds, and there again it is quite a short passage and, if I may, I would like to quote it. He said, Sir, "Some of the protagonists of the provident fund come out into the open and admit that the real attraction of the provident fund is that it provides a tax-free sum out of which the employee can meet his personal debts every time he changes his job. There, Sir, we are down to a matter of principle. The grounds for giving him relief, whether from provident funds, pension funds, or annuities for the self-employed, are the same. These are to provide benefits payable on retirement when the person is no longer able to work and the relief can only be justified on those grounds. No relief is justifiable for the short-term savings".

Now, Sir, another point which the hon. Member made in his speech was that the line-up of the pensions for private people with the Civil Service was unrealistic. As I understand it, his point was that the amount allowed was insufficient to attract the type of people which private industry needs to come to these territories. Well, Sir, there again I would, if I may, like to quote from the remarks of my friend the Commissioner for Income Tax when this matter was

[Mr. Mackenzie] discussed in the Central Legislative Assembly. What he said, Sir, was this: "Now, Sir, there is nothing in this Bill to prevent an employer paying as large a pension or as large a lump sum by way of gratuity as he wishes. He will get income tax relief for the payment when he pays it out. All that the Bill says is this—that if he wishes to build up a fund out of which to pay a pension or provident fund sum the income tax relief which he gets during the period of build-up will be restricted just as the contribution the employee makes is restricted on his tax liability on the ultimate payout".

Now, Sir, the next point which was dealt with is a surprising one. It has been partly dealt with, I believe almost entirely dealt with, by my hon. friend the Nominated Member who moved the amendment yesterday. It is section 59 regarding non-resident individual tax. I must say, Sir, that the reference the hon. Member made to this rather puzzled me. This particular section deals with the allocation of tax as between the three East African territories. Now, the hon. Member for Nairobi West, having covered in the first part of what he said about it, he said, Sir, and I quote, "This, as I understand it, provides that income of resident companies in Kenya or elsewhere in East Africa shall be chargeable at the standard rate of the territory of residence plus any excess over the standard rate in the territory in which the income is derived".

Now, Sir, that dealt entirely with the allocation of tax as between the East African territories. But the hon. Member went on and this is where I was somewhat puzzled. He said that this would be unfortunate in so far as international companies with subsidiaries registered in Kenya were concerned, that they would be adversely affected in respect of branches in neighbouring territories in Africa or in other areas where they might be operating from Kenya. He also said, Sir, that companies with geographically wide activities would be encouraged to register in countries which do not impose tax on overseas income. I must say, Sir, that I cannot see what that has to do with section 59. It is true that in the Minority Report somewhat

similar things were said as regards section 4 (a) of the Act and, in fact, this was debated, Sir, in the Central Legislative Assembly and there was a division which was lost by 22 votes to ten. The reasons why this was lost, I might say, were very ably given by the Legal Secretary to the East Africa High Commission at column 599 and column 600 of the HANSARD of the Central Legislative Assembly on 17th December, 1958.

The Legal Secretary, Sir, pointed out that in so far as an individual, certainly, was concerned, no alteration of the principle enunciated in section 4 (a) could possibly be justified and he also very effectively dealt with the question of companies.

There was also, Sir, one point which I am sure will interest the House. It was made in this particular connexion. My hon. friend the Minister for Finance pointed out at the time that the arguments given by speakers in favour of changing this basis, as laid down in section 4 (a), were two of the most convincing arguments he had ever heard in favour of tax on a world basis. However, Sir, as I say, I can think of no particular reason why section 39 itself should be changed in any way.

Finally, Sir, the Motion as it originally stood before the House referred to capital deductions under the Second Schedule. Here, again, Sir, a great deal of evidence was taken by the select committee. The minority of the select committee again supported the view that has been taken by the hon. Member; and here, again, the matter was debated in the Central Legislative Assembly and there was a division in this case which proposed that the Bill should be amended on the lines which have been suggested by the hon. Member; and the proposed amendment was lost by 21 votes to 10.

In this connexion again, Sir, the hon. Member referred to the advantages of extending income tax relief to commercial and residential premises. This, I think he said, was favoured by the Royal Commission in the United Kingdom. In this connexion, Sir, I would, again, if I may, like to quote what was said by the Commissioner for Income Tax in the Central Legislative Assembly because I

[Mr. Mackenzie] think it is really germane to this particular point. After the amendment had been moved, and after, I might say, in passing, the Minister for Finance of Tanganyika had pointed out that this would involve an immense loan to the commercial community at the expense of the rest of the taxpayers, the Commissioner for Income Tax said: "If the hon. Member had linked the suggestion with provision for assessing profits on commercial buildings, then I think it would have been a suggestion worth considering". He went on at a subsequent stage to say: "The Royal Commission in the United Kingdom considered this matter and they came to the conclusion that if there was any question of giving relief for commercial buildings then a complementary question would have to be settled, and that was whether or not profit on sale, as distinct from a balancing charge, which merely recovers the allowances already made, should be assessable. Sir, from the point of view of tax, there are many protagonists in East Africa, among the accountancy profession, of a general revision in relation to the Second Schedule, who consider that the relief should be given on all wasting assets and that any profit made, that is, any figure recovered in excess of the original cost should be charged to tax". He said, however, that that was a very wide subject which might be investigated at some time or another, but not at the present time.

In fact, Sir, the advantages proposed are much more theoretical than real, the advantages of making any change of this kind.

Now, Sir, to sum up, only in two of the cases mentioned in the original Motion was there any difference of principle between the various members of the select committee. The majority of the members, both of the select committee and of the Central Legislative Assembly, were convinced that the Act as it has been passed was sound. It was sound in principle and sound in detail. The select committee members, Sir, had the opportunity of hearing the evidence and what is even more important, of discussing it among themselves in detail. They spent many days doing this, many long and arduous hours sitting late into the afternoon and early in the evening,

and they came to the conclusion that what is in the Act was in the best interests of East Africa.

Now, Sir, that was based on evidence heard after study of the working of the Act and its operation, the way in which it would operate, clause by clause; and it was not based, Sir, as so much of the discussion of this particular Act has been based, on hearsay which I must say appears on occasions to have caused the greatest amount of fear to those whom, in fact, it will benefit most. The weight of responsible opinion, as expressed in the Central Legislative Assembly, and in the select committee, was in favour of passing the Act as it is, and I am quite sure that it will remain so. I suggest, Sir, that what we need now is to leave the Act to let us see how it develops, to let us see, for instance, how those people who are developing their property benefit from it. There is, Sir, no evidence whatsoever that the majority of the people in these territories are in any way opposed to it as it stands. It may well be, Sir, that the majority of those who are going to be adversely affected by the tightening up of certain provisions are opposed; that, Sir, would not surprise me in the least. But I deny categorically that the majority of the people of these territories—or the majority of the people of this Colony indeed—are in any way opposed.

There are a great many people, Sir who will benefit from the changes which have been made in the income tax structure of these territories during the past year, and they, I am quite sure, Sir, are content with the position as it stands.

Now, Sir, when I made my suggestion yesterday that the best thing to do was to allow us to see what came out in practice, it was suggested that if I found somebody—a friend of mine—bleeding to death I would go along and help him and would not just stand by and see what happened. I agree, Sir, if I saw a friend of mine bleeding to death, I hope that is what I should do. But in this particular instance, Sir, those are not the facts. What is happening is that I am being told, by people who would like to see someone they do not like put into jail, that that person is robbing my house. I have had a look at the matter;

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I have been round and I have looked at my house and so far as I can see, Sir, nothing has disappeared. In those circumstances, in the lack of any concrete evidence, why should I bring a charge? Why should a charge be brought until there is some concrete evidence? And the same, Sir, is the position with this Act. If there is any real evidence of inequity or of loopholes, the Government of this Colony—and, I am equally sure, the authorities of the High Commission—will be only too ready to take whatever action may be needed.

However, Sir, it is only through evidence of how the Act works in practice, it is only that evidence which can show what the position really is. I, Sir, have full confidence that the Government and the Central Legislative Assembly will do whatever they consider to be right in the light of that evidence.

Sir, I beg to support

MR. SLADE: Mr. Speaker, Sir, there is one point which was made by the hon. Member but which I do not think has yet been answered from the other side. I do hope it will be answered. It is this question of the position of controlled companies in liquidation and their liability for the undistributed profits tax. Sir, as pointed out by the hon. Member, a company once in liquidation is not in a position to distribute its earnings by way of dividend. Consequently, during the period of liquidation, which may be very long, the company will be taxable, liable to undistributed profits tax, on all its earnings.

Now, Mr. Speaker, this is a very serious matter because, as a result of this legislation creating the undistributed profits tax, a great many investment companies in this country are going to go into liquidation, because they are at a disadvantage in continuing in existence. They will probably want to go into liquidation fairly quickly, but they are faced with this difficulty, that being investment companies, and particularly holding investments in this country, the market is such that they cannot afford to realize all their investments tomorrow, and the liquidation must therefore last quite a long time, with continuing income during that period, if the

realization and liquidation is not to be a great loss to the shareholders.

Sir, I see there is some special provision for transitional exemption in this respect in clause 6 (3) of the Schedule, which seems to show an admission of the difficulties, though I do not quite understand why it is not possible for one of these companies in liquidation, at any stage, not merely at a brief stage after this Act has come into force, to be allowed by special statutory exemption to distribute income among shareholders expressly as income, in spite of their being in liquidation. So that the liquidator and the shareholders may take the choice of passing the money into the hands of the shareholders, and charging the shareholders with their individual rate of tax, rather than the company bearing an undistributed income tax on income which it is quite prepared to distribute.

I know, Sir, under the existing law the liquidator cannot declare dividends, but by express provision in this Ordinance, corresponding to this transitional provision in the Schedule, that could be remedied.

Sir, this difficulty has been recognized expressly by the Commissioner of Income Tax, in correspondence, but he has not suggested any remedy except the poor comfort that perhaps, after all, it will not hurt anyone very much. Well, Sir, I do assure hon. Members opposite that if we wait to see how this Act works out, this difficulty is going to hurt a lot of companies very much, quite patently so. I do hope we shall have an answer to that question, and be told why it is not proper that the Act should be amended in that respect immediately.

MRS. SHAW: Mr. Speaker, as I said yesterday when I was forced into the fray and was speaking against the amendment which has now become the Motion, I could not possibly, in the light of the opinion of the people I represent, view with approval, etc. . . . As I agree most strongly with everything that has been said on this side, against the enforcement of this Act, in view of the widespread opposition and in the face of the Government's own admission in its amendment that the Act may be necessary of amendment in the light of

[Mrs. Shaw]

experience. For, in the wording of the latter part of the amendment, they admit this possibility; in fact, it almost seems a probability.

By the select committee's recommendations of the various modifications they have suggested, have pin-pointed, the inequities of the Act, but in spite of this we are to have this Act imposed on us as it stands. And much of the harm envisaged by the objectors to the Act will be done. The greatest harm—and this is the only point on which I am going to speak—which has been feared and voiced both within and without this Colony, by individuals and many bodies and boards, is that which will result from the new interpretation of what was the old section 22 on the undistributed profits tax. There is no doubt that the threat of the restrictive nature of this clause has already, I believe, deterred fresh capital from coming into this country for development. Large companies trading in these territories are bound to find this clause restrictive as it will undoubtedly curtail their expansion. I believe it to be true that the Minister for Finance has expressed sympathy with the fears of these companies and agreed that the tax may operate adversely against some of them; yet he is prepared to go ahead with the danger of killing the goose.

Much play has been made by the last Government speaker on the fact that little opposition to the Act was expressed in the Central Assembly, or rather in the select committee of the Central Assembly, that very responsible body. By implication, the speaker cast doubts on the equal responsibility of a select committee set up in Kenya which did not view the Act with so much approval.

MR. MACKENZIE: Could I ask, Sir, which select committee?

MRS. SHAW: Mr. Speaker, I beg your pardon, I used the incorrect word. I meant the committee which was set up to go into the whole Act, and how it operated.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, may I ask if the hon. Member is referring to what is known as the Gill

Committee or is she referring to the Coates Commission?

MRS. SHAW: No, Sir, I am referring to a committee which went into this Act and put forward recommendations and suggestions which were put before Central Legislative Assembly.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Might I suggest, Sir, so that we can have the record straight, was this a commercial body which was set up to study this or the Financial Committee of the Chambers of Commerce or something like that? Because we cannot have it on the record that there has been a select committee of this House on a matter of this kind.

MRS. SHAW: I stand corrected, Sir, it was a committee of the Chamber of Commerce, I think, appointed to put up recommendations to the select committee of the Central Assembly.

However, much play has been made on the lack of opposition in the Central Assembly to this Act, but I do not think nearly enough has been made of the point of view expressed yesterday by the hon. Member for Kiambu who said it was very doubtful if the majority opinion of the select committee of the Central Assembly, would, in fact, be the majority opinion of the taxpayers of Kenya. That is perfectly true and the very fact of the opposition which was voiced in almost every quarter of this Colony at the time that this Act was published proves that.

I beg to oppose this Bill most strongly.

SIR CHARLES MARKHAM: Mr. Speaker, I have only risen to speak this afternoon because of what I thought was a serious misrepresentation of what I had said yesterday afternoon during the course of the speech by the Minister for Finance and Development. I regret having to do this, Sir, but I think it should be put right for the record as the Minister is always so keen on getting the record completely correct. I shall make the point again, and, perhaps, Sir, to make quite sure I am not misquoted, I shall quote what I really did say from HANSARD.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): I will be delighted, Sir, if the hon. Member will quote what he said from HANSARD.

(The Minister for Finance and Development)
because that side of the House seems to have made perfectly certain that this side of the House could not get a copy!

SIR CHARLES MARKHAM: I do not think that was really an interruption at all. Sir, I could not find a copy either. In fact, I had to go and borrow a copy belonging to you, Sir, because the copy from the Members' room had disappeared and I thought the Minister for Finance had deliberately removed it!

In all seriousness, Sir, what I said yesterday afternoon was this—and if I may borrow the phrase from my hon. friend, the Member for Nairobi West, I quote: "Who, Sir, is going to be the person who decides whether they are necessary or desirable?" That is talking about amendments. If, for example, the majority of the people in Kenya think those amendments are necessary and the Central Assembly, through its wisdom, decides they are not, is it suggested then that we can do nothing about it? Why cannot we, as Kenya, take the action now, before waiting for the Central Assembly to decide whether the amendments are necessary?"

Sir, in the course of his eloquent speech—

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Sir, might I ask the hon. Member if he did not somewhere use the words "I support the hon. Mover"? I wonder, Sir, if it would be possible, perhaps, to have the exact words used by the hon. Mover in this connexion read out so that we can have the record completely straight?

SIR CHARLES MARKHAM: I am actually, Sir, referring to my speech.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Sir, did the hon. Mover use the words "I support the hon. Mover", Sir? That is what I am asking.

SIR CHARLES MARKHAM: Not according to HANSARD upstairs, Sir, no. I cannot find it, Sir, anyhow. I cannot find it, Sir, although I may well have said it, which I think is very honest, Sir.

What I mean, Sir, and I say this in all seriousness, is that this House is perfectly entitled, as a House, to criticize decisions made by the Central Assembly.

We are, indeed, I think, Sir, entitled to disagree with the wisdom of that Assembly, and, in fact, I would have thought that this was the right place for us to bring to the notice of this House the fact that we have fundamental disagreements about certain clauses of the Management Act. Therefore, Sir, when we suggest, as I did yesterday afternoon, in supporting the Member for Nairobi West, but using my own arguments, that we should, if that Assembly felt they could not agree to our amendments, carry out our own amendments, I felt entitled to express that view, Sir. I see no reason why we should have that outburst of emotion from the Minister for Finance, who insists on all sorts of ulterior motives and all sorts of dangerous results from that suggestion. In fact, for a moment, Sir, I thought the Minister for Finance was back on the stage again, where he has given some outstanding performances in the past.

However, I do hope, Sir, that he will accept from me that we have no desire on this side of Council to break the economic union between the East African territories. In fact, that thought never even entered our heads. But we have considerable anxieties that this present Management Act will hurt the economy of Kenya. That, I believe, is a perfectly fair remark and can be disputed by arguments from the other side.

I do not want to embarrass Members on the Government side of this Council, many of whom, I believe, have the fears that have been expressed from this side of Council. If, Sir, we perhaps take the words of the Secretary to the Treasury, when he said that this is a good Act and we should give it a chance—to paraphrase an hour and a bit—then, Sir, I will answer him by one point. Who, Sir, should be the person who suffers from giving it a chance, and how long do we have to wait until the recommendations put up already by responsible members of the commercial community are brought into effect?

I declare an interest, Sir, at this point as being a publican and, perhaps, even, Sir, a sinner. And I do not want the Minister for Commerce and Industry, Sir, to accuse me without taking the mote out of his own eye. But the hotel industry is being encouraged very successfully by both the Minister for

[Sir Charles Markham]
Tourism and the Minister for Commerce and Industry. Under this Act, we are penalized. Let us face it quite bluntly, we are penalized, because of the deductions we are allowed to make for improvements. I know the Minister for Tourism has discussed this matter with the Hotelkeepers' Association and certain people are all right. Others who have peculiar leases—in other words, are not owning the property, but are leasing it from a landlord, are penalized. This is a small detail. I agree, Sir, but nevertheless representations were made at the time to our representatives on the select committee: but they admitted, when I questioned one of them, that there was so much detail to consider at the time that it was impossible, in the time at their disposal, to consider all of it. I think, Sir, that too much play is being made, by speakers from the Government Front Bench, of this unofficial majority on the select committee. I think, Sir, you can get a false impression from any select committee, should you so wish it. I believe that select committee did a first-class job on many of the clauses. But had they considered in detail all the clauses which, after all, many of the experts have to do in Nairobi and in the associated chambers of commerce, then they would still be sitting now and we would have no 1958 Act, but would be waiting for 1959.

All we have asked in the Motion, which Government has amended, was for various suggestions which have been considered by responsible people to be amended now. All we asked was that those people who have spent many hours of their time considering the detail and the implications of this particular Act, all we asked was that their views should be the subject of amendments to certain clauses.

Now, Sir, I can guarantee that on any clause of any Bill there is bound to be a difference of opinion on interpretation when it comes to matters of finance. I understand, Sir, from reading a paper last night that income tax management acts all over the world have been a steady source of income to the legal profession for many years. And, in fact, certain large companies employ lawyers to answer the very questions which they

themselves do not really know. I do not want, Sir, to make any allegations today because this debate is far too serious for personalities. It is, I believe, a debate which, although poorly attended because of numbers on our side of Council, has more interest for many of the population who are settled here than any debate on any political subject. There are genuine fears on the part of all races that this Act will be disastrous, in certain sections, to Kenya. We have heard, Sir, on numerous occasions of companies being formed in Bermuda, of companies being formed in Jersey or Guernsey, or elsewhere where one can evade or avoid paying tax. Evasion is illegal; avoidance is legal. I would have thought that alone would have been enough to have given the Government good reason to reconsider certain aspects of this whole Management Act. I do not want, Sir, to make this afternoon a long speech on the iniquity of certain clauses, although I do say one thing for the Secretary to the Treasury, Sir, he always has a very good answer to every point—and the Minister for Finance is equally able, with regret, I should say—but the fact is that under this present Act a wealthy person in Kenya can avoid legally the payment of the majority of his taxation by registering his company outside Kenya. That, I believe, Sir, is tragic for this country. And we had the remark made at the Convention of Associations about Kenya becoming Bermuda-rigged. That remark was made by the chairman of the Convention. Sir, we may laugh at those remarks, we may think that is really, perhaps, unnecessary. Nevertheless, I think, Sir, when he replies, that the Member for Nairobi West will confirm that he has had numerous enquiries of how to get round this new Management Act. I am not suggesting, Sir, that he is not acting in any way that is not in the best interests of his clients; but I am quite certain of one thing: if I had a lot of money today to invest in a company in Kenya, I would be either Jersey-rigged or Bermuda-rigged. In which case, I could live very comfortably without paying this very high rate of taxation.

Finally, Sir, I want to make it quite clear, in view perhaps of the misunderstanding that could have been created unintentionally by my remark yesterday, that I have nothing personally against the

[Sir Charles Markham] integrity or against the obvious ability of those people who have framed this new Act and those who worked so hard to get it into the form it is in at the moment. In fact, Sir, I think the Minister for Finance, and Sir—I was going to say unpaid, I think I had better say acting deputy on numerous occasions—the Secretary to the Treasury have genuinely thought they have produced, through the Central Assembly, a document which is good. I would urge them, Sir, to reconsider the feeling of the country on this matter. Although perhaps they can give the assurance that they will, through the Central Assembly, consider any subject or clause which proves unworkable or which proves perhaps unfair, time, Sir, is always against the individual in circumstances like this. We know so often what is meant by a promise to look into a matter. That is about as far as it goes. And amending legislation today can take a very long time, as I think the Minister for Legal Affairs will confirm. We would ask the Minister to meet some responsible members of commerce who have great experience in matters of income tax, such as people like Mr. Gill, the Chairman of the Income Tax Committee of the Chamber of Commerce in Nairobi, who, Sir, has very wide experience in matters such as these. I believe that the old section 22, which is so contentious could be framed in the new Ordinance in such a way that it would be beyond doubt, rather than cause the present doubts in the minds of many of the commercial community.

We do not ask, Sir, that this Motion moved by the Member for Nairobi West do anything more than express publicly the fears of, we believe, the majority of people who pay income tax in this country. That is all we have asked for and Government have amended the Motion. That again is nothing new. Nevertheless, as the numbers on the other side of Council, Sir, are so enormous, we would ask that they do consider seriously the remarks that have been made on this side of the Council, and that they do appreciate the various aspects of the fears expressed. We do not want to have a row, Sir. Sometimes it is quite good fun, but on matters such as these it is too serious, and we cannot express anything more

than our regret that Government could not see their way to accept this Motion moved by the Member for Nairobi West, which if it was read carefully was quite harmless to the Government and could have been accepted without any question of amendment. Because what did we ask for after all, Sir? Reconsideration of certain clauses which had been the subject of an appeal already by the commercial community.

I beg to oppose the intended Motion.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, first of all, Sir, I would like to deal with the point raised by my hon. friend, the Member for Ukamba. I, of course, Sir, am very willing indeed to accept his interpretation of his own words on the question of what I would call "unilateral action", and I am indeed very relieved at the hon. Member's interpretation of these particular words. I must say that, listening, I took the implication both from himself and the hon. Member, whom I thought he had said he strongly supported, that they were indeed prepared if we could not get agreement on the Central Legislative Assembly to force a unilateral action in this respect, and I, as one of those people who throughout the whole of my commercial and political career have believed very deeply in the economic unity of East Africa as an absolutely essential factor, regretted to hear what I thought was an implication from that side of the Council. However, Sir, I know the hon. Member extremely well, and I willingly accept his interpretation of what was said.

Now, Sir, I would like to deal with one or two other matters which have been raised. Sir, the hon. Member for Ukamba said would we not listen to responsible opinion. I can assure the hon. Member from 9th May onwards I have listened to a great deal of responsible opinion on this matter, and indeed only this morning I met a deputation from the Chartered Accountants—the Society of Accountants—on this very matter of tax structure and tax deflection; so that—if the hon. Member would just wait and let one finish one's sentence—I met this deputation of men who I regard as being extremely responsible, and we had a discussion for some considerable time on all the points raised by them. The Commissioner for Income

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Tax was present, and I have no doubt at all that serious note has been taken of everything that they said. This has been the process all the way through. One has only to look at the select committee of the Income Tax Management Act, and see the list of people who gave evidence, oral representation and written representation. The Association of Accountants in East Africa, the Board of Commerce and Industry in Kenya, the Kenya National Farmers' Union, the Law Society, the Life Insurance Offices Association, the Association of Chambers of Commerce and Industry in East Africa—the whole list of responsible bodies, whose views, which I may say have been repeated again in this debate, were expressed to the select committee having been then expressed to the various Ministers of Finance throughout the country and throughout the territories over the past year. If we have not been able to accept their point of view it is because we have not been able to accept a great deal of their arguments. We have not been able to accept that there is reason only on their side, and we have had to pay attention also to the great body of taxpayers—the individual taxpayer—as well, and see that a certain amount of equity was reached.

Now, Sir, to turn to my hon. friend, the Member for Kiambu. I am delighted to see that the hon. Member—the hon. gentleman has already learned the lesson of this particular Legislative Council operation. That is, of course, that when you think something that is "righteous indignation", when the other side feels something, that is "petulance". When you want something and you reiterate that you are thoroughly entitled to your argument again and again, it is determination; when the other side do it, it is stubbornness and obstinacy. So, Sir, he will forgive me if we from this side do plead that the hon. Member in his way, perhaps, is just a little petulant, and we have righteous indignation not petulance, and we feel he is stubborn and obstinate, and we think that we are determined in our point of view.

He dealt with one particular point, and that was—well, he dealt with two points which I shall refer to, but one

particular point which was, of course, the question of tax on owner-occupied houses. Now, Sir, I have been very interested in reading the *East African Standard* of Friday, 9th May, 1958. In a little article in the *East African Standard*, headed "Mr. Vasey's Proposals assist farmers—welcome by the N.F.U."—something which I found it just a little difficult, I may say, to co-ordinate with the statement of the hon. and gracious lady from Nyanza. However, there it is. Now, Sir, there a certain gentleman says: "Dealing with the revision of housing annual values, if the increases had not been accompanied by a compensating adjustment, such as Mr. Vasey suggested in the way of personal allowances, there would have been a justifiable ground of complaint from taxpayers in the lower income groups". I am delighted, Sir, to hear that apparently Mr. Vasey did justice by making certain that anything which had been inflicted on the one side was more than compensated for by the personal allowance on the other side. And, Sir, the gentleman who made this particular statement was none other than the gentleman, quoted by the hon. Member for Ukamba with such aplomb, a certain Mr. P. J. Gill. But, Sir, that was not all. The *East African Standard*, with its usual enterprise went out and asked a lot of people, Sir, their opinions on certain matters, and one of the people they asked was a gentleman who has had a great deal of experience in the housing world—in the building society world. And that gentleman said: "As the primary object of their building society movement was to encourage people to own their own home, he could only regret the contemplated change in the assessment of net annual values of the owner-occupied houses". He pointed out that the present method of assessment gave a mild element of subsidy and stimulated many, including civil servants, to claim a real stake in the country at the present method of assessment. And then he went on to make this rather astounding statement. "It is not possible to challenge the logic of the proposed change". The name of that gentleman, Sir, was a certain Mr. F. W. G. Bompas, whom I seem to recognize in another guise, in the hon. Member for Kiambu, and I am delighted, Sir, to go on and finish what he said, "but it has

[The Minister for Finance and Development] the effect in respect of existing owner-occupiers of largely negating suggested tax concessions elsewhere". Now, Sir, as I have only a little time, I have no doubt that just as someone playing in a football match or a cup-tie, time will be taken out for interruptions.

MR. BOMPAS: I thank the Minister for giving way, Sir, and I will not take long. It is perfectly true, of course, what the Minister has read out, and I would like to point out that I did make exactly that same point in my speech. I did not refer to logicity, but I did say that this was in effect an action by Government to remove a subsidy which I had conceded was a subsidy.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Yes, Sir, that was the very point I was making. That he in fact said the subsidy was a good thing because it stimulated many, including civil servants, to claim a real stake in the Colony. The hon. Member also went on to say, "what effect the change would have in the future on home building could not be judged, and would be conditioned"—I beg him to note what he said, not by taxation—"would be conditioned by movements in land and building costs". Now, Sir, I can do no better, of course, than quote this opinion that has been so ably expressed by the hon. gentlemen who have been quoted by the hon. gentlemen opposite with some approval. I would like, for instance, on the question of insurance, of life pension schemes, as against Provident Funds, to quote again from the *East African Standard*, Mr. E. B. Jordan, Nairobi Branch Manager of an insurance company said "one welcome feature was the apparent aim of the new legislation to induce firms and other employers to provide pension schemes instead of Provident Funds. Pensions would provide security for several years, whereas an unlucky investment or carelessness might lose a man the whole of his provident fund, which he could draw in bulk. Insurance companies would probably have an increased business and employers and self-employed people would benefit from the pension allowances now open to them as well as to their employees". Sir, that is a man who is very

interested in the business of providing security for old age, and I can do no better than quote those who are experts in their own line of business. Indeed, Sir, I am sorry to see my hon. friend, the Member for Ukamba has gone out because I can quote from this same rather brilliant article in the *East African Standard*, which says "relief given for capital expenditure on new hotels was excellent news for hoteliers", Mr. E. R. Block, an hotels' director, told the *East African Standard*. "The relief on capital expenditure and on hotel fixed equipment should prove an incentive to hotel-keepers in the Colony to extend accommodation and provide better facilities and services for a greater number of business visitors and tourists." That is, Sir, from the fountain head. The hotel business is the business that benefited from these proposals. Now, Sir, we have had a lot of talk about certain other taxes. Sir, I will not say, of course, what the Executive Officer of the Kenya National Farmers' Union said when he said that the proposals would be of assistance to the farming industry, and how pleased they were with these proposals because, of course, any hon. Member who wishes can read the paper for himself. But, Sir, I must quote this one. "Proposals for additional tax on undistributed profits were both radical and restere and would have serious repercussions on many companies, including probably a large number at present calling themselves public companies. From the point of view of equity"—and this is what strikes at my heart, Sir—"from the point of view of equity, it is difficult to find fault with the proposals, and they certainly seem to be an improvement from the administrative point of view" he went on. "Investment companies and others which were not developed to any material extent would face a much heavier incidence of income tax than in the previous law," and who, Sir, is the gentleman? None other than Mr. P. J. Gill, as so often quoted by the hon. Members opposite.

I think the Government may claim that it has paid a certain amount of attention and listened with respect to the comments produced. It has not been able to go the whole way, but no hon. Member can say that the Income Tax (Management) Act which emerged on

[The Minister for Finance and Development] 30th December was the income tax proposals as originally put forward by the Finance Ministers. They considerably differed, and they differed as a result of listening, over a period of time, to arguments by people who were putting forward how these tax proposals would affect them and their clients, and where we could and where the Central Legislative Assembly felt that it could listen, it did listen to them.

There is another point, Sir, that I think I must make, because there is often, in this discussion, reference to the question of public company tax, and, indeed, there is very often comparison to the detriment of the wealth of this country because it is public comparison, between our structure and that of Rhodesia and South Africa. In the first place I must point out that the company tax in the Central African Federation is Sh. 7 6d. not Sh. 5 6d.

MR. ALEXANDER: Make it Sh. 7/6d.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): I will take note of that and I will certainly seek the opinion of the large investing public companies of this country as to whether they would support an increase to Sh. 7/6d. I think a large number of commercial people would be coming out in direct opposition to the hon. Member.

Now, let me turn to the question of South Africa. Some fiscal systems tax company profits by appropriating part of the profits by way of income tax, without authorizing the company to deduct that tax from dividends paid to shareholders and without thereby relieving the shareholder of tax which may be at a much higher rate than the personal rate at which he is liable. In Kenya we regard the tax paid by the company as an anticipation of the shareholder's ultimate liability on his dividend. By this means the small income-rentier class is relieved from what otherwise might be an element of hardship. The income tax paid by the company is ultimately related to the personal rates of the individual shareholders, which is surely an improvement on the system adopted in South Africa and, I am almost sure, the United States of America.

Now, I want to deal with two more points very quickly. The hon. Specially Elected Member, Mr. Slade, asked for a reply to the question of companies going into liquidation.

(Mr. Speaker (Sir Ferdinand Covenantis-Bentinck) left the Chair)

(Mr. Deputy Speaker (Mr. Bechgaard) took the Chair)

I can give him the official reply. Companies normally go into liquidation for two reasons. They cease business because they are having losses and cannot continue to trade. In these cases no income tax liability will arise. The other case is where the company or group of companies wishes to reorganize its affairs. In these cases the company with competent financial tax advisers can, and doubtless will, arrange its liquidation period and the transfer of its assets so that liability to undistributed tax is avoided.

Now, Sir, to conclude—a point made by the hon. Member for Nairobi West, and I quote, Sir, "Speaking of high taxation it is perhaps appropriate to quote the Conservative Financial Secretary of the British Treasury, Mr. J. E. S. Simon, speaking at the Conservative Conference in October last year, when he said this (he was speaking of high taxation): "It leads to lower standards of personal and commercial morality. Taxation which is felt to be penal and confiscatory tends to cause evasion. Finally, high taxation means that the State is spending part of the individual's income, withholding from him a whole number of choices he could otherwise make, and therefore restricting his personal freedom."—and I still quote, Mr. Deputy Speaker—"Those are words, Mr. Speaker, that should prompt and direct our Government".

The gentleman referred to is a Member of the Conservative Government in the United Kingdom, which only this year once again reimposed a tax of 18s. 6d. in the £, and which continued in full the Schedule A taxation. Now, Sir, those are words, and actions that should, prompt and direct our Government. I do not quite know whether I

[The Minister for Finance and Development] can agree with the last phrase used by the hon. Member, that only stubbornness and obstinacy can ignore such wisdom." Well, Sir, if wisdom is paying 18s. 6d. in the £ income tax, plus a continuation of property tax, plus a purchase tax, then, Sir, let me say that stubbornness and obstinacy, petulance or determination will prevent, I hope, for a long time, this Government accepting such words of such wisdom.

I beg to support.

SIR ALFRED VINCENT. Mr. Deputy Speaker, Sir, I am afraid that—I shall be as brief as possible—I have got to take a little time because I am under the impression that certain hon. Members in this Council have made it appear that the Central Assembly did not carry out the job of examining this Act in the proper way, that in fact they failed to do their duty.

Now, Sir, I do not think in the whole of my experience I have ever had quoted back to me something nice that I have said, so often in one debate. When I opened the reply to the Financial Secretary of the High Commission, I paid tribute—and I paid it sincerely—to the Commissioner of Income Tax, the Legal Secretary and the chairman, Mr. Hinchey, and I said, I think, we also have had a first-class select committee.

Now, Sir, why did I say that? I said that for a very good reason. That committee had on it some very experienced men. It had, for instance, my friend and colleague, Mr. Mackenzie, Sir; Mr. Tlney, who is the Finance Member of Tanganyika; Mr. Melmoth of Uganda; then it had a very excellent man in Mr. Hinchey, himself—very widely experienced; Mr. Newbold, the Legal Secretary of the High Commission; and I think Mr. Adams, the Economic Secretary of the High Commission attended; and I think at the same time the Commissioner, himself, or one of his deputies attended. On the other hand, Sir, it had very excellent representatives of people also, and they were Mr. Tyrrell, from Tanganyika, Mr. Simpson, from Uganda, and my revered friend, Lt.-Col. Gherrie. In addition to that it had very know-

ledgeable Indian merchants and it had Africans, who certainly were most interested in the incidence of income tax. By and large it was an excellent committee and I defy anybody in this House to say otherwise.

Now, Sir, I paid tribute to the Commissioner and his merry men for drawing up a Management Act consisting of about 240 pages, working night and day in order to satisfy the requirements of these territories. I paid tribute to the select committee and I would like to go into just a little detail on this, Sir, and say that the select committee report consisted of 23 pages—detailed pages—detailed amendments, of which 15 pages were agreed amendments. There were seven and a half pages, however, closely printed pages, of minority reports.

Now, Sir, with what method did we deal with these minority reports? These minority reports, Sir, represented by and large practically every point which has been made in this debate by the hon. Mover of the original Motion. When we proceeded to Kampala I asked permission—and it is a very unusual thing to do for each signatory or a representative of each signatory of each minority report to move the amendment which they suggested, in Committee stage, to the various clauses to which they objected. That was done, Sir, except in the case of Chief Maralle, who was unable to attend at Kampala.

The Minister said yesterday that there were three divisions. Well, of course, there were three divisions, Sir, and I think it is almost a record to have three divisions in any Committee stage of any Bill, and that it was taken so seriously, Sir, if I may quote what actually happened—the debate is 208 columns in HANSARD. I proposed, with the consent of Government Members as well, that the report of the select committee be sent to the Assembly Committee, subject to a recommendation to a Committee of the whole Assembly of the following—and, indeed, it is where I want to make this point very clear, Sir, to Members—the following clauses—five of which were Government major and minor amendments—the following clauses, of which there were 17, I think, desired amendments—4, 5, 7, 14, 19, 21, 37, 38, 42, 43, 46, 47, 82, 83, 119, 129, 142 and 152, and Schedules 1, 2, 3 and 5.

[Sir Alfred Vincent]

Now, Sir, I want this House to understand that these men did their duty, and if anybody wants to learn something about income tax—Members from both the official and the unofficial side—they should read—which probably they have had no time to read—the *Hansard* of the Central Assembly of the Third Session, 1958, Third Meeting.

Now, Sir, I made one error yesterday, because I did not intend to speak so I was without my book. I made a misstatement in which I said that the Commissioner gave an undertaking. The Commissioner did not, and I would like just to read the undertaking that I sought and the answer which I received from the officer in charge of the Bill, the Financial Secretary. I said this, Sir: "There is one very important point which I think will reflect the standing of this Assembly very much in the eyes of the people of these territories. This Bill was introduced—I should not say with indecent haste, but with a great deal of haste which one would not have wished under normal circumstances and I would ask the Mover if he can give me an assurance that if, in the course of working and as a result of experience, provisions of the Bill prove unsuitable or create hardships, he will be prepared to have such provisions rediscussed, amended or deleted, at the discretion of this Assembly as soon as possible." I went on to say: "I believe that if that is done it would give a great deal of satisfaction, because there has been a feeling of undue haste about this Bill. As a matter of fact, we have—or Members of this Assembly have—stressed this point themselves".

