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COLONY AND PROTECTORATE OF KENYA

LEGISLATIVE COUNCIL DEBATES

SECOND SESSION, 1948

Tuesday, 8th June, 1948

Council assembled in the Memorial Hall, Nairobi, on Tuesday, 8th June, 1948.

His Honour the Vice-President and Speaker (Hon. W. K. Horner) took the Chair at 11 a.m.

The Proclamation summoning the Council was read by the Acting Clerk.

ADMINISTRATION OF OATH

The Oath of Allegiance was then administered to the following members, following the taking of the Oath by the Speaker, Chief Secretary and Member for Development, Hon. J. D. Rankin, C.M.G.; Attorney General and Member for Law and Order, Hon. S. W. P. Foster Sutton, C.M.G., O.B.E., K.C.; Financial Secretary and Member for Finance, Hon. J. E. G. Troughton, M.B.E.; Chief Native Commissioner and Member for African Affairs, Hon. P. Wyn Harris, M.B.E.; Deputy Chief Secretary and Member for Education, Hon. C. H. Thoinley; Hon. A. Hope-Jones, Secretary for Commerce and Industry; Dr. the Hon. N. M. McLennan, Director of Medical Services; Hon. R. Patrick, E.D., Director of Education; Hon. N. F. S. Andrews, O.B.E., Deputy Financial Secretary; Hon. E. M. Hyde-Clarke, M.B.E., Labour Commissioner; Hon. S. Gillett, Director of Agriculture; Hon. R. L. V. Jones, Acting Director of Public Works; Hon. J. A. Rice, Acting Commissioner of Lands, Mines and Surveys; Hon. T. C. Celesther, Commissioner for Local Government; Hon. M. Bindell, Rift Valley; Hon. S. V. Cooke, Coast; Hon. G. M. Edye,

Nyanza; Hon. D. Q. Erskine, Nairobi South; Hon. W. B. Havelock, Kiambu; Hon. J. G. H. Hopkins, O.B.E., Aberdare; Major the Hon. A. G. Keyser, D.S.O., Trans Nzoia; Hon. E. R. Macdonochie-Welwood, Uasin Gishu; Hon. W. G. D. H. Nicol, Mombasa; Hon. Lady Shaw, Ukamba; Hon. F. A. Vasey, C.M.G., Nairobi North; Hon. J. E. Nathoo, Central Area; Hon. Shauq; M. A. Shatry, Arab Area; Hon. J. J. K. Arap Chemallan, Hon. J. Jeremah, Hon. E. W. Mathu, Hon. B. A. Obanga, African Interests; Hon. Sheikh Said Sidi bin Salim, Arab Interests.

Absent: Member for Agriculture and Natural Resources, Hon. F. W. Cavendish-Bentuck, C.M.G.; Member for Health and Local Government, Hon. C. E. Mortimer, C.B.E.; Solicitor General, Hon. J. B. Hobson; Hon. C. B. Madan, Central Area; Hon. A. Pritam, Western Area; Dr. the Hon. M. A. Rama, M.B.E., Eastern Area; Hon. A. B. Patel, Eastern Area.

The Speaker then adjourned Council until 11.50 a.m., when Council resumed.

His Excellency the Governor (President) arrived at 11.50 a.m. and proceeded to the Speaker's chair.

The proceedings were opened with prayer.

PRESENTATION OF INSIGNIA

By command of His Majesty the King, His Excellency the Governor invested the Hon. S. W. P. Foster Sutton with the insignia of a Companion of the Most Distinguished Order of Saint Michael and Saint George.

COMMUNICATION FROM THE CHAIR

His Excellency delivered the following Communication from the Chair:—

Mr. Speaker and Honourable Members of the Legislative Council, to-day is a significant occasion in the life of the Colony, for you are assembled for the first time with a majority of unofficial members. I should like to extend a very warm welcome to those among you on both sides of the Council who are taking their seats for the first time.

As it seems to me, a Legislative Council composed as ours is at this stage, can properly be described as a Council of State, upon which rests an important part of the responsibility for the government of the Colony. First—and most important—you have the power of the purse, and secondly, it is only with your consent that legislation can be enacted, except by recourse to the reserve power of certification entrusted to me, which I hope—and believe—I shall never have to use. There are no party politics in this country, and although in a multi-racial society there must necessarily be occasions when there are differences on that account, there is not, and there cannot be, any question of the Council being divided into the Government on the one hand and the opposition on the other. It is true that the Executive does not hold office by virtue of a majority in the Legislature, but it is also true that the Executive—unless it were to proceed by a series of emergency certifications, which it certainly will not—the Executive must secure the concurrence of a majority in this Council for its legislative acts and its expenditure, and therefore for its policy. It has in fact been our practice, and it is a very wholesome practice, to legislate largely by deliberation and discussion, often in committee, and it is seldom indeed—I cannot remember an occasion when I have been a member of this Council—when a motion has been passed solely by the Government majority.

Honourable members are assembled at a time when, as far as I am able to judge, there is at last visible a general trend towards world economic recovery. I do not say that in the international field there are not still reasons for grave anxiety. But goods are beginning to flow

from factories in substantial quantities, harvests are reported to be good, and although there remain very serious shortages of food, especially fats, to make up immediate prospects of feeding the world are better than they have been for some years. Rice available for export from the great rice-growing countries of Asia has, in fact, doubled in quantity this year compared with last. Capital is undoubtedly seeking outlets for investment with greater confidence and enterprise, while the recent British Industries Fair showed to what remarkable lengths recovery has already gone in the United Kingdom. The great and statesmanlike act of the Government of the United States in bringing aid to Europe at the present time to assist in the difficult processes of recovery has had a most heartening effect in many ways.

For us, in our comparatively small field, all that seems to me to provide grounds for confidence. I am aware that there are those who have nothing to offer, if I may use Mr. Churchill's famous phrase, nothing to offer but a profound conviction of impending and irreparable disaster, including another war; I am not one of those. On the contrary, I feel more confident to-day of the sound future development of the Colony than ever. It may be that a disastrous slump is just round the corner. I do not believe it, and all I can say is that there are no perceptible signs of it—perceptible to me, anyhow—at the present time; nor do they appear to have been perceptible to the investors who recently over-subscribed by twelve times a share issue of the East African Power and Lighting Company. It is certainly true that there must be an ebb and flow in economic affairs, and we may expect that; and if when the tide is ebbing we permit ourselves to be thrown into a panic and rush wildly into retrenchment of carefully built up services and the suppression of all useful capital expenditure, we may well turn what is in itself nothing more than a seasonal adjustment into a disaster. It was largely in order to insure against any such tendencies that the last Council accepted Government's proposal for the division of the budget and the setting up of a separate capital budget, by means of which the flow of Government capital can be

[H.E. the Governor]

regulated so as to support the economy of the country when support is desirable.

At the present time I can see no grounds whatsoever for supposing that useful productive expenditure will not continue in the Colony for as far ahead as it is practicable to foresee, and as long as useful productive expenditure, especially on new industrial and commercial projects, including in that transport undertakings, is continuing and is creating new wealth and circulating money, and as long as a sound and vigorous agrarian policy is actively put into effect, then the economic prospects of the country can be regarded with confidence; not, of course, with the confidence of the gold sovereign and consols-at-par-days of good Queen Victoria, for they have gone for ever, but with a measure of confidence appropriate to the realities of the times in which we live. It is that confidence and—if I may say so—courage that are required in facing the problems of the country to-day. I am particularly unimpressed with the line of argument that because the budget of the Colony in 1908 or 1918 or 1928 was £250,000 or one million pounds or two and a half million pounds, it is a proof that a budget for 1948 of, say, six million pounds is reckless extravagance. I should not expect the cloth required to make a coat for a child of ten to suffice for a grown man of fifty; and it is no more reasonable to measure the finances of a growing—a phenomenally rapidly growing—Colony by what sufficed forty, thirty or twenty years ago—if it did suffice, which in fact it seldom did. The fact is that the productivity and economic resources of East Africa have increased and are increasing at a very rapid rate.

Let me give you here a few figures of increases in production from European farms in Kenya alone, where accurate figures are obtainable, and remind you first that greatly increased African production has also occurred, and secondly, that there must necessarily be seasonal variations, so that in some cases the maximum reached may not have been maintained in the year or two immediately following; but it is a maximum which will none the less certainly be exceeded in the years just ahead.

Here are some of the increases in the case of Kenya European farm products: Wheat from 180,000 bags (of 200 lb.) in 1938 to 895,000 bags; maize from 310,000 bags in 1942 to 919,000 bags; butter from 2,887,000 lb. in 1938 to 6,336,000 lb.; whole milk sold off farms from 1,318,000 gallons in 1938 to 5,540,000 gallons; cheese from 132,300 lb. in 1939 to 409,600 lb.; pigs from 18,213 in 1941 to 41,000 in 1947. Perhaps I may add that there is every reason why we should plan to increase the number of cattle offered for slaughter from 50,000 to at least 250,000, and sheep and goats in proportion, once we are organized for so large a trade. The cattle, sheep and goats are here now for such figures; what we have to do is to attract them to our markets.

Public goods traffic carried by the Railway Administration's services has increased from one million tons in 1939 to one and three-quarter million tons in 1947, and has almost made good the declining volume of military traffic. Public traffic at one and three-quarter million tons is the highest figure yet recorded. The total tonnage of public, military and departmental traffic of 2,700,000 tons carried in 1947 compares with the war-time peak of 2,765,000 tons in 1944, but the average haul in 1947 was longer than it was in 1944, and 1947 represents a record year of transportation effort.

The tonnages of such commodities as cement, machinery, iron and steel have doubled and will increase still further as increased supplies become available. The figures for imported goods such as blankets and agricultural implements, and internal commodities such as sand and stone, have trebled. The quantities of timber, wheat and maize carried on the railway have increased beyond all comparison with pre-war years. Soda ash exports have trebled.

Exports to foreign destinations in total volume do not show material increase as between 1939 and 1947, but invisible exports have reached very large proportions indeed, and that is a process which is likely to continue for a long time in view of public and private projects of capital investment, while internal consumption has grown out of all comparison with pre-war standards.

[H.E. the Governor]

Thus, while there may have been recently some overbuying, anyhow of certain kinds of goods, and therefore at least a theoretical cause for anxiety over the balance of trade and payments, I do not think conditions exist for anything more than some reduced importing, which in any case may become necessary on account of the limit of transport capacity having been reached.

There has recently been a gratifying revival of interest in the development of new industries, which is now becoming practicable since it is at last beginning to be possible to obtain building materials and plant, shipping to bring them here, and skilled staff to operate them. In order to encourage those who contemplate establishing factories in the Colony, the Government has decided to make direct grants of land to bona fide applicants, with, of course, appropriate conditions attached to ensure that the land is used for the purpose for which it is granted. Unless and until coal or oil are found in the country or hydro-electric power becomes available in great quantities, together with basic materials, there can be no heavy industry. A comprehensive geological survey is about to be undertaken, financed under the Colonial Development and Welfare Act, and we can only await its results; meantime, secondary and light industries are becoming more numerous and there are good prospects for further developments, which the Government will do everything in its power to assist.

As regards sites for hotels and residences there is evidence that land values are too high, and Government has decided to take steps to deflate these values by releasing large numbers of plots on very favourable terms. I should add that the Government are now considering whether they can usefully attempt to induce industries to establish themselves in centres other than Nairobi in view of the great growth of this town and of the continuous difficulties in the way of water.

A motion will be moved in this session for the creation of a Board of Commerce, Industry and Mining. Government will make proposals for the composition, powers and functions of the Board and for its relationship to the East African Industrial Licensing Board.

but these are matters which cannot be settled until honourable members have had an opportunity of expressing their views. When they speak to the motion, I hope they will give Government their views on the matter of location of industry and also on the appropriate manner in which fiscal policy, especially as manifested in the tariff, might be brought into closer relation with industrial policy.

While on the subject of commerce I would add that a bill to amend the Bankruptcy Ordinance is being drafted. The new amendments are designed to tighten up existing bankruptcy procedure, further safeguard creditors, and expedite the administration of bankrupts' estates.

It is difficult, when three territories are associated in a customs tariff, to obtain agreement on proposals to make changes, whether in relation to industrial policy or to give relief from taxation on items which affect the cost of living; on the latter, indeed, this Government has in fact failed to obtain agreement in previous years. The Government now propose to introduce a motion in the Central Assembly which will seek to obtain agreement to a broad general formula within which proposals may be worked out to be submitted for the approval of this Council. We have now at least a means of airing these matters in debate and obtaining a decision by vote.

Legislation will be proposed to amend the Income Tax Ordinance in certain respects, and the opportunity will be taken to make the adjustments foreshadowed by the Financial Secretary at the time of the debates on the budget.

A motion will be moved seeking the formal approval of this Council to the amalgamation of the Kenya and Uganda Customs Department and the Tanganyika Customs Department as from the 1st of August next.

Proposals for the revision of Civil Service salaries and certain changes in terms of service resulting from the recommendations of the Salaries Commission will be laid before you in July.

I venture to suggest to you that between now and the time for the presentation of the budget—and the sooner the better—it would be advantageous for you should examine the procedure for

[H.E. the Governor] dealing with the estimates, the control of expenditure and the formulation of fiscal policy in general.

In the vitally important field of agriculture, animal husbandry and natural resources a great deal has been achieved, and a great deal more is planned for the immediate future. At long last, real progress has been made in the establishment of adequate research facilities on an East African basis, the central institutions of which will in most cases be situated near Nairobi: I refer in particular to the East African Agricultural Research Institute, the Central Veterinary Research Institute, forestry and silvicultural research, and animal husbandry and tsetse research. What has been accomplished amounts to a great step forward in the history of East Africa, and particularly of Kenya.

As regards the rehabilitation of African areas, the Commissioner and the African Land Utilization and Settlement Board have eighteen approved schemes in hand, for which expenditure in 1948 is expected to amount to £120,000. In addition, seven pilot schemes on which about £10,000 will be spent this year are in hand.

The Central Water Resources Authority has been constituted, and regional water boards on a catchment area basis have been set up by general agreement. The new Water Ordinance is in draft form and will give legal effect to these arrangements.

I trust that the new Agrarian Bill (in which will be concentrated a wide range of powers at present contained in a variety of ordinances, together with certain new provisions considered by the member to be necessary) will be introduced this year. It will, in fact, be the most important piece of fundamental legislation which has been before this Council for a very long time.

Other important projects which are being worked out, and some of which have reached an advanced stage, are the establishment of a central factory abattoir (a project which my advisers and I recently discussed with Mr. Strachey, the Minister of Food, who is greatly interested), the expansion of the production of soft woods, permanent cereal storage, a research station for cattle sterility diseases and general stock pas-

ture and fodder problems, a central agricultural research station to replace the Scott Laboratory, a marine technological investigation and research station at the coast to investigate methods of catching and curing fish, and biological research. As regards irrigation, on the suggestion of the recent Rice Mission it is proposed to set up a survey team under an irrigation engineer to undertake detailed surveys in the Middle Tana, the Sabaki and Koroni River areas, the Kano Plains and the Yala and Nzoi Delta areas. I do not need to remind honourable members that irrigation projects are complicated and difficult and require the most detailed investigations before they can be undertaken. In addition, agricultural provincial investigational centres in African areas are to be established, and three additional dam-making units to be attached to the Soil Conservation Service will be set up as soon as possible. An agricultural experimental station at the coast is projected, and preparations are well in hand. Live stock improvement in African areas is also in hand, and a scheme has been prepared and is now being considered from the financial aspect. Finally, an extension of the European Tenant Farming Scheme to enable an additional 200 tenant farmers to be absorbed is being studied.

The Development and Reconstruction Authority is now getting into its full stride, and by the end of the life of this Council many of the important projects included in the development programme will have been executed. Others of a continuing nature, such as soil conservation and some of the settlement schemes, will have been launched on what is likely to be a long life. The first part of the road reconstruction programme for which funds have been provided will by then have been completed, and some of the most serious aspects of the housing and building problem remedied.

There have been initial difficulties, mainly shortages of staff and plant, but these are being overcome, and a programme of work of really major proportions is now in hand. The development and reconstruction programme was a ten-year programme and it is necessary to remind ourselves from time to time of that fact and of the fact that if it were intensified to excess at the present time

[H.E. the Governor] it might well do harm by adding to inflation.

The planning committee which was recommended in the report of the Development Committee, and by the Select Committee on the 1948 Estimates, will be set up now that Council has met, as soon as the necessary consultation about membership has taken place. Material to be laid before the planning committee is being prepared and is well advanced.

It has become clear to me that we have given great attention to development without sufficiently realizing (I speak for myself) the vast arrears of reconstruction which must be tackled. I confess that until quite recently I had no idea of the shocking condition of much of the property of the Government, nor of the extent to which ancient wood and iron buildings condemned years ago were still in use. I should like to add here that my advisers and I are consulting as to the possibility of preparing some form of capital asset account in which we can show such things as buildings, major bridges and so on as they are completed, and that in combination with this I feel it would be desirable that we should establish a Renewals and Betterment Fund for those of our assets which are capable of being treated in that way.

I cannot give you the full list of works projected now, for it would take too long. I must confine myself therefore to the most important. They are as follows:—

Buildings

The Kenya Girls' High School, completion of the Indian girls' school, Nairobi, the Indian primary school, Mombasa, the European primary school, Nairobi, seven Indian schools in Nairobi and Mombasa, African teacher training centres at Maseno, Embu and Meru, continuation of the programme for the group hospital (possibly with some modification), Kisumu prison, completion of the prison at Kapsabet, completion of district offices at Kericho and Kisii, and completion of the *piet* housing scheme in Nairobi. I should add that large numbers of African primary schools are projected to be built by local authorities.

It may give some idea of the size of the works before us if I tell you that the architectural and drawing staff have nearly hundred building projects at present on their boards. I should like to add that I hope to secure your approval to the addition of one more—and that is an appropriate chamber for this Council to meet in and the necessary committee rooms and the like, for it is long overdue. (Hear, hear.)

Roads

Completion of the Dagoretti-Limuru road, the Nakuru-Londiani road, the south coast road from the municipal boundary of Mombasa to Mwachema River bridge and widening of the Gazi Embankment, the north coast road, widening and additional hard surfacing over bad patches, Limuru "A" route bituminous surfacing, completion of Kericho-Muhoroni, Kibos-Kibigori and Embu-Meru roads, Athi River-Nairobi road, Kitale-Endebess road, Nairobi-Kiambu road, Gilgil-Thomson's Falls road, Namanga-Athi River road, and the road from Mombasa to Mackinnon Road.

The *piet* housing scheme was designed to provide a form of semi-permanent construction of a mass-production nature in order to meet special conditions and to make the smallest possible call upon skilled labour. The two primary considerations were speed of construction and economy. The technical details and the design of the houses can still no doubt be improved in the light of experience, but it can be said now that the experiment is being exceedingly successful, and I would invite any honourable member who is interested to inspect the houses.

Honourable members will have seen the interim report of the Road Authority Committee and will no doubt wish to decide that matter at an early date. It is closely interlocked with the report of the Commission of Inquiry on the Public Works Department, whose report is expected any day now, and it is obvious that we should await that report and consider both together. But perhaps I may say just this to-day, that whether a Road Authority is set up or not, I should view with regret, although I could not prevent, a decision by this Council to separate the annual road main-

[H.E. the Governor] tenance vote from the annual estimates of expenditure.

The following legislation concerning local government and public health is expected to be introduced during the next year:—

Three local government bills, comprising a new African District Councils Bill to consolidate and extend the powers at present held by local native councils under the Native Authority Ordinance, and to improve their procedure; and amendments of the District Councils and Municipalities Ordinances consolidating existing law and revising it in important matters. A Mental Disorders Bill which will remove many objectionable features from the existing law and bring our legislation up to date. A bill to establish a nursing council which will provide for the local registration of nurses and will promote the training of nurses within the Colony. A bill regarding the adoption of children and generally relating to children and young persons, designed to bring our laws in this respect also into line with modern practice.

Large schemes for the extension of African housing within the municipalities of Nairobi, Mombasa and Nakuru are in hand. The local authorities of Nairobi and Mombasa have undertaken and are proceeding with housing schemes for the European and Asian inhabitants of their towns. In order to help in keeping down rents to a reasonable figure the Government has provided land free of charge.

It is expected that the new Voi hospital will be completed, and that the first of the health centres will be established, this year. Progress with the building of the second African block of the group hospital, Nairobi, is being made. The European Hospital Authority will shortly be calling for tenders for the new hospital buildings at Mombasa, and building will begin as soon as a tender has been accepted. Extension and improvement schemes for other hospitals are also in hand, including temporary buildings in Nairobi. Work on other major medical projects will not advance beyond the planning stage. Town planning schemes of a far-reaching character for both Nairobi and

Mombasa have been completed and will be under examination during the year.

A major water scheme for the municipality of Nairobi is being investigated by consulting engineers, and other important improvements of the water supply are in hand. Financial aid has been provided for the initial stages of the work and an assurance given that the loan requirements of the Municipal Council for the whole scheme, which will cost upwards of £2,000,000, will have the support of the Government.

Government views with anxiety the approaching impossibility of providing education for European and Asian children who, by law, must receive education. Either additional capital funds must be provided or compulsory education will have to be suspended for the time being. There would be strong objection to the suspension of compulsory education. Accordingly, during this session of Council, proposals will be laid before you to make provision for the necessary finance. I take this opportunity of informing honourable members that the report of the Glancy Committee on education expenditure has just been received.

A ten-year plan for African education has been published. It is based on the needs of each district and it is the intention of the Government to press on as fast as possible with it. It is not intended to adhere to every detail of the plan, but rather to regard it as the framework within which we hope to make big strides during the next ten years in African education. I should add that the plan provides for the expenditure of as much money as it appears practicable to spend usefully in the period it covers, but if progress should be faster than we now expect, it can, of course, be extended—the limiting factor is the long time it must take to produce the numbers of teachers required and the finance which can be raised, and it will have to be raised from the beneficiaries.

The concurrence of honourable members will be sought for the establishment of a technical college to take suitably qualified African young men for technical training in a wide variety of trades. This is to be developed from the present Kabete training centre for ex-soldiers. The Government proposes that

(H.E. the Governor) it should be under a board of governors and that it should have its own revenue and expenditure account, such assistance in finance as it needs being in the form of block grants. The intention is that as the men in training become more skilful they should more and more be employed on actual practical work.

The Government regards it as of the greatest importance to strengthen and improve by every possible means relations and contact between its officers and the African people. The welfare staff and the Information Office have been combined under the direction of the Chief Native Commissioner, and are engaged in Colony-wide and increasingly effective public relations work. I trust that honourable members will read the report of the Information Office for 1947, for they will see there what a great deal of valuable work has been done. The Chief Native Commissioner has recently established an African Affairs Committee, of which he will be chairman, and on which the African members of this Council have indicated their willingness to serve. An appropriate official membership is being arranged. The committee will meet at regular intervals to consider any matters of particular importance affecting African interests which need to be investigated, and to ensure that African members of this Council are kept fully in touch with Government's policy and are able to discuss important projects of legislation affecting Africans. The committee will also be available to give expert advice to the Administration, to local government bodies, to such organizations as the Railways, and indeed to any organization which may seek it on matters particularly concerned with Africans and their special needs and problems.

The Demobilization Centre at the Jeanes School, at which there are still over 300 ex-Servicemen in training, is being developed under the direction of the Chief Native Commissioner as a training centre for a wide range of African officials and it is proposed also to train administrative cadets there in certain subjects. The centre can play—indeed, is playing already—an invaluable part in giving instruction in current

affairs and counteracting subversive propaganda and objectionable movements.

But if social services for Africans are to expand to meet the needs of the people, additional revenue, either central or local, must be raised. The African Affairs Committee will be invaluable for the purpose of expanding the situation and proposing appropriate measures to meet it. I should add that a bill will be introduced shortly to amend the Poll Tax Ordinance by the imposition of automatic penalties in case of non-payment by a given date and to make the instalment card system obligatory in certain circumstances.

Other bills particularly affecting Africans which will be introduced are bills to amend the Credit Trade with Natives Ordinance so as to permit appropriate categories of people to opt for exemption from the Ordinance, which is designed to protect the ignorant and illiterate, and a bill to amend the Native Land Trust Ordinance to permit of compensation for land set aside to be paid in the form of an annual rent instead of a lump sum payment.

Before the last Council was dissolved I had an interview with unofficial members at which we discussed the question of the crime situation and what steps might be taken. One decision we reached was that there should be established a standing committee on crime. The Law Member will now consult with honourable members as to its composition.

The Commissioner of Police was instructed shortly after his arrival to submit proposals for the strengthening and re-equipping of the force as soon as he felt that he was in a position to do so, and these were received by Government in April. In view of the urgency of the matter, and as the Standing Finance Committee was the time being in abeyance, this report was considered in Executive Council and accepted. The Commissioner has been authorized to go ahead with as much of his proposals as it is practicable to put into effect at once. There will remain certain matters which cannot be finally decided for various reasons for some months to come, including matters affecting the police force which may arise from the report of the Salaries Commission.

(H.E. the Governor)

The additional expenditure is substantial, amounting to half a million pounds of capital expenditure and ultimately £150,000 per annum recurrent. That expenditure cannot be incurred until it has been approved by this Council, but in view of the attitude of honourable members when I met them, I ventured to assume that I could count on their support in a matter of such great urgency, since close on two months would have elapsed had I waited until Council was assembled and was in a position to appoint a Standing Finance Committee and go into the matter in detail.

A bill for a new Police Ordinance will be introduced during this session. The present legislation has been found to be deficient in a number of respects. The new measure will bring our legislation into line with modern requirements and will contain provisions for the creation of a police reserve, to be known as the "Kenya Police Reserve", which will take the place of the war-time Auxiliary Police Force.

The new police training depot has been established, and every effort is being made to bring it up to strength and to obtain modern equipment. Approval has been given for the progressive policing of the reserves by the regular police. (Hear, hear.)

I should like to add that the Commissioner and his officers and men enjoy the full confidence of the Government and, I am sure, of honourable members and, indeed, of all good citizens, and that we are proud of the force. (Applause.)

Bills are being drafted to replace the present Prisons Ordinance with a comprehensive up-to-date enactment; to deal with unemployed persons in areas scheduled for its application by an appropriate form of direction of labour; and with habitual offenders, and will be laid before you at an early date.

The root cause of our trouble in the matter of habitual offenders is the short sentence of imprisonment. If you examine the record of any habitual criminal you like, in nine cases out of ten you will find that he began with a series of sentences of a month, two months, three months, and so on. Proposals are now being worked out which

will enable—or maybe will require—magistrates in such cases to direct such people for perhaps not less than 12 or more than 24 months or even longer, to a reformatory labour corps or farm. (Hear, hear.) At the present time the Railway is employing over 1,000 prisoners under arrangements which would readily fit in with a system of this nature, and is carrying all the expense involved. Indeed, what I have in mind is really not a great deal more than an extension of the admirable work already being done by the Commissioner of Prisons at Kitale and in prison camps by adapting the law to these new methods of which he has been so successful a pioneer. I am convinced that we are running round in a circle unless we tackle this problem of the short sentence, and further that conditions in our gaols are such that unless we do we shall be compelled to spend—indeed to waste—hundreds of thousands of pounds on building prisons which we ought not to require, and which we will not require if we adopt the approach to the problem which I suggest. (Hear, hear.)

The reorganized Labour Department, details of which were set out in Sessional Paper No. 5 of 1945, has been getting into its stride and most of the posts then created have now been filled. The legal machinery through which the department operates is now being overhauled, the object being to produce a consolidated labour code for the Colony. As part of this process, legislation will be laid before you during this session to amend the Employment of Servants Ordinance, the Resident Labourers Ordinance, the Workmen's Compensation Ordinance, the Women, Young Persons and Children's Ordinance, 1933, the Trade Disputes (Arbitration and Inquiry) Ordinance, and the Minimum Wages Ordinance. The amendments which will be proposed to the two last-mentioned ordinances will be designed to bring about improved relations between employers and employees by providing better means of conciliation, including the application of the principle of voluntary conciliation and the registering of such negotiated agreements, and for the holding of inquiries into conditions of employment and wages on the basis of separate industries.

[H.E. the Governor]

I am afraid that I cannot report progress about our proposals for the re-introduction of compulsory military service and for the reconstitution of the Kenya Regiment. Decisions on these extremely important questions still await decisions by the War Department regarding the garrisoning of East Africa on a peace-time basis. This Government has pressed, and will again press, for the settlement of these matters.

Honourable members will have noted from the legislation which I have mentioned, and I have mentioned only the most important items in a long list of bills which are in course of preparation, that the legislative programme is heavy. When you consider in addition the protracted processes which are necessary in the course of the examination of the budget and the departmental estimates, you will see that you have an exceedingly heavy task before you. In these circumstances (and in spite of the unconscionable time I have been speaking!) I hope honourable members will not take it amiss if I venture at the beginning of this Council to suggest that it is important to pay close attention to the virtues of brevity and strict adherence to the point in speaking to a motion!

It only remains for me to wish you every success in the important work that lies before you, and to pray that you may be guided by Divine Providence in the weighty tasks which you will have to undertake in the course of the life of this Council. It is meeting, I believe, at a time of perhaps unprecedented goodwill between all communities in this country, and it is obvious that among the major, if undefined, tasks which you have to undertake is to develop still further the processes of discussion, both in debate and in committee, and legislation, in a friendly and co-operative manner, doing justice to all alike and avoiding with resolution all temptations to allow your views and your actions to be affected by any other considerations than the general good of the people of the Colony as a whole and of the Commonwealth of which we all have the inestimable privilege of being members. (Applause.)

I now formally declare open this session of the Legislative Council.

At its conclusion he retired from the Chamber, and the subsequent proceedings were conducted by the Speaker.

MINUTES

The minutes of the meetings of 19th and 20th March, 1948, were confirmed.

PAPERS LAID

The following papers were laid on the table:—

BY THE CHIEF SECRETARY (MR. RANKINE):

Development and Reconstruction Authority Quarterly Report, 1st January to 31st March, 1948.

BY THE ATTORNEY GENERAL (MR. FOSTER SUTTON):

Judicial Department Annual Report, 1946.

BY THE FINANCIAL SECRETARY (MR. TROUGHTON):

Schedules of Additional Provision, Nos. 3 and 4 of 1947, Reports of Director of Colonial Audit on the accounts of the K.U.R. & H. for 1945 and 1946.

BY THE DEPUTY CHIEF SECRETARY (MR. THORNLEY):

A ten-year plan for the development of African education, report of inquiry into Indian education in East Africa by Ali Akbar Kazimi of the Bihar Education Service, Patna, India, and Transport Licensing Board Annual Report, 1947.

BY THE DEPUTY FINANCIAL SECRETARY (MR. ANDREWS):

Interim Report of the Road Authority Committee.

NOTICE OF MOTION

The following notice of motion was given by MAJOR KEYSER (Trans Nzoia): That this Council is resolved that during its lifetime it shall meet on the second Tuesday of February, May, August and October of each year and on such subsequent days as may be necessary for the termination of business, always provided that in the event of emergency additional meetings may be called.

ADJOURNMENT

Council adjourned at 12.40 p.m. till 10 a.m. on Wednesday, 9th June, 1948.

Wednesday, 9th June, 1948

Council assembled in the Memorial Hall, Nairobi, on Wednesday, 9th June, 1948.

His Honour the Vice-President and Speaker took the chair at 10 a.m.

The proceedings were opened with prayer.

ADMINISTRATION OF OATH

The Oath of Allegiance was taken by: Hon. C. B. Madan, Central Area; Hon. A. B. Patel, Eastern Area; Hon. A. Pritam, Western Area.

MINUTES

The minutes of the meeting of 8th June, 1948, were confirmed.

STANDING FINANCE COMMITTEE

APPOINTMENT OF

MR. RANKINE (Chief Secretary): Mr. Speaker, I beg to move: Be it resolved that, in accordance with Standing Rule and Order No. 51, a Standing Finance Committee be appointed, to consist of the Hon. Chief Secretary (Chairman), Hon. Financial Secretary (Deputy Chairman), Hon. Chief Native Commissioner, Hon. Deputy Chief Secretary, Hon. Members for Nairobi North, Coast, Rift Valley, Central Area (Mr. Nathoo), and African Interests (Mr. Muthu).

I do not need to take up any of the time of Council in explaining the reasons for this appointment. As hon. members will be aware, it is important that the Standing Finance Committee should be appointed as soon as possible. There is already a certain amount of work waiting for it, and I have no doubt that there will be other important business to put before it before long.

MR. TROUGHTON seconded.

MAJOR KEYSER (Trans Nzoia): Mr. Speaker, I beg to move the following amendment: That the words "Hon. Members for Nairobi North, Coast and Rift Valley" be deleted and the words "Mr. E. A. Vasey, Mr. S. V. Cooke, and Mr. M. Blundell" be substituted therefor.

The reason for this is that if either of these three hon. members left the country, under the motion their substitutes would automatically become

members of the Standing Finance Committee, and it may be desirable to have some other member rather than one who has had little experience of Legislative Council work.

MR. VASEY seconded.

MR. RANKINE: That is quite acceptable to the Government.

The question of the amendment was put and carried.

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

SCHEDULES OF ADDITIONAL PROVISION

Nos. 3 AND 4 OF 1947

MR. TROUGHTON (Financial Secretary): Mr. Speaker, I beg to move: That Schedules of Additional Provision Nos. 3 and 4 of 1947 be referred to the Standing Finance Committee.

It is customary for these Schedules of Additional Provision as they are printed to be referred to the Standing Finance Committee before they are finally submitted to this Council for approval.

MR. ANDREWS seconded.

The question was put and carried.

COUPON RATIONING

REPLACEMENT BY BULK DISTRIBUTION

MR. HOPE-JONES (Secretary for Commerce and Industry): Mr. Speaker, I beg to move: That this Council, recognizing the public demand for a relaxation of controls, wherever practicable, resolves that coupon rationing in respect of maize and wheat products, rice and sugar should be abolished and should be replaced by a system of bulk distribution.

In a matter so important as this to the future economic life of this Colony, I feel that it is a great honour to move such a motion. But in doing so I would not be honest unless I said that, if the motion is adopted, certain risks will be involved, in addition of course to certain manifest advantages. There was a figure in classical mythology known as Anteus. Anteus was a curious person who, unless his feet were on the ground, lost his strength, and in a matter so important as this I feel it is very necessary that

[Mr. Hope-Jones] Government should seek a mandate from the elected and nominated representatives of the voters and inhabitants of this Colony. Otherwise, like Anteus, our strength will disappear.

If I may go back a little way, I would point out that the select committee on the Estimates cut the vote in regard to the Commodity Distribution Board to £20,000—approximately half what would have been required according to the estimates of that year. Conditional upon this cut was an instruction that the position should be examined with a view to seeing whether it was possible to do away with coupon rationing.

Now, sir, the position has been examined and we have come to the conclusion that there is justification for proposing this motion in the terms I have read out. By doing this we will, of course, save a very considerable amount of money. The original estimates for 1948 were for a sum of well over £40,000. They cover the employment of thirty-eight European officers, fifty-eight Asian officers and seventy-five Africans. That is a formidable total indeed. If we abolish coupon rationing in respect of these commodities and replace it by a system of bulk distribution, we hope to be able to cut expenditure progressively up to 75 per cent of the whole.

Here I wish to emphasize that there is no intention, implied or otherwise, in this motion that the necessary control of the foodstuffs of this country should not be maintained. It is hoped, however, to do it successfully through the more simple system of bulk distribution, rather than through the system of coupon rationing, which in my personal opinion—and I think it is a matter of opinion as to whether it is necessary or not—represents an interference by Government with every individual in the country. It certainly was necessary under circumstances such as we have gone through. In my submission to-day we can take the risk of moving from individual coupon rationing to bulk rationing.

I should describe what this means. It means briefly this. In the Central Commodity Distribution Board, as a

result of coupon rationing, we have very complete records of where the foodstuffs go to in relation to the consumer demand on a rationing basis. Therefore, it should be possible to send out supplies of food to the wholesalers on the basis of their rationed indents. It will be possible again for the wholesalers to send out to retailers supplies of food on the basis of their indents on the wholesalers, based on the ration book standard. If, as we hope, more supplies become available, then distribution can be increased on that basis *pro rata*. If, however, supplies become less—and no Government, no individual, can forecast the weather and what is likely to happen to the crops—then supplies would have to be cut *pro rata*, and quite obviously, if they fell below a certain level, the only way in which the very poor could be assured of a supply of food as against the very large purchasing power of the rich, would be by coupon rationing. Coupon rationing is the only means by which the purchasing power of the very rich in a time of shortage—and I underline in time of shortage—can be limited in such a way that the very poor get their fair share.

These are, as I can see them, the principal advantages of coupon rationing. The disadvantages of coupon rationing are (a) the expense, which I have touched on, and (b) the fact that it is an interference by Government in the daily life of every individual rationed by coupons in the country.

There is the third point, which to me is the decisive one, that sooner or later we will have to get rid of coupon rationing. Whenever we do it, we will, to a greater or lesser degree, be in the position of taking a leap in the dark to this extent, that we can never be absolutely certain that the food supplies will be sufficient to ensure that everybody will at all times and in every place get everything they want. But, if we wait for that to happen and wait for a fortuitous combination of circumstances, then I suggest that we will never get rid of rationing, and we will never get rid of quite a number of the Controls.

In proposing this motion I do want to make it clear to you, sir, to the hon. members on the other side, and to hon.

[Mr. Hope-Jones] members on this side too, that there is a risk involved. It is a very simple thing to say "Sweep away the Controls". It is a very popular cry that I have heard on many occasions recently. Here is one that I am prepared to see go. There is a risk, and I suggest that we need a mandate from the elected and nominated members of this honourable Council, without which we would not be justified in taking such a step.

Having drawn the gloomy side, I will now proceed to say how we hope to avoid unhappy eventualities if the motion is carried.

First of all, I would say that it will take some ten to twelve weeks to work out a satisfactory system by which bulk distribution can replace coupon rationing. We want to make the system as foolproof as possible. Needless to say, I have consulted my hon. friend the Member for Agriculture on this matter and he is in agreement with the terms of the motion, subject to the warnings I have given. We hope to retain, in fact we intend to retain, provided hon. members are willing to provide the funds to do so, a sound, efficient, but small body to continue the system of bulk distribution. As I said, great economies in terms of personnel and the finance required will result from the substitution of bulk distribution, but, make no mistake, a small but efficient organization will be necessary. We hope progressively to be able to cut it down, so that ultimately we save seventy per cent to seventy-five per cent of the present cost during this interim period, that is, for the next ten or twelve weeks. Many of the present staff will be working out their terms of notice, and they will be very useful in preparing the figures upon which we are going to base bulk distribution.

I should like to suggest that this period will give us time to work out a sound system. Owing to the fact that ration books were issued for what was assumed to be the coming rationing period, if things did go wrong between now and next November it would be possible to re-introduce coupon rationing at fairly short notice, but of course that would be an undesirable thing, although it might become necessary. It would be better, if

we thought that was probable, to continue rationing. I personally do not think that that is probable. I would, however, be misleading hon. members if I said that it was impossible. When we have worked the change, then I say we will be able to get back to a small and expert body.

There is another point that I must make, and it goes back to my statement that rationing by coupon is the principal means by which the poor, with their limited purchasing power, are protected against the rich with their large purchasing power; and that is this: that if this is to work successfully, a certain amount of self-discipline enforced by public opinion must be necessary. (Hear, hear.) That can be done. We all want to get rid of these irksome Controls and want to reduce expenditure upon them, but if certain people (as has happened in the past) try to engross large supplies for speculative reasons and for reasons of selfishness and greed as they are deterioration in respect of coupons, then the situation may become a very serious one. We can find means of dealing with those people, and if that happens I hope we shall have the support of hon. members opposite to deal with them in the strictest possible way. (Hear, hear.) We cannot afford to have de-Control of this nature in response to popular demand sabotaged by selfishness or by those too ignorant to realize what they are doing.

I do not think that at this stage of the debate I need say very much more. Hon. members opposite will no doubt express their views. This, as I repeat, is not a matter of Government given to hon. members and trying to force something down their throats. This, if I may say so, was an approach to this Council in its capacity as a Council of State. It is an approach to hon. members for their counsel in taking this very grave decision.

MR. RANKINE seconded:

MR. EDYE (Nyanza): Mr. Speaker, I cannot let the remarks of the hon. member pass without some short comment thereon.

He mentioned that he was not here to force down the throats of hon. members on this side any legislation which would

[Mr. Edye]

be unacceptable. I think I am right in saying that most people will welcome a relaxation of this coupon rationing Control, but what surprises me is that, despite the recommendations—and indeed heavy indictment—contained in the report of the Efficiency/Economy Committee and in the recommendations made in the report of the select committee on the estimates, Government has not taken action long before this.

If I may take up the time of Council for a few moments, I should like to read one short extract from that Efficiency/Economy Committee's Report on the Commodity Distribution Board on the subject of coupon rationing. It reads: "The coupon has become a form of currency. Organized gangs apparently flourish on the result of their acquisition of coupons. The police have made several arrests but cannot compete with the offenders due to the magnitude to which the traffic in coupons has reached. The sale of coupons commences immediately they have been issued. Officers of the Board have witnessed sales taking place within the precincts of the rationing office. Just recently, an African was arrested by the police and eight hundred and twenty coupons which he had purchased were found in his possession. If one African can collect an equivalent of three hundred loaves of white bread daily, it rather proves the fallacy of conducting a rationing scheme on the present basis".