Now, Sir, what reply did I get? Consider the position of the poor Financial Secretary of the High Commission; with the sinister Commissioner of Income Tax sitting next to him; two Finance Ministers boring into his soul with their eyes on the other side of the room; and the one stern silhouette of the other Finance Minister with his back to him on the other side, of course he has to be cautious. Sir—or should I not use a word that should be understood in this Council—of course he had to be cagey. Nevertheless I had sufficient belief in the Commissioner and in those who were really behind this Bill, to be satisfied

with this reply, and I am going to give it in detail because I want you to see the implication. This is Mr. Hinchey: "But the hon. Sir Alfred Vincent did ask if the Administration, in the course of its experience with the Income Tax (Management) Act were to discover that it was deficient as an instrument for assessment and collection, whether in that event the Administration would give consideration to amending legislation. I can assure him only of this, Sir, that in the event, after a sufficient period of experience in the operation of the Act, the Administration were to find that there were either loopholes or defects of other kinds in the law, it would, of course, take the necessary steps to amend the law. It would do this, I imagine, in order to correct whatever deficiency is found and of whatever nature and it might very well mean, of course, providing for the closing of loopholes and otherwise providing against some unforeseen defects which might arise." That is the question and that is the answer.

Now, in case Members still think that it was just a little tea party, I would like to quote a little occurrence which arose in the consideration of clause 4, the amendment which was proposed by Mr. Tyrrell of Tanganyika. And I might say, Sir, that this debate, which took the whole day, was one of the finest that I have ever had the pleasure of listening to. Mr. Tyrrell proposed, regarding clause 4—to add a proviso that profits wholly arising outside East Africa should not be deemed to have accrued in East Africa, except in so far as such profits are remitted to East Africa.

Now, Sir, the comedy was initiated, and it was really a serio comedy by our very good friend, Lt.-Col. Gherrie; as this amendment was negatived by 22 votes to 10, and Col. Gherrie, in his characteristic fashion said:—

"Mr. Chairman, I am rising on a point of order. It has taken some very long, arduous hours to produce this Report of the select committee, and we now have certain minority reservations, and I hope the House will take very serious notice of them. I merely ask this, Sir: I do hope that all hon. Members are free to vote as their conscience prompts them and that they do not come under a Government Whip. I

[Sir Alfred Vincent] wonder if we can have an assurance on that, Sir.

MR. VASEY: With all due respect, Sir, I would certainly ask—is that a point of order?

MR. MUKONGO (of Uganda): Is there any implication Government officers are under a whip?

LT.-COL. GHERSIE: I am asking a question, Sir.

THE LEGAL SECRETARY (Mr. Newbold): Mr. Chairman, I confess that I can find some difficulty in understanding how this is a point of order.

SIR ALFRED VINCENT: Mr. Chairman, I suggest that it is a very awkward question.

MR. KHAMISI: It is a very undesirable question.

THE CHAIRMAN: I will rule that it is not a question.

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

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

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): May I just correct the hon. Member on one point? Mr. Khamisi said: "It is an undesirable question", not "a very undesirable".

SIR ALFRED VINCENT: I am sorry, "Undesirable". I have almost learnt that by heart.

Now, Sir, of course if the question had been a simple one with a simple answer we should have got an answer, but this occurrence in itself was sufficient answer to us.

Now, Sir, I have pointed out that most of the points which were in the Motion yesterday were covered by the minority reports of Members, and I would like to say how well the Kenya representatives figured in the attempt to get the amendments carried. Before I sit down, Sir, I must give you my impressions, very briefly, of the cause of the difference of opinion. My statement in the original debate, when the Bill went to select committee, that there was no doubt in my mind that this Bill in its then form would

have very great repercussions upon capital coming into this territory, were challenged seriously by one Finance Minister. Well, Sir, he is entitled to his opinion. I am still of that opinion—very much so. I know everything can be exaggerated, but I am a realist and I believe that the uncertainty of the whole matter has had a very grave effect on capital coming into this country. I know the Finance Ministers have got to adopt their role, I know that they have got to take care of the financial position of the territories generally, and yet I got the impression, Sir, and I still have it—and nothing which has been said by the Permanent Secretary to the Treasury has altered my mind—I think that the whole atmosphere throughout this Bill, which was enacted in a great hurry and at an unfortunate time of the year—that the Finance Ministers who, of course, really control the decisions—of that there is no doubt whatsoever—on the matter of policy, and I suppose they should—were rather taking the view of the immediate revenue to come as a result of this Bill, and we, on the other hand, were taking the long-term view of the effect of the Bill on the Colony and the territories. I am not saying that in any disparaging way at all. They had their responsibilities.

The Finance Minister of Kenya today has pointed out that he did make certain allowances in the lower income groups, which did give a certain amount of relief, for which he was applauded a great deal in this House when he first introduced his Budget. But I feel that there was that tendency on the part of the Finance Ministers and I know they will not quarrel with me for saying it, and that is why I feel I can support a re-examination—a speedy re-examination—of the points which were raised by the minorities in the Assembly, and have been confirmed by the Unofficial Members of this House.

I beg to support that action be taken and not the amendment.

THE MINISTER FOR COMMERCE AND INDUSTRY (Mr. Hope-Jones): Mr. Speaker, I have rarely heard, the hon. Corporate Member who has just sat down make a better speech; if I may say so, I was particularly pleased, as a Member of the Central Assembly, to hear him

[The Minister for Commerce and Industry]

put the matter of the work of the Members of the select committee in perspective. I should like to endorse everything that has been said. Some of the remarks by hon. Members about the work of that committee have possibly been ill-advised or possibly due to the fact that it may not have been appreciated quite how hard the committee worked.

I would, however, in congratulating the hon. Member on his speech, like to say that only one part of it surprised me, the only surprise I had was at the end of his speech when he found himself unable to support the amended Motion. Now, Sir, I noticed he had some difficulty in deciding what he was going to say at the end of his speech, because I had found myself in almost complete agreement until then, with every word the hon. gentleman uttered.

In fact, I can only think of one very small factual point upon which I would beg to disagree with him. He mentioned, for instance, the request that Lt.-Col. Ghermie made that there should be no whip in the Committee stage. Now in case hon. Members should think that in the Central Assembly there is an effective whip or such a thing as a Government majority, I have just looked up the figures as he was speaking—in fact I can quote the hon. Member's remarks in another place on this point. There are 13 *ex officio* and Nominated Government representatives and there are 19 Unofficial. Therefore there is no such thing as a majority which can be controlled by the principal officers of the High Commission who sit *ex officio* in that Assembly. Therefore that Assembly acts—and I choose the words my hon. friend has used most effectively—acts as a Council of State.

Now, Sir, I do not want to detain the House by going over the arguments again. Most of the points that my hon. friend made were points that I would have had to make myself if he had not so ably made them. But I would just make one remark before I sit down—that if hon. Members opposite would read the *Hansard* of the debate in the Central Legislative Assembly, they would not find that there was an atmosphere of Governments on one side and Unofficials debating suggestions for

amendment on the other. They would find that suggestions for amendment were made: and were pressed, not only by Unofficial Members of that Central Assembly, but also by Members such as myself and my hon. friend the Minister for Finance and Development, who are Nominated Official Members.

Now, Sir, the facts are on record and I suggest that some hon. Members would be wise to read that *Hansard* carefully.

Now, Sir, I was glad that the hon. Member, in speaking, referred to the undertaking given by the Financial Secretary to the High Commission. It is a very important one in terms of the amendment that has been moved from this side of the House. I do not want to labour the point, I am aware that hon. Members opposite have strong opinions, which they are quite entitled to hold. I am aware that my hon. friend the Member for Nairobi West, will soon be speaking, and I know he will be speaking in a most convincing manner. But I would ask hon. Members, before they reject the offer that is contained in the amendment prepared by my hon. friend—let them reflect as to what it means by acceptance and let them reflect as to what it means by rejection.

I am glad the hon. and gracious lady from Nyanza has come in, because some of the remarks that she made I cannot believe are consistent with the course of the debate in that Central Assembly to which my hon. friend the Corporate Member referred so much more ably and in so much more authoritative manner as the dozen of that body, than I could.

Mr. Speaker, I beg to support the amendment.

MR. ALEXANDER: Mr. Speaker, I understand that it is the wish of the Government that the business should be hurried, and to co-operate in this I do not intend to reply fully to this debate. In point of fact, Sir, if I committed myself to about ten minutes—

THE CHIEF SECRETARY (Mr. Coult): Mr. Speaker, on a point of information, Sir, I have already discussed this with you, and in view of the fact that you are going to rule that it is not possible for

[The Chief Secretary] the Government to take the Third Reading of the Deportation Bill this evening, and we will have to sit tomorrow, the hon. Member need not feel that he need be hurried.

MR. ALEXANDER: Mr. Speaker, I understand that perhaps there are people who consider that we would not be sitting tomorrow and who have therefore made arrangements and may not be here in any case, and, what is more, Mr. Speaker, it is quite apparent that the Government have chosen to reject a very reasonable Motion and in fact they have almost produced a direct negative to it. They have the competency to do so and, as I said yesterday, all we can do from this side of the House is to appeal and continue to appeal.

I will try to keep my remarks to about ten minutes and that will bring us to the next item on the agenda. The European Members are certainly taking no part in the debate on that Motion, and perhaps we may be able to get through the main part of the business tonight.

To analyse the attitude of the Government on this Motion, I think it is true to say that it falls into two main aspects. Firstly, that we should place our entire confidence and our trust in the Central Legislative Assembly to do what is best for us and the other territories; secondly, that we should allow this Act to work until we find mistakes, shortcomings and lack of wisdom, and that then we might come back to press for amendments—or rather we would leave it to the good wisdom of the High Commission Central Assembly to find those weaknesses, and leave it to them to do the business. This I believe is the clear attitude of the Government.

I would be delighted to spend a lot of time answering in detail much of what has been said from the other side. But I do not think, Mr. Speaker, any useful purpose would be served this evening. For the time being we will have to leave it with the disadvantage of these remarks from the Government side recorded in HANSARD to be against us. But we will come back. There will be another time to deal with these. It is not a very serious disadvantage in view of the fact that at

least we know, if others outside do not know, that we are dealing with an immovable Government to which we can only appeal.

But, Mr. Speaker, there have been one or two most unfortunate inferences that I must deal with. Firstly, Sir, the Secretary to the Treasury when he was speaking talked about people who complained and relied on hearsay evidence. I did interpolate and said: "On this side of the House?" but he did not answer me. Mr. Speaker, he was responsible in the debate on the Budget for this same sort of loose remark that could be attached to people on this side of the House. At that stage he talked about irresponsible remarks. I took him up and finally we sorted it out and he did agree that it was not from people on this side of the House. The clear inference he has left is that we here have been arguing from hearsay, and if he did not mean that then I will certainly give him an opportunity to correct that.

MR. MACKENZIE: Mr. Speaker, Sir, to clear up this matter once and for all, may I make it quite clear that what I had in mind was that much of the argument, many of the arguments, put forward in respect of this Bill, both in the select committee, in the Press—letters to the Press—and elsewhere, not, I might say, by my hon. friend, the Member for Nairobi West, who I am sure, has read the Bill, but many of these other statements have given one the impression that the knowledge of the Bill has been gained at second or third hand and has not been obtained through reading the clauses of the Bill in the way that members of the select committee had to study them, and in the way that responsible people throughout the Colony have studied them. I hope that is clear, Sir—that I am not making aspersions at Members of this House but merely at the general way in which it does appear that second and third hand views have rather clouded people's judgment on this matter.

MR. ALEXANDER: Mr. Speaker, I am grateful to the Secretary to the Treasury for that explanation.

The second complaint I have concerns the Minister for Finance. He was dealing with some remarks of mine when I

[Mr. Alexander] that practitioners had found some of this legislation difficult to understand and in a tone of voice, Mr. Speaker, that could only be regarded as abusive, he said this—and this concerns my profession: "When this Act has had time to be understood by the practitioners of the income tax profession in this country. . ." He was taken to task, I think, by my hon. friend, the Member for Ukamba, for that remark, and he said: "You read my words", but it was the tone of voice to which I take the greatest exception.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): If the hon. Member, before he imputes anything further to me, would read the rest of the sentence, he will find that it contains nothing derogatory. Sir, to his profession in this country.

MR. ALEXANDER: Certainly, Mr. Speaker, the rest of the sentence went on: "I will read the whole thing: "When this Act has had time to be understood by the practitioners of the income tax profession in this country, and in other territories, I have no doubt that they will begin to point out certain weaknesses." My complaint, Mr. Speaker, is in respect of the first remark, in that particular sentence, and I consider that the tone of it was most abusive.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): I would suggest, Mr. Speaker, that the hon. Member is not entitled to impute things to me which I never meant and which, as words show, I never said.

MR. ALEXANDER: Well, Sir, the Secretary to the Treasury was able even to interpret a type of laugh that I used to complain, and I am complaining, Mr. Speaker, of the tone of this particular remark.

However, the Minister for Finance does not choose to apologize and I have nothing more to add.

The third point I wish to deal with, Mr. Speaker, is the over-dramatized manner in which on this side of the House we were criticized for almost disrupting the economic integration of these three territories. At one time my heart beat for the Minister. I thought that he was carrying the whole load of the

economics of the three territories on his back, whereas of course it is not politics that does this—it is the solid business that is done by Unofficials, both on this side and on the other side of the House, in promoting trade and the professions between the three territories.

My argument was, Mr. Speaker, and I state it again, that I think it is unfair that our taxation in this country should in any way be decided by a territory, the mass of whose people pay no income tax whatsoever. Our duty is to Kenya and to strengthen the economic stability of this country, and in doing that we do our best for all the three territories.

I believe it would be short-sighted of us to be second best merely to placate a greater unit.

I have said, Mr. Speaker, that our only remedy is to return to the detailed complaints some other day. I believe the Government could have accepted this Motion or amended it sufficiently well to have at least some effect. The result, of course, is that we express complete satisfaction and we put our destiny in the hands of the Central Assembly, which I am not prepared to do, and I beg to oppose the amendment.

The question was put and carried.

MOTION

SUPPLIES AND TRANSPORT DEPARTMENT

THE MINISTER FOR TOURISM AND COMMON SERVICES (Mr. Crosskill): Mr. Speaker, I appreciated your ruling yesterday, and I now ask leave to move the amended Motion which stands in my name as Order No. 8 on the Order Paper. It reads:—

"That this House, in the light of the progress and development of the Department of Supplies and Transport, endorses the establishment by the Government, through the medium of that Department, of a permanent, central, Government organization for purchasing and holding Government stores and for providing a heavy repair workshop service for Government motor transport, and refers Vote 20 of the Estimates for the Financial Year, 1958/59, being the Vote relating to the said Department, to the Estimates Committee under Standing Order 119 (2)."

[The Minister for Tourism and Common Services]

Mr. Speaker, the objects in moving this Motion are threefold: First of all, since now this Department is on the threshold of full operation, and has recently opened its heavy repair workshop and transferred stores to a new depot in Liverpool Street, I feel it is right that the Government should make a statement showing what development has taken place, what progress there has been, and what we can anticipate for the future.

The second object is to allow debate on this subject.

Thirdly, Mr. Speaker, it will enable me to reply to questions which have been numerous on many facets of the development of this Organization. Two such questions arose today. Now, Sir, it is difficult to reply in the form of a parliamentary answer question to questions which are in their nature in some way hypothetical. Quite justifiably, one of the questions asked by the hon. Member for Nairobi West has a hypothetical turn. I know perfectly well, having discussed it with him, that he wishes me, when I say what is the relation of the turnover of the Supplies and Transport Organization to the cost of running it—he wishes me to translate the cost of running it on to a commercial basis. In order to give that in a fair way I must describe the background to it. There are certain aspects which would require explanation which one cannot give rightly in the form of an answer to a parliamentary question. I therefore propose, Mr. Speaker, today to give a full description of the present operation of the department of the current and future effect on the efficiency and economy of Government. I am quite certain that when I do this it will allay the anxieties which have been expressed, and I intend that I shall demonstrate quite clearly that this organization is a sound investment—a very sound investment—from the point of view of Government and the country. To this end, also, I do hope, that the Estimates Committee will continue its examination of this subject. One further reason why I felt that it was right that I should move this Motion is that having read the Minutes of the

Estimates Committee I do believe that they have not yet come to touch the fringe of this problem. They gave me to understand that they had finished taking evidence from representatives of the Supply and Transport Organization, at any rate for the time being, but I feel that by giving a full explanation and description of what is happening in this organization it will assist them also in their deliberations, and will enable them to come to a conclusion more rapidly and more correctly than they would have done if they had continued taking evidence without this full description which I am going to give.

Now, before I give details of the financial position—before I answer fully the questions which are asked today by the hon. Member for Nairobi West, I must go into the background against which Government took a decision to set up this organization. Before the Emergency there was no co-ordinated system of supply for Government departments. Each one fended for itself, and it was, therefore, not surprising when, under the strains and pressures of the Emergency the supply system to some extent failed. It could not stand up in its unintegrated form to those pressures. The Government, therefore, was perturbed and asked advice from the Crown Agents for the Colonies. As a result of this Messrs. Dawson and Warby came out to this country in 1953 and examined the situation between January and March, and made certain recommendations which may be summed up with regard to the purchase and custody of stores in the following brief paragraph of their report, which, with your permission, I will quote, Mr. Speaker:—

"In concluding this Report we would stress that an effective control over local purchase is a matter which requires urgent attention. We believe that this could best be achieved through a central stores organization, but we appreciate that this will require the most careful consideration, and in any case is not immediately practicable. We have, therefore, attempted to indicate the lines upon which certain reforms could be introduced without undue delay within the framework of the existing organization."

[The Minister for Tourism and Common Services]

Later, in 1954, again in Emergency conditions, Government became very perturbed about the facilities which were available for the repair of motor transport. It came, at one time, almost to a standstill, and they then again sought advice. Col. Henchley, an officer with considerable Ministry of Supply experience, came out here to advise us. He found that the police workshops, the P.W.D. the civilian resources, were all doing sterling work, but it was unco-ordinated, and it was inadequate for the undoubtedly trying circumstances in which Government was operating at that time. Col. Henchley submitted a report. He covered the stores holding ground as had been done by Messrs. Dawson and Warby, and he also made recommendations with regard to motor transport repairs. He endorsed almost completely the recommendations of Messrs. Dawson and Warby with regard to store holdings, and he made many recommendations with regard to the repair of transport including a recommendation that there should be a reserve holding of vehicles, that there should be a far greater degree of standardization of vehicles in order to facilitate the repair and holding of spare parts of the vehicles, and he emphasized that minor repairs should be distinct and separate from heavy repairs. At that time there were really only two agencies for carrying out the heavy repair of Government motor vehicles, the P.W.D. workshops and the civilian resources. That is what Col. Henchley said, but it must not be forgotten that the police workshops were also doing sterling work at that time. He recommended that the P.W.D. workshops, as they were then, should be increased to the extent that they would be self-sufficient. I should just add here that they then had between 800-900 vehicles, and there were some 3,000 other vehicles belonging to other Government departments. He decided, however, that in the circumstances with the facilities available that the bulk of heavy repairs should be put out to civilian contract. He commented on the spare position, and said that Government should not rely only on civilian resources. They had been serving us well, but the requirements were too large—placing too large

a strain on those civilian resources, and he said that, therefore, they should be held by Government in a central store.

It must be remembered that these recommendations were all made in the light of Emergency conditions, and he did make the recommendations mainly with a view to alleviate that position, but he did refer to basic principles, which should be considered in the future. He summed it up by saying: "We have, therefore, attempted to indicate the lines along which certain reforms could be introduced without undue delay within the framework of existing organization".

In 1955, following upon those two reports Government made the decision to set up the Supply and Transport Organization. This was to provide the current requirements, and to provide reserves for all the departments of Government which were concerned with internal security, and to provide later, it was hoped, common-user articles for other departments of Government. The heavy repair shop was also to be set up with a similar priority order for its services. This decision of Government was endorsed by Legislative Council when Development Supplementary Estimate No. 8 of 1954/55 was approved on 12th May, 1955, and subsequently Supplementary Estimate No. 5 of 1954/55 was approved on 8th June, 1955. So much, Mr. Speaker, for the background against which Government took the decision to set up this Organization.

Since Government, at the present time, purchases approximately £2,750,000 of stores a year and has some 3,000 vehicles in its fleet apart from those in the Ministry of Works, it will be appreciated that this is a task of very considerable magnitude.

The purchasing and stores division has been operating for some time. It has been operating under considerable difficulties with inadequate store space, and that store space has been dispersed and inconveniently situated, but now, as I have said, the Department has moved into its new depot, which has been built, and has just been completed at a cost, as I said earlier this afternoon, of £361,000, and it is now on the threshold of full operation.

[The Minister for Tourism and Common Services]

Before going any further I want to make one thing quite clear, and that is that the setting up of this organization is the first step in a process of rationalization of supply, stores holding and motor transport repairs throughout the whole country. It has been said on several occasions that it would have been better to reorganize provincial and departmental workshops and stores before a large organization such as this was set up. With that I disagree profoundly. Mr. Speaker, because before you can reduce in any way you must set up something in its place, and we now have—we are now in a position where we can relieve provincial and departmental workshops of heavy repair work by bringing it here centrally, so that we can now set about this task, to which I shall refer later, and which is of tremendous importance, of reducing other departmental workshops and stores. For this purpose Government is already making a survey. A Government committee is now investigating the transport position throughout the country, and will shortly be investigating the stores holding situation, examining the pattern throughout the country and making recommendations as to how it can be rationalized in accordance with the central organization which we have in Nairobi. There are, I may say, some 600 men throughout the country who are employed in motor transport repair and stores holding. There will be, undoubtedly, economies. It will be possible when we rationalize this to make reductions so that the overall picture will show economies—economies on the present situation.

Now the task of the Supply and Transport Department must be divided into two parts. First of all the purchasing and storage, and secondly the technical division. I want to deal with the purchasing and storage side first of all. Before Government took a decision to set up this very large organization costing a very large sum of money, they naturally had to be quite certain that in principle it was correct and that the principle was correct for application to the set of circumstances here in Kenya. I have told you that identical recommendations were made by Messrs.

Bawdon and Warby and Colonel Hanchley, but I have already told you that those reports were made in the light of Emergency conditions, and therefore I am not going to ask you to accept those alone, although, of course, it would be ridiculous to say that one should only have such an organization as this during an Emergency of some kind. It would be simply nonsense to give one's umbrella away after a shower of rain and not keep it until the next one. There may well be other Emergencies. By that I am not talking about rebellion—I say there may be dock strikes in London, shipping strikes, strikes here. Emergencies of that kind, for which we have to make provision. But never mind, I am going to pursue this further, and, with your permission, Mr. Speaker, I am going to quote from a very authoritative source on this question of central buying and central storing. It reads:—

"Central purchasing is generally accepted as the most economical method of obtaining the various requirements of large industrial concerns, local authorities and Government departments. It is most successful in the competitive market, and is the logical and rational means of obtaining the goods and purchases required for a large organization, whether private or public, having several departments working under unified control. Whenever possible purchases are based upon competitive tenders received either in response to advertisements or by applications from firms whose names appear on a list of select contractors. Having established itself as a central buying organization, the Department is able to deal direct with manufacturers or wholesalers, with the result of price advantages."

It then goes on to refer to quality. "Many goods of which the total requirements are considerable may only be obtained direct at first-hand prices. If delivery can be taken at one place and time, the departments must therefore be in a position to purchase in manufacturers' quantities and this involves central storage and subsequent distribution. At present the goods issued through stores amount in value to over £200,000 per annum but they represent only part of

[The Minister for Tourism and Common Services]

the requirements which could economically be co-ordinated and bought direct. The realization of the desirable development cannot be achieved until the Council's decision to acquire suitable premises for a central store on one site can be implemented. Negotiations for the acquisition of a site for this purpose are in progress."

That advice, Mr. Speaker, was not given to us, it was not given to any Government department; it was given to Surrey County Council. Now as far as I know, Sir, there is no Emergency, no rebellion in Surrey, nor likely to be, but that has been the organization through which they, and, as far as I know, almost every county council in England, operate and make their purchases, through central organizations. Now, it is quite easy, Sir; there are plenty of places just round the corner in Surrey where you can buy your requirements; you can ring up Harrod's if you cannot get them round the corner, or ring up the factory in Birmingham. But they do not. They also have proved through the years and this organization has been operating for 31 years—that that is the most efficient and economical way that that Council can get its requirements.

The departments operating for the county council include schools, fire brigades, welfare organizations, canteens, clinics, hospitals—the same sort of organizations for which we have to provide in this country. They buy clothing, footwear, linen, brushwear, cutlery, gardening tools, sports gear, stationery—again all the sort of requirements which our schools, our hospitals, our clinics, require out here. They even provide services for the county council, and I was amused to see that through their Supplies and Transport they even acquire chimney sweeping services, car hire and piano tuning. I do not ask that we shall go as far as that but you will see the opinion and the value that the Surrey County Council attaches to its supply and transport organization.

Now if this is the experience—and it is the tried and tested experience—of this county council in England, how much more important is it to us here, where we cannot by any means find all that we

require in this country, in East Africa, where certainly some part of our requirements must come from overseas, where we must hold reserves because our communications are far more tenuous than those of the county council in Surrey. Therefore I suggest to you, Sir, that in principle and in the application of this principle, Government is incontrovertibly correct in setting up this organization for central stores holding. It is nothing novel; it is not original. It is not a "fabulous empire", but it is a normal, rational, evolutionary step which all governments and large consuming organizations should take in the interests of economy and in the interests of efficiency.

Now, the hon. Member for Nairobi West keeps talking about "empires". It is very dangerous when one talks in platform clichés—the formation of a "fabulous empire"—but it is more dangerous still when one starts thinking in platform clichés. And I do think that it is very misleading. He took me to task the other day for talking about the birth of an empire, and it was unwise of me to accept his cliché. But I will put it to him in this way: when Mr. Marks said to Mr. Spencer many years ago, "May I please add a newspaper counter on to the end of your sweetshop?"—that was the birth of an empire. And that was a very beneficial empire; a very beneficial development in the retailing of stores, which has been of tremendous assistance to the population of Britain.

Now the aim and object of the Supplies and Transport Department, Mr. Speaker, is *vis ration d'être*, it is to co-ordinate Government supply and demand and so prevent over ordering and duplication. Over ordering and duplication was the subject of comment by, I think, both of the Commissioners who reported. It is also to effect maximum economy commensurate with efficiency and to eliminate possibly shortages and delays by holding reserves against an emergency. Now that is setting our sights high, and so they should be. This organization is not infallible, however; it will not be infallible but if we have any skeletons I can assure hon. Members that they are not going to be locked away in cupboards; they will be there for everyone to see. If we make errors—and we shall make errors—we shall not hide them; our object will rather be to remedy them.

[The Minister for Tourism and Common Services]

I would just like to refer now, Mr. Speaker, to the respective functions of the Ministry of Works and the Supplies and Transport Department on which there is undoubtedly a lack of understanding by many people. There has been overlapping. During the Emergency, all shoulders had to go to the wheel. The Ministry of Works ordered stores which were not really in their province, in order to assist in the progress of anti-Emergency operations. The police repaired vehicles; everybody repaired vehicles; everybody did whatever they could in order to enable the Security Forces to carry out their task. There was overlapping, but now there is not, and there is a very clear distinction between the function and operation of the Ministry of Works and the Supplies and Transport Department. The Ministry of Works is responsible for the supply of structural and engineering stores and services; and the Supplies and Transport Department is responsible for the provision of all common user articles, primarily for the security force departments and, after that, for other Government departments, and for heavy repairs.

I would like to put it to you like this. The Ministry of Works corresponds, in the Army, to the Royal Engineers—they are the sappers. And the Supplies and Transport Department corresponds, exactly to the functions of the Royal Army Ordnance Corps and R.E.M.E. It is now operating on that very clear distinction between the two and there is now no overlapping which is uneconomic. I will make one reservation, because there is only one aspect in which there is overlapping, which, to my mind, is justified at the present time. At some time, theoretically at least, it will perhaps be advisable that the Supplies and Transport heavy repair shop should take over the heavy repairs of the motor transport of the Ministry of Works. But I would not think of asking that it should do that at the present time. The Ministry of Works is self-sufficient in heavy and light repair and it is working very efficiently, therefore it is much better to leave well alone until such time as the heavy repair shop of the Supplies and Transport

Department can deal efficiently and adequately with all the vehicles of Government.

Again, I should like to say this: it has been suggested that we could do with one less Ministry. I should like to say here and now that it does not matter to me or really to Government whether my Ministry or the Ministry of Community Development runs this organization. What we must have is a heavy repair workshop and a central stores organization and purchasing division; it does not matter who runs it, but it will be found, if we are organizing this properly (and I can assure hon. Members that we are well on the way to doing so) it would require the same staff as is operating those divisions at the present time.

Another point I should like to make, Sir, is this: it does not mean with a central buying and storage organization that Government is going to spend more. Some people believe that that is so. Government is going to spend less, and the further we develop this organization on the lines that have been followed by Surrey County Council, the more we shall save. Later on, I shall be able to tell you of the financial position, and I think that many Members will be astounded. I could not tell you, for the reasons that I mentioned earlier this evening, I could not reply to the hon. Member for Nairobi West's question, because, as I say, it required explanation: he wants me to translate the running cost of the organization on to a commercial basis. That I am willing to do, and have done, but it requires more explanation than can be given in the reply to a parliamentary question, such as I was asked as a supplementary this afternoon. I have no wish to avoid any questions; we have nothing to hide. We are proud of the figures which I shall produce during this debate, Sir.

Sir, I should now like just briefly to outline the organization of the Department. It has four divisions: a purchasing division, a stores division, the Central Tender Board and a technical division. The purchasing division, to take that first, is responsible for investigating markets for ascertaining prices and for inspecting the material and stores which have been bought. Now, the keynote of

[The Minister for Tourism and Common Services]

This department is flexibility. There has been a suggestion that we shall be too dogmatic and all stores will be bought centrally; that is wrong. No organization can be really efficient without a degree of flexibility. This possibly requires a greater degree than most organizations with which we deal. There must be the utmost flexibility, flexibility *vis-à-vis* the purchases from the United Kingdom and purchases in Kenya, flexibility again *vis-à-vis* the purchases centrally in Nairobi and purchases in the provinces. Now, it has been suggested that this organization is wrong because when a department requires a pencil or a bit of blotting paper it has to write down from Kitale to Nairobi. Nonsense, Sir, not at all, this is where this flexibility comes in. Nothing of that sort. There will always be authority to buy locally. It may not be so great as it is at the present time, because I more prove to you that we require a central control to achieve the greatest economy. But there will always be the ability to buy locally, an urgency, an occasion when something is urgent, and, of course, that officer must buy locally. But I would only say this: we cannot accept convenience for urgency. In order to achieve economy, and we must achieve it, the utmost possible, officers must think ahead, must have foresight, foresee what they require and take steps to let Supplies and Transport advise them with regard to the supply. That is all we ask.

It may well be that an officer, let us say, at Nakuru will ask for, let us say, some blotting paper, and he will quote a price. It may be very cheap indeed and Supplies and Transport will say, "Buy. Not only buy your own requirements, but buy all you can at that price, and we will rail it down here and store it, because we must buy in the most favourable market we can find and at the most favourable time".

Now perhaps the most important point that I want to make—and the last point that I shall be able to make this evening, Mr. Speaker—is with regard to local purchase. It is Government policy that they will prefer to buy locally rather than import, everything else being equal. Provided the supply is there, pro-

vided the standards are right, and this department is flexible, government will buy locally here in East Africa rather than import. I shall later give you figures, which again I think will astonish Members, showing that there is a tremendous bias in favour of local purchase, and that the very large majority of the stores bought by the Supplies and Transport Department are bought locally. I will just tell you that at the present time just the stores alone that come into the central depot here comprise 38 per cent bought locally here in Kenya and 42 per cent imported. But that is small compared with the amount of supplies and stores which are bought by departments directly under contracts arranged by Supplies and Transport, and those are entirely local purchases. They amount to a very big figure which I shall be able to tell hon. Members about tomorrow.

ADJOURNMENT

THE SPEAKER (Sir Ferdinand Chadwick-Bentick): We have now reached the time laid down for the interruption of business and I therefore adjourn Council until 9.30 a.m. tomorrow, Friday, 27th February, 1959.

The House rose at fifteen minutes past six o'clock.

Friday, 27th February, 1959

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

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

PRAYERS

BILL

REPORT AND THIRD READING

The Deportation (Immigrant British Subjects) (Amendment) Bill

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Speaker, Sir, a Committee of the whole Council having reported the Deportation (Immigrant British Subjects) (Amendment) Bill with amendments, I beg to move that the Council doth agree with the Committee in the said report.

The question was put and carried

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Speaker, Sir, I beg to move that the Deportation (Immigrant British Subjects) (Amendment) Bill be now read a Third Time.

THE CHIEF SECRETARY (Mr. Courts): seconded.

Question proposed.

The question was put and carried.

The Bill was accordingly read a Third Time and passed.

MOTION

SUPPLIES AND TRANSPORT DEPARTMENT

Resumption of debate interrupted on 26th February, 1959.

THE MINISTER FOR TOURISM AND COMMON SERVICES (Mr. Crosskill): Mr. Speaker, Sir, when Council adjourned yesterday evening, I had been describing the functions and operation of the purchasing division of the Supplies and Transport Department. I had emphasized that the manner in which they operated was dictated by a policy of flexibility as to purchase here and by importation, and I also said that there was a considerable predominance of local purchase as against importation. I said that with regard to the direct purchases for stores holding at the moment it was 58 per cent

as against 42 per cent, but this is temporarily enhanced by a peculiar circumstance and I should say that normally it is 50:50 at the present time. But, of course, that only takes into consideration the stores purchased for holding and the majority of purchases by Government, amounting to £849,000 estimated this year, are purchased by departments direct under contracts arranged by the Supplies and Transport Department. Those, of course, entirely local purchase. Therefore there is a very considerable predominance in favour of local purchase.

I now wish to describe briefly the functions of the stores division. That, as its name implies, is the stores holding section of the Department. It is responsible for stock control and it is responsible for providing statistics to the provisioning commissioner. One of its most difficult functions is the holding of motor transport spares, which is causing us concern at the present time, in order to obtain an adequate quantity of these because, besides providing for our own requirements for the heavy repair shop, we must run an over-the-counter service for other departments for light repair.

In addition to that, there will be a returned stores depot, that is, a section which will concern itself with salvage. I shall not forget easily once towards the end of the last war, when I was A.Q.M.G. here and responsible for the Ordnance Depot as well as salvage. I went one day and found the Ordnance Department were boarding greatacoats and clothing and to make quite certain that they were in a fit state for boarding they were tearing up the seams. I then found they were passing these round to the Salvage Department who were solemnly sewing them up again. I can assure hon. Members that that will not happen here.

Another section of the Department is the Central Tender Board and its functions, I think, are self-explanatory. That, of course, is responsible for letting contracts and for authorizing purchase above £150. Finally, there is the technical division which includes the heavy repair shop and also a shop for small arm repair and repair of wireless sets. Incidentally, there are 750 wireless sets owned by Government. Those functions hitherto have been performed by the

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police and what has happened then is that those departments have been transferred from the Police to the Supplies and Transport. So there is no increase there, or no considerable increase, in size.

Now, there is one particular function of the Controller to which I want to refer and it is of very great importance. I am going to point out several factors which make the Department unpopular, unnecessarily so. In the Bawden and Warby Report, the recommendation is with regard to one of the functions of the Controller that his independence of other departments—and I quote, Sir—"is an essential feature since he will be required to keep a watchful eye on their demands, with a view to the maximum amount of standardization and the elimination of waste."

That, of course, is not popular but it is necessary in the interests of economy and efficiency. He must particularly pay attention to what we laughingly refer to as "end of year purchases". Now, it is very peculiar, and it has been referred to time and time again in the Auditor-General's report, but towards the end of the financial year there are rather more purchases than normal. Now, in the interests of Government and the taxpayer that should not be so; unless those purchases are essential they should not be made and that money should be returned to general revenue.

Another reason why, of course, this Department will be, to some degree, unpopular is that if Government is going to gain—and I assure you that Government is going to gain—somebody is not going to do quite so well as he has been doing. I shall refer to that a little later, but again that is necessary.

I now wish to refer to the question of standardization. In order to achieve economy and efficiency there must be a high degree of standardization but not complete standardization, quite obviously. We must have standardization to a degree in motor transport, from that right down to things such as mouse-traps, in every line, in the shade of khaki drill which is issued to various departments and so forth. Quite obviously, one

does not want to make that standardization 100 per cent; it is an advantage to have eggs in several baskets, and I shall refer to this more fully with regard to motor transport. But minor differences must be eliminated and I think that where departments have pet likenesses for a particular shade of material and so forth those preferences must be subordinated to the major factor of economy and efficiency.

On the question of accounting, Mr. Speaker, the method of accounting by Government differs from that adopted in commercial life. By that I do not mean that it is better nor do I mean that it is worse, but it is different and it happens to suit Government requirements more than a commercial system does. Therefore, the Government, to a very great extent, adopts the principle of common services, common services being provided "for by specific votes," and therefore the functions of these service departments are not offset wholly, at least, by appropriations-in-aid. The reason, as I say, is simply that of economy and efficiency, and it does not pay Government to cost out every task and every item which it issues to departments. But on the other hand, it must be able at any time to do so as an academic exercise in order to check its efficiency and check offers by commercial firms against what Government can do itself. Therefore, when stores are costed out to departments, Sir, Government does not include elements which are not paid by Government, such as customs duties, nor are the following factors taken into account: interest on capital, depreciation, pensions and passages, gratuities, renewals, insurance and commission paid to Crown Agents. That is, under the normal procedure those are not taken into account and costed out to the departments purchasing.

Furthermore, full advantage, quite naturally, is taken of any rebate which Government can negotiate, freight rebates and so forth, on account of its large-scale operation. Nevertheless, at any time Government must be able to introduce these factors in order to draw fair comparisons with commercial offers to it which it may wish to purchase. For this exercise this is an academic exercise regularly carried out or carried out

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when necessary—Customs duty, insurance, Crown Agents' commission and inspection charges (the latter amounting to 2½ per cent) are added in artificially to the quotation by the Crown Agents, together, of course, with freight charges.

Furthermore, as I have said, we are authorized to exercise a bias in favour of the local article. It has been said that that is 5 per cent, but it is now done on an *ad hoc* basis because we wish particularly to encourage local secondary industry and manufacture and also commerce, in particular where a service is given as well as a purchase made.