I do not think that anyone can agree more than we do with those remarks, and it will be interesting to know from the hon. mover why so long a time has elapsed since the receipt of the report, since the recommendation of the select committee on the estimates, and the present motion. The hon. mover did refer to the recommendation of the select committee when he stated that we had recommended that some action should be taken on this matter and had cut the vote by some £20,000; in fact it was reduced by £23,500 to a total of £20,000. But he left out a very important point. The report said: "The committee considered that requests for supplementary provision during 1948 should not be met unless the Government was satisfied, as a result of the

investigation referred to above, that additional provision was unavoidable". We are being asked to meet that additional provision, and I should very much like to know how it is unavoidable. Could it not have been avoided if action had been taken earlier to give effect to the motion now before Council? If this question of cutting down had started some three months ago it could presumably have been done within this £20,000 already voted, and I should like an explanation on that point.

There is one other point I should like to make, and I really make it on behalf of another member particularly interested. In view of the known bottleneck in milling, and until the extension of the mills at Eldoret is complete, is Government satisfied that sufficient flour will be available to cope with the expected ten per cent increase in demand, as soon as rationing ceases? Bakers are apparently apprehensive that even with that extension they will not be able to meet the demand of their customers, and perhaps the hon. member will be kind enough to deal with that in his reply.

Mr. MADAN (Central Area): Mr. Speaker, though I rise to support the motion I am in full agreement with the remarks of the previous speaker. In our opinion, the removal of this Control is already over-late. It cannot be denied that coupon rationing necessarily creates a limited supply for consumers, based perhaps in this case, I think, on the fallacious idea that the commodities are in short supply. If there is a limited supply, I think it will also be agreed that it inevitably leads to black marketing, more so in view of the background where commodities are offered for sale by traders able to obtain them illegally. A very good example, and an illuminating one, of that has been given by the previous speaker. You cannot blame the consumer for indulging in the black market. It is all right to ask the public to show co-operation, but I do say that the desire to obtain the necessities of life, the reasonable necessities of life, is quite often stronger than that.

This Control has, in my opinion, become unnecessary, and when you take into consideration that coupons are available for sale this part of Control

[Mr. Madan]

I say has become not only unnecessary but also a menace. It has shifted from being a boon into a burden, more so in view of the heavy expenditure required to maintain it. I am informed, and I want to emphasize this, I am only informed, that in Uganda so much sugar is available that if the import restrictions were relaxed, even if they were slightly relaxed, more than enough would be available here. Again I repeat that I am informed, by manufacturers in Uganda, that representations have been made to the Government there that either Government should dispose of the sugar that is being produced by them or allow the manufacturers themselves to dispose of it. Although those representations were made last year nothing has been done so far, and the old quotas have not been revised. Perhaps Government has not had long enough time in which to do it. (Laughter.)

A serious question that arises is this: Will the abolition of the coupon system lead to greater black marketing in the sale of these essential commodities? I do not think there is any danger of that. I do not think that we will be exposing the members of the general public into paying greater prices or black marketing if this system is abolished. I am fortified in my opinion by two examples, the case of butter and the case of vegetables. Butter has been dealt with on the basis of bulk distribution for an appreciably long time and it has, I believe, proved a complete success. In the case of vegetables, when the prices were controlled they were certainly higher than now vegetables are de-controlled. There might be a tendency in the beginning for prices to go up, but I think that within a short time, a very short time, after the abolition of this coupon system prices are bound to come down to a sane level, because traders will be anxious to see if they are sure to obtain these commodities in reasonable quantities, and according to their requirements they will be anxious to enter into healthy and free competition.

It has been said, and I think rightly, that this Control is an institution of the war. At that time, because of the exigencies of the situation, because of the emergency, people did not mind bearing

the expense, but three years after the war its strangling tentacles are still gripping us. We live in a progressive Colony, and I say let us do away with it and give the consumers a chance to live freely and happily.

Mr. NATHOO (Central Area): Mr. Speaker, while congratulating the hon. Secretary for Commerce and Industry for moving this motion there is one small point on which I should like his assurance. That is, that the bogey of past performance should at the very first opportunity be abolished. Under the bulk distribution which is to begin, the position will be that those suppliers who have customers on their lists will be given their share of quotas, and they in turn will distribute the supplies to the consumers. From personal experience I know that quite often the consumer is forced to change his place of business, or the place where he buys, and I think that the department, or whatever is the skeleton left of the Commodity Board, should make a point of considering this position and seeing that, when these changes occur, the distribution is changed accordingly.

There is another small point. I think the hon. mover of the motion has already assured us that, should the new scheme not work satisfactorily, the rationing system will be reintroduced at short notice. In this case I hope that due publicity will be given of this to the public, to deter wholesalers and other merchants from taking advantage of the new position as, in spite of what a previous speaker has said about the satisfactory distribution of butter, I from personal knowledge know that some poor people have not been able to obtain all the supplies they wanted.

Mr. MATHU (African Interests): Mr. Speaker, I rise to support this motion, and to congratulate the hon. mover because of the points he has raised. I would like to make just two or three points.

Firstly, we have more than once in this Council attacked Government on this question of removing Controls. The last time that we had a motion on this subject I suggested that certain Controls were necessary, but that progressive relaxation of quite a number of them

[Mr. Mathu] must be the policy. The hon. mover did say that it is now the object of this Government to progress to a relaxation of some of these Controls. This one definitely must go, as the hon. mover has said, for two very important reasons. One is the question of the expense. That this side of Council has raised the question of reducing the expenditure of this Colony is quite obvious, and reducing this by £23,000 odd is not a very small thing. The second point is that the hon. mover has admitted that Government has interfered with the freedom of the person in rationing people throughout the country. I would like to say that there is going to be one very happy thing as far as the African section of the community in Nairobi is concerned. That is the disappearance of the long queue of African women in front of the District Commissioner's office in Nairobi. That has long been an eyesore, and I am sure the African women in Nairobi when this removal comes about will have a celebration!

The final point is a question. I would like the hon. mover in his reply to points raised by members to indicate the period it is going to take to change over from coupon rationing to bulk distribution, because I would like to suggest that the sooner it is done the better. (Hear, hear.)

I beg to support.

MR. BLUNDELL (Rift Valley): Mr. Speaker, I rise to ask the hon. mover in his reply to deal with one small point. He has implied that if the abolition of coupon rationing is a failure, this side of Council will have to accept a certain amount of responsibility. Before we are asked to do that, I think we should like to know what action is being contemplated on the question of storage. Certainly half the foodstuffs mentioned can be carried forward from good into bad years, but a great deal of our trouble was caused in the past because we have had very great losses due to inadequate storage. (Hear, hear.)

MR. VASEY (Nairobi, North): Mr. Speaker, I wish to be very brief and very short. The only question I should like to ask the hon. mover is: When the system of bulk rationing is adopted, I think there are two levels of expenditure

suggested, and I would request the hon. mover, if possible, to give this Council some indication of the level of expenditure if he can of the two schemes put forward likely to be adopted.

MR. HOPE-JONES: Mr. Speaker, I will try to deal with all the points raised by hon. members as briefly and as clearly as possible.

The first point raised by the hon. Member for Nyanza was why there had been this delay in producing this motion. Well, there are two answers to that very important point raised by the hon. member. First of all, the hon. Member for Agriculture wished to have some better indication than he had shall we say two or three months ago as to what the short and medium term crop prospects were in the country, and that is the principal reason—and I submit that is the important part of the answer. The second point was, as I said in moving the motion, we felt we should have the reinforcement of public opinion as represented by this Council in taking this step, and we prepared this motion, and we are placing it before Council now for that reason. We did not feel this was a decision that should be taken while the old Council was dead and the new Council had not yet met.

The second point raised by the hon. member had to do with milling capacities. I have already had consultations with the hon. Member for Agriculture and with representatives of the millers. I understand that in regard to the mill at Eldoret the extensions should be in complete operation by the end of this year. In regard to any increase in consumption in wheat products, we have got certain precedents to go on, and that is we did, as hon. members remember, have an experimental period when coupon rationing in respect of wheat products was suspended. There was an increase in consumption, which was not large. I am having consultations with the trade in this matter, and they assured me last night informally that, while not yet prepared naturally to give a complete answer, they did feel that the situation could in all probability be met.

I would like to congratulate the hon. member Mr. Madan on his maiden speech. (Hear, hear.) In regard to the

[Mr. Hope-Jones]

traffic in coupons well, obviously the abolition of coupon rationing will at least put an end to that traffic, for they will have no value as currency or any other useful purpose.

I would also like to congratulate the hon. member Mr. Nathoo on his very able maiden speech. He said, I believe, that past performance should be abolished at the first opportunity. Provided that his request is considered *in toto*, that it should be abolished at the first opportunity—and as a responsible Government we would have to assume that meant the first practical opportunity—I can give him the assurance he asks for. A point raised by the hon. Member for African Interests was, how long it would be before we could make the change. I believe that in moving the motion I stated something like ten to twelve weeks; I explained that towards the end of August or from the beginning of September we would be able to make the change. It is taking this long time because we did not feel justified in going ahead with the scheme until and unless this motion was carried in Council.

On the very important question of storage, raised by the hon. Member for Rift Valley, as he knows one of the principal reasons why the hon. Member for Agriculture is at present in the United Kingdom is to deal with this very important point. Naturally I am speaking a little outside my own work, but I have been in on some of the discussions. Storage is the answer to a long term solution, but we cannot produce stores in ten to twelve weeks. I agree with the hon. member that basically, until we have a system by which the surplus from the good years can be stored against deficits in bad years we shall always be faced with the possibilities of food shortages and having to reintroduce coupon rationing with the certainty of public agitation. (Hear, hear.)

I have very little more to say, except to say that I have found the points raised by hon. members extremely helpful; they are all points which will be borne in mind.

On the very important point raised by the hon. Member for Nyanza, which I

have left to the last (because it is most important)—that we will have to obtain other funds to carry on with this skeleton organization to administer bulk rationing—the reason why we have to obtain the money is, of course, because we were for the reasons I explained unable to proceed with this reorganization earlier.

On the point raised by the hon. Member for Nairobi North, so much related to the point that I have just dealt with that all I can say at this stage is that the very reason why we require these ten to twelve weeks to make the changeover is because we want not only to examine the two proposals the hon. member referred to but others as well. We want as far as possible to ensure that after that changeover to bulk rationing we get the very best possible system. Even with the best system, the risks I outlined in my opening speech remain. As regards saving, I believe the hon. member was absent when I said that we eventually hope to save something up to seventy and seventy-five per cent of what we originally estimated was the cost of coupon rationing for this year. It may be we can save a little more, it may be that we shall save a little less; I cannot say at this stage, but I give you that figure as an indication of what we hope to achieve.

I do not think I have anything more to add on this matter. I think this debate has served a purpose in showing what public opinion is in this matter. The responsibility of expressing those opinions has been realized and, as I say, I thank hon. members for the points that have been raised.

The question was put and carried.

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

SESSIONS OF COUNCIL

MAJOR KEYSER: Mr. Speaker, I beg to move: That this Council is resolved that during its lifetime it shall meet on the second Tuesday of February, May, August and October of each year and on such subsequent days as may be necessary for the termination of business, always provided that in the event of emergency additional meetings may be called.

[Major Keyser]

The object of this motion is to bring some semblance of planning into the working of this Council. There have been in the past a certain number of practices to which members on this side of Council took very serious objection, and one of them was the lack of knowledge of when the Council was likely to meet. It must be remembered that, in addition to the very onerous duties that members on this side of Council have to perform as members of this Council, they also have to attempt to make a living, and it dislocates their business as well as their work in their constituencies if they cannot plan ahead. Also I do submit that there would be less dislocation possibly in some of the Government departments if they could plan ahead and knew on what days this Council would meet. The Legal department, for instance, in drafting bills would know the dates on which those bills should be submitted to this Council for debate.

The success of this motion would depend to some extent on the time that is given to members to study legislation that is to be introduced into Council. A habit has crept in of the publication of bills, and their introduction into this Council with the shortest notice allowed by Standing Rules and Orders—fourteen days. We find that extremely difficult and awkward because it does not give us time to study the bills ourselves individually, or to discuss them amongst ourselves, before they come to this Council for debate. So that it is hoped that this practice of rigidly adhering, or almost rigidly adhering I should say, to the time of fourteen days will be abandoned and that we will be given sufficient time.

This motion, if adopted, might also avoid the expedient of introducing legislation by suspension of standing orders, of which members on this side of Council have in the past expressed their disapproval.

The dates have been based on the budget being laid on the second Tuesday in October, and that date for the laying of the budget has been fixed in order to allow of the period which we agreed to some time ago; that after the laying of the budget it would not be debated for three weeks, during which time members

would be able to assimilate it, to discuss it with their constituents, and come to some agreement among themselves as to what attitude they were going to take regarding the budget.

Following on from that, if the final Estimates are to be passed before the end of the year, then it would be difficult to see how a later date than the second Tuesday in October would give sufficient time for all the necessary stages through which the draft Estimates must go. It would also, we hope, avoid the necessity for the Appropriation Bill being passed by this Council before the final Estimates are passed, a practice which I believe has occurred in the last two years.

For this year we realize that, owing to the delay in the publication of the report of the Salaries Commission, it may not be possible to lay the budget on the second Tuesday in October. But this motion ends up by saying "always provided that in the event of emergency additional meetings may be called". It is quite conceivable that by the session of the 10th October there will be a very considerable number of bills, and certainly some motions, that could be dealt with, and the budget could then be laid at an emergency meeting some time between the second Tuesday in October and the second Tuesday in February.

Although it may not entirely suit the work of Council this year to have these dates so rigidly adhered to as is visualized by this motion, nevertheless I think that it is feasible that they should be rigidly adhered to, because it does get over the initial growing pains of a scheme of this sort, and perhaps next year we would be able to adopt this without any inconvenience whatsoever.

I hope that Government will be able to accept this motion.

I beg to move. (Applause.)

MR. PATEL (Eastern Area): Mr. Speaker, I beg to second the motion before the Council. Having formed the habit of calling Council sessions at very irregular intervals in the past, I appreciate that Government may find it difficult perhaps to adjust themselves to planned sessions of the Council, but I think everyone will agree that it is absolutely essential on the grounds

EMPIRE PARLIAMENTARY ASSOCIATION

[Mr. Patel] advanced by the hon. mover. Apart from the reasons advanced by him, it will be appreciated by the Government that those members of Council who live at the Coast or near Lake Victoria, Nyanza, always find it difficult to manage their work unless they know in advance that we are going to meet in Council at stated periods. Emergency excepted. I think it is very necessary that the members should know whenever meetings of Council will commence.

We have met in this Council for a number of years at very irregular periods, and on occasions have met at short notice, but I think it is time we formed a habit of meeting in this Council at regular periods and at sufficient notice. Therefore I strongly support the motion before Council.

MR. RANKINE: Mr. Speaker, I should like to say that the Government is very willing to accept this motion. (Applause.) So far as we on this side of Council are concerned, it is just as much in our interests as it is in the interests of members opposite to work to some sort of timetable. Provided, as the hon. mover made clear in his speech, that there is some concession made for emergencies which may arise, the Government will certainly try to keep to this programme. There may be difficulties, as I think hon. members are aware, with regard to the presentation of the budget this year, but we have already had discussions on that subject with hon. members opposite, and, although I cannot speak for the past, since I have been here we have always endeavoured to arrange the business of this Council in consultation with the Leaders of the groups of unofficial members; in fact it has been done by arrangement. As I have said, so far as the Government is concerned, it is in our interests to work to a planned timetable, and for that reason this motion is not only acceptable: it is welcome.

MAJOR KEYSER: Mr. Speaker, I only wish to thank the Government for the readiness with which they have accepted this motion.

The question was put and carried.

THE SPEAKER: We have received a communication from the Empire Parliamentary Association, to the effect that the Council has become a proper full member of the Empire Parliamentary Association. (Applause.) I note that the statement is applauded, but it will be remembered that it will probably result in us being asked to pay a subscription! (Laughter.) Another matter which will arise in due course for consideration is the question of sending somebody in each year, or in alternate years probably, to represent Kenya on the Council of the Association.

I want to pay my tribute to the fact that recently when I was at home Sir Henry d'Egville, Secretary of the Empire Parliamentary Association, was most kind and encouraging to myself. I was treated as if we were already a member, and every facility that they could offer to me in going about either the House of Commons or the House of Lords was fully afforded to me. (Applause.) That would be the case of anybody on this Council who visits England.

ADJOURNMENT

Council rose at 11.35 a.m. and adjourned till 10 a.m. on Tuesday, 13th July, 1948.

Tuesday, 13th July, 1948

Council reassembled in the Memorial Hall, Nairobi, on Tuesday, 13th July, 1948.

His Honour the Vice-President and Speaker took the chair at 10 a.m.

The proceedings were opened with prayer.

OBITUARY

SIR GEOFFRY NORTHCOTE, K.C.M.G.

THE SPEAKER: Hon. members, before Council proceeds with its business to-day, I think it will be the wish of you all that we should take notice of the passing of Sir Geoffry Northcote, who was a member of this Council for many years and who, at the time of his death, was the Speaker of the East African Central Legislative Assembly. I think, if you agree, that it will be appropriate that the Clerk of the Council should convey your condolences to his widow, and that we should stand in respectful silence for a few moments as a tribute to his memory.

Council stood in silence for a few moments.

ADMINISTRATION OF THE OATH

The Oath of Allegiance was taken by Solicitor General, Hon. J. B. Hobson; Commissioner of Lands, Mines and Surveys, Hon. G. J. Robbins; Acting Director of Education, Hon. W. J. D. Wadley; Acting Director of Agriculture, Hon. G. M. Roddan; and Hon. Member for Eastern Area (Dr. M. A. Rana, M.B.E.).

MINUTES

The minutes of the meeting of 9th June, 1948, were confirmed.

PAPERS LAID

The following papers were laid on the table:

By MR. RANKINE:

Report of Commission on the Civil Services of Kenya, Tanganyika, Uganda, and Zanzibar, 1947-48, with Sessional Paper No. 2 of 1948 (Proposals for the Implementation of the Recommendations of the East African Salaries Commission); Second quarterly report of 1948 of the Commissioner for African Land Utilization and Settlement.

BY THE DEPUTY CHIEF SECRETARY (Mr. Thornley):

Report of the Medical Fees Committee. Report of a committee appointed to consider representations from persons who consider they will suffer hardship as a result of the recommendations of the committee on Railway Realignment.

BY THE DEPUTY FINANCIAL SECRETARY (Mr. Andrews):

Sessional Paper No. 3 of 1948 (Papers relating to the creation of an East African Customs and Excise Department); Colonial Audit Department annual report, 1945, with Kenya Dispatch No. 79 thereon.

ORAL ANSWERS TO QUESTIONS

No. 31.—KENYA ENTRANTS TO CIVIL SERVICE

MR. NICOL (Mombasa):

1. In view of the fact that there is really no opportunity for continued education in Kenya, and in view of the fact that an increasing number of Kenya European children educated in Kenya schools are leaving those schools and are entering the lowest ranks of the Civil Service, will Government inform Council what steps they are taking to ensure that such entrants have full opportunity of eventual promotion to the senior posts in all Government departments?

2. If no clear cut proposals are in existence, would Government agree to selection by examination rather than leave it to the choice of the head of a department?

3. Would Government agree that a youth who has served an apprenticeship for say two years and shows promise, should be sent to the United Kingdom at Government expense for a course of appropriate length in order to enable him to better equip himself for promotion to senior posts within the Colony?

MR. THORNLEY: In filling senior posts of the public service, the Government considers the possibility of promotion from the lower ranks of the service. In the case of appointments to the higher grades of the Kenya European Civil

[Mr. Thornley]

Service, the vacancy is advertised and the applications are scrutinized by the European Civil Service Advisory Board. In the case of vacancies in the unified Colonial Services, the appointment is made by the Secretary of State for the Colonies from a wide field of candidates; but local candidates, including people already in the service, are at liberty to apply to enter these services. Indeed it is the policy of Government to recommend meritorious officers of the Kenya European Civil Service for promotion to the Overseas service provided they possess the necessary qualifications. Numerous cases have occurred in which local officers have obtained posts of unified service level.

2. The implication in the second part of the question that promotions to senior posts now depend wholly on the choice of the head of the department is not correct; the procedure which is, in fact, followed is indicated in the reply to the first part of the question. As regards future policy, I would invite attention to Chapter IX of the Report of the East African Salaries Commission in which the institution of a Public Service Commission and of Promotion Boards is proposed. If these recommendations are finally accepted by the Government these bodies will be concerned with the general methods of promotions from grade to grade, and with the selection of particular officers for promotion. The Government has no reason to think, however, that the present policy, under which promotions to senior posts are made from the lower ranks of the service if suitable candidates are available, will be altered.

3. The Government could not agree that all youths of promise of any race should be assisted (at Government expense) to acquire qualifications fitting them for promotion in the public service. But arrangements already exist in some departments for subordinate officers to be assisted by scholarships or otherwise to acquire the qualifications needed for higher posts. Also a scholarship scheme has recently been introduced, financed partly from funds provided under the Colonial Development and Welfare Act and partly by Colonial Governments, which provides for the further education of locally-

born Government servants of all races to enable them to acquire the necessary qualifications.

MR. COOKE: Arising out of that question and answer, is it a fact that increasing numbers of Kenya children are entering the Kenya Civil Service?

MR. THORNLEY: I have not, I am afraid, got the figures, but I should like to go into that and I will inform my hon. friend later on.

MR. VASEY: Arising out of that question and answer, would Government agree that, all other things being equal, preference must be given to the Kenya youth?

MR. THORNLEY: I think the Government will certainly agree that every assistance possible should be given to Kenya youths who have the required qualifications. I should like to emphasize that it is the qualifications which, in the Government's view, count.

No. 32.—NON-PAYMENT OF TAX PENALTIES

MR. HAVELOCK (Kiambu):

(a) Will Government state the reason why there is an automatic penalty imposed on European and Asian taxpayers who omit to pay their poll tax, on the due date while African defaulters are only charged a small extra sum to cover the cost of a summons?

(b) Will Government take steps to ensure that proportionately equal penalties are paid by all races?

CHIEF NATIVE COMMISSIONER (Mr. Wyn Harris): (a) There are different scales of penalties for non-payment of tax as between the African community and the European and Asian communities as the whole of African tax collection is organized on a different basis from that of other communities.

(b) The Government, as has already been announced, is introducing a bill into Legislative Council shortly to amend the Native Poll Tax Ordinance, 1942, with a view to tightening up on tax defaulters and one of its provisions will be to allow for an automatic penalty for late payment which will be additional to the present penalties.

MR. MATHU: Arising out of that question and answer, as there were over

[Mr. Mathu]

3,000 Africans in detention camps and over 400 in the prisons of the Colony in 1946 for failure to pay hut and poll tax.

THE SPEAKER: Are you asking a question or making a speech? It seems rather like a speech to me.

MR. MATHU: I am asking a question, sir. As I cannot trace any punishments in the Prisons reports for 1945 and 1946.

THE SPEAKER: Order! order! Mr. Mathu, I do not think that is a question at all. It is an allegation.

MR. COOKE: With due respect, is not the hon. member making a preliminary statement prior to asking his question?

THE SPEAKER: It is taking a very long time.

NO. 34—MOTOR VEHICLE LICENCES

MR. HAVLOCK:

Is it correct to state that the cost to a vehicle owner to licence his vehicle by the quarter is 10 per cent greater than if licensed annually? If the answer is in the affirmative, will Government consider a comparative reduction of the quarterly fee in the interests of persons who may only require to use their vehicles on the public roads during certain seasons of the year?

MR. ANDREWS: The cost of four quarterly motor vehicle licences under the Traffic Ordinance is actually 20 per cent greater than the cost of an annual licence, but persons requiring to use their vehicles on the public roads during certain seasons of the year only, would normally take out one or, at the most, two quarterly licences and thereby achieve a very considerable reduction of the annual fee. The practice of increasing the proportionate fee for short periods is general in nearly all countries and, in view of the additional work involved, no good grounds are seen for amending the existing law.

NO. 36—MIDDLE TANA SURVEY

MR. COOKE (Coast):

Will Government issue a full statement regarding the recent hydrographic and soil survey of the Middle Tana?

MR. RANKINE: It is presumed that the hon. Member for the Coast is referring to the stretch of the Tana River extending from Grand Falls to Bura. If so, the preliminary investigations of this area—are now complete, and the full report is in the final stages of preparation.

A brief resume of the draft report, is as follows:—

History.—Messrs. Harris and Sampson reported in 1934 that, in their opinion, the only area where a major irrigation scheme should be attempted was the Upper Tana River area, namely from Grand Falls to Bura, and recommended that this area should be further investigated.

This has now been done, but it has been found that here also the prospects are not favourable.

(a) *Soils.*—All soils found have proved to be extremely poor, and in most cases definitely unsuitable.

(b) The only soils found which might be classified as possible, are situated at such a height and distance from the river that it would require a canal over 200 miles long to command them. Moreover, this canal would have to negotiate over one hundred miles of extremely difficult country.

(c) The quantity of water which could be made available for irrigation has been found to be less than was originally estimated. Assuming that flow in the river must be maintained below the point of diversion, and allowing for the enormous transmission losses in a two hundred mile canal, it is estimated that there will be sufficient water available on the land to irrigate 60,000 acres for nine months of the year only, and barely sufficient for 10,000 acres for the remaining three months.

This quantity could be considerably increased if it were decided not to maintain any flow in the river during the dry season (which is by no means an impracticable proposition) and also by lining the canals so as to reduce conveyance losses. If both these proposals are carried out, then the area which can be irrigated is estimated to be 180,000 acres for nine months of the year and 72,000 acres for the remaining three months.

[Mr. Rankine]

The possibilities of storing flood water in order to increase the available supply, are exceedingly unpromising.

(d) The area is extremely remote from any markets, and, as river transport is not possible, the cost of transporting products by any means other than by railway, will almost certainly exceed their cash value.

(e) *Costs.*—The estimated cost of construction of the 60,000 acre scheme is approximately £7,852,000. Adding to this the cost of settling and developing the land and, if the money is to be advanced in the form of a loan, the interest accumulated during the construction and development period, the total cost becomes over £11 million to irrigate 60,000 acres, viz. a capital cost of £185 per acre. Annual maintenance and supervision charges are estimated at £30,000 per annum, and the interest and redemption charges would be of the order of £600,000 per annum.

For the 180,000 acre scheme, the cost of construction is estimated to be £19,500,000 and after adding the post-construction expenditure, the total cost becomes of the order of £30 million, which represents a unit cost of £166 per acre. On this scheme the maintenance and supervision costs would be £90,000 per annum, whilst interest and redemption charges would be of the order of £1,600,000 per annum.

There does not appear to be even a remote possibility of either of the above schemes ever being a paying proposition unless the capital is advanced as a free grant in which case as the interest and redemption charges fall away, the income which might be expected to be derived from the scheme, would just about cover the maintenance and supervision costs.

MR. COOKE: Thank you.

NO. 37—MALINDI WATER SUPPLY

MR. COOKE:

In view of the fact that the Malindi water supply has been given A1 priority, will Government give the reason for the continued delay in

making the necessary survey? Can an indication be given as to the date when this survey is likely to take place?

MR. RANKINE: Although the Malindi Township water supply investigation has been given an A plus priority there are a number of other schemes in the same category and unfortunately insufficient staff is available for work to proceed on all of them at once.

As a scheme in the A plus category is completed, staff becomes available for other schemes in that category.

Preliminary investigations were carried out shortly after the Malindi water supply scheme was given this priority and an area has been selected in which boreholes will be sited.

The engineer-geologist will be proceeding to the Coast at the end of July and the actual borehole sites will be chosen during August or September. Tenders for the drilling will be called for as soon as this has been done.

NO. 38—TAKAUNGU CREEK

MR. COOKE:

Will Government please state the causes of the delay in the construction of the causeway or bridge over Takaungu Creek? Will it state when the work will definitely begin? Is it realized that pending this construction the large sums expended on the maintenance of the present alignment amount to pouring money "down the drain"?

MR. RANKINE: The delay in the construction of a new causeway or bridge over Takaungu Creek has been due to the lack of an experienced surveyor to undertake the necessary detailed survey for the suspension bridge, which preliminary investigations suggest is the most suitable type of bridge.

A surveyor especially qualified for this type of work has, however, recently been engaged from overseas, and he will begin a detailed survey about the end of July. He will also be asked to investigate the possibility of realigning the present route and bringing the road up to a satisfactory standard.

[Mr. Rankine]

Until this detailed survey is completed and it is known whether a realignment and improvement of the present route, or a new route with the construction of a bridge, will be the cheapest and most practicable solution, it will not be possible to state when the work can be begun.

As regards the last part of the question, the sum spent annually on the maintenance of the present road is not large, and amounts to £20 per mile.

NO. 41—FISH INSPECTIONS, LAKE VICTORIA

MR. OHANGA (African Interests):

Is Government aware of the position that the summary powers conferred upon or delegated to the fishery inspector under the Victoria Nyanza Fish Protection Rules, 1940, are a source of some hardship to African fishermen plying within the Kavirondo Gulf because of what appears to be excessive use of the summary powers invested in that officer? Will Government please state how many cases were dealt with under the said Rules in 1947 and of that number how many were decided in a Court of Law?

MR. RANKINE: The powers to which the hon. member refers in his question are presumably those conferred by section 4 (a) of the Fish Protection Ordinance, 1939, since no summary powers are in fact conferred on the fisheries inspectors by the Victoria Nyanza Fish Protection Rules, 1940.

In answer to the first part of the question, Government does not agree that the use of the summary powers conferred by section 4 (a) of the Fish Protection Ordinance, 1939, is a source of hardship to the African fishermen plying within the Kavirondo Gulf. The powers were not used at all before this year and in each of the sixteen cases disposed of summarily by the assistant fisheries inspector during the first half of 1948, the accused was given the option of having his case taken to Court.

The answer to the second part of the question is that no cases of breaches of the Victoria Nyanza Fish Protection

Rules, 1940, were dealt with summarily during 1947. Four cases of breaches of these Rules were disposed of in a court of law.

NO. 42—AFRICAN INTERPENETRATION

MR. OHANGA:

Under the terms of Government interim policy with regard to interpenetration and infiltration in African land units, laid on the table on 20th October last year, will Government please disclose why the inhabitants of over ninety villages who originally came from the South Kavirondo District into the border land of the Masai reserve and have been living there for a considerable number of years, have been ordered to quit?

MR. WYN HARRIS: The position of all aliens in Trans Mara is at present under examination in conjunction with the authorities concerned and it is proposed to consider each individual case in the light of Government's interim policy on interpenetration and infiltration in African Land Units. No orders to leave Trans Mara have as yet been issued but a number of Kisi and Luo who are living there have been warned that they may be ordered to return to their own district of origin if, in the light of the inquiry which it is proposed to carry out, Government considers it desirable so to order.

MR. MATIU: Arising out of the question and answer, is Government aware that quite a number of these so-called aliens are living in the psychology of fear because of the warning in Trans Mara and Mukogodo that they may be...

MR. WYN HARRIS: I am not aware whether there is the psychology of fear or not.

MR. COOKE: Arising out of that question and answer, is it a good thing to transfer natives from a comparatively small inhabited country to one that is very thickly inhabited?

MR. WYN HARRIS: That is a question I am not prepared to answer at the present moment. It is a matter for debate.

NO. 46—WATER SUPPLIES.

MR. MATHU (African Interests):

Will Government please give names of places in native areas in which improvement and investigation of water supplies have been carried out up-to-date and the money expended thereon from the Colonial Development and Welfare Vote? Will Government also give similar information in regard to boring and well sinking in native areas?

MR. RANKINE: In view of the fact that a recital of all place names in the native areas where improvement and investigation of water supplies has been carried out and of all place names where boring and well sinking has been completed would mean a very lengthy answer, I shall give the reply in the form of a summary of what has been done in the various districts. If the hon. member requires more detailed information I would suggest that he asks Government to give this in the form of a written answer.

At it will be appreciated that it is difficult to differentiate between the two parts of this question, I shall deal with improvements and investigations of water supplies together with boring and well sinking constructions under the appropriate district heading.

Kilifi District.

After intensive surveys wells have been dug and lined at Waita, Nguni, Kipou and Nzui; dams and reservoirs have been constructed at Komo; a tank at Tibowe; water furrows at Kamagawana and Kathieu and small dams on the Yaita Plateau. Improvements have been carried out to the springs at Kithothia, Darajani and Nuui; a military borehole at Ndola's Corner was taken over and is in operation for African use.

Machakos District.

Work has been carried out on a number of small dams by the District Commissioner.

Meru District.

A pipe line 8½ miles long has been constructed to convey water from the Quetto Narro River to the dry Antubetwe location.

Embu District.

A scheme for the construction of furrows has been completed on the Kii, Thambana and Ruamathambi rivers. Small dams were built at Kairegu and Shiamago and weirs at Kabandori and Shiakabakwa.

Malindi, Kilifi and Digo.

Five dams have been constructed in these areas and improvements have been carried out at the borehole at Gotani and a number of shallow wells have been sunk. In addition, investigation and survey has been carried out at nine other places.

Makomas Location, Kikuyu Native Land Unit.

By means of a dam and reservoir on the Tigoni River and four hydrostats water is now available in the Makomas location which was largely devoid of water supplies before the scheme was put into operation.

Masai.

A scheme to improve water supplies on stock routes has been completed and a pipe line 8½ miles long from the Uaso Kedong constructed.

Mukogodo Reserve.

One borehole has been equipped with a hand pump and further borehole sites have been investigated and fixed.

Kikuyu Native Land Unit.

Five successful boreholes have been drilled.

Taita Native Land Unit.

Four boreholes have been drilled of which three have been successful.

As regards cost, expenditure from Colonial Development and Welfare Act Funds for the Improvement and Investigation of Water Supplies in native areas up to 31st December, 1947, was £32,516. This figure is subject to adjustments due to amounts not yet brought to account. The expenditure from these funds for Boring and Well Sinking in native areas up to the same date was approximately £14,000.

NO. 47—SECRETARIAT REORGANIZATION MR. EDVE (Nyanza):

Having regard to Expenditure Head 4, paragraph 46, of the Report of the Estimates, wherein it was recommended that "In view of public

[Mr. Edye]

criticism directed towards the efficiency of the Secretariat the Efficiency/Economy Committee should be asked to re-examine it at an early date to advise generally on its organization", will Government please state: 1. If any action has been taken consequent upon this recommendation? 2. If so, what action? 3. Upon what date was such action (if any) taken?

MR. RANKINE: 1. The answer to the first part of the question is "yes".

2. The answer to the second part is that the two members of the Efficiency and Economy Committee who resigned in April have been invited to resume their membership of the Committee and to examine the Secretariat. One only has so far accepted.

3. The answer to the third part of the question is 20th May, 1948.

AFRICAN CONFERENCE IN LONDON

MR. RANKINE: Mr. Speaker, with your leave and with that of the Council, I should like to make a statement regarding the Conference of representatives of the African territories to be held in London.

As hon. members will be aware, the Secretary of State proposes to hold such a Conference beginning on the 29th September, and has extended an invitation to Kenya to send a delegation to it. This invitation has been accepted and, after consultation with private members of Council opposite, it has been decided that the Kenya delegation should be as follows: Member for Development; Member for Agriculture; Member for Health and Local Government (who will be in London at the time); the European elected Member for Trans Nzoia; the European elected Member for Nairobi North; the Indian elected Member for Eastern Area (Hon. A. B. Patel); and the nominated unofficial Member representing African Interests (Hon. E. W. Mathu).

ADJOURNMENT

Council rose at 10.35 a.m. and adjourned till 10 a.m. on Wednesday, 14th July, 1948.

Wednesday, 14th July, 1948

Council reassembled in the Memorial Hall, Nairobi, on Wednesday, 14th July, 1948.

His Honour the Vice-President and Speaker took the chair at 10 a.m.

The proceedings were opened with prayer.

OBITUARY

SIR GEOFFREY NORTHCOTE, K.C.M.G.

THE SPEAKER: Hon. members, His Excellency the Governor has sent the following cable through the Secretary of State for the Colonies to Lady Northcote: "On behalf of Government, Legislative Council, and people of Kenya I send you our deepest sympathy in your great loss. No man has rendered greater service than Geoffrey Northcote, nor been more loved and honoured. We pray that it may be of some help to you to know how deeply we mourn his loss and feel for you in your bereavement. My personal debt to Geoffrey for advice and guidance is incalculable."

MINUTES

The minutes of the meeting of 13th July, 1948, were confirmed.

PAPERS LAID

The following paper was laid on the table:—

By THE ATTORNEY GENERAL (Mr. Foster Sutton):

The Immigration (Control) Exemption Regulations, 1948, and the Immigration (Special Provisions for Arabs) Regulations, 1948.

ORAL ANSWERS TO QUESTIONS

No. 39—NATIVE TRADING CENTRES

MR. COOKE:

In view of the assurance given in this Council by the Chief Native Commissioner that he would take steps to see that slum conditions would not occur in trading centres in the native areas, will Government state why it has permitted the mushroom growth just outside Limuru township of a native trading centre under conditions which are already slum?

MR. WYN HARRIS: Government is aware of the unsightly structures near

[Mr. Wyn Harris]

the Limuru trading centre and steps are being taken to deal with the situation. Early in the year the Provincial Commissioner issued a warning that trading licences would not be given to owners of these buildings. Following this statement 17 persons were prosecuted for trading without a licence.

2. Many of these buildings, however, are used as stores and for other activities for which no licences are required. The Medical Officer of Health has also been asked to intervene to stop these slum conditions from arising.

3. A draft resolution has been prepared which local native councils will be asked to pass, providing that no building may be erected or used within a quarter of a mile of a road for the purposes of a shop, hotel, eating-house, store or garage, unless a permit has first been obtained from the local authority. If any council refuses to accept responsibility for preventing such slum conditions the Native Land Trust Board will be invited to recommend that the Governor should make suitable rules controlling ribbon development under the Native Lands Trust Ordinance.

No. 44—LAND BANK AND AFRICAN FARMERS

MR. OHANGA:

(a) Will Government please state the number of Africans who have benefited from the Land and Agricultural Bank of Kenya since the date of its inception and the extent to which each benefited? (b) Will Government please give the conditions on which loans may be advanced to would-be farmers by the Land Bank and state whether it considers such conditions to be within reach of the ordinary African farmer? (c) If the answer to the latter part of (b) is in the negative, will Government please consider modifying the basis of security, for example, by recognizing chattel mortgage as sufficient, so as to bring the measure within reach of the majority of African farmers in order that all sections of the community may benefit from the scheme?

MR. ANDREWS: (a) I am informed by the Chairman of the Board of the Bank that the answer is "none". One applica-

tion for a normal mortgage loan is at present out for valuation before consideration by the Board, and one application was approved some time back, but the loan was not taken up by the applicant.

(b) The conditions are set out in Ordinance III of 1931 and subsequent amending legislation. They are not within reach of the ordinary African farmer.

(c) The question of the provision of agricultural finance for Africans in certain circumstances is receiving consideration, but, as at present advised, the Government considers that an extension of the functions of the Land Bank would be inappropriate.

MR. HAVELOCK: Arising from the question, would Government consider sympathetically the appointment of a committee of this Council to consider the recommendation in an amended form of the war-time ordinance allowing for advances to farmers on the security of chattels?

MR. ANDREWS: I would ask for notice of that question.

MR. HOPKINS (Aberdare): Also arising out of the answer, will Government give some indication when it expects action will be taken in considering individual tenure for natives in those areas where individual tenure is already recognized by native law or custom?

MR. WYN HARRIS: —

THE SPEAKER: A supplementary question should be confined to the question first originally put. Your question goes somewhat beyond the scope of the main question, I think, and raises questions of native land tenure which, though they may be related to the subject, make it difficult for the person on the other side who is giving the answer to the main question to answer supplementaries, and would involve really starting a debate on the main question which is contrary to the rules.

MR. HOPKINS: If I may explain, my intention was to get some sort of idea whether land owned by Africans could be given as security.

THE SPEAKER: I appreciate that, but it is not the subject-matter which a financial man could very well answer.

MR. VASEY: May I respectfully submit, however, that it has a direct connexion with the supplementary question asked by the hon. Member for Kiambu, in that it does consider a modification of the basis of security necessary.

THE SPEAKER: I have ruled, and I do not think you ought to debate the matter at this stage.

NO. 48—INCOME TAX RELIEF

MR. HAVELOCK:

[With reference to my question No. 19 of 1948 and the reply thereto in the affirmative, will Government give an assurance that a special income tax relief on earned income will be granted on 1948 income and in future years to men and women over the age of 55?

MR. ANDRWS: Government expects to lay an Income Tax (Amendment) Bill before Council later in the year, and it is intended to draft for inclusion in it, provisions for some form of relief for old people. The exact form of these provisions and the ages at which they would apply cannot at present be stated.

SCHEDULES OF ADDITIONAL PROVISION

NOS. 3 AND 4 OF 1947

MR. ANDREWS: Mr. Speaker, I beg to move: That the Standing Finance Committee Report on Schedules of Additional Provision Nos. 3 and 4 of 1947 be adopted.