Now I wish to go into the question of economies which are now being made actually and which are greater potentially in the future, that is through the exercise of the central purchasing and stores organization. But I would point out first of all that economy pure and simply is not the only advantage which accrues to Government over the operation of this organization. What we must have also is the provision of quality. We must also hold reserves against emergencies and we must also minimize redundancy. That we know can be done more effectively by a central organization than by dispersed departmental holdings on a large scale.

Now as for the monetary saving. Before claiming these, as I said yesterday, I propose to translate the basis of the running costs, of the administrative costs, of the organization on to a fully commercial basis just to show hon. Members, Sir, that there is no deception.

I must first of all say that I am taking the technical division separately from the purchasing and stores organization. Their functions are different; the accounting is different. Therefore, I have taken extracts from the Colony's estimates for this year which show that the cost of running the purchasing and stores division, the Central Tender Board and its element of accountancy, for the year, has been £39,039. Now, on to this I am adding £30,662 in respect of passages, pensions, gratuities, interest on development capital at the rate of 6 per cent, interest on stores fund at 5 per cent, rent of offices, contribution in lieu of

rates, maintenance of buildings, depreciation of plant and machinery. I think hon. Members will agree that when these are added we are on a fair commercial basis.

On to these I must add the cost, similarly estimated, of running the Central Tender Board, which amounts to £5,507, making a total of £75,208. That is excluding the technical division.

Now, it is estimated this year that this organization will purchase on behalf of Government, or arrange purchases, goods amounting to £1,429,000. These purchases are partly made, as I have said, direct by departments under contracts arranged by the Supplies and Transport Department, and partly direct purchases of articles taken into store. Those taken into store are estimated to be £580,000, and purchases made under contract arranged, £849,000. This makes a total of £1,429,000. For the interest of Members, I will say that it is estimated that the breakdown of the purchases under contracts are as follows: Foodstuffs, £218,000; uniforms, £64,000; vehicles, £236,000; petrol, £300,000; tyre retreads, £20,000; incidentals, £11,000. Therefore, the cost of purchasing Government's requirements, amounting to almost £1,500,000, is the equivalent of 51 per cent. That is 51 per cent on the total running costs, based on a commercial basis, or 21 per cent as Government assesses the administrative costs.

Now I would just like to look at this another way. When Government makes purchases under contracts which it arranges it naturally gets considerable discounts. Now they are scarcely ever less than 10 per cent except in the case of petrol which is just under 3 per cent and they range normally between 10 and 20 per cent. But in one quite large-scale operation at the present time it is as much as 40 per cent. But 9 per cent of the turnover of the contract purchased, amounting to £849,000, covers entirely the cost of running the purchasing and stores division of the Supplies and Transport Department. Now on top of this, of course, we have the £580,000 of stores taken into the central depot here on which also we make a profit, or make a saving for Government departments.

Now this is the overall picture of the operation of those divisions of the

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Supplies and Transport Department, and I consider, Mr. Speaker, that they are not unsatisfactory. They can and must be bettered, and I am now going to tell hon. Members how they can be improved; how they must be improved.

Now the administrative cost in running the stores—I am going to dissect the problem now—and that, of course, varies tremendously with the turnover—the greater the turnover of stores quite naturally the lower the percentage cost of administering, and it works out as follows: In order to recover charges which are normally in the Government accounts—it is 10 per cent when the turnover is £40,000, or 6 per cent when it is £90,000. Putting it on to a fully commercial basis it is 16 per cent when it is £40,000 and 9 per cent when it is £90,000. Therefore, Mr. Speaker, I think it is quite obvious that that turnover should be increased with two provisos, the provisos being that when Government departments require more stores than they are now getting through the Supply and Transport Department, and furthermore, that the stores and staff are capable of dealing with that increase, and the answer to both of those is "yes". They do want more and the Stores Department can deal with it.

Now Government purchases, including Ministry of Works, are approximately at the present time £2,750,000 a year. Of these I have told you that just over £500,000 is purchased direct and taken into store. Just over £750,000 is purchased direct by departments under contract, and that means £1,250,000 which has been spent by departments on local purchases throughout the country. Now Messrs. Bawden and Warby foresaw this and they have recommended in their report that the local purchasing authority which is at present £150 should be reduced to £50. Now that is for consideration. I believe that it would be in the interest of the country and the Government that that should be done. As I have said we do not want to cut out our local purchases, by which I mean local purchases for the provinces by administrative officers and departmental officers. That must continue, but I do believe that it would be in the interests of all that should be reduced. The East African

Posts and Telegraphs Organization have reduced theirs to £10 because they realize fully that they must have the greatest possible control over their purchases by their administration as they can.

Now the reason I say that we should increase centralizing purchasing is that we are now in the days of stabilization. We must have statements of purchases, specialist investigation in the markets and advising people where they can buy on the best and most favourable terms. We must make maximum savings, that everybody appreciates now. We have got to examine every penny of expenditure in the country, and you can only get maximum saving when you have got your maximum concentration of buying power and bargaining power, and that is when you buy in bulk—and furthermore you must have a higher degree of standardization than you have at the present time. If this is done there will be appreciable savings on almost every article purchased, but there will always be exceptions. Hon. Members will always be able to find that they can get a spanner or a bucket somewhere more cheaply. That is bound to happen. As I have said, there are other factors—that is the continued continuity of supply which has to be taken into account, and I have also said, if it is found that in some part of the country one can get articles which are cheaper than can be supplied from the Stores Fund, then the Stores Fund will probably purchase them.

That brings me, Mr. Speaker, now to the question of the Stores Fund. As hon. Members know, the amount of that so far voted by Legislative Council is £300,000. Now it is quite obvious that if we are going to increase the activities and purchasing of this organization it will be necessary to increase this fund appreciably, if for nothing else, for the purchase of motor transport spares. We are not certain yet how exactly the motor transport spares are to be held, or rather in what quantities. Col. Henchley recommended that—or estimated that—spares amounting to £300,000 a year would be required, and of course it may not be necessary, of course, to hold a whole year's supply, but one has got to feel the way. When you are starting a big organization like this the great thing is not to be short. We may go a little too big at the beginning, and we can reduce

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as we go along, as the local market becomes attuned to the demands of this heavy repair workshop. So we have got to feel our way, but you will see that if we are going to hold anything like £100,000 or £200,000 worth of spares the present level of the Stores Fund is inadequate, and, in fact, it had to be increased recently. We had to ask the Treasury to agree to a small increase of £50,000 from the Civil Contingency Fund, and this is for a very interesting reason, a reason which throws considerable light on the very salutary operations of this Department. Now that was because three departments recently, from whom the Stores and Transport Stores Fund have been taking over stores from their departmental stores, suddenly said that they could not accept £104,000 worth of articles, for which they had given firm orders. Now the reason for this, of course, is that, quite obviously, they were over-stocked and are now living on their fat, while it lasts, and that, I think, throws a very salutary light on the effect which this Central Stores Organization is having and on the rationalization of the stores holding throughout the country, of which I spoke yesterday. This, incidentally, may have another effect. I said that the stores purchases this year would amount to the estimate of £580,000, but I do not want to hide from Members that on account of this non-acceptance of this amount of £104,000 that the turnover will not be as big as those purchases, and we may only sell and issue about £400,000. That is a temporary phase, which is inevitable owing to this process of rationalization.

I now come to the technical position, Mr. Speaker. Col. Henchley pointed out—I think it is quite clear to everybody—that in order to get efficient repair of motor transport you must have light repair and heavy repair done separately. The light repair, of course, will be done by the unit, by the department or by the individual workshops throughout the country. The exact manner has not yet been determined, as I said yesterday, because the survey is now being carried out and will have to be considered, but heavy repair must be done separately because it requires different types of

spares, different types of skills, different types of equipment. Again, you must dissect every repair into two different departments—one being the repair of assemblies, and the other being the complete reconditioning of vehicles. There is provision for both in the heavy repair shop in Liverpool Road, and there are bays for—34 bays for—stripping these vehicles. The first phase, which was the repair of assemblies was started on 1st November last year, and the complete reconditioning of vehicles started this month. The majority of the staffs of these workshops was transferred from the police. Others had been taken on to increase its capacity, and as I said, again, the same with stores, this is the first step in the rationalization of motor transport repair, because when you can relieve departmental workshops of heavy repair by taking their assemblies which can be railed or transported down here by taking their vehicles when they become unserviceable, they can then reduce the work which they are doing on to a basis of light repairs only, and that will be done. In the organization of this I should like to express thanks to the police and to the Ministry of Works for the assistance and advice which they have given. They have not only transferred their staff—very experienced, a number of them—but they have also given a great deal of advice. On the question of standardization I would like to go into this in a little more detail with regard to motor transport. As I said, we do not want to standardize too highly, but to show you what is happening at the present time, I would just like to tell you the composition of the fleet. Of the Government fleet of vehicles which numbers 3,653, we have 1,519 Land-Rovers, 557 Austin lorries, 482 Bedford lorries, 162 Fordson lorries, 568 Morris lorries, 42 Ford saloons, 13 Humber saloons, 25 Standard saloons. That totals 3,358, which leaves 285—and those 3,358 are of six or eight varieties. The other 285 vehicles owned by the Government are of 21 different makes, and so you can see that the process of standardization is going on, and the object will be, gradually, as these vehicles become unserviceable, to eliminate those 21 different makes, of which we have 285 vehicles. But there are big advantages as I said yesterday, in having "our eyes

[The Minister for Tourism and Common Services] in several baskets". At least six—possibly eight.

Now, a heavy repair shop can only really work efficiently if it is worked on the pool principle, by which I mean, that when a department hands a vehicle in they have immediate replacement, either of a reconditioned vehicle or a new vehicle. Colonel Henchley pointed this out, and I do hope it will be possible to operate on this principle, but again, it depends on the size of the Stores Fund temporarily—the Stores Fund being, of course, working capital and not extended money, but it will make for greater efficiency if we can work on that principle. It will reduce the task of accountancy because we shall merely take a vehicle in and give another one out against the vehicle establishment, but if we work on that principle hon. Members will appreciate that it should be possible for departments to reduce their vehicle holdings if they know that directly a vehicle is unserviceable and they hand it in they can get another, they can quite obviously do with less vehicles than they have at the present time, and the operation of that principle would assist, of course, in building up a pool. It is estimated by Colonel Henchley that the life of a vehicle out here is four to five years. The Ministry of Works now work on a basis of 40,000 miles. We have, at the present time, got to work *ad hoc* until we can catch up because hon. Members must appreciate that, since heavy repair has not been done throughout the whole of the Government fleet on a systematic basis before, it will take some time before vehicles come in before the end of their economic life, and that is of tremendous importance. A vehicle should not remain with a department or unit until it "dies on its feet". It must come in in the interests of economy and be reconditioned while it is still worth reconditioning. At the present time we are having to take in some vehicles which are past it, but owing to financial stringency and so forth it has been necessary to recondition some of these which would not normally be done, but which should be boarded in and replaced, but which

should have been reconditioned some time ago.

We estimate that with that fleet of 3,000 vehicles and a life of four to five years there should be about 800 a year coming in to the heavy repair workshops, of which maybe 100-200 will be boarded and the rest will be reconditioned. We shall be able to recondition some 600 vehicles a year.

With regard to spares, Sir, apart from the spares we require we must provide an over the counter service for other departments, as I have said. Our attitude to the provision of spares at the moment is one of flexibility. We have got to find out what the local market can provide when it becomes attuned to our demands, and meanwhile we may have to import some. At one time the police workshops were holding motor transport spares to the value of £200,000. But those have been run down and when we took over from them we found that their value was over £25,000. We are now having to look round hastily and we may have to import some temporarily, and we may have to get some by air freight, but the main thing is to keep the workshops going. There may be difficulties, and we are having a difficult time at the present moment, but those difficulties are not insuperable. They will be overcome as speedily as we can arrange.

I should now like to refer to staff. I have already said, Mr. Speaker, that this is a task of considerable magnitude and it is a task which depends for its execution to a very great extent on the executive capacity of people who are running it. These people have been working under difficulties and I cannot speak too highly of their achievement both in the technical divisions and in the other divisions. They have been going into new quarters, they have been taking over stores from other departments, they have been, at the same time, dealing with day to day business, and again looking to the future with regard to provision. At the same time, unfortunately, they have been looking over their shoulder at criticism which I contend is due to lack of information about the operation of this Department. I do hope now that it will not be considered that the Government is building up a

[The Minister for Tourism and Common Services] monstrous Babylon of iniquity. I do hope it will be realized what this Department is achieving and will achieve in the future.

I think, therefore, it is quite right to tell the House this, in order to allay anxieties, about, and give information with regard to, the operation of this Department.

The development of this Department is difficult because, as I have said, in some respects it is unpopular. I would say that it is similar in that respect to the Income Tax Department because it has to exercise vigilance on Government expenditure. It is unpopular to some extent with other departments, at the lower levels mainly, and with the Administration, because to some extent it is reducing their independence. It is making a less convenient for them to justify round-the-corner purchasing. It means that they have got to look ahead and plan in order that the Government shall be able to effect the maximum economies. Again, Sir, as I have said, as one of the functions of the Controller to keep a watchful eye on expenditure. That is inevitable. It is unpopular to some extent with retailers because the Government must, to some extent, reduce its retail purchase. It is unpopular, of course, with producers—very unpopular with me myself—because I disapprove strongly of the price at which we are now purchasing milk (and I am a milk producer) and selling it to the schools. But it is in the interests of Government that we should do so. It is also unpopular with people who have not understood it. I do hope that that position will now change.

I do ask hon. Members not to accept popularity as a criterion by which to judge this Organization. I was an ardent critic of this Organization myself. I have criticized this from the opposite Benches. I am still a critic of it. But I am still convinced myself that it is an organization without which the Government cannot operate efficiently.

The Secretary to the Treasury some years ago, when moving the adoption of the Supplementary Estimates, said that he believed this money was well spent.

Mr. Speaker, I know that it is being well spent. I know that it is a valuable investment, not only to the Government but also to the country.

Mr. Speaker, I beg to move.

Mr. ROGERS (Nominated Member): Mr. Speaker, I rise to second.

Sir, I am a Nominated Back Bencher. As such I have been proud to serve Kenya and, before Kenya; Nigeria for many years. On Wednesday, Sir, the hon. Member for Nairobi West had some very hard things to say about Members of this side of the House. There have also been other comments more specifically regarding the position of Nominated Members. With your permission, therefore, Sir, I would now like to reply with equal vigour because I think the position is rather misunderstood; and I do this in explanation of my wish to second this Motion.

I think, Sir, that the position of Nominated Members in our stage of the development of the Government is well known and, indeed, accepted. Until the party system is built up there is no effective alternative. What, in fact, could we do here? We could fill these Benches with Government servants, but then I would suggest that their presence here for long periods must react against the efficiency of their departments. Yet the Government must govern and they cannot govern without a majority.

I would also like to say—

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): Mr. Rogers, I would like to give you as much latitude as possible, as much as I can; but we are not discussing the Constitution. At the moment we are discussing a specific Motion; please confine yourself to that.

Mr. ALEXANDER: You have made your point.

Mr. ROGERS: I am sorry, Mr. Speaker, I accept your ruling, of course, but perhaps I could remind you, with the greatest appreciation of your position, that we were, and have been, attacked in the past.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): That happens in political life. You have not been attacked in this debate.

Mr. ROGERS: Of course, Sir, I accept your ruling and must leave that subject.

I turn to the Motion, Sir. I suggest that no one could disagree with the principle which is set out. It is a principle adopted by many business houses and adopted with great success. In the same way, however, I do not think that anyone could expect to agree entirely with the way it is implemented or in the details of its organization, and indeed I have one or two recommendations to make as I speak to it. I am glad to say that like all our Ministers in Kenya, the hon. Member of this Motion would welcome suggestions and be very ready to listen to advice. I hasten to add, of course, that one of my recommendations is not that the Department should be closed down, Sir, forthwith.

First of all, Sir, regarding the vital question of local purchase, we have heard the Minister's assurance on this, and indeed we have had it before us from the start of this Department, that they will always purchase locally, including local sources and local agents, if conditions are equal of the conditions as based on commercial practice, and so commercially costed purchase. Indeed, Sir, the Department will be biased towards local purchase. I think I can reassure hon. Members on this matter, Sir, because I can tell them of a specific instance. Merchants were concerned that orders were being placed with the Crown Agents overseas. It was, therefore, arranged that all indents so placed should be exhibited for a reasonable period to see whether any could be filled from local sources or through local agents. After a reasonable trial period it was mutually agreed by organized commerce and the Department that the changes in these indents did not, in fact, justify the continuance of their exhibition. In other words, orders were not in fact being placed overseas which could be filled here.

Now, as the Minister has said, Sir, there has been considerable criticism of this Department in relation with the Minister of Works. Some people say that the Supplies and Transport people should take over the indenting and repairs for the Minister of Works, that running two organizations which are parallel is in fact wasteful. Others, however, say that for the Supplies and Transport to do

this will give them mechanical indenting indigestion. I suggest that the very fact that there are two opinions in this matter indicates how complex it is and that there is no certain road to success.

The Minister has outlined the position and has emphasized how essential it is to remain flexible. I think what it really boils down to is that both these Departments are large enough to operate individually as economic units.

I dealt with the question of indenting. The multiplicity of indenting units, all their offices and officers, I feel is something which must be put right in this country, for when you add their own stocks—that is, their buffer stocks—to the on order and to the in transit figure and multiply this by the many indenting units which exist in this country, or have existed, it will give some idea of the advantage of centralizing. Naturally, the greatest care must be taken that this is not carried too far and that it is maintained in a flexible way. It would obviously be wrong to purchase small stocks centrally and send those out to outlying organizations, they must have power to buy their own, which, indeed, they have.

Now, Sir, we turn to repairs, and here again I feel that a centralized system for repairs, as long as it is properly organized, of course, is the way to do it. Naturally, it must not be carried to extremes. It would, of course, be very wrong to bring vehicles any but a reasonably short distance.

Now, in building up an organization like this, as the Minister has said, there is always bound to be talk of empire building. Of course I have heard all about Parkinson's Law. But I also feel that to have five repair workshops in a small place like Nyeri is indeed uneconomic and it is this situation which basically the Supplies and Transport Department set out to rectify.

Naturally, in indenting and in heavy repairs, it is necessary that as the centralized system comes into force the existing outside units should finally run down and disappear.

Now, Sir, to get away from principle and to give one or two individual specific recommendations, the business community are of course very closely connected with this matter and they do

(Mr. Rogers) indeed entertain fears as to how the intended entertainment will be organized. It is only natural that they do. A number of us have discussed this Department with the Minister and his officials and I would like to record at once that we found right from the start a very broad minded attitude, an attitude of being very willing to listen to advice. I feel, however, that the Minister will agree how essential it is to keep confidence in the public and to hold that confidence, particularly amongst the business men. This Department is virtually a part of the commercial life of Kenya and to many businesses it is part of their very existence. I will give you one illustration. Many of us concerned feel not that the Department is empire building but, in the case of things like spare parts for vehicles, they are in fact thinking in too small a way—they are not thinking big enough. May I commend to the Department the highly organized and efficient motor industry which exists in this county? I know they will be only too pleased to give advice.

I wonder, however, whether we are not indeed nibbling at this problem and whether the best plan would not be to face quite firmly the fact that this Department is a commercial undertaking. It is not a Government Department. I myself would not be in favour of a standing advisory board or anything of that nature to supervise the day to day work of the Department; nor do I think it would be desirable. Furthermore, Sir, they would be placed in that position of hell on earth, of having responsibility without authority. We have, Sir, in Kenya, however, a wealth of business experience and perhaps as one of their representations I could use the word genius.

Many of we business men have indeed no connexion whatsoever with the Supplies and Transport Department because our business does not lie in that direction. I feel that the Minister would be well advised to consider appointing a panel of such business men to make a periodic examination of the Department, to make constructive criticisms and constructive suggestions. I would mention that such exercises are very common in business concerns, a sort of spring cleaning as it were.

I am sure that all hon. Members will have a good chance to speak on this Motion, and I trust that they will do so.

MR. ALEXANDER: *Hapana!*

MR. ROGERS: Now, Sir, those are my views, and as long as the Department continues to act sensibly and so long as it continues broad minded, and as long as it continues open to suggestions, which is the way in which it has started, I think it will succeed. Let us, I suggest, have confidence in it.

I beg to second.

Question proposed.

MR. ALEXANDER: Mr. Speaker, Sir, we on this side of the House have a complete and thorough understanding of the very important position and role played by our good friends the Nominated Members on the other side. I would hate there to be any misunderstanding; some of my greatest friends in this country sit on the other side. But we do at times feel that they do not use enough influence.

Mr. Speaker, our attitude, which I explained yesterday, is well known. Three days ago in a perfectly reasonable manner I appealed to the Government to show good grace and courtesy by withdrawing the Motion which was then before us, particularly—most particularly—in view of its previous undertaking and its greater responsibility as an immovable Government. They have not chosen to do so.

Mr. Speaker, in making my submission to you to rule the Motion out of order I had to quote at length from statements made in this House, particularly statements made by two responsible Ministers. The reasons for complaint are, therefore, well known to all hon. Members and to yourself, Mr. Speaker.

Speaking for all my European colleagues of the Elected Members' Organization, we clearly consider that we have been denied, indeed deprived of, the complete evidence that would have been available to us from the Estimates Committee for a debate on such a Motion. This inhibition has been imposed upon us in spite of very clear and very definite undertakings by two Ministers many months ago—many

(Mr. Alexander) months ago—that the evidence would be placed before the Estimates Committee.

In the absence, Mr. Speaker, of the full evidence that we expected, we refrain from debate on this Motion. We will pursue the matter relentlessly in other effective places.

We wish to record our profound disgust and dissatisfaction at the manner in which this Motion has been introduced to this House, and we will ask for a division, Mr. Speaker.

Whatever technical reasons there may be for the admissibility of the Motion, we nevertheless question whether the Government in this matter have acted completely morally and ethically. Our only remedy in the face of an all-powerful and immovable Government is to leave the public to judge and we hope that the Press will report fully on this particular matter.

Mr. Speaker, we doubt whether any Government under a full parliamentary system would have acted in this manner. The European Elected Members have expressed their earnest, very earnest, desire to co-operate with the Government. The use of a method which we are now experiencing makes it increasingly difficult for us to continue in co-operative mood.

Mr. Speaker, the Motion is introduced by a European Minister, a member of the European Elected Members' Organization. His colleagues on this side of the House deplore the way in which this Motion has been brought before us.

Mr. Speaker, on behalf of all my European colleagues, I beg to oppose.

MR. HOWARD-WILLIAMS: Mr. Speaker, Sir, as someone who has been expelled from the European Elected Members' Organization, it gives me pleasure, or at least it gives me the opportunity, to support them in their action.

MR. SLADE: Mr. Speaker, Sir, the Specially Elected Members on this side of the Council also oppose this Motion. In doing so we need not add very much to what has been said already by the hon. Member for Nairobi West. We regard this Motion as a breach of faith.

From the time when we first heard of the proposed establishment of this Organization under consideration we have expressed anxiety from this side of the Council, and asked the Government to pause and give us an opportunity for consideration and comment before they forged ahead. Some 15 months ago, in response to that continued request, we were given to understand that the matter would be referred for investigation by the Estimates Committee, and that we would receive a report from that Committee from which we could judge the issue ourselves. That was 15 months ago. Nothing has come forward to us yet, arising out of that proposal, and now we are asked by this Motion to pre-judge the issue.

What we wanted and expected, Sir, was a considered report from an impartial Estimates Committee rather than a mere rosy picture from the Minister.

In effect, Sir, this Motion asks us for a vote of confidence in the present activities of the Government in this matter. Mr. Speaker, it is premature to ask us for a vote of confidence. It is open to the Government, if they wish, to vote confidence in themselves in this matter; but that is all they will get today.

THE CHIEF SECRETARY (Mr. Courts): Mr. Speaker, Sir, I had not intended to take part in this debate, but in view of the remarks which have been made on the part of certain Members on the opposite side, I feel that I really must state on behalf of the Government, in view of the fact that we had every right to bring this Motion, that there is really no real right on the part of the Opposition, to dictate to the Government how we shall make public or give to the Opposition the facts which we want to give to them. That is what the hon. Minister has done on this occasion.

MR. ALEXANDER: Mr. Speaker, that was not our intention. Two Ministers of the Government have said that that is how it would be done.

THE CHIEF SECRETARY (Mr. Courts): I would like to say to the hon. Member that that is, in effect, how it is being done.

MR. ALEXANDER: Question!

THE CHIEF SECRETARY (Mr. Courts): But, Sir, the hon. Member may question this, but if he looks at the end of the Motion he will see what is happening.

Also, Sir, I would like to say that the hon. Member had an opportunity when, I believe, the person now in charge of Supplies and Transport was called before the Estimates Committee and that a report was made by that Committee. Since then, Sir, the hon. Member has made criticisms of the Supplies and Transport Organization. He has asked questions in this House on matters pertaining to the Supplies and Transport Organization, and therefore it was felt by the Government that it was fair, not only to the Government but also to the public, that we should in this manner make a full statement on the present position.

MR. ALEXANDER: Before the Estimates Committee.

THE CHIEF SECRETARY (Mr. Courts): The matter can now be discussed in detail in the Estimates Committee, as indeed is suggested in this Motion. I do not feel that we are pre-judging any issue at all. We have given to the public and to the Opposition a very full statement of our present position.

COMMANDER GOORD: Mr. Speaker, I have very little to raise in this debate, but I feel it should not pass without some reference to a visit made by numerous Back Benchers on this side of the House to the Supplies and Transport Department.

Now, Sir, that department is open to criticism, perhaps on the principle of its institution, which, however, as my hon. colleague said, is indeed amply justified by precedent. It may also be criticized on the grounds of execution. Here, Sir, I do suggest that the key lies in the efficiency and morale of the staff. I would like to say, Sir, that our impression during that visit was indeed of a very efficient staff, right on the top of their job, who were equal to any challenge.

Now, Sir, if I may follow briefly from another reference my hon. colleague made, the question of Back Benchers and their function. One of their functions is to reply to points in debate. We have indeed no points to reply to today, but I would like to give Opposition Members a little food for thought.

As a relatively new Member in this House I do not fully understand the niceties of parliamentary manoeuvre; and I would suggest to them that the public do not understand them either. The Opposition have declared war on this particular subject. But when challenged to battle by the Government, what do they do? They run away behind a smoke-screen. I would suggest that the Opposition is extremely unsure of itself and will only accept battle on its own terms. Either it has no ammunition or else it has worn its guns out in the debate of the last two days—which was a premature and necessarily inconclusive battle.

Mr. Speaker, there have been, during the last year, many rumblings and murmurings upon this subject. Today the Minister has stated a very full case indeed and he has given a very great deal of explanation and information for debate. He has asked for criticism; he has asked for suggestions; he has even asked you to attack him; and if I were he I would say to the Opposition, "Speak now or for ever hold your peace." But as I am not, Sir, I shall merely say that I hope the Members opposite will have a very restful recess, because they obviously need it.

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): Mr. Speaker, Sir, may I just in amplification of the very excellent points made by the last speaker, point out to my friends opposite that if they pursue their declared purpose of opposing this Motion they are opposing the reference of this matter to the Estimates Committee.

MR. ALEXANDER: There is always the Public Accounts Committee!

THE MINISTER FOR LEGAL AFFAIRS (Mr. Griffith-Jones): There are parliamentary procedures open to them to distinguish, if they wish, between the two parts of the Motion. They could move and debate an amendment to the first part of the Motion if they find that unattractive. They could then indicate by those means the differential in their objection to this Motion. They have given no indication that they propose to do so. Therefore, Sir, if they merely flatly oppose this Motion they will be on record as opposing the consideration of this matter in the Estimates Committee.

[The Minister for Legal Affairs]

Now, Mr. Speaker, we have heard from time to time of the obduracy and peltence of the Government. We have here a glaring example of those particular qualities in our friends opposite.

MR. HASSAN: Mr. Speaker, I take this opportunity to pay tribute to the Minister who very ably put up his Motion in this House. He gave us the full details of the difficulties under which this Department is working. He has told us how the Department intends to work for the benefit of the country as a whole. I have been a member of the Government and I knew how difficult it was for the public and even for the Government to supervise the multiplicity of buying and storing articles for all the Government departments all over Kenya. I would say that this move to centralize this activity for the benefit of the country as a whole was a welcome gesture on the part of the Government, and I, with the members of the Committee, visited this Supplies and Transport Department when the buildings were being erected and when the work was being carried on in certain rented stores. So far as I can remember, Sir, we saw that everything was being dealt with in a proper businesslike manner.

There is no doubt that we felt at that time that it was necessary that we should have certain opinions from the expert businessmen in this country—and the business firms of this country—whether they considered that this centralized establishment was going to hit them in their business. This point was decided at the time: that opportunity will be given to the businessmen to give their views on this subject. That was almost at the end of the year, and everybody—all the Members of this Council—wanted to have a little relief in getting away from some serious work which we had been doing for the whole year. I know there were promises by the Minister, as well, but even if this work has not been going on we still intend to find out what benefit this Department gives to the country: we have the Public Accounts Committee and we have the Estimates Committee. So there does not appear to be any reason to take such a serious view of something that we have not done. I feel, Sir, I am not in favour of

opposition being expressed in such strong terms by these Benches.

I feel, Sir, that this Department, established by the Government at a colossal cost to us is an institution which must be encouraged and supported by us at this juncture and watched very carefully in order to see that the country is not "burdened" with unnecessary expenses, or at least more than we have borne in the past. I would like to know whether the setting up of this institution has caused any savings to be made in the expenses of the separate departments who did their own purchasing and storing in the past and whether they intend effecting saving and when will the unit be completely formed to deal with the work.

With these few points, Sir, I have great pleasure in supporting this Motion.

MR. LUSENO (Nominated Member): Mr. Speaker, Sir, I am very disappointed to see that the hon. Members on the other side of the House are opposing this Motion. I rise to support it from an economy point of view. From the explanation we have had from the hon. Minister, the Mover of the Motion, I am convinced that by the Government establishing this Supplies and Transport Department they are trying to economize in their expenditure, and I hope that this would be appreciated by both sides of the House.

Some of us, Sir, who had the opportunity last week of visiting the offices, the stores and the heavy repair workshops of this Department were very impressed by the organization we saw. As the Minister had explained, we learned that it was the plan of the Government to undertake all the heavy repairs of the motor transport of the Administration, the Police and the Agricultural Departments, and we personally saw some of such vehicles under such repair, and we were quite impressed. In the stores we visited, we saw a lot of supplies which had been purchased in bulk, and we were told that they were for distribution to other Government departments in accordance with the requirements of each, and Mr. Speaker, I am quite sure that the Government before the establishment of this Supplies and Transport Department, must have been spending quite large sums of money

(Mr. Luseno)

towards the cost of heavy repair for their motor transport to private firms, and I am sure that each one of us is aware of that. And I also think that large sums of money have also been spent by each Government department in purchasing their supplies individually.

Sir, I believe that if this Motion was approved it would enable the Government to have some good savings, particularly in their heavy repair workshop, and also by purchasing supplies in bulk, so I quite disagree with the way some of the Members on the other side of the House are opposing this Motion.

I support the Motion, Sir.

THE MINISTER FOR TOURISM AND COMMON SERVICES (Mr. Crosskill). Mr. Speaker, I am very grateful to the hon. Member for the East Electoral Area for his courageous and solitary support from the other side of the House. I am also grateful for the constructive suggestions by the hon. Member who seconded this Motion, and I have certainly noted that his suggestion is that we must keep the confidence of the commercial people. This, Mr. Speaker, cannot be done unless they are fully informed that was one of the objects in moving this Motion. I shall certainly accept his suggestion to discuss it with my colleague with regard to a liaison with some of the gentlemen which are available in the city.

With regard to the statement by the hon. Member for Nairobi West that Government has not displayed good grace and courtesy since they did not withdraw this Motion, I do find that a little incomprehensible, because I do not believe that he has substantiated any good reason why Government should do so. This debate has not inhibited in any way the work of the Estimates Committee, and it will be able, I hope, to continue more rapidly than it has done in the past with its investigation of this department which will be welcomed. It has not deprived the Committee of any evidence. In fact, it has added very considerably to the information which it now has before it. I would just say that it was taken by the Estimates Committee in April last year. I cannot believe that, had hon. Members felt so strongly as they say they feel today, this Committee would have continued its operations; they did not

insist that it should do so. The hon. Member for Nairobi West is not hesitant in asking parliamentary questions. I think that if he had felt as strongly as he says, he should have raised the subject in that manner: We should have only been too glad that it should have continued its work.

As for the hon. Specially Elected Member, Mr. Slade, who has suggested that Government should pause, I think we should be most justifiably and severely castigated by the Opposition had we paused any longer, Mr. Speaker. This evidence was heard in April last year—almost a year has passed. We cannot pause once Government has instructed and authorized to proceed with development of an organization such as this, and large sums of public money are invested, and to pause, Mr. Speaker, I believe would be criminal. This must go ahead, and if the Opposition criticism and investigation cannot keep pace that is not the fault of Government. The hon. Member for Nairobi West has said "let the public judge." I am very happy for the public to do so.

Mr. Speaker, I beg to move

the question was put and carried.

ADJOURNMENT

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): Well, that brings us to the end of the business on the Order Paper, and I therefore adjourn Council until Tuesday, the 31st March, at 2.30 p.m.

The House rose at fifty-four minutes past Ten o'clock.

31st MARCH, 1959

117 *Papers Laid*

Oral Answers 338

Tuesday, 31st March, 1959

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

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

PRAYERS

ADMINISTRATION OF OATH

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

John Kebaso Kebaso

David Humo Kiamba

PAPERS LAID

The following Papers were laid on the table—

The Royal Technical College of East Africa Annual Report and Accounts for the year 1957/58.

Report by the Commissioner for Transport on Civil Aviation (Incorporating a Report on the East African Directorate of Civil Aviation) Annual Report, July, 1957—June, 1958.

The East African Council for Medical Research Annual Report, 1957/58.

Annual Report of the East African Agricultural and Fisheries Research Council, 1958.

Lake Victoria Fisheries Services Annual Report, 1957/58.

(BY THE CHIEF SECRETARY (Mr. Courts))

Appendices to the Appropriation Accounts of the Colony and Protectorate of Kenya for the year 1957/58.

The Accountant-General (Transfer of Functions) Order, 1959.

(BY THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vegy))

Select Committee Report on the Maize Marketing Bill.

The Transfer of Powers (Agriculture and Animal Husbandry) Draft Order, 1959.

The Transfer of Powers (Agriculture and Animal Husbandry) (No. 2) Draft Order, 1959.

The Hide and Skin Trade Rules, 1950.

The Production of Food Crops (Amendment) Rules, 1959.

The Dairy Industry (Cess) Regulations, 1959.

The Dairy Industry (Cess) Regulations, 1959—Rate of Cess and Time of Payment.

The Pyrethrum (Amendment) Rules, 1959.

(BY THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell))

The Labour Department Annual Report, 1957.

The African Teachers Service (Contributory Pensions Fund) Regulations, 1957—Declaration of Recognized Services.

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

Sessional Paper No. 3 of 1959: Contractor Finance Proposals for Nairobi African Housing.

(BY THE MINISTER FOR HOUSING (Mr. Amalamba))

NOTICE OF MOTION

THE TRANSFER OF POWERS (AGRICULTURE AND ANIMAL HUSBANDRY) DRAFT ORDER, 1959.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, I beg to give notice of the following Motion:—

THAT this Council approves the draft—

The Transfer of Powers (Agriculture and Animal Husbandry) Draft Order, 1959.

and the draft—

The Transfer of Powers (Agriculture and Animal Husbandry) (No. 2) Draft Order, 1959.

ORAL ANSWERS TO QUESTIONS

QUESTION No. 99

GROUP CAPT. BRIGGS asked the Minister for Internal Security and Defence the number of assaults committed by Africans against Europeans during the period from 1st July, 1957, to 31st December, 1958, the number

(Group Capt. Briggs) resulting in serious injury or in death, and in how many instances were the assailants apprehended and convicted.

THE MINISTER FOR INTERNAL SECURITY AND DEFENCE (Mr. Cusick): Seventy-five (75) assaults on Europeans, believed to have been committed by Africans, were reported to the police during the 15 months 1st July, 1957, to 31st December, 1958. In ten instances the assaults resulted in serious injuries or death. The assailants were apprehended and convicted in 51 out of these 75 cases. The total number of persons convicted was 70.

QUESTION No. 103

Mr. ALEXANDER asked the Minister for African Affairs if the Minister aware that resident individuals on short visits from the Colony are receiving a printed reminder on their return concerning personal tax, and, if so, would he state why such a procedure is necessary and whether it is a waste in terms of paper printing and administrative effort.

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): I am aware that printed notices regarding the payment of personal tax are sent as a matter of routine by the Controller of Revenue to all persons reported by the Immigration Department to have entered the Colony. As regards persons normally resident in Kenya these notices serve as a reminder that this tax is payable within 60 days of their return to the Colony if it has not already been paid for the current year. Appreciation has been expressed on numerous occasions for this timely reminder, which I regard as a reasonable service to the public and not a waste of paper, printing or administrative effort.

Mr. ALEXANDER: Mr. Speaker, Sir, arising out of that reply, is the Minister aware that people who leave the country even for a few days, are receiving these notices, and would it not be better if they are intended to be reminders that the reminders should be sent out just before the due date, namely 5th April?

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): All the immigration

returns are sent as a matter of routine to the Controller of Revenue, and valuable labour is involved in sending out these reminders.

Mr. ALEXANDER: Mr. Speaker, as the Controller of Revenue receives returns from the Immigration Department, why does he need to bother those who are merely temporarily absent from the Colony?

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): Because, Sir, it could mean more work sorting out those people who would only be a short time absent from the Colony.

QUESTION No. 104

Mr. ALEXANDER asked the Minister for Finance and Development what would be the estimated loss of revenue in the current year if all personal rates of income tax were reduced by 30 per cent.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): £1,150,000.

QUESTION No. 105

Mr. ALEXANDER asked the Minister for Finance and Development what would be the estimated increase in revenue in the current year if Company Tax were increased by one shilling in the £.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): £650,000.

Mr. ALEXANDER: Mr. Speaker, arising out of that reply, is it at all possible for the Minister to tell us how much of that estimated increase would come from overseas investors?

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): That, Sir, is another question.

Mr. ROGERS: Would the Minister not agree that the increase of company tax would greatly discourage the entry of capital into Kenya?

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Yes, Sir.

QUESTION No. 108

Mr. SLADE asked the Minister for Community Development what is the present position with regard to construction of Wamumu School as an Approved School?

THE MINISTER FOR COMMUNITY DEVELOPMENT (Mr. C. M. Johnston): Wamumu Camp has been re-established as an Approved School with effect from 19th February, 1959, and is likely to continue as such until it is possible to build a permanent Approved School to take its place.

Mr. SLADE: Mr. Speaker, this is very encouraging, but would the Minister please say whether, in the event of the school established to take the place of Wamumu being built, the work methods now employed there, results of which are so much appreciated by us all, will still be continued?

THE MINISTER FOR COMMUNITY DEVELOPMENT (Mr. C. M. Johnston): Yes, Sir, I think I can give that assurance.

QUESTION No. 101

SIR CHARLES MARKHAM asked the Minister for Education, Labour and Lands will Government please state its intentions regarding the future beneficial use of that piece of land known as the Machakos Commonage?

THE MINISTER FOR EDUCATION, LABOUR AND LANDS (Mr. Mathieson): Mr. Speaker, Sir, the offer of a Temporary Occupation Licence of the Commonage for use for grazing purposes is being advertised.

SIR CHARLES MARKHAM: Arising out of that reply could the Minister tell us why only a Temporary Occupation Licence is to be granted?

THE MINISTER FOR EDUCATION, LABOUR AND LAND (Mr. Mathieson): Sir, it does not seem to me prudent to part on a long-term basis with control over such a large area of land, approximately 2,000 acres, or on other than a purely temporary basis, since it might well be required in future for other purposes.

SIR CHARLES MARKHAM: Sir, is the Minister aware that the Township Committee has already said they have no territorial ambitions on this piece of land?

THE MINISTER FOR EDUCATION, LABOUR AND LAND (Mr. Mathieson): I would only remark, Mr. Speaker, Sir, that the land in question was incorporated in the Township by proclamation number 155 dated 15th December, 1920.

QUESTION No. 107

LT.-COL. B. R. MACKENZIE asked the Minister for Agriculture, Animal Husbandry and Water Resources whether the Minister is prepared to make a statement concerning the holding of an enquiry into the collapse of the pig industry?

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Yes, Sir, I have requested Mr. C. H. Williams, C.M.G., O.B.E., to conduct an enquiry into the reasons for the financial loss disclosed by the Uplands Bacon Factory accounts for the year 1957/58 and into the circumstances which caused the factory to approach Government for financial assistance.

LT.-COL. B. R. MACKENZIE: Arising out of that reply, Sir, and bearing in mind that a great number of producers are still far from satisfied with the running of the pig industry, would the Minister be prepared for this enquiry to go on until the end of 1958.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, Sir, I do not entirely agree with the hon. Member's remarks in regard to the satisfaction or otherwise of producers. I would reply to this particular question by saying that I have asked Mr. Williams to look into the accounts for the year 1957/58 and I intended that he should do so up until the end of 1958.

Mr. ALEXANDER: Mr. Speaker, Sir, arising out of the Minister's reply, due to the fact that the Minister stated that this concerned financial matters, could he say whether the person appointed to enquire is experienced in financial matters?

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): I am of that opinion, Sir.

BILL

FIRST READINGS

The Personal Tax (Amendment) Bill

Order for the First Reading read—
Read the First Time—Ordered to be read the Second Time tomorrow.

The Kerosene Oil (Repayment of Duty) (Repeal) Bill

Order for the First Reading read—Read the First Time—Ordered to be read the Second Time tomorrow.

The Income Tax (Rates and Allowances) Bill

Order for First Reading read—Read the First Time—Ordered to be read the Second Time tomorrow.

The Indian Transfer of Property Act (Amendment) Bill

Order for First Reading read—Read the First Time—Ordered to be read the Second Time tomorrow.

BILL

SECOND READING

The Guardianship of Infants Bill
Order for Second Reading read.

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (Mr. Havelock): Mr. Speaker, I beg to move that the Guardianship of Infants Bill be now read a Second Time.

Sir, this is another piece of legislation that arises out of the Slade Report which we are gradually working our way through and it certainly bears repetition on each occasion on presenting such legislation to congratulate the hon. Specially Elected Member and his committee on that very wide report and very detailed report on matters of welfare, especially to do with children.

The Government, as it will have been seen by the published Bill, has accepted the majority—in fact as far as I know—all the major recommendations of the select committee, and this particular Bill, Sir, covers a number of points with special regard to the guardianship of infants.

The first point that I think is worth mentioning, Sir, is that if one parent dies the other parent automatically will become guardian of the child, but the other parent can also become a joint guardian with somebody else appointed by the court if the court thinks it right so to do.

Secondly, where the child is an orphan the court can appoint an applicant to

become a guardian of the child, and another, possibly the most important point is that guardians can now be appointed by will of the parents. At the moment this is not the case. Where, Sir, there is a joint guardian with one parent and the parent is considered unfit by a court, the court may order that the guardian shall be the sole guardian, and also the court may order that the parent who may be unfit should provide maintenance money.

Another important emphasis that this Bill brings up is that the mother has exactly the same powers as the father in applying to a court. This has not been the case heretofore.

Again, Sir, the Court can make an order as to the custody of the child and the rights of access to that child by parents. The wishes of the mother in this particular regard having exactly the same standing as those of the father, and so here we see the equality of the sexes being under no discrimination in any way at all. Of course this is a country where we have no discrimination any way, and this is one of the anomalies which we are now putting right!

If the mother, Sir, is given custody of the child the father can also be ordered by the Court to pay maintenance, which, I believe, is an important provision, and one that will, I think, be made use of quite considerably by people in this country. The order will lapse if the mother returns and resides with the father, so the mother cannot go on with demands maintenance if she is with her husband. The court may remove the guardian and appoint an alternative one if the court finds the original guardian appointed is unsatisfactory, and if there is any disagreement between joint guardians the court will decide between them. If the parent is divorced, the court can also declare that that parent is unfit to be the guardian, although, of course, that is only an enabling provision.

The main emphasis, Sir—the main basis of this legislation is, as it should be, and as recommended by the Committee, that paramount consideration at all times shall be given by the court to the child's welfare, and that comes first. The parents' convenience must take

[The Minister for Local Government, Health and Town Planning]

second place. This applies, Sir, throughout the legislation and especially with regard to custody and also, again important, the administration of property.

Well, Sir, I think that I have given the main points in this Bill. I think it is rather a detailed one, and one with a considerable number of legal niceties, which would probably be better discussed at the Committee Stage than at the Second Reading, and I beg to move.

Question proposed.

MR. CONROY seconded.

MR. SLADE: Mr. Speaker, Sir, I very much welcome the introduction of this Bill and I must thank the Minister very much for his kind remarks about the work of the Committee that I had the honour to be Chairman of some years ago.

Sir, I have got one or two questions, or points on this Bill, and although some of them are lawyers' points and points of detail it might be helpful if I make them now so that hon. Members opposite would have time to consider them before the Committee Stage. I will try not to make it long.

The first point, Sir, arises on clause 3, which provides for the power of the court in certain circumstances to appoint a guardian. The only question I have to raise there, Sir, is who actually applies under sub-clause 1 or sub-clause 2. Sub-clause 3 expressly provides that the court can make an order on the application of any person, and I was wondering whether it should not be stated who will have the right to apply in respect of these sub-clauses.

With reference to the same clause there is another question which has been raised by the Law Society, and for which again I should appreciate consideration by hon. Members opposite or an answer today. They have been exercised as to the power of the court in general to appoint guardians for infants, and the Law Officers have answered that that is already met by the inherent power of the court.

Looking at clause 3, Sir, it seems to me that this point has been met now

by the Bill itself, but if I am wrong about that, then I would ask Government to think again about relying on the inherent power of the Court, when it is possible to provide it expressly in the Bill. Sir, after all, I suppose our ideas of the inherent powers of the court are based on the laws of England; but it has been held-in the courts of this Colony that, when we have express legislation covering a subject, that is exclusive, and we might find ourselves in danger of the inherent power of the court being cut out, in so far as the English law is not applicable because of express legislation here.

Turning to clause 7, which entitles the power of the court on application of the father or mother of an infant to make an order concerning the custody of an infant, having regard *inter alia* to the interest of the parent, it does seem to me at first sight that that overlooks the status of a possible joint guardian.

Clause 4 (3) provides that in certain circumstances a testamentary guardian will act jointly with the mother or father of the child. Well, if that is so, surely that testamentary guardian will have to be considered when we come to clause 7, and the power of the court to make orders of custody, and the people whose views the court has to consider.

In clause 8 the same question arises as arose in clause 3—that is, who has the right to make an application to the court for the exercise of this power?

And coming now, Mr. Speaker, to clauses 12 and 14, the same point arises on both. It is more a question of policy. Both these clauses provide that the ordinary right of the parent to require delivery of the child may be disregarded by the court in certain circumstances, where the parent has abandoned or deserted the child or allowed the child to be brought up by another person, etc., and it says that the court shall not make an order for the delivery of the child unless he has been mindful of his parental duties. Sir, there is another state of affairs which may in my submission, necessitate the exercise of this jurisdiction by the court to refuse delivery of the child to the parent, and that is the unfortunate state when a parent, with all the good will in the world, is stopped by illness or poverty

[Mr. Slade] from giving the child the attention it needs and deserves. Those cases, I am afraid, Mr. Speaker, are only too common; and I would suggest that, however worthy the parent may be, if the court is satisfied that, for the time being anyhow, the unfortunate parent is completely disabled by sickness or poverty from looking after the child properly, that that should be another ground for refusing an order under clause 12 or clause 14.

Mr. Speaker, clause 16, which is related also to clause 7, is of extreme importance. The hon. Member has already called attention to this new provision in clause 7 that a mother can seek an order for the father to contribute to the maintenance of her child, even though still living with the father, and even though there may be no question of divorce or separation. To give strength to that, Sir, clause 16 provides how such orders may be enforced, and clause 16 (2) provides in particular that the income of the father can be attached to satisfy that order. Mr. Speaker, I think that that provision will be found to be of very great value. I was going to enquire whether it could not be strengthened just a little further, by providing that, where any such order is made by the court that the income of the husband shall be attached to provide for the maintenance of his children, their attachment shall have priority over any other debts, Sir, which may also be secured by attachment of the same income. Without having actual authority to hand, Sir, I do believe that there is precedent for that priority in recent legislation in the United Kingdom; and I would suggest it is justifiable, because the minimum needs of a man's children rank even before the needs of his creditors.

There is another matter related to this, Mr. Speaker, which I should like to mention, though perhaps this Bill is not the right place for it. If so, perhaps the hon. Member would give consideration to providing for it in another place. There is a need in certain circumstances to make liable for the maintenance of children those who are not actually their parents or legal guardians, but who have assumed responsibility for them. We sometimes get cases in this Colony

where persons enter the Colony from abroad bringing with them children who are not their own but whom they represent as their dependants, and who are therefore the responsibility of those people. Then, later on, they abandon all responsibility, and someone else has to take over the children and pay for their maintenance. There is no way of recovering payment from these people who have assumed responsibility and then turned it aside. That might happen, Mr. Speaker, with the guardians appointed under this Ordinance. A guardian might be appointed by the court and then find that he has to provide for the children entirely out of his own pocket, because he cannot recover the amount, or, in such circumstances, it might be impossible to find any person to accept the guardianship. The person primarily responsible is gaining protection he should not have.

I have only one further point, and that is with regard to clause 17, which lays down the very important principle that the welfare of the infant is of the first and paramount consideration in any proceedings before the court. My point here, Mr. Speaker, is that that is absolutely right, but the actual wording in clause 17 seems to me to conflict a little with the wording in clause 7 (1), where the court is also told what to have regard to. They will find themselves in a little difficulty if they have to look at both those clauses and decide which is the one which really is to guide them. In clause 7 (1) it is said that the court is to have regard to the welfare of the infant and the conduct of the parents, and to the wishes as well of the mother as of the father. There are three things: the welfare of the infant, the conduct of the parents, and the wishes of the parents. In clause 17, the court is to have regard to the welfare of the infant as of paramount consideration, and is not to take into consideration whether from any other point of view the right of the father in respect of custody is superior to that of the mother, or the mother superior to the father. Clause 17 seems to debar the court from having regard to the conduct or wishes of the parents to which clause 7 refers.

Subject to those few comments, Mr. Speaker, I support this Motion.

MR. CONROY: Mr. Speaker, it is always a pleasure to listen to my hon. and learned friend opposite who puts his points so persuasively, and especially on legal points. I would therefore think that the best answer I can make to him is that we should like to look at these matters of detail which he raised and then deal with them in the Committee stage. Either my hon. and learned friend is right, in which case the Government will give way, or he is wrong, in which case we shall do our best to show him where he is wrong. But we should like to think about it overnight and have the opportunity to put it right tomorrow, Sir, and we shall deal with those details in Committee.

I beg to support.

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (Mr. Havelock): Mr. Speaker, I only have two points, I think.

The hon. Member raised a matter, really of policy, and that is with regard to the need to make liable for the maintenance of children, those who have assumed responsibility, and he did wonder whether this would be the right Bill with which to try to cover that point. I think this matter he has raised, Sir, has rather wider application than in this particular Bill and I would like to give further consideration to it with a view to bringing it forward in the proper legislation which we may decide upon after discussions. I fully appreciate, however, the point he has made and I believe that it is a very important one which we have not covered until now.

I think that nearly all the other matters, Sir, were points of legal drafting and the hon. Solicitor-General has said he will give full consideration to them.

With regard to clause 14—that the court shall not make an order for the delivery of the child to the parent unless the parent has satisfied the court that he is a fit person to have the custody of the child—the other circumstances which the hon. Member outlined were that the parent might be disabled by illness or poverty from giving care to the child; but it does seem to me, Sir, that that particular point is covered

in the clause, and if the hon. Member would look at the end of the clause, he will see that it states, "... having regard to the welfare of the child". However, we will have another look at that. But, it seems to me that the point the hon. Member raised is covered by those words.

In fact, Sir, I think that the facts which the hon. Member raised are quite detailed and do need a certain amount of study. I was going to ask that the Committee stage might be deferred until Thursday to give us more time to do so.

I thank the hon. Member for the constructive suggestions which he has made.

The question was put and carried.

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

REPORT

The Maize Marketing Bill

Order for consideration of the Report of the Select Committee read.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, the Report of the Select Committee on the Maize Marketing Bill has been made available to Members and I do not think it is necessary for me to take up the time of the House in giving any detailed description of its proceedings. I only wish to say, Sir, and I am pleased to do so, that on nearly all the points we have discussed, your Select Committee was able to reach unanimity. There were only two clauses on which an expression of difference of opinion was recorded and I will deal with these when I come to them.

I propose now, Sir, to turn to the Bill and draw the attention of hon. Members to those points in the Report to which I feel their attention should be drawn.

The first, Sir, is clause 4 (1). A great deal of evidence has been given to us on the size of the Board. I have already expressed my preference to the House for a smaller Board but I have given very fully the reasons which led me finally to put forward the number

[The Minister for Agriculture, Animal Husbandry and Water Resources] which is now in the Report of the Select Committee. Not a great deal of opposition was raised in evidence to this number, and indeed we did receive an expert opinion that such a number would not be unmanageable. We therefore recommended that the number of the Board should remain as originally drafted.

Some evidence with regard to the appointment of the Chairman—clause 4 (2) (a)—was given to us by producers who suggested that either the producers or the Board itself should be consulted by the Minister before he appoints the Chairman. This suggestion was strongly opposed by what I might term consumer interests who pointed out, correctly I think, that such consultation would have the effect of loading the Board slightly with additional producer interests. Now, with this latter view, Sir, the Select Committee agreed, and our recommendation is that no change should be made in the Bill in this respect, and that the Minister should remain solely responsible for the appointment of a Chairman, subject of course to the approval of the Council of Ministers.

We did receive some evidence to the effect that reference to the Cereal Producers Board should be removed from the Bill, but after considerable discussion we have left it in, mainly because it is charged statutorily by the Legislative Council with the function of representing the interests of the maize and cereal producers. Therefore your select committee felt it was wrong to delete the specific reference to it from the Bill. That being so, Sir, the reference is left as originally placed before the House. But in clause 4 (2) (d)—three members from the Non-scheduled Areas—we were not so inhibited, because there is no statutory legislation specifically enjoining upon any particular board representation of these interests. After consultation with the General Manager of the Nyanza Marketing Board, and in view of the fact that other Marketing Boards may well be set up which might well lead to suspicions on their part that Nyanza was having preferential treatment, we agreed as a committee to the

deletion of all reference to the Nyanza Marketing Board from this clause.

Clause 4 (2) (c)—four members appointed from the fields of commerce and industry. The select committee, Sir, was impressed by the arguments advanced by what I might call "consumer interests", notably in the evidence, by the City Council of Nairobi, and by an organization called "The Housewives", that at least two of the members appointed under this category should be considered as particularly representing the urban consumer. I think that "The Housewives" would have liked a more detailed analysis of how those members were to be appointed and how they were to be selected. But after considering all the views put before us, the select committee decided to amend it to read "members appointed by the Minister mainly for their ability in the fields of commerce and finance, of whom not less than two shall, in the opinion of the Minister, have special knowledge of urban conditions." That was a form of words suggested to us in evidence by the City Council of Nairobi which appeared to us to meet the necessities of the situation, and your select committee has accordingly recommended—the amendment of the clause in that form.

The tenure of seats, Sir, on the Board—clause 5. We had representations that it would be desirable to impose a limit on the chairman's tenure of office and we agreed that this would be reasonable, and accordingly we have recommended in the select committee's report that the chairman should be appointed for a period of three years, after which of course he would be eligible for reappointment. And clause 5 (2) has been reworded in the interests of simplicity and clarity, at the instigation of my hon. and learned friend, the Solicitor-General. The basic procedure for rotation, however, remains unchanged.

The powers of the chairman, clause 11. Here, Mr. Speaker, hon. Members will recollect that a number of them raised the question of whether the wording in the original Bill was really proper in regard to the powers of the chairman. Evidence was given in the select committee on this point, to the effect that the powers given to the chairman to act subject to any direction of the Board when the Board is not meeting were

[The Minister for Agriculture, Animal Husbandry and Water Resources] on open to objection. The select committee agreed that there was some substance in these representations and the clause has been reworded so as to place the emphasis on the Board delegating powers to the chairman, if it so wishes, rather than the chairman acting subject to limitations imposed by the Board. Sub-clause (1) of this clause, that is clause 11, as amended now provides that the Board may authorize the chairman to exercise on its behalf at any time when the Board is not meeting, such of its powers as it may from time to time specify. Thus the powers to control the chairman lie reasonably and entirely in the hands of the Board.

Clause 13, the functions of the Board. When moving the Second Reading of this Bill I gave notice that I intended to move an important amendment to this clause, and that has been accepted by your select committee in that the Board shall appoint agents rather than may appoint agents, under sub-section (1) of section 14 for the buying, storing and disposal of maize and the handling of maize for export. It is our advice that the rewording in the amendment put before this Council should be accepted.

Sir, one point arose, and it is an important point, dealing with the appointment of agents under the Agriculture Ordinance. It was raised in connexion with this clause during the main debate by the hon. Specially Elected Member who has relations with the legal profession.

Clause 13 (4) of the Bill provides that nothing in the Ordinance shall be deemed to prevent the appointment of the Board as an agent under section 14 of the Agriculture Ordinance in respect of any crop other than maize. The question raised was this: If the Board is appointed as an agent for a specified crop under the Agriculture Ordinance, has it got the power to appoint agents in its turn for the marketing of that crop? I am advised that this point is covered under the Agriculture Ordinance by the appointment under section 14 of that Ordinance of the Board's sub-agents as agents.

There is one further small, but important, amendment to this clause, that

is, clause 13, and that is the addition of the phrase "and exportation" after the word "importation" in clause 13 (1) (c). The effect of this is to make it a function of the Board to advise the Minister on the extent to which control over the exportation of maize is necessary or desirable. I think it is wise, because in times of hardship, famine, or difficulty of food crops it might be necessary for the Minister to prohibit exportation, and he can only do so, I think, in the light of the advice that is tendered to him by the Board.

Now, the hon. Member for Western Area, who, I see, is not present today, expressed to the select committee the disquiet and anxiety he believed might be felt by some traders and dealers in maize as to the possible effect which this Bill may have upon them. At present there are some two thousand traders employed as sub-agents by the Nyanza Province Marketing Board, and a large number from other areas who are registered by the Maize Controller under the control of Maize Regulations. Under this Bill, when passed, it will be necessary for them to be registered by the Board as sub-agents. Under clause 14 (2) of the Bill, an agent may subject to the general or specific directions of the Board, appoint sub-agents. It is in that clause that these agents now employed under the Maize Control Regulations will be employed in terms of the Ordinance now before the House. The fear of the traders is, I understand, that their appointments might arbitrarily be revoked when the Bill comes into effect. Now, Sir, I think it is unwise and impracticable to guarantee the position of traders and dealers for all time, for obvious reasons—the movement of economics, a change in production and various other factors. But, Sir, the select committee felt that it would be reasonable to ensure that a trader who is now legitimately employed in the maize industry as a sub-agent should not be placed, in jeopardy of having his employment terminated immediately the Bill comes into effect. The select committee therefore asked me, and I will willingly do it, if I would give an assurance on that matter in this House. I propose to meet the difficulty in two ways.

[The Minister for Agriculture, Animal Husbandry and Water Resources]

Firstly I would like to give the assurance to the House that it is my intention when the Bill becomes law and when the Maize Marketing Board is established, to issue directions to the Board under the powers given to me that existing traders and dealers registered with the Nyanza Province Marketing Board and the Maize Control shall continue to be employed as sub-agents under the terms of this Bill for as long as is reasonable, and certainly until the end of the present calendar year. Secondly, the select committee have recommended to this House that provisions should be made for an appeal to the Board by a sub-agent whose appointment is terminated by an agent, and I will be drawing the attention of hon. Members to an amendment to this effect which has been recommended in respect of clause 47. That, Sir, has been incorporated into the Bill and I will gladly give the assurance in view of the anxiety which has been expressed by the hon. Member for Western Area.

Clause 15 (maize to be sold to the Board). This, Sir, has proved to be a contentious issue, although I do not think that it was one of enmity—merely of contention. As drafted, the clause provides for the vesting of maize in the Board as soon as it has been harvested, and I have already informed Members that this is a particular provision which has been taken from the Grain Marketing Act of 1950 of Southern Rhodesia, which was incorporated in 1957 in the same legislation of the Central African Federation. Now we did consider this in the select committee and the hon. Specially Elected Member with legal interests raised an amendment which in effect vested the maize in the Board only after it began to move from the farms. We considered this fully in the select committee and we were exercised as to whether vesting the maize in the Board at the time of harvest or vesting the maize in the Board at the time of movement off the farm—which of those two courses interfered least with the rights of the individual and enabled the principles of maize control to be better carried out. After very considerable discussion the select committee decided that it would be wise to leave it vested in the

Board at the time of harvest. It is a matter of opinion which of those two methods would in effect impinge most upon individual freedom. In the case of vesting it at the time of removal off the farm the individual might be called upon to state where the maize had gone which was previously on his farm and which now, after inspection, appeared to be absent, but, in the case of vesting the maize at harvest time in the Board there is always the danger that officials of the Board may harass a producer to deliver more maize than he wants to earlier than he also requires to. After consideration and examining the matter as fairly as we could we came to the conclusion by a majority that the Bill should remain as drafted. It is important, in the Scheduled Areas at any rate, that as early information as possible should come to the Board on maize which producers wish to deliver, and by vesting the maize in the Board at the time of harvest, and by requiring the delivery of returns then to the Board, we can get the most accurate and early information on that subject. Similarly it is important in the non-scheduled areas to prevent as much as possible the movement of maize into the black market. It is important in both areas, but it is more difficult to control in the non-scheduled areas. I feel that the majority decision of the select committee will more likely achieve that objective than the proposed amendment.

Now, Sir, I gave, in moving the Second Reading, notice of a number of amendments to clause 15 (6). These are mainly designed to ensure that when an African producer moved a small amount of maize for consumption by himself or his family into, for example, Nairobi, the maize having been brought, to Nairobi could be consumed there. There are also amendments to remove the racial basis of clause 15 (6). These amendments were accepted by the select committee and are incorporated in the report before the House.

Clause 15 (4) as originally drafted merely enabled the Board to specify a date beyond which no liability would be incurred by producers for storing maize on their own farms. It did not specifically state that the Board would be liable for any loss or deterioration of any maize so stored. This is clearly

[The Minister for Agriculture, Animal Husbandry and Water Resources] unsatisfactory, and the hon. Specially Elected Member to whom I have referred moved an amendment which was adapted by the select committee, making it clear that any loss or deterioration after a specified date should be at the risk of the Board.

I gave notice also, Sir, when moving the Second Reading, of my intention to move certain amendments to clause 16 as the result of representations which had been made to me. The amendments are principally concerned with making this clause applicable to all labour harvesting maize on a farm, and not merely to resident labourers, and with making it mandatory for the occupier of a farm to purchase such maize. Those amendments are incorporated in the report.

There were also representations that the Bill as drafted should make a clear provision for the operation of a pool pay out system in respect of maize purchased by the Board surplus to the internal requirements of the Colony. We have amended clause 18 accordingly. We have also added a further amendment to that clause which makes it an offence for an agent or other person to purchase maize at a price below that payable in accordance with the provisions of the Bill. This was an omission in the original draft and the select committee has repaired it.

Clause 19 was the second clause in the proceedings of your select committee which proved to be contentious. The hon. Specially Elected Member, Mr. Slade, wished for a provision to be included in this clause to allow the Board or its agents to make deductions for payment to the maize producer at the request of a firm which is the creditor of the producer concerned in respect of the purchase of agricultural machinery. After deliberation and examination of this suggestion your select committee felt that we should not include this particular provision in the functions and responsibilities of the Board.

Clause 21. The amendments to which I referred in an earlier speech allowing a producer to have a greater say in the disposal of rejected maize have been incorporated into the Bill.

Clause 25. Now, Sir, anxiety was expressed to us that the Board might not operate for the sale of maize surplus to the internal requirements by the well known methods of open tender, and the select committee did not feel it was proper necessarily to tie the Board down by legislation to using open tender in every case. However, we agreed that it would be wise for the Minister to give an assurance to the House that it would be my intention to issue a direction to the Board that the export of maize shall be by open tender unless there is good reason to the contrary. I do that because it is an established practice that has been used for a number of years now by the Interim Management Committee which has operated the maize industry and has undoubtedly proved by far the best method for organizing sales overseas.

Clause 26. I think that Members will appreciate that in certain circumstances it will be necessary for the Minister, in national interests, to exercise control over the export of maize from the Colony. It was my intention to move an amendment to clause 26 (2) to provide that the exportation of maize should be subject to the direction of the Minister. Producers' representatives gave evidence in the select committee that in their opinion the Board should normally be responsible for exports and that the Minister should have power to intervene only in the national interest and in certain instances. After examining the problem the select committee really in effect recommended a compromise on this issue and it is achieved by the simple deletion of the words "in his discretion" in clause 26. This makes it clear I think that in normal circumstances the Board is responsible for exports of maize. The Minister has power to intervene when he deems it necessary by issuing a general or a specific direction to the Board under clause 13 (2).

Sir, it was represented during the debate that it was not reasonable for the Board to decline to give any reasons for refusing to register a miller under clause 27 (1). This is a view with which we agree and we have amended the Bill accordingly, so as to ensure that reasons for the decline of a miller's licence are given to the applicant.

[The Minister for Agriculture, Animal Husbandry and Water Resources]

Clause 30. Evidence was given to us by producer representatives that the Minister should be obliged to consult them before making use of surplus revenues at the disposal of the Board. Similarly we had contrary evidence from the consumers who urged that they should be consulted. After again examining this problem, Mr. Speaker, we have endeavoured to meet these representations by amending the clause to provide that any excess revenue of the Board shall be applied in such manner as the Minister, after consultation with the Board, which will have substantial producer and consumer interests on it, may direct, having regard to producer and consumer interests.

Clause 33, Sir, I should like to deal with rather fully. It was represented to us in evidence from the Kenya National Farmers' Union that statutory provision should be included in the Bill for a report to be made by the Board at an annual conference of producers. This recommendation was opposed by the Cereal Producers (Scheduled Areas) Board, and having regard to the fact that the Cereals Board is a statutory and elected body representative of producers in the Scheduled Areas, I think that they were right in doing so. If at any time the Cereal Producers (Scheduled Areas) Board should cease to exist—and this could only happen by legislation in this House—then there would no longer be an elected body statutorily charged with representing the interests of producers in the Scheduled Areas, and the question of the Maize Marketing Board being required to report to an annual conference might well then be considered. Your select committee, having listened to the views of the persons giving evidence, and having discussed them amongst ourselves, decided that we would not incorporate in the Bill any provision for the annual conference, but, in the meantime, I am prepared to make it clear to the Maize Marketing Board that they would be expected to attend meetings of producers to discuss the annual report with them, if the producers so wish, when it is laid at the end of each year.

There is a slight amendment, Sir, in clause 35, to the effect that "after consultation with" should be substituted for the words "with the agreement of". It is merely designed to prevent any of the persons being consulted having the right to a "Molotov veto".

Part VIII, Sir, in general. There have been a number of letters in the Press on the subject of this part of the Bill, and a number of members in the debate expressed concern about it. It was stated in effect that the Minister created the offences, fixed the penalties and the onus of proof lay on the accused and appeal lay only to the Minister! In other words, Sir, that the Minister of Agriculture was organizing under this Bill a Star Chamber of his own! I think anyone who has studied the Bill will be aware that that can only be maintained if one takes certain clauses right out of their context and telescopes them together in one devastating sequence. I am certain that hon. Members in the House will not be misled by these representations, and indeed your Select Committee having examined all of them have made only such minor amendments as it felt were necessary. The evidence given to us on this matter in Select Committee was neither so extensive nor so critical as we would have expected from some of the expressions of public opinion outside this House. In general the producer representatives were satisfied that the powers were necessary; if controls were to be effectively preserved. Only one body representative of consumers criticized this part of the Bill, Part VIII, in any way at all, and they were concerned to achieve a general modification rather than with any specific objection to any particular clause. I believe that we have gone a long way towards the modifications sought in this part of the Bill by the amendments I am about to indicate.

Clause 38—power to enter and inspect land or premises. I think the real objections to this clause, as originally drafted, were that the powers which it conferred were very wide if they were to be exercised by "any person authorized in writing to the Board". I think that the feeling was that there would be no objection to these powers, which are

[The Minister for Agriculture, Animal Husbandry and Water Resources] indeed essential if extensive black marketing in maize is to be avoided, provided that they were to be exercised solely by responsible persons. We have met this by the insertion of the definition of an authorized officer in clause 2 (2). This reads "authorized officer" means any person appointed in writing by the Board to be an authorized officer for the purposes of Part VIII of this Ordinance:

Provided that no such appointment shall be made unless the Minister has certified to the Board in writing that the person proposed is, in the opinion of the Minister, a sufficiently responsible person to exercise the powers relating to such appointment." The object of that amendment is to see that officers who have these rather arbitrary powers of entering premises shall be truly responsible persons and certified so by the Minister.

Clause 39 has a slight amendment in so far as the East African Railways and Harbours Administration is concerned. These powers cannot be exercised in respect of any train or ship belonging to the Railways Administration, except by a police officer of the rank of assistant superintendent or above. The Railways Administration would have preferred to be wholly exempted from the provisions of this clause, but your Select Committee after examination of the problem, and after having heard evidence upon the matter decided they could go no further to meet the view of the Railway.

Clause 41. This clause as originally drafted was one of the more contentious clauses of the Bill and was criticized on two grounds. Firstly, that the extent of the powers conferred by the clause were exercisable by any public officer or any person authorized by the Board, and, secondly, that the provisions of clause 41 (2) by which a person arrested has to be brought before a magistrate as soon as possible, were in very general terms which might have been open to abuse.

Now, we have met these objections by considerable modifications to this clause. Firstly, the exercise of these powers is now limited to police officers of the rank of assistant inspector or above, or by an authorized officer. I

have already referred to the question of authorized officers. Secondly, instead of saying that a person arrested shall be brought before a magistrate as soon as possible, provision is now made for a person arrested to be handed over to a police officer without unnecessary delay or in the absence of a police officer the nearest police station. Further, in order to relate these provisions to the existing law of the Colony, it is provided that the officer in charge of the police station to whom the arrested person is brought shall deal with the case in accordance with the provisions of section 35 of the Criminal Procedure Code. For the information of the House, that section of the Criminal Procedure Code gives powers to the officer in charge of the police station, either to release the person arrested on his executing a bond, or where insufficient evidence is disclosed of which to proceed with a charge to release the arrested person unconditionally. We hope that the introduction of these amendments will considerably ameliorate some of these arbitrary powers which, it is alleged, were originally inherent in clause 41.

Clause 47, Mr. Speaker, When I moved the Second Reading of this Bill I gave notice of my intention to introduce amendments to this clause, to provide for appeals in some cases to the Agricultural Appeals Tribunal established under the Agriculture Ordinance instead of the Minister. I stated that this was to apply in the case of an appeal against the decision of the Board affecting the individual, rather than an appeal against a decision which might be affected by considerations of Government policy. The select committee have accepted these amendments and have now drafted the clause which makes a provision for an appeal to the Agricultural Appeals Tribunal as I have indicated, with the exception of appeals related to the question of the importation or the exportation of maize or the registration with the millers—in those two cases the appeal will lie to the Minister.

In addition, Sir, a further amendment has been made to clause 47, providing for an appeal to the Board where a sub-agent has had his appointment terminated by an agent; I dealt with that earlier and represented to the House

[The Minister for Agriculture, Animal Husbandry and Water Resources] that it was a specific result of anxiety expressed by the hon. Member for Western Area, who I now see has entered the Chamber.

Finally, Sir, under this clause, bearing in mind the difficulties of communication in this country, and despite the efforts of my hon. colleague the Minister for Works, the impassability of the roads sometimes, we have extended the time of appeal from 14 days to 28 days.

Clause 50. Some anxiety was expressed that there was no check upon the ability of the Minister to exclude whole areas from the operation of the Bill, and we have instituted a check upon the Minister by saying that these powers may be only exercised after consultation with the Board. I think it is a wise and sensible amendment to the original provision.

That is an outline of the more important amendments which have been recommended by the select committee in the revised version of the Bill which is now before the House.

I would, Sir, like to pay a tribute to the members of the committee for their patience and understanding in handling this matter, and in particular, Sir, to the great grasp of the subject which the hon. Specially Elected Member, Mr. Slade, showed in regard to the Bill. This is the second select committee of which I have been the chairman, and on which I have had the pleasure of his attendance, and I should like to thank him personally for what I consider was a great contribution which he made to our deliberations. I should also, Sir, like to thank the other members of the committee for their assistance and record for the purposes of the report the assistance which we had from the legal draftsman. I do, that, Sir, with pleasure, because he is an officer who does not receive much recognition, but no Bill can come before this House without the work which he performs upon it.

Now, Mr. Speaker, in recommending the Select Committee Report to the House, I believe that we have done our best to put before the House a workable and practicable document, and I would like now to move that the Report

of the Select Committee on the Maize Marketing Bill be adopted.

THE CHIEF SECRETARY (Mr. Coutts) seconded.

ADJOURNMENT OF DEBATE

THE CHIEF SECRETARY (Mr. Coutts). Mr. Speaker, Sir, I believe that owing to the intervention of the Easter holidays the Report has not come into the hands of most Members of this House in time for them to consider it properly. I therefore beg to move that further debate on this Motion by my hon. colleague be deferred or adjourned until tomorrow. In so doing, Sir, I hope that the date proposed—April the 1st—will not prevent due consideration of this very important Motion.

THE EUROPEAN MINISTER WITHOUT PORTFOLIO (Mr. Hattis) seconded.

Question proposed.

The question was put and carried.

MEMORIAL SERVICE FOR MAJOR JOYCE

THE CHIEF SECRETARY (Mr. Coutts). Mr. Speaker, Sir, tomorrow evening at five p.m. there is a Memorial Service for the late Major Frank Joyce. I would like to ask that you would agree that this House be adjourned just before five o'clock so as to permit those Members who might wish to do so to attend that Memorial Service. I feel that Members of this House should do so both in recognition of the work which he performed here in the Legislative Council and also in the Executive Council of this Colony.

THE SPEAKER (Sir Ferdinand Cavendish-Bentnick): I am afraid you will have to move the suspension of Standing Order No. 9 tomorrow.

THE CHIEF SECRETARY (Mr. Coutts): I will introduce the appropriate Motion tomorrow afternoon.

ADJOURNMENT

THE SPEAKER (Sir Ferdinand Cavendish-Bentnick): That brings us to the end of the business on the Order Paper for to-day. I therefore adjourn Council until 2.30 p.m. to-morrow, Wednesday, 1st April.

The House rose at eight minutes to Four o'clock.

Wednesday, 1st April, 1959

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

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

PRAYERS

COMMUNICATION FROM THE CHAIR

ADJOURNMENT FOR MEMORIAL SERVICE

THE SPEAKER (Sir Ferdinand Cavendish-Bentnick): In accordance with wishes which I think were expressed yesterday, I propose to suspend business this afternoon at a quarter to Five in order to enable all those who wish to, to attend the Memorial Service to the late Mr. Frank Joyce. As soon as the Memorial Service is finished, we will return to the House and I shall resume business as soon as Members have had an opportunity of getting back here.