These Schedules have been laid on the table, and so has the report of the Standing Finance Committee upon them. The largest items in the Schedules have already been the subject of motions in this Council, and I do not think it is necessary for me to say anything more about them, except that I trust they will be approved.

MR. RANKINE seconded.

MR. VASEY: Mr. Speaker, dealing with the question of additional provision and speaking on behalf of all the members on this side of Council, we recognize that this has, of necessity, to be passed. We wish of members on this side of Council

at this stage to reiterate paragraph 9 of the report of the Select Committee on the Draft Estimates of Revenue and Expenditure in so far as it relates to the principle of additional provision. It is the wish of members on this side of Council that that should be placed on record and I propose, with your permission, therefore to read it: "The Committee wished, to record for the guidance of the public generally and, in particular, for the guidance of newcomers to the Legislative Council which will be formed during 1948, that they have endeavoured to keep expenditure of all kinds to a minimum. They fully realized that in accordance with past experience considerable demands will be made throughout the year for supplementary expenditure, both recurrent and non-recurrent, which will be found difficult to resist. In this connexion, however, they wished to recommend that heads of departments and indeed all officers who have control of Expenditure Votes should be informed, in the strongest possible terms, that these Votes must be regarded as limited so far as their magnitude is concerned and 'arranged' in so far as the expenditure recommended is allocated throughout the Estimates for specific purposes. The Committee considered that officers in control of Expenditure Votes should be reminded of their responsibilities in this regard and should be informed that demands for additional provision would receive the most careful and detailed scrutiny by the financial officers of the Government and that if over-expenditure were found to be attributable to lack of proper control, they would be held personally responsible."

Members on this side of Council have asked me, as chairman of their organization, to take this, the first opportunity, of expressing their wish that the system of providing expenditure by additional provision and special warrant shall be limited to the greatest amount possible, and that in future this practice should be discontinued except in case of actual emergency, in order that we may be sure that expenditure is related during the year to the Estimates passed by this Council. (Hear, hear.)

The question was put and carried.

INTERIM PENSION

MR. M. LALL

MR. ANDREWS: Mr. Speaker, I beg to move: That this Council approves the payment until further notice of a provisional interim pension at the rate of £106 10s. 7d. a year with effect from 30th May, 1948, inclusive, to Mr. Manohar Lall, formerly examiner of accounts, Registrar General's Department, in respect of his service from 6th August, 1932, to 29th May, 1948, both days inclusive, in lieu of his own and Government contributions to the Provident Fund, plus the interest thereon amounting in all to £454 10s. 1d., which reverts to the general revenue of the Colony.

This resolution is now common form. It follows the procedure which has been adopted in anticipation of the introduction of a contributory pension scheme for Asiatic officers. Council has allowed such pensions in many cases, and I trust that they will be prepared to agree to this one.

MR. RANKINE seconded.

The question was put and carried.

CUSTOMS AMALGAMATION

MOTION DEFERRED

MR. RANKINE: Mr. Speaker, with your consent and that of the Council, Government would like to defer the next item; that is, the resolution standing in the name of the Deputy Financial Secretary for the amalgamation of the Kenya and Uganda Customs Department with the Tanganyika Customs Department. I understand that certain members would like to give the matter further consideration before it is debated, and therefore we would like to defer it until a later date.

THE SPEAKER: Can you fix a day now?

MR. RANKINE: No, Sir.

THE SPEAKER: It will stand adjourned, with leave.

NAIROBI MUNICIPAL COUNCIL RATING

GOVERNMENT CONTRIBUTION

MR. ANDREWS: Mr. Speaker, I beg to move: That, whereas His Excellency the Governor in Council has approved of a resolution of the Municipal Council of Nairobi to levy a rate of 3 per centum

of the unimproved site values in the municipal area for the year 1948, and whereas it is provided by sub-section (2) of section 87 of the Local Government (Municipalities) Ordinance, 1928, that the maximum amount which may be paid from the general revenue of the Colony as an annual contribution in lieu of rates in respect of Crown land shall not exceed 2 per centum of the total unimproved value of such land, this Council approves the payment to the Municipal Council of Nairobi of the difference between the amount statutorily payable and the amount which would be payable in respect of a rate of 3 per centum.

As stated in the motion, there is a statutory obligation upon the Government to provide an annual contribution towards the finances of municipalities, and in the legislation the limit is fixed at 2 per cent upon the unimproved value of the Crown land. Up to that point the payment is automatic. In the last two years special considerations have been recognized to apply to the Municipality of Nairobi. In 1946 the Legislative Council agreed to a contribution from Government at a rate of 3 per cent, and the contribution in that year was £41,420. In 1947 again this Council agreed to a rate of 4 per cent. The contribution provided for then was £55,400, and the excess over the 2 per cent rate amounted to £27,700. That same amount of £55,400 appears in the estimates for 1948 as the provision for this contribution. These figures are inclusive of the Railway's assessments, and those contributions from the Railway are reimbursed to the Government. We hope also that it will be possible to arrange for the High Commission to reimburse the Kenya Government on account of the rates on buildings, especially Post Office buildings, which are not exclusively used for the purposes of Kenya.

In 1948 in Nairobi a new consideration arises, because a new valuation roll has been prepared with a very much higher valuation than before. To put it mildly, that does not suit everybody, but I think the Nairobi Council would have to strike a very much higher rate than 3 per cent upon the old valuation if it were to cover the essential demands upon its finances and the increasing obligations which fall upon it at the present time. They have, in fact, struck a rate

(Mr. Andrews) of 3 per cent upon the new valuation, and if the valuations are accepted the consequent liability to Government amounts to £107,700. Of course, at 2 per cent the liability has also increased and that would be £71,700. The excess to which the motion relates is therefore of the order of £36,000. No exact sum has been put into the motion because at present the examination by the Government of the new roll is not complete, and that examination might affect the actual expenditure.

I should also point out that the excess of £36,000 to which the motion relates is different from the additional provision which would be required to supplement the 1948 estimates. After the warning delivered a little while ago by the hon. Member for Nairobi North, I feel some trepidation in making this statement, but the additional provision which is proposed under this motion—that is to say, the difference between the £55,400 in the estimates and the £107,700 required—amounts to £53,300. Of that, the amount to be recovered from the East African Railways is approximately £31,500, and so the net additional provision required is about £21,000. The extra sums to be recovered from the High Commission are still not known.

I trust that with those figures I have not confused the Council, but I have no more to produce! I must also apologize to members of the Standing Finance Committee, who have already considered this matter in principle and approved of it, for the fact that the figures that were given to them were not entirely accurate. I trust that they will accept the figures which I have given now, and I trust also that the net conclusions to be drawn from them will not be found to be seriously different.

In conclusion, I would remark that the burden upon the ratepayer is heavy. There may be those who will say that the Council is taking more than it needs at the moment, but to them there is the answer that the Council has to provide against the possibility of a reduction taking place in the new valuation roll as a consequence of the examination (now taking place) of appeals against it. There is another liability that they have to face, and that is the increase in native wages and other salaries and conditions

which is likely to take place this year, and supposing that the additional rate suffices to cover that, then they have pledged themselves to put aside the remainder towards the increasing expense of future years.

As regards the Government, the motion involves a fairly heavy commitment, but the Government is behind the Council in their desire to accept responsibility for preserving and developing the services and facilities of this town—I should perhaps really say city—this metropolis of Eastern Africa, in the face of increasing demands for its expansion and the increasing costs of the present time. The Government is statutorily limited in its liability, but it is a large property owner and it feels that it should not attempt, by virtue of this limitation, to escape its liabilities and responsibilities as a ratepayer. I feel sure Council will support it in that attitude, and I beg to move.

MR. RANKINE seconded.

MR. MADAN (Central Area): Mr. Speaker, I rise to speak only in relation to the new valuation roll. I feel it my duty to do so at this stage lest it be said afterwards that the Indian elected members missed the opportunity of lodging a protest, and I feel it my duty now to give expression to the alarm which the Indian community feels at this new valuation roll and the excessive property values which appear therein. It is the intention of the Indian elected members later on to consider the advisability of tabling a motion in this Council to consider the revision of the 1948 roll. The Indian community thinks, not without justification, that the new roll is out of all proportion to real values. It also feels that the method that has been followed in fixing values of properties was neither fair nor correct, and it is for that purpose that the Indian elected members will consider the advisability of moving a motion.

Apart from that, is it to be understood, as the hon. Deputy Financial Secretary has stated, that Government is behind the Municipal Council in supporting the new valuation roll, that Government would much rather have higher values put on properties even if they are not the correct values, and would rather have the higher rate? If that is correct, then

(Mr. Madan) that there should be given an opportunity to some members of this Council to dispel a lot of exaggerated statements that have been made with regard to the valuation. The process of valuation is laid down by an ordinance passed by this hon. Council. In that ordinance it is stated that it is compulsory upon a local government authority at least once in every five years to have a valuation of the land and property within its area. That is complied with compulsorily by the Nairobi Municipal Council by the engagement of a valuation officer. No member of the Council, no committee of the Council, and no individual local government body dare attempt to influence the valuation of that valuation officer. The basis of valuation is laid down in the ordinance. It is the market value which a willing seller might expect to get.

COMMISSIONER FOR LOCAL GOVERNMENT (Mr. Colchester): Mr. Speaker, I am not sure that the question put by the hon. member is entirely proper in so far as the valuation roll now being prepared in Nairobi is a matter that is in a sense *sub judice*. That roll has reached the stage where it has been deposited with the Municipal Council, but is now before the valuation court, and it would, I conceive, not be entirely proper that the central Government should interfere with values being adjudicated on by that court.

Leaving that aside, none the less I would point out that values of land for purposes of the valuation roll are statutorily defined as what they would, in plain terms, fetch in the market, and neither Government nor the Municipal Council has control of what the public is willing to pay for land, I myself would say that a protest against the figures in the valuation roll is almost on a par with the protest against an increase in assessment under income tax. If a motion is to be put by the hon. member, no doubt Council will consider it, but I would at this stage ask that due consideration be given to the fact that the valuation roll is *sub judice*.

MR. VASEY: Mr. Speaker, speaking on this occasion in the dual role of a member of this Council and chairman of the Finance Committee of the Municipal Council, I feel I must deal with the remarks made by the hon. Member for the Central Area, Mr. Madan. I can say at this stage that I doubt whether it is within the competence of this Council, except by an amendment to the ordinance, to interfere with the impartial valuation placed upon this town by a valuation officer over whose basis of valuation the Nairobi Municipal Council has no control.

Although I doubt whether it is within the competence of this Council, I personally should be delighted to see him place that motion before this Council in order

that there should be given an opportunity to some members of this Council to dispel a lot of exaggerated statements that have been made with regard to the valuation. The process of valuation is laid down by an ordinance passed by this hon. Council. In that ordinance it is stated that it is compulsory upon a local government authority at least once in every five years to have a valuation of the land and property within its area. That is complied with compulsorily by the Nairobi Municipal Council by the engagement of a valuation officer. No member of the Council, no committee of the Council, and no individual local government body dare attempt to influence the valuation of that valuation officer. The basis of valuation is laid down in the ordinance. It is the market value which a willing seller might expect to get.

The hon. Member for the Central Area stated that values had gone up. It is correct. Values have gone up, and the valuation officer has been compelled to take a much higher level—and I say compelled to take a much higher level of values because of the purchases and transactions in land which have taken place, and the very people who are to-day complaining about the valuation level are themselves responsible for it, because they are the people who have bought and sold land and profited by the transactions. (A MEMBER: Hear, hear.) If—and it is undoubtedly correct—if the Indian areas of Nairobi have suffered more in this valuation roll by increases in value, it is because the Indian community have benefited more by the transactions which have taken place, and you cannot have the pleasure of selling your land for five or six times its old value without having the pain of having the valuation officer take cognizance of that fact under a compulsory rating ordinance! (Laughter.) So that if the hon. member wishes to proceed with a debate on those lines I should be delighted on that occasion to deal with the whole question of what has taken place in land speculation in certain areas in this town—(hear, hear)—and the effect that that speculation in those areas has had upon the living conditions of the poor members of the Indian community.

Dealing with the question of this motion alone, the suggestion that this is anything in the nature of a contribution

[Mr. Vasey] is to some extent incorrect. Government stands as one of the largest landowners in Nairobi municipal area, and because of that it enjoys, as do all other landowners, whatever benefits the Nairobi Municipality can bestow upon it from the services for which rates are paid, and it would be absurd and ridiculous to suggest that Government as one of the ratepayers should contribute a less proportion than any other ratepayer in the town. There is a moral obligation, I suggest, upon this Council, which represents the governing body of the country, to expect that if a ratepayer of Nairobi, of a non-government body, is prepared, or has to—shall we put it like that?—pay a rate of 3 per cent, that Government and the Railway, being large ratepayers and large beneficiaries under the services, should not be able to contribute at any less rate than 3 per cent. I suggest therefore that if additional provision is necessary on this occasion, it is because perhaps Government was not wise enough to consult Nairobi Municipality as to what the necessary rate was likely to be!

However, I support the motion not only from the point of view of being chairman of the Finance Committee of Nairobi Municipal Council—(MEMBERS: Shame!)—but from the point of view of being interested in local government in this country, and believing that only in the spread of expenditure to local governments and the acceptance of the principle that a ratepayer must, as he does in Nairobi, accept more and more responsibility for those services of direct local benefit, shall we keep the budget of this country within control. It is for that principle that I support anything which says the devolution and responsibility for local services must be taken away from the main financial structure of the Colony.

I beg, therefore, to support this motion, and to reiterate what I said in Standing Finance Committee, that with this there must also be, in my opinion, a condition that any surplus which might arise from this year's rate shall be placed towards the reduction of or the prevention of an increase in the rate during the remainder of the period of this valuation roll, which lasts only for three years.

Finally, the level of expenditure of Nairobi must be judged not only on comparative figures with 1939 and 1943,

it must be judged on the comparative population figures. The ratepayer of Nairobi is taking a very heavy burden in the number of Africans who are now present in our town. We are becoming, as the hon. mover said, the metropolis of East Africa. Our population has already risen to probably 125,000 people. The burden is going to be heavy if the African population is to be maintained in reasonable conditions in which we wish to see them maintained, and it is possible that more and more in the future the whole basis of Government contributions towards those services will have to be reviewed. I suggest that one of the first steps in that review is a review of the Rating Ordinance which has made it necessary for a motion of this kind to come before Council, rather to make it automatic to a certain limit, not the limit imposed in 1929, but a limit imposed under modern conditions, the responsibilities a local government authority can accept by taking the same contribution from Government as a ratepayer that it accepts from all other people dwelling within its boundaries.

MR. NATHOO (Central Area): Mr. Speaker, at this stage it is not my desire to enter into any controversy about the points raised by the hon. Member for Nairobi North. That can be dealt with when a motion relating to this matter is tabled at a session later on in the year. However, there is one particular point which I should like to make here, and that is that the Indian community, as well as any other community, is prepared to share its burden in respect of whatever money is required for the maintenance of all services for the improvement of this town, which is the foremost town in the Colony, or perhaps in East Africa. But the objection we have is primarily against the inequities and some of the undesirable features which exist in the ordinance which have made this valuation what it is to-day. With those few words I would, as a mark of protest, say that I oppose the motion.

MR. ANDREWS: Mr. Speaker, I would just like to refer to the point made by the hon. Member for Nairobi North in asking that steps should be taken to remove this statutory limit. He will no doubt remember that, as my hon. friend the Financial Secretary said when moving a similar motion some two years

[Mr. Andrews] ago, the reasons for the restriction are probably two. In the first place it is a measure of protection for the taxpayer against the local authority, which at that time was not financially responsible (laughter) and, if I may be permitted to read from Hansard, "if a situation arose in which a local authority decided to impose an excessive rate, it formed a protection to the taxpayer of the Colony". The second reason, he thought, was that the Government of the day wanted to encourage municipal councils to impose rates on improvements. The second reason I do not think holds good any longer, but there may be some occasions on which the first reason might do so.

MR. VASEY: On a point of personal explanation, I would point out that I said that there should still be a limit imposed in accordance with modern conditions.

The question was put and carried.

INDUSTRIAL LICENSING ORDINANCE, 1948

ITEMS SCHEDULED

MR. HOPE-JONES: Mr. Speaker, I beg to move: His Excellency the Governor having been advised by the East African Industrial Council that the following items be scheduled, in accordance with section 3 of the Industrial Licensing Ordinance, 1948: (1) Cotton yarn; (2) Cotton piece goods, not including knitwear; (3) Cotton blankets; (4) Woollen yarn; (5) Woollen piece goods, not including knitwear; (6) Woollen blankets; (7) Glazed articles of pottery, including glazed pipes, piping and tubing, glazed tubes of earthenware and glazed sanitary earthenware or stoneware, this Council, being mindful of the desirability of balanced industrial development, hereby resolves that the above items be scheduled accordingly.

I have a certain disappointment in moving the motion standing in my name. For four years now the East African Industrial Council has laboured mightily, first of all to produce, with the necessary assistance at the appropriate stage of this Council and the Councils in the other territories, a bill to promote the growth of industry through planned industrial licensing. Now, at the last session of this Council, that bill was passed. We

hoped, at a meeting of the East African Industrial Council shortly after Council had adjourned, to produce our first schedule, which we hoped would have consisted—as I believe I said in Council some time ago—of five or six items. We laboured mightily, and we have produced three items for the schedule. They consist of cotton yarn; cotton piece goods; cotton blankets; woollen yarn; woollen piece goods; woollen blankets, and glazed articles of pottery (about which I need not go into details!).

So I think I am correct in saying that after four years of devoted labour we have not succeeded in producing very much. I do not think that the items we wish to schedule are particularly controversial, but I do wish to take this opportunity of saying that, in my opinion, it is absolutely essential that we proceed, now that we have the powers of the Industrial Licensing Ordinance, to give it teeth by scheduling certain industries—I need only mention cement and other items—so that we can get industry to come to Eastern Africa. We are going to try again. We are hoping to have another meeting of the Industrial Council in the not too distant future and, as far as the Government of Kenya is concerned—and I am their representative on that council, and in this instance the unofficial members are in complete agreement with the official members, and I may say also that organized industry and commerce is also in complete agreement on this point—we intend to do our utmost to add to the schedule things of slightly more importance than glazed articles of pottery for the future industrial development of East Africa.

I do not think I need delay the Council very long, but I perhaps should say that my own conception of this Industrial Licensing Ordinance is this, in very brief terms. Here we have an instrument which, wisely used, can bring industries to Eastern Africa that have not yet come. Therefore it follows that this ordinance must be a flexible instrument and, with the support and the essential agreement of the Legislative Council of this territory, we hope from time to time to be able to add items to the schedule when necessary, as it appears that we can bring industry to these territories which would not otherwise come. All the more technical industries already existing, will

[Mr. Hope-Jones] have the right to make their case for inclusion.

I need not delay this honourable Council any longer. I have explained that I am disappointed the schedule is so short; that it is so widely divergent from the real needs of these territories as I see them. I might add that I would welcome any expression of opinion on this matter which would assist us in going forward and trying, as I say, cautiously, to add to this schedule. I move this motion both with pleasure in the first instance, and with disappointment.

MR. COOKE: On a point of order, is it in order for the hon. member to refer to this Council as the honourable Council?

THE SPEAKER: I hope the adjective is not misapplied!

MR. COOKE: I am not trying to be facetious, but I suggest it is incorrect to refer to it as the honourable Council.

THE SPEAKER: I would suggest that you should elaborate your point of order, so that we can be quite sure that you are. What do you suggest is the correct form of referring to the Council?

MR. COOKE: I suggest "this Council" or "this House" is correct.

MR. HOPE-JONES: On a point of personal explanation, I would refer the hon. member to a protest made by Mr. Pym, of whom, I believe, he has heard, when he objected to the Speaker of the House of Commons because one of the Privy Counsellors on the other side neglected to refer to the House of Commons as "this honourable house" when making a particularly vitriolic speech! (Laughter.)

THE SPEAKER: I will not rule at the moment. I will endeavour to examine the authorities on this abstruse point! (Laughter.)

MR. VASEY: Mr. Speaker, in rising to second the motion I do so also with the same feeling of disappointment that is felt by the hon. Secretary for Commerce and Industry. This is an important measure for the encouragement of industry in these territories, and it is a measure which I think, looking at the list that is placed before us, is, if I may misquote

Shakespeare, "a poor start, but our own". At least we have begun. I believe that the schedule must be made much larger and it must be made flexible in the extreme, so that within that schedule all those measures necessary to encourage industries to come here and develop, knowing that they will have a certain measure of protection during their early stages, may be taken; and I know that when I speak on this motion I speak with the voice of the organized commerce and industry of Kenya behind me.

I need say no more, except that I hope that this is merely the first of many motions to be brought before us, each one adding to the schedule to enable industry to progress.

The question was put and carried.

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

STANDING RULES AND ORDERS SUSPENDED

With the leave of the Speaker and Council, MR. FOSTER SUTTON moved: That Standing Rules and Orders be suspended to enable the following bills to be read a first time: The Government Staff Provident Fund (Amendment) Bill, the Diplomatic Privileges (Extension) Bill, the Increase of Rent and of Mortgage Interest (Restrictions) (Amendment) Bill, the Land and Agricultural Bank (Amendment) Bill, the Control of Life Assurance Business with Natives (Amendment) Bill, the Civil Procedure (Amendment) Bill, the Probation of Offenders (Amendment) Bill, the Bankruptcy (Amendment) Bill, the Native Exemption (Amendment) Bill; the Explosives (Amendment) Bill, and the Prisons Bill.

THE SOLICITOR GENERAL (Mr. Hobson) seconded.

MR. COOKE: Why is it necessary to suspend Standing Rules and Orders? Have not the bills been published for 14 days?

MR. FOSTER SUTTON: Standing Rule and Order No. 64 reads: "At least 14 days prior to the date on which it is proposed to read a bill for the first time it shall be the duty of the Clerk to send to each member a copy of the bill, together with a statement of the objects of and

[Mr. Foster Sutton] reasons for the bill and, where a bill amends the whole or part of a section of an ordinance already in existence, the relevant part of such section set out in full." That is the point. When a bill is published in the Gazette it is without the section to be amended, and this is done chiefly to save expense, as the inclusions of sections to be amended would entail an enormous amount of paper.

MR. COOKE: I suggest that if a bill is dated 29th June that is the date of publication, and is sufficient. However, it is a small point.

MR. FOSTER SUTTON: I am trying to be fair to members. I personally think they are entitled to receive a copy of the bill with the section being amended indicated on the bill itself, and that is what the Standing Rule and Order No. 64 says shall be done. Unless it is done, it is necessary to move this suspension.

MR. COOKE: In effect the hon. member is making assurance doubly sure!

MR. FOSTER SUTTON: No, I am simply sticking to the rules!

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

On the motion of Mr. Foster Sutton, seconded by Mr. Hobson, the bills were read a first time.

MR. FOSTER SUTTON: With your leave, Mr. Speaker, and that of Council, I am going to move the suspension of Standing Rules and Orders to enable these bills to be taken through all their stages to-day: The Government Staff Provident Fund (Amendment) Bill, the Diplomatic Privileges (Extension) Bill, the Increase of Rent and of Mortgage Interest (Restrictions) (Amendment) Bill, the Land and Agricultural Bank (Amendment) Bill, the Control of Life Assurance Business with Natives (Amendment) Bill, the Civil Procedure (Amendment) Bill, the Probation of Offenders (Amendment) Bill, the Native Exemption (Amendment) Bill, the Explosives (Amendment) Bill.

I have omitted the Prisons Bill, as I believe some hon. members on the other side of Council wish to move certain amendments, and the committee stage

should be deferred so that we can see that any amendments are properly made; I have some to suggest myself. I have also omitted the Bankruptcy (Amendment) Bill, as I understand it is the desire of members opposite that it should be referred to a select committee.

MR. HOBSON seconded.

The question was put and carried.

MR. FOSTER SUTTON, with the leave of the Speaker and Council, moved: That Standing Rules and Orders be suspended to enable the Bankruptcy (Amendment) Bill to be read a second time and referred to a select committee, and the Prisons Bill to be read a second time.

MR. HOBSON seconded.

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

GOVERNMENT STAFF PROVIDENT FUND (AMENDMENT) BILL

SECOND READING

MR. ANDREWS: Mr. Speaker, I beg to move: That the Government Staff Provident Fund (Amendment) Bill be read a second time.

Since 1945 regulations have existed under the ordinance now to be amended, which allow in accordance with the advice given by the Government actuary, a lump sum to be paid to a beneficiary under the fund only when the sum due from the fund is less than £50. They also allow that over that limit of £50 there should be an option to take a lump sum only or a pension and a lump sum or a pension alone. There has been some doubt as to whether these provisions were within the powers given by the existing ordinance in section 13; that is to say, that "the Governor may direct that the depositor shall receive a lump sum of such amount as may be prescribed and such further sum annually as may be prescribed". The amendment in this bill is to regularize the restriction and option laid down in the 1945 regulations and to regularize any other permutations and combinations of them which it might be desired to put into effect in future.

MR. FOSTER SUTTON seconded.

MR. JEREMIAH (African Interests): Mr. Speaker, I beg to support the

[Mr. Jeremiah] motion. I particularly welcome the addition that a depositor may receive the full amount due to him from the fund, and I believe his wish as to which he will take will be met by this amendment.

The question was put and carried.

DIPLOMATIC PRIVILEGES (EXTENSION) BILL

SECOND READING

MR. RANKINE: Mr. Speaker, I beg to move: That the Diplomatic Privileges (Extension) Bill be read a second time.

In brief, the purpose of this bill is to enable this Colony to meet its obligations to the United Nations Organization. As hon. members may be aware, the United Nations, set up by charter in San Francisco in June, 1945, is an organization to which the Government of the United Kingdom and the governments of other foreign sovereign nations are members. Articles 104 and 105 of the Charter of the United Nations provided that the United Nations Organization should enjoy in the territories of each of its members such legal capacity and such privileges and immunities as may be necessary for the exercise of its functions and the fulfilment of its purpose. In addition to that, Article 22 of the Statute of the International Court of Justice provides that the Court, if it considers desirable, may exercise its functions elsewhere than at The Hague. It was thought desirable, therefore, to apply this legislation to the Court. In 1946 the General Assembly of the United Nations by resolution specified the privileges and immunities which should be provided. In the United Kingdom legislation has already been passed to give effect to that convention, and this legislation is intended to enable this Colony to come into line with the United Kingdom.

The only points I think I need refer to are that clause 2 seeks to empower the Governor in Council by order to apply the legislation to any organization of which His Majesty's Government in the United Kingdom may be a member; and the immunities and privileges which the measure seeks to empower the Governor to confer are set out in the schedules; and, finally, it will be noted that the legislation is reciprocal, and that in the event of any nation failing to

accord similar privileges to British nationals the Governor may decline to accord them these privileges or, if the privileges and immunities are already accorded they may be withdrawn.

MR. FOSTER SUTTON seconded.

The question was put and carried.

INCREASE OF RENT AND OF MORTGAGE INTEREST (RESTRICTIONS) (AMENDMENT) BILL

SECOND READING

MR. HOPE-JONES: Mr. Speaker, I beg to move: That the Increase of Rent and of Mortgage Interest (Restrictions) (Amendment) Bill be read a second time.

This is a very brief bill which merely seeks to remedy a somewhat Gilbertian situation by which the members of the Rent Control Board, in the absence of their chairman through illness or anything else, were not empowered to appoint anybody else as chairman, and as it was somewhat difficult for them to act without a chairman, this bill is merely to remedy that position and allow them to elect one of their members present to act as chairman in the absence of the chairman proper.

MR. FOSTER SUTTON seconded.

The question was put and carried.

LAND AND AGRICULTURAL BANK (AMENDMENT) BILL

SECOND READING

MR. FOSTER SUTTON: Mr. Speaker, in the absence of my hon. friend the Member for Finance, I beg to move:—That the Land and Agricultural Bank (Amendment) Bill be read a second time.

The main objects of the bill are to confer wider powers upon the Bank to protect its own securities. Clause 2 of the bill seeks to make provision for the Bank to have a common seal, which will facilitate the execution of its documents. Clause 3 is consequential on clause 2. Clause 4 seeks to clarify the powers of the Bank to make advances for agricultural purposes. Under paragraph (c) of section 19 of the principal ordinance the Bank may grant loans for the establishment and production of agricultural and rural industries. This clause seeks to amplify that paragraph, and follows

similar provision in the equivalent legislation of South Africa.

Clause 5 of the bill seeks to amend section 45A of the principal ordinance, to give the Bank the right to bid at a public auction and buy in property secured to it in the event of foreclosure by the Bank. It also seeks to enable the Bank, after having acquired the property, to transfer such property into its own name or, where such property has been acquired at a public auction by another person, to transfer the property to the purchaser. This provision was considered desirable in order to enable such action to be taken in the event of the mortgagor of such property leaving the Colony. The omission of provision of that kind has in the past created considerable difficulties so far as the Bank is concerned.

Clause 6 seeks to insert an additional covenant to be implied in all securities executed in favour of the Bank. This covenant seeks to prevent property secured to the Bank being transferred to a third party without the Bank's approval, in order to prevent such property being acquired by a person whose financial resources are such that the Bank considers they could not make a success of farming operations on the property concerned.

MR. ANDREWS seconded.

MR. EDEY: Mr. Speaker, I would just like to inquire of the hon. mover whether clause 6, which reads "or any part thereof, by way of sale, gift, or in any other manner whatsoever", and that includes land leased under the ordinary terms of lease, it is intended to prevent someone who has a loan from the Bank leasing his farm to a third party.

MR. FOSTER SUTTON: I think that is so, yes, because it was the intention not to allow land that was mortgaged to the Bank—after all, the Bank holds the first security—to pass into the hands of a person who may considerably depreciate the security of the Bank. After all, the Bank does lend money at a fairly low rate of interest and it was felt that they ought to be fully protected. Of course, I have no doubt the Bank would never withhold its consent unless there was a very good reason for doing so.

The question was put and carried.

CONTROL OF LIFE ASSURANCE BUSINESS WITH NATIVES (AMENDMENT) BILL

SECOND READING

CHIEF NATIVE COMMISSIONER (Mr. Wyn Harris): Mr. Speaker, I beg to move: That the Control of Life Assurance Business with Natives (Amendment) Bill be read a second time.

I do not propose to take up the time of Council over this bill. Its purport is absolutely clear. The amendment to section 2 is merely to make it possible for the Governor, who has to approve under the main ordinance any person who effects life assurance with Africans, also to remove his approval and consequently, if he does remove his approval, any guarantee which may have been entered into will last until such time as the contributor to the life assurance has been paid out.

Section 4 (a) is merely to allow those educated natives who desire to enter into an ordinary life assurance to have the opportunity of dispensing with the protection of this measure. I would remind Council that this ordinance is merely to protect the ignorant African, and was not intended to cover those Africans who are perfectly competent to enter into a contract of life assurance with a properly constituted life assurance company.

MR. FOSTER SUTTON seconded.

The question was put and carried.

CIVIL PROCEDURE (AMENDMENT) BILL

SECOND READING

MR. FOSTER SUTTON: Mr. Speaker, I beg to move: That the Civil Procedure (Amendment) Bill be read a second time.

All that this bill seeks to do is to repeal sub-sections (3) and (4) of section 40 of the Civil Procedure Ordinance. Those two sub-sections enable a judgment-debtor, who has been arrested in execution of a decree for the payment of money, to file his own petition for bankruptcy and make himself a bankrupt. Experience has shown that debtors are inclined to adopt that procedure, thereby in effect defrauding their creditors. The practice in the United Kingdom under such circumstances is for the court to inquire into the means of the judgment-debtor and, if the court comes to the conclusion that the judg-

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ment-debtor can, out of his assets or whatever he may have available to him, pay the debt by instalments, it makes an order against him that he shall pay the debt by such instalments as the court fixes.

It is considered far more equitable, instead of allowing a person to adopt the expedient of making themselves bankrupt, for the court, if this amendment goes through, to be able to inquire into their means and order them to pay the creditor in such instalments as the court sees fit.

Mr. HOBSON seconded.

The question was put and carried.

PROBATION OF OFFENDERS (AMENDMENT) BILL

SECOND READING

Mr. HOBSON (Solicitor General): Mr. Speaker, I beg to move: That the Probation of Offenders (Amendment) Bill be read a second time.

Clause 2 of this bill seeks to give the courts, where they make probation orders, the power also to order probationers to enter into a recognizance of whatever sum a court may think fit, with or without sureties also as a court thinks fit, so that if there is a breach of that recognizance a court has the power to order the probationers to forfeit either the whole of the sum named in the recognizance, or any part of it. It is hoped that this will deter probationers from committing offences or from committing any other breach of the recognizance.

Clause 3 seeks to empower the courts, or to empower the authorities, where probationers commit an offence, to order the probationers to appear before any of the courts of the Colony, not only the court which made the probation order. It also seeks to enable the court before whom the probationer appears to treat as genuine the signature of the judge or magistrate on the original probation order, unless the contrary is proved.

Clause 4 seeks to provide that, should any sum named in the recognizance become liable to forfeiture, a probationer may not also be fined for breach of the probation order.

Mr. FOSTER SUTTON seconded.

The question was put and carried.

BANKRUPTCY (AMENDMENT) BILL

SECOND READING

Mr. FOSTER SUTTON: Mr. Speaker, I beg to move: That the Bankruptcy (Amendment) Bill be read a second time.

The chairman of the Elected Members' Organization has indicated to me that they wish this bill to be referred to a select committee and, as the Government is perfectly prepared to refer it to a select committee, I do not think any good purpose would be served by my going through the various amendments and explaining them. I was particularly careful to set out as clearly as possible the reasons for the amendments in the memorandum of objects and reasons which is before members of Council to-day.

In the past there have been complaints that the legislation of the three territories—Tanganyika, Kenya and Uganda—differs widely in so far as the bankruptcy law is concerned. The same applies to some extent to the companies' legislation, and this bill is an effort to bring our legislation more into line with that in force in Tanganyika and Uganda. It seems to me that the advantages of such a procedure are obvious, because there are a large number of firms who carry on business in each one of the territories, and if they have to operate under different legislation, such as this and the companies' legislation, it does make things extremely difficult for them.

Before this bill was published in the Gazette for introduction into this Council there was a meeting of the official receivers of the three territories. They discussed the various anomalies that have existed, or that still exist, and they prepared for introduction into each of the territories legislation (Uganda have actually passed theirs) giving effect to the recommendations made by this conference. They all agreed upon the introduction of this bill, and I commend it to the consideration of this Council. As I say, if it passes, have the advantage of making the legislation of the three territories as nearly similar as possible.

Mr. HOBSON seconded.

The question was put and carried.

Mr. FOSTER SUTTON: Mr. Speaker, I beg to move: That the Bill be referred to a select committee consisting of myself as Chairman, the hon. Member for Nairobi South, the hon. Member for Mombasa, the hon. Member for Eastern Area (Mr. Patel), and the hon. Member representing African Interests (Mr. Chemallan).

Mr. HOBSON seconded.

The question was put and carried.

NATIVE EXEMPTION (AMENDMENT) BILL

SECOND READING

Mr. WYN HARRIS: Mr. Speaker, I beg to move: That the Native Exemption (Amendment) Bill be read a second time.

It is a purely formal amendment, merely to remove the reference to the Native Registration Ordinance from the Native Exemption Ordinance because the former ordinance has now been repealed.

Mr. FOSTER SUTTON seconded.

The question was put and carried.

EXPLOSIVES (AMENDMENT) BILL

SECOND READING

Mr. HOBSON: Mr. Speaker, I beg to move: That the Explosives (Amendment) Bill be read a second time.

There is at present no provision in the Explosives Ordinance providing for any control in the use of blasting material at depths of thirty feet or more. This Bill seeks to provide for such control, in sub-clause (1) (a) of clause 2. The remainder of the Bill is a recasting of sub-sections (1) and (2) of section 10 of the principal ordinance.

Mr. FOSTER SUTTON seconded.

The question was put and carried.

PRISONS BILL

SECOND READING

Mr. FOSTER SUTTON: Mr. Speaker, I beg to move: That the Prisons Bill be read a second time.

The object of this bill is to bring our prisons legislation more into line with modern requirements. The existing ordinance was passed in 1930, and conditions and lines of thought in connexion with the administration of prisons have considerably altered since that date. Moreover, we were particularly anxious to

introduce this legislation so that it could be included in Sir Donald Kingdon's revision of the ordinances which he is now in the process of making. We hope to adopt the same procedure in connexion with the new police legislation. I hope to be in a position to introduce that into this Council during the August session. I think hon. members will agree with me that it is important that legislation of that type should be included in the general revision that is now being made.

The Bill consists of 95 clauses, and I could keep you here until well after one o'clock if I went into the thing in any detail. I have explained it in the memorandum of objects and reasons very fully indeed. I have endeavoured to do that with all the bills.

I propose, with your permission and the permission of Council, to draw attention to certain of the new provisions which I think may be of some interest, and probably one ought to draw attention to them.

The first is clause 5, which provides for the establishment of a Kenya Prisons Service, which is merely legalizing an existing state of affairs. There has never been a prisons service in this Colony legally constituted, and we think that the time has now arrived when we might put it on a proper legal footing.

If hon. members would like it I have a comparative table showing the additions, and indicating where the various new sections have been taken from, which between now and the August session I shall be very happy to supply to any member interested.

Clause 16 prohibits any subordinate officer from punishing a prisoner unless ordered to do so by the officer in charge of the prison. No provision exists relating to that in the present legislation, and I venture to submit that that is a most desirable provision to be included. You cannot have subordinate officers in the prison exercising the right of disciplining prisoners, but there is nothing legally to prevent it at the present moment.

Clause 22 gives the officer in charge of the prison power to cause photographs and finger prints of any criminal prisoner to be taken and recorded. Oddly enough, no such power exists in the present legislation, and it is a deficiency that quite obviously ought to be made good.

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Clause 23 seeks to provide safeguards for prison officers acting in pursuance of any warrant purporting to be issued by a judge in the event of it being proved not to be genuine. If hon. members read the clause I think the necessity for it becomes obvious.

Clauses 27 to 31 seek to make better provision for the medical examination and treatment of prisoners on admittance to and discharge from prison and for the regular medical supervision of prisoners while in prison.

Clauses 33 to 36 seek to make provision for the appointment of visiting justices. Under the existing legislation all visiting justices have power to award punishment to prisoners for offences against prison discipline. This matter has been debated at odd times over the course of the last three or four years, and there have been various representations made by some people that every member of Legislative Council should be a visiting justice. Well, I take the liberty of disagreeing with that. (Mr. COOKE: Hear, hear!) A person might quite easily be a fit and proper person to be elected by the population as a member of Council (laughter), but it does not necessarily follow that he is a fit and proper person to be a visiting justice. Anyway, that provision was omitted, and we suggest that it be confined to members of Executive Council, judges of the Supreme Court, and magistrates, first and second class. To fill the blank that undoubtedly this would make, we have included in the bill provision for the appointment of official visitors who will have all the privileges and powers of what is a visiting justice, with the one exception that they will not be able to impose sentences of punishment for breaches of prison discipline. I think that if hon. members will think about it a little they will probably agree that that is a wise provision.

One of the main reasons for it is this. We feel that a visitor should be the sort of person that a prisoner can feel he can unburden his heart to, and he should be regarded as someone who can discipline a prisoner. A visitor can go and look round a prison, and we have made certain provisions the reasons for which are obvious, but I believe that if power to impose punishment is conferred on a visitor

it will destroy to a very great extent his usefulness. It is proposed to appoint visitors fairly freely. When I say fairly freely, they naturally will have to be people suitable to visit, and I want to give an assurance that if any member of this Council is interested, as I know my hon. friend, Mr. Pritam, is, he has only to communicate to me his wish to be appointed and I will see that his name is submitted to His Excellency for appointment. Hon. members will observe that the bill provides for the appointment of visitors of both sexes, but when ladies are appointed they will only be entitled to visit the female section of the prison.

Clause 41 makes it necessary for the Commissioner of Prisons to approve the reduction in grade of a prison officer or askari for any offence against discipline. The present provisions empower a superintendent to reduce a subordinate prison officer by one grade without the permission of the Commissioner. This means that he can reduce even a chief warder and the Commissioner has no power to prevent it. I think that is an obvious defect.

Clause 42 seeks to give the Commissioner power to intervene when an officer in charge is inquiring into alleged offences by a subordinate officer and may order the accused to be taken before and dealt with by a magistrate should he consider such procedure necessary. No such power exists now, and the Commissioner regards this as a necessary provision. It exists elsewhere, and has been found to work very well.

Clause 43 gives the Commissioner power to dismiss a subordinate officer who has been fined or imprisoned by any court for an offence against the laws of the Colony. No such power exists at present, and the Commissioner submits that this is a power which he should have.

Under clause 46 it is obligatory on the officer in charge to inform any convicted prisoner of any right of appeal which he may have against his conviction. We have included that. It is included, if I may be pardoned for using unparliamentary language—but I will use parliamentary language!—it is a great nuisance, but I think it is just. A lot of prisoners are ignorant people, they have no knowledge that they have a right of appeal, and this

[Mr. Foster Sutton] will ensure that they are warned so that if they wish to appeal against their sentence they can. It does not necessarily mean the appeal will be allowed.

Clause 63 gives the Commissioner power to restore any remission of sentence that a prisoner may have forfeited by reason of misconduct. That at first blush may appear an odd provision, but in the light of experience it has been found that in his early days of his sentence a prisoner is not accustomed to prison routine and commits some heinous offence, and he has his remission taken away and has no means of earning it back. He may from that day onwards become an exemplary prisoner, and the Commissioner feels it should be possible in such cases to be able to say "You are a good boy now and your remission is restored". It gives a prisoner incarcerated for a long period something to look forward to, and will also be an incentive to good behaviour.

Clause 88 seeks to prevent any sentence of corporal punishment being carried out unless confirmed by the Commissioner, and also to enable the Commissioner to reduce or enhance any such sentence, but not beyond the amount permitted by the clause. In fairness, I would say that I know it is a bone of contention, and I will not leave this matter until after hon. members have spoken. I will give them now the Commissioner's views on that particular provision, so that hon. members can judge whether it is justified or not. I asked him to give me a short memorandum, and with your permission, sir, I propose to read it. He says: "I consider the proposed procedure advisable for the following reasons. (a) Experience shows that sentences of corporal punishment have been awarded when in my opinion they were not justified or not in accordance with section 61 (1) of the existing ordinance. (b) Sentences have been awarded which in my opinion are either too severe or not severe enough, i.e. (1) attempted escape, 12 lashes, should not in my opinion have been awarded at all; (2) attempted assault on a prison officer, 4 lashes, and again assaulting another prisoner, 3 lashes. Sentences of this nature on adults, which are inflicted with a cane, are quite useless". He has only given these as examples, and thinks that if any punishment is to be awarded it

should be adequate, and that it is better not to award any rather than a trivial sentence.

The Commissioner also says that the views of the various officers in charge of prisons varies to such an extent about corporal punishment that he would rather have this additional degree of control. He tells me that in all cases it is proposed to confirm or otherwise by telegram, which will save a certain amount of time. The sentence will be sent to him by post or messenger, which will cause a little delay, but he has pointed this out, and that is one of the things troubling my hon. friends on the other side of Council. In the United Kingdom when a prisoner is awarded lashes he has the right of appeal, so that a sentence is frequently delayed. I know that it is advisable, in all these cases to get on with the job of administering the punishment, that is the best way to treat people of that kind, but he thinks the delay will be so short that it will not seriously affect the prisoner and that the avoidance of stupid sentences being awarded overweighs any delay that may take place. That is a matter for the Council to decide, and I have no doubt that we can reach some agreement on it.

I thought it fairer to give the views of the Commissioner before other members spoke on the bill, and he says: "In my opinion, if corporal punishment is considered necessary owing to the nature of the offence, then the sentence should be severe enough to act as a deterrent both to the offender and the other inmates of the prison. Delay in confirmation is not likely to occur and the Commissioner's decision will be sent by telegram". That is all I have to say on that.

MR. HOUSON seconded.

MAJOR KEYSER: Mr. Speaker, in this bill certain powers, which in the past were in the hands of the Governor, are now given to the Member. That is the Member for Law and Order in this case. It is felt on this side of Council that there should be some explanation and some assurance given as to the implications of this change. It is felt that, if the practice is continued in the future, the power to make rules and regulations should not be given to a Member, but should be left in the hands of the Governor in Council, and that powers should be given to a Member only when the

[Major Keyser] general interests of the public are not implicated, or in formal matters only.

I bring this matter up because I believe that this is the first bill to be introduced into this Council in which those powers have been given to a Member, and some assurance should be given which will be placed on record for future reference.

MR. HOPKINS: Mr. Speaker, the comments which I wished to make on clause 88 (2), which deals with corporal punishment for prison offences, have been partly met by the explanations given by the hon. mover. However, I should like to see the clause amended so as to allow superintendents or assistant superintendents in charge of prisons to impose sentences of corporal punishment up to 12 strokes, provided that they report all such punishments immediately.

My reason for this is that I feel the efficacy of corporal punishment is very much enhanced if the sentence is carried out promptly, and I cannot see how, if a superintendent in charge of a prison station is allowed to give up to 24 strokes, the Commissioner can possibly confirm that by telegram. I think that in serious cases like that he would have to call for the papers, and that, in the case of out-stations, might entail a delay of anything up to 14 days, or even more. In the case of highly strung natives the waiting under sentence of corporal punishment can quite easily be very much severer than the whipping itself. There are in this country a number of rather highly strung tribes and, in my experience, when you are dealing with tribes like that, it is rather dangerous to leave men waiting for long periods under sentence of corporal punishment. Within my experience, on two occasions brooding prisoners under sentence of corporal punishment have broken loose, seized a rifle and killed somebody.

For this reason, therefore, I feel it would be preferable if the sentences of whipping could be carried out forthwith, and for that reason I suggest that up to 12 strokes should be permitted to be imposed and carried out by officers in charge of prison stations.

Secondly, I should like to say that in my opinion 12 strokes is quite a severe punishment, and there cannot be very

many cases in which the officer in charge of a prison would feel that an offence against discipline need not be dealt with by 12 strokes. It seems to me that if an offence against discipline in any prison is so serious that the officer in charge of a prison feels that 12 strokes is not adequate, then it is time the Commissioner himself came and inquired into the case, and it is he, in a case like this—and not the officer in charge of the prison—who should impose the sentence. This would permit of sentences of over 12 strokes being carried out promptly, and I think it is most important that sentences should be carried out promptly.

I should like, therefore, to move at a later stage that sentences up to 12 strokes may be imposed by a superintendent or assistant superintendent in charge of a prison without reference to the Commissioner of Prisons, but that all sentences in excess of that should be imposed only by the Commissioner himself.

MR. OHANGA: Mr. Speaker, on behalf of my colleagues and the African community I should like to place on record my support of this bill. There are one or two paragraphs on which my interests centre, and the first one is clause 18, especially the last bit where it makes it clear that where shooting is necessary by the police or by prison officers, it should be done not for the purpose of killing, but to disable. I welcome that most heartily and should like to add that, if possible, the attention of the police should be drawn to the same principle of shooting to disable and not to kill.

The next clause in which I am interested is clause 21. It is implied in that particular section that more than one person will be in a cell. Where accommodation difficulties exist I think it is necessary that more than one person should be in a cell, but I should like to emphasize that it should not be the ordinary rule that so many people should be crowded together in cells, so that they have not sufficient air to breathe. It should be a limited number and the doctors ought to be consulted, so that we can be sure that however many people there are in a cell there is sufficient air for them to breathe.

The next clause is 25. Here it appears that the prison officers are being treated more or less as prisoners themselves. It does not seem to us quite clear why a

[Mr. Ohanga] prison officer should be punished more heavily than other civil servants who decide to desert, because I consider that two years or £50 is a very severe punishment indeed, and I do not see why that should apply to the prisons when it does not apply to other branches of the Civil Service.

The next section on which I should like to comment is 37. Here provision is made for certain people to be visiting justices, but as no Africans as yet are members of the Executive Council or judges of the Supreme Court, it appears that none of us has a chance of being a visiting justice just on those terms. Under the clause provision is made for certain officers to be appointed by the Governor as official visitors. We would like to be assured that among those people appointed under that particular clause there will be a sufficient number of Africans to visit the prisons in which Africans are imprisoned, because we feel it necessary that we should be acquainted with the welfare of the African prisoners and that we should also give them an opportunity of asking us questions or bringing some of their grievances to light.

Next I come to clause 46. In that clause provision is made for a convicted person who appeals either to start serving straight away, or to wait for the results of the appeal. We feel that the alternative should not exist, because usually the Africans who go to prison are ignorant people who may not understand the conditions under which they are imprisoned, and for that reason we would like it to be quite clear that they ought not to start serving a sentence when they have elected to appeal.

Clause 49 (2) is one which we welcome most heartily. Very often the clothes in which these people go to prison are in rags even before they start their sentences, and we most heartily welcome this clause, which provides for clothes suitable to their state in life to be issued to prisoners on release.

Clause 50—only a small thing—but in the definition part the word "African" is defined, and I should be glad to know why it is necessary to use the word "native" here. It should be "African" and not "native".

Lastly comes clause 88, which all of us believe is the most controversial. First

I should like to make it clear that corporal punishment is at times necessary and that we as Africans would approve of it where it is necessary. But there are two points which I should like to make quite clear which are not according to our wishes. First of all, anybody who is subjected to corporal punishment should be examined by a doctor to certify that he is well able to receive the amount of beating that is to be done. Secondly, we consider the maximum number laid down, 24, to be excessive. Even the officer who is asked to inflict the punishment will feel it. We feel that 12 strokes is sufficient corporal punishment for any human being. After 12 I do not really think the person feels anything, and we feel that should be the limit. For those under 16 years of age we feel that six should be sufficient, and not 12. We are with the Government in the proposal that corporal punishment should be inflicted, but those numbers are excessive. We consider 12 to be the maximum and in the case of those under 16, 6. In every case a doctor should be consulted.

With those remarks I beg to support the bill.

MR. VASEY: Mr. Speaker, I had not intended to speak on this bill, but some of the remarks of the last hon. member who has spoken filled me with a certain amount of dismay. In principle, the same as I think any reasonable human being, I welcome this bill as placing the prisons service on a very good and regulated basis. There are, of course, one or two amendments which will undoubtedly be put forward by members on this side of Council during the committee stage.

The last hon. member made me think whether it would not be necessary to provide some amendment to clause 49 (2), because he seemed to think that the position would arise where a gentleman arrived at the prison in a very filthy and worn out suit, and two months later would be discharged in something that might be taken as the equivalent of Nairobi's Saville Row. I feel that no such impression will be allowed to continue for very long after the hon. mover has replied, but I will ask in the committee stage whether there should not be an amendment accepted that the words "in any case" should either be deleted, or

[Mr. Vasey] there should be added to them a minimum of sentence. We have sufficient encouragement at the present moment in the profit motive from crime, without introducing an element of enticement of that kind.

The other point raised by the hon. member Mr. Ohanga deals with the question of visiting justices and official visitors. The hon. Member for Law and Order seemed to feel that, while hon. members on this side of Council, or indeed hon. members of this Council in general, were not fit to consort with criminals, hon. members of Executive Council and judges of the Supreme Court were! On this occasion I bow to his supreme wisdom. (Laughter.) (Mr. FOSTER SUTTON: You have got the wrong end of the stick!) I recognize that the populace is perhaps not always particular in choosing its elected members, but I have not as yet seen that democracy has yet arrived at that stage of selection which an autocracy can achieve!

But I would say seriously this, that I believe and agree with regard to clause 33. The powers of visiting justices are entirely different from the powers of an official visitor, and I would be against any suggestion that the visiting justices should be selected on anything of a racial basis, and that I think was the implication put forward by the hon. member Mr. Ohanga. I am not interested from this point of view in whether the member of the Executive Council of the Colony is white, black or brown—I am interested in the fact that presumably when he arrives at membership of the Executive Council of this Colony he is competent and to be trusted to carry out the extremely wide powers which are given to visiting justices in paragraph 34 of this bill—powers which must be used very carefully and very cautiously, because it would be unwise and extremely unfair if the prisons administration, which like the police administration is so often open to attack, were to be placed in the position where it could be harassed.

With those few remarks I beg to support.

MR. FOSTER SUTTON: Mr. Speaker, I should first of all like to deal with the point made by the hon. Member for Trans Nzoia.

Hon members will be aware that we have often debated in this Council upon which authority certain powers should be conferred, and I am fully conscious of the fact that where you see in legislation, certainly over the last three or four years, certain powers conferred upon the Governor in Council, those powers have been conferred upon him advisedly, in the full knowledge that you were conferring the powers on a body that included in an advisory capacity members of all races, and people who have been in certain cases nominated by members of this Council.

We are not attempting to get away from the policy. It is not Government's intention to introduce legislation which may vitally affect the public, and in that legislation to confer powers on a Member. It is only intended to confer the sort of day to day matters on a Member—matters that ought not to be referred to such an august body as the Governor in Council.

At the present time those members on the other side of Council who are members of Executive Council I think will agree with me that a vast mass of stuff has to go to the Governor in Council, a lot of it pure formality, and it merely clutters up the agenda. It is a costly procedure because the papers have to be briefed to each member, and it is an utter waste of their time. I would suggest that members on the other side of Council should guard very carefully their power to prevent extraordinary powers being vested in any one individual. I entirely agree with their feelings in the matter that powers which are going to vitally affect the public should be conferred on the Governor after he has had the advantage of the advice of the members of his Executive Council, and as long as I am here I am certainly not going to try and get in the thin edge of the wedge by trying to confer powers on Members which should not be conferred on them. (Applause.)

The hon. member Mr. Ohanga made a number of points. By the way, we are not proposing—it never has been done and I do not suppose it is ever likely to be done in the future—to provide Saville Row clothes for prisoners. I often think that the clothes they supply are very far from Saville Row. You usually cannot mistake where they come from!

(Mr. Foster Sutton)

About corporal punishment, I am not sure I agree with the hon. member. I have not had enough experience of it to be able really to express an opinion (laughable), but I think that for some of the offences it is probably advisable to anyway have the power to impose a very heavy sentence. For instance, a man who commits an act of personal violence on any other person in a prison. The type of person who assaults a prison officer is not a very pleasant one, and I think you ought to have some very strong deterrent which will make a prisoner think twice before attacking a prison officer. I think that reserve power to award a fairly considerable amount of corporal punishment ought to be there, but I will promise to consult the Commissioner of Prisons because he is a man of considerable experience over a long period of years on prison matters and matters of this kind. I am perfectly prepared to consult him and if it is right to make any amendment regarding the number of strokes that can be administered, I am doubtful about it myself, but I am prepared on behalf of Government to listen to reason, if there is any reason in it.

May I say that I did feel at one time that we might have referred this bill to a select committee, but if hon. members have any other views about it or suggestions to make I should be glad if they would let me have them between now and August (that is why I suggested leaving the further stages to August), and we can discuss them and probably save a select committee. Certainly would consider most sympathetically any suggestion that I might receive.

Overcrowding in cells: it is deplorable and nobody wants to do it. At the moment there is overcrowding, serious overcrowding, through lack of recommodation. Nobody is keener on providing it than the Commissioner and his officers, and as soon as additional recommodation is available the overcrowding will cease. I entirely agree with the hon. member that it ought not to be allowed to continue indefinitely.

I sympathize with his comments on clause 23 and I will raise the matter with the Commissioner, because I think it is a very heavy penalty myself.

I have already dealt with the point made by the hon. Member for Aberde-

and I am not at all sure that it is right to him, whether it is right or not, with the Commissioner of Prisons. I am not wishing to create the present position, but cannot see why he should not be allowed to instruct his officers, as they are not to act against a prisoner's interests, but to lay down some sort of discipline, and that they can act. That being so, I will have a talk with him and make the Commissioner when we come to deal with it.

I do not think there are any other points of substance. I am grateful for the remarks made by the hon. Member for Nairobi North about the visiting justices. There has been a good deal of feeling in the past. It is intended that official visitors should be appointed from completely non-racial areas. There are a lot of people interested in the matter. I know that some members of this Council and people outside are very interested in the prisoners and their welfare, and that is the sort of person we want to get, because very often they can be extremely helpful and they are a sort of protection to the prisoners. They will be selected, as I said before, very carefully. I can think of no hon. member of this Council to whom I might have occasion to be appointed, if anyone wishes to take an interest and to be appointed, and all let me know, and see that his name is submitted to His Excellency the Minister.

The question was put and carried.

ADJOURNMENT

Council met at 12.15 p.m. and adjourned till 10.0 a.m. on Thursday, 11th July, 1974.

[Mr. Vasey] there should be added to them a minimum of sentence. We have sufficient encouragement at the present moment in the profit motive from crime, without introducing an element of enticement of that kind.

The other point raised by the hon. member Mr. Ohanga deals with the question of visiting justices and official visitors. The hon. Member for Law and Order seemed to feel that, while hon. members on this side of Council, or indeed hon. members of this Council in general, were not fit to consort with criminals, hon. members of Executive Council and judges of the Supreme Court were! On this occasion I bow to his supreme wisdom. (Laughter.) (Mr. Foster Sutton: You have got the wrong end of the stick!) I recognize that the populace is perhaps not always particular in choosing its elected members, but I have not as yet seen that democracy has yet arrived at that stage of selection which an autocracy can achieve!

But I would say seriously this, that I believe and agree with regard to clause 33. The powers of visiting justices are entirely different from the powers of an official visitor, and I would be against any suggestion that the visiting justices should be selected on anything of a racial basis, and that I think was the implication put forward by the hon. member Mr. Ohanga. I am not interested from this point of view in whether the member of the Executive Council of the Colony is white, black or brown. I am interested in the fact that presumably when he arrives at membership of the Executive Council of this Colony he is competent and to be trusted to carry out the extremely wide powers which are given to visiting justices in paragraph 34 of this bill—powers which must be used very carefully and very cautiously, because it would be unwise and extremely unfair if the prisons administration, which like the police administration is so often open to attack, were to be placed in the position where it could be harassed.

With those few remarks I beg to support

Mr. FOSTER SUTTON: Mr. Speaker, I should first of all like to deal with the point made by the hon. Member for Trans Nzoia.

Hon members will be aware that we have often debated in this Council upon which authority certain powers should be conferred, and I am fully conscious of the fact that where you see in legislation, certainly over the last fifteen or four years, certain powers conferred upon the Governor in Council, those powers have been conferred upon him advisedly, in the full knowledge that you were conferring the powers on a body that included in an advisory capacity members of all races, and people who have been in certain cases nominated by members of this Council.

We are not attempting to get away from the policy. It is not Government's intention to introduce legislation which may vitally affect the public, and in that legislation to confer powers on a Member. It is only intended to confer the sort of day to day matters on a Member—matters that ought not to be referred to such an august body as the Governor in Council.

At the present time those members on the other side of Council who are members of Executive Council I think will agree with me that a vast mass of stuff has to go to the Governor in Council, a lot of it pure formality, and it merely clutters up the agenda. It is a costly procedure because the papers have to be briefed to each member, and it is an utter waste of their time. I would suggest that members on the other side of Council should guard very carefully their power to prevent extraordinary powers being vested in any one individual. I entirely agree with their feelings in the matter that powers which are going to vitally affect the public should be conferred on the Governor after he has had the advantage of the advice of the members of his Executive Council, and as long as I am here I am certainly not going to try and get in the thin edge of the wedge by trying to confer powers on Members which should not be conferred on them. (Applause.)

The hon. member Mr. Ohanga made a number of points. By the way, we are not proposing—it never has been done and I do not suppose it is ever likely to be done in the future—to provide Saville Row clothes for prisoners. I often think that the clothes they supply are very far from Saville Row. You usually cannot mistake where they come from!

(Mr. Foster Sutton)

About corporal punishment, I am not sure I agree with the hon. member. I have not had enough experience of it to be able really to express an opinion (laughter), but I think that for some of the offences it is probably advisable to any way have the power to impose a very heavy sentence. For instance, a man who commits an act of personal violence on any other person in a prison officer is not a very pleasant one, and I think you ought to have some very strong deterrent which will make a prisoner think twice before attacking a prison officer. I think that reserve power to award a fairly considerable amount of corporal punishment ought to be there, but I will promise to consult the Commissioner of Prisons because he is a man of considerable experience over a long period of years on prison matters and matters of this kind. I am perfectly prepared to consult him and see if it is right to make any amendment regarding the number of strokes that can be administered. I am doubtful about it myself, but I am prepared on behalf of Government to listen to reason, if there is any reason in it.

May I say that I did feel at one time that we ought to have referred this bill to a select committee, but if hon. members have any other views about it or suggestions to make I should be glad if they would let me have them between now and August (that is why I suggested leaving its further stages to August), and we can discuss them and probably save a select committee. I certainly would consider most sympathetically any suggestions that I might receive.

Overcrowding in cells: it is deplorable and nobody wants to do it. At the moment there is overcrowding, serious overcrowding, through lack of accommodation. Nobody is keener on preventing it than the Commissioner and his officers, and as soon as additional accommodation is available the overcrowding will cease. I entirely agree with the hon. member that it ought not to be allowed to continue indefinitely.

I sympathize with his comments on clause 25 and I will raise the matter with the Commissioner, because I think it is a very heavy penalty myself.

I have already dealt with the point made by the hon. Member for Aberdare

and I am not at all sure, having listened to him, whether I entirely agree with the Commissioner of Prisons' reasons for wishing to retain the present provision. I cannot see why he should not be able to instruct his officers, so that they do not award stupid punishments. He can lay down some sort of principle on which they can act. That being so, I will have a talk with him and make the amendment when we come to deal with it.

I do not think there are any other points of substance. I am grateful for the remarks made by the hon. Member for Nairobi North about the visiting justices. There has been a good deal of feeling in the past. It is intended that official visitors should be appointed on a completely non-racial basis. There are a lot of people interested in the work. I know that some members of this Council and people outside are very interested in the prisoners and their welfare, and that is the sort of person you want to get, because very often they can be extremely helpful and they act as a sort of protection to the prisoners. They will be selected, as I said before, very carefully. I can think of no hon. member of this Council to whom I would take exception to being appointed. If anyone wishes to take an interest and to be appointed, and will let me know, I will see that his name is submitted to His Excellency the Governor.

The question was put and carried.

ADJOURNMENT

Council rose at 12.45 p.m. and adjourned till 10 a.m. on Thursday, 15th July, 1948.

Thursday, 15th July, 1948

Council reassembled in the Memorial Hall, Nairobi, on Thursday, 15th July, 1948.

His Honour the Vice-President and Speaker took the chair at 10.05 a.m.

The proceedings were opened with prayer.

MINUTES

The minutes of the meeting of 14th July, 1948, were confirmed.

PAPERS LAID

The following paper was laid on the table:—

BY MR. RANKINE:

Development and Reconstruction Authority quarterly report for the period 1st April to 30th June, 1948.

ORAL ANSWERS TO QUESTIONS

No. 53—D.A.R.A. PLANS

MAJOR KEYSER:

Will Government please state whether Legislative Council will be given an opportunity of debating any alterations in the existing plans of D.A.R.A. as a result of the deliberations of the D.A.R.A. Planning Committee or any other plans that may be formulated.

MR. RANKINE: Yes. This Council will be given an opportunity of debating any material revision of the recommendations of the Development Committee which the Government may wish to make either as a result of the deliberations of the Planning Committee, or as a result of any other representations which may be received.

BOARD OF COMMERCE AND INDUSTRY

APPOINTMENT AND TERMS OF REFERENCE

MR. HOPE-JONES: Mr. Speaker, I beg to move: That this Council, being mindful of the representations made by organized commerce and industry and the recommendations made by the Development Committee concerning the reorganization of the Trade Advisory Committee, resolves that a Board of

Commerce and Industry be appointed, with the following terms of reference: (1) To keep under constant review commercial and industrial legislation, including commercial and industrial aspects of customs and excise, and to make recommendations to the Secretary for Commerce and Industry on any other matters affecting commercial and industrial development which may be referred to it; (2) to advise the Secretary for Commerce and Industry on policy concerning the encouragement and development of industries and mining in the Colony and Protectorate.

I have peculiar pleasure in moving this motion because, for a number of years, the establishment of a Board of Industry and Commerce has been a declared objective on the part of industry and commerce in all the three territories, and in Kenya in particular. This is an objective which has not been peculiar to any one racial group. For one moment I will go back a little way and refer to a resolution passed at the annual session of the Association of Chambers of Commerce of Eastern Africa as long ago as the 1st October, 1944, when a resolution was passed urging that an advisory committee on trade and commerce should be set up preliminary to the establishment of a Board of Industry and Commerce. The Federation of Chambers of Commerce of Eastern Africa also supported the idea at least as long ago as three or four years. Among the leaders in putting forward these ideas, to mention only those who are dead or who have left the Colony, were Mr. Ben Sayer, Mr. Bargman and the late Mr. Pandya.

To-day, in moving this resolution, I feel that I am not just speaking for myself; not indeed just speaking for the Government, but speaking for a great many men who had a vision of industry and commerce providing that essential alternative basis for the economic prosperity of these territories. The Development Committee, too, of which I was a member, when considering development in regard to industry and commerce, also made a recommendation that the Trade Advisory Committee should be reconstituted on a wider basis with more specific terms of reference.

[Mr. Hope-Jones]

Now I would draw the attention of hon. members to the terms of reference of the Board. I am particularly sorry the hon. Member for Mombasa cannot be in his place to-day because he and I drafted these terms of reference together.

They are agreed terms of reference. We were, in fact, over six weeks ago asked by the Trade Advisory Committee, of which I am chairman and of which he is one of the original members, to act as a sub-committee and produce a draft, and at a higher level, too, we were entrusted with this task. The terms of reference are, quite frankly, experimental. They are not the final definitive terms of reference of the Board of Industry and Commerce, and naturally the time will come, we all hope, when in the light of experience it will be possible to make use of this Board to a greater extent than perhaps these terms of reference imply. They were, however, carefully considered and we feel that sufficient scope is given for growth and development. At a later stage, as I say, it will probably be necessary to revise them.

To come now to the question of membership. Here again this has been discussed at length on the Trade Advisory Committee—this Board will, of course, take its place—and various suggestions were made. It had also been previously considered by the Federation and by the Association of Chambers of Commerce, and there have been discussions at other levels. It is suggested that for a start, at any rate, the Board should consist of a chairman (myself), the Assistant Secretary for Commerce and Industry as vice-chairman, and six members to be nominated by the Association and the Federation acting jointly. That is because on the Trade Advisory Committee, during the two and a half years I have been chairman, there has not been one single instance of any racial division as regards voting on any single question affecting industry and commerce, and it was felt that by having joint consultation in making recommendations to His Excellency the Governor in regard to these six members we can carry still further the process by which, in matters affecting industry and commerce, organized industry and commerce have spoken with one voice. As regards this Council,

we suggest that four members should be nominated by unofficial members of Legislative Council, and further that one member should be nominated by the Chamber of Mines; that the Members for African Affairs, and for Agriculture or their nominees, should be members, and two members should be nominated by His Excellency the Governor on the recommendation of the Board. We felt that the last provision was necessary to provide a certain degree of flexibility, possibly to bring into our councils an outstanding man who would not qualify in other ways.

At the same time I should like at this stage to say that it may be necessary to co-opt or appoint further members: the Financial Secretary, for instance, may wish to have a representative on the Board. It may again be necessary to have a second member from the Chamber of Mines. The reason why we put down one at this stage is because on that particular aspect there has not yet been opportunity for full consultation. I do not think I need detain hon. members much longer with the question of composition. There is also a case for co-opting, possibly without a vote, such officials as the Assistant Commissioner of Mines to assist in our councils.

As we hope to work to a very large extent in committees, because this is a somewhat large board, the committees must have the right to co-opt into their discussions any persons of outstanding experience, or valuable experience, to assist us in our deliberations.

I do not think I need say very much more, except that a Board of Industry and Commerce for Kenya alone is again a half-way house. I am now speaking entirely for myself, having had some experience of business, and I can say that business, commerce and industry are inter-territorial. Commerce does not stop at artificial lines drawn across the Ashi Plains, or an imaginary line drawn through the middle of Lake Victoria. We must look ahead to a Board of Commerce and Industry in good time for the whole of these territories of Eastern Africa. A Kenya Board is, in my submission, a step in the right direction, a mission, a step which perhaps in the past government of a colonial character have not perhaps fully appreciated the importance

[Mr. Hope-Jones]
of. It is a step by which those people can be drawn into the councils of the Government, to the very great advantage of Government, and I hope and trust to the advantage of trade and commerce in East Africa.

As I said, I do not consider that I am speaking for myself alone in this matter. I feel that I am speaking for a great many men, some of whom are dead, some of whom are still alive and active, who had a vision of this territory, and of these East African territories, as providing the sinews of strength not only for ourselves but for the British Commonwealth. It is true that agriculture—primary production—must be the basis of it all. Without it there would be no future for these territories, or indeed for any others; but, complementary to that, as Cecil Rhodes pointed out, upon the fruitifying labours of commercial men and industrialists the British Empire has been to a very large extent built. I feel that by establishing this Board, if we can go on in the way we hope to, we will draw into the full councils of the Government, not only of this territory but ultimately of all three territories, experience and knowledge the value of which cannot possibly be exaggerated. I have great pleasure in moving.

MR. VANEY: Mr. Speaker, in the absence of the hon. Member for Mombasa I have pleasure in seconding the motion before the Council. Perhaps I had better place on record that the hon. Member for Mombasa is absent because he is acting as a substitute member on the Standing Finance Committee of the Central Assembly.

A great number of the members on this side of Council, among them men like the hon. Member for Mombasa, have for years pressed for a policy of economic industrial development, which the present motion may be regarded as one part. Some time ago this Council accepted a motion that there should be appointed a Member for Commerce and Industry, because it recognized that the time had come when something in the nature of a firm and solid policy of encouragement for the development of commerce and industry had arrived. The hon. mover has spoken about the composition of the board which it is now

proposed to set up. On that, he has just said, commerce and industry knows no boundaries and no frontiers, and I would say that commerce and industry, like economics, knows no race or colour. If a man is poor he is poor, whether he is white, black or brown, and if a man is rich he is also in the same state, irrespective of his colour. It is important, therefore, that from the very beginning, on a board of this kind, which will have a very vital influence on the development of this country, there should be no criterion for membership except merit, ability and, above all, experience. (Hear, hear.) Further than that I will not deal with the composition.

On the terms of reference I would say that I agree with the hon. mover. They can at this stage only be regarded as experimental. It will not be long, in my opinion, before this Board of Commerce and Industry begins to seek something in the nature of executive powers, because problems of commerce and industry are the same as problems of agriculture and cannot continually be dealt with on an advisory basis. I shall look forward before long to seeing a request from this board that, in certain groups, at any rate, of action it shall be given executive powers.

The reason why I personally would accept the terms of reference as laid down in the motion is that this is an experimental period, and obviously during that experimental period both the powers and composition of the board must be made as flexible as possible.

The hon. mover went on to deal with one other aspect on which I feel I must express a personal opinion. He regarded this as being the first step to an East African position, in which the industrial and commercial problems shall be dealt with on an East African basis. With that I am to some measure in agreement, but I would say at this stage in some measure only. This Colony has never, until recently—and I would say with all due respect that it has not, got it now, it is merely developing it—had a definite policy with regard to its commerce and industries which is so essential to its economic well-being. Because of that lack of policy, we have not developed our share of the industries of East Africa. We have not yet, as far as we can see, as a Colony been blessed with the mineral

[Mr. Hope-Jones]
wealth and the other wealth that lies to the north and to the south of us. Whether we have that wealth within our Colony is a matter for research and investigation. We are, however, the principal contributors in so far as finance goes to the East African Assembly, and I say as I said before, that it is for some time on the shoulders of the Kenya taxpayers that the main burden of East African development through the Central Assembly must fall. We must, therefore, see that we ourselves are well equipped to carry that burden, and we must see that we take a firm stand against any suggestion that at this stage we sacrifice any of the few sections of commercial and industrial development which can be concentrated within our border.

For that reason I say that at this stage we can only accept in some measure the suggestion that we are in any way ready to move towards an East African Commercial and Industrial Board. I am jealous of the control that Kenya shall have of its own commercial and industrial development at this stage. I am not jealous in any narrow sense, but jealous because I believe that here will lie the main energy that will drive forward that policy, and the remarks the hon. mover made when moving the motion on the industrial licensing schedule yesterday were an illustration of that. Commerce and industry to us are vital and essential to enable us to have a balanced economy, and if there is to be any suggestion of negation in the development of that policy from any other territory, then the sooner we move individually the better.

With those remarks I beg to second the motion on behalf of the hon. Member for Mombasa, and to express my own personal pleasure that it has been possible to bring it forward.

MR. MADAN: Mr. Speaker, it gives me great pleasure to support the motion. I believe that the existence of such a Board will give rise to regulated and sane commercial and industrial enterprises. I also believe that such a Board will be conducive to encouraging the commercial community to enter into bigger commercial ventures and to undertake industrial enterprises.

It is gratifying to know that the terms of reference include the power to make

recommendations in regard to customs and excise. This, we believe, will give the commercial community a chance to enter into competition and to the removal of hindrances which at present exist and which are unfavourable. It is also gratifying to note that the composition of the Board will be fully representative of all sections of the communities in this Colony. I have no doubt that they will be able to work together in complete harmony.

Like the hon. previous speaker, the hon. Member for Nairobi North, I am also very jealous, and I would be very slow to give way to the blessings and advantages that we enjoy in this Colony being lost to us as the result of the expansion of this Board on the basis of an East African Board. But if we are satisfied that the expansion of the activities of this Board will prove of further benefit to this Colony, and not lead to any disadvantage in commerce or industry, surely the Indian members will not be slow to support such an idea.

I beg to support.

MR. OTHANGA: Mr. Speaker, on behalf of myself, my colleagues and the African community of this country, I rise to support the motion before Council this morning. The African people being at present largely an agricultural community, I do not think that industry and commerce concern them to any great extent, but times are changing rapidly and the Africans will no longer be only an agricultural community, and for that reason I welcome and support the motion before Council.

There are one or two points I should like to make here and now if I may. The first is that nothing that has been said by the hon. mover or the Member for Nairobi North will interfere with the right of the African community to the have direct representation on the proposed Board. If we consider only the three points which have been outlined by the hon. Member for Nairobi North—that is, merit, ability and experience—I can see that a very large number of Africans will have little part to play. While agreeing completely with the hon. Member that merit, ability and experience are essential for membership, I should also like to point out that mutual consultation is equally important, for

[Mr. Ohanga] whatsoever is said or done in the absence of any racial group is liable to cause a certain amount of suspicion, and for that reason I feel that whatsoever is done or said should not debar Africans completely from participating directly on any of these bodies that may come as a result of the bringing into being of a Board of Commerce and Industry. I am sure that the Africans will do their best in every way they can to co-operate, because in the absence of adequate land to absorb the population, they have little alternative except to turn to industry and commerce, and this vitally concerns their future.

With those remarks I beg to support the motion.

MR. SHATRY: Mr. Speaker, I support this motion, and I would draw the attention of this Council to the fact that there are many Arab traders on the Coast and it would safeguard the interests of my community in trade and industry if at least one Arab were appointed to this Board. I quite agree with the views of previous members, and I wholeheartedly support this motion. (Applause.)

MR. EDVE: Mr. Speaker, I was very glad to hear from the hon. member his reference to the possibility of increased membership in regard to the Chamber of Mines, and I am sure he would be the first to agree that such an old-established industry should be adequately represented. I was also very glad to see in paragraph 2 of this motion that the function of this Board is to advise on a policy of encouragement and development. We have on a number of occasions had protestations from Government of their desire to encourage the mining industry. I would just like to say, in support of this motion, that I only hope this Board will go a great deal further in this policy of encouragement, and will provide some planned and genuine encouragement to an industry which may well prove of great value to this Colony.

MR. HOPE-JONES: Mr. Speaker, I do not think I need detain this honourable Council (laughter) for any length of time.

To deal with the very important point raised by the hon. Member for Nairobi

North first. I entirely agree with him that so far we have not worked out a planned policy for industrial development. I secondly agree that it is absolutely essential that we do so, and that is why the hon. Member for Mombasa and myself in drawing up the terms of reference brought in the second paragraph, where I think hon. members will see there is specific cover to produce such a plan. I feel that to consider such a plan will be the first major task of this Board of Commerce and Industry. It is a task in which, as the hon. member said, experience must count; where we must be able to call on the store of experience of industrial and commercial leaders in this country.

The second very important point raised by the hon. Member for Nairobi North was the question of East African development. For the purposes of record, I should like to emphasize that in moving I stated that I was looking ahead. I did not define the term of years—some people would say months, I prefer to say years—in which I was looking ahead, but I am sure the hon. Member for Nairobi North and every member of this Council, while being absolutely determined to safeguard the legitimate rights and, far more important, the legitimate rights for further development inside Kenya as a first requirement, at the same time will recognize that commerce and industry cross frontiers and does as an ultimate objective look towards the time when we can operate upon an East African basis. In saying this, however, I do wish to emphasize that I am in full agreement with what hon. members have said as to the necessity of seeing that in the process our own rights and privileges are not whittled away; that there is in fact a tangible *quid pro quo* for what we have to contribute ourselves.

Turning to the comments made by the hon. Member for African Interests, I can state quite categorically that in this Board of Commerce and Industry as envisaged there is absolutely nothing to debar the appointment of suitable—and I emphasize suitable—and qualified Africans when they can be found. It is not a simple matter (I am sure the hon. member will excuse me in making this point) to become expert in either commerce or industry. As the hon. member

[Mr. Hope-Jones] said himself, it is a comparatively recent development that the African is playing a part in commerce and industry. My hon. friend the Chief Native Commissioner and I are both anxious to promote African progress along the right lines in that direction by every possible means and, as I say, there is nothing in the terms of reference to debar suitable African representation.

To deal with the point raised by the hon. Member representing Arab Interests, there is again nothing to debar Arab representation. In fact, if both the hon. members who spoke on this point consider how the membership will be appointed, they will realize that there is no reason why, provided they have the agreement of their colleagues, they themselves should not be appointed. In commerce and industry there are no bars of race, colour or of creed. Admission to the councils of industry and commerce is dependent on experience, is dependent on honesty, and is dependent on a tradition of integrity which, within the British way of life—and I use that in its proper sense—within the British way of life is the basis upon which commercial practice over the whole world, where it is worth anything at all and where it is not merely racketeering, has been built.

In closing, I do want to say how very much we as a Government, and I in particular during the last two and a half years, owe to the advice and help that I have already received from the representatives of industry and commerce—I might almost say my colleagues in industry and commerce. I have every hope and belief that that co-operation will continue to be forthcoming, and together very considerable things can and will be achieved. I do not think that I need say any more, except that I welcome every point made from the other side. This is not a matter upon which we have agreed to create an instrument. What remains is the far more difficult task of using that instrument properly, by creating a sound basis for the planned development of industry and commerce in this country, and to advance, as I have often said before, towards that alternative basis upon which the future of Kenya as a pros-

perous and happy and contented country can be built.

The question was put and carried.

Council adjourned at 10.45 a.m. and resumed at 11.15 a.m.

MR. HOPE-JONES: Mr. Speaker, with your permission and the permission of hon. members, I wish to deal with a personal point and apologize to the hon. Member for Nyanza because I omitted in replying to the debate before the adjournment to answer his question, which was, would the Government do everything possible to promote the interests of the mining industry? I am very pleased to say that it is the policy of the Government to take every practicable step to promote the welfare of the mining industry. I can only say that I regret very much omitting to say that, and I do wish to emphasize that it is my policy and it is the policy of the Government.

BILLS

IN COMMITTEE

MR. FOSTER SUTTON moved: That Council do resolve itself into committee of the whole Council to consider, clause by clause, the following bills: The Government Staff Provident Fund (Amendment) Bill, Diplomatic Privileges (Extension) Bill, Increase of Rent and of Mortgage Interest (Restrictions) (Amendment) Bill, Land and Agricultural Bank (Amendment) Bill, Control of Life Assurance Business with Natives (Amendment) Bill, Civil Procedure (Amendment) Bill, Probation of Offenders (Amendment) Bill, Native Exemption (Amendment) Bill and Explosives (Amendment) Bill.

MR. HOBSON seconded.

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

Land and Agricultural Bank (Amendment) Bill

Clause 6: MR. EDVE moved: That the clause be amended by substituting a comma for the full stop at the end and adding thereafter the words "which consent shall not be unreasonably withheld".

The question of the amendment was put and carried.

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

Mr. FOSTER SUTTON moved: That the Land and Agricultural Bank (Amendment) Bill be reported back to Council with amendment, and the remainder without amendment.

Mr. HOBSON seconded.

The question was put and carried. Council resumed, and the Speaker reported accordingly.

THIRD READINGS

Mr. FOSTER SUTTON moved: That the following bills be read the third time and passed: The Government Staff Provident Fund (Amendment) Bill, the Diplomatic Privileges (Extension) Bill, the Increase of Rent and of Mortgage Interest (Restrictions) (Amendment) Bill, the Control of Life Assurance Business with Natives (Amendment) Bill, the Civil Procedure (Amendment) Bill, the Probation of Offenders (Amendment) Bill, the Native Exemption (Amendment) Bill, and the Explosives (Amendment) Bill.

Mr. HOBSON seconded.

The question was put and carried and the bills read accordingly.

ADJOURNMENT

Council rose at 11.35 a.m. and adjourned till 10 a.m. on Tuesday, 10th August, 1948.

Tuesday, 10th August, 1948

Council reassembled in the Memorial Hall, Nairobi, on Tuesday, 10th August, 1948.

His Honour the Speaker took the chair at 10 a.m.

The proceedings were opened with prayer.

ADMINISTRATION OF OATH

The Oath of Allegiance was administered to: C. H. Hartwell, Esq., Director of Establishments, as a Temporary Member.

MINUTES

The minutes of the meeting of 15th July, 1948, were confirmed.

PAPERS LAID

The following papers were laid on the table:—

By Mr. FOSTER SUTTON:

Report of committee appointed by His Excellency the Governor to make recommendations regarding the procedure to be followed under section 7 of the Immigration (Control) Ordinance, 1948.