As we are paying out respects not only to a friend but also to an old colleague of this House, it has been arranged that Members of the House and members of the Commonwealth Parliamentary Association should have certain seating arrangements made for them in the Cathedral, and I would be grateful if hon. Members would use those pews.

NOTICE OF MOTION

KENYA STUDENTS AT MAKERERE COLLEGE

MR. MUCHURA: Mr. Speaker, Sir, I beg to give notice of the following Motion:—

THAT this House deplores the recent decision of the Government to reduce the number of students to be admitted into Makerere College from Kenya, and urges Government to make provision for admission of a larger number of such students and having regard to the need of educated people for the service and development of this country.

BILL

SECOND READING

The Personal Tax (Amendment) Bill

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): Mr. Speaker, Sir, I beg

to move that the Personal Tax (Amendment) Bill, 1959, be now read a Second Time.

Sir, the Personal Tax Ordinance which provided for a graduated tax for all rates was introduced at rather short notice on 1st January, 1958. Consequently, due to lack of previous experience, the assessment and collection of this tax—particularly from the Africans—presented a number of problems which this amending Bill is designed to overcome.

The first amendment proposed, Sir, affects section 3 of the Ordinance where, under the last proviso to the section, the Minister may, by notice in the *Gazette*, impose a lower rate than the prescribed tax of Sh. 25 in respect of any district, area or place or any class or community of persons whose incomes are less than £120 a year. For 1958 a number of districts and tribes paid a lower rate of tax under this section, ranging from Sh. 16 to Sh. 20. It is considered that this reduced rate should not apply to those persons with incomes of over £60 a year, for it is thought that they could afford the normal tax of Sh. 25.

Clause 2, therefore, provides that where a lower rate of tax is imposed in lieu of the Sh. 25, this shall only apply to persons whose income does not exceed a specified limit, which the Government considers should be fixed at £60 a year.

Clause 3 amends section 7 of the Ordinance, which deals with the appointment of employers as collectors and the deduction of tax from salaries and wages by instalments. Under section 7, Sir, of the present Ordinance, an employer may be appointed a collector of this tax and he may deduct this tax from wages by instalments over a period of not less than five months. An employer so deducting this tax is required to issue an acknowledgment in writing for each separate instalment. Moreover, Sir, an employee who is paying this tax by instalments is exempt from the 50 per cent penalty imposed on the tax not paid after 15th June. The amendment proposed allows the deduction of tax from wages in not more than five instalments and provides that the whole of the tax shall be paid by not later than 30th June. In order to assist those employers who act as collectors and who, at present,

[The Minister for African Affairs] have to issue an acknowledgment for each instalment of tax, clause 3, sub-section (2), allows employers to issue employees with an official certificate valid until 30th June, certifying that tax is being deducted.

Clause 3, sub-section (5) clarifies the powers of an employer who is appointed as a collector. This is to ensure that an employer is not asked to collect tax from any person not in his employment.

In the Committee stage, Sir, of this Bill, I propose to move a Motion to add a fresh section dealing with the waiver of the penalty and notice of this has already been given.

Finally, Sir, I should like to express the appreciation of the Government for the very great help which has been given by employers of all classes in the collection of personal tax, and the Government wishes in this amending Bill, to ease to some extent the heavy burden which they are carrying.

Mr. Speaker, Sir, I beg to move

THE MINISTER FOR WORKS (Mr. MATHOI) seconded

Question put

The question was put and carried

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

SELECT COMMITTEE REPORT

The Maize Marketing Bill

THE SPEAKER (Sir Ferdinand Cavenish-Bentinck): Yesterday this Motion was introduced which reads "that the report of the Committee be approved".

MR. SLADE: Mr. Speaker, Sir, as a member of the select committee I support this Motion. I must thank the hon. Mover very much for the kind remarks he made about myself, though I do not think I deserve them any more than any other members of this committee. If it is not too much in the nature of back-scratching, I would like to return the compliment by expressing appreciation of the lucidity with which he explained this report yesterday. He went through a very complicated process, which we had to go through over many days, and put the picture very accurately and clearly.

Sir, my only reason for speaking this afternoon, is on certain matters of principle which this Bill, even as now drawn, involves. On the Second Reading of this Bill, Sir, I pointed out that all controls must be regarded as the best as necessary evils, and that they must be so devised as to cause the minimum interference with the liberty of the subject in dealing with his own property as he may like to do, and the minimum of interference with ordinary trade, plain dealings and usages.

Now, Sir, there is, in my opinion, still in this Bill more interference than is necessary in both of those respects. I raised my objections in the select committee and I was out-voted by a large majority in both cases, and so I am not going to move that this should be referred back to a Committee of the whole Council. But I regard the principle as so important that I would like to place on record, as briefly as I can, why I am still dissatisfied.

The hon. Member referred to the matters which I have in mind, that arise under clause 15 and clause 19. Now, Sir, clause 15, as the hon. Mover pointed out, provides that all maize grown in the Colony shall be vested in the Board as soon as it has been harvested. It means that, subject to certain exemptions which appear later, a man's maize ceases to be his the moment it is harvested, and even though it is still kept on his farm. Any surplus, Sir, which he has used or intends to use for his own purposes on the farm is exempted; but all other maize ceases to be his property even though it is still on his farm, and that brings, I suggest, Sir, a number of unnecessary evils. It was pointed out to us in the select committee by one witness that Africans will have inspectors coming on to their land and looking at the maize they have there, and saying, "This is maize that belongs to the Board", and the farmers say, "No, I intend to use it for my own consumption", and the inspector says, "It is more than you need for your own consumption", and an argument starts; and it can only be that, because of the authority he carries, the inspector has his way and takes the maize away.

Sir, the reason I say that that is an unnecessary evil is that the whole purpose of this Bill, as stated clearly by

[Mr. Slade]

the Minister himself, is to control the disposal of maize when it leaves a man's farm. Therefore I urged, and I urge still that on the principle of limiting control where it is absolutely necessary the control here should be limited to maize which leaves the farm where it is grown. It is only that maize which should be vested in the Board, and until then let it be the property of the man who grew it. Let him keep it on the farm as long as he likes, even if it rots. It is his maize until he wants to take it off his farm. The answer to that, Sir, was that you were going to have other troubles arising, because in order to make that kind of control effective you will have to impose other inspections, which will be just as unpleasant, and you will have to place a burden of proof on the farmers to explain where the maize has gone, if it is clear it has been on the farm at one time, and it is not there at another. It may involve two visits by inspectors instead of one—one day to see what maize is harvested, and later to see what maize is there, and so on. Well, that may be true, Sir, but I do suggest in principle that when you have a choice between a law which is distasteful in principle and the remedy for enforcement of a good law which is distasteful, the distasteful remedy is preferable to the distasteful law. That is all I have to say on this point, Sir, except that I hope it will be borne in mind when Government comes to consider future legislation covering controls of this kind.

Sir, on clause 19, the point that I made in the select committee arose only indirectly. Clause 19 provides that certain deductions may be made from the price paid to the farmer in respect of moneys outstanding on account of advances made by the Board of Agriculture. The point I wanted to make there, Mr. Speaker, and did make in the select committee, was the importance of not interfering with the ordinary practice of taking security on a maize crop to cover payment of a loan or some other kind of debt, owing to a private individual. Our law expressly provides in the Chattels Transfer Ordinance that a charge on crops is a legal form of

security for payment of a loan or a debt; but Mr. Speaker, unless there is provision in this Bill for the protection of such a secured creditor he will not be protected any longer. Ordinarily, without this legislation the crop has become his on harvesting or even before harvesting, to sell and recover what is owing, with an obligation, of course, to pay the owner of the crop whatever is left over; but here he may have a valid legal charge on the crop, but his security is taken away by statute and given to someone else. It becomes the property of the Board the moment it is harvested, and the creditor cannot lay hands on it because it goes off, by the operation of this statute, through sub-agents and agents to the Board, and is sold by the Board and the Board pays the proceeds straight to the farmer, and where is the creditor in respect of his security?

The hon. Member did make one mistake only, I think, in describing our discussions in the select committee, in this respect. He said that the point that I had made was that I wanted dealers of farm machinery to be covered as regards debts owing to them, by providing that those debts should be paid out of the proceeds of the farmer's maize. Now that was a misunderstanding of my point. I was not concerned with dealers in farm machinery any more than any other kind of creditor who was not secured by a charge on the crop, but I was concerned for all creditors whatever kind, who take charges on crops as security. I am afraid, Sir, that we shall get an unfortunate repercussion from not protecting the creditor in this case. It will, in fact, jeopardize his position, so that that kind of security is no longer acceptable; but it may be the only security the farmer has, and so he will not be able to get the advance or credit that he was able to get in the past, And so, by interfering with ordinary trade usages, you are going to put the farmer at a disadvantage, or if you do not do that you are certainly going to put the creditor at a disadvantage which, in my suggestion, Sir, is completely unnecessary and unfair. There, in my submission, we have interference with ordinary trade usages which is not absolutely necessary for purposes of control; and in principle that is bad. Subject to those things, I beg to support the Motion.

MRS. SHAW: Mr. Speaker, Sir, the hon. Members on this side of the Council, I am very grateful to the Minister for agreeing to this Bill, with the exception of the hon. Member for the Coast I understand, for this Bill, to say the least, was a very untidy piece of legal drafting, although I think that really after the attack clause by clause by the hon. Specially Elected and Legal Member, and indeed the European Elected Member, I doubt really if any self-respecting Minister could have refused to act on the late President Roosevelt's advice which is to grant graciously when you cannot refuse safely, and to conciliate those you cannot conquer or cow. However, it appears from the Minister's clear and detailed explanation of the amendment on which I, too, would like to congratulate him, that thanks to the select committee's patient and detailed examination of the clauses we now have a Bill that, although it still has some objectionable features, will be much more acceptable to the country as a whole.

It is to those clauses, Sir, which either have not been amended or where the amendment does not go far enough to meet our objections that I shall refer. For instance in clause 4, in spite of the Minister's assurance that two out of the four Members appointed by him under section 2 (e) should be chosen to represent consumer interests, the apportionment of the Board would still be grossly overweighted on the side of producer interests.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, on a point of order, I must ask the hon. Member to be accurate. It is surely grossly inaccurate to say that partly between producer and consumer interests means that the Board is grossly overweighted in favour of producer interests. I must ask the hon. Member to withdraw the word "gross".

MRS. SHAW: I withdraw the word "gross". I notice, too, that clause 5 was agreed to on the assurance being given by the Minister that the present system of tendering should be continued.

Clause 26 was objected to by the Kisumu Municipal Chamber of Commerce on the ground that considerable

financial savings could have been effected if imports and exports were by public tender. It is with satisfaction that I see that clause 27 has been amended by deleting the words "without assigning any reason therefor" but it is not clear if there is to be a right of appeal, and I should be grateful if the Minister would enlighten me on this point in his reply.

As regards clauses 38 and 39, these clauses are considered to smack of totalitarianism as they were originally drafted, and I think that such sections on our statute book would be a slur on the administration of this Colony and of Her Majesty's Government. It would be well for another American President, Woodrow Wilson, who said that "the history of liberty is the history of the limitations on the power of Government". We still have these clauses referred to, which are inclined to be arbitrary, and should be further modified, certainly in the case of clause 39, by specifying the time limit beyond which an arrested person could not be detained without being brought before a magistrate.

As to clause 42, the onus of proof, surely it is contrary to accepted principles of British law, and here I must ask for information from the legal pundits in this House whether the onus of proof should lie with the prosecuted person.

In clause 43 the penalties are considered very harsh, and clause 47 again smacks of totalitarianism, and in this case it is felt very strongly that if the Minister has played a major part in the appointment of members of the Board he cannot be considered as an impartial authority, and therefore the appeal should go to a civil court of law and not, as at present, drafted in section 3 (b) which reads: "Any refusal by the Board to register or renew the registration of a miller or any condition imposed on such registration under section 27 and who has had representations rejected in writing by the Board may within 28 days of such rejection being communicated to him appeal to the Minister whose decision thereon shall be final and conclusive, and shall not be questioned in any court".

(Mr. Shaw)

With these reservations, Mr. Speaker, on which I hope the Minister will comment in his reply, I beg to support the report.

MR. COOKE: No matter how many amendments there were, Sir, it would not make any difference, because the Bill is so bad it could not be made any better. I am not certain, however, Sir, in opposing this Bill, whether I should do so now or on the Third Reading. If I do so now, perhaps it will allow me to save time, if you will allow me that latitude.

The reason I object, Sir, is because the Bill retains the old control: and that is what I object to so much.

When the present Minister's predecessor, who happened to be yourself, ten years ago framed the policy on maize it was entirely different to the policy which my hon. friends have since carried out, and if he likes to challenge me on that point I have got a yard of quotations made by the late Minister about ten years ago.

Now, Sir, if the African Members were here—

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): On a point of order, Mr. Speaker, I submit that the hon. Member must confine himself to matters of detail in the report; he cannot challenge the principles of the Bill.

MR. COOKE: I did say that I would raise this at the Third Reading, if necessary.

THE SPEAKER (Sir Ferdinand Cavenish-Bentick): At this stage you should not really bring into question the principles of the Bill as we are now debating the report of the select committee. You could, of course, move that it be recommitted. Also, when the Third Reading takes place you can oppose it then. However, now you could perhaps produce details and take action on them without bringing into question the main principles of the Bill, which have already been decided on.

MR. COOKE: That is the reason, Sir, why I started by hoping that you would allow me that latitude.

THE SPEAKER (Sir Ferdinand Cavenish-Bentick): You may proceed.

MR. COOKE: Now, Sir, as I said, the Minister has gone back, I think, on the arrangements made ten years ago.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, I seek your guidance. If the hon. Member is now under the disguise of detail, going to reopen the whole question of the principle of the Bill, it would not be truly right for the Government to answer those principles in the debate on the report of the select committee. Much as I appreciate your ruling, Sir, I feel I must put to you the fact that unless the same latitude is going to be allowed to the Government side of the House in answering the allegations of the hon. Member, in effect the hon. Member is securing an advantage which I am sure he would not wish to secure. I think it would be better, if the hon. Member wishes to do this, for him to raise it on the Third Reading. Otherwise I must enter the whole field of principle again. I think that we have already discussed that exhaustively over the whole of a day, and it might not be wise to do so again, with all due respect, Mr. Speaker.

THE SPEAKER (Sir Ferdinand Cavenish-Bentick): Quite so. That is why I suggested to the hon. Member that he might find in the report matters on which to justify his opposition. If you cannot find them in the report of the select committee then I suggest you reserve your comments for the Third Reading.

MR. ZAFRUD DZEM: Mr. Speaker, I have given my support as a member of the select committee, to this Bill in good faith. It was a pleasure to know that most of the important suggestions for changes were given very sympathetic consideration. I am particularly grateful for the assurances which the Minister has given.

Sir, the main intention of this Bill, so far as I can understand, was to stabilize the industry; secondly, to check black marketing; and thirdly to bring down the prices of maize on which depends the cost of living. Sir, if at any stage in the operation of the Board it runs contrary to the spirit which I have explained, whether for political, racial, or other administrative reasons, I, Sir, wish to

[Mr. Zafrud Deen]
 state here that I reserve the right to condemn this Bill. I only hope that this Board will not be built on the relics of the Maize Control and that there will be a radical change and a complete re-orientation of the policy. I hope that the Maize Marketing Board will win the public confidence and that it will give service and not prosecute the traders and producers.

I hope, Sir, that the time will come when the producers will produce more maize, both for local consumption and for export and that the Board at no stage will cause the stifling of the most vital industry of the country.

Mr. CONROY: Mr. Speaker, considerable public misgivings were aroused about this Bill in the form in which it was first published, and in so far as those misgivings relate to legal matters I should like to take the opportunity at this debate to deal with those misgivings, either by showing that the grounds upon which they were based were wrong or by showing that the reasons put forward to the select committee made the select committee accept that the misgivings were true and that they should be allowed amendment of the Bill.

The Government would like to take this opportunity at the outset to thank those people who took the trouble to come forward and put representations to the select committee—private individuals, public bodies, a large number of public spirited individuals went to that trouble. We should like to thank them. In spite of an apparently widely-held opinion to the contrary the Government does not necessarily believe that it is 100 per cent right 100 per cent of the time, although, Sir, we do have a sturdy self-confidence in ourselves based upon our record of past successes. To the people who put forward rational grounds we are most grateful. There were also a number of people, Sir, who published criticisms which could, I think, fairly be described as more to be remarked upon for loudness than for logic—they did not take the trouble to come forward to the select committee and they did not take the trouble to make representations to us and therefore, Sir, I am afraid that I cannot include them in our thanks because they did not do anything to be thanked for.

There were four principal matters of legal objection to this Bill, some of which have been touched on in the debate today by the hon. and gracious Member for Nyanza.

Firstly, that the Minister was a judge in his own case and that he imposed penalties under the Bill. Mr. Speaker, I cannot resist reading one of the objections which was publicly made because it was such splendid stuff and because it could not be more inaccurate. This is what appeared. "The Maize Marketing Bill undermines the rule of law and the liberty of the subject. To make the Minister judge in his own case, to impose penalties for offences against the Ordinance, and to prevent the individual having his case heard in the ordinary courts of law is the land." "All this is reminiscent of the Star Chamber, similar courts of ill fame in history." Sir, the writer then goes on to say that he is astonished—"What surprises and shocks me is the fact that the country appears to be taking these assaults on its liberty lying down. Even those persons who inveigh against them in private are silent in public. It is time that they made their voices heard." Sir, all I can remark is that it would be very much better if the writer of that letter had taken the trouble to read the Bill before he made his voice heard, because his conception—perhaps I should say misconception—of the Bill could not be more absolutely wrong. Sir, the Minister is not made the judge in his own case. Civil and criminal cases against individuals are not taken out of the jurisdiction of the courts of the land.

The legislature has agreed on the Second Reading that in principle the control of marketing of maize should be accepted. Now, Sir, if we are going to have control of marketing of maize then some racketeer or wide boy or black marketer, call him what you will, is going to find a way of getting round the control or the management in order to fill his own pocket.

Sir CHARLES MARKHAM: A lawyer?

Mr. CONROY: No, Sir, No, Sir—a business man. We are agreed he is not a farmer.

Now, Sir, if you are going to have black marketing then you must have penal sanctions to prevent it, and if you

[Mr. Conroy]
 are going to have penal sanctions then you must have penalties—you must have imprisonment or fine or forfeiture or some other penalty. Those penalties are not fixed or imposed by the Minister under the Bill—they are fixed by the legislature; and they are not imposed by the Minister but they are imposed by the courts of the land; and it is nonsense to say that they are imposed by the Minister. If I am caught black marketing in maize I am hauled in front of the magistrate and the magistrate fines me—not the Minister.

Now, Mr. Speaker, the next allegation under this head is that your appeals will not be heard by the courts. But they will be. If you are convicted by a court for black marketing offences in maize then your appeal lies to the same courts of criminal appeal as it would lie if you were convicted of murder or riding a bicycle on the pavement, or any other criminal offence.

Mr. Speaker, there is one slight qualification in what I have been saying to which I should like to draw Members' attention, and that is under clause 49. There is power given to the Minister, after consultation with the Board, to make regulations, and under those regulations he can create offences and the maximum penalty for those offences is prescribed in those regulations. But again, Sir, that is perfectly normal subordinate legislation procedure. The Minister does not impose the penalties, the courts impose the penalties. What the Minister does by his regulations is, to limit the maximum penalty that the court can impose; and, Sir, the Minister is making those regulations in subject to control of this Council because he has to lay his regulations in this Council, and if this Council does not like them then we can revoke them.

The second matter—and I think the hon. and gracious Member for Nyanza also referred to this—was the question of appeals. It has been suggested, Sir, that it was quite wrong for appeals to lie to the Minister; and, Sir, that matter was considered by the select committee and they really did feel that there was something in this misgiving. We have accordingly altered clause 47 of the Bill, and if hon. Members will turn to that

I hope I will be able to convince them that we have produced a very much better clause 47 than the original clause 47.

There are three types of appeal, Sir, provided for in clause 47. Before I come to deal with those three I would ask hon. Members to remember that criminal appeals continue to lie under the ordinary criminal law of the Colony through the criminal courts and if there are any civil cases about maize they are tried by the ordinary civil courts of the Colony, and appeals also go to those courts. So now those three types of appeal are outside clause 47.

Clause 47 (1) deals with a special type of appeal and was put in an representation made by the hon. Member for the West Electoral Area. You will recall, Sir, that it was agreed on the Second Reading that the Maize Marketing Board should be a managerial body, and that the actual handling of the purchase of maize should be done through agents; and it was also agreed that the agents should be able to appoint sub-agents. Now, Sir, the hon. Member for West Electoral Area was worried in case the termination of a sub-agency might put an honest trader right out of business, it was felt therefore that there should be written into the Ordinance some right of appeal, and we accordingly wrote in in clause 47 (1) an appeal to the Board from the termination of appointment of a sub-agent. This helps me to illustrate another point which answers the allegation of smacking of totalitarianism, which has been hurled across the floor recently. Sir, some starchy-eyed constitutional idealists would have us believe that all appeals should lie to a court. I agree with them that where you have a decision reached by a tribunal which is reached on facts as proved in front of that tribunal and on law in front of that tribunal, that you can have no better appellate tribunal than a court. But Sir, one moment's thought, one moment's experience in practical affairs, one moment's contact with reality, would tell our constitutional idealist that that just does not work in respect of a large number of appeals, because many decisions are reached not on fact and on law but on policy, and where you have a decision reached, Sir, by a tribunal from its own knowledge,

[Mr. Courroy] from its own knowledge of policy, from its own experience of the maize industry it would not be possible to have an appeal to a court because there would be nothing in front of the court; there would be no evidence; there would be no law. Suppose, Sir, you were to make an appeal by your disappointed ex-sub-agent to the court, all the court would say is, "Well, the agent was entitled by law to terminate your sub-agency: good morning, pay the costs on the way out please." Of course that is all it could do. Whereas, if you have an appeal to a body which has knowledge of the maize industry they could say, "Although in law the sub-agency can be terminated, we think it is very unfair. We think it is contrary to the interests of the Colony in that particular area, and we know that from our own knowledge. We shall therefore allow the appeal." That is why, Sir, you will find that some of these appeals do not lie to the courts, and we provide in the Bill that the appeal, having lain to an appellate tribunal, which is not a judicial tribunal, shall be final.

Sir, the next type of appeal is dealt with in clause 47 (2) and I shall not weary hon. Members by taking them through the list there except to say that the matter on which the hon. and gracious Member for Nyausa said there ought to be an appeal is specifically dealt with in section 47 (2) (d). The appeals there lie to the Agricultural Appeals Tribunal and the Agricultural Appeals Tribunal is really a halfway house between a judicial appellate tribunal and an administrative appellate tribunal. It consists of three members, two of whom come from panels appointed by the Governor-in-Council to represent the Scheduled and the Non-Scheduled Areas. The chairman, Sir, is a person appointed by the Chief Justice, being a barrister or solicitor of not less than seven years' standing and being in the opinion of the Chief Justice possessed of the necessary experience to discharge the duties of the office of chairman. Sir, I only need to add that the person who fulfils that function at the moment is one of Her Majesty's Counsel; he used to sit on the other side of this Council and, to anyone who knows him, one cannot think of a

better person to be appointed to fulfil this function.

The remaining type of appeal lies under sub-section (3) to the Minister, and for the reasons I have already explained it can only lie to the Minister. For example, if the Board decides that x thousand bags of maize are to be exported in any particular year no court could say whether that was a good decision or not because it rests with policy, the policy of the Government—whether they are going to have enough maize to feed the industrial and urban population; whether they are going to have enough maize to guard against emergencies; whether they are going to export maize. That is all a matter of policy and, therefore, that appeal can only lie to the Minister. Sir, the hon. Members, if there are any left opposite, who feel misgivings about this sub-section can take comfort from the thought that if they were the temerity to do so they can always attack the Minister across the floor of this Council in respect of his decision on appeal in such a matter.

Sir, the third point of objection related to Part VIII of the Bill. That, I think, was another point that "smacked of totalitarianism". That Part deals with arrest and search without warrant. Representations were made to the select committee on this point and which put us on the horns of a dilemma. In order to prevent black marketing, the right of search and of entry on to premises and the right of arrest without a warrant may be necessary in urgent cases. On the other hand, we did agree that it is wrong to interfere too widely with the liberty of the subject, and we therefore had to find some reasonable compromise. We thought that the reasonable compromise was this, Sir: that the powers should not be cut down but that the persons to whom the powers should be given should be very limited; and we provided for that by saying that these powers should be exercised by authorized officers. They would not be any minor jacks-in-office employed in the management of maize; they would be persons whom the Minister personally said in writing he was prepared to have these powers given to. Sir, that is the practical control of these very wide powers which we have sought to write into the Bill.

[Mr. Courroy]

Sir, I should like to draw the attention of the hon. and gracious lady to the provisions of clause 41, sub-sections (2), (3) and (4). She rather felt that where powers of arrest were to be exercised, some limit should be placed upon the time within which the citizen could be kept in arrest. Sir, she is not alone in that thought. The select committee thought of it, too. We wrote it into sub-sections (2), (3) and (4), which provide that where an authorized officer arrests someone without a warrant he shall hand that person over immediately to the police. Then the policeman is responsible for handing the arrested citizen over to the officer in charge of the police station, and then your ordinary criminal law takes effect. Sub-section (4) says that the person shall be dealt with under section 35 of the Criminal Procedure Code, which provides that the arrested person shall be taken to court within 24 hours, and if they cannot be taken to court within 24 hours then the officer in charge of the police station shall enquire into the case and if possible release the arrested person on bond, or just release him. I think that answers the point raised by the hon. Member.

I hope that I have allayed the misgivings on arrest and search without a warrant.

Now, Sir, we come finally to what I might describe as a "legal red herring", and that is the onus of proof. I shall not weary Members of this Council by reading some of the splendid stuff which has appeared in the Press. All of it, Sir, is known in legal circles as "flowers that bloom in the spring arguments". I do not expect that I need explain to hon. Members the reason for that expression. Sir, the allegation is that the Bill is going to make a person guilty until they are proved innocent. That is simply untrue. It just is not true. If hon. Members would take the trouble to read the Bill they would find that the only section which deals with onus of proof is clause 42. Clause 42 is only declaratory of the principle which runs right through our common law and our statute law, and I really must just draw hon. Members' attention to it. Clause 42 says this: "The onus of proving the place of origin of maize... shall lie

upon the person prosecuted." It does not say he must prove himself innocent. It only says that the burden of proof of where the maize came from shall lie on the person prosecuted, and if in any such proceedings any question arises as to the lawfulness of the possession of maize then the onus of proving the circumstances of such possession or transaction shall lie upon such person. Now, Sir, that is very different from saying that the person is guilty until he is proved innocent.

I have taken the trouble to bring down to hon. Members that splendid piece of legislation which is largely declaratory of the common law, the Indian Evidence Act. Section 106 of that Act says this: "When any fact is especially within the knowledge of any person the burden of proving that fact is upon him." Now, Sir, I use those words because they are so much clearer than any words that I could use. If I could just give two small examples to underline this point—the first is, Sir, a statutory one. I am driving my motor-car down to Mombasa and I am stopped by a policeman. He says: "Where is your licence?" The burden of proving that I am licensed rests upon me. It is not for the policeman to prove that I have not got a licence. He has not got to prove the negative. I have got to prove the positive; that I have a licence, and I think that all hon. Members will agree that that is fair, and it is not some frightful Star Chamber thought up by the Minister for Agriculture. The other is a common-law example. If, Sir, I am found in possession of a gold watch and chain that has recently been stolen from the hon. and gallant Member for Nairobi West, then it is for me to prove that I came by it innocently. The Crown has to prove that the watch and chain was stolen and that I was in recent possession of it. I have then got to prove that my possession is innocent. I have got to prove that I came by the gold watch and chain innocently. That is only an illustration of the common law principle which is enshrined in clause 42 of the Bill which everyone seems to think is so awful, with the exception of lawyers who are familiar with it and hon. Members who take the trouble to read the section carefully.

[Mr. Conroy]

Now, Sir, I apologize for dealing with these matters at some little length, but it does seem to me to be terribly important, especially in respect of controlling legislation such as this, that we should try to get the public behind the legislation in order to make it work. Where public misgivings have been aroused, then I think it is right that one should deal with them at some length here in order to try to allay them, to show either that the grounds on which they were based were wrong, or that we have met them in the select committee.

Now, Sir, if I can restrain myself from poaching on the hon. Minister's agricultural preserves I might like to try to deal with some of the other points which have been raised in the debate this afternoon.

The hon. and learned Specially Elected Member, Mr. Slade, argued against the provision in clause 15 that maize should vest in the Board when it was harvested. He said that it was better that the maize should vest in the Board when it moves off the farm. That is probably the most difficult question which we had to decide in the select committee, and we gave very careful consideration to it. It seemed to us that it is better to make the maize vest at the time of harvesting for three reasons. The first is that this is not a maize control Bill. This is a maize marketing Bill, and the purpose of the Maize Marketing Board is to plan ahead in a business-like way what is to happen to the maize produced in this country. You cannot plan without information, and if, Sir, maize is only going to vest when it leaves a farm—and as the hon. and learned Member said, the farmer could say, "I am going to leave it here to rot, or I am going to burn it"—then, Sir, it would be impossible for the Maize Marketing Board to plan ahead because they would not know whether Farmer X (who, unlike most farmers, Sir, is an unreasonable person) will decide he is going to burn 10,000 bags of maize rather than deliver them to the Board. It is important, Sir, that the Board should know that those 10,000 bags are going to come out into the market. We also felt—the second reason—that to allow for maize to remain the property of the farmer until it moved off his farm gave greater opportunities for black market

because it is clear that the earlier you vest your maize in the Board the greater is your control. The third reason against it was this. If you are going to control maize after it leaves the farm you still require information about the amount of maize on farms, and you are still going to have your inspectors going on to the farm, and the alteration to clause 15 proposed by my learned friend really would require the inspector to go on a greater number of occasions than he would under clause 15 as drafted. We did therefore feel that clause 15 as reported by the select committee gives fewer opportunities for inspection, and therefore friction, or rather, requires less inspection and therefore friction.

Another point raised by the hon. and learned Member was clause 19, and he thought it was a pity, in view of the fact that a charge on a crop is a form of legal security for a debt that the Bill would remove this protection. Sir, I wonder in practice if the hard-headed businessman of Kenya—I have yet to find a person who is prepared to lend money who is not both hard-headed and business-like—if the lenders of money, knowing that this Bill is law, that hard crops are going to vest in the Board as soon as they are harvested—is that businessman going to lend money on the security of that maize? Sir, the answer is, of course he is not, and, Sir, the question of the loss of his security is not going to arise. If he is going to lend it he knows that it is going to vest and he will have to follow his security into the hands of the Board. If you are going to put it the other way round, and allow the borrower to buy the maize in effect in the future, then you are going to drive a coach-and-four through your management of maize.

The other points I think I have largely dealt with, except that I do take exception to the suggestion that the drafting of this Bill was bad. Sir, I must say that when I considered it in detail I thought it was a masterly effort. I agree that the policy has been altered possibly a little bit, and, Sir—(Cries of "Order.")

Sir, if I might pick on the smallest point made by the hon. Member for the West Electoral Area, I think it is probably what is known as what the psychiatrists call a Freudian error, be-

[Mr. Conroy]

referred to the Maize Control Board, under this Bill. There is not going to be a Maize Control Board, Sir, there is going to be a Maize Marketing Board. The difference is very very marked. I do think that possibly that will help to remove some of the misgivings that the hon. Member feels about the future control of maize as opposed to the future management of the marketing of maize. Sir, for those reasons I beg to support.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, after the admirable speech of my learned colleague I do not feel that I need weary the House very long. There are really only, I think, two points to which I wish to refer. The first is the point raised by the hon. Specially Elected Member, Mr. Slade. We did discuss this question of, securing creditor, and I gladly accept that I did not quite put to the Council what was behind his views which he gave to the select committee. We did discuss, however, the whole matter and we decided as a majority to leave it as drafted. We felt that it would be better to see in the light of experience whether the proposals in the Bill did damage the flexibility of the credit which would be available to the farmer, which is really what I think is the substance of the hon. Member's contention. And although I undertook no assurance on the matter, Mr. Speaker, in the select committee, I think that the majority of us felt that if in the light of experience the contention of the hon. Member was correct, we might well introduce an amendment to the Bill based on the experience of its working.

The only other point, Sir, to which I wish to refer is the matter raised by the hon. Member for the Western Area. I made it clear when introducing the Bill that I wished the Board to act with the greatest possible flexibility and to eliminate as far as possible the rigidity of a wartime control system. I propose, as I know the hon. Member is much interested in this matter, to give him an assurance that I intend to discuss this particular aspect of the matter with the chairman of the Board when he is appointed, with the idea of stressing to him the desire of

all hon. Members in this House for the greatest possible flexibility in the management of the industry rather than for control of the industry.

Lastly, Sir, I would like to extend my sympathy to the hon. Member for Nyanza. I feel that even if not physically she must be mentally somewhat deflated, and as I suffer myself from this same joy of over-statement I can truly extend to her my sympathy. Lastly, Sir, I should like to thank hon. Members for their tribute to my work in the chair. I would only say this. I am unsuited to be the chairman of a select committee, because I am naturally impatient, and really, Sir, the results of this report are not due to me in any way whatsoever; they are really due to the forbearance of the members of the committee. Mr. Speaker, I have pleasure in moving the adoption of the select committee's report on the Maize Marketing Bill.

The question was put and carried.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): I beg to move that the Bill be now read a Third Time.

Question proposed.

MR. COOKE: Mr. Speaker, I beg to oppose the Third Reading. I am indebted to my hon. friend because I was slightly inhibited from saying what I was going to say, and now he has given me the opportunity to say perhaps a bit more than that. I do not intend to be long.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Good.

MR. COOKE: I will be as short as possible. Sir, as I was saying, this Bill has been received with a great deal of disappointment throughout the country because it only prolongs the agony of the old Maize Control, which I think led to any amount of abuse throughout this country, and it also led, because it contributed to high prices, to maize being planted in quite unsuitable areas. I have the full authority for saying that from the annual reports of the Director of Agriculture himself—not necessarily the present Director of Agriculture, but the ones in the past—and I do not know, perhaps he probably agrees with me as well, but that it is beside the point. Year

(Mr. Cooke)

after the Director of Agriculture, particularly Mr. Blunt, protested against the high price of maize and also protested against the large plantations of maize, the great amount of maize that was being grown in this country, which unfortunately led, in many cases, to the spoiling of the soil, especially in the Nyanza country which now, I believe, is a great deal worn out—far more worn out than it was ten years ago.

Now, my hon. friend—I am really not right in referring to what has happened in the debate on the report—but my hon. friend the Attorney-General (Mr. Conroy) did not convince me a bit in his defence of this Bill, and I understood him to say that it was the common law—I must really have been mistaken about this because I cannot believe it to be possible—that the police can say to a man who has got a gold watch, "Where did you get that watch from? Is that yours? Are you in legal possession of that watch?"

MR. CONROY: Mr. Speaker, on a point of explanation, I never said anything of the kind. What I said was where I am in possession of a watch which has been recently stolen.

MR. COOKE: Recently stolen?

MR. CONROY: Yes—then there is a presumption that my possession is guilty and it is up to me to explain how I got it.

MR. COOKE: Did the hon. gentleman really mean it when he said just now that when a watch had been recently stolen, one could presume—or it might lead to the presumption—that he has to account for the possession of that watch?

MR. CONROY: That is so.

MR. COOKE: I should like to take the hon. Member on that subject to court, Sir.

MR. CONROY: There are two leading cases, popularly known as *The Queen v. Schana and Abramovitch*.

MR. COOKE: If your contention is right, then why the need for this law? Why not act under the common law with regard to maize, for instance, if one can presume that the maize has been stolen. You can say to an African, "Where did you get that maize?"

THE EUROPEAN MINISTER WITHOUT PORTFOLIO (Mr. Harris): On a point of order—we are not running. Sir, into a very dangerous precedent? The House has already taken the decision that it accepts in the Second Reading the principles of this Bill. It has now accepted the report of the select committee. Now, Sir, it is the usual procedure, I think, in the Third Reading only to deal with amendments, to delay the final passing of the Bill in the Third Reading. If we are going to be allowed to reopen the whole of the debate on the Third Reading, Sir, the work of this House will never finish. I would ask for a ruling.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): It is accepted practice in any Assembly of this nature to give Members who may wish to oppose any Bill or measure which is under discussion every opportunity of doing so. On a Third Reading they can do precisely what is permissible on a Second Reading. The question before the House is that this Bill be now read a Third Time. Any hon. Member can oppose the Third Reading by moving for delay. Having done that he can then proceed to give his reasons for wishing to oppose the Bill as presented for its Third Reading. At the most he can but propose amendments. As usually most of the interested parties have exhausted themselves during the debate on the Second Reading or during the Committee stage this accepted procedure is not usually likely to lead to a lengthy debate.

MR. COOKE: Sir, the interruption came to the rescue of the Attorney-General (Mr. Conroy), and I think he might have allowed to go on any further. I do not know how it would have been if I had referred to the Droit Administrative or anything like that, so I did not pursue that point.

Well, Sir, I think it is a pity that the African Elected Members are not here today, not only from this point of view but from every point of view, and I am sure that they would 100 per cent. oppose this Bill because it is penalizing the urban African to a very large extent. The question of the control being retained must keep up the price.

Now my hon. friend—he has not answered me yet on this point. He said

(Mr. Cooke)

at Subukia—and I handed him over the document which alleged that he said this—that the reason he was in favour of a control was that it kept up the price of maize for the European farmer. Well, I think, Sir, that was a very naughty thing to say, if he did say it, because what we are surely legislating for in this country is for the good of the whole and not for any particular section of the community. I brought that up to give the hon. gentleman an opportunity of denying it. Since it was published about six weeks ago my hon. friend has not made any public denial that I have seen of this very—I think—serious allegation.