By Mr. TROUGHTON:

Report of Director of Colonial Audit on the accounts of Kenya for the year 1945 with Kenya dispatch No. 92 thereon.

Copy of dispatch from Secretary of State for the Colonies on the subject of United Kingdom income tax rates on emoluments of residents of East Africa who joined the United Kingdom Forces during the war.

Schedule of Additional Provision No. 1 of 1948.

By Mr. THORNLEY:

Comparative statement of Europeans employed in administrative districts 1939-1948 in reply to Question No. 58 by hon. Member for Aberdare.

By Mr. ROBISS (Commissioner of Lands, Mines and Surveys):

Returns of land grants under the Crown Lands Ordinance, 1st October-31st December, 1947, and 1st January-31st March, 1948.

ORAL ANSWERS TO QUESTIONS

No. 54—PUBLIC DEBT OF KENYA

MAJOR KEYSER:

Will Government please notify the decisions taken in regard to the Public Debt of the Colony resulting from the recent discussions by the Financial Secretary with H.M. Treasury in London?

Mr. TROUGHTON: Yes, sir. It was agreed that it would be within the limits of sound financial policy for the Kenya Government to incur on its own behalf, and excluding any amounts borrowed on behalf of the East African Railways and Harbours Administration or on behalf of municipalities, a public debt of 20 million pounds in total, provided that the present healthy financial position continues. This agreement does not imply any commitment on the part of H.M. Government to allow loans to be issued on the London market or any forecast about the conditions on that market at any given time.

Mr. VASEY: Arising out of that answer, will the hon. Financial Secretary tell us whether consideration will be given to going to other markets for money than London should the need arise?

Mr. TROUGHTON: The answer to that is in the affirmative.

No. 56—BURSARIES FOR ARABS

Mr. SHATRY (Arabs):

Are there any Government bursaries or scholarships for Arabs? If the answer is in the affirmative, why does nobody seem to make use of these opportunities?

Mr. THORNLEY: Provision exists in the 1948 Estimates for the award of Government Arab Overseas Bursaries. Two applications for the award of bursaries in 1948 have been received; both applicants wished to study medicine, but neither had the minimum qualifications necessary for admission to a British medical school. An attempt was nevertheless made to place the better qualified of the two applicants in a medical school, but without success.

No. 57—ARAB HOSPITAL ATTENDANTS

Mr. SHATRY:

Has Government any intention of obtaining the services of qualified Arabs in such Government hospitals as those where a good number of Arab patients attend?

Dr. MACLENNAN (Director of Medical Services): Government would readily employ qualified Arabs in hospitals where Arab patients are accommodated, and in other hospitals also.

So far, no applications have been received from qualified Arabs for such employment. Suitable Arab candidates will, however, be readily admitted to the Medical Training School in Nairobi for training as hospital assistants, compounders, etc., whilst any tendency from members of the Arab community to seek high medical qualifications at Makerere and elsewhere will be equally welcomed.

Mr. SHATRY: Arising out of that reply, has any approach been made through any of the Arab schools for Arab boys to study in any of the hospitals, etc.?

Dr. MACLENNAN: I am not quite sure if any definite approach has been made to the Arab schools, but on a recent visit to Mombasa I asked the senior medical officer of health to consult with the principals of Arab schools to see if there were any candidates available.

No. 58—EUROPEAN OFFICERS IN ADMINISTRATIVE DISTRICTS

Mr. HOPKINS:

Will Government please provide a comparative statement showing, department by department, the number of European officers employed in each administrative district (excluding Nairobi and Mombasa)—

(a) in January, 1939;

(b) in January, 1948?

Mr. THORNLEY: A comparative statement showing, department by department, the number of European officers employed in each administrative district, excluding Nairobi and Mombasa, in January, 1939, and January, 1948, was laid on the table this morning. The complete accuracy of the 1939 figures cannot be guaranteed after this lapse of time, but they are substantially correct and are based on reports from the departments,

NO. 60—ARAB SCHOOL IN NAIROBI

MR. SHIATRY:

Since there are no Government schools for Arabs except at the Coast, will Government erect one in Nairobi to serve Arabs living away from the Coast?

MR. THORNLEY: No demand for a Government Arab School in Nairobi has yet been received. If application is made, accompanied by full particulars of the number of children involved, careful consideration will be given to the question of establishing a primary day school. Boarding accommodation for Arab boys at the secondary stage will be provided in the new boarding school to be built at Mombasa.

NO. 61—TOURIST TRAFFIC POLICY

MR. NICOL:

Will Government please declare its policy in regard to tourist traffic and the place which it intends this industry to occupy in the economy of Kenya, and will Government give an assurance that its policy will clearly be made known to every member of the Government concerned, even down to the lowest grade of officer in any way likely to meet or deal with tourists?

MR. HOPE-JONES: The Government attaches great importance to the development of the tourist industry in Kenya and considers that it should occupy a high place in our economy. As an earnest of its interest in the matter, the Government took a prominent part in the formation of the East African Tourist Travel Association. It contributed a non-recurrent grant of £5,500 to the capital expenses of this Association on its formation and intends to recommend to the Legislative Council an annual contribution of £1,500 towards its recurrent expenses.

The Government will certainly undertake to impress upon all Government servants the importance which it attaches to its policy of encouraging tourist traffic. This was one of the considerations which influenced my hon. friend the Chief Secretary recently when he issued a circular to all departments and Government officers on the subject of courtesy and expedition.

MR. NICOL: Arising out of that answer, will Government inform Council if they are aware of the grave discourtesy meted out to passengers arriving in the Colony at Eastleigh aerodrome by customs officials?

MR. VASEY: Arising out of the answer, will Government undertake—

THE SPEAKER: I cannot have two supplementaries at once, we must get the answer to the first.

MR. THORNLEY: Mr. Speaker, perhaps I might reply, simply to say that Government is aware that dissatisfaction has been expressed by travellers arriving at Eastleigh. I would like to give an undertaking to the hon. member that if passengers, and anybody else, will bring to Government any complaints which they have about their treatment at Eastleigh, Government will go into every case with the greatest care. Government wishes, and will impress on those officers, that they must use their discretion as best they may in dealing with sometimes very difficult problems that come before them, but Government does and will impress on those officers the importance which it attaches to the speedy and courteous handling of passengers on their arrival at Eastleigh. (Hear, hear.)

MR. VASEY: In view of the fact that complaints have been made and that the discourtesies still continue, will Government give an assurance to this Council that, should such discourtesies continue, the officer concerned will be warned that dismissal will result?

MR. THORNLEY: Most certainly, if any case is reported to Government in which it is made quite clear that the officer concerned showed unnecessary discourtesy I give the assurance asked for. (Hear, hear.)

MR. VASEY: —

MR. SPEAKER called the next question standing on the Order Paper.

MR. VASEY: Sir—

THE SPEAKER: We have had several supplementaries, and you have received ample assurance, so I have called the next question.

MAJOR KEYSER: On a point of order, I should like to make a protest about this. It is a matter that is affecting the Colony very deeply, and we do think we have not elicited sufficient information

[Major Keyser] from the hon. member who is making the replies.

THE SPEAKER: Then I suggest that the proper course is to put down a motion and have a debate on it, but you should not turn question time into a debate.

MR. HOPE-JONES: I would be very happy to answer any supplementaries put to me. (Hear, hear.)

NO. 62—LAND AND AGRICULTURAL BANK (AMENDMENT) ORDINANCE, 1940

MR. MATHU:

(a) Will Government please state whether they would re-enact *in toto* or with modifications the Land and Agricultural Bank (Amendment) Ordinance, No. 14 of 1940?

(b) If the answer is in the affirmative, will Government please appoint a committee of the Legislative Council to go into the whole question of chattels as security for Land Bank advances?

MR. TROUGHTON: The decision not to seek to extend the life of the Land and Agricultural Bank (Amendment) Ordinance, 1940, beyond the 31st December, 1947, was taken after full consideration of all the factors involved and as at present advised the Government does not consider its re-enactment either necessary or desirable.

In view of the answer to the first part of the question, the second part does not arise.

MR. MATHU: Arising out of the reply, would Government say how they are going to enable Africans to borrow money from the Land Bank without chattels mortgages?

MR. TROUGHTON: On a point of order, does that question arise from the reply which I gave?

THE SPEAKER: Unless I have the ordinance before me I cannot tell you.

MR. TROUGHTON: The answer to the question is that, so far as the Land Bank is concerned, the Bank is of the opinion that it cannot lend to Africans unless the loan is guaranteed by the Government. One such loan has already been negotiated.

THE SPEAKER: I would take it that the Land Bank Ordinance only works on the security of land tenure, and that it is not designed for Africans. That is the real answer, is it not?

MR. TROUGHTON: That is correct, sir.

CUSTOMS AMALGAMATION

MR. ANDREWS: Mr. Speaker, at the request of hon. members opposite I ask the leave of Council to defer the motion standing in my name, relating to the proposed customs amalgamation, to another day.

The motion was by leave deferred.

COST OF LIVING

PROPOSALS FOR REDUCTION

MR. ERSKINE: Mr. Speaker, I beg to move: That this Council, recognizing that the high cost of living in Kenya, besides causing individual hardship, is hampering development and, if permitted to continue, will have a retarding effect on both primary production and secondary industry, is resolved to reduce the price to the user and consumer of imported materials and goods, firstly, by reducing customs duties to a level more in accord with the recommendations at paragraph 109 of the Plewman Report (wherein it was stated that a fair and, just measure of fiscal equity was likely to be achieved for the present so long as the yield of indirect to direct taxation remained proportionately of the order of one and three-quarters or two to one; secondly, by modifying the arbitrary powers of the Commissioner of Customs whereunder he now levies burdensome penalties or inflicts clearing and forwarding delays in those numerous instances where overseas shippers fail, in some small particular, to comply with the exacting requirements of H.M. Customs in regard to invoicing procedure; thirdly, by increasing healthy competition and by encouraging a gradual return to the rule of "consumer's choice" by a meticulous adherence to the rule and spirit of the Secretary of State's revised instructions contained in Telegram Circular No. 113 of 27th December, 1947 (which stated, *inter alia*, that there was no objection to the relaxation of "restrictions on imports of goods from the sterling area, with the exception of a tentative list of 14 items, from which one (beer) has since been deleted).

[Mr. Erskine]

A similar motion was proposed on the 18th March of this year, and only last night I read through the ensuing debate, which I found most illuminating and which covered very nearly all the points that I can hope to make in this speech. What I did note, however, was that the actual wording of the motion did seem to lack teeth. It seemed to me that there was no result that could ensure from the passing of that motion. At the time that I first read it several months ago it occurred to me that some definite action was required if the cost of living was to be reduced in Kenya.

I want to refer to one or two extracts from the very able speeches made by my hon. friends on both sides of Council on that occasion. The hon. Member for Nairobi North, who was moving the motion, first of all spoke on behalf of the European community, and he stated that it would be correct to say, in the towns at any rate, that the greater proportion of the lower income group of the European community were only enabled at the present moment to keep free of debt by the fact that both sides of the family—the man and the woman—go out to earn. "That", he said, "is not a desirable state in any community, and extremely undesirable in a community situated as the European community is situated." In another extract he spoke of hardships to the Asian community, and in a third extract he spoke of the African community which, apart from its growing need, or growing demand, for goods which can only be purchased for cash, was also finding that those needs, which are necessary today, were increasing in price. I emphasize those words "which are necessary today". Every increase, therefore, which takes place that affects the basic structure of economy in that way means that right throughout everything there must be an upward tendency.

At the risk of wearying hon. members, I should like to say that there is one more extract I must read. The hon. Member for Nairobi North, continuing, said: "I believe that we have got to face that situation with a great deal of courage, and take drastic action in order to stem this upward tendency. The action will be unpopular at the beginning, but I believe that in the long run it will be

proved to have been of benefit to the community and the economy of the country as a whole".

I should also like to say how much I appreciated and how much I learned from, the speech of the hon. Financial Secretary. I will not make any quotations from it, but will pass on to the speech of my hon. friend the Secretary for Commerce and Industry. He came to this Council on that occasion primed with his air-mail copy of *The Economist*—to which I attribute, as he receives it by air, the fact that he always seems to be a jump ahead of me in such matters!—and he said: "No system of economic control can be wholly proof against strong and persistent inflationary pressure, and it will be my object in what I have to say to-day to try and explain that it is possible to do a part of the job; and I would refer again to those words "can be wholly proof". Something can be done, even though the whole job cannot be done.

My hon. friend the Secretary for Commerce and Industry went on: "In terms of economics, if I may bore Council for a moment"—and I feel sure he did nothing of the kind—"we have not yet found any means by which the trade cycle... can be completely eliminated"; but he did not say it could not be partially eliminated, just as he did not say that economic control was not wholly proof against some action.

I maintain that we live now in days of an ordered or controlled economy. In practically no State in the world does there exist the type of free economy which was general in the 19th century and early in this century, and I maintain that the reason for this ordered or controlled economy, which some of us find trying on occasions, is so that the ship of state can answer, at least in some small measure, to the helm in times such as these.

Referring to the first part of the motion before the Council, it will be abundantly clear that it refers to the whole question of customs duties. It aims to attack the whole structure. In the motion as worded I did not go into details as to which items should be reduced, nor did I state how much should be reduced, but I do quote from the Plewman Report "that a fair and just measure of fiscal equity was likely to be

[Mr. Erskine]

for the present so long as the yield of indirect to direct taxation remained proportionately of the order of one and three-quarters or two to one. At a later stage I hope to be able to explain, with figures, that the proportions have now risen from one and three-quarters or two to one, so that they are now of the order of two and a half to one, and are likely, possibly by the end of this year, to go to three to one.

I should like at this stage to say how much I appreciate the encouragement I have had in pursuing my intention of tabling this motion, not only from hon. members and friends, but outside the Council, and this morning when I got up I felt very cheered that there was a good prospect ahead of me of possibly getting my motion accepted. I endeavoured to preserve my sunny outlook by avoiding reading the leading article in this morning's paper, which was unfortunately thrust upon me later, and I should like to quote one sentence therefrom. It states, referring to this motion: "An attack on the customs tariff as it affects imported goods is only trifling with the problem. What is needed is an assault on the widest front on every factor from the taxation and expenditure policy of Government to the profit made on a loaf of bread". In this connexion one should note that when one speaks of profit one is referring, of course, to the other man's profit—not necessarily to one's own!

The only fear I have in regard to the first part of my motion—and I hope I may be forgiven for voicing this fear—is that we know things have been happening recently which may possibly mean that this Colony might, in the first instance anyway, be losing its control over its own fiscal policy. If that were to happen it would indeed be a tragedy. Then we could really say that the Ship of State could no longer answer to its helm, anyway in regard to economic matters. I do hope very much that this is not so and that it will be found, by experiment and experience during the next year (I hope it will not take as long as four years) that there will be some way by which we can move towards fiscal equity and reform if we feel that the right time has come to do so, and we shall not be unduly influenced by our neighbouring territories. This is the fear

I had and I only hope that it will not arise.

Other countries in Europe and elsewhere, and also in Africa—in Rhodesia and South Africa—have gone so far as to subsidize the price to the consumer, to subsidize the cost of those items which figure on the cost of living indices, and in this country such a thing as subsidy of that kind has never been suggested. But perhaps it would be right to point out that, so far from doing anything of the kind, we have gone in the opposite direction, and ever since this country was first started we have drawn our revenue from customs duty, which used to be 20 per cent on most items and which during the war was raised by 10 per cent on some items, making it 22 per cent altogether, and on other items by as much as 100 per cent making it 40 per cent in all. We have loaded imported items with this duty, which I am trying to explain now is inclined to be oppressive. It is oppressive in the sense that the c.i.f. cost of goods has increased considerably, so that an item which cost Sh. 1, like rayon material—you cannot really think of any item of rayon that costs a shilling, but we will take a shilling as the figure—before the war, after paying duty, would land at Sh. 1/20. Having gone up double in price to Sh. 2, and the duty having gone up by 100 per cent to 40 per cent, that item would now cost Sh. 2/80. So that the duty has gone up fourfold. There are a number of these items which figure on the actual cost of living indices which are heavily loaded to this extent.

I have concentrated, in all three points of my motion, on what actually happens at the port of entry. First of all, the question of customs duties; secondly, the way in which the duties are collected and the goods are handled; and, thirdly, in connexion with restrictions on import licences.

Always in a new country there is bound to be a tremendous emphasis on imports. That is bound to happen. I have found in various books I have read lately, of a textbook nature, that economists are very inclined to refer to Robinson Crusoe and his island in order to explain these points. I do not apologize therefore for referring to Robinson Crusoe and his island and pointing out and reminding hon. gentlemen that he also was faced

[Mr. Erskine] with the same problem, since he was not able really to get development started until he had organized a policy of imports! (Laughter.) In his case, if you remember, he had to swim back to the wreck for a musket and a bag of nails! Until he did that it was not possible for him to start on the developmental programme about which we have all read! I refer particularly to that point because I am still rather incensed at what I read in the leading article in this morning's paper, because I did think that my motion, although it does not cover the whole ground, does cover the most important part of the problem, and I am going to prove to you, with figures, later on that the cost of imports to the consumer colours every single facet of the cost of living.

My particular interest in this subject, which dates back quite a long way, is that I am confessedly a townsman of Nairobi and, although I have every sympathy with other parts of the country, this particular burden of the cost of living is severe in this town, particularly severe. I read yesterday that not only is about 37.5 per cent of the non-native population to be found in Nairobi, but also 55.7 per cent of the total earnings of whole-time employees is derived from this area. I took that statement from the report on the census of non-native employees, 1947, of the East African Statistical Department, page 16. A similar picture can be taken from another report—the Census of African Employees—though I have not got it before me at the moment.

In putting forward this motion I have a feeling that a criticism may be that it is unorthodox, or savours of the ideas of a crank, but I want to say that, from all the reading I have done on this subject, it has always been manifest to me that when there is a measure of inflation or rising cost of living, we should veer away from indirect taxation in the direction of direct taxation.

Before I leave the first point of my motion, I should like to make it very clear that there will be no need in this particular instance to increase the incidence on each individual of direct taxation because of two facts which I shall explain more fully later on. Firstly, there is the surplus revenue balances which

can be used, and that is the object of all surpluses—to be used to help the people in difficult times. Secondly, there is admittedly a margin of collection still outstanding in the realm of direct taxation, and in saying this I do not say it in any critical way at all, because I know perfectly well that this Colony of Kenya has made a very rapid advance towards a civilized economy by instituting a system of direct taxation very much earlier than other countries have done in similar stages of development.

In studying to find out what ways there were in actual practice to reduce the cost of living, I originally wrote down about 16 different points, and one by one discarded them as inapplicable to this country until I got the figure to nine points altogether. This particular motion covers three, and covers those points which, I think, are the ones which should be taken first. It is the vast question of imports and exports which forms the background to the whole problem of the cost of living, and, if I may bore hon. members for a moment with figures, Kenya imports during 1947 were £19,097,018, and I have made an arbitrary deduction of £3-million on my own account from this figure for what I assume to be Government importations or capital goods. This does not mean that Government goods and capital goods do not have an effect on the cost of living, but the effect is rather too indirect to introduce into this particular argument. This figure of £16,097,018 represents c.i.f. cost, and, if we add the customs duty of £3,556,748, this figure amounts to £19,653,766.

In other words, after duty is paid at Mombasa the figure of imports, after deducting the non-dutiable Government importations and a proportion of developmental goods and railway engines, rolling stock, and so forth, we still have a figure of nearly 20 millions. There is a further figure to add, a figure of customs collection, which is 2.4 per cent of total collections, being the cost of the Department of Customs. That is described in Sessional Paper No. 3 as a very creditable figure, and I do not dispute that. There is a further 2 per cent to add about which few people know. I know about it, because for 20 years I have been an importing merchant, and I have experienced the cost (which, in

[Mr. Erskine] the final analysis, is borne by the consumer) of this kind of wrestling match which goes on all the time at the coast between the importer and his agent and H.M. Customs. This is the cost, which I have assessed at 2 per cent on the total value of imports, for clearing and forwarding charges and various elements of delay which I shall describe later on.

The figure we have got to is over 20 millions. We still have an estimated figure for railage, which I have put at 6 per cent, which I am told is conservative. That is the average cost of railng goods to all parts of the country. Then there are the profits of the importer and retailer, a difficult figure to assess because one can only take an average, but I put it at the conservative figure of 40 per cent, which covers high-profit goods, low-profit goods, and the various profits allowed to the two or more distributors. Now we get to the figure which the ultimate user or consumer has to pay of £29,873,221. That is really a very remarkable figure, and not only remarkable but substantially correct, and possibly an under-estimate. That means the amount that the consumer or user throughout the country has to pay for the year's imports. In 1947, then, the amount was nearly 30 million pounds, and that colours every single thing that happens in his life, that affects his family budget. The cost of cement and building materials affects his rent; everything that he buys in the shops, the things he wears, transportation—everything is coloured by that figure of the cost of importations. For 1948 it is very difficult to prophesy what the figure is going to be, and I would not care to prophesy, so all I do is to take the figure for the first four months, divide it by four and multiply by twelve or, by another way, just multiply by three. (Laughter.) That gives a figure of £40-million, which will be the cost to the consumer and user in Kenya of imported goods during 1948.

In tackling that figure, which is the only astronomical figure I have ever come across in financial statistics in this country, it seems to me that we are getting at the crux of the whole matter, and I am going to suggest just for the purpose of argument that we tackle that figure in the first instance, with a 20 per cent reduction of customs duties at the

coast. That would mean, in the case of one item where the duty was 20 per cent pre-war, that instead of being 22 per cent as it is now with war surcharges, it comes down to 18 per cent. It is a very small amount, and would have an effect on the budget of half a million pounds. You may say it would make a very small effect on the price of goods in the shops. Actually, after that £500,000 had been added to by the addition all the way up the scale of profits, clearing charges and so on, it reaches a figure of £800,000. Eight hundred thousand pounds is then the figure which I propose to put back into the pocket of the consumer in East Africa, and I consider that is not a sum of money which is insignificant, and I would like hon. members to compare it quickly in their heads with a very similar figure that we shall be discussing during the next few days. This is a measure of relief, a justifiable measure of relief, and it is not a subsidy.

It is possible that the customs tariff could be reviewed in some detail, and instead of taking an average 20 per cent off all customs duties one might concentrate on those particular items which figure in the cost of living index, and it might be possible then to reduce the cost of living not by the 2 per cent, which is the figure I have in mind—which incidentally means three points off the cost of living figure—but to double it. By concentrating on particular items which affect the poorer persons in this country, one might therefore get something in the nature of a six-point drop in the cost of living. That, it is my contention, would bring new hope to the people of this country.

Walking here this morning and dropping into a shop, I mentioned briefly what I was going to say to this Council—(laughter)—very briefly—there was not the time to go into detail! (Laughter.) The lady behind the counter told me her story and put it as clear as a whistle. She said that with her salary, and looking after two small children—I understand after two small children—that it was she is a widow—(laughter)—that it was the margin which was so important. I think she mentioned the figure of £30 a month which she earned, and £28 of that is taken up for essentials one cannot get out of, and whether or not she is able to come out at the end of the month is whether that extra £2 will buy the extra

(Mr. Erskine) It is just that extra. I will give an example—the cost of shoes. A rich man who has a nice car wears out little shoe leather, and if he finds a pair of shoes is Sh. 25 or Sh. 24 it makes little difference; but to a woman with two or three children who has to buy three or four pairs of shoes the reduction of Sh. 1 a pair on that basis would be a most encouraging sign that prices were at least levelling off. It also has this effect on the spiralling of the cost of living: it stops people from feeling that they must press all the time for increased wages and salaries. It shows that at long last there is a levelling off in that appalling cost of living.

In mentioning a figure like half a million pounds and suggesting it should be deducted from the Colony's revenue without suggesting any alternative means of collecting it, perhaps my hon. friends may think that I am going rather too far, but I can only speak now as a man who has had a certain amount of experience in business, and I would only say this, that, if my business was offered extra capital, and if I felt that extra revenue was not going to result and that there would be no extra profits to pay dividends on the extra share capital, I should feel it was not honest to accept that extra capital. We in this country are taking capital in large quantities. It is coming into this country in various ways in order to bolster up and improve every kind of industry in this country, and I think we must understand that we will inevitably result in increased production. If that were not so, then we should not accept that capital, but we should say frankly that this country is incapable of development. But we do not believe that, we believe that it is capable of development, and therefore the trend should surely be from now on to increase and increase wealth, and increase collection of taxation from those sources from which we now collect taxation. I do not need to go into details, but there should be increased revenue from income tax, or even an increase in importations. Increased investment is bound to lead to increased revenue.

In 1947 the customs collection amounted to something over £31-million, and, adding the excise collections, it amounted to £41-million. That

was against the estimate figure, the original estimate, of £2,827,000. In other words, there was a surplus during 1947 on customs, and excise alone of £1,420,636. I have not seen the consolidated trade report for 1947, because it is not yet published, but I have taken these figures from the December trade report, and, subject to minor amendments I have no doubt, the estimated general revenue balance as at 31st December, 1947, was just under £3-million. Actually, if you add the real surplus, which, of course, was ascertained since the publication of the estimates, it comes to £3,640,869. I give that figure as an estimated figure. It is not exact because I do not know what the revenue was from other forms of taxation during 1947; I can only give the figure for customs and excise.

Taking the figure of £4,247,636 for 1947 received from indirect taxation, and taking the figure from the estimates of £1,650,000 as estimated direct taxation receipts for 1947, a quick sum will show that that proportion is two and a half to one. That was taking place, that increase, even while the Plewman Report was being written. It might not have been quite obvious at that time, but that is how it has evolved. The 1948 estimates show that we may expect a surplus of £77,494, and the estimated collection of customs and excise are about £31-million, or slightly over. Taking the average customs and excise collections for the first four months of this year and once again multiplying by three we actually get, including the excise figure, over £5-million, so that we can envisage another surplus of £1,277,001.

I do feel that hon. members may be saying to themselves: "What proof is there that the last eight months will produce the same as the first four?". I cannot help saying that from my own experience as a merchant importations tend to increase towards the end of the year after dropping a little during the middle of a year. If these estimates in any way work out as I have given them, it will be seen that there is ample revenue to cover any possible eventualities which may arise during the next few days which will affect the budgetary figure, and also provide that half a million pounds for which I am asking. As I have explained before, this half a million will result in

(Mr. Erskine) a 2 per cent drop in the cost of living, which is roughly a three-point drop in the cost of living index figures, and might well be turned into a six-point drop if we were to discriminate in those items from which we deduct duty.

I want to substantiate in general terms what I have said about the general equity and ethics of reducing indirect taxation as and when it is possible in relation to direct taxation. I am credibly informed that in developing a civilized state it is generally considered that the relation these taxes should bear to each other is about one to one, but that is an advanced standard of budgeting and cannot be arrived at quickly, and I am not in any way critical of the fact that in this country it was laid down in the Plewman Report that two to one would be suitable for fiscal equity in the present stage of our history. The economists of late seem to have borne out this idea. They were originally against direct taxation, but they generally admit that productivity and ease of collection is something we cannot ignore, even though it militates slightly against equity. John Stuart Mill wrote: "Proper taxation means apportioning the contribution of each person towards the expenses of government so that he shall feel neither more nor less inconvenience from his share of the payment than every other person experiences from their shares". I quote that and compare it once again to the bachelor buying a pair of shoes and the housewife with several children buying several pairs of shoes. Indirect taxation, especially on the necessities of life, is not an equitable form of tax collection, though it has generally been accepted as a very good form of tax collection on anything which is not a necessary and, as hon. members know, there has always been a heavy tax on such items of luxuries like tobacco, champagne and so forth.

I want to refer briefly to a system which the Price Controller initiated some time ago. He called it the factor system, and it is a most equitable system. It was based on a formula—I will explain it briefly this way. If I imported an item valued at Sh. 10 before the war, I might have made a profit of Sh. 2 on it. Say it went to Sh. 20 during or since the war, and, being allowed the same percentage

of profit, I should make Sh. 4. The factor system, applied by the Price Controller, says in effect to merchants, "I recognize your cost of living and your running costs and everything has gone up and I recognize that the reduced value of money must affect you and your business and your wife and children the same as it affects everybody else, but I do not recognize that it is 100 per cent up". Therefore, a formula is put into practice by reducing percentage profits so that it is not restricted to Sh. 2 as before the war, nor is it permitted to be Sh. 4, but some figure in between the two. So I suggest to hon. members that really my contention in the first part of my motion is something in the nature of a factor system, something in the nature of the Price Controller's formula, which might possibly be applied to customs duties, because we know that the vast increase in importations is not an increase in bulk so much as an increase in cost.

The debate was adjourned.

Council adjourned at 11 a.m. and resumed at 11.15 a.m.

The debate was resumed.

MR. ERSKINE (continuing): Mr. Speaker, if I might continue, I want at this stage once again to dispel the idea that I am an opponent, a bitter opponent, of indirect taxation. I merely want to explain that idealistically it can be argued that direct taxes, levied on the principle of ability to pay, are more equitable than indirect taxation, with its scatter-gun effect on all and sundry.

I have during the interval received some figures which I should possibly have had before in connexion with the retail price index as worked out at the present time for Europeans. I have not got the figures, and I do not think the revised figures are published, for Asians and Africans. The present retail price index figure, worked out in accordance with the formula which is accepted as being the most up to date and as exact as any of these things can be comes to 187.1 for Europeans. I will go quickly on to say that that figure is the true figure, and includes the element for the increased duties on alcohol and imported tobacco. The figure, after deducting the new duties on liquor and substituting local tobacco and cigarettes for imported, works out at 178.6. In regard to the Asian and

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African figures, I can only say that they are considerably more than that. The comment I have to make on hearing those figures is that a 2 per cent decrease in the cost of living would be more like a 31-point drop, rather than a 3-point drop which I gave earlier on.

Reverting to the question of indirect and direct taxation, I want to give one further quotation from the words of an economist, Professor Bastable, who said: "The successful administration of the State is the final object, and therefore convenience, or even equity, may have to yield to productiveness". I say this as a kind of sop to my hon. friend the Financial Secretary and to show him that I am very well aware that in his eyes it must always be that productiveness covers a multitude of sins. I hope he will understand what I am trying to say. The time has come now for us to take this step because at this moment prices are starting to level off. It seems to me—and I have information which takes me three, four, five months ahead—that there will be no further increase. Prices, in other words, are leveling off, and surely now is the time to apply that punch in order to send these cost of living figures reeling back.

There is only one way to do it, and that is by using money. Many people suggest alternatives, such as reducing the price of primary products or cutting merchants' profits, which I describe as robbing Peter to pay Paul, to take some off one section of the public and give it to another section of the public. I will not go into any further details except to say that it seems better that the money should be used from the State's surplus, so that everybody benefits, because it is not my intention to make anybody poorer. I want to make everybody richer. I do not want to rob any one person in order to ease the position for any other person. There will be no great degrading of prices as came about after the last war, for the reason that we live in an ordered, controlled economy. So just as I submit that we are able to control in some measure the rising spiral of prices, so I believe we shall be able to control the descending spiral. But now is the time when we can take that step to restore confidence amongst the lower and middle income groups of all races in this country.

I feel quite certain that it is that confidence which the country needs just at the moment when we are starting on a big developmental programme.

I must just say one word about a possible objection to this first point of my motion. There is and always has been in this country, and although I do not subscribe to it myself I sympathize with it, the sword of Damocles, or the fear of income tax. I have heard it said so often that the best place for a taxpayer's money is in the taxpayer's pocket, and I am only trying to explain that these surplus balances—and I am in favour of surplus balances—may possibly be being collected by robbing the poor of pennies which they could not afford. I put it rather strongly because, of course, there is no intention to rob anybody, but it seems to me that these surplus balances were collected not by income tax—a direct tax on people who can patently afford to pay—but from people who were paying without knowing it. Every time a housewife bought anything she hardly knew what she was doing. She paid more for what she bought, which was attributed to all sorts of causes, like the war, but which was nevertheless a form of taxation, but it is the housewife's (of all races) pennies which go to swell this large surplus we have at the moment. Again I say it is not a very large surplus, but it is a surplus, and if my first proposal is put into effect it will not lead to any reduction of that surplus balance. That is what I hope, at any rate.

I am going to turn to my third point, which I am taking before my second point. It is a very simple one, and I submit that there is nothing controversial in merely suggesting that the latest instructions from the Secretary of State (the latest I have seen, that is) should be taken more literally and should be interpreted more approximating to what I gather to be the intention thereof. I will read these words from the instructions which I took from the *Board of Trade Journal* of the 3rd January, 1948: "However", they read, "it is no part of the Government's policy that Colonial territories should be pressed to practise austerity simply for the sake of austerity when neither supply nor balance of payments considerations require it". This communiqué then went on to list a

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number of items which were to be restricted, to be restricted for the reason that they were readily saleable for dollars in other countries, or perhaps, if there were a genuine shortage—a global shortage—the restriction was necessary for all importing countries.

I want to impress on hon. members that these 14 items were marked for restriction and not for suspension. The items, briefly, were "cotton linings and poplins, worsted suitings, linen piece goods, lead, semi-manufactures" (which I for one would not miss), "good quality cutlery, decorated fine chinaware, whisky". I pause there because hon. members all know that whisky is restricted and know why it is restricted. Then there is beer, which has since been deleted (leaving only 13 items), then "manufactured foodstuffs", and may I assure hon. members, as an importer, that manufactured foodstuffs has been whittled down to comprise one line only, which is custard powder. Everything else has come under other classifications, such as beverages, essences, etc.; "manufactured tobacco" which we all know to be restricted, and anyway we cannot afford to buy more than they send us, or even as much as we receive; "glass, plate and sheet, knitted wool garments", which includes woollen stockings, which again we I do not think we ever bought from Great Britain anyway. I want to make it very clear that in my second point I am not referring in any way to dollar goods. I know that we have an allowance of dollars which is probably worked out and allotted to this Colony not arbitrarily by the British Government, but by those who are in charge of the whole sterling area, and we probably get our fair share, whatever it is. I understand that nothing whatever can be done about pressing for more dollar goods, and I never wanted to suggest that for a moment.

I will go on to say that I do realize that there are other implications as well; that there are bilateral agreements between the two main currency areas of the world, and because of the unbalanced terms of trade there must of necessity, perhaps, also be unilaterally imposed conditions, and we can only loyally obey instructions which come to us through the Secretary of State and understand

that we here, not ourselves a party to any of these agreements, must accept them, as they may have been imposed as certain conditions of which we know nothing. For that reason I would always accept without question any strong demand, or any specific instructions emanating from the Secretary of State in regard to sterling imports as well as dollar imports.

I go back to say that there are only 13 items that I know of that have been listed so far in regard to goods from sterling areas. When these instructions arrived they were focused and condensed and then expanded and enlarged, and when I first saw them they occupied four sheets of one of our Sunday newspapers, and the restricted list, instead of containing 14 items contained 27 items, and in addition to that there was a suspended list. We were never asked as far as I am aware to suspend altogether any particular importations, and yet there was a suspended list of 39 items. It is perfectly clear that those 39 items and the other 27 items would all be to some extent in short supply, and that would mean everybody taking the full amount of profit allowed to them because of the restricted action of the law of supply and demand, and would lead to an increase in the cost of living.

I should like to run through very quickly—because I would not like to bore you with all those 66 items—some of the items on the suspended list, just to show you what I mean, and try and explain that there appears to me to be no necessity to delay our return to that great law of consumer's choice which is the greatest defence in the world against a rising cost of living. There was no need to do so by publishing these long lists of items.

The first one is aerated waters. It just happens that from my own knowledge aerated waters from Great Britain, or from the war-devastated countries of Europe, which economically is very much the same thing, were never consumed in Kenya very much, except by visitors, and very often visitors spending dollars. The next item which I am going to give you is champagne and sparkling wine. There again it is not an absolute necessity of life by any manner of means. It seems to me that it just so happens that after a man has waited perhaps 20 years to see his daughter grow up, and the time comes

(Mr. Erskine) for him to get her off his hands—(laughter)—it is the custom that he shall go into the market and buy a requisite number of bottles of champagne for the occasion. Nothing is going to stop him from doing it, even though these goods are restricted or suspended and therefore have gone into what we call the black market. You may say that an article like champagne is an extravagance and would run down our sterling balances (for we have to bear in mind that there is an over-all instruction that we shall not run down our sterling balances). But it is not an expensive drink at all, champagne. The only reason why it is expensive to you, sir, and me and other hon. members, and the rest of the public is because of the duty. In effect, the price before the war was about Sh. 4 a bottle and is now between Sh. 6 and Sh. 10 a bottle, the rest is customs duty. That item was put down for no reason that I can understand, but it is a direct blow by our customs revenue because it carries a very large amount of duty.

There are various other items like gold and silver plateware, perfumes, spirits and things of that kind, and I go quickly on to a list of 10 items on the suspended list, and I have noticed everyone of them is manufactured by a Government concern, and although it may be right and proper that this particular concern should be protected from competition, perhaps to the detriment of the users of those articles, I am not arguing about it, but I do say it was not as far as I know the duty of Imports Control to provide that measure of protection for this particular enterprise. As regards the restricted list, this follows very closely on the list we were given by the Secretary of State together with a certain number of additions, which are all aggravating to consumers, not to the merchant—the merchant thrives on restrictive practices, they make life very much easier for him! The great expense of salesmanship does not have to be incurred as the goods sell easily and quickly. I would impress on you that I am speaking from the point of view of the consumer and not the distributor when I say this, that my motion is a direct attack on the cost of living which bears hardly on the pockets of the man and woman in the street, the consumer.

I am going to turn to my second point. This concerns the customs and the various delays resulting from the activities at the coast of H.M. Customs. In every country in the world nowadays there is a Customs Department, and it is one of the oldest and respected ways of acquiring revenue for the State. But if those in charge of the Customs Department find that the country looks to them more and more for collection of more than half the whole of the revenue of the country, then we are apt to get to a state of affairs which I hesitate to quote, but I will content myself with quoting "*sic semper tyrannis*". One gets that happening always if you put too much power in the hands of one man, for then there is apt to be a certain amount of tyranny. I on one occasion prepared to the best of my ability, from certain facts which I have in a file with me to-day, a memorandum on certain matters to do with H.M. Customs, all of which show how it affects the actual cost of living. I think it will be of use to hon. members if I read out a couple of extracts from this memorandum, for both show how by the action of H.M. Customs the final cost to the consumer must, in the final analysis, be added to.

This is a case where "a firm of Nairobi importers presented a cheque drawn on the National Bank of India, Ltd., for Sh. 20,000 in payment of duty on a consignment of seven packages. The T.D.E. was rejected on the grounds that duty payable was only Sh. 19,990/81, and H.M. Customs stated that the reason for the rejection was that the cheque must be altered to the actual duty amount. This was on a Saturday morning at the Eastleigh aerodrome. The Collector of Customs was contacted and the firm offered to waive the change if it could not be given in cash. In this instance, in order to save H.M. Customs from the trouble of having to receive and count this large sum of money in notes and specie, the National Bank of India, Ltd., cheque was obtained". On this occasion the importers had to go out to the aerodrome twice and back, and in the end they did not get their things and had to wait until Monday morning. All these sort of things which are needless restrictions—(hear, hear)—affect the actual cost to the consumer. It costs money to drive to the airport and back and in the final analysis it means that

(Mr. Erskine) the consumer has to pay, as all merchant entrepreneurs are agents only.

"Another firm submitted their I.D.E. and the necessary cash, but were asked by the officer in charge at Eastleigh to open the packages which were being cleared. The packages were very securely bound with iron straps and hessian, and the importer was unable to break the packages open with his fingers, so he asked for some kind of instrument or implement to assist him in opening the packages. His request was bluntly refused on the ground that the Customs Management Ordinance did not provide for any responsibility on the part of customs officers to provide such tools. The importer, therefore, had to drive 14 miles in order to obtain a hammer and a pair of pliers. It would probably have been possible to have opened the parcels sufficiently for examination purposes with a penknife, but even this was not forthcoming on request." I have numerous more instances of the same kind, and I have picked out to-day two of the particular ones dealing with Nairobi aerodrome because of an earlier interest in that subject to-day. (Laughter.)

There are also numerous instances, batches of them, at the coast, which are usually of a more aggravated form, of how actually money is wasted. For instance, to give one example. There is a lady in London called Miss Margaret Grimshaw—(laughter)—who works for a firm of exporters and sometimes she is a little scatterbrained and forgets her own signature. Sometimes she puts her full name at the top and alters the signature at the bottom, and the invoice is rejected—

THE SPEAKER: May I interrupt? You are dealing with that part of your motion which says "secondly, by modifying the arbitrary powers of the Commissioner of Customs whereunder he now levies burdensome penalties or inflicts clearing or forwarding delays in those numerous instances where overseas shippers fail, in some small particular, to comply with the exacting requirements of H.M. Customs in regard to invoicing procedure". This does not seem at all relevant to the wording of your own motion. That is all I want to point out to you.

MR. ERSKINE: I apologize, sir.

MR. VASEY: Mr. Speaker, on a point of order, the instance that the hon. Member for Nairobi South is quoting at this particular moment is an instance where an overseas shipper "failed to comply", and I submit with all due respect that it is relevant. (Hear, hear.)