I do not know what the position of the other African Members in this House is, but if I were an African Nominated Member or if I were an African Specially Elected Member I would vote against this Motion because it is keeping up the price of *posho* to the African urban dweller and, also, of course, to the European.

Now the iniquitous thing about this Bill is that it has to be full of pains and penalties, because it is well known that the black market crept into the old Maize Control and it will inevitably creep into this. I said to a farmer the other day: "What are you going to do if your neighbour is growing maize and you want so much maize for your pigs?" "Oh," he said, "I will go on buying it as I did before", and I calculated what he would save. He was going to buy it at about Sh. 30 a bag and as he was buying 20 bags a month he would, if my mathematics are correct, save £240 against a person like myself who has to pay Sh. 55 a bag.

Now, another example I quoted before of the iniquity of this—and this is a matter which my hon. friend the Minister for African Affairs should get hold of—has already been repeated once or twice in this House, and that is that maize from districts like Fort Hall is bought by surrounding Africans who are alleged to pay Sh. 1 a bag to the controls, wherever they may be—the police controls—to smuggle this maize from one area to another. Now that is such common knowledge that one might almost take judicial knowledge of it, and it is one of the ways the farmer is done, so I

hope that when this Bill is passed, as it inevitably will be, that we will try to see that this black market does not take place. I was informed once at Fort Hall by the then marketing officer that he calculated that 60 per cent of the maize grown in the Fort Hall area went straight into the black market. If that was so then, I do not think that these pains and penalties are going to stop what was going on there, because you would need a very large police force and a very much higher moral rectitude among the people of this country than exists today if you were going to stop that from happening in the future. I think by passing a measure like this which is full of pains and penalties, you are encouraging really the black market to get the better of these regulations that you have made.

Sir, I entirely and completely oppose the Bill.

MR. CONROY: Sir, without indulging in any forensic excursions, I would say that the hon. Member for the Coast has a fair amount, got hold of the wrong end of the stick, and he has taken an example of the gold watch and chain as a principle. The principle is that when a matter is within the knowledge of an individual, then the usual rule of law, that is inscribed in many, many Ordinances, is that the burden of proving the fact lies on that individual.

MR. MUCHURU: Mr. Speaker, Sir, I remember when the Bill was being read a Second Time I did raise certain questions which I thought would affect the African growers in the African areas, and especially with regard to the movement of maize within the districts and within the locations, and I remember also here I cited the case of my mother, or someone else coming to visit me and, as is usual, carrying a few pounds of maize or *posho* to bring to me. Secondly, I also cited the question of the delegation of powers downwards from the Board to the smallest man—the sub-agent somewhere in a lonely district like Yala some 26 miles from Kisumu. Then also the power that is given to people and the obligations of the growers to make sure that he has got so much maize which he has got to declare. I said then that most of them would not be able to know how much they are likely to have

[Mr. Mochura]

at the end of the harvesting period. Then one specific question was whether in time the Minister thought it would be possible to reduce the price of *posho*, which of course is the staple foodstuff of our population. For that reason, Sir, since the amendment of the select committee did not do anything in that line to try and clear those doubts from my mind, I feel inclined to say that I would not be very much in favour of it being passed, otherwise other than the Minister sort of indicating to the House that there will be in time a reduction in the price of *posho* and that the movement of the most staple foodstuff of the Africans will be allowed in reasonable cases of a father or a mother or someone else going to see a son or something like that, from one place to another.

Those are some of the greatest problems that have faced the African growers, and not only growing for market but growing for their own consumption and probably helping their friends when they are hungry.

MR. NGOME: Mr. Speaker, as an African I think the price of a bag of maize in the past not very long ago, was something about Sh. 10.

MR. CONROY: On a point of order the hon. gentleman is now dealing with a matter of principle, and I would ask for a ruling. I have here *Erskine May*, page 578, in which this passage appears: "As the debate on the Third Reading of the Bill should be confined to the contents of the Bill, reasoned amendments which raise matters not included in the provisions of the Bill are not permissible."

Nowhere in the Bill, nowhere in the contents of the Bill is there anything dealing with the price of maize or *posho*. That is a matter of principle which has been decided on the Second Reading. Sir, I would ask for your ruling whether debate on the Third Reading is not limited, in the words of *Erskine May*, to "the matters contained in the Bill".

MR. COOKS: Before you give your ruling, I submit that it arises directly from the Bill—this price of maize. We have from time immemorial in Legislative Council gone on that basis.

THE SPEAKER (Sir Ferdinand Cavendish-Bentley): I think on a very strict interpretation of precedent and procedure not specifically provided for in our Standing Orders I admit that your point of order is correct. But as this particular Bill covers a very highly contentious subject, if there are Members of this House wishing to oppose this Third Reading, it is only courteous to allow them to briefly explain the reasons which have led them to adopt their attitude by raising matters of this nature.

MR. NGOME: Mr. Speaker, the majority of Africans in this country—the highly paid Africans—are drawing Sh. 60 a month, and that is the price of a bag of *posho* today. It costs the same amount. For that reason, Mr. Speaker, I think the authorities who fixed the price of a bag of *posho* must consider this question very seriously, because I am strongly against the price of maize at the price of Sh. 60 a bag, or a little more than that, and the average African salary is just Sh. 50 to Sh. 60. He has to pay so much for a bag of maize that he has nothing left from what he receives for his salary. Unless this point is considered by the Minister I think I have very little doubt that the African in this country will have to make a row with the department concerned with regard to the price of *posho* that is being sold in this country, throughout the country. For that reason, Mr. Speaker, I support the Bill but not on the question of the price of *posho*.

MR. SLADE: Thank you, Mr. Speaker. We have just heard three speakers on the Third Reading, none of whom appeared before the select committee to make the points they made now or to ask for the explanation they asked for now, and I do think that is a great pity. When Government goes so far as to concede that a Bill should go to a select committee, one of the main purposes of a select committee, I believe, in addition to making better shape of the Bill in the light of representations from outside, is to satisfy members of the public that really the Bill is not as bad as it seems to be. As a member of this committee I was convinced on this, as witness after witness came before us with perfectly good questions and worries of the kind

[Mr. Slade]

you heard this afternoon, and went away satisfied that there was no cause for their worries and no cause for amendment. I had that experience myself on some of the points I raised, and I do regret that hon. Members do not take advantage of this procedure when it is available, rather than raising the points so late in the day.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, I would like to deal with the two points which were raised by the hon. Specially Elected Member who lives in Nairobi. The first question he asked me was whether there would be a reduction in the price of *posho*, and I can assure him that it is more than likely that shortly there will be a reduction in the price of *posho*.

MR. COOKE: Will it be considerable?

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): That reduction can be carried out progressively over a number of years. I am not prepared, Sir, to state whether the reduction will be considerable or not, because my estimate of what is considerable might be substantially different from that of the hon. Member for the Coast, but there will be a reduction in the price of *posho*.

Secondly, Sir, he raised the question of movement, and I think he must have been absent from the Council when I was introducing the report of the select committee, because I clearly indicated to him that a number of amendments have been made to clause 15 (6), and one of those particularly met the point he raised in the main debate on the Second Reading. It is to the effect that maize should be allowed to be moved for consumption by the individual in, for instance, a town like Nairobi.

Now, Sir, to turn to the point raised by the Specially Elected Member from the coastal area; I should like to point out to him that in all areas where a minimum wage structure operates, then the price of *posho* is taken into consideration, and therefore there is a relationship between the minimum wage structure and the price of maize.

Secondly, Sir, I would like to draw his attention to the fact that the price of maize is not Sh. 60 per bag as he alleges; it will be related to the crop to be planted this year at Sh. 35/50 to the producer.

And now, Sir, I come to the points raised by the hon. Member for the Coast. He, at least, has been consistent in always opposing maize control. I was not in this House during the war, but the origin of the control was for feeding the country during the war, and I think it was clear, Sir, in the Second Reading that it is the opinion of the Government, and it is the opinion of everybody who has examined the matter in unbiased detail, that some form of control is necessary, if we are to provide the regular crops necessary to feed this country. The alternative is a swing in the price of maize in years of plenty to years of shortage. Now, Sir, he expressed the view that many people were disappointed. If that was so, why did they not come and give evidence before the select committee? But on the whole the evidence we received was not opposed to the principle of control—it was more opposed to the details of the Bill, and—

MR. COOKE: It was not so, Sir. The hon. Minister knows the Housewives tried to do that and were not allowed to.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): That is quite true, but nevertheless the Housewives and others did speak on the principles of the Bill. Now, Sir, if the hon. Member were to examine this Bill he would see it is not a Bill which controls maize—it is a Bill which manages the maize industry. During the proceedings of the select committee we had evidence from a Mr. K. P. Shah, which was excellent and most constructive, and he put before the committee a proposal that it would be possible to organize the maize industry on lines which set a basic minimum price for purchases and a maximum price. The Board would hold stocks, and when maize rose to the maximum price, which might be only a few shillings above the support price which may be in force, the Board would feed maize into the consumer channels, thus steadying or lowering the price. Now, Sir, such is a first-class method of controlling the flow of maize into the country, and of keeping the price balanced within limits. There

(The Minister for Agriculture, Animal Husbandry and Water Resources) is nothing under this Bill which would prevent the Maize Board organizing such a system. In effect I want to emphasize to the hon. Member that this Bill does not envisage a rigid control, but leaves great flexibility in the management of the industry to the Board.

The hon. Member made reference to the African and Asian Members and he alleged that they would oppose this Bill. Well, all I can say, Mr. Speaker, is that he had no warrant for that assumption whatsoever. As the hon. Member has absented themselves from the House we are not in a position to know their views. And secondly, Sir, I would like to tell the House with great emphasis how mischievous and distorted I think are some of the hon. Member's statements when he says that this Bill will penalize the urban African, and keep the price of *poitso* up. That is absolutely untrue. The hon. Member may snort but his idea of veracity is different from mine, and I would say this, Sir, that what this Bill will do is to see that the price of maize is stabilized so that the urban dweller is not asked to pay astronomical prices when there is a local shortage and maize has to be imported, and that the local producer is not bankrupted when there is a surplus and prices tumble. That is the object of this Bill.

MR. COOKE: The hon. Minister knows perfectly well there is a very good answer to that point.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, if the hon. Member wants to give any answers he could have given them when he was raising points on the Third Reading. Both my predecessor and myself have had to suffer the distortions which the hon. Member constantly puts before this House in regard to the price of maize in the urban areas. It is—and I repeat it—it is a distortion of the fact to say that this Bill will penalize the urban African.

The hon. Member, Sir, also quoted some remarks in a paper—I believe the paper is called *The Independent Comment on Comment* perhaps—I am not quite certain, Mr. Speaker, I would tell the hon. Member why I did not con-

tradict it. I had a note to do so in my speech, but the hon. Members will recollect that in my speech I spoke at great length, and to be absolutely honest with the House I forgot it, and I propose now to answer it.

First of all, Sir, the article was written by a Dr. R. J. Bowles, and he is the last person in the world who I would say was a skilled and accurate journalist, and the remarks which I had made Sir, were these: I said that it was necessary to stabilize the price of maize because unless we did so a great number of farmers in the European areas would go out of production. We need those farmers to provide the element of reserve in the production of maize which is necessary to give stability to the consumer in this country. And similarly, Sir, I pointed out the tremendous blow which a big fall in the price of maize would be to the African growers in Nyanza. Nyanza, Sir, partly runs its local government system on agricultural produce. This House has passed a Bill and agreed to a principle which imposes a graduated poll tax in those areas. Any serious and decisive dislocation in the price of maize must seriously damage both the revenues of the local government authorities and the possibility of implementing the principles of graduated poll tax which this House has endorsed.

Now, Sir, when I was speaking in Subukia I made it perfectly clear that there were two factors in this matter. The one was the stability of the European farmers in certain areas such as the Trans Nzozia, who are necessary to provide us with the reserve against disease and fluctuations in the African areas, and the second was the economy of Nyanza Province, and, Sir, I resent very much the implication of the hon. Member that I was solely concerned with the interest of the European farmers in the Trans Nzozia.

MR. COOKE: If the hon. Member will give way.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): No, Sir, I have given way to the hon. Member till I can hardly get up again.

Mr. Speaker, I think I have now dealt with the points raised by the hon. Member and I now move that the Bill be read a Third Time.

MR. COOKE: I have never contended about the price to the producer but I have objection for the middle man and the process from the consumer to the seller, which is about Sh. 35—about Sh. 25 at the moment. I am very much in favour of the producer, whether he is an African or European, getting a good price for his produce.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Well, Mr. Speaker, I thank the hon. Member for his explanation but I think it was a great pity he did not make it when he was speaking.

MR. COOKE: I have made it many times in the past.

THE SPEAKER (Sir Ferdinand Cavenish-Bentinck): Before putting the question, as even on the part of Ministers there seems to be some doubt about procedure. I would like to remind hon. Members that there are three crucial stages in the passing of any Bill. Firstly, the Second Reading during which principles are discussed, as provided under Standing Order 86, from which I quote—

"On the Order of the Day being read for the Second Reading of a Bill a Motion shall be made that the Bill be now read a Second Time." No amendment may be moved to the question that the Bill be now read a Second Time other than an amendment to leave out the word "now" and to add at the end of the question the words "that this day x months". Actually, it has become an acknowledged practice even in the House of Commons to bluntly oppose the Second Reading, but I have just read out the proper way of opposing a Second Reading. While a Second Reading is proceeding, all matters of principle can be brought up in connexion with the Bill. That Bill is then, if it passes its Second Reading, either referred to a Committee of the whole House or to a select committee. This particular Bill was referred to a select committee. This is the second stage. You will see under Standing Order 95 that on a Motion to approve the report of a select committee on a Bill any Member may propose the amendment to add at the end of the Motion the words "subject to the recommendation of the Bill either wholly or in respect of some particular part or some proposed new clause, or new

schedule, to a Committee of the whole Council". In other words, when a Bill has come back from a select committee if people are dissatisfied with it they will have an opportunity of dismissing the Bill as returned in amended form by the select committee and recommitting it, if they have sufficient support, to a Committee of the whole Council. And lastly, on the adoption of a report on a Bill, the Third Reading may, with the leave of Mr. Speaker, be taken forthwith and that is what we are doing now. On the Third Reading of a Bill a Motion shall be made that the Bill be now read a Third Time. Amendments may be proposed similar to those proposed on a Second Reading. Thus Members have three opportunities of opposing any Bill.

The point has been made that on a Third Reading one should really only deal with matters that are contained in the Bill as it appears when read a Third Time. I think it is sometimes customary to allow Members to express regret that certain provisions have not been included in a Bill when it is read for the Third Time. And this can be stretched to cover a lot. I have tried to make the procedure clear and will now put the question.

Question proposed.

The question was put and carried.

The Bill was accordingly read a Third Time and passed.

BILLS

SECOND READINGS

The Kerosene Oil (Repayment of Duty) (Repeal) Bill

Order for Second Reading read.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, I beg to move that the Kerosene Oil (Repayment of Duty) (Repeal) Bill (Bill No. 18) be now read a Second Time.

Mr. Speaker, as a matter of encouragement to farmers to mechanize their agricultural operations in 1931 the Kerosene Oil (Repayment of Duty) Ordinance was enacted, and the concession has been of considerable benefit to farmers for many years past. In recent years the number of kerosene-operated tractors

[The Minister for Agriculture, Animal Husbandry and Water Resources] considered in agriculture has declined considerably as a result of the change over to diesel tractors during the past seven years. This can be judged by the fact that refunds of duty in 1950 amounted to about £76,266 a year with duty at 26 cents a gallon as against only £10,715 in 1957-58 with duty at 20 cents a gallon. The number of kerosene-operated tractors appears to have fallen over those years by something like 60 per cent.

Now, Sir, in the course of the review of the estimates of my Ministry I had to make certain economies, and rather than damage the general services available to agriculture I felt that it would be wise to withdraw the subsidy which was in any case on a declining basis. The object of the Bill, Sir, is to enable the Ordinance which enforces the application of the subsidy to be repealed. I do not think there is any more I need give to the House.

Mr. Speaker, I beg to move.

Mr. Webb seconded.

Question proposed.

MR. MAXWELL: Mr. Speaker, Sir, I very much regret that the Minister for Agriculture has brought forward this Bill. I am very strongly opposed to it, Sir, and I do sincerely trust and earnestly hope that the Minister for Legal Affairs will withdraw it. Firstly, it is stated under the Memorandum of Objects and Reasons that this Ordinance was being introduced as a measure of economy in Government expenditure. I define economy as a measure to reduce or prevent wasteful expenditure. Although the number of kerosene tractors in operation as stated by the Minister, has dropped very considerably, there are certainly a number of farmers, particularly in my area that would be affected by the enactment of this particular Ordinance.

Again, as far as these farmers are concerned, the capital cost of a kerosene tractor is considerably less than that of a diesel tractor, and although there is a slight difference in the cost of kerosene as opposed to dieseline, the total overall picture represents a saving. I do earnestly ask Members of this House to remember that there are very many small

farmers engaged in mixed farming who are extremely badly hit today as a result of the falling prices of maize, dairy produce and pigs, and although the £10,000 is a mere bagatelle insofar as the total Government expenditure is concerned, a small sum of £20 or £30 or £40 a year can mean a lot to these farmers today. Therefore I again earnestly request the Minister for Agriculture to withdraw or get the Minister for Legal Affairs to withdraw this Bill.

SIR CHARLES MARKHAM: Mr. Speaker, I regret that my colleague was wrong about the Minister for Legal Affairs. He is not involved at all in this Bill.

Sir, this is a miserable Bill, which we have come to expect on occasions from the Government of this country. It is the sort of Bill which is mean and quite unnecessary and I suggest, Sir, that this Bill gives an indication that Government wants to encourage people to invest in a diesel tractor. Sir, if, and I support my colleague when he talks about a measure of economy, if economies are necessary, and we accept the fact that they are, my goodness how easy it would be to prove some of the top heavy Government expenditure which exists in this country, and, Sir, we have evidence before us in the Public Accounts Committee of such various methods.

Again, Sir, if Government is so keen to save £10,000 as they are in this instance, they could have saved it, I would suggest, by a much closer control of expenditure rather than hitting a very small group of farmers who are, at the moment, in need of every bit of protection they can get. I do not want to quote, Sir, an example, unless I am challenged to do so, but I believe the report of the Controller and Auditor-General on some of the losses, had they not occurred over last year by the Kenya Government through a fault of their own, or no fault of their own, could perhaps have made this unnecessary.

Now, Sir, the Minister of Agriculture may turn round, or Sir, perhaps other Ministers or other speakers for the Government and say that this Bill was repealing what might be called a subsidy to those farmers who were operating kerosene tractors. I think, Sir, if the

[Sir Charles Markham]

Minister of Agriculture would look back to the reasons which were given to the Council at the time of the original Bill he will find that it was very necessary to do so, and I have heard no reason today given by him in introducing this Bill which makes the reasons given some years ago any less valid, and I would hope, Sir, he might have second thoughts on this problem and withdraw this Bill because he knows as well as I do the people who are going to be hit by it are the people who are in the mixed farming areas or the farming areas which at the moment are going through an extremely bad time.

I do not want to move any amendment now, Sir. I shall reserve my right to do so in the Third Reading, if necessary, or in the Committee stage, but I would ask, Sir, for a reconsideration in all sincerity by the Government of this measure.

MR. COL. MCKENZIE: Mr. Speaker, I would like to ask the Minister to reconsider this Bill. The farmers who are left with kerosene tractors in these hard times are the farmers who cannot afford to buy diesel tractors. Anybody who could afford to buy a diesel tractor today would obviously buy one, and would obviously have bought one over the last two or three years, so the people you are hitting most are the poorer farmers who can ill afford to lose this subsidy. I would have thought as Government have decided to bring this in willy nilly they should have given kerosene farmers as long an opportunity as possible of converting those tractors to diesel, and I would like to ask the Minister if he would reconsider perhaps bringing this Bill back in 12 months.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, I have much sympathy with hon. Members in the points of view which they have put forward, and I would like to meet them, but I much regret that I cannot, Mr. Speaker, but I want to put to hon. Members the position as I see it.

We are constantly urged to make economies. It is easy, I think, to say that any Government machine is grossly inefficient. Any large organization does

have those attacks made upon it, Mr. Speaker, but the Government has, and has been pressed by hon. Members opposite to examine every aspect of its expenditure, and we have done so, on a number of occasions, pressed that we should indicate to them the sort of reductions in expenditure which we are envisaging.

Sir, my experience, certainly on this side of the House, and on the other, is that whenever you make any reduction of expenditure there are always reasons why it should not be done. There are always protagonists of the expenditure. I know hon. Members will forgive me if I say to them that much of the expenditure of Government, leaving aside the question of efficiency, stems from demands by various pressure interests on the other side of the House. I do not put that in any evil way. Hon. Members are there for that purpose.

Now, Sir, as far as I am concerned, in my Ministry I have to provide, a service to the public within a certain overall amount. The Government, on the whole, is generous to the Ministry of Agriculture, particularly in the developmental estimates, by reason of the fact that we, as a Ministry, affect the fundamental economy of the country, and the Government has always recognized that. Nevertheless, Sir, when great economies have to be made throughout the Government machine every Minister must take his share, and I have done so willingly, Sir, and all I can say is that if hon. Members press me to withdraw this Bill then it means that I must find the £10,000 elsewhere in my Ministry. I prefer to put to hon. Members the great difficulties I have been in, in this matter. Suggestions have been made to me that I should close down, for instance the Merindas Research Station, only two years after it has been opened because of the savings that I would make. I have suggested certain savings in the Soil Conservation Unit at Lumbwa, which have been vigorously opposed by the people in that area, and what, Sir, it really boils down to, is that reviewing the whole gamut of the operations of my Ministry—I must ask the hon. Members to accept this—I came to the conclusion that the least damage I could do to the farming industry was by saving £10,000 in this rebate.

[The Minister for Agriculture, Animal Husbandry and Water Resources]

Now, Sir, with all the good will in the world I cannot entirely accept the arguments which hon. Members have put forward. If I were on the other side of the House, Mr. Speaker, I would have undoubtedly put forward the same arguments, and I do not, in any way, query the right of hon. Members to do so, because it is their business to see that the widest possible application of services is put to the interests of which they have the right of representation. But, Sir, if we look at it quite analytically, what are the facts? I reckon that in the scheduled areas alone £30,000,000 a year alone is produced by agriculture, and I do submit that the reduction of the Sh. 10 rebate which is really not a subsidy, but is a rebate in the industry in kerosene oil, will not seriously damage an industry producing £30,000,000 a year, and secondly, Sir, I do submit strongly to hon. Members that if I do not do this then I must find the money elsewhere, and it is my submission, and I must say this to hon. Members, and I think I am the only person who can judge, I submit, Sir, that the damage I would do to the farming industry would be greater by allocating this burden elsewhere than it would than in the way I have decided.

Now, Sir, may I say this? The Board of Agriculture has examined this matter. It represents in its executive, every elected chairman of agricultural committees throughout the country, and they have accepted the repeal of the Ordinance, and having considered all the arguments which led me to put forward this Bill before the House. Now, the hon. Member for Ukamba, Sir, called it a miserable Bill, and a mean Bill. That may be so, Sir, but I would only quote him—"look after the pennies and the pounds will look after themselves". And, Sir, all I wanted to say was that if every time the Government attempts to make a saving in its expenditure the hon. Members opposite are going to say that the Government is mean and miserable, then it does make the representations which hon. Members put forward during the debate upon the Budget less lacking in stringency and cogency than they might be.

There will be one consequential saving, Sir, in addition, we shall save a certain

amount of administrative work—I cannot give the hon. Member the figures. The only alternative, Sir, if I withdraw this Bill, is to consider measures like the closing of the Kitale, Experimental Station, and I do not think then the hon. Member for the Trans Nzoia would be pleased. Mr. Speaker, I regret that I cannot—does the hon. Member wish to speak?

SIR CHARLES MARKHAM: That is a quite unfair remark. I was talking about the withdrawal of the subsidy, not the—

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Is the hon. Member now saying it was a subsidy? The other hon. Members were saying it was not a subsidy. The hon. Member, Sir, has not listened to what I said. I said if I withdraw this Bill then I must find the £10,000 elsewhere, and where am I to find it? Does the hon. Member suggest that I should find it in closing down the Kitale Experimental Station? That is all I am asking the hon. Member, and if he says "no" then I feel, Sir, I have full warrant to proceed with the Bill.

Question proposed.

The question was put and carried.

The Bill was read the Second Time and committed to a Committee of the whole House tomorrow.

The Income Tax (Rates and Allowances) Bill

Order for Second Reading read.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, I beg to move that the Income Tax (Rates and Allowances) Bill be now read a Second Time.

Sir, this Bill which brings once again to light a subject of which quite a considerable amount has been heard in this Council over the past year deals with the rates of income tax and personal allowances. The position that is set out in the First Schedule which deals with the rates of personal allowances, etc., brings into being the main changes, particularly in the way of concessions which were outlined in the Budget speech of 7th May of this year—of last year. I do not propose, Sir, to go through them in detail,

[The Minister for Finance and Development]

merely to point out that the figures now of the net loss to Government revenue of these concessions when the estimated gains from undistributed income tax are taken into account has been used by the measures which were brought in by the select committee report, when we take into account the loss on the pensions and self-employed retirement benefits proposals will be something like £750,000 this year. I do not, as I say, Sir, propose to go through the items of the First Schedule in any detail.

The second point in the Bill is that the Bill sets the rate of undistributed income tax by setting it at a rate equal to the difference between the standard rate and the maximum resident individual rate.

The third point I would make, Sir, is in regard to Head B of the Second Schedule. The proposal to provide the special rate of income tax on the income of life insurance companies.

I should perhaps mention that I am advised it would be appropriate to make a similar provision in respect of non-resident life assurance companies and at the Committee stage I shall move an amendment to the Second Schedule, Head B, to provide for the application of a special rate to non-resident life assurance companies.

Sir, as the great majority of this Bill is in the nature of a relief to the taxpayer I imagine that the great majority of it will be welcome to this House.

I beg to move.

Mr. MCKENZIE seconded.

Question proposed.

MR. ALEXANDER: Mr. Speaker, the Minister is quite right when he says a great deal has been said on this particular subject over the past few months. What, of course, he omitted to say is that Government have remained completely or almost silent to what the public have been saying in the last few months. We have been told—the Minister has told us himself—that of course the Government has to take into account the wishes of the great inarticulate, speechless, perhaps breathless, mass who are inhibited from speaking for them-

selves, and we on this side have of course been accused both inside of this House and outside of it of being representative very largely only of big business. When we press, and press quite vehemently, for a reduction in the personal rates of tax, and when we press for owner-occupied homes to be exempt from tax, then of course, Mr. Speaker, we are uttering the voice of big business. This, in fact, has been the contention from this side of the House—that the little man, the man whose individual rate of tax becomes a very heavy burden, the man who wishes or does own his own home and does not wish to find himself brought into the tax net thereby, are the people that we have been speaking for on this side of the House. And, as the Minister says, of course, as this Bill will mean a large measure of relief, it should be welcomed. He omitted, completely, of course, to draw our attention to the fact that in the measure of undistributed income tax and at the rate at which it is to be imposed a very heavy burden will fall in another direction on many taxpayers. In fact, Sir, when we debated this earlier in the year we were told that the added revenue from this undistributed income tax would bring in a figure, if I remember correctly, of some £270,000. Therefore, Mr. Speaker, it is thoroughly misleading to suggest that this Bill is a measure of relief. In fact, in its incidence on certain individuals, as I proved and showed when we debated this before, there will be a greater incidence of tax. I am therefore, Mr. Speaker, bound to say how disappointing it is to us on this side of the House and to those who have worked so earnestly and so genuinely outside this House on this problem to find that their voice goes completely unheeded—I will not say unnotified because it has obviously been noticed—but that on account of it is taken whatsoever. I would have hoped that today the Minister might have been able to give us some indication that the Government are prepared to reconsider the top levels of individual rates of tax and thereby, of course, the rate of undistributed income tax. All I can do, Mr. Speaker, to show our feelings in this matter and the feelings of many outside this House is when we come to the Committee stage to move a Motion, which I will do, that the rate of undistributed income tax

[Mr. Alexander] shall be the difference between the company rate—that is Sh. 5/50 in the £—and Sh. 12 in the £, or the highest rate of individual rate if it is less than Sh. 12 in the £ I see, Mr. Speaker, people nodding their heads over these suggestive. I imagine, that I am unable, that I am inhibited from moving such a Motion I think before we go any further, if that is the intention, and I see by the gleam in the eyes of the legal luminaries over there that it is, we had better try to get this one correct before we go any further. I believe that I am perfectly competent—this is a new measure. This is not existing legislation. This is undistributed income tax at a new rate and I believe, Mr. Speaker, we are perfectly competent on this side of the House to move an amendment to that particular clause in the Bill and I intend to do so.

Members know the arguments. I do not have to go over it all again as to how this figure of Sh. 12 in the £ is arrived at. It is the figure that has its effect applied for many, many years since section 22 was introduced in this country, as a result of an agreement between the effect of a 60 per cent distribution in dividends and a 40 per cent rate retained by the companies. The average as the result of that exercise is a figure of Sh. 12, Sh. 12/60, in the £, which was the effective maximum in this country for several years. It is a rate that has become accepted in the public mind and it is a rate that we have got used to, and now I seek to try to move our Government back to a rate much nearer to that figure.

It must, I suppose, be extremely satisfactory to the Minister and to the Government to know that they can listen to us bleating our lonely hearts out from this side of the House and really take no notice of what we say. But is it, Mr. Speaker, in the circumstances of our Government, really very satisfactory to know that on the Government side we can be completely overruled, completely outspoken by a machine over which we have little or no control. I put it to the Government and I particularly put it to my back-bencher friends that they have in this particular matter a very added responsibility. They know that we cannot from this side of the House ever form

an alternative Government and put into effect the measures that we advocate and which we have proclaimed. We have to look to them—and I appeal again as I did when I spoke on this same subject some eight months ago—particularly to my commercial friends on the Back Benches. You people know, you know what it means to pay Sh. 18 in the £. You know what it means to have an undistributed income tax rate of Sh. 9/6d. in the £; and it is you—people more than anybody—who can move the Government to see sense on this particular matter. I do make this last appeal to you to do so.

As I have said so often, the need in this country is not only for capital, but it is for skill, and perhaps there is a greater need for skill even than there is for capital because, oddly enough, one of the attractions of capital is to know that there is skill to look after it. That is one of the features that brings capital to any country, and when we come to compete with our greatest contenders for that skill we find the attractions in Central Africa and South Africa far outweigh what we can offer. A married man with two children in Central Africa pays £76, rather, £80 a year less in income tax than he does here.

THE MINISTER FOR FINANCE (Mr. Vasey): Would the hon. Member mention the level of income?

MR. ALEXANDER: I am sorry, I thought that I had said £2,000. A man earning £2,000 a year, a man with two children—the direct difference immediately in income tax is £50 a year to which has to be added here the Emergency surcharge of £12 and in the case of hospital contributions, a further £14 a year, making a total difference of £76 a year directly in taxation, or approximately £6 10s. a month; and that to a man on £2,000 a year is a sum of money that does not go unnoticed. In addition, of course, he will find in Southern Rhodesia that tuition for his children is completely free and that boarding fees are a mere nominal £66 a year. But that is not all, Mr. Speaker. If he goes to that country and he buys or constructs his own home and occupies it there is no notional calculation on the value of that occupation. In other words, owner-occupied homes are completely exempt from income tax.

[Mr. Alexander]

What do we find in relation to undistributed income tax? We find in South Africa a far more generous calculation in most cases. The rate is Sh. 5/6d. in the £ as against the Sh. 9/6d. proposed in this Bill. In Central Africa it amounts in general to 4 per cent. Mr. Speaker, of the income subjected. I would just like to read a short paragraph from the Report of the Commission of Enquiry appointed by the Federal Government, paragraph 341, and this is what it says: "The maximum rate of tax is just over 4 per cent of the taxable income. . . ." and this is in relation to the undistributed profits tax: "We recommend that consideration be given to increasing the rates of undistributed profits tax so as to stress the penal aspect of the tax." That was the recommendation in Central Africa. Mr. Speaker, and the Government there took no notice of it whatsoever. They have left the rate of undistributed profits tax at approximately 4 per cent. These are our competitors for skill and capital and this is what we are up against.

Mr. Speaker, I have to finish and I do not think that I can resume when we come back because I am committed to attend a public meeting and I wish to give notice of the amendment which I will give to the Clerk in writing tomorrow morning and which I propose to move at the Committee stage.

I beg to oppose.

SUSPENSION OF BUSINESS

THE SPEAKER (Sir Ferdinand Cavenish-Bentick): It is now a quarter to five and I suspend business. We will resume business as soon as hon. Members can return.

The House rose at forty-five minutes past Four o'clock and resumed at fifty minutes past Five o'clock.

BILL

SECOND READING

Income Tax (Rates and Allowances) Resumption of debate.

MR. BOMPAS: Mr. Speaker, needless to say, Sir, I would like to endorse very fully everything that was said by my colleague from Nairobi West, but I do not propose to take the time of the House, Sir, in repeating arguments which have already been made by him. What I

had intended to do, Sir, was to intimate my intention to move an amendment in respect of one section of the Bill. But I appreciate that would not be in accordance with the Standing Orders of this House, for unlike my hon. friend for Nairobi West my amendment would in fact relate to the existing rates of tax.

Sir, I would like to assure the House that what I have to say stems from no personal interest but certain personal occurrences, so far as I am concerned, have very forcefully brought to my notice the situation that attaches to dependants. Sir, in the Bill before the House it is quite clear that one generally thinks of dependants in terms either of children, who are reasonably adequately covered so far as allowances are concerned, in the Bill, or, secondly, the aged, who also are very adequately covered in the Bill. However, Sir, there is an intermediate class of those unfortunate people who by reason of health, or accidents, are prematurely rendered incapable of looking after themselves. There are quite a number of such people in this country, Sir, and I would ask the Government to consider some adjustment in the entirely inadequate rates under the dependant's allowance of £60. I suggest that it is a figure which is totally inconsistent either with the first child's allowances, or the allowances which are available to the aged.

That is all, Sir.

MR. MACKENZIE: Mr. Speaker, Sir, I propose to follow my hon. friend from Kiambu in being brief in speaking to this Motion. I think I said, Sir, some time ago that there was only one thing that I dislike almost as much as paying income tax. That is talking about it.

There are, however, one or two points which I would like to mention and they relate mainly to what was said by the hon. Member for Nairobi West, speaking on behalf of the "little man". All I can say, Sir, is that the rates of allowances set out in the Schedule to this Bill most certainly provide relief to the majority of individual taxpayers in this Colony.

Figures have been quoted and I do not propose to repeat them now, Sir, but I think the taxpayers of this Colony can accept my arguments from their own experience.

[Mr. Mackenzie]

I must say, Sir, that I do not quite follow the hon. Members opposite who have spoken, referring to the people affected by this tax legislation. The hon. Member for Nairobi West asked the Members behind me to give him support and said that they knew what it was like to pay Sh 15 in the £1. This interests me a lot. I shall now know where to turn when I am hard up!

However, Sir, if one looks at the rates set out in Schedule "A" one finds that the rate of Sh. 15 in the £1 applies to income in excess of £9,000. If one looks at the various allowances one sees that even people with chargeable incomes of £9,000 are likely to include people who will get some of the other allowances. That brings them up to £10,000 or thereabouts and I am at a loss to understand the arguments here which make these people "little men". I would like to be one of these "little men".

But, Sir, to go further into this question, my information is that in 1955 the total number of people who were paying tax at the maximum rate were 91 and that the total number of people paying tax at a rate in excess of sh 12 50—the total number of people again—came to, I think it was, 166. That, Sir, is as compared with the total number of taxpayers in the Colony of some 45,000. One can hardly say that they represent anything like a majority of the people in the Colony or a majority of the taxpayers, and therefore, Sir, while one is always sympathetic with anybody who has to pay a good deal in tax at the same time one cannot regard that sort of thing as imposing any great hardship.

There is further the point which has been made from time to time and which is that under the proposals for the undistributed income tax nobody has any need to pay at the maximum rate. He can always make a distribution and unless he happens to be a purely one-man concern who has incorporated his business primarily with the object of reducing his tax liability, it is almost certain that he can thereby considerably reduce the tax he pays.

Now, Sir, there was one other point which was raised, and that was that the House was told in the first instance that the new rates of undistributed income

tax will bring in £270,000 in additional revenue. As a result of the various concessions which have been made in the Central Legislative Assembly and in the High Commission Select Committee I understand that the bulk of that additional revenue will not in fact accrue.

This measure will indeed be of very considerable assistance to anyone who is developing his business in the Colony, and any additional revenue which is to be obtained (and which cannot be assessed) is likely to come from the fact that the various measures taken in bringing this tax in now will tighten up the administration. That is the chief way in which we can hope to get anything from it. It is not the actual arithmetical addition, but much more in tightening up of the administration and the prevention of evasion.

There was one final point mentioned and that was that what we need in the Colony is capital and skill. All I can say is that the main measures brought in in the past year will assist considerably the average man who comes with skills. They will assist him considerably. He will pay considerably less income tax. He may not pay as little as in some other places, but then all comparisons have got to be qualified to a very great extent if they are to mean anything. The fact is that what this Bill does is to consolidate a number of measures, all of which have been of great assistance to the individual taxpayer. For that reason, Sir, I think it should have the full support of the House.

I beg to support.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, there is very little left for me to say.

I would, however, say to the hon. Member for Nairobi West that he could not have been listening to what I have said. If he had, Sir, I think he would have noticed that there would be over £750,000 net "returned" to the taxpayer as a result of this Bill, and that altered the figures which I gave on 7th May. There will, in fact, be no estimated gain during the current financial year from undistributed income tax.