THE SPEAKER: You may submit so, but I do not understand what the failure to supply a pair of pliers and a hammer has to do with the overseas shipper, and I interrupted the hon. member to put the position clear, that I thought he was exceeding the limits of his own motion.

MR. HOPE-JONES: With the greatest respect, may I ask you to give the hon. member a little latitude, as this information is of the very greatest value? (Hear, hear.)

MR. VASEY: With all due respect, I would say that this is the hon. member's maiden speech and latitude is always allowed to a member under those circumstances?

THE SPEAKER: That I agree with, and up to now I think the Council will agree that the hon. member has had that latitude. (A Member: No, sir.) If it is the wish of the Council that he should go away from the terms of the motion and include other matters I, being the servant of the Council, must agree with it.

MAJOR KEYSER: I think I am expressing the views of members on this side when I say it is the wish of the Council that the hon. member should be allowed to proceed with his speech.

THE SPEAKER: Without a doubt, and he is. Nevertheless, I think the Council ought to support me in ordinary parliamentary relevance.

MR. ERSKINE: Mr. Speaker, I should like to say that I will do my very best to stick as closely as I can to the motion as I worded it. (MEMBERS: Miss Grimshaw, please!) (Laughter.) The particular instance of this lady—who seems to have taken the fancy of the Council—(laughter)—may I say—this particular instance is a clear cut example of the kind of mistakes which are constantly being made in invoicing procedure, and being made in invoicing procedure, and they cannot be amended very quickly; it has to be done by air mail, and there are delays. It would help very much indeed if there was some kindly and

[Mr. Erskine] understanding attitude at the coast in connexion with these matters. In making some slight explanation or apology, I would say that I was reading from a memorandum which in the main refers to the "secondly" of my motion and I am very sorry that I should have gone on and read items not particularly relevant.

In winding-up this particular memorandum, I wrote: "It should be noted that all congestion, all difficulties, all fines and impounded deposits, all delays, etc. etc., at the coast must inevitably increase the cost of living throughout the territories. It should be very clear that all difficulties and increased delays and costs of importation must, in the final analysis, be borne by the ultimate users or consumers".

In closing that memorandum I went on to give a personal opinion, "that it is both archaic and retrogressive for a modern State to rely for more than half its revenues on a duty collected by the expedient of holding all imports to ransom at the one and only port of entry, and to place the responsibility for such collections in the hands of one individual armed with powers which provide for unilateral punishment and dispossession of such savagery that, though normal some hundreds of years ago on the Barbary Coast, are, to say the least, most unusual in a modern State". (Applause.)

My mind goes back to the first session which I attended of this Council a couple of months ago, when I listened with great interest to a speech by my hon. friend the Secretary for Commerce and Industry. He mentioned the figure of mythology, Anteus, and I immediately looked up Anteus. My hon. friend mentioned him in connexion with keeping both feet on the ground. Anteus was a giant in Libya thousands of years ago, and was reputed to be the son of Poseidon, or Neptune as he is known, to us. This Libyan giant did not take to his father's profession, the sea, and I maintain that he became the first customs official in Libya. (Laughter.) It was his custom to insist upon wrestling with every traveller coming into the country. (More laughter.) With the skulls of those he had slain he built a temple to his father, Poseidon, King of the Seas. This mountain of skulls I have in my own

simple way likened to the piling up of surplus balances. Anteus met his end when he encountered Hercules, who wrestled with him and pulled him off the ground so that his strength left him and so was able to kill him.

I do not feel impelled to be a modest Hercules, but I do feel there could be a great lightening of the difficulties at the coast and greater ease for those unfortunate people who bear the heat and burden of the day, the clearing and forwarding agents, so that goods may enter the country with less difficulty, to the benefit of all consumers.

This plan of mine, it is an overall plan for reducing the cost of living, and it must be taken as a whole. I think—I do not know how anyone could take away any one part of it. The "firstly" contains initially the teeth which hon. members will recall I considered were lacking in the motion of the 18th of March this year. It actually starts something, it starts a downward trend in the cost of goods in the shops. I am saying that, taken in conjunction with the "secondly" and "thirdly", there will be a gradual return as far as possible to the rule of consumer's choice, and in the case of goods in ships it might be possible, by discriminating a little in dealing with these customs duties, to reduce the cost of living by ten points altogether, and that seems to be a worthwhile enterprise and something which really demands all the support I can get for a plan of this kind. I want particularly to stress that throughout everything I have said this morning I have tried to avoid any temptation to cover as much ground as the leading article in this morning's paper would have liked me to cover.

There it is suggested that what is needed is an assault on the widest front. That, I think, is probably contrary to all military principles, and I do not think it would get us very far, "... the widest front on every factor, from the taxation and the expenditure policy of Government to the profit made on a loaf of bread". I do not know whether hon. members consider a ten-point reduction in the cost of living index is very large, but I do consider it comes under the heading of "some progress" if only such a figure is attained. Imports will tend to increase, that is my strong opinion. I

[Mr. Erskine] believe imports must continue to increase by reason of the large amount of developmental capital which is coming in, because, when you consider it, on what else can that money be spent? In the final resort it must be spent on goods from overseas. Therefore, big importations should continue for a very long time to come.

Now, sir, speaking for a few moments generally on the whole gist of my motion, I think it just about ties up with the ideas of the average man in the street. I have avoided the old-fashioned method of inveighing against particular sections of the community. That is particularly what I wanted to avoid. It is entirely non-sectional, non-racial. All poor people would benefit. I am not making any suggestions of an increase in direct taxation on the richer people, as I realize that in a country at our state of development it is necessary that there should be capital and surplus capital, available for enterprises of all kinds. I think that perhaps hon. members will think I have painted the lily and exaggerated a little bit, but may I assure hon. members that I have studied the figures I have given with certain amount of care, a great deal of care, and do honestly believe the result I have suggested can really come about if we pursue these suggestions of mine. When I was young I believed in Father Christmas and fairies and now, having grown to man's estate, I still believe in such things as fiscal equity and justice in such matters of economics. I believe economics is an exact science and can be applied in circumstances of this kind. I believe we can really use the control which the Government of this country has over the economy of the country to reduce the cost of living to a degree which will give fresh confidence to all consumers, and users of goods in this country—and that means all of us. (Applause.)

MR. NICOL: Mr. Speaker, I beg to second.

MR. TROUGHTON: Mr. Speaker, the most difficult task which I have is to find words in which I can express our feelings in congratulating the hon. Member for Nairobi South on the really brilliant maiden speech which we have just listened to. (Applause.) I myself have

probably sat in this Council as Clerk and member longer, or as long as, anyone else in the Council, and I am bound to admit that I have never heard a clearer exposition of a most difficult problem, and an exposition which we could all of us listen to with interest and without that boredom which I am afraid many of us have experienced in this Council. (Hear, hear.) I would also say this, that, speaking for myself and for members on this side of the Council, we would agree with 99.9 per cent of what the hon. member said, and indeed looking for the odd .1 per cent (concerning which I have made a reservation) is rather like looking for a needle in a bundle of hay. But for all that I am afraid we cannot accept this motion exactly as it stands, and I hope that the hon. member will not press it to a division at the end of the debate.

In the first place, early on the hon. member suggested that this Colony was losing its hold over our own fiscal policy, or was in danger of losing its hold over fiscal policy, and proceeded to argue the case for revising customs duties in order to reduce the cost of living. Now, sir, this Colony has actually had, and has to-day, very little control over its own fiscal policy in this matter, and I think it is important that members of this Council should know where we stand. We have a customs tariff common to the three East African territories, without facilities for the collection of customs duties on the borders, which we do not want. The effect of that is that in regard to customs duties the three East African territories constitute a sort of U.N.O., or rather a "Security Council", for each territory has the power of veto. In fact, each territory, when customs duties are under consideration in connexion with the budget, has the power to act in precisely the same way as Mr. Gromyko and Mr. Vyshinsky and Mr. Molotov have acted from time to time in the councils of the United Nations.

That, sir, is a fact, and—I do not want to go into too much detail on this—but I can say that in my personal experience proposals for the reduction of duty, on lines which would meet the hon. member's point to a considerable extent have been discussed between the East African Governments in secrecy before budgets have been presented to the Legislative

[Mr. Troughton]—Council or one of other of the Legislative Councils during the past few years. In each case one or other of the territories has, for some reason or other, exercised the power of veto, with the result that Members for Finance have on occasion had to produce and defend estimates which they themselves have tried to secure alterations in advance.

That, sir, is a plain statement of fact and this Government hopes that the power of discussion—and that is the only power that is involved—in the Central Assembly may enable these problems to be ventilated to some extent inter-territorially, so that we may be in a better position to co-operate, both Governments and representatives of the people, in the Central Assembly to secure the sort of end which the hon. member is aiming at in the first part of the resolution which he has moved.

Having said that, this Government for its part is very much in favour of doing whatever we can to secure a reduction in the cost of living by the reduction of customs duties on certain essential articles and we have tried, but failed, to secure such a reduction in the past. Having said that, I think that we should perhaps not exaggerate the effects of such a change. The imported articles for the most part which enter into the cost of living index are articles of clothing, and the actual element representing the customs surcharge is relatively small. The Acting Commissioner of Customs a year ago, in 1947, pointed out that in a suit of clothes costing £15 the amount of the surcharge involved on the cloth might be possibly Sh. 2, and that in a pair of khaki drill shorts which cost in the neighbourhood of Sh. 10 the surcharge on the material used amounted to eight cents. Of course, there is the profit on the surcharge, there is the profit on the duty and, as the hon. member's £500,000 grew to £800,000, so this figure grows.

It is important that we should not exaggerate the extent of the problem, but it is also important that hon. members should know the difficulty in securing positive action in this matter under the present set-up. The hon. member mentioned this, as a parenthesis, that food subsidies had not been suggested in this country. Actually we did have them in 1943 and 1944 when we had to import

very large quantities of cereals at high prices, and by a subsidy from public funds we pegged prices down to something like the level of the local prices.

I am not in the least going to traverse the hon. member's figures that he used in connexion with our ability to stand a reduction in import duties. We would have been quite ready to have reductions in import duties in the past if we could have secured agreement, and there are times when we would be justified in considering a reduction of import duties to decrease the cost of living, even if it meant a deficit in the Colony's budget. I think we would all agree to that.

I do not think there is really anything further that I need say on the first point of the hon. member's motion. He has put forward his case clearly, and the views of the Council as expressed on that are views that we will bear in mind, with what success I know not, in formulating the draft estimates.

I should like to turn to the second part, that is the part dealing with the Commissioner of Customs' arbitrary powers. The hon. member has given me a shock. The instance he has quoted of, for example, the cheque for Sh. 20,000 being refused at Eastleigh Airport, is on the face of it absolutely indefensible—(applause)—and the other example which he gave of the chap having to go ten or twelve miles, or whatever it was, to get a hammer is also indefensible, and I only wish that these instances had been brought to my notice, as the member generally responsible for customs, earlier. I may say that we were well aware as a Government that all was not well at Eastleigh Aerodrome, and as a result of that knowledge my hon. friend the Chief Secretary and I and other officers had a meeting with the Commissioner of Customs in Nairobi some time ago and we communicated to him the various complaints and we discussed the remedial measures which could be adopted. We would have been very much assisted then had we known of these instances, and I should be very grateful to hon. members if they have any complaint to make concerning customs—or, indeed, any other department for that matter of this type—if they would let us have the information, and I can assure them that we will follow up those instances fully and thoroughly and deal with them finally in

[Mr. Troughton]—order to avoid people being mulcted in entirely unnecessary costs. My hon. friend the Deputy Chief Secretary has already given an assurance on that subject this morning but I should like to underline his words. (Applause.)

We will not stand for any, shall I say, monkeying about in circumstances like that at Eastleigh, but having said that, there is another side to the picture: not the side which has to do with air travellers arriving at Eastleigh, but the side which has to do with the arrival of goods at the coast. The hon. member has referred to the Customs Department's insistence on getting their invoices and their entries meticulously accurate, and that being a costly matter for the importer. Here I must defend the Customs Department. Hon. members—in particular my hon. friend the Member for Mombasa—will remember well the trouble we had with customs frauds in the early days of the war. He was a member of the Commission of Inquiry which went into that matter, and I later had, to take part in a rather similar inquiry on a particular officer, and I learned something on that, as I think he learned, of the dangers involved in any slackness on the part of the Customs in their procedure for dealing with merchants' imports at Mombasa. After we had had these frauds and the commission on them, which shook the country very much at the time, we had an inquiry into the detailed customs practice from day to day carried out by a distinguished former officer of the Chinese customs—and whatever we may say of our own people, the Chinese are absolute adepts at customs evasion I am informed!

—Anyhow, this officer made an inquiry into the practical working of the thing from the technical customs standpoint and produced a large number of recommendations, detailed and technical in character, and we pressed the Commissioner of Customs to adopt them. We pressed the present Commissioner of Customs on appointment to insist on the letter of the law being evaded—(laughter)—being enforced!—in dealing with merchants' invoices and entries at Mombasa. I submit that we were entirely justified. The hon. member and the hon. member's suppliers may have no intention whatever to evade duty—and I do not for

a moment suggest that they have—but I can assure him that there are many people in this country who have every intention of evading duty if they possibly can evade it, and for that reason, even though it must be awkward and difficult for the honest merchant, I do suggest that the honest merchant, as a responsible citizen, should recognize that these formalities, nuisance though they may be, are necessary for the purpose of safeguarding the revenue.

If there are any of these formalities which are not reasonably necessary for the safeguarding of the revenue we will be very happy to go into the question, and I for one would be the first to recommend that they should be abolished completely. We only want to insist on those formalities which will enable us to deal effectively with the would-be evader of customs duties, and we want no more.

I think that covers more or less the first two parts of the hon. member's motion. The third part is one which I will leave to my hon. friend the Secretary for Commerce and Industry. I will only say once again, before sitting down, what a pleasure it has been to me, and I think to all of us in this Council, to listen to the hon. member's speech, and to express the hope that it will be the precursor of many more in this Council. (Applause.)

MR. VASEY moved: That the debate be adjourned until the conclusion of the speech of the Hon. Financial Secretary on the motion regarding the recommendations of the Salaries Commission Report.

MAJOR KEYSER seconded.

The question was put and carried. The debate was adjourned.

BILLS

FIRST READINGS

On the motion of MR. FOSTER SUTTON, seconded by MR. RANKINE, the following Bills were read a first time: 'The Widows' and Orphans' Pension (Amendment) Bill, the Ferries (Amendment) Bill, the Supplementary Appropriation (1946) Bill, the Domestic Employment (Certificate of Registration) (Amendment) Bill, the Tea Bill, and the Employment of Women, Young Persons and Children Bill, and notice given that the subsequent stages would be moved later in the session.

PRISONS BILL

IN COMMITTEE

MR. FOSTER SUTTON moved: That Council do resolve itself into committee of the whole Council to consider, clause by clause, the Prisons Bill.

MR. RANKINE seconded.

The question was put and carried.

Council went into committee.

Clause 2

MR. FOSTER SUTTON moved: That the words "performing the functions of Member for Law and Order" be deleted and the words "for the time being responsible for law and order" substituted therefor.

The question of the amendment was put and carried.

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

Clause 37

MR. FOSTER SUTTON moved: That this clause be numbered 36.

The question of the amendment was put and carried.

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

Clause 37

MR. FOSTER SUTTON moved: That the word "Member" be substituted for "Governor".

The question of the amendment was put and carried.

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

Clause 38

MR. FOSTER SUTTON moved: That paragraph (a) be amended by inserting a comma after the word "prison" and the word "appointed".

The question of the amendment was put and carried.

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

Clause 50

MR. FOSTER SUTTON moved: That sub-clause (2) be amended by the deletion of paragraphs (a) to (g) and the substitution thereof of the following—"(a) prisoners awaiting trial; (b) convicted prisoners; (c) persons under the apparent age of sixteen years; (d) adults; (e) civil prisoners; (f) criminal prisoners; (g) Europeans; (h) Asians; (i) Africans; (j) first offenders; (k) prisoners with previous

convictions; (l) prisoners suspected or certified as being of unsound mind".

MR. VASEY: May I ask whether, in this particular case, Arabs are included in any particular group?

MR. FOSTER SUTTON: I do not know whether the hon. member wants to raise an argument now, but they are treated, I think, as Asians.

The question of the amendment was put and carried.

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

Clause 75

MR. FOSTER SUTTON moved: That paragraph (a) be amended by the deletion of the words "spirituous liquor, tobacco or any intoxicating or poisonous drug or any other".

The question of the amendment was put and carried.

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

Clause 88

MR. MATHU moved: That sub-clause (2) be amended by the substitution of 12 for 24 and 6 for 12.

MR. FOSTER SUTTON: I am afraid that I cannot accept that amendment for Government. I discussed the matter, as I promised the hon. member Mr. Ohanga during the second reading, with the Commissioner of Prisons, and in the light of the submission put forward by him I feel that I am unable to accept the amendment. I should like to point this out. Twenty-four strokes are very rarely ordered and then only for the most serious offences, and it seems to me that we ought to have the power to award 24 strokes, in the case, say, of a prisoner making a violent attack upon a warder. The Commissioner does not think that anything less will act as a real deterrent, and I would point out that in the United Kingdom a person who commits that type of offence can be ordered to receive up to 36, which is a much more severe punishment than we have in this country. I think we ought to keep that power, and I am sorry that Government cannot accept the amendment.

MR. VASEY: I would ask the hon. Attorney General to give us the dimensions of the cane used in punishments of that kind in this country?

MR. FOSTER SUTTON: I think it is 3 feet 6 inches—I have really forgotten, and I do not know if anybody else has that information?

MR. MACONCHIE-WELWOOD: It is three-quarters of an inch in diameter.

THE SPEAKER: Does the hon. member intend to press the amendment to a division?

MR. MATHU: No, I will withdraw it.

The amendment was by leave withdrawn.

MR. HOPKINS moved: That sub-clause (2) be amended to read: "A sentence of corporal punishment shall be to be whipped once only. Such whipping shall be with a rod or cane to be approved by the Member or with such other instrument as the Member may approve. The sentence shall specify the number of strokes, which shall not exceed twenty-four and in the case of a person under the apparent age of sixteen years shall not exceed twelve strokes with a light cane. A sentence of corporal punishment not exceeding twelve strokes may be imposed by a superintendent or assistant superintendent in charge of a prison provided that such sentence is reported to the Commissioner forthwith, but no sentence in excess of twelve strokes shall be imposed by any person other than the Commissioner".

My reasons for proposing this amendment are, first, that my experience in various capacities in corporal punishment leads me to the strong conclusion that the efficacy of corporal punishment, both as a punishment and deterrent to others, is enhanced considerably by prompt administration. Secondly, I feel that it is most regrettable that an officer in charge of a prison should not be allowed discretion up to 12 strokes. Most of the officers, 90 per cent or more, are in point of fact magistrates, and I think they could easily be left this discretion without reference to the Commissioner. Thirdly, I look on 12 strokes, if properly administered—and, of course, all corporal punishment should be administered under supervision—as severe punishment, and while I think it is the limit to which a superintendent of prisons should be allowed to go, I do feel that in addition to imposing the sentence he should be able to have it carried out straight away. Fourthly, if on the other hand there has

been so serious a breach of prison discipline—and we have just been told by the hon. Attorney General that they are exceptional—then I think it is clear that that would be the time that the Commissioner came down and investigated the case, tried it, and, if necessary, himself imposed a sentence of over 12 strokes, which again could be carried out immediately.

The Commissioner very kindly gave me an opportunity of questioning him and putting up my point of view, and it seemed to me that his main argument for the confirmation of all sentences was that he wished to secure more uniformity. His main complaint was that in many cases the sentences of corporal punishment were totally inadequate and that he hoped to get some standards or uniformity by revising the sentences himself. I maintain that a reasonable measure of uniformity could be obtained by a directive circular, and in addition to that he would be able to make comments on sentences which had been imposed. The revision of sentences on written evidence and records of a case are notoriously difficult, and even judges of the High Court find it extremely difficult from mostly inadequate records of case files to decide whether a sentence should be reduced or enhanced or left as it is, and it is extremely seldom that they enhance a sentence. I submit therefore that it should not be done in this way by the Commissioner of Prisons.

MR. CHEMALLAN: I think the clause should be left as it stands. My chief opposition to the amendment is that it proposes to give a superintendent power to inflict corporal punishment without conferring with the Commissioner of Prisons. In the case of violence by a prisoner he can be kept in custody until confirmation from the Commissioner is received. We have the telegraph now—days, and I do not think it is necessary for the Commissioner to go himself. For those reasons I beg to oppose.

MR. FOSTER SUTTON: On behalf of Government I regret that I am not prepared to accept the amendment. During the second reading of the Bill this point was raised by the hon. member; we have discussed it since then, and I have not been convinced of the necessity for the amendment. I was rather inclined to agree with him during the second reading.

[Mr. Foster Sutton]

ing, but having heard the Commissioner of Prisons I am now convinced that it would be wrong to amend this clause. One of the main reasons why the Commissioner wishes to keep this is this. He says that after many years' experience in prison work he has found that persons in charge of prisons, not always prison officers but very often inexperienced and comparatively young district officers, have all got a different idea as to what quantum of corporal punishment should be awarded for any particular offence. I thought it might be possible to issue administrative instructions as a guide which would meet the case, but after having heard the Commissioner and thinking it over again, I have come to the conclusion, rightly or wrongly, that administrative instructions will not work; they have not in the past.

The Commissioner gave us a number of examples. He said that one officer in charge, for a violent attack on a warder, would probably give three strokes; another man might give twelve; another man might give twelve strokes in the case of an escape. They all vary, and he says that the only way to get consistency is to have each case of corporal punishment reported to him so that he can go into it and decide whether the punishment is enough or too much, and, of course, if it is not enough he has power to increase it. Talking about delay, he points out that it is not often that there will be very much delay, because as soon as he gets a report he always uses the telegraph, and he thinks the greatest possible delay is about a week. In the United Kingdom, when corporal punishment is awarded, there is considerable delay very often between the actual order, the sentence, and the infliction of the punishment because of appeal and so on, and here you have the same thing in certain cases of revision. There is always an inevitable delay, but from the Commissioner's experience a short delay has no effect either against a person or anybody in the prison.

The question of the amendment was put and negatived.

Clause 94

MR. FOSTER SUTTON moved: That the word "Member" be substituted for the word "Governor"; that the words "with

the concurrence of the Member for Finance" be inserted after (3); and that the word "type" be substituted for the word "construction" in paragraph (8).

LADY SHAW: I think there should be a further amendment to this clause providing that when conditions are made the rules are laid on the table of this Council if the word "Member" is to be used, whereas when "Governor in Council" is used I have no objection.

MR. FOSTER SUTTON: The word "Governor" means "Member" in effect. What we are really trying to do is to keep unnecessary matters away from the Governor in Council, and if a Member is not fit to lay down conditions for prison officers he ought not to be Member.

MR. VASEY: I think the hon. Member for Ukamba is only asking that these rules shall be laid on the table of this Council, that is the point. The hon. member would accept, as indeed I think each member is prepared to accept, that for the sake of speed by Government in administrative matters the substitution of "Member" for "Governor", but we would not accept that substitution where it concerned a matter of policy without reference to this side of Council. For that reason the hon. member wishes to move that the rules should be laid on the table of this Council.

MR. FOSTER SUTTON: I am perfectly prepared to give an undertaking that any rules made under sub-clause (1) shall be laid on the table.

MR. VASEY: While we are prepared to accept the hon. member's assurance, the hon. Attorney General recently said that he was leaving the Colony, and assurances have sometimes the habit of not being passed on from member to member through forgetfulness. If therefore it is possible to have an amendment to meet the suggestion of the hon. Member for Ukamba, I feel that this side of Council would be far more satisfied.

MR. FOSTER SUTTON: I cannot see the need of it. I am sorry to be pig-headed. All rules become law when published in the Gazette and all persons interested have an opportunity of seeing them, and every single member here has the right to raise a motion in this Council. I venture to submit that the procedure suggested is unnecessary procedure.

MR. VASEY: The hon. member may not see the utility of this, but I think I am right in expressing the opinion of this side of Council that it is not only a question of utility but a question of principle and recognizing the position of the Legislative Council in this matter.

MR. COOKE: I must associate myself with that view.

MR. VASEY moved: That the clause be amended by the insertion of the figure and brackets (1) after the figures 94, and by the addition of sub-clause: "(2) All such rules made under the provisions of this section shall be laid on the table of the Legislative Council".

The question of the amendment was put and carried by 19 votes to 13, I not voting. Ayes: Messrs. Blundell, Chemallan, Edye, Erskine, Havelock, Hopkins, Jeremiah, Keyser, Macochoe-Welwood, Madan, Mathu, Nicol, Ohanga, Patel, Pritam, Seif-bin Salim, Shatry, Lady Shaw, Mr. Vasey, 19. Noes: Messrs. Andrews, Colchester, Cooke, Hartwell, Hyde-Clarke, Jones, MacLennan, Rana, Roddan, Robbins, Foster Sutton, Thornley, Wadley, 13. Did not vote: Mr. Hope-Jones, 1.

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

MR. FOSTER SUTTON moved: That the Bill be reported back to Council with amendment.

MR. RANKINE seconded.

The question was put and carried. Council resumed, and the President reported accordingly.

LAND AND AGRICULTURAL BANK (AMENDMENT) BILL

THIRD READING

MR. FOSTER SUTTON moved: That the Land and Agricultural Bank (Amendment) Bill be read the third time and passed.

MR. RANKINE seconded.

The question was put and carried, and the Bill read accordingly.

ADJOURNMENT

Council rose at 1.05 p.m. and adjourned till 10 a.m. on Wednesday, 11th August, 1948.

Wednesday, 11th August, 1948

Council reassembled in the Memorial Hall, Nairobi, on Wednesday, 11th August, 1948.

His Honour the Speaker took the chair at 10 a.m.

The proceedings were opened with prayer.

MINUTES

On the order for the confirmation of the minutes of the meeting of 10th August, 1948, being called from the chair:

MR. VASEY: Mr. Speaker, I beg to draw attention to an error in the minutes of yesterday's sitting, and to move an amendment. Under the Noes on page 3, the hon. Member for Eastern Area (Dr. Rana) is recorded as having voted with the Noes when he voted with the Ayes, and I beg to move that his name be deleted from the Noes and inserted in the Ayes, and the record altered accordingly.

MR. TROUGHTON: I beg to second. The question was put and carried.

MR. THORNLEY: Mr. Speaker, it seems to me that another amendment is required. I myself am shown in the minutes as among the Noes, but I was not in Council when the vote was taken. (Laughter.) May my name be deleted on a point of order?

MR. COOKE: Would the hon. member be allowed to vote now on the Noes side? (Laughter.)

THE SPEAKER: The hon. member may move an amendment to the minutes if he says they are incorrect.

MR. THORNLEY: They are. I am shown as voting No, and I was not present.

MR. VASEY: I move that the name of the hon. Deputy Chief Secretary be deleted from the Noes recorded in the minutes.

MR. THORNLEY: I beg to second. (Laughter)

The question was put and carried.

The question of the minutes as amended being confirmed was put and carried.

PAPERS LAID

The following paper was laid on the table:—

By MR. RANKINE:

Report of Commission of Inquiry into the Public Works Department.

NOTICES OF MOTIONS

The following notices of motions were given:—

By MR. MACONOCHE-WELWOOD:

This Council considers that the present weakness of Government in not enforcing its declared policy of strict agricultural and pastoral control in the native land units is proving disastrous, not only to the inhabitants but to the future of the Colony. It therefore insists that very wide powers be given to administrative officers to enforce discipline and sound methods of farming in these areas.

By MR. VASEY:

This Council resolves that its members are entitled to the right to seek information and draw attention to any matters concerning the High Commission services or any service common to East Africa when such matters affect the interest and well-being of the peoples of the Colony and Protectorate, by putting questions in this Council, and therefore requests the Government to nominate an existing official member of this Council to be responsible to obtain the necessary information and make reply in terms of Rule 21 of Standing Rules and Orders.

ORAL ANSWER TO QUESTION

No. 59—TEACHING OF ARABIC

MR. SHATRY (Arab Area):

In view of the fact that Arabic should be the second language in Arab schools, will Government take the necessary steps to provide facilities for its teaching?

MR. THORNLEY: Government has made every effort to secure staff capable of teaching Arabic, though so far without success. As soon as it is possible to secure the necessary staff the facilities asked for will be provided.

DR. RANA: Arising out of that answer, may I ask the hon. member if he has tried to get Arab teachers?

MR. THORNLEY: Yes, we have tried extremely hard. We have written to representatives of His Majesty's Government in Egypt, Sudan and Syria, in addition to repeated efforts to obtain staff from Zanžibar, but so far our efforts have been unsuccessful.

SUPPLEMENTARY QUESTIONS

MAJOR KEYSER: Mr. Speaker, may I draw attention to the difficulty in hon. members' minds over supplementary questions, and say that members on this side would welcome a ruling from you on the matter?

THE SPEAKER: I suppose that your request arises out of my order yesterday in calling on the next question perhaps a moment too soon, but I am in a somewhat difficult position, as hon. members will appreciate, because I have not for many years sat in a legislative council in any colony.

The main principle of a question is to obtain information from the ministers or persons responsible, and yesterday I was taken somewhat by surprise when a question was put apparently to the hon. Secretary for Commerce and Industry and then supplementaries on that question were put again apparently to him and were replied to before I could intervene by the hon. Deputy Chief Secretary. I have had a conversation with the hon. Deputy Chief Secretary since, and he considers that he was quite in order because the matter came under his department.

These are matters which, later on, when the rules are revised, I hope to get cleared up, but, as I say, I was taken somewhat by surprise, and when further supplementaries were asked after he had given his assurance it did appear to me at the time that we were verging into a debate and not into question and answer. It appears that the view of many members is that I was wrong. As a servant of the Council I do not know whether I am right or wrong, but I will read you a quotation from a work of some authority in which it says: "A question may be allowed which is designed to elicit information for the purpose of a future debate, but it must

[The Speaker]

it must not in itself be unduly or designed to elicit a reply in the nature of a debate, one natural element of which is controversy". The main purpose, of course, of a question is to obtain information, as it is stated in works concerning other assemblies, "from ministers". I am not quite sure of the position of the various members here over different subjects such as law and order, finance, etc., whether those members rank as quasi-ministers or not, but no doubt that will be cleared up in time. But when one gets from both sides of this Council people rising to answer and people putting questions, it does appear to me to be verging towards a debate, and it was for that reason that I intervened yesterday and called the next question. However, I will endeavour in the future to give you every possible latitude. (Laughter and hear, hear.)

MR. VASEY: Mr. Speaker, may I at this stage with your permission make the suggestion that the time is opportune when you yourself should appoint a Sessional Committee of this Council to deal with Standing Rules and Orders, as distinct from the committee which is appointed to consider the revision of those rules?

THE SPEAKER: There again, I thought, it would be the duty of this Council to appoint such a committee, not me, on a motion made. If you choose to move the appointment you will have to give notice of motion, so that nobody is taken by surprise, and if we could have a small committee at which these matters could be discussed and dealt with it would be of great assistance to me. That is all that I can say.

MR. COOKE: Mr. Speaker, while I am the first to admit that you must be the sole judge as to propriety or impropriety, could we have an assurance that where there is a question of doubt the rules and practices of the House of Commons will be followed in this Council in cases where any doubt exists?

THE SPEAKER: On the matter of questions I think we are attempting to follow the practice of the House of Commons, except in this: that in the House of Commons a member is called by his name and not by his constituency, and he then rises and simply states the num-

ber of his question. The questions there are addressed to individuals and not generally to Government as the practice has been here, and I think it would be better if all questions were addressed to individuals myself. There again we have our own practices on that, and until the Standing Rules and Orders are revised I feel somewhat hesitant in intervening and attempting to enforce any other practice than what has been the practice of this Council.

SCHEDULE OF ADDITIONAL PROVISION

No. 1 of 1948

MR. TROUGHTON: Mr. Speaker, I beg to move: That Schedule of Additional Provision No. 1 of 1948 be referred to the Standing Finance Committee.

This is normally a formal motion, but I propose to draw attention to one item in the Schedule, the item of £50,000 for income tax refunds.

Hon. members will remember that, in introducing the budget, we provided that in respect of the income tax for the past financial year, each taxpayer would get a rebate of £10. When we got down to the legal side we found ourselves in difficulties, in that people with incomes coming from more than one East African territory if they got £10 off in Kenya would be soaked for a bit more in respect of Tanganyika, so we came to the conclusion that the only way to do it satisfactorily was to give every taxpayer a present of £10 from an expenditure vote, and that is what that £50,000 item represents.

MR. RANKINE seconded.

MR. VASEY: Arising, sir, on the Schedule of Additional Provision, I would like to ask under No. 28, Miscellaneous Services, ex gratia payments, for information about "Sh. 6,456/28 ex gratia payment to Messrs. Laing and Co. for damage to lorry No. H3959 and for consequential loss and medical services involved therein".

I should also like at this stage to say that I trust that it will be possible at an early stage to introduce a system of a Public Accounts Committee into the machinery of this Legislative Council in order to check the expenditure of public money. (Hear, hear.)

MR. TROUGHTON: In the first place, in answer to the hon. member's question, so far as I can recollect this particular item arose because a lorry belonging to this firm was the object of a collision with a Government lorry, and there was not the slightest doubt that the collision was attributable entirely to the negligence of the driver of the Government lorry who, if my memory serves me right, has since been dismissed from the Service. The Attorney General advised that if this had been a private lorry that had collided with the other, and not a Government lorry, undoubtedly Messrs. Laing and Co. would have had a good claim for damages, and consequently an *ex gratia* payment was desirable, and that was approved by the Standing Finance Committee. We could have been sued, in fact, and it would have involved costs.

As regards the second part of the question, the hon. Member for Nairobi North and I paid a recent visit to Salisbury, as a result of which it was decided to recommend to our colleagues on both sides of this Council that a public accounts committee should be formed, and I hope that that recommendation will receive early consideration.

The question was put and carried.

AFRICAN PENSIONS INCREASED

MR. TROUGHTON: Mr. Speaker, I beg to move: That this Council, in consideration of the increases in pensions payable to European and Asian officers under the Pensions (Increase) (Amendment) Ordinance, 1948, resolves that with effect from 1st December, 1946, a 40 per cent increase shall be made in the following *ex gratia* pensions being paid to Africans and that the revised figures shall be as shown:

Name	Amount p.a.		To be increased p.a. ru	
	Sh.	Paid since	Sh.	
Aulama bin Magrubi	120	16-4-19	168	
Baraga bin Bugabda	120	7-11-21	168	
Masahu Majoje	120	1-1-25	168	
Opango	180	1-6-26	252	
Mbaku bin Salanga	72	8-9-26	100/80	
Geiley Abdillahi	84	1-8-27	117/60	
Obingo Olal	120	11-10-29	168	
Kipserem arap Chepkien	180	8-4-41	252	
James Matus	480	1-6-44	672	
Jairo Owino	600	21-8-44	840	

Hon. members will recall that this Council recently passed a Bill providing for increases of a temporary character to pensioners under certain Ordinances, the European Officers' Pensions Ordinance, the Non-European Officers' Pensions Ordinance, and the various Widows' and Orphans' Pension Ordinances. There are a number of Africans who have been granted *ex gratia* pensions from time to time by resolution of this Council, and it seems to Government to be equitable—and it seemed to the Standing Finance Committee to be equitable—that a proportionate increase should be made in those pensions. The lowest of the non-African pensions increase under the Ordinance passed the other day was 40 per cent and we propose that these *ex gratia* pensions should be increased by 40 per cent.

It may well be, let us hope, that by taking the action recommended by the hon. Member for Nairobi South and in other ways the cost of living will come down, and the necessity for these increases in pensions might disappear. Consequently, the hon. Attorney General will move a slight amendment to this resolution providing that these increases shall obtain until further notice without making them permanent. That has been done in respect of non-native pensions. The increases asked for are modest, and I commend them confidently to the approval of this Council.

MR. RANKINE seconded.

MR. FOSTER SUTTON moved: That the motion be amended by inserting the words and commas "and until further notice," after the figures "1946".

MR. TROUGHTON seconded.

MR. COOKE: I do not wish to oppose this motion, but I wish to draw the attention of the Council to certain discrepancies in the treatment of Africans in regard to non-Africans. The hon. member quoted the increased pensions to European and non-European officers, but in their case a means test is applied to which certainly a lot of the European pensioners take great exception. I should like to know if any means test is applied in the case of these African pensioners? I know that the amounts paid are very small, and it might be unreasonable to have a means test, but I should like to

(Mr. Cooke) know the reason for drawing the distinction and insisting on a means test for Europeans and Asians and not for Africans in this particular instance.

MR. VASEY: Mr. Speaker—

THE SPEAKER: You must give way in the course of a debate until you hear your name called. Several hon. members have risen all together. The hon. Member for Nairobi North.

MR. VASEY: Mr. Speaker, I beg to support the hon. Member for the Coast in all that he has said. I think hon. members opposite will remember the unhappy experience when the exercise of the whip and the sudden arrival of reinforcements to the Government ranks defeated a motion from this side of Council on a similar question as far as Europeans and Asians were concerned. I would suggest also that Government should consider the advisability of recommitting when, no doubt, the unofficial majority would be extremely welcomed.

MR. MATHU: Mr. Speaker, in supporting what the hon. Member for the Coast has just said, I should like to ask the hon. mover to clarify one point: whether the proposed amendment means that these pensions will not be permanent and will only be for a short time? I should like him to answer that, particularly when he says they are modest. I should say that they are more than modest, and if they are going to be curtailed by the increases being temporary the position is worsened.

The question of the amendment was put and carried.

The debate on the motion as amended was resumed.

MR. TROUGHTON: Mr. Speaker, taking the first question, of the absence of a means test in this resolution, there were several reasons.

In the first place, this is a matter in which the Government of Kenya has been able to take its own action without fear of repercussions elsewhere, and we did not feel that the means test should be applied in these cases. Quite apart from the question of principle, the difficulty in checking up a means test in cases like these would be very difficult indeed, and the cost of any adequate

check up would certainly be out of line with any saving in the pension which might be achieved as a result, when the pensions themselves are so very small.

As regards the question raised by the hon. member Mr. Mathu, regarding the temporary nature of these increases, I mean no more than that this Council would have, and should explicitly retain, the right to revise these pensions at any time it considers such a revision necessary. The fact that a resolution approving these pensions has been passed by this Council gives the pensioners no vested right to enjoy the pensions in perpetuity.

On the point raised by the hon. Member for Nairobi North about the other Bill, my impression is that that other Bill has received assent in His Majesty's name, and consequently the question of recommitment does not arise. (MR. VASEY: Alas!)

The question was put and carried.

CUSTOMS LEGISLATION

AN INTER-TERRITORIAL EXAMINATION

MR. TROUGHTON: Mr. Speaker, I beg to move: Be it resolved, that the East Africa High Commission be requested to appoint an inter-territorial committee or committees for the purpose of examining the tariff, authorized by customs legislation, and submitting recommendations (a) for the elimination of anomalies, having due regard to the necessity for maintaining the customs revenue at, approximately, the present level; and (b) as to what provision should be made for drawbacks of duty in respect of materials used in secondary industries and what safeguards against abuse are necessary.

This resolution is quite simple in character and can be easily explained. There are in the customs tariff, a tariff common to all the East African territories, a number of anomalies, quite a considerable number. Perhaps I might explain what I mean by a homely illustration referring to the bath of one of the hon. members on the opposite side of the Council.

In the tariff under the heading "Builders' Requisites" there is an item "baths," which attracts duty at the rate of 10 per cent *ad valorem* under the heading "building materials". This hon.

[Mr. Troughton] member, or a firm with which he is associated, imported a bath. This bath was not a builder's requisite; it was just an ordinary bath, not built into a house—the sort of bath that the hon. member could take down to Nairobi with him if he could fit it in the back of his car! but, not being a builder's requisite, this bath did not fall under the item "baths" in the tariff, but fell under the item "miscellaneous goods not elsewhere enumerated"—(laughter)—which attracts duty at the rate of 22 per cent *ad valorem*. So that the hon. member is in fact paying an additional 12 per cent to the revenue for having a bath that he can take about with him.

There are a number of similar anomalies in the tariff, and we have a fairly good idea what they are, but it is desirable that these should be ironed out inter-territorially. It is a matter for the individual Governments to take action, but, as all the Governments are concerned, the best way of reaching agreement I think is for an inter-territorial committee to be appointed to make recommendations to the Governments. This is a matter which has already been raised in the Central Assembly on my behalf by the hon. Member for Mombasa, who will second this motion and have something to say on that aspect.

Perhaps I should explain here that we have inserted a clause about safeguarding the customs revenue, because there is no intention that this committee should be a committee to make proposals to revise taxation. It is merely a committee that is proposed to iron out anomalies.