Sir, my hon. friend, the Secretary to the Treasury has dealt with one or two

[The Minister for Finance and Development]

of the points with regard to comparisons. I think the hon. Member might well have finished his quotation from the Commission on Taxation which sat in Rhodesia and, indeed, he might probably have pointed out that in South Africa the tax is a company tax and an undistributed profits tax on both private and public companies, and that in Central Africa the company tax rate is 7s. 6d. and it is an unreturnable tax or profits tax. It is not a tax, as is our tax, an anticipation of dividend, but is a tax paid by the shareholder from dividends received. However, Sir, all these points have been enumerated time and again, and I do not propose to delay the Council.

With regard to my hon. friend, the Member for Kiambu, I would say to him that he could not expect me to anticipate a Budget statement of any kind, but I can assure him that I have made a note of his point and I would be very glad if he would discuss it with me some time because I think I know the cases upon which his mind is working.

Sir, I beg to move.

The question was put and carried.

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

The Indian Transfer of Property Act (Amendment) Bill

Order for Second Reading read.

MR. CONROY: Mr. Speaker, Sir, I beg to move that the Indian Transfer of Property Act (Amendment) Bill, 1959, be now read a Second Time.

Sir, this is a dull, but important Bill and we have therefore attached to it a very full Objects and Reasons section.

Perhaps if I can explain the principles of the Bill and not go into detail at this stage. The principle of the Bill is this. In the early days of the Colony we had legislation on the cheap. We could not afford to produce our own bespoke legislation and we had to get it ready made from England or from India. A large number of Indian Acts were applied to the Colony in 1897, one of them being the Indian Transfer of Property Act. We

then included in the law of Kenya the amendments to that Act up to 27th November, 1907, but we have not made any amendments since. Our ready-made suit was patched and altered up to 1907, but we have not added any patches or made any alterations since then.

With the growth of the Colony it has become necessary to alter our ready-made suit. It is clearly desirable that we should, now that we can stand on our own legs, and, I hope, afford it, have a made-to-measure suit of our own; and it is the policy of the Government that the applied Indian Acts should, in due course, be replaced by our own Ordinances, for example the Contract and Evidence Ordinances, and, I hope, our own Transfer of Property Ordinance. That is a long and expensive process. The property law has not got very high priority in the list and, therefore, the purpose of this Bill is to make some alterations to our ready-made suit and to put a few patches on to it in the meantime.

Sir, the purpose of the Second Reading is to deal with the principles and here I hope that I have dealt with the principles. The Bill effects the large number of amendments relating to the law of the transfer of property, of which I think the most important is that contained in clause 13. This deals with the power of sale by a mortgagor. I cannot do better in explaining it than to read an extract from a letter dated 27th November, 1955, which was addressed to the Attorney-General by the then hon. and learned Elected Member for the Aberdares. He said this: "I have been asked by the European Elected Members' Association, supported by the Law Society, to discuss with you the possibility of early amendment to section 69 of the above-mentioned Act which, as you know, contains the peculiar provision that a mortgagor's power of sale cannot be exercised without the consent of the court where the mortgagor is a Muslim, Hindu or Buddhist." Can you imagine in modern commercial conditions having that religious restriction placed on an ordinary commercial transaction related to property? The hon. Elected Member went on to say: "It is considered that this special protection of

[Mr. Conroy]

people specified by religion is quite unnecessary and unsuitable to Kenya and should be removed from the Act as applied to Kenya. I know that you contemplate a general revision of property laws but that seems likely to take a considerable time and both E.E.M.A. and the Law Society are anxious that this particular section should be amended as soon as possible. Perhaps one or two other simple obvious amendments to this Act could be put through at the same time." With that we agreed and here is the Bill which has been submitted to the Law Society as long ago as December, 1955. It was submitted to the Law Society of Mombasa and they gave us very constructive suggestions on it which we have incorporated in the Bill and it was also submitted to Mr. Shtie and he also gave us a number of suggestions which we have incorporated in the Bill.

Sir, I do not propose at this time of night to give hon. Members some of whom probably know more about the subject than I do, a lecture on the law of Indian property. I have dealt with the principle of the Bill in a supplementary measure to bring up to date the applied Indian Act pending the enactment in the course of the next few years—I cannot promise more than that—of our own principal legislation.

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

MR. WEBB seconded.

Question proposed.

The question was put and carried.

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

MOTION

THE TRANSFER OF POWERS (AGRICULTURE AND ANIMAL HUSBANDRY) DRAFT ORDER, 1959

THE TRANSFER OF POWERS (AGRICULTURE AND ANIMAL HUSBANDRY) (NO. 2) DRAFT ORDER, 1959

THE CHIEF SECRETARY (MR. COULTS): Mr. Speaker, Sir, on behalf of the Minister for Agriculture, I beg to move that this Council approves the Draft

Transfer of Powers (Agriculture and Animal Husbandry) Order, 1959, and the Draft Transfer of Powers (Agriculture and Animal Husbandry) (No. 2) Order, 1959.

As Council will know, Mr. Speaker, these are normally transfer of powers, which we have agreed to in the past to a Minister in order that he may better carry out the necessary functions of the Government, and I do not think it is necessary for me to dilate on these powers.

I therefore beg to move.

MR. WEBB seconded.

Question proposed.

The questions were put and carried.

ADJOURNMENT

THE SPEAKER (SIR FERDINAND CAVENDISH-BENTINCK): That brings us to the end of the business on the Order Paper. I therefore adjourn Council until 2.30 p.m. tomorrow, Thursday, 2nd April.

The House rose at fifteen minutes past six o'clock.

Thursday, 2nd April, 1959

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

MR. SPEAKER (SIR FERDINAND CAVENDISH-BENTINCK) in the Chair

PRAYERS

ORAL ANSWER TO QUESTION

QUESTION NO. 132

SIR CHARLES MARKHAM asked the Chief Secretary:—

(a) Whether Government proposes to introduce legislation, such as has already been proposed in Ghana, whereby Members who deliberately boycott the Legislative Council forfeit their seats if the reply is in the negative?

(b) Whether Government would agree to introduce legislation whereby Members who deliberately boycott the Legislative Council should not receive their pay and allowances.

THE CHIEF SECRETARY (MR. COULTS): The answer to the first part of the question is "No, Sir."

As to the second part, the Government has considered the possibility of introducing legislation whereby Members who deliberately boycott the Legislative Council should not receive their pay. History in the U.K. and other legislatures has proved that the object of such legislation can be defeated easily by the Members concerned by various devices, such as attending daily, perhaps for prayers, but abstaining from the substantive business of the House. The Government has, therefore, decided not to introduce the type of legislation which the hon. Member for Ukamba has in mind.

Members who absent themselves from meetings of the Council do not, of course, draw attendance and subsistence allowances.

The Government feels that the main sufferers by the boycott are the constituents whose views are not being represented, and in the long run the remedy lies in their hands.

SIR CHARLES MARKHAM: Mr. Speaker, regarding the first part of my question and the Government's reply in the negative, would the Chief Secretary

agree it would not be democratic to introduce such legislation.

THE CHIEF SECRETARY (MR. COULTS): I would agree with the hon. Member.

MR. NGOME: Arising out of the Chief Secretary's reply, Sir, I have further comments to make which I would like, if I may, to raise on the adjournment.

THE SPEAKER (SIR FERDINAND CAVENDISH-BENTINCK): Two hon. Members have asked to raise matters on the adjournment, and I propose to take both matters this evening if time allows.

PERSONAL STATEMENT

MINISTERIAL RESIGNATION

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (MR. BLUNDELL): Mr. Speaker, I beg leave to make a personal statement. A group of Elected Members in this Council have asked me to resign my appointment as Minister for Agriculture and be their leader on the Unofficial side of the House. The policy upon which we will stand and which we will present both to the House and to the public outside will be that announced this morning in the Press. As hon. Members in voting me to a Specially Elected seat are my supporters and constituents I thought it only right to inform them of this situation.

I have felt it my duty to fall in with the wishes of the group of Elected Members, and have asked His Excellency the Governor to accept my resignation from the Government. My action implies no disagreement with the policy of the Secretary of State and the Government as regards either constitutional or other matters. His Excellency has accepted my resignation with the request that I should continue for a few weeks in office in order to complete the handing-over arrangements for my Ministry to my successor. This I will gladly do.

I felt that Members would wish to be the first to hear of my decision. It is one which I made with real regret, not only because I feel that much for the lasting good of Kenya has been accomplished by colleagues of all races in the Government, of which I first became a Member in 1954, but also because the work we had planned in the field of agriculture which is, at the most difficult time for the farmers of this country will not now be carried on by myself.

[The Minister for Agriculture, Animal Husbandry and Water Resources] I shall leave the Ministry of Agriculture where I have had much support and encouragement from both the public and my official advisers with a great sense of loss, but I felt it was my duty to undertake this new task.

There is much, Mr. Speaker, as you will know, to be done in the field of agriculture. But there is still more to be done outside in the field of our relationships one with another if we are to build here a nation of fellow-countrymen and citizens.

Finally, Sir, may I say that the policy to which I have referred is not, and I repeat not, my policy. It is our policy—the signatories to that policy, and I particularly wish to emphasize this.

Hon. Members may like to know that the hon. Nominated Member, Mr. Nurmohamed, has telegraphed to me today his signature to our document.

THE CHIEF SECRETARY (MR. COULTS). Mr. Speaker, Sir, my hon. colleague has made what might be regarded as a Colony-shattering statement. He has done so of his own volition, and I believe for the good of the country. I, as leader of this House, would like to emphasize what he has already said, that there has been no disagreement whatsoever between himself and his colleagues. Indeed, I have always found him an extremely helpful colleague, and one who has always looked at the best interests of Kenya in whatever decision he was prepared to make.

He has said that it is with real regret that he wishes to leave the Government. On behalf of the Government I would like to say, Sir, that we also have a very real regret, and we feel that he should not go without knowing that we feel that our thanks, both of the Government, and, I think, of all races in the country should go to him for the enormous amount of work which he, personally, has carried through in his capacity as Minister for Agriculture.

MR. ZAFRUD DEEN: Mr. Speaker, Sir, I was not one of the signatories of the policy to which the Minister referred, but I endorse and I would gladly have signed it if I had been here at the time.

With certain reservations I endorse the policy which has been declared.

THE SPEAKER (Sir Ferdinand Cavenish-Bentinck): I do not think I can allow hon. Members to embark on dissertations on their personal political views.

SIR ALFRED VINCENT: Mr. Speaker, Sir, on behalf of the members of the European Elected Members and the Corporate Members who signed the policy and accepted the principles of it—the policy which was produced by the body of signatories to the policy—I most warmly welcome the Minister, Mr. Michael Blundell, for making this very grave decision to give up the work in which he has been so enthusiastic and so successful to come over on this side to race and knit the moderates of all races together in this country. I feel, Sir, that we are all touched by his emotion in the matter, and I can assure him of our fullest support.

MR. HASSAN: Mr. Speaker, I beg to take this opportunity to pay tribute to the Minister, Mr. Michael Blundell, who has given the greatest sacrifice which any Member of the Council has ever done to my knowledge. We all felt from the time that I had associations with him that he was one of the more sincere gentlemen we had in the Legislative Council. As a Member on this side, and as a Minister we have had the full confidence in him, and I do not think that anybody in the country could come forward of any community to say anything against the work of the Minister.

I personally welcome his sacrifice because we missed him so badly when he left us to go to the Government Benches, and we would like him in the Opposite Benches with us; he will do the policy of this country much more good by being one of our comrades.

COMMITTEE OF THE WHOLE COUNCIL

Order for Committee read. Mr. Speaker left the Chair.

IN THE COMMITTEE

[D. W. Conroy, Esq., O.B.E., T.D., Q.C. in the Chair]

The Guardianship of Infants Bill Clause 2 agreed to.

Clause 3

MR. SLADE: Mr. Chairman, during the Second Reading I raised this question as to who would have the power or right to make applications under sub-clause (1) or sub-clause (2), I am not moving any amendment here, Sir, but I would be grateful if my query could be answered.

MR. WEBB: Mr. Chairman, the answer to the question posed by my hon. and learned friend the Specially Elected Member, Mr. Slade, is that this matter will be dealt with by rules made under the Bill. Clause 19 of the Bill enables the Rules Committee to make rules of court dealing with matters of procedure, and it is the intention of the Rules Committee to make rules on the lines of Order 55A, rule 2, of the Rules of the Supreme Court in England. As my hon. friend knows, this Bill is drafted on the lines of the English Acts dealing with the same subject-matter; and in order to have the advantage of the English law books and English decisions we have followed the English Acts fairly slavishly. The Order to which I have referred provides that an application may be made by the infant himself, by his next friend, or by any other person appearing to be interested in or affected by the relief sought. That is, of course, very wide and will enable not only relations of an infant but also appropriate bodies interested in child welfare and otherwise to make an application in a particular case. It is the intention that a similar rule should be made here as soon as possible and subsequently incorporated in the new Rules of Court which are also under consultation.

Clause 3 agreed to.

Clauses 4, 5 and 6 agreed to.

Clause 7

MR. SLADE: Mr. Chairman, clause 7 again raises a matter which I asked a question about on the Second Reading. The question was whether the joint guardian, who might be appointed under clause 4 (3) to act, should not also be taken into consideration when the court is deciding whether or not to make a particular order.

MR. WEBB: Mr. Chairman, I think with respect in this regard, my hon. friend has not perhaps read the two clauses as closely as he might. This clause—clause 7—regulates the rights of custody and access as between living parents. There is therefore no possibility of a testamentary guardian or any other kind of guardian appointed under clause 4; and therefore there is no reason for mentioning in clause 7 any guardian at all.

Clause 7 agreed to.

THE EUROPEAN MINISTER WITHOUT PORTFOLIO (Mr. Harris): Sir, on a point of order, are newspapers permitted in Committee?

THE CHAIRMAN (Mr. Conroy): They are permitted neither in Committee nor in Council.

Clause 8

MR. WEBB: Mr. Chairman, I only mention for the sake of completeness, that my hon. and learned friend, Mr. Slade, raised on this clause the same point as he raised on clause 3, namely who can make an application; and the position here will be the same.

THE EUROPEAN MINISTER WITHOUT PORTFOLIO (Mr. Harris): Mr. Chairman, on a point of order, are folded newspapers permitted in Committee?

THE CHAIRMAN (Mr. Conroy): I must ask Dr. Hassan to put his newspaper away. I do not think he is reading it as a daily journal.

SIR CHARLES MARKHAM: It is the football pools, I think.

THE CHAIRMAN (Mr. Conroy): I must ask him to put it away.

Clause 8 agreed to.

Clauses 9, 10, and 11 agreed to.

Clause 12

MR. SLADE: Mr. Chairman, on this clause, I raised a question as to whether the power of the court to refuse an application by a parent for production of his infant should not extend also to the case where the parent is completely unable, owing to illness or poverty, to provide for the child. This question also arises on clause 14.

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (Mr. Havelock): Mr. Chairman, can we deal with clauses 13 and 14 together as they are linked? I think that the answer is that the basis of this legislation is based on the English law and we have given consideration to this question. Sir, since the hon. Specially Elected Member raised it on the Second Reading but we feel that we had better stick to what we have got, at any rate for the moment and I think that the doubts which the hon. Member has may be illusory, but even if they are not I think that the legislation in other Ordinances, and provisions in other Ordinances, might well be able to cover his doubts. I would give the assurance, though, that we will see what the effect of this Bill is in practice, and if indeed we find that the result is not as it should be and according to what the hon. Specially Elected Member believes, then an amendment will be brought before this House.

Clause 12 agreed to.

Clauses 13, 14 and 15 agreed to.

Clause 16

MR. SLADE: Mr. Chairman, I raised a question about this in the Second Reading. There are two questions in fact. The first is whether the attachment of income for the purpose of providing for an irresponsible father of children, which is now allowed by this clause should not rank in priority before all other claims, for the reasons which I gave on the Second Reading.

The other question, Sir, was whether provision could be made here—or should it more properly be made elsewhere—for persons who have assumed responsibility for children, but who are not actually their parents, to be made to continue to maintain those children, and be debarred from the subsequent abandonment of all responsibilities.

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (Mr. Havelock): Mr. Chairman, on the first point raised by the hon. Member, the suggestion he has made would mean, of course, that it would have the effect of setting aside attachments already existing at the time of the application. This is a very important step indeed to

take to give any particular priority to any particular liability; and, in fact, it has not been done, as far as one knows, in any other country. I give the same answer. I am afraid, which I gave last time, that we will consider the effect of the Bill as it is at present drafted if the fears of the hon. Member are realized, and if the children do greatly suffer from not attending the clause as the hon. Member requires then we will give second thoughts to it. But I would very much like to give those second thoughts to it in the light of experience.

On the second point he raised, Sir, I would like to say that the Government considers that his point is a very valid one and we have given consideration to it and we will continue to do so, but we do not think that this Bill is the right place for such a provision. As the hon. Member knows, the Prevention of Cruelty to and the Neglect of Children Ordinance, 1955, is under study by the Government with a view to amendment with other Ordinances to be incorporated into the overall Children's Bill and I think on the whole that a provision such as he has suggested might be better in the Children's Bill than in this Ordinance.

MR. SLADE: I thank the Minister for those assurances. However, with regard to the attachment of income, I would be grateful if he would tell me whether the very recent legislation on the same subject in England does not provide for priority of attachment; or, if he is not sure of that at the present time he will promise me that he will look into it and consider an amendment if he finds that the English law is to that effect.

MR. WEBB: Sir, the answer is that recent English legislation deals with the enforcement of maintenance orders but that it does not accord any priority, although it does provide for the attachment of a salary.

Clause 16 agreed to.

Clause 17

MR. SLADE: This is my last point, Sir. It is the question on this clause whether its provisions concerning the matters to which the court is to have regard in exercising discretion are entirely consistent with other provisions of the same kind in clause 7.

MR. WEBB: Mr. Chairman, I do not think that the provisions are inconsistent, and I hope, if my hon. and learned friend reads the two clauses together closely, he may agree with me. Sir, clause 7 provides that the court shall have regard to the welfare of the parent and to two other specified matters—that is sub-section (1) of clause 7. Clause 17 tells us that the welfare of the child shall be the first and paramount consideration and simply debars the court from taking into account a fourth and completely different matter, namely the relative priorities of claim of a mother and a father. I do not think that there is in fact any conflict between these two provisions. I have, since my hon. friend raised these matters on the Second Reading, looked into such learning as I could find on the operation of the English law from which these provisions are derived and there is nothing in either the cases or the books to indicate that the courts have found any difficulty in applying both these provisions.

Clause 17 agreed to.

Clauses 18, 19 and 20 agreed to.

Five agreed to.

Clause 1 agreed to.

The Personal Tax (Amendment) Bill

Clause 2 agreed to.

Clause 3

MR. SMITH: Sir, I wonder if I might just ask a question, Clause 7 (1) says, "Where any employer has been appointed a collector . . ." It does frequently happen, on farms in particular, that farmers themselves do collect this money and arrange to get the money back as arranged here, but who actually appoints, Sir, an employer? Is it done through any body, or is it in writing, or who appointed the employer to do that under this Bill?

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): Mr. Speaker, the district commissioner appoints the collector in the case of personal tax.

SIR CHARLES MARKHAM: Mr. Chairman, could I ask, regarding clause 3, sub-section (4), what exactly it means, because it seems to me to be a complete contradiction, with respect to the

Minister in charge of this Bill. It talks about penalties not being applicable and it goes on by saying, "... providing the whole of the tax due is paid by not later than the 30th day of June in the year in which it becomes due". Well, Sir, nobody is involved in a penalty until 30th June. Therefore, Sir, would the Minister tell us what the point of this clause is?

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): As I understand it, Sir, the penalty is normally due on 15th June. If, on the other hand, the tax is being collected by instalments and a certificate to that effect is issued then he is not liable for the payment of a penalty by 15th June. He must pay by the end of June.

SIR CHARLES MARKHAM: Thank you.

Clause 3 agreed to.

New Clause

THE MINISTER FOR AFRICAN AFFAIRS (Mr. Johnston): Mr. Chairman, I beg to move that a new clause be added to the Bill as follows. It is an amendment of section 19 of the principal Ordinance. Sub-section (2) of section 19 is amended by inserting therein next to the word "tax" the words "and penalty". Sir, notice has been given of this amendment. At present the Minister is empowered by notice in the Gazette to extend the penalty date, but he has no power to waive the penalty. Cases have occurred in the past, and will occur in the future, where owing to the failure of rains there may be widespread famine. It is sometimes necessary on those occasions to waive the penalty for the year.

Mr. Chairman, I beg to move.

New clause read a First Time.

The question that the new clause be read a Second Time was put and carried.

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

Clause 1 agreed to.

Title agreed to.

The Kerosene Oil (Repayment of Duty) (Repeal) Bill

Clause 2 agreed to.

Title agreed to.

Clause 1

SIR CHARLES MARKHAM: Mr. Chairman, I have already given rather unostentatious notice of an amendment to this clause. I beg to move that clause 1 of the Kerosene Oil (Repayment of Duty) (Repeat) Bill, 1955, be amended by the substitution of the date "1960" in place of "1959" where it appears in the clause.

Sir, after all we have heard this afternoon this might well be the dying gasp of the Minister for Agriculture. I hope before he expires on the job he will take note of what we said yesterday and agree to this amendment.

MR. COOKE: Are you taking his place?

SIR CHARLES MARKHAM: The hon. Member asks me if I am going to take his place. To the best of my knowledge, Sir, I am not the person who at this stage appoints Ministers.

But at the moment, Sir, I only want to delay this for one year, when this Ordinance shall come into operation, and the point of that is, Sir, that it will give farmers who are feeling the present agricultural slump if I may use that word, a chance of turning over to either diesel or alternatively to balance or make estimates for the increased costs.

Yesterday, Sir, we had a Second Reading of the Bill and I suggested that there might be other methods for the Government to find the savings they require. Sir, in the course of his remarks the Minister did suggest that if we insisted upon this refund of duty being continued it would be necessary for him to take other action in order to save this money. I would suggest to him, Sir, that it is a wrong principle altogether if cuts are to be made to specify individual items quite regardless of their merit. I would have thought it would have been very much better if cuts have to be made that they be made on a general review where some departments have to cut more rather than a general overall cut for first of all, Sir, that the welfare state expenses might be reduced first of all.

Sir, I beg to move.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Chairman,

on a point of order, I would submit that the hon. Member is not in order in moving this amendment under this clause 105 of our Standing Orders. I would like forward to you, Sir, that it concerns amendments effecting a charge upon the public revenue.

SIR CHARLES MARKHAM: Sir, we had the same thing last year and it was ruled that when the charge is made already we can move changes. If the hon. Minister wishes to insist upon this particular item why did he not announce the Governor's consent yesterday?

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): With respect, this charge is not falling upon the revenues now. With respect, I would submit to the hon. Member that there is no charge now.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Regarding the point raised by the hon. Member for Ukamba, Sir, I think it is understood that it is the practice that if a Bill is introduced, then the Governor's consent is taken as having been signified.

THE CHAIRMAN (Mr. Conroy): Standing Order No. 105, which repeats almost word for word section 40 of the Kenya (Constitution) Order in Council, 1958, provides as follows (leaving out irrelevant words), "that except on the recommendation or with the consent of the Governor, the Council shall not proceed upon any amendment to a Bill which in the opinion of the Chair would impose, alter or repeal any rate, tax or duty." As I understand the position, the Bill proposes to repeal this rebate of tax with effect from 1st July, 1959, and to that the Governor has signified his consent. I do not think that the Standing Order precludes Sir Charles Markham moving this amendment. It is, to my mind, not altogether clear, but it seems to me right that the Chair should rule in favour of allowing a Member to move an amendment rather than against a Member moving an amendment when the Standing Order is not wholly clear on the subject. Therefore on this occasion I rule that Sir Charles may move the amendment, and I propose now to propose it.

Question proposed.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Chairman, for the reasons which I gave yesterday to the hon. Member with admirable clarity and facility, I regret that I cannot accept the amendment.

SIR CHARLES MARKHAM: I think we will have to think again, Sir, unless he can give some better explanation to us. What we did ask, Sir—and I do understand the difficulties of the Minister on this one—for this to be treated seriously. A certain amount of levity has come into the debate, but we did not intend it that way. We would ask, Sir, seriously, whether the Minister could reconsider this matter, because there is a lot of feeling, particularly in those areas which are at the moment very hard hit by the agricultural prices.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): I think I made it perfectly clear yesterday that I had not taken this action without proper consultation with the industry. The action has been supported by the Board of Agriculture and the net effect of postponing the action is that the economies which are necessary will have to be found elsewhere. As I said to the hon. Member yesterday, the scale of the economies which the Government must effect has to affect every Ministry, and therefore it is erroneous to imagine that some Ministries can escape the axe of economy and others feel the full burden. Every Ministry must share this burden if we are not to impose great additional burdens on hon. Members opposite. Now, Mr. Chairman, I made it perfectly clear yesterday that having regard to all other factors which are under my control I feel that this is the least damaging thing that I can do to the agricultural industry, and in consultation with the Board of Agriculture, which as I said yesterday is an elected body, widespread throughout the country, I felt that I should proceed with the Bill.

LT.-COL. MCKENZIE: Sir, would the Minister tell us how many farmers this is going to affect, and what the effect is going to be?

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): If the hon. Member could wait a moment I might

just be able to tell him the number of tractors. That, presumably, will give him an idea of the number of farmers. All I can tell him, Sir, is that the number of tractors which this will affect has fallen by over 60 per cent in the last seven years. The total amount involved last year was only £10,715. There has been a progressive and steady reduction in the amount claimed by farmers, I said in my opening speech, from £36,000, I think it was seven years ago, to £10,000 this year. In other words, it is a steadily diminishing advantage to farmers. The number of tractors concerned have seriously reduced themselves in numbers and, as I pointed out to hon. Members, in making this decision I had due regard to the ministry and scope of the operation of the agricultural industry. I calculate that in the Scheduled Areas alone the scope of that industry is of the order of £30,000,000 a year. I do believe, Sir, that I would do less damage by introducing the repeal of this Bill to the effect of £10,000 than by inflicting upon the industry a sudden blow such as the closing of a research or experimental station which is of vital interest to the agricultural industry on a long-term basis. This is, in any case, Sir, a decaying and dying subsidy, whatever is the word I should call it by. I believe hon. Members opposite were a bit confused as to whether there was a subsidy or not. It is in fact, Sir, a dying element, and I seek now, Sir, with the approval of hon. Members, to give it a *coup de grâce*.

LT.-COL. MCKENZIE: Sir, whilst I agree with every word the Minister says, what is beyond me is why this saving of £10,000 must come from agriculture. The figures that he has just given—a study of those figures further would show that over the last 18 months or so, very, very few tractors, if any at all, have changed from power kerosene to diesel. They may well have in previous years, but since farmers have been running into these difficulties over the past 12 or 18 months they just have not got the finance to get into diesel tractors, and I would ask him seriously to consider giving us the subsidy for one year longer. It gives people a warning that they have to get out by July, 1960, Sir, I would stress that even if it is only a matter of £10 or £20 a year it is going to make a vast difference to some of the farmers up-country.

MR. USHER: Mr. Chairman, I just wanted to pinpoint what appears to me to be a fallacy in the Minister's argument. If, in fact, the number of beneficiaries has been very greatly reduced then the incidence of this £10,000 will fall far more heavily on the very few.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Chairman, that is completely erroneous. If I may refer with respect to the hon. Member pinpointing the fact, he is pinning it to his own bosom. There is no reason whatsoever to imagine that because the number of tractors have been reduced that the incidence of money has increased per individual farmer. None whatsoever. In fact no change may have taken place in individual allocations whatsoever. Mr. Chairman, I understand the feeling of the hon. Member, but I do not feel that this is a definite burden upon the agricultural industry. It has been a matter of common knowledge in the agricultural industry for a number of months now, because, as I have already explained to hon. Members, I discussed this with the Board of Agriculture and in the light of the situation ruling they agreed with me that we should proceed with the matter.

Now, Sir, the hon. Member for Ukamba—I think he implied that this reduction in expenditure should not be borne by my Ministry but should be borne by other Ministries. The point I would like to make, Mr. Chairman, is that when the Draft Estimates are laid shortly before this House, hon. Members will see that every Ministry has had to take considerable reductions in expenditure. It is not a question of only my Ministry. It so happens that this Bill, coming before the House now, has highlighted, as it were, a particular movement of economy within the ambit of my own responsibilities.

SIR CHARLES MARKHAM: I was hoping, Sir, that the Minister would say that he has saved in his own Vote, Sir, but he has not filled the post, over £6,000 this year alone on the charge of the Federation—Trade Commissioner, £7,000, I am stood corrected. That is one saving he has made, entirely fortuitously. Secondly, when he criticizes

my remarks about other Ministries, if, for example, Sir, the Ministry of Commerce and Industry had not lost £100,000 on the Sugar Equalization Fund we would not be in this position today. What I am suggesting, Sir—the Minister for Finance is presenting his Budget at the end of this month—is that those departments which seem incapable of controlling their own funds with any great degree of accuracy, such as happened on the Sugar Equalization Fund, should, Sir, be cut perhaps in the interests of economy.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Chairman, the hon. Member does not seem to understand that I have already taken into consideration and accepted the economies which have stemmed from the failure to fill the post of the Central African Federation. If it had not been so, not only would the repeal of this Ordinance been before the House, but I have no doubt, Mr. Chairman, I should have had to consider the fencing posts subsidy. I might well have had to consider reduction in other matters such as I mentioned to the hon. Member for Irans Nziwa the other day—the Kitale Experimental Station or the Marindas Grasslands Research Station. These are all measures, which by prudent exercise of economy in my Ministry, and by extraneous measures as the failure to fill the post of the Central African Federation have enabled me to move forth only with this Bill before the House.

LT.-COL. MCKENZIE: Sir, may I ask the hon. Minister whether, when he approached the Board of Agriculture, did he say to the Board of Agriculture, "I must have a saving of £10,000, this must be done away with", or did they come forward and say "Look, this subsidy is gradually being run down; now we don't want it any more; none of the farmers need it; they are getting on well enough; they are getting rid of their kerosene tractors—chop it off". How did he go about it? That is what I would like to know.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Chairman, the Board of Agriculture had already made a preliminary examination of this

[The Minister for Agriculture, Animal Husbandry and Water Resources] particular matter. For this reason the administrative cost of getting this money was becoming quite a burden in terms of the actual money received. Thus the Board of Agriculture had already cast its vote upon this matter. Having done so, when I was speaking of the necessity of making some economy in consultation with them, they were well apprised of the pros and cons of the situation and they agreed with me that we should proceed accordingly.

MR. MACKENZIE: Mr. Chairman, in the absence of my hon. friend the Minister for Commerce and Industry I must make one point regarding the point that was raised (Cries of Order). I must reply to the point made by the hon. Member for Ukamba who stated that there had been a loss of £100,000 on the Sugar Equalization Fund. Now, Sir, as my hon. friend knows perfectly well, the whole point of the Sugar Equalization Fund is that it enables the Government to equalize the price of sugar to the consumer as between imported and locally produced sugar. In some years the amount in the fund rises as a result of that because the price to the consumer happens to be a little higher than the cost of the imports. In other years the price to the consumer happens to be a little lower than the cost of buying the sugar. In this particular year the second process took place. The Government were fully aware of what was happening, Sir, and there was no question whatsoever of the Government losing money in the accepted sense of the word. We were fully aware that that must happen if the price at which it buys is slightly higher than the price at which it sells to the consumer and, in fact, this is one of the things in which the Government was using the fund for the purpose for which it was created.

MR. BOMPAS: I only wanted to refer to the peculiar substance that passes for sugar.

SIR CHARLES MARKHAM: I do not wish to reply to that last remark, Sir, if I gave the wrong impression, naturally I withdraw my allegations.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Chairman,

such has been the nature of the debate that I have not had a moment to read my brief, I feel, Sir, that I should inform the hon. and gallant Colonel, the Specially Elected Member, that everything that I have said about the Board of Agriculture is correct, save that they added one caveat which was to the effect that they did really not like the timing of this proposal, but felt that it was preferable for the kerosene rebate to be abolished than for other services to be cut, which is substantially what I said.

THE CHAIRMAN (Mr. Contoy): I will put the amendment which involves two questions. The first is that the figure "1959", where it last appears in clause 1 of the Bill, be left out.

The question was put and negatived.

Clause 1 agreed to.

The Income Tax (Rates and Allowances) Bill, 1959

Clause 2 agreed to.

MR. ALEXANDER: Clause 3 (b), which refers to the Second Schedule, The Second Schedule has various headings. The heading with which we are concerned, and the only part, in fact, of this Bill with which we are concerned on this side of the House at this particular moment is Head C of the Second Schedule concerning Undistributed Income Tax Rate.

Mr. Chairman, this is a completely new measure introduced into this Bill. Yesterday, when I was speaking, I said that I would wish to introduce an amendment to the Head C of the Second Schedule, the effect of which would be to fix the rate of undistributed income tax at Sh. 6/50 in the £. You, Sir, have indicated to me that it would be contrary to Standing Orders if I sought to move that particular amendment. It is contrary by reason of the fact that Standing Order No. 105 (1) (a) does say there that we cannot proceed upon any Bill including any amendment to a Bill, and I consider here, Mr. Chairman, that we on this side of the House are being treated quite unfairly by Government when they introduce a new measure of this kind in an enacting Bill dealing with rates and allowances as a whole, and so strongly

[Mr. Alexander]

do I feel about this inhibition that is caused to us. Mr. Chairman, that I would beg to move that we report progress and beg leave to sit again to enable this particular matter to be studied more carefully by you, Sir, and the Speaker because I would particularly ask you with the Speaker, Sir, to study *Income Tax*, 16th Edition, page 785, under the heading of taxation, where it says, "a Ways and Means resolution is a necessary preliminary to the imposition of a new tax." Now, what we have had Mr. Chairman, in connexion with this Bill, not in direct connexion with this Bill, but related to it earlier in the session in fact during the last Budget session of course we had the resolutions of Ways and Means moved by the Minister for Finance, dealing with the imposition of new taxes and, in fact, as he did for us at the time, amendments to existing taxes, and my contention is, Mr. Chairman, that we on this side of the House have not been given the opportunity in the form of a Motion to express quite clearly by a vote what we have on our minds, and I would ask Sir that you give greater stress to the particular question which faces us on this side of the House at this particular moment, because we have no wish to vote against this Bill, because all of it, in fact practically all of it except for minor amendments which have been introduced, was in fact disposed of at the time of the last Budget. We merely wish to deal with this particular clause, this particular Head, under Undistributed Income Tax, which we would have had the opportunity to have done if the Government had proceeded in the correct manner. Mr. Chairman, I beg to move that we report progress and beg leave to sit again.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Chairman, I regret to say that the Government cannot, of course, accept this particular resolution. Subject to correction, Sir, by the Clerk, I would say that indeed I was a protagonist of Ways and Means resolutions—financial resolutions—being put forward before Bills of this kind were dealt with, but that the ruling that was given, Sir, was that this must be taken in this particular manner. So that, I think, Sir, clears that particular point away.

On the general point, Sir, right from the Budget Speech of 7th May, 1958, it was made perfectly clear that the intention was as is outlined under Head C. There have been numerous debates on this matter, Sir, and there have been discussions up and down the country. Select committees have listened to evidence and I am afraid, Sir, the Government feels that it must at any rate get this matter clear.

Mr. ALEXANDER, Mr. Chairman it is perfectly clear. I did not suggest that the intention in this respect was not known. It has been very very well known. What I wished to make clear was that we have never had an opportunity on this side of the House, by a clear-cut resolution that would have emerged if the Ways and Means procedure had been followed, to show exactly by a vote as to what we wished.

THE CHAIRMAN (Mr. Contoy). It may help Members of the Committee if I point out that the Committee of Ways and Means procedure does not apply specifically in respect of a Bill in this Council as is provided in paragraph (C) of Standing Order 105. It may apply in England, but our Standing Orders specifically provide that it does not apply here.

Sir CHARLES MARKHAM: Sir, just for the record, would you like to rule from the Chair the reasons which led my hon. friend the Member for Nairobi West to move the resolution he has done by being told by you previously that he could not move the amendment. I think it is important we should get that down on the record, Sir.

THE CHAIRMAN (Mr. Contoy): I am quite happy to do so. Yesterday Mr. Alexander mentioned in his speech on the Second Reading that he proposed to move an amendment. He was not altogether happy, as I understood his speech, that he was entitled to do so under Standing Order 105. I had the privilege of discussing the matter with him on the suspension of business yesterday, and I had the opportunity to consider the matter in consultation with Mr. Speaker this morning. I have already given a ruling on very nearly the same subject, which is set out in column 2138 of Volume LXXVI, Part II of HANSARD for the 24th June, 1958. I could not of

[The Chairman]

course give a ruling on Mr. Alexander's point, because he did not in fact give notice of his amendment. He had to give written notice of his amendment prior to 2.30 today. That he did not do, and therefore it is not possible for me to give a ruling on this particular point.

I consider that as Chairman of Committees my advice, for what it is worth, should be available to Members of this Council if a Member cares to approach me outside I am always happy to give my advice and express my opinion. These are however advice and opinion. They are not rulings. I can only give a ruling when I am sitting in this Chair, when a question has been raised in the course of debate. The advisability of this amendment has not been raised in the course of this debate and I cannot give a ruling upon it. I now propose to put the question which is "That this Committee do report progress and beg leave to sit again."

The question was put and negatived.

THE CHAIRMAN (Mr. Contoy): Mr. Alexander, I think it would be better if you wish to debate the contents of the Schedule to wait until we are on the Schedule.

Mr. ALEXANDER: Mr. Chairman, I only want to say very briefly this. As obviously the Government does not wish to have any sympathy with the position in which they have placed us on this side, we have no alternative, when you put this Bill to the vote, to say "No". But I want to make it clear that our objection at this moment is only—only—in respect of this particular Head: Undistributed Income Tax.

Question proposed.

Clauses 3 and 4 agreed to.

First Schedule agreed to.

Second Schedule

Mr. MACKENZIE: Mr. Chairman, I beg to move the following amendment:

—That paragraph (a) of Head B of the Second Schedule of the Bill be amended by adding at the end thereof the following words: "Save in case of that part of the chargeable income of an insurance company which relates

to its life insurance business when the rate shall be five shillings in respect of each pound of such part of such chargeable income."