The second matter with which this resolution deals is the question of drawback of customs duty to encourage local industries. It has been made clear in this Council again and again that provision should be made for appropriate assistance in this way. A heavy duty on raw material used in an industry might well cripple an industry. For example, a heavy duty on aluminium used in the making of *sufurias* might put the price up, so that the local article could not compete with imported *sufurias*. On the other hand, there is a serious danger, if relief from duty is given and the safeguards are not full and complete, that there may be abuses. Aluminium im-

ported for use in making *sufurias* might, for example, having had a drawback of duty, be used for the purpose of making mouth-organs or something that does not matter in the least whether the duty is high or not. So, not only is it necessary to decide whether drawback should be given, but also what safeguards should be applied. We feel that that also might suitably be discussed at an inter-territorial committee. The incidence of expenditure on the Customs Department would be affected by any drawback of revenue granted, because the expenditure is apportioned between Kenya and Uganda in accordance with the revenue.

If this resolution is approved the representatives of this Council on the Central Assembly would endeavour to persuade the High Commission to appoint a committee to deal with this whole matter and to report to the Governments, making recommendations for action. I beg to move.

MR. NICOL: Mr. Speaker, I rise to second this motion and I do it because, when the Standing Committee on Finance of the Central Assembly was sitting in Dar es Salaam, I was asked to deputize for Sir Alfred Vincent, who is the sitting member. Unfortunately, at that particular time my hon. friend the Financial Secretary was ill and was unable to attend the committee meeting in Dar es Salaam, and he asked me to suggest to the committee that the High Commission should be approached to appoint a committee on the lines envisaged in this motion. I did raise the point, but Mr. Bower, one of your members on the Central Assembly who was attending the meeting, took the view very strongly—and I must say I agree with him—that it would be wrong to ask any Government to approach the High Commission to appoint an inter-territorial committee, without the request coming through the channel of the Legislature. The object of this motion is to employ the machinery which is at our disposal.

There is one point, however, I should like to mention, and that is that after the word "recommendations" just prior to the bracketed (a) in the resolution, I think there should be an amendment, adding the words "to the territorial Governments", the reason being that, of course, it is the territorial legislatures

[Mr. Nicol] who control the purse strings and I understand my hon. friend the Member for Nairobi North is going to move such an amendment, which I hope my hon. friend the Financial Secretary—I see he nods—will agree to.

I beg to second.

MR. VASEY: Mr. Speaker, I rise to welcome this motion as one who, for the whole of his time in this Legislative Council, has pressed for the drawback of duties in respect of materials used in secondary industries. For all that time I have argued that a safeguard to local manufactures should never be based on a protective tariff basis, but should be based on a principle of this kind, which is in operation in the territories to the south of us, like South Africa and Southern Rhodesia. I believe also that it will be a contribution towards the lowering of the cost of living.

I did, however, rise mainly to move an amendment, that between the word "recommendations" in the fourth line and the "(a)" in parentheses shall be inserted the words "to the territorial Governments". I beg to move that amendment.

MR. EDYE seconded.

MR. TROUGHTON: Mr. Speaker, on behalf of Government may I say that the Government will accept the amendment.

The question of the amendment was put and carried.

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

SALARIES COMMISSION REPORT

WITH SESSIONAL PAPER No. 2 of 1948

MR. TROUGHTON: Mr. Speaker, I beg to move: This Council do resolve itself into committee of the whole Council to consider the following resolutions based on Chapter XIV (Summary of Principal Recommendations) of the Salaries Commission's Report:

1. This Council accepts the conclusion that the case for an appreciable increase in the salaries of all officers is established.
2. This Council agrees that all posts should be open to candidates of all races possessing the requisite qualifications;

but that the economic law of inducement and other considerations necessitate different rates of salary for Europeans, Asians and Africans.

3. This Council agrees that the salaries of the higher posts (i.e. those of unified service level, see paragraph 7 of Sessional Paper No. 2 of 1948) should be determined in the light of the amounts necessary to secure the services of Europeans; and that the salaries of non-Europeans appointed to such posts should be three-fifths of those amounts.

4. This Council agrees that the posts listed in Appendix III to the report at present held by Europeans, and all posts held by non-Europeans (subject to certain exceptions) should be ultimately grouped into a General and Clerical Division, as contemplated in paragraph 99 of the report; the Council recognizes, however, that this arrangement will have to be brought into operation gradually; and that in the immediate future suitable arrangements must be made to ensure equitable opportunities of promotion for deserving and properly qualified persons of all races.

5. This Council agrees that the principle of the long scale at present applied to the Administrative, Medical and Legal Services should (with certain exceptions) be extended to other professional and technical posts; that the scales should be divided into two segments by a promotion bar; and that there should be opportunity for accelerated promotion of outstandingly useful men as contemplated in paragraph 126 of the Report.

6. This Council agrees that, as a general rule, salaries of women should be four-fifths of those of men engaged on the same work.

7. This Council accepts the general principle that incremental credit, subject to certain limits, should be allowed to entrants to the service with approved professional experience, and agrees that the detailed operation of this arrangement is a matter for the Government.

8. This Council agrees that generally there should in all salary scales be promotion or efficiency bars, or both.

9. This Council approves the salary scales set out in the appendices to the report, as amended by Sessional Paper No. 2 of 1948, subject to the following further amendments:—

[Mr. Troughton]

Salaries Now Proposed

(i) Private Secretary to the Governor, £775.

(ii) Aide-de-camp to the Governor, £600.

(iii) Surveyor, Staff Surveyor and District Surveyor, £550; £550; £620 by £35 to £760; £830 by £35 to £1,005 by £45 to £1,320.

(iv) Senior Auditor, £1,095 by £45 to £1,230.

(v) Auditor and Assistant Auditor, £550; £550; £620 by £35 to £760; £830 by £35 to £1,005 by £45 to £1,050.

(vi) Senior Collector of Customs, £1,095 by £45 to £1,230.

(vii) Collector of Customs, £550; £550; £620 by £35 to £760; £830 by £35 to £1,005 by £45 to £1,050.

(viii) Principal, Government Secondary School (African Education), £1,185 by £45 to £1,320.

(ix) Assistant Commissioner of Prisons, £1,140 by £45 to £1,230.

(x) Inspector, Approved Schools, £1,140 by £45 to £1,230.

(xi) Warder, Prison Service, £40 4s. by £1 4s. to £52 4s.

10. This Council recognizes the necessity referred to in paragraph 2 of Sessional Paper No. 2 of 1948 for a means of rectifying anomalies and errors, and agrees that in major cases this should be effected during the course of the examination of the 1949 draft estimates.

11. This Council agrees, however, that the Government shall have authority to correct errors and anomalies which in its judgment are not of sufficient importance to require the approval of the Legislature or its Standing Finance Committee.

12. This Council approves the principles governing conversion from the old to the new scales set out in Chapter XIII of the report, as modified by paragraph 43 of Sessional Paper No. 2 of 1948; and agrees that any problems of conversion which may arise should be dealt with by the Government.

13. This Council agrees to the principle that an officer must accept the new terms of service in full, or not at all.

This Council also agrees that if an officer elects for the new terms of service and his new emoluments are less

than his old emoluments he shall be paid a non-pensionable allowance (to be eaten up by increments) equal to the shortfall.

14. This Council agrees that the Kenya European Civil Service, as a distinct entity with its own terms of service, should be abolished and that the terms of that service and of the Overseas Service should be assimilated.

15. This Council agrees that Cost of Living Allowance should be abolished and the consolidated salaries incorporating the whole of the element of Cost of Living Allowance should be introduced.

16. This Council agrees that the practice of providing free quarters should be abolished, approves the principles governing housing set out in paragraphs 21 and 22 of Sessional Paper No. 2 of 1948, and agrees that details arising out of this arrangement shall be settled by the Government.

17. This Council agrees that there should be certain adjustments in the present arrangements relating to leave, length of tour and passages, and approves the arrangements set out in paragraphs 23 to 25 of Sessional Paper No. 2 of 1948.

18. This Council approves the general principle of free pensions for all permanent establishment posts irrespective of the race of the occupant, subject to the qualifications contained in paragraphs 26 to 37 of Sessional Paper No. 2 of 1948.

19. This Council agrees that an exception to the general rule referred to in the previous resolution shall be made in the case of certain of the lower grades of the African Service, and approves the proposal contained in paragraphs 30 and 31 of Sessional Paper No. 2 of 1948 that pensionability in the case of Africans shall cover the Commission's Grade III and above.

20. This Council also agrees that the Public Service Commission (when it comes into existence) should examine the establishment of each department and advise Government whether any additional posts should be made pensionable.

21. This Council agrees that for the purpose of calculation of pension the constant should be 1/600, subject to the qualifications set out in paragraphs 32 to 34 of Sessional Paper No. 2 of 1948.

[Mr. Troughton]

22. This Council also agrees that in the case of those Asian officers who have previously enjoyed a pension constant of 1/720 the new constant 1/600 should be applied from the beginning of the officer's service.

23. This Council agrees that where non-pensionable service is followed by pensionable service, the non-pensionable service should be taken into account for the ultimate computation of pension in the manner set out in paragraphs 35 and 36 of Sessional Paper No. 2 of 1948.

24. This Council agrees that the present rule whereby an officer who desires to commute part of his pension must commute one-quarter of it should be modified in that he should be allowed to commute a lesser proportion.

25. This Council agrees to the proposal in paragraph 260 of the report that for an experimental period of three years an officer should be permitted to retire, or be called upon to retire without reason given, on or after attaining the age of 45.

26. This Council requests the Government to give urgent consideration to the question of the cost of official entertainment to individual officers.

27. This Council agrees that the date of operation of the revised scales should be the 1st January, 1946.

Council resumes and considers the following resolution:—

28. Subject to the views expressed in the resolutions already passed in committee, this Council endorses the proposals in the report as modified by Sessional Paper No. 2 of 1948 and agrees to the provision of the funds required to give effect to them."

First of all I should like to pay a tribute, on behalf of the Government, to the care, the tact and the skill with which the Salaries Commission applied itself to a task which, because of its complexity, might well have been given up as well-nigh impossible by any person. With singular penetration they got to the core of the various problems, and very complex problems they were, which confronted them and, whether we agree with their findings or not, we must acknowledge the great task which they undertook and the contribution which their deliberations have made to the future of the Civil Service in East Africa. (Hear, hear.)

The report covers practically every facet of the structure, remuneration and superannuation of the Civil Service; indeed, of a complex Civil Service of mixed races. It therefore does not lend itself readily to debate on one motion which can be put to the vote. At the same time various aspects of the report are of great importance, and it is very desirable—it is essential—that hon. members should have the fullest possible opportunity for understanding them. Consequently, in order to provide that opportunity, we propose that the Council should resolve itself into committee of the whole Council to consider this series of resolutions dealing with all aspects of the question, when there should be full opportunity for discussion on all sides.

The Sessional Paper indicates that the Government agrees generally with the recommendations of the Salaries Commission Report, subject to modifications here and there. I do not propose this morning to go through the report or the Sessional Paper in any great detail, but to confine my remarks largely to broad, general principles.

First of all, the question of cost.

The question arises, and has been raised in the Press and I have no doubt in the minds of hon. members, as to the economic capacity of the Colony to meet the cost of these proposals year by year from public revenue. It has been suggested seriously that proposals of this sort, of a far-reaching character, should not be considered without a full inquiry into the Colony's economic capacity. Now it seems to me that there are two main objections to this course. First of all, last year we had a prolonged, and I think we all agree a thorough, inquiry into the Colony's taxable capacity, presided over by Mr. Plewman and including in its membership an economist in the person of my hon. friend the Secretary for Commerce and Industry, and I do not quite know what useful function any further inquiry of the type would serve at the present time.

But there is an even greater objection. I think. There is nothing more maddening, when asked to support a proposal involving expenditure, than to be told: "But you cannot afford not to do it." There is no phrase which antagonizes me more, and yet it is a phrase which is peculiarly

[Mr. Troughton]—
 apposite to this revision that we are discussing to-day. I suggest that it will not be possible, unless a revision of this sort is carried out, and unless salaries and conditions of service in this Colony bear a reasonable relation to salaries in other colonies and, even more important, to salaries in outside employment in this Colony, it will not be possible for this Colony to have an efficient, or even a reasonably efficient and incorruptible Civil Service. I suggest, therefore, that we cannot afford really to do without a revision of this sort.

It has been suggested that something in the nature of a partial consolidation of Civil Service salaries is justified, but that the Government would be wrong in going the whole hog with full consolidation. On the face of it I am bound to admit that that view is very attractive, particularly when the cost of living is showing signs of continuing to rise, but there is one very great objection to it, and it is this. The pension of a civil servant is calculated on his basic salary and I suggest that it would be a grave injustice to the Civil Service if its post-war pensioners were treated in a less generous manner than the proposals in this report. To secure stability in the Civil Service I suggest an officer must be sure of a pension. Pensions are not very big. Retired civil servants will never be very well off on their pensions, unless they have private means—or can get elected to this Council—laughter—and consequently an increase in the cost of living will hit them most severely. I suggest seriously that nothing could be more creative of uncertainty or could tend more to corruptibility in the Civil Service than for an officer to be in doubt as to whether the level of his pension will be maintained for the rest of his life.

But what if a time of crisis comes? What if the price level falls as a result of catastrophic depression? Is the community to be saddled with these proposed rates of pay and pensions then? This question, I suggest, sir, requires a little examination. The salaries proposed represent increases above the pre-war level of about 41 per cent in the case of Europeans, 68 per cent in the case of Asians, and 86 per cent in the case of Africans. Now these are gross increases. If we allow for the rent element, which is deducted from the new salary to get a

true comparison, the real increases are round about 27 per cent in the case of Europeans, 51 per cent in the case of Asians, and 67 per cent, or thereabouts, in the case of members of the African Civil Service. These percentages are important, and I would ask hon. members to remember them: 27 per cent in the case of Europeans, 51 per cent in the case of Asians, and 67 per cent in the case of Africans.

I think it is quite clear from these percentages that these proposals are not going to put the purchasing power of civil servants, particularly dealing with the European civil servants, at anything like the 1939 level of purchasing power. Perhaps we might do a little arithmetic, if hon. members will bear with me for a moment.

The proposals in this report, as the Commission informed us, are based on an increase in the cost of living of 65 per cent in the case of Europeans and Asians over the 1939 level. That is not the increase in the cost of living to-day. It is the increase in the cost of living at the time that the Salaries Commission formulated its recommendations: It has gone up since then. It is over 70 per cent now. It is 171, and is showing a tendency to rise. In fact, the Government is having the greatest possible difficulty in keeping the cost of living at its present level. The increase in salaries in the case of Europeans, on the average, is about 27 per cent above the 1939 level, and the cost of living increase is over 70 per cent; so that the cost of living would have to come down from 70 per cent to 27 per cent above the pre-war level before the average European civil servant in this Colony has restored to him his 1939 purchasing power.

Put it another way. If the European salaries proposed in these papers were increased by a further 30 per cent over what is recommended in this report, then it might be said that something like the 1939 purchasing power was being restored. That 30 per cent represents what the European civil servant in this Colony has to pay towards the cost of the war if these proposals are approved.

In the case of the Asian and the African civil servants the position in principle is just the same. Their increase in net income perhaps is more, and that for reasons which the Commission considers

[Mr. Troughton]
 good, but the figures I have given as applied to the European civil servants apply in a lesser degree to the members of the other races. Therefore I suggest to hon. members that in equity the depreciation would have to be very grave indeed before any downward revision of these rates proposed might be held to be equitable. On the contrary, the danger is that a new cost of living allowance might have to be superimposed upon them.

Nevertheless, a grave depression might happen. We have had it before, and here I refer hon. members to paragraph 156 of the report, which I will read. It says: "Should, however, a major financial emergency occur and exceptional measures of economy become necessary, then, as we have indicated in paragraph 155, we are clear that a system of marginal cost of living allowances would not provide a buffer of sufficient resiliency to absorb, so far as the salaries of civil servants are concerned, the full shock of a major fall in prices and colonial revenues, and that such a contingency would have to be dealt with by *ad hoc* measures".

To return to the economic position, we did feel strongly—and I think we all do—that civil servants should be paid salaries in relation to outside employment and cost of living. If the Colony's revenue is insufficient and if the economic position of the Colony cannot support the bill, then we feel that the number of civil servants should be reduced—(UNOFFICIAL MEMBERS: Hear, hear.)—and not the pay of individuals. We feel it would be preferable, and I think all will agree, to have a relatively small Civil Service properly and reasonably paid—(hear, hear)—with officers who are efficient and devoted to duty, than to have a large Civil Service of poorly paid officers who would be sorely tempted to augment their incomes in other ways. (Hear, hear.)

Another point arises here. There is a clear obligation on the Government to ensure that there is no waste of public money, and it is a very difficult obligation to carry out. The Council, if it agrees to the heavy additional commitments involved in these papers, is entitled to demand, to insist, that all possible action is taken for the elimination of waste. For that reason Government has

considered engaging the services of a firm of experts in office organization in the United Kingdom to examine the Government machine and to see whether any further improvement in efficiency and economy can be achieved. The matter has already been discussed by the Standing Finance Committee and will be discussed again. The Efficiency and Economy Committee have done excellent work, but it may be possible to go further.

Again, it is important that inefficient individuals—and hon. members have a right to request it—that inefficient individuals should be weeded out ruthlessly, and here again I should like to repeat on behalf of Government an undertaking given last year by the hon. Deputy Chief Secretary: "The hon. member (for the Coast) asked for an assurance from Government that inefficiency would not be tolerated, and that people who were inefficient—whether they were in high places or in more humble places—should have their services dispensed with. I will tell him that Government would most certainly agree with him whenever that inefficiency was inherent in the officers themselves".

MR. COOKE: Has any action been taken since then?

MR. TROUGHTON: Yes, it has.

Now, in order to facilitate the taking of action on this matter, we propose that in the case of Europeans and Asians provision should exist in the law, as recommended by the Commission, for retirement at the age of 45 years on a proportionate pension without reason given. That should be a most valuable safeguard enabling us to get rid of officers who may be disgruntled or discontented or inefficient for one reason or another.

Again, we propose that the new promotion bars recommended by the Commission should be applied strictly, and that officers who are inefficient should not proceed beyond their efficiency or promotion bars, which are specially designed to provide a stoppage of promotion or stoppage of advancement for inefficient officers, and which, I am afraid, have not been too closely administered in the past.

The debate was adjourned.

Council adjourned at 11.05 a.m. and resumed at 11.25 a.m.

The debate was resumed.

Mr. TROUGHTON (Continuing): Mr. Speaker, when we adjourned I had referred to the determination of Government to eliminate the inefficient by a strict application of promotion bars and efficiency bars, and I should also like to add that we propose to tighten up very considerably the system of the granting of normal increments. Normal increments can be had too easily sometimes, and they should be contingent, and they are intended to be contingent, on satisfactory work during the year. (Hear, hear.)

Now I will turn to the salaries themselves. The principles on which the Commission recommendations are based are fully set out in the report, and I do not think I need to take up the time of the Council by referring to them, but I should like to deal with two or three criticisms which I have heard from a variety of standpoints.

I have heard it suggested that, perhaps, if these proposals are approved, civil servants will work harder and be more courteous to the public, and so on, by way of reciprocation of the proposed generosity. That standpoint, I suggest, is nonsense. (Hear, hear.) The salaries proposed to-day represent no more than reasonable amounts which are reasonably justified, in our opinion, by the work which the servants do—(ATTORNEY GENERAL: Hear, hear!)—and in no way do the advantages, where there are any, represent anything more than that which is strictly just and fair. Indeed, it is very difficult to refute the argument—that in certain cases the proposals are considerably less than that which is just and fair.

Another criticism that I have heard is that these proposals do not benefit the man who really needs to benefit, and I have heard that criticism particularly made in respect of the middle ranges of the scales proposed for European officers. It is no part of these proposals that everybody should get a benefit. All that the scheme purports to do is to devise a salary structure which, after taking into account the present and probable future cost of living, is sufficient to attract the most suitable people to the Service and to retain them in it. It would be altogether wrong to regard a revision of this sort, I suggest, as an arrangement under which everyone concerned must get a considerable increase in emoluments and a substantial sum by way of arrears.

The reason, of course, why the officers concerned do not get an increase in their present emoluments is that they have, in fact, been getting substantial cost of living allowances for the past few years, and it is not possible to have your cake and eat it, much as we would like to do so. But I should, perhaps, say this, that these people on the middle ranges are in many cases on a very different wicket from what those of us were before the war who were on those ranges. The salaries before the war were never terribly generous. You could not on your pre-war purchasing power get very rich, but the people on those middle ranges now are far worse off for another reason, apart from the increased cost of living. They nearly all served in the war. During the war many people married young and had children, and the result is that you find many of the European staff in these grades have between them far more children than their predecessors did some time ago. It is interesting in this connexion to note that, if you take officers in the Administration as an example, on substantive salaries of under £750, if you take the year 1935 and go through the list you will find that between them that group of officers had 14 children all told. If you take the same group of officers to-day, those on substantive salaries of less than £750, they have 81 children, so that a man to-day has a far heavier family obligation than the corresponding man before the war.

I mention this to show to the Council that the complaints which members will hear to the effect that the scales proposed are not generous and will impose severe hardship are very genuine complaints indeed, which should be listened to. I would suggest, with sympathy and understanding. From our standpoint, we feel that one must not take personal considerations too much into account, but that we should endeavour to devise a set of scales—to get approval to a set of scales—which will enable us to recruit and maintain the most suitable people, and which are suitable scales in relation to the responsibilities involved.

In the case of super-scales the position is rather different. The object there is not so much to take into account cost of living, but again to provide a series of salaries which will attract suitable people in present-day conditions to

(Mr. Troughton) occupy the senior posts in the Government Service. The effect of these super-scale posts on the budget is negligible. The total bill represents about 2 per cent, and the net increase is a very small fraction of 1 per cent of the total budget, and I would suggest that the super-scale salaries proposed are much lower than the comparable ranges in civil life.

As regards the European time scales I do not want to go into too much detail, but I think I should make this point. Hitherto the Provincial Administration went straight through to the maximum of the long scale, £920, by annual increments, and it has always been a source of grievance to professional officers—agricultural officers, entomologists, soil chemists, and the like—that they got held up for vacancies at various points; or, if there were no vacancies, they got held up at £720 for five years, and then had another halt at £840. This applied to virtually all the professional grades except medical officers and, of course, lawyers. The Commission proposes, and the Government agrees, that the long scale should apply to all the officers concerned, and this should remove a deep-seated grievance, a grievance which in the opinion of some of us was perhaps not justified, but nevertheless which was very widely held.

We recognize, and I think all hon. members will recognize, that in a general review of this sort dealing with a complex subject, we will necessarily have been guilty of omissions and anomalies. The task of compiling the Appendix to the Sessional Paper and of examining the Commission's recommendations in detail was difficult and the time factor was important, and it is certain that some minor points will have gone und dealt with. I should like therefore to see something like a general E. & O.E.—there may be things that will have to be put right.

In the Sessional Paper, at the top of page 2, it deals with the generality of Africans in what might be called the mercantile grades, those people who generally speaking drew less than Sh. 40 a month pre-war. We are going into the question of these employees and, as the Paper says, we will bear in mind the necessity of relating the emoluments of this group to those of private employers

and local authorities. We regard it as of the very greatest importance that no action should be taken in regard to this group which would have the effect of any general rise in wages, unless accompanied by a corresponding increase in output. (Hear, hear.) Such an increase in wages would, I suggest, be disastrous to the economy of the country. In dealing with this problem we have asked Provincial Commissioners, when making their recommendations, to give an assurance that their recommendations for the Africans of this group of employee will be such as to cause no repercussions on local wage rates generally.

"Salaries in relation to race and domicile." I should like to quote from the Commission's report for a moment; paragraph 84: "From the evidence which we have received we are left in no doubt that, generally speaking, the European civil servant surpasses the Asian in such matters as sense of public service, judgment and readiness to take responsibility." (MR. PATEL: Question!) I would like to say that, to my knowledge and to the knowledge of every Government member of this Council, a very, very large number of Asians have rendered, and are rendering, valuable service to the Government, and have set a standard of loyalty and devotion to duty that is an example to us all. (Hear, hear.) The Commission was careful to qualify its remark by the use of the words "generally speaking" and, while the Government agrees with the Commission that in general the value of the services rendered by the various races at present varies, nevertheless that is no aspersion on the many officers of all races who have rendered, and are rendering, most valuable, devoted service to the Government, and assume heavy responsibilities. I should like to make that clear.

Perhaps I should here also invite attention to paragraph 6 of the Sessional Paper, which relates chiefly to the clerical scales. The Government fully agrees with the Commission's arguments here, except that we do not feel that outstandingly brilliant individuals of any race should be rigidly confined to a particular set of scales, and that every subordinate officer should be eligible for promotion in accordance with his merits. There has been a sharp difference

[Mr. Troughton] here between the way Uganda and Tanganyika have dealt with this question and the way we have. We for our part here propose to follow the Commission: to say that such and such a scale will normally apply to Europeans, another scale shall normally apply to Asians, and another to Africans. Uganda and Tanganyika have each provided for a non-European Civil Service in which, on the face of it, Asians and Africans will be eligible for the same salaries.

During the discussions in London and Nairobi on this subject I thought it right, on behalf of this Government, to ask for a clear undertaking from the representatives of the other two Governments that their proposals did not mean that they would increase the salaries actually paid to Africans to levels out of line with those proposed by ourselves, and I received such an assurance personally from the Financial Secretary of each Government. There can, therefore, be no question of this Government being criticized for being less generous to its African civil servants than either of its neighbours. On the contrary, with them we have agreed that exceptionally able and useful individuals of any race should be eligible for advancement from scale to scale according to their merits.

In paragraph 138 of the Commission's report they deal with the future of the Kenya European Civil Service, and exactly the same principles apply to the Kenya Asian Civil Service. In 1934 and 1935, if hon. members will cast their minds back, these services were inaugurated and their existence was from time to time stoutly defended by the Government. Yet, nevertheless, the existence of two sets of salary scales and terms of service applicable to individuals of the same race working side by side in the same jobs created serious discontent. The proposal here is that this should be eliminated: that all European officers on the one hand and the Asian overseas service and Asian local service on the other should be offered terms of service applicable to each race, without distinction of that sort. Everyone then who remains in the present Kenya European Civil Service, or every Asian who remains on local service terms, will only have himself to thank, because it is the intention that he should be given a clear

option to accept or reject whatever terms are finally approved by this Council.

This means a compromise. Members of the former local services would gain in respect of pension, they would gain in the consolidation of salary, they would gain in that they would be treated identically with their overseas colleagues in regard to housing and allocation of quarters, they would gain in respect of overseas leave privileges. On the other hand, those in the overseas service would lose in respect of overseas leave privileges. For example, European officers who to-day are eligible for five days vacation leave per month, exclusive of voyages, would become eligible for five and a half days, inclusive of the voyages. So that the officers concerned would be sacrificing—it works out at round about 18 days' leave in respect of each year's service. I am one of those who think that that sacrifice is justified from the many advantages attaching to this report and to these proposals.

In addition, senior officers would be required to do a longer normal tour, 40 months instead of 36. That represents a material difference, but I think we would agree, most of us, in the light of the experience of the war years, that it is not unreasonable. This question of leave is a matter on which officers, I think, feel less strongly as they get older and as they get fonder of Kenya. On the other hand, it is a factor which is important to many of the younger officers whose parents are still alive, and it plays an important part in the question of recruitment outside the Colony.

We propose that the new leave conditions should apply from the 1st July this year, if approved by this Council, except in so far as passages are concerned, and there I would like to make a special explanation, at the risk of wearying the Council on a matter of detail.

The Commission recommend that passage concessions should consist of one passage for the husband, one for the wife and up to one adult passage for the children. We would propose that this should be accepted for the future, but there is a difficulty about the immediate present. A concession was granted in respect of the first leave after the war, under which the officer was eligible for free return passages for himself, his wife

[Mr. Troughton] and his children, up to four in number, Europeans and Asians. We allowed this concession to be taken in 1944 and early in 1945 in respect of people who had to go on leave then, because actually the cost of living then was such that, with no cost of living allowance, or a very small one, the family man could not save sufficient to make any material contribution towards his wife or children's passages. Therefore we decided as a concession to meet the cost of the passages for the first leave after the war.

Some of these people have had to go on leave again, for one reason or another, and we accordingly decided that the concession should be extended to cover the second leave after the war, because the conditions regarding the possibility of saving for the family man have not got any better. In fact they have got worse. But, after consultation with the unofficial members of the former Council, we did give a warning to officers going on leave that they might be required to refund a part of the cost of their children's passages out of any arrears of salary that they might get from this report. We gave that warning. Now, sir, the Government of Uganda has granted its passage concession unconditionally for the second post-war period, and I would suggest quite seriously that this Government might follow suit. (Hear, hear.) Quite seriously, the family man, both European and Asian, on the middle grades of salary, even with this revision, if he happens to have two or three children, will not really be able to save a bean towards the cost of their passages, and I wanted to make that suggestion as strongly as I could.

Now I turn to another aspect of this business, a very important question indeed—retiring benefits. The proposals in regard to this are most far-reaching and, if approved, their effect on the Colony, possibly now, certainly in the future, will be profound, and I would suggest to members of this Council that from the financial standpoint this is a much more important part of the whole business than the actual salary revision. There is a proverb which says that the devil you know is better than the devil you don't know. Well, we can make a fairly accurate estimate of the cost of the actual salary revision, but it is not pos-

sible to make any useful estimate of the effect of these proposals on the pension bill for the future, except to say that it will be extremely large, extremely large.

Let us look for a moment at what the actual proposals are. First of all we have the overseas European service and the overseas Asian service. The effect there will be relatively small. The only change is that the rate of pension constant becomes 1/600th from the 1st January, 1946, in the case of the European, and we are going to press that in the case of the Asian it should also be 1/600th as from the beginning of the officer's service. But the actual effect would not be very great. It would mean a reduction in the case of Europeans of the rate of earning pension and an improvement in the case of Asians. With the present Kenya European Civil Service the effect would be different. There are about 1,050 Europeans in that service who are at present members of the contributory pension fund. They will all of them become eligible for free pensions under these proposals, and some day we will have to make provision for these pensions.

I would not have the temerity to prophesy what our future pension bill will be. A very much more experienced mathematician than I tried it some years ago, and in the event proved very wrong. But it is a matter of simple arithmetic to say that, if these 1,050 members eventually draw an average pension of, say, £400 a year, that effect on our annual pension bill would be extremely formidable, though, of course, we would not expect them all to be on pension at the same time. But this is only the beginning. We have the Asian Local Civil Service. That comprises round about 1,200 posts in the permanent establishment, and its officers are at present members of the Provident Fund. The proposal is that they should all become free pensionable. That, sir, would make a big addition to the Colony's pension bill. But that is only the beginning. We have also to cope with the African Civil Service. Members of that service are at present on a Provident Fund basis, and a basis which returns a benefit by way of annuity which I think we all agree is most inadequate, and it is proposed that all those of the Commission's Grade III and upwards should become free pensionable. There are about 3,300 posts in this category; so it may be

[Mr. Troughton] assumed that a very heavy annual liability for pensions exists there.

I should explain that since the Sessional Paper was published the Government has given further consideration to certain aspects of African pensions, and we propose at a later stage to move an amendment to the effect that an African, except on being invalidated out of the service or on retrenchment from the service, should not be eligible for pension until he has reached the apparent age of 55, or until he has had 30 years' service in Government, whichever is the earlier. The reason for that will be fully explained by the mover of the amendment, but I merely give notice of it now.

That is still not all. There are large groups of Africans outside the African Civil Service as such for whom superannuation benefits must be provided, and here I would invite the attention of hon. members to the Sessional Paper. We propose that free pensions should apply, as I have said, to the bottom of the Commission's Grade III, but that would not apply to the Police and Prisons Services and those who are outside the African Civil Service as such, and we propose that those who are promoted to non-commissioned ranks in those departments should be eligible for free pensions, and that probably means several hundred more Africans.

I have stressed the effect of these proposals at some length at the risk of wearying the Council, because I do consider that for the future the prospect is one which might well deter courageous men, and it certainly requires great courage on the part of this Legislative Council to approve the proposals in regard to pensions and retiring benefits which I am asking Council to approve. The effect on the taxpayers' future will be most serious, and it is essential that hon. members should know just what they are doing if they approve these proposals.

Why, then, should they be approved? I suggest that there are overwhelmingly strong reasons. In the first place I would not worry about whether a pension is free or contributory—that is academic. It is all the same to me whether Government pay me £2,000 a year and a free pension of £2,500 and I pay £500 towards my pension—there is no special virtue there. But it is, I think, a cardinal prin-

ciple of the public service that a person who gives a lifetime service to the State should spend his declining years in freedom from want. The salaries which are paid and proposed to be paid are not on a level on which the average officer will be able to save very much, and therefore I suggest in all seriousness that unless adequate provision is made for superannuation, officers will be tempted to take risks. We have had examples over and over again. There are ways in which civil servants who are minded to take risks can augment their incomes, and the only way I know of effectively guarding against it is to provide for a reasonable system of pensions and to provide that if an officer is dismissed from the public service he loses the prospect of a pension. That applies to all races.

There is a further argument in the case of Africans. Unless the African who has retired from the Government service is paid a pension sufficient to enable him to live in reasonable freedom from want he may well become a charge on the land and add his quota to over-population and fragmentation and subdivision which is providing such a headache for those responsible for dealing with land utilization. From all points it seems desirable that the African who retires from the public service should be accorded a measure of social security. (Hear, hear.)

For these reasons it is surely wise to face up as a Government to the payment of pensions to our servants of all races, and if the bill becomes unwieldy then let it be met by cutting down on current services. A further question which arises, and which I will leave open, is how far should pensions be paid by the present generation and how far should they be left for a future generation? Much can be said on both sides, and we propose to await the results of an actuarial examination before putting proposals to the Council.

Before I close, and I am getting towards the end, I should like to refer to the question of local authorities.

The extent to which local authorities will alter their salary structure in consequence of a Government alteration is, of course, a matter for the local authorities themselves. Where Government makes a contribution towards the cost of a particular service rather than paying a block sum subject to review, naturally Govern-

[Mr. Troughton] ment would be prepared to conform, or recommend confirmation, with the appropriate provision and contribute its percentage. But I should make it clear that the position of local authorities in African areas will be extremely difficult. They have assumed responsibility for many social and other services, the great majority of their employees are Africans, and if they follow the revision here proposed the burden imposed on those local authorities will be very heavy indeed. In their own way they will be presented with a problem at least as formidable as that presented to the Government's financial advisers.

There is one more matter to which I must refer, and that is the effective date. Government recommends to this Council that the effective date of this revision should be 1st January, 1946. That is not simply because the other East African Governments have decided on that date, but because Government feels strongly that that date is justified on the merits of the case, and that not only for the arguments adduced by the Commission. The Commission's arguments in favour of that date are three: firstly, they say that was the date on the West Coast; secondly, they say that practically all the witnesses they examined thought that should be the date; thirdly, that that was the date from which certain super-salaries were revised. The last two of those arguments are not arguments I would personally press on this Council; I do not regard them as particularly strong, but there were other arguments not mentioned by the Commission which I think are strong.

First of all, in my judgment—and I feel sure that Council will agree—an officer who stayed on duty for the duration of the war and then retired has every right to have his pension assessed in the light of post-war conditions and costs. It would be entirely wrong, I suggest, that if an officer stayed on when he could have retired, throughout a six-year war, from patriotic motives, he should have his pension computed on the basis of a pre-war basis, but if such an officer decided to go on leave pending retirement on V-J Day his retirement would become effective early in 1946, the actual date varying in accordance with the amount of leave standing to his credit. There

were a number of such public servants, men getting on in years, who bore the burden and heat of the day during the war to allow younger men to join the armed forces, and in my judgment it would be very wrong indeed if they were given 1939 pensions.

Again, it was known fairly early in 1946 that the Salaries Commission was going to be appointed, and from then on we as a Government refused to have anything to do with revisions of salary in particular cases pending determination by the Commission.

For those reasons, in addition to those mentioned by the Commission, Government proposes 1st January, 1946. This date has already been accepted by the Governments of Tanganyika and Uganda and we have not got very much alternative. The Post Office staff and Income Tax staff function in all three territories, the Customs staff function in Kenya and Uganda, and I think hon. members would agree with me that it would be a deplorable thing if officers stationed in Kenya through no fault of their own were compelled to suffer for it. But I would not urge the date 1st January, 1946, merely on that account, but because it is justified on its merits, and those Governments who have accepted it have acted wisely and well.

The proposals in this report, if approved, should do much to rid the civil servants of this colony and East Africa of a sense of grievance and injustice. There will no longer be a European overseas and a European local service, there will no longer be an Asian overseas and an Asian local service, no longer will Africans not be eligible for pensions commensurate with the services rendered to the State. On the other hand, the married European, the married Asian, and the married African on middle salary ranges with families will still have a struggle to balance their family budgets, but they can look forward to the future with confidence, knowing that if their work is good and their conduct worthy they can look forward to promotion and ultimately to pension. Again, it is the case to-day that many of our young men and women of all races do not go into the Civil Service, because the immediate and future prospects in commercial employment are so much brighter. That is an undeniable fact, we

[Mr. Troughton] have examples every day. I suggest that the Civil Service of this Colony cannot afford anything but the best, and we should put our house in order and design terms and conditions of service that, while being fair to the taxpayers, will attract the best.

The proposals in these papers represent the least Government feels will do that, and as such I warmly commend them to the approval of this Council.

MR. RANKINE seconded.

MR. VASEY: Mr. Speaker, in order that members on this side of Council will have time to study the speech just made, I move that the debate on this motion be adjourned until Tuesday, 17th August, next.

MR. NICOL seconded.

The question was put and carried.
The debate was adjourned.

COST OF LIVING

PROPOSALS FOR REDUCTION

The debate was resumed.

MR. RANKINE: Mr. Speaker, I do not wish to take up much of the time of the Council by intervening in this debate because my hon. friends the Financial Secretary and Secretary for Commerce and Industry can reply to the motion of the hon. Member for Nairobi South much better than I can. But I would like to say two things.

First of all, I should like to associate myself with what my hon. friend here has said in praise of the speech of the hon. member opposite and to congratulate him on his maiden speech. (Hear, hear.) We on this side of Council have listened to him with a great deal of interest, and I know it is the view of the Council that he has made a notable contribution. We shall hope to hear many more such speeches in the future.

The second point is to add something to what has been said by the hon. Deputy Chief Secretary on the subject of courtesy to the public on the part of Government servants. We are grateful to the hon. member for bringing to our notice certain exceptions in that connexion and I should merely like to add this: that Government does attach very

great importance to Government servants being courteous and attentive to the public at all times and in all places, and it is our intention to see that that is done. (Hear, hear.) We are aware that there have been certain shortcomings in this connexion in the past. I do not wish to make excuses for that now. Hon. members will be aware, perhaps, that as a result of the war there were possibly certain excuses, but Government is taking steps to bring it to the notice of every single Government servant that its instructions and desires on the subject must be carried out.

I should also like to repeat what my hon. friend has already said that if examples of any shortcomings in this respect are brought to our notice we will have them thoroughly investigated. I propose to make one small qualification to that, and it is this: that courtesy and attention to the public at all times does not involve any failure on the part of Government servants to carry out their duty or any neglect of their duty, particularly to the revenue and to the pockets of the taxpayers of the Colony as a whole. I am afraid that there are occasions when people take advantage of that and, as hon. members I am sure will be the first to agree with me, there are occasions when some members of the public appear to think that courtesy to them and attention means failure to collect the revenue. (Laughter.) I know that all of us agree on that respect, that it does not in any way mean failure to carry out their duties.

On occasions that is not pleasant, it is not always easy, and I feel sure too that hon. members will appreciate the fact that in this connexion Government servants very often have no discretion. For instance, the amount of income tax, the amount of customs duty, etc., is fixed by law, and no one, the hon. Financial Secretary nor anyone on the ladder down below has discretion in that matter. But I do assure hon. members that we do attach the very greatest importance to Government officers being attentive and courteous, that Government servants are aware—or, if they are not, they will be made aware—that we are not only Government servants but the servants of the public, and it is in that way that these duties are to be carried out.

[Mr. Rankine]

Finally, in congratulating the hon. Member for Nairobi South on his speech, I would also like to thank him, so far as we are concerned, for the manner and the spirit in which he has brought these examples to our notice, that we know he has done it in a spirit of moderation and construction, and we would take them in that spirit. (Hear, hear.)

The hon. member mentioned yesterday the story about Anteus. He came to this Council, so far as we are aware, in the guise of St. George! (Laughter.) Following on that, he yesterday appeared to take over the role of Hercules, and we hope that, having been so successful in his roles and in his wrestlings with these difficult subjects, he will not be too much encouraged and induced to carry on and take over the role of Anteus himself. (Laughter.)

MAJOR KEYSER: Mr. Speaker, I also would like to add my quota of praise to the speech made yesterday by the hon. Member for Nairobi South. Although it was his maiden speech, I suggest that it was rather an unsophisticated maiden speech!

I find myself in the rather difficult position of not being able to support the motion of the hon. member, because I disagree with his paragraph 1, while I very strongly agree with his paragraphs 2 and 3. I disagree with his paragraph 1 because it is based on a recommendation of the Plewman Report which I do not think has been correctly interpreted. The recommendation of the Plewman Report was that the ratio of indirect to direct taxation should be maintained at 2 to 1, and the hon. member went at great length to prove that it had now risen to the proportion of 2½ to 1, and he stated that for 1947 the total revenue from customs and excise was £4,250,000 and from direct taxation £1,650,000, which is 1 to 2½. But his total figure of £1,650,000 for direct taxation consists of the total of income tax, hut tax and personal tax that was collected during 1947.

In addition to the revenue that is derived from customs and excise duties, and from personal, income and poll tax, there are a whole lot of other taxes which academically might perhaps not be strictly

direct taxation, but which in fact are very direct taxation, and which I am sure the Plewman Report must have meant to be included in the direct taxation. They are such taxes as gun and ammunition licences, game licences, liquor licences, licences under the Traffic Ordinance—I can think of nothing that is more direct than that! Once a year I have a most frightful shock over that one—registration of documents and titles, stamp duties, estate duty, trade licences. Then there is a tax on petrol, a petrol consumption tax. That is not a customs tax, and, although every time you buy a gallon of petrol you do not work out the sum to find out exactly how much is the petrol consumption tax, nevertheless it is direct taxation. It is not included in the customs tax, but is a direct tax on the consumption of petrol in this Colony.

The total of those taxes which I have enumerated, and adding to them the uncollected portion of income tax, which we know to be extremely large (and which I should estimate to be at least half a million a year), plus about £100,000 of hut tax which has not been collected in 1947, comes to about £1,148,000. Adding then to the direct taxation figure given by the hon. member of £1,650,000 you get a total of £2,798,000 of taxation, or a proportion of 1 to 1.5, which is a very different thing to 1 to 2.5. I may have exaggerated my case, but I am submitting that the other case is exaggerated, too, and if we take the mean of 1.5 and 2.5 we get 2, and that leaves us with the correct ratio of 1 to 2, which was recommended by the Plewman Report.

There is another reason, of course, why I do not like that paragraph 1, and that is that I think, if we tackle the taxation problem from the point of view of customs duties only, and customs duties on articles that affect the cost of living of the people with lower rates of incomes, we are going possibly to alter the whole balance of the taxation of the Colony, and I think it would be extremely dangerous to do it in that way. If we wish to alter the taxation of the Colony, then the whole question of taxes should be reviewed in one fell swoop, and not one particular portion of it at one particular time.

[Major Keyser]

Apart from that, the hon. member did refer several times in his speech to, I think he called it, a levelling-out of prices, or a flattening-out. They are the same thing really, I suppose, but it was really a reluctant way, I think, of agreeing to my pessimistic view about the future, and that is that we are gradually going into a deflationary period. I do not quite know what else you can take a flattening-out to mean. I suppose prices have now reached the top and are now doing a bit of flattening-out, and we must presume that they are now going down the other way. So I think it must mean a reluctant admission of my view about the future, and I think that if I am correct in my surmise, then we can go along the flat bit for a little until we see how steep it is the other side.

The hon. member did mention custard powder. I think that anybody who uses custard powder should pay a very, very high tax on it! (Laughter.) But I do not think you should tackle the matter of cost of living by the cost of articles of groceries and articles of clothing only. The matter is far too big for that. I think that if you looked at the budget of a Nairobi employee who does not receive housing, you will find that the cost of rent is possibly the biggest item in that cost of living. If you again break down the cost of rent you will find that the cost of the land on which the house is built is one of the very big items in the high cost of housing in Nairobi. We all know that in the last 18 months or so building land in Nairobi has been allowed to rise by hundreds of per cent—500 per cent or 600 per cent. You see land advertised to-day at £1,000 and £1,200 an acre, whereas a few years ago it was about £100 to £200 an acre. That is a matter which has been allowed to take place during the last 18 months by the inhabitants of Nairobi. I submit that they have allowed it to slip under their feet.

We are living in a time of controls. We have gone to the extent of controlling the price of agricultural land, and the price of agricultural land has a very great bearing on the cost of living, because if you allow the price of agricultural land to soar to even greater heights than it has reached to-day, obviously the cost of production of

primary products is going to rise, and in that way it affects the cost of living. I do think that the townspeople, who are more affected by the rise in the cost of living, of the primary product part of it, than the agricultural people, should have taken the same step as the agricultural people took to control the price of their land and their rents. I am only giving that as an instance of why I am not prepared to accept a reduction in customs duties as a solution, or even a very great solution, to the cost of living to-day.

With regard to the other two points—2 and 3—I heartily support the hon. member, and I think he has done a very great service to the Colony in drawing the attention of this Council and of Government to those two points.

I regret that I am unable in the circumstances to support this motion.

MR. HOPE-JONES: Mr. Speaker, I rise to reply to the third part of the motion by the hon. Member for Nairobi South, but before doing so, I, too, would like to add my quota to the very genuine praise for a most brilliant maiden speech. Not only was it well phrased, not only was it closely reasoned, but I would like to say how much I admired the courage of the hon. member. In fact, the fact that I am wearing this flower in my button-hole to-day is in honour of that courage! (Laughter.)

I think I can claim to be, in relation to this Council, the father of Anteus. A great deal has been said about Anteus, but yesterday, as the hon. member went through with his motion, I somehow thought of another figure in classical mythology, and that figure is Sisyphus, who was a gentleman who tried to push an enormous stone up a very steep hill. He pushed and pushed and then, when he got near the top he felt tired and rested and the weight of the stone was so great that it went tumbling down again.

It is to my very great personal regret that we cannot on this side of Council accept the hon. member's motion *in toto*, and I hope it will prove possible later in the debate—and that is why I have intervened at this stage—for some of us to be able to help the hon. member in his very difficult task, and possibly by amending this motion enable us all to put our shoulders to the enormous stone

[Mr. Hope-Jones] and so help the hon. member to triumph over Sisyphus.

To come down to detail, I will not detain the Council very long, but I ask your indulgence to read some figures that I got out yesterday. Before doing so I would say that I do notice, with some slight astonishment, the words appearing in the hon. member's motion, "by meticulous adherence to the letter and spirit of the Secretary of State's instructions". We on this side of Council, of course, are always pleased—indeed, it is our duty—to carry out as far as is practicable the letter and spirit of the Secretary of State's instructions. But I must confess to a little astonishment to find the hon. member, who represents one of the largest constituencies in the country, an hon. member who is one of the unofficial majority that yesterday had the somewhat doubtful distinction of defeating the Government, putting down in his first motion before this Council that we should adhere "meticulously to the letter and spirit of the Secretary of State's instructions"!

I do not wish to pursue that subject any further, but I would refer to the circular from the Secretary of State of the 27th December, Circular No. 113. That circular was a means by which we were enabled greatly to relax imports control—a type of imports control which, in my submission, represented a very serious interference with the business of this Colony. Severe restrictions were necessary as a result of the economic crisis of about a year ago, but the net result of carrying out the spirit—and I repeat, the spirit—of the Secretary of State's further instructions was this. We have granted open general licence that covered nearly 90 per cent—90 per cent—of the imports from the United Kingdom monetary areas, and that area was responsible for nearly 75 per cent of the imports into Kenya. That is the broad picture. The hon. member went on to say, in fact he asked, why we had in fact put on a restricted and a suspended list certain items that were not specifically named in the circular telegram to which he referred. Now the hon. member has studied that telegram very carefully; otherwise he would not refer to "meticulous adherence" to its terms, and

I would refresh his memory, if I may, and point out that we were told that, while there was to be no austerity, there was, however, to be the greatest regard paid to the balance of payments between Kenya and the rest of the world, including the sterling area, and also an endeavour to leave our sterling balances dormant in London as far as was compatible with the development of the country.

I would not claim in any way that the list we drew up during those somewhat critical days of last December and January was perfect in any respect, but what I can say is this, that every item that appeared on that list was placed there by the unanimous vote of an advisory committee of which I am chairman and sole official member—and I may say I have never used my vote on that committee—was placed there by the unanimous vote of a committee representative of business, of commerce and industry, and of the chambers of commerce, both European and Asian, in Kenya. At a later stage that committee, for the purpose of convenience and of smooth co-operation, brought, to join its councils, representatives from Uganda.

That list has been constantly revised, and we have taken off it certain items. I quite agree that some of them possibly should never have been on, but it is perhaps just worth mentioning, as the hon. member referred to champagne, that although there is no reason why champagne should not come into this country—particularly if it could be restricted to those happy ceremonies to which the hon. member devoted some little time—it does affect the balance of payments, and I would say that in this respect the hon. member was in some danger of getting into that unhappy situation when all that the kitchen-maid could say was: "Well, sir, it is a very small one".

I need not detain the Council much longer, but I should say that we hope to be able in the very near future further to relax import restrictions. We hope to be able to extend the principle of open general licences to the sterling dominions, and that will be a most important and, I would say, a very welcome relaxation of those restrictions. I had hoped to be able to furnish details to-day. I cannot do so because in this matter we felt that it was only courteous

[Mr. Hope-Jones] to consult the other territories and they, like members opposite, in considering the report of the matter asked for a little time. So I am not able to go into details, but I can assure the hon. member that it will be a very considerable and a very important relaxation.

As regards the three lists—the restricted, the suspended and the programmed list—the programmed list did not appear in the Secretary of State's communiqué because those are the commodities which are programmed for international allocation, and have been since the early days of the war. I need not detain the Council on that because I know the hon. member was not referring to it. As regards the prohibited list, or, as it has been called, the suspended list, we hope to bring that very much into line with the Secretary of State's meticulous instructions.

As regards the restricted list, I would point out first of all that importation up to 100 per cent of last year's importations has, in fact, been allowed to all people who imported these goods before. We hope to reduce that list almost to vanishing point, which will at the same time get rid of that bugbear of past performance in the only possible way it can be got rid of from the practical viewpoint.

I think I have detained the Council long enough. I would merely like to repeat that I personally welcome very much the motion put forward by the hon. Member for Nairobi South. I would again repeat my remark that he has taken up a very great and, I would say, a very noble task in moving this resolution, and I hope that, although we on this side cannot accept the motion as it stands now, it will be possible for us to find some means by which we can help the hon. member to deal with this very great task later in the debate.

I beg to oppose the motion.

MR. EDYE: Mr. Speaker, after so many Sisyphuses and things in this debate, I feel somewhat like Pussfoot in entering into it at all! I have listened with very great interest, first to the hon. Member for Nairobi South in his able and very lucid maiden speech, and thereafter to the views of various hon. members on this important problem. It is

obvious that, while everyone in this Council is anxious to find a solution to this very important problem, nevertheless, there is a divergence of opinion on the method. Without in any way wishing to belittle my hon. friend "St. George" in his suggestions regarding the method of tackling it, I do confess to a feeling of uneasiness over his tariff proposals. Like the hon. Member for Trans Nzoia, I am a little worried in regard to dealing arbitrarily with taxation in this way, and I am one of those who believe that the need for reserves is essential if we are going to blunt the possible edge of the depression when it arrives. I do not, therefore, like any monkeying about with these tariffs without further thought.

Another aspect of this matter which I should just like to stress for a moment, which I gave stress to when we discussed this matter in last year's Council, is that I think we should be careful not to mislead the public into false optimism that we in this Colony can of ourselves cure a world disease. There is not the slightest doubt we must do everything we can to help ourselves, but I am most anxious that optimistic utterances should not be taken by the public as meaning that people in this Council can cure a problem which is exercising the brains of the whole world, without much beneficial effect up to date.

I said at the beginning that it was quite obvious that there was a divergence of views on the method in which to tackle this problem. I, therefore, propose to move an amendment in an endeavour to try and co-ordinate the efforts of this Council into tackling that problem. I should like, therefore, to move: That all the words after the word "recognizing" appearing in the present motion should be deleted and that the motion should now read: "That this Council, recognizing the need for action with regard to the cost of living, appoint a select committee which shall review the problem and (1) take public evidence and make recommendations in regard to (a) customs delays and practices and their effect on the cost of living, (b) imports restrictions and the administration of Imports Control, (c) the margins of profit allowed on all essential articles in common use, (d) any other matters

[Mr. Edye] in the opinion of the select committee, may have an effect on the cost of living; (2) take public evidence and make recommendations to Government in regard to customs duties and their effect on the cost of living".

Speaking to that amendment, I have deliberately widened the field of action opened by the original proposals of the mover of the motion. I have done so because I believe that the public are particularly worried over this problem, and I am desirous of giving them a chance of giving evidence and making suggestions to the select committee in regard to a wide range of problems in which they themselves are worried. I also believe that we cannot be rushed into decisions on this Council on matters, the pros and cons of which we have not had a real chance of assessing. In our keenness to solve the problem we may be rushed without proper thought into action which would have deleterious effects in the event of it being put into effect without real and careful examination in the first place.

I have suggested in this amendment that the select committee should report to Council on the first part of my amendment, and that they should report to Government on the second part. The reason I have done that is because it must be quite obvious that, if the select committee is to make recommendations on the customs tariff, it may easily result in disruption of trade. For instance, if the recommendations made to this Council are then debated and suggest that the prices of certain articles shall go down, and that of other articles rise in a compensatory manner, it is quite obvious that there would be a rush to buy those articles which go up, and those which are likely to go down would go behind the counter—or the other way round I should say—with consequent disruption of trade. I therefore feel that the report should go to Government and should then be presented to this Council by moving a Bill through its three stages in one day, where such recommendations are necessary.

I hope Government will be in a position to accept this amendment. I think it only fair to say that, if they are not in a position to do so, I intend to press it to a division. But I do not anticipate

that that will be necessary, in view of the fact that they have already stated they are most anxious to see this problem solved, and are indeed sympathetic to the whole idea.

I beg to move the amendment.

MR. BLUNDELL seconded.

MR. TROUGHTON: Mr. Speaker, speaking to the amendment, I should like to say that the Government is in general agreement with the amendment. I told the hon. member when he was kind enough to consult me that the Government would accept the amendment.

Since I told him that, while listening to him there is one point of misgiving that occurred to me and that is, I should like to ask the hon. member whether he would be prepared to consider a further amendment, deleting the word "select"—not a select committee, but a committee to report to this Council as he proposed. The particular difficulty that has come to my mind is in connexion with the membership of such a committee, in particular from the Government side. The Government members of the Legislative Council are fairly busy in various ways and it might be difficult to provide for suitable Government representation on such a committee if it were confined to the members of this Council. I think that it would be better from our standpoint if the word "select" were deleted and if a committee were appointed on which people might be appointed who are not, on the Government side at any rate, members of this Council.

We entirely agree with the principle of an inquiry such as this and, if hon. members indicate that they would be prepared to accept this further amendment, a Government spokesman will move it.

MR. VASEY: Mr. Speaker, I wonder whether, in order to facilitate matters, I might once again move: That this debate stand adjourned until to-morrow morning.

MR. NICOL seconded.

The question was put and carried.

The debate was adjourned.

ADJOURNMENT

Council rose at 12.45 p.m. and adjourned till 10 a.m. on Thursday, 12th August, 1948.

FERRIES (AMENDMENT) BILL

SECOND READING

MR. RANKINE: Mr. Speaker, I beg to move: That the Ferries (Amendment) Bill be read a second time.

This is a very simple matter and can be explained very briefly. In section 2 of the principal Ordinance a ferry-boat is defined as follows: "any floating vessel, propelled by any means whatsoever, plying for hire for the purpose of carrying passengers, animals, goods or vehicles between any two points from one side of a waterway to another". The governing words are "plying for hire".

As hon. members are aware, I believe, the Kilifi and Shimo-la-Tewa ferries are now operated by the Public Works Department without charge, and in accordance with the definition of a ferry-boat no prosecution can be brought against any persons who commit offences against the rules made under the principal Ordinance in respect of those two ferries. This amendment proposes to delete the words "plying for hire" in order that that omission can be rectified.

MR. FOSTER SUTTON seconded.

The question was put and carried.

SUPPLEMENTARY APPROPRIATION (1946) BILL

SECOND READING

MR. TROUGHTON: Mr. Speaker, I beg to move: That the Supplementary Appropriation (1946) Bill be read a second time in order to regularize the supplementary appropriation voted, after consultation with the Standing Finance Committee, in 1946, which requires appropriation by this Council.

MR. FOSTER SUTTON seconded.

MR. NICOL: Mr. Speaker, this Bill draws attention to the fact that the Estimates for 1946 were passed at £7,700,558, whereas the expenditure for the year was £9,061,249. All this additional expenditure has gone through the Standing Finance Committee, and I should like to know why it is that we have got to wait until August, 1948, before a Bill is brought in. I was on the Standing Finance Committee during the year 1946, but I certainly cannot remember at this

late date the various reasons as to why this additional expenditure of £1,360,000-odd was incurred, and I do think there must be something very, very far wrong if it is going to take all this length of time to arrive at what was spent two years ago.

MR. ANDREWS: Mr. Speaker, I rise, figuratively, in a white sheet, to explain what reasons there are for all the delay in putting forward this Bill.

The Supplementary Appropriation Ordinance consists of the net excesses over the provision in the draft estimates, and is therefore different from the supplementary provisions passed by the Standing Finance Committee. It cannot be produced until after the accounts for the year have been completed, and that does not take place, I am afraid in present circumstances, until the year is very far advanced.

That, however, does not explain the whole of the delay. I am afraid there has been what I might call a certain amount of "pottering about" by various departments in this matter, probably because it was a purely formal authorization of this expenditure and, as it was already late, they possibly felt that they might as well be hung for a sheep as for a lamb. I contributed to this delay myself, because when it came forward there was not sufficient notice to have it introduced at the last session of this Council without suspension of Standing Orders, and I agreed that it should be postponed until this session.

The question was put and carried.

TEA BILL

SECOND READING

MR. FOSTER SUTTON: Mr. Speaker, I beg to move: That the Tea Bill be read a second time.

The Ordinance which this Bill seeks to reproduce was originally passed in 1934. That introduced a certain measure of control in the tea industry. The legislation contained a clause which limited its life but allowed the life of the Ordinance to be prolonged, if that procedure was approved by the Legislative Council by resolution. The necessary resolution was introduced in this Council in November last year, but through inadvertence the matter was not brought

[Mr. Foster Sutton]

up again, and the necessary proclamation which the Ordinance required the Governor to make by the 31st March—the date upon which the Ordinance died—was not made. That meant that the 1934 Ordinance automatically expired on the 31st March this year.

When that was discovered the hon. Member for Agriculture was consulted, he consulted various interested parties, and it was decided that it was desirable to reintroduce legislation into this Council. That is the purpose of this Bill. Apart from some very minor verbal amendments, the Bill is exactly the same as the 1934 Ordinance.

MR. RANKINE seconded.

MR. EDEY: Mr. Speaker, there are one or two points in this Bill which the Kenya Tea Growers Association, who, as you know, are a responsible body representing most of the tea growers of this country, are anxious to see amended.

The first one is in clause 4 (1), the last two lines, where it reads: "All such replanting shall be limited to the replacement of tea bushes which have been uprooted from such land". It is desired to have those last two lines deleted, because as it reads it means that any replanting that takes place must be limited to the number of bushes that were planted in that tea land previously, and that is not the intention of Government in drafting this clause. It might easily be that anyone requiring to replant might wish to replant a different number, or in a different style, or at a different planting rate to that previously planted. It cannot be that Government really means to say that the replanting shall be limited to planting exactly the same number of tea bushes as before.

The next point is in sub-clause 4 (4) (b), at the bottom of the page, where it says if any person "makes or causes to be made a return which is false in any particular, he shall be guilty of an offence against this Ordinance". I would suggest that the word "knowingly" might be inserted there, because it is a little hard to have it as it is. "Makes or causes to be made a return which is false in any particular"—there might be quite a small particular and quite an innocent one. I should like to see the word "knowingly" inserted there.

Clause 5 on page 2 makes it mandatory that no tea seed or other planting materials, such as cuttings, shall be exported from the Colony. We would like to see added there "except with the permission of the Director in writing". I should like to see that clause made permissive rather than as it is at present.

The next is clause 8, where, three lines from the bottom, we would like to have "the Governor in Council" as opposed to the Governor and 30 days as opposed to 14. With our well-known postal service it might quite easily be impossible to get a reply back in the time.

Clause 9. I understand that the Government intend to amend that clause in any case, but what we require there is that any person aggrieved by the decision under clause 9 shall have the right of appeal in writing to the Governor in Council.

Finally, it is desired to draw attention to clause 15 where it says: "This Ordinance shall continue in force until the 31st day of December, 1949, and shall then expire, provided that", etc. We do feel that it is now time that all these tea Ordinances were brought on an inter-territorial basis, and to that end information and details were sent by the Kenya Tea Growers Association to Government some time ago, and I am asked to press that we should not again be faced with the introduction of these temporary Bills, but that the whole matter should be placed on a proper inter-territorial footing in regard to the control of tea.

MR. OIANGA: Mr. Speaker, there is little that we can criticize or talk about in this Bill, but only to welcome it. I think that as far as tea-growing in African areas is concerned, it is already improved by natural climatic conditions, limited by natural climatic conditions, and the only interest that we have in it is with regard to areas in Kiambu and Kericho. The need for additional cash crops among Africans is growing. More and more the Africans are becoming maize growers, and what used to be their chief cash crop is becoming a food crop in many areas. If the Africans of those areas had an opportunity of growing tea it would add very substantially to their cash crops.

In that connexion I should like to draw attention to clause 8 of the Bill, which gives the Director very wide powers

passed: The Prisons Bill, the Widows and Orphans' Pension (Amendment) Bill, the Ferries (Amendment) Bill, the Supplementary Appropriation (1946) Bill, and the Tea Bill.

Mr. RANKINE seconded.

The question was put and carried, and the Bills read accordingly.

BANKRUPTCY (AMENDMENT) BILL

SELECT COMMITTEE REPORT

With the leave of the Speaker, Mr. FOSTER SUTTON moved: That Standing Rules and Orders be suspended to enable the select committee report on the Bankruptcy (Amendment) Bill to be considered.

Mr. RANKINE seconded.

The question was put and carried, and Standing Rules and Orders suspended accordingly.

Mr. FOSTER SUTTON: Mr. Speaker, I beg to move: That the select committee report on the Bankruptcy (Amendment) Bill be adopted.

I think that this is an excellent example of the advantage of full consultation before legislation which might be controversial is introduced into this Council. As I said in moving the second reading of the Bill, it is a result of inter-territorial consultation and consultation with chambers of commerce, and the select committee had the advantage, if I may say so with respect to them, of a very excellent memorandum submitted by Nairobi Chamber of Commerce. We felt very much indebted to them for all the trouble they took in connexion with it. I would also pay tribute to Mr. Cummings, the late Registrar General, who attended before the committee and was of the greatest assistance to us in dealing with the problems we sought to settle.

We only recommend two amendments. The first one is to clause 2, to insert the word "grandchild" in the definition of "relative by consanguinity or affinity". The point is this. There is a custom among dishonest traders of piling up a large amount of money in their accounts which is supposed to represent wages, and under the principal Ordinance wages

have a special position in relation to the other creditors, and naturally so. They are given special preference. If a person wishes to be dishonest, and it has happened, unfortunately, only too frequently, the person will say that he has certain sums of money as wages for all sorts of relatives, and when it comes to bankruptcy he has a list as long as your arm of persons employed on fairly substantial wages with the firm, and they take priority over other creditors.

This definition is inserted to try and remove this evil, and it has been urged by the Chamber of Commerce and Mr. Cummings that we should include a new definition of grandchildren because of the cases where the grandchildren have been employed. It is a simple point, but we thought it advisable to recommend the amendment asked for by Nairobi Chamber of Commerce.

The other amendment is to clause 17, by inserting a new sub-clause which reads: "(9) If a debtor or witness, on being examined before a Judge refuses to answer or does not answer to the satisfaction of the Judge any question which he may allow to be put, such debtor or witness shall be guilty of a contempt of court, and may be punished accordingly".

I understand from Mr. Cummings that in the past the courts have found difficulty in dealing with persons when they are examined on their own petition for bankruptcy, and that if we include this power it will strengthen the hands of the courts to insist on proper answers being given. Personally, I think a court already has the power, but apparently in the past the courts in this country have felt they had not got the power to deal adequately with persons who tried to avoid answering questions.

There is one other point, and I am afraid I misled one or two hon. members this morning. I was under the impression that we had agreed to all the recommendations of the Chamber of Commerce. On checking up, I find that we declined to accept one. The Chamber said this about section 24: "This contains amendments to section 134. Section 134 (1) (c) provides that the debtor shall be guilty of an offence if he has continued to trade after knowing himself to be insolvent. The amendment will

(Mr. Foster Sutton) read that the offence would only be committed if 'within one year immediately preceding the date of the making of the receiving order he has continued to trade . . . etc.' There are a number of other offences in this section which were originally limited to a period of twelve months, but in 1944 it was felt necessary to amend the Ordinance to increase that period to two years. Recommended that in the proposed amendment to subsection (c) the period be increased to two years".

The committee carefully considered the recommendation, but would not accept it, because if a person in 1946 was insolvent at the time, at one particular stage in 1946, and afterwards was fortunate enough to become solvent, if he then went bankrupt in 1948 and referred to a period in 1946, he would have committed a criminal offence. We thought that 12 months was an adequate period. If a person trades, knowing himself to be insolvent, within 12 months of bankruptcy, he should be guilty of a criminal offence, but it would be unfair to extend the period beyond that time. For those reasons we did not accept the Chamber's recommendation. We were unanimous on it, and I think our proposal is a fairer one and one which, I think, will lead to no abuse.

Mr. RANKINE seconded.

The question was put and carried.

THIRD READING

Mr. FOSTER SUTTON moved: That the Bill be read the third time and passed.

Mr. RANKINE seconded.

The question was put and carried, and the Bill read accordingly.

ADJOURNMENT

Council rose at 12.25 p.m. and adjourned till 10 a.m. on Tuesday, 17th August, 1948.

Tuesday, 17th August, 1948
Council reassembled in the Memorial Hall, Nairobi, on Tuesday, 17th August, 1948.

His Honour the Speaker took the chair at 10.10 a.m.

The proceedings were opened with prayer.

MINUTES

The minutes of the meeting of 12th August, 1948, were confirmed.

ORAL ANSWERS TO QUESTIONS No. 64—PETROLEUM PRODUCTS PRICES

Mr. VASEY:

Will Government please state—

(a) the grounds on which it agreed to the recent increase in the price of petroleum products;

(b) the margin of profit allowed to—

(i) distributors,

(ii) retailers;

(c) whether it made representations to the people concerned of the effect which such increase must have upon the general price structure of the country.

Mr. TROUGHTON: (a) The increase in selling prices was the result of an increase in the landed costs of petroleum products which are directly affected by variations in the Gulf of Mexico f.o.b. price.

(b) The margins of gross profit allowed to the distributors are at present as follows:—

Motor Spirit	25.47%
Power Kerosene	48.30%
Diesel Oil	20.55%
Furnace Oil	21.80%
Illuminating Kerosene in tins	49.56%

These percentages are applied to the landed costs, Mombasa, and the costs of distribution have, of course, to be met from the proceeds.

With regard to retailers' profits, for motor spirit there is a fixed cash profit of 25 cents per gallon. Retailers' costs have also to be met from the proceeds. For oils and greases a margin of 20 per cent is allowed. Power kerosene, diesel

[Mr. Troughton]

and furnace oils are usually supplied direct to the consumers by the distributors and the question of a retail margin does not therefore arise.

(c) No, sir.

MR. BLUNDELL: Mr. Speaker, arising out of the question, is Government aware that the profits of the Anglo-Iranian Oil Company have increased 100 per cent from £9-million in 1946 to £18-million sterling in 1947?

MR. TROUGHTON: Government has no official cognizance of the fact but has read it in the papers. (Mr. COOKE: Then it must be true!)

MR. ERSKINE: Are the distributing companies selling up to the maxima permitted by the Kenya Price Control regulations to-day?

MR. TROUGHTON: No, but they are fairly near it.

MR. BLUNDELL: Arising out of the hon. Financial Secretary's reply to the former question, he stated that Government had read it in the papers. Is Government not able to read it in the official reports of companies when published?

MR. TROUGHTON: Government does not receive the official reports of the companies as far as I am aware.

MR. VASEY: Sir, arising out of the hon. Financial Secretary's reply to the third part of the question, "whether it made representations to the people concerned of the effect which such increase must have upon the general price structure of the country", will he give us these assurances: (a) That such representations will be made direct to the parent companies; and (b) should such representations fail to have any effect they will make representations to His Majesty's Government, in view of the very serious effect which price increases of this kind must have on the economy of a country dependent on fuel for the motive power of transport?

MR. TROUGHTON: In answer to that question, sir, Government has already made strong representations to His Majesty's Government in the United Kingdom as they felt that that would serve a more useful purpose than making a direct approach to the parent companies of the oil companies.

MR. VASEY: Arising out of that answer, has Government not received any reply, and, if so, will they please hasten His Majesty's Government as much as possible, and continue to make representations?

MR. TROUGHTON: The answer to that is warmly in the affirmative. There has been no reply, and we are doing everything to hasten one; because we do not regard the present position as satisfactory. (Hear, hear.)

MAJOR KEYSER: Arising out of the answer given by the hon. member with regard to the profits made, he stated they were on landed costs. Would he tell us whether it is a fact that the oil companies also make their own profits at the production end of their organizations?

MR. TROUGHTON: Sir, so far as I know the answer to that question the oil companies here are East African companies. The parent companies presumably also make a profit at the production end, as witness the annual report of the Anglo-Iranian to which the hon. Member for Rift Valley drew attention, so I assume the oil companies make profits (a) from production and (b) from the dividends paid by subsidiaries.

MR. BLUNDELL: Arising out of the hon. member's intention to ask His Majesty's Government to investigate costs, is it not a fact that His Majesty's Government own a large proportion of the shares in the Anglo-Iranian Company? (Laughter.)

MR. TROUGHTON: Sir, I believe that to be the case, but there is no reason why Government should not carry out investigations as, indeed, they were asked to do some months ago.

MR. WYN HARRIS: Would Government consider nationalizing the oil companies? (Laughter.)

MR. TROUGHTON: We must have notice of that question. (Laughter.)

NO. 65—LAND OFFICE

MAJOR KEYSER:

In view of the dissatisfaction which is felt throughout the country of the manner in which the Land Office is functioning will Government please state what action, if any, is proposed for the improvement of this department?

MR. THORNLEY: An examination of the working of the Lands Division of the Lands, Mines and Surveys Department was recently undertaken by the Administrative Secretary and the results of this inquiry are now under urgent consideration by Government.

COMMUNICATION FROM THE CHAIR

THE SPEAKER: Before proceeding with the business on the Order Paper, I would like to inform hon. members of a message that has been received from Lady Northcote. It is in these terms: "Please convey to Sir Philip Mitchell my grateful thanks for his kind messages of sympathy in the irreparable loss suffered by Kenya and myself in the death of my husband, Sir Geoffry Northcote".

I have another matter to bring to the notice of hon. members.

To-day we are honoured by a visit in our presence observing our proceedings of Mr. the Right Honourable James Milner, Deputy Speaker of the House of Commons. I feel sure that I am expressing your wishes when I say that we are heartily pleased to see him among us. (Applause.) We shall have a further opportunity to-morrow evening of getting at closer quarters with Major Milner, and no doubt members will take the opportunity to find out how far I am wrong in my rulings. (Laughter.) However, I can assure you that you will no doubt find the answers which will please you. (Laughter.)

I will now proceed to call the next Order.

SALARIES COMMISSION REPORT

AND

SESSIONAL PAPER No. 2 OF 1948

The debate was continued.

MAJOR KEYSER: Mr. Speaker, you have completely unnerved me by the announcement of the presence of the Deputy Speaker of the House of Commons at our debate to-day! We feel that it is a very great honour to have him here to witness one of our debates—perhaps we could give him a few points for the House of Commons. (Laughter.)

I am not going to congratulate the hon. Financial Secretary on the very

excellent speech that he made when moving the motion standing in his name which we are now debating; because good speeches from him have now become a commonplace. (Applause.) I start by disagreeing straight away with him when he praises the report of the Salaries Commission. (UNOFFICIAL MEMBERS: Hear, hear.)

In my opinion the report is unbalanced and bears very little relation to the realities of the conditions in this Colony. It has, unfortunately, also created feelings about salaries and feelings on the part of the taxpayers which I think could probably have been avoided had the report been couched possibly in different terms. We have during the last few months in this Council—I think it is still an honourable Council, sir!—heard quite a lot about the advantages of keeping one's feet on the ground and, while I think that that is a feat that we should continue to attempt to perform, I should like to draw the attention of hon. members to the curious evolutionary stage that we have now reached, and that is that, while members are trying to keep their feet on the ground, they are at the same time poking their heads above the clouds, with the peculiar effect that necks are all getting a little bit telescopic! I know I have created a little bit of nervousness on the part of members and that they are all restraining their hands from feeling their necks, but, nevertheless, I think that the Commission did the same thing. They copied the example of this Council: they kept their feet on the ground and poked their heads well above the clouds.

One of the features of modern States is the terrific and rapid growth of the machinery of State, and we are seeing that same phenomenon in this Colony. Since 1939 the numbers of our civil servants have about doubled. With the development which is taking place in this Colony and with the expansion that must also take place in the Colony the machinery of State and the number of servants must go on presumably increasing. But it is a question as to whether this Colony can really afford to keep this enormous machinery going and, when one starts to consider the question of cost, the first thing that one must get down to is the problem of efficiency. I do not think myself that this matter of

[Major Keyser] efficiency has been given the consideration that it was worthy of in the past. There is not the machinery, and there is a disinclination on the part of heads of departments, to get rid of inefficient members of their staff immediately.

I know that in section 260 of the report there is a recommendation that Government should have the option to retire a civil servant at the age of 45. That, presumably, is what is called cutting away the dead wood, but I do maintain that dying wood does not bare fruit and that the cutting away should be done long before the wood is dead. (Hear, hear.) One of the omissions of this Commission to my mind has been in failing to recommend some means by which the wood, as soon as it appears to be dying, should be cut away and got rid of.

There is also, in my own view—and it is based on observations—an inclination on the part of European members of the Civil Service to rely on and to gather round them a very great subordinate staff of Asians and Africans. While I am fully aware of the value of the supervisory powers of the European staff, nevertheless I think there is an inclination to gather round this subordinate staff and finally to convert themselves into a sort of supervisory machine, merely doling out the work to various subordinates. That, in my opinion, should disappear as quickly as possible.

To get down to the real meat of the report of the Commission, to my mind there are two main recommendations which I do not like. The first one is the matter of consolidation and the second is the matter of retroactivity. There are some also in between.

But over the question of consolidation the Salaries Commission are under the impression that there are no signs at present of, shall we say, a deflationary effect in the world. We have heard quite a lot about the fears expressed by people in the Colony. One mentioned was the hon. Member for Mombasa who has cried "Wolf", we were told, for many years. I maintain that, if he goes on crying "Wolf" he will cry it one day as the wolf appears, and we must remember also that he is now some three or four years advanced since he started crying "Wolf", and he is getting near to the state when the wolf

really will appear! (Hear, hear.) (Laughter.) (Mr. FOSTER SUTTON: What is he crying "Wolf" about?) He is crying "Wolf" about deflation, or a slump, and that is the guise, presumably, in which people imagine that the slump is coming. Since he started to cry "Wolf" there have been certain signs—in fact, spoor has been seen! (Laughter.)

We have the fact that Sir Stafford Cripps in his budget speech warned Britain that there was a possibility of a deflationary move in the world; we have the fact that money is hardening; we know that certain vacuums that were created during the war are now being rapidly filled as factories are turning out more and more goods; and there are signs to-day—they may recede, but the point is that at present there are signs—that there may be a deflationary move. Take wheat, which a few years ago was scarce in the world, this year there is a record world crop and it is most likely that there will be a surplus over the world's demand for wheat. By demands I do not mean the capacity of tummies to absorb the wheat that is grown in the world, I mean the capacity of the owners of those tummies to pay for that wheat. That is my interpretation of the demand, and there are signs to-day that the demand of the world for cereals will be exceeded by the supply, which will also have a deflationary effect.

My criticism of this report is that there is no elasticity to it. I know that paragraph 156, the end of it, reads: "Should, however, a major financial emergency occur and exceptional measures of economy become necessary, then, as we have indicated in paragraph 155, we are clear that a system of marginal cost of living allowances would not provide a buffer of sufficient resiliency to absorb, so far as the salaries of civil servants are concerned, the full shock of a major fall in prices and colonial revenues, and that such a contingency would have to be dealt with by *ad hoc* measures". We have in the past had a taste of these *ad hoc* measures, and I found them rather nauseating to say the least of it, and it is my desire that, if possible, we should avoid these *ad hoc* measures and that we should prepare for the possibility of a recession of trade and a drop in our revenue to-day. The fact that our revenue is buoyant to-day and was buoyant last year should not cloud the issue, because

[Major Keyser] when the crack does come it comes as a rule rather rapidly. Up to the time that a slump arrives on us one is always full of hope. If one was not it would be possible to ease off the shock, but in the past we have not been prepared for the shock. After the 1914-18 war the slump when it did come came very rapidly, and I do think that the wise man is the one who benefits by other people's experiences and not by his own, and that we should not forget the lessons of the slump that came in 1929.

The recommendations with regard to salaries seem to have pleased nobody in the country. (Mr. COOKE: Question.) Or very few people, shall we say? (OFFICIALS: Question.) Then, sir, it is my own view that it has not: (Applause and laughter.) I expressed that view after having heard a considerable number of civil servants expressing those views—(hear, hear)—and I do not think they were at all satisfied with the recommendations in this report. (Hear, hear.) It does not, in my view, satisfy civil servants; it does not satisfy the taxpayers. For what reasons, therefore, can one call this a good report? I should have thought a good report would satisfy somebody in fairly large measure.

Another point is the fact that to-day's conditions affect all their recommendations—conditions which possibly are not permanent; that is, the recommendations they have made with regard to the salaries of technical officers and the salaries of administrative officers. I am not going into the justice of that, but quite obviously the Commission was influenced by the difficulty that there is to-day to recruit technical officers. Now, sir, the universities since the war have been going flat out turning out technical officers, and I can see no reason why in the very near future we should not have a very large number of these qualified people to select from, and I maintain that the recommendations the Commission have made are possibly suitable as a temporary measure, but not as a permanent measure. What I am arguing at the moment is that their recommendations with regard to salaries would suit possibly as a temporary measure, but should not be completely permanent, for two reasons: one is that there may be the financial crisis which I have visualized,

or there may be an alteration in the number and the quality and the type of recruits that come forward for these services.

They have made quite a lot in their report of the question of expatriation and the need to pay for expatriation, but I do submit that to-day there are a vast number of people in England who are paying to get out of it, and yet here in the Commission's report they are proposing to pay people to get out of England; whereas the reverse to-day is the case.

The recommendations of this Commission would not meet the case of the civil servants if the cost of living continued to rise; so that is another reason why the report really does not deal adequately with the whole question of salaries. Should their recommendations be adopted, and should there be a sharp rise in the cost of living, I can visualize a demand for a further increase of pay. (OFFICIALS: Wolf! Wolf!) Wolf, yes! (Laughter.) Nobody wishes to be unjust to the civil servant, and I do maintain that, if we really want to be fair to them, the easiest way to have done it would have been to give a percentage increase in the basic salaries of 1939, and then to have gone on with a possibly different form of cost of living allowance. In that way they would have been treated 100 per cent fairly, because the increase in cost would have been met by an increase in pay.

I know that the result of that would have been that the immediate cost would be more than the recommendations of the Commission, but it has this advantage and this protection to the taxpayer, that if there is a deflationary move then the cost of living index will drop, and so the cost of living will drop till, if it continues, it will reach the stage where salaries will go back to 1939, plus the increase in the basic salaries. The country then knows where it is, because presumably a drop in the cost of living will follow a drop in the revenue of the Colony. There is a possibility, in fact a probability, that the one will follow the other. (Mr. TROUGHTON: What about pensions?) Oh, we will come to pensions in a minute!

With regard to leave, ultimately, as civil servants are recruited to a greater extent within the Colony, leave overseas

[Major Keyser] must disappear for all those who have been born and bred in the country, because this Colony cannot compete with other colonies if it is going to have that enormous expenditure on overseas leave to meet for all its civil servants, and I think that we should begin now to consider the civil service on an East African basis in which, progressively, the leave conditions will disappear. I can see no reason for giving the Asian staff who are born and bred in this country leave to go to India, which has no climatic advantage—in fact, a possible disadvantage—over this Colony. (Hear, hear.) The effect of giving this overseas leave to the whole of the Civil Service must have very grave results in the commercial world and must result in an increase in the cost of living, because I cannot imagine that the Civil Service conditions are not going to be asked for by the employees of commerce and agriculture.

With regard to housing, under the present position of insufficient houses and very great variations in the grades of houses available for the Civil Service, the recommendations of the Commission are unfair, and until there is a sufficiency of houses in the country, I think that we should go back to free housing for the Civil Service, making an appropriate change in the salary.

The hon. Financial Secretary said "What about pensions?", and when we come to pensions then, like him, I am a little bit afraid. He cannot tell us today what the bill to meet pensions is going to be in some ten years time, but he is obviously not very happy about what that amount might be, and while we all feel that the civil servant should know during the time of his service that he is going to be able to retire in comfort in his old age, nevertheless we have got to consider this question. At the moment my own view is that we should have contributory pensions and not free pensions. The hon. mover thought that there was an advantage in a free pension. In that it was an inducement to a civil servant to behave himself rather than be threatened with losing his pension. As I said earlier