The purpose of this amendment, Sir, is to bring non-residents in charge of companies into line with the provisions relating to other insurance companies under Head B of the Second Schedule which relates to the standard rate. The purpose of this is, of course, Sir, in order to give a special rate of Company Tax to life insurance companies, thus meeting the point which they have put to the Government that it is undesirable that they should have differing rates, since this could well affect the position of their premiums. Their premiums are fixed and it is desirable that the level of taxes which they pay should be at a stable rate. This is the principle, I understand, which has been accepted for some years in the United Kingdom, and it is one which commended itself to the Government when the point was put to us.

Sir, I beg to move

Question proposed.

Question that the words proposed to be added be added put and carried.

Second Schedule as amended agreed to.

Third Schedule agreed to.

Title agreed to.

Clause 1 agreed to.

The Indian Transfer of Property Act (Amendment) Bill

Clauses 2, 3, 4, 5, 6, 7, 8, 9 and 10 agreed to.

Clause 11

THE CHAIRMAN (Mr. Contoy): I think I might draw the attention of hon. Members to the fact that a corrigendum was published to clause 11, and therefore it is the corrected clause 11 that we have in front of us, not the clause as originally printed. It is the clause as reprinted and published in the Gazette.

Clauses 11, 12, 13, 14, 15, 16, 17, 18, 19 and 20 agreed to.

Clauses 21 and 22 agreed to.

Title agreed to.

Clause 1

Mr. TYSON: Could I raise a question as to the "Memorandum of Objects and Reasons" which is given in this Bill, and enquire why this particular Bill should be given priority over a number of other similar Bills which, I think, are more urgent. For example, we have the Land Acquisition Act, which is another Indian Applied Act here which was referred to a select committee as long ago as January, 1948, and here we are giving priority to this particular Act—the Indian Transfer of Property Act. What I would like to know, Sir, is what happened to the Report of our select committee on the Land Acquisition Bill, and why that should not have been brought forward before this particular Bill?

THE CHIEF SECRETARY (Mr. LOUIS): Mr. Chairman, Sir, there is in existence a Drafting Priorities Committee, and I think all I can do to answer the hon. gentleman is to say I will put this question to the Drafting Priorities Committee and try and get an answer for him.

Mr. SLADE: I think I can help the hon. Member with reference to the Indian Succession Act in respect of which the Law Society produced a complete redraft as long ago as 1934. I think that we should have the same answer from the Chief Secretary on that one.

THE CHAIRMAN (Mr. Conroy): The whole of this debate is out of order. The question before us is whether the short title should stand part of the Bill or not. I did not stop Mr. Tyson because it is a matter on which he had spoken to me, and in another capacity I shall see that the proper answer is conveyed to him in respect of the 1948 select committee. I am afraid I cannot go back as far as 1934.

Clause 1 agreed to.

THE CHIEF SECRETARY (Mr. Coultis): Mr. Chairman, Sir, I beg to move that the Committee now rise and it be reported to Council that a Committee of the whole House has considered the Guardianship of Infants Bill, the Kerosene Oil (Repayment of Duty) (Repeal) Bill, the Indian Transfer of Property Act (Amendment) Bill and approved them without amendment, and that a Committee of the whole House

has also considered the Personal Tax (Amendment) Bill and the Income Tax (Rates and Allowances) Bill and approved them with amendment.

The question was put and carried.
Council resumed.

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

REPORT

THIRD READING

The Guardianship of Infants Bill

Mr. CONROY: Mr. Speaker, Sir, I beg to report that a Committee of the whole Council has been through the Guardianship of Infants Bill and approved the same without amendment.

The question was put and carried.

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (Mr. Havelock): Mr. Speaker, I beg to move that the Guardianship of Infants Bill be now read a Third Time.

Mr. CONROY seconded.

Question proposed.

The question was put and carried.

The Bill was accordingly read a Third Time and passed.

REPORT

The Personal Tax (Amendment) Bill

Mr. CONROY: Mr. Speaker, I have to report that a Committee of the whole Council has been through the Personal Tax (Amendment) Bill and approved the same with amendment.

Report ordered to be considered tomorrow.

REPORT

THIRD READING

The Kerosene Oil (Repayment of Duty) (Repeal) Bill

Mr. CONROY: Mr. Speaker, I beg to report that the Committee of the whole Council has considered the Kerosene Oil (Repayment of Duty) (Repeal) Bill and approved the same without amendment.

The question was put and carried.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, I beg to move that the Kerosene Oil (Repayment of Duty) (Repeal) Bill be now read a Third Time.

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND TOWN PLANNING (Mr. Havelock) seconded.

Question proposed.

The question was put and carried.

The Bill was accordingly read a Third Time and passed.

REPORT

The Income Tax (Rates and Allowances) Bill

Mr. CONROY: Mr. Speaker, I have to report a Committee of the whole Council has considered the Income Tax (Rates and Allowances) Bill and approved the same with amendment.

Report ordered to be considered tomorrow.

REPORT

THIRD READING

The Indian Transfer of Property Act (Amendment) Bill

Mr. CONROY: Mr. Speaker, I beg to report that a Committee of the whole Council has been through the Indian Transfer of Property Act (Amendment) Bill and approved the same without amendment.

The question was put and carried.

Mr. CONROY: Mr. Speaker, I beg to move that the Indian Transfer of Property Act (Amendment) Bill be now read a Third Time.

Mr. WEBB seconded.

Question proposed.

The question was put and carried.

The Bill was accordingly read a Third Time and passed.

THE SPEAKER (Sir Ferdinand Cavendish-Bentinck): There are two of these Bills which have been examined by a Committee of the whole Council to which amendments have been proposed and I understand it is possible to take consideration of the report when we reassemble on the 21st. It is hardly worth while having a special session tomorrow just for these two Bills.

THE MINISTER FOR FINANCE AND DEVELOPMENT (Mr. Vasey): Mr. Speaker, with your permission I beg to move that this Council do now adjourn.

ADJOURNMENT MOTIONS
KENYA TRADE REPRESENTATIVE FOR
THE FEDERATION

LT-COL. MCKENZIE: Mr. Speaker, Sir, I beg to oppose the adjournment because I would like information from the Government concerning the appointment of a Kenya Trade Representative for the Federation.

Now, Sir, in 1955 the Royal Agricultural Society took an exhibit to Lusaka, the capital of Northern Rhodesia. They followed this up in 1956 by taking an exhibit to the Royal Show at Salisbury, the capital of Southern Rhodesia. Now, on return from this stand or exhibit at Salisbury the Royal Agricultural Society called a meeting of all people interested in trade to and from the Federation. Two Ministers attended that meeting, namely the Minister for Agriculture and the Minister for Commerce and Industry. After that meeting, Sir, a sub-committee was formed with the idea of going into the ways and means of Kenya having some kind of representative down in the Federation. Eventually, Sir, it was agreed by the two Ministers, after I gather consultations with the Colonial Office, that Kenya could go ahead and have a trade representative in the Federation. This, Sir, was agreed some time early in 1958.

Now, Sir, in, if I may quote, the Budget speech on 7th May, 1958, the Minister for Finance said as follows: "I would particularly like to draw the attention of Members to the provision that has been made in the Estimates of the Ministry of Agriculture for a trade representative for the Central African Federation. The Federation spends £12,000,000 per annum on food imports, of which some £3,250,000 is spent in South Africa. The main aim of our representative would be to give this territory a reasonable chance of securing a larger share of this market than it has been enjoying up to the present, and this aim cannot be considered unreasonable in view of the natural trade connexions which exist between the Federation and Kenya."

"In establishing this post we are endeavouring to consolidate the happy relationship which has been won by the Royal Agricultural Society of Kenya through its successful exhibit at Salisbury in 1956 and by my visit to the Rhodesias

[Lt.-Col. McKenzie] in the last fortnight of February, 1957, and by the visit of the Rhodesian Trade Commission to East Africa in the following June." That Sir, was on 7th May, 1958. That Sir, was followed by, if I may quote again, by what the hon. Member for Ukambani said on 15th May, 1958. He said: "We have Rhodesia on our doorstep, and I saw an advertisement in the paper the other day inviting applications for the post of Trade Commissioner". Now, Sir, the hon. Member said that on 15th May so the advertisement must have appeared some time before 15th May, 1958. This was followed by what I myself said on 16th May, 1958, in this House: "Sir, some two years ago the Royal Agricultural Society of Kenya put forward the idea of a Trade Representative for the Federation. I am pleased to see the Minister for Finance mentioned this in his speech, and I am pleased to hear from the Minister for Agriculture that this post will be filled in the very near future. Sir, I sincerely hope that this position is not filled by a once, twice or three times retired civil servant. I sincerely hope it will be filled by somebody with farming knowledge, business acumen and someone with a great love of Kenya."

Then, Sir, if I may quote the last one was followed by the Minister for Agriculture himself on 27 May. He was also asked when he hoped to appoint a representative in Central Africa, and whether we would be absolutely bound to the estimate of £7,000. "In regard to the first point I would say this. The post will shortly be advertised and as soon as the advertisement appears I should like to proceed with the appointment." Now, Sir, all that took place nearly ten months ago. It has come round again, Sir, and the R.A.S.K. are taking an exhibit to Kitwe which is the centre of the Copper Belt, and which is the third largest town in the whole of the Federation, and will be exhibiting on 16th, 17th and 18th May of this year.

Now, Sir, what I would like to ask the Government is why has it taken so long in filling this post. Sir, I know of numerous people in commerce who would be prepared to accept this position, and, Sir, whom I think would fill it extremely well. What I would like

from the Government, Sir, is an assurance that when our Members go down to this stand at Kitwe our representative in the Federation has been appointed. I should hate our people down there to be made to look fools because the Federation themselves were expecting somebody to arrive there round about September or October of last year, and when Sir Roy Welensky was here himself he emphasized, and said he hoped we would not be very long in making this appointment to foster trade in the Federation, and the unfortunate part is this, that we have been beaten by other countries who thought of this idea after we thought of it, and I would like an announcement from Government that somebody will be down there by May.

THE CHIEF SECRETARY (Mr. Coutts): Mr. Speaker, Sir, in answering the hon. Member I notice that he referred to the R.A.S.K. and "our" Members. I would like to know, was he speaking on behalf of the House, or was he speaking on behalf of the R.A.S.K., and what is the R.A.S.K.?

Lt.-Col. McKenzie: You ought to know, Sir. I thought all hon. Members knew it was the Royal Agricultural Society.

THE CHIEF SECRETARY (Mr. Coutts): Having got that assurance from the hon. Member I will continue. The hon. Member has said that it was hoped that soon after the statement which was made by my hon. colleague in this House somebody would be appointed, and he was quite correct in saying so. Indeed, after the advertisement was put out in the newspapers quite a large number of people applied for the post, and eventually we reduced this number to a short list of five. A committee, of which I myself was chairman interviewed these people, and we came to the conclusion that a particular person, who I believe was a Vice-President of the R.A.S.K., was offered the post. After some considerable delays, and I do not myself feel it was Government's fault, the person then proceeded to tell Government that he was not interested in the post. Two or three months were lost because of the negotiations with this particular person. Also, we found that because of the time lag which had taken place in the meantime, that two of what we regarded as

[The Chief Secretary]

very good fish which we had in our original net were lost, and therefore the short list which we had originally interviewed had been reduced to virtually no one at all. It would have been possible almost immediately after we were told that this person could not have accepted the post to have appointed someone, but I presume the hon. Member did wish us to appoint someone with the requisite qualifications and, therefore, it was necessary for us once again to examine the field, and that took a certain amount of time.

I would like to be able to tell the hon. gentleman that we believe that someone with the necessary qualifications has been found and an offer has been made to him, and we hope he will be in the saddle in May. I cannot give him an assurance that he will, in fact, be in Rhodesia in the stand, to which the hon. Member has referred, in May, but I do hope that he will be appointed and have taken up the appointment by May. I very much regret if the R.A.S.K. or, in fact, any hon. Members of the House have been incommoded by the delay, but I hope that I have been able to explain to the hon. gentleman that the delay has not been our fault, and we have done our best to get the best possible man for the job in the shortest possible time.

MR. ALEXANDER: Mr. Speaker, Sir, could I just ask whether there is any substance in the information that, in fact, a civil servant, an ex-civil servant has been appointed who is working out retirement leave, or working out some leave, and if that is so, and because of the urgency to which our colleague on this side, the Specially Elected Member in front of me has drawn our attention, would not the person forego some of this leave in order to take up this post and to be effectively in position by this date in May when he is so badly wanted?

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): Mr. Speaker, the man who has been approached to see whether he would accept this appointment has not, as yet, answered, so that it is really not possible to answer the hon. Member's question.

MR. ALEXANDER: Mr. Speaker, on a point of information, I thought we were

told that the gentleman had accepted. I am talking about what the Chief Secretary said. I thought he said it was hoped he would have actually taken up the appointment in May.

THE MINISTER FOR AGRICULTURE, ANIMAL HUSBANDRY AND WATER RESOURCES (Mr. Blundell): He said that a person had been approached, but no answer had been received, although it was hoped—

SIR CHARLES MARKHAM: Sir, I had to slip out for a moment during the explanation of the Chief Secretary, but is there now a danger that the Government might find themselves in exactly the same position with this gentleman as they found themselves over one before where a lot of negotiation takes place and then nothing happens because the person finds the terms are not good enough? Mr. Speaker, I would like to suggest to Government that although I appreciate the urgency of this appointment, that they should fill the post with somebody on a temporary basis to get something moving.

Now, Sir, I believe there are people available in Kenya who could be appointed straight away now. Then, I believe, Sir, the Government should look into the whole problem again as to the functions and status of the person chosen. I understand, Sir, and this is considerable difficulty facing anybody who takes up this appointment in the Federation. For one thing, there is, at the moment, or anyhow, there was, a clear lack of defined responsibility, a very ambiguous and vague arrangement regarding travelling and office expenses, and thirdly, and even more difficult, considerable vagueness as to responsibility of the officer concerned regarding his relationship in promoting trade, not only from the Federation, but to get the two-way traffic we all want.

Sir, I have always maintained that the person to do this job properly should not be of the calibre of anybody less than ministerial rank. It should be somebody who can carry the weight, not of the person who can earn a living at £2,000 a year, but somebody who can command a much higher salary. Now I know the Minister for Finance says: "Where is the money to come from?"—well, he

[Sir Charles Markham] might say it anyway even if he did not say it. I believe, Sir, that the potential is so enormous that if the person chosen is the right one he could justify his salary a thousand times over. But if the person chosen is not of dynamic energy and has not the right approach to the problem the Kenya Government is wasting their money.

I wish, Sir, the Chief Secretary had told the House. I think it would be only fair if he did, who he has approached to take this post. I know, Sir, that may be unfair to the person concerned, but we know from this side who it is, and the Government knows from their side who it is, quite frankly, we wonder whether the Government should reopen negotiations because we are in possession of information regarding other people who, in our opinion, would do the job most excellently and adequately.

MR. BONPAN (Mr. Speaker, Sir, it is very evident that Government has been doing a lot of crystal gazing and wishful thinking over this, and we have lost most valuable time in trying to find out whether the latest candidates intend to take up the position, and I do agree, Sir, with the hon. Member who has just said down that it is vital that our representative further south should be a man of the very highest calibre and a man who is most passionately devoted to Kenya. It is no use, Sir, having a careerist who moves round the world from one corner of the globe to another. We do require somebody, Sir, who has lived and thought in terms of Kenya, and I would put it to the Government, Sir, that rather than rush into this appointment it might well be desirable to consider seconding an official, an appropriate official, to go down there to fill the position on an *ad hoc* basis. I would like to leave that thought with Government.

THE CHIEF SECRETARY (Mr. Courts): Mr. Speaker, Sir, I have taken a note of all that has been said from the other side, and I do not think it is fair on the person to whom an offer has already been made to disclose his name in this House. I, myself, think that the person concerned, if he accepts, and I expect that he will accept (and that is why I said in answer to the hon. Member for Nairobi West that I sincerely hope he

will be in the saddle at the right time), will, in fact, do the job well, and all I can say is that if, by any chance, anything goes wrong again, we, on our side, do understand the urgency of the appointment, and if it is necessary we shall certainly make a temporary one in order to satisfy the wishes of Members.

BOYCOTTING OF COUNCIL BY MEMBERS

MR. NGOME: Mr. Speaker, I would like to remind this House of the incident that happened two days ago in this House of a Member who was sworn in and then walked away without taking part in the proceedings in this Council, and I am speaking about it as a representative of the ordinary Africans in this country, and not only the moderate Africans but the general public. I am quite sure no Member has agreed to tolerate such a conduct of a Member taking an oath over here before Mr. Speaker, and taking an oath of allegiance to Her Majesty Queen Elizabeth II, her heirs and successors according to law, and then sign the book and walk out. I do not believe that such practice is done in the House of Lords or in the House of Commons. If that is so, why is such a practice allowed in this House? It is very distressing to the general public outside and to we Members of the Legislative Council in this House if such a practice cannot be stopped by one way or the other. I believe we are inviting disrespect of more Members coming to this House and instead of this House being a House of respect it will be just like a barber's shop in River Road, and I am sure that even at a barber's shop in River Road people would not go and make a play there. Mr. Speaker, I think the Members in this House will agree that this is a place where Members of Legislative Council should be the first people to pay a respect to this House than anybody else outside in this country.

Mr. Speaker, I think the Government should let Members know whether such a practice is right or not right. Personally, and for the general public outside, I quite feel that Members should not adopt such an attitude in this House after swearing, especially if a Member, no matter whether African or Asian or European, taking the oath before Mr. Speaker, signing the book and sitting a few minutes and then walking out. It

[Mr. Ngome] does not convey anything, Mr. Speaker, but is ridiculous and brings the House into disrespect, like a barber's shop in River Road.

Mr. Speaker, I would like to tell the Government to take advice on the matter rather than leave the matter now.

THE CHIEF SECRETARY (Mr. Courts): I would like to say that we have noted what the hon. gentleman has said, and we deplore any form of disrespect to this House. I do not feel, however, that it is necessary for the Government to take action about such matters—it is more, I think, for this House itself, through yourself, Sir, to take such action as is possible, but I do agree with the hon. gentleman that we should not, on any account, countenance disrespect to this House.

ADJOURNMENT

MR. SPEAKER (Sir Ferdinand Cavenish-Bentley): That brings us to the end of the business on the Order Paper. Therefore, I now adjourn Council until 2.30 p.m. on Tuesday, 21st April, 1959.

The House rose at 4.20 p.m.

WRITTEN ANSWERS TO QUESTIONS

No. 31

MR. NGALA (Coast Rural) to ask the Minister for African Affairs:—

(a) What directive has Government issued to the assessment committees on personal tax in African locations in Kwale District to guide such committees in 1957? 58?

(b) What is the unofficial composition of such committees in Ukunda, Msambweni, Waa, N'Gombeni and Tiwi locations of the Kwale District?

(c) How many Wadigo and Mduruma personal tax payers have been accorded the chance of being interviewed by such committee before appealing to the District Commissioner, Kwale, or the Liwali of Gazi?

REPLY

(a) The directive issued to assessment committees in the Kwale District by the District Commissioner was based on instructions issued by my Ministry, which cover three closely-typed pages. A copy of these instructions can be supplied to the hon. Member if he desires.

(b) The unofficial membership of each of the five committees mentioned is as follows:—

(1) Ukunda	8
(2) Msambweni	7
(3) Waa	7
(4) Ngombeni	8
(5) Tiwi	4

(c) Every Mdigu or Mduruma who disagreed with being assessed to pay more than the minimum rate had the chance to appeal to the assessment committee of his area. There is no record of the number who did so, but 12 persons subsequently appealed to the Liwali, Gazi, and one to the District Commissioner.

No. 36

MR. KHAMISI (Mombasa Area) to ask the Minister for Internal Security and Defence:—

(a) The number of persons convicted under the Vagrancy Ordinance during the last three years?

(b) How many of those are Africans, Asians and Europeans?

(c) How many have been repatriated, giving the breakdown figure for the above racial groups?

REPLY

Prior to 1957, statistics regarding persons coming before the Courts under the Vagrancy Ordinance were not kept separately and are, therefore, not available. However, in 1957, 204 persons were convicted for offences under the Ordinance. The figure for the whole of 1958 is not yet available, but in the first half of the year the figure was 106. Of the 204 convicted in 1957, one was a European and the remainder were Africans, the 106 convicted in the first half of 1958 were all Africans. In 1957, two Europeans and nine Asians were repatriated, and in the first half of 1958 eight persons, all of whom were Asian, were repatriated.

No. 37

MR. KHAMISI (Mombasa Area) to ask the Minister for Internal Security and Defence.

Whether he is aware of the serious dissatisfaction from the African Muslims at the Coast to the practice of examination of dead female bodies by male police officers?

REPLY

The practice to which the hon. Member refers does not result from any desire of the police unnecessarily to carry out such examinations, but is occasioned by the fact that hitherto, for the convenience of relatives of a deceased, the police have made themselves available out of office hours and on public holidays to sign death reports and issue burial permits. In such circumstances they may need to make enquiries about the cause of a death and may, on occasion, require to view a body, of whichever sex, in order to establish that it shows no sign of violence.

I have, however, been able to arrange with the assistance of the Provincial Commissioner and the Liwali of the Coast, that in future liwalis and mudiris will be available out of office hours and on public holidays to sign reports and

issue permits in appropriate cases. This will, I hope, remove any dissatisfaction that may have been caused by the performance of the police of an intended service to bereaved persons.

No. 43

MR. MBOYA (Nairobi Area) to ask the Minister for Local Government, Health and Town Planning:—

To give the infant mortality rate in Kenya for the various racial groups in the last ten years giving the main reasons attributed to these deaths.

REPLY

In the absence of a general system for the registration of births and deaths in Kenya, exact figures of infant mortality are not available. However, records from certain local authority areas lead my Ministry to infer that the infant mortality rate may be as follows:—

European	30 per 1,000
Asian	60 per 1,000
African	160 per 1,000

The African mortality rate may be higher than this in some of the remoter areas where the development of medical services has been less rapid or where the inhabitants do not yet appreciate the value of Western medicine.

The European and Asian rates are not thought to have varied substantially during the last decade. As regards the African community, the present inferred figure of 160 per 1,000 reflects a considerable improvement on the mortality rate some 30 years ago, when restricted surveys in and around Kisumu indicated a rate of 450 per 1,000.

The main causes of mortality are prematurity, intestinal infections, infections of the lung, congenital disabilities and complications of delivery.

No. 50

MR. OLE TIPSIS (Central Rift) to ask the Minister for Local Government, Health and Town Planning:—

What financial contribution has been made by—

- municipal councils;
- municipal boards;
- county councils,

in the settled areas towards African education during the year ended 31st December, 1957?

REPLY

Municipal authorities and county councils in the settled areas are not educational authorities and have not contributed directly towards the cost of African education in the settled areas during 1957. At certain social centres operated by county councils, schools are maintained, the cost of which is met in part from the local authority African trust fund.

The primary school system in the settled areas, for which both missions and individual ratepayers have been largely responsible, is considered to be comparable to that found in the adjacent African land units.

No. 59

MR. TRAVADI (Central Electoral Area) to ask the Minister for Education, Labour and Lands:—

(a) Under what legislation the Asian children are "superannuated" from schools?

(b) Who has the authority to superannuate them?

(c) At what stage of the pupil's career and under what circumstances he/she is superannuated?

(d) The number of pupils so far superannuated, and its breakdown into boys and girls?

REPLY

Under rule 6 of the Education (School Discipline) Rules the Director of Education has power to order the exclusion of a pupil from school if after consideration of the pupil's age and progress the Director is of the opinion that it is not in the interests of such a pupil to remain at school. Normally, pupils who reach the age of 16 before completing a primary course are not permitted to embark on a secondary course, and pupils in secondary schools are excluded if their rate of progress raises no expectation that they will complete the course before reaching the age of 20. In 1957, for example, 38 Asian boys and 34 Asian

girls, who sat for the Preliminary Examination, reached the academic standard for admission to a secondary grammar school course, but were excluded because they were too old. Comprehensive statistics on this aspect of education are not kept and it is unlikely that even prolonged research into available records would yield a complete answer to the last part of the question.

No. 70

MR. TRAVADI (Central Electoral Area) to ask the Chief Secretary:—

The number of Asian and European civil servants drawing inducement addition to their salaries, and the amount of money involved in each case, as at present?

REPLY

The numbers of Asian and European civil servants drawing the inducement addition to their salaries are 41 and 1,854 respectively.

In the case of super-scale appointments, inducement is incorporated in the super-scale salaries and cannot be separated in regard to officers below super-scale level the basic salaries drawn by Asian officers in receipt of inducement terms of service amount to £45,054 and the inducement addition for these officers is £11,082. In the case of such European officers the basic salaries drawn total £3,561,918 and the inducement addition amounts to £922,265.

No. 52

MR. KHAMISI (Mombasa Area) to ask the Chief Secretary:—

(a) When, and on what date, will the lease on the ten-mile coastal strip expire?

(b) What steps are being taken by Her Majesty's Government to review this lease?

REPLY

(a) The agreement between H.M. Government and the Sultan of Zanzibar dated 14th December, 1895, lays down the terms under which the British Government administers the Protectorate, and no provision is made in the agreement for its expiry at any set time or at the expiration of any term of years.

(b) There is no intention on the part of H.M. Government to review the terms of the agreement.

No. 54

MR. KHAMISI (Mombasa Area) to ask the Minister for African Affairs:—

(1) The acreage that has been surveyed in the Bububu/Kiteje/Mtongwe area, and for what purpose?

(2) What steps are being taken to protect and safeguard the interests and rights of the Wadigo resident and grazing in this area?

REPLY

(1) 779.2 acres in the Bububu/Kiteje/Mtongwe areas have been surveyed for Admiralty purposes.

(2) The Wadigo have no rights in the area but, as the area is not required for development immediately grazing and cultivation is being permitted under licence.

No. 55

MR. KHAMISI (Mombasa Area) to ask the Minister for African Affairs:—

(1) Whether compensation was granted to Wadigo owners of land in the Mirima Wireless Area (Likohi) when their land was acquired by Government and granted to the East African Estates?

(2) How many people accepted such compensation and when was it paid?

REPLY

(1) The land granted by Government to East African Estates Ltd. is Crown land and there were no Wadigo owners. No compensation was therefore awarded.

(2) Not applicable.

No. 56

MR. KHAMISI (Mombasa Area) to ask the Minister for Agriculture, Animal Husbandry and Water Resources:—

(a) Is the Minister aware that Africans living in the interior of the Likoni/Bububu/Mtongwe areas have been deprived of facilities to slaughter cattle and provide cheap meat in comparison to that provided by the Kenya Meat Commission which had to be ferried across from the other side of the Mainland area?

(b) If the answer is yes, what steps is he taking to enable these people to have a meat diet?

REPLY

(a) Likoni and Mtongwe are situated within the municipality of Mombasa and are therefore subject to a municipal by-law which forbids the private slaughter of cattle within the Municipality. I understand that the municipal authorities started to enforce this by-law with effect from 1st December, 1957, and the butchers in these two places now obtain their supplies of meat from the Kenya Meat Commission in the same way as all other butchers in the municipality.

Meat is supplied to these butchers by the Kenya Meat Commission at Government controlled prices and the charge for delivery to them is 1 cent per lb.

Bububu is situated just outside the municipal boundary and is therefore not subject to municipal by-laws. I am not aware that the inhabitants of Bububu have been deprived of facilities to slaughter cattle.

(b) I am satisfied that the wholesale prices of meat charged by the Kenya Meat Commission are fair and that there is no reason to treat people who live at Likoni and Mtongwe differently from other residents in the Mombasa Municipality.

No. 80

MR. KHAMISI (Mombasa Area) to ask the Minister for African Affairs:—

(a) What educational qualifications are required for appointments to posts of Mudir, Kathi and Liwali?

(b) How many African Muslims are presently holding these posts in the Colony and Protectorate of Kenya?

REPLY

(a) A mudir is required to have a general educational knowledge to School Certificate standard, to be fluent in English and Swahili, both written and spoken, and to have some knowledge of Arabic.

A kathi is required to have a sound knowledge of the Sheria and pass an examination in this subject before appointment. He is also required to be fluent in Swahili, both written and

spoken, and to have a good knowledge of English and Arabic.

The post of liwali is a promotion post open to mudirs.

(b) None.

No. 81

MR. TRAVADI (Central Electoral Area) to ask the Chief Secretary:—

Is the convention revising the General Act of Berlin, 26th February, 1885, and the General Act and Declaration of Brussels, 2nd July, 1890, signed at Saint Germain-en-Laye, 10th September, 1919, and known as Congo Basin Treaty, Treaty Series 1919, No. 18, and published as Command Paper No. 477, protecting the national rights of the subjects of the signatory or other Powers against any kind of discrimination, generally to settle, trade, acquire or dispose of movable or immovable property or the exercise of their professions, in all the regions forming the basin of the Congo and its outlets, in force, or has it lapsed?

REPLY

The convention of 1919 revising the General Act of Berlin of 1885, and the General Act of Brussels of 1890, is still in force.

No. 83

MR. TRAVADI (Central Electoral Area) to ask the Chief Secretary:—

If the Government of Kenya will make representations to the United Kingdom Government with a view to the application of the Universal Declaration of Human Rights adopted and proclaimed by the General Assembly of the United Nations on 10th December, 1948, to the Colony and Protectorate of Kenya?

If not, will the Government please state the reasons for not so doing?

REPLY

No, Sir.

The Universal Declaration of Human Rights is not a legally binding document. It sets, in the words of the preamble, "a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society... shall strive, by teaching and education to promote

respect for these rights and freedoms, and by progressive measures . . . to secure their universal and effective recognition and observance". Her Majesty's Government has already taken steps in that direction by ratifying the Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms. This Convention was extended to Kenya on 22nd November, 1953. The fact that a state of Emergency exists in Kenya and that the Government of Kenya is, for the purpose of bringing the Emergency to an end, exercising powers to detain persons which involve derogating in certain respects from the obligations imposed by Article 5 of the Convention, was reported to the Secretary-General of the Council of Europe in May, 1954.

The policy of Her Majesty's Government is directed towards the establishment of conditions in Kenya, as in the other territories under its jurisdiction in which all the rights set out in the Declaration may be enjoyed, as stated in Article 29 of the Declaration with "due . . . respect for the rights and freedoms of others" and . . . the just requirements of morality, public order and the general welfare in a democratic society".

No. 84

MR. TRAVADI (Central Electoral Area) to ask the Chief Secretary:—

- (i) (a) Is the Government of Kenya aware of the Resolution on racial discrimination in non-self-governing territories adopted by the General Assembly of the United Nations at its 402nd plenary meeting on 10th December, 1952?
- (b) Does it apply to the Colony and Protectorate of Kenya?
- (ii) Will the Government institute an enquiry and submit its report to this Council showing the legislative or administrative practices discriminatory in its application?

REPLY

- (i) (a) Yes.
- (b) The Colony and Protectorate of Kenya is a non-self-governing territory under the administration of the United Kingdom, to which, in company with the other administering members of the

United Nations, the recommendations in the resolution were addressed.

(ii) The basic principles set out in it have always been borne fully in mind by the Government of Kenya. A review of discriminatory legislation was laid on the Table of Legislative Council on 1st March, 1956. The Government devotes constant attention to the problem of racial discrimination and sees no reason to institute any further special enquiry on the subject.

No. 93

MR. KHAMISI (Mombasa Area) to ask the Minister for Local Government, Health and Town Planning:—

- (a) When and how soon will Changamwe repooling scheme be available to owner-builders?
- (b) What has been the cost of this scheme?

REPLY

(a) The 1,027 new plots in the Changamwe repooling scheme have been surveyed and the new titles prepared and registered. Owners can obtain their title on application and so make land available for owner-builders. Work on the construction of roads and water supply is in progress but has been held up because of the failure of some owners to comply with demolition orders for the removal of some existing buildings.

(b) The cost of the scheme to date has been £2,252 13 21 cts.

No. 95

MR. KHAMISI (Mombasa Area) to ask the Minister for Housing:—

- (a) What steps have been taken to subsidize or reduce the rents of the Changamwe Housing Estate?
- (b) What loss has been incurred as a result of non-occupation of the houses since the estate was opened?

REPLY

(a) The Mombasa Municipal Board has applied for subsidies on the loss incurred on the running of the Changamwe Housing Estate. The rents in the estate were fixed to be "economic"; that is, to pay for all the costs of running and maintaining it and to pay the interest on and

redeem the funds that built it over 40 years. The estate since its opening has been half empty. An internal rent adjustment as between the types of houses is at present being undertaken by the Municipal Board. Government at the present time is considering the question of a rent subsidy, with or without a general lowering of rents to a sub-economic level, and is also considering whether it would not prove more economical for the Municipal Board and the Government to house in the estate their respective employees who are at present drawing house allowance, rather than pay an outright subsidy. A decision will shortly be taken.

(b) The Mombasa Municipal Board calculates the loss on the running of the estate since its opening in 1957, as £39,966—being £12,786 in 1957 and £17,180 in 1958—and has applied to the Government for a subsidy of half these amounts. The loss for 1959, unless steps are taken to prevent it, is estimated to be £17,550, towards which the Municipal Board would again request a 50 per cent grant.

No. 100

MR. KHAMISI (Mombasa Area) to ask the Chief Secretary:—

Why were Sheikh Ali Muhsin and Mr. Abdul Rehman Mohamed detained at Embakasi Aerodrome for several hours and why were they refused permission to spend the night at Mombasa on their way back from Accra to Zanibar on 17th December, 1958?

REPLY

Sheikh Ali Muhsin and Mr. Abdul Rehman Mohamed were informed on their arrival at Nairobi Airport that they could only be issued with "in-transit" passes which would enable them to catch the next plane proceeding direct to Zanibar. Whilst waiting for their aircraft connexion they were free to have left the airport had they so desired and they were so informed. They did not wish to leave the airport.

The decision to deny Sheikh Ali Muhsin and Mr. Abdul Rehman Mohamed the opportunity of visiting Mombasa en route to Zanibar was made by the Government after careful consideration in the light of objections

received from responsible quarters to their proceeding to Mombasa for a reception. The Government had reason to think that this reception might engender ill feeling and provide an opportunity for demonstrations between rival political factions.

No. 92

MR. KHAMISI (Mombasa Area) to ask the Minister for Local Government, Health and Town Planning:—

Whether Government has any plans for the extension of dispensary facilities for residents on the mainland areas of Mombasa District?

REPLY

As the hon. Member is aware, legislation is shortly to be introduced which will have the effect of bringing the mainland areas of the Mombasa District within the boundaries of the Municipality which is, of course, a public health authority. I understand that the Medical Officer of Health, Mombasa, already has plans for the development of dispensary services on the mainland which he will presumably bring before the new Council as soon as the proposed constitution comes into force. The extent of any such dispensary service will depend on the finance available.

No. 94

MR. KHAMISI (Mombasa Area) to ask the Minister for Education, Labour and Lands:—

Whether Government has any plans for providing land for owner-builders on the mainland north of Mombasa?

REPLY

I assume that the term "owner-builder" is used in its ordinary accepted sense of a man who builds a house in accordance with the terms of a Crown Grant upon land leased to him. The only Crown land considered suitable at present, or for the near future, on the mainland north of Mombasa, is an area of about 472 acres at Shanzu. Preliminary plans have been made for the development of this area by leasing to owner-builders, but detailed plans will not be made until a piped water supply can be provided to the neighbourhood.

No. 91

Mr. KHAMISI (Mombasa Area) to ask the Minister for African Affairs:—

(a) How many African squatters own *shambas* and/or huts on Crown land in Mombasa Mainland North?

(b) In view of recent notices given them to quit, what steps is he taking to ensure that alternative land is made available on which they could build houses?

REPLY

(a) 143 Africans are illegally occupying Crown land in the Mombasa North area.

(b) As these persons are in illegal occupation of Crown land, Government is under no obligation to make alternative land available to any person who is evicted. There are, however, plots available in the village locations at Kongowea and Kitauini/Mwandoni.

No. 111

Mr. T. TOWETT (Southern Area) to ask the Minister for Local Government, Health and Town Planning —

How many chairmen of African district councils are African?

REPLY

One, Sir.

No. 115

Mr. T. TOWETT (Southern Area) to ask the Minister for African Affairs:—

(a) What is the present number of Kikuyu residing in Kericho District?

(b) Is the Government satisfied with the behaviour of the Kikuyu in Kericho District?

REPLY

(a) About 10,000.

(b) Yes.

No. 119

Mr. T. TOWETT (Southern Area) to ask the Minister for Local Government, Health and Town Planning:—

What percentage of the present population of Nairobi are permanent residents of the City of Nairobi?

REPLY

I regret that there are no figures available to enable me to give the hon. Member an assessment of the permanent resident population of Nairobi. In any event, without some definition of what the hon. Member has in mind by "permanent residents" it is very difficult to answer the question.

No. 121

Mr. T. TOWETT (Southern Area) to ask the Minister for Community Development:—

(a) How many Community Development officers, men and women respectively are on contract and permanent service respectively with the Government at present?

(b) How many of these men and women Community Development officers are Africans?

(c) How many of the non-African Community Development officers speak the vernaculars of this country other than Swahili?

REPLY

(a) There are nine male and seven female Community Development officers on contract terms, and 19 male and two female officers on permanent terms.

(b) Four of the male officers on permanent terms are Africans.

(c) Three non-African officers are known to speak a vernacular of this country well, and others have some knowledge of the vernacular language of the district in which they are working.

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11th Council—Third Session

VOLUME LXXIX

18th February, 1959, to 2nd April, 1959

Explanation of Abbreviations

Notice of Motion=NoM; Question=Qn; Bills: Read First, Second or Third Time=1R, 2R, 3R; In Committee=IC; Report=R; Consideration of Report=ConsR; Referred to Select Committee=SC; Select Committee Report=SCR; Recommitted to Council=Re.C; Withdrawn=Wdn.

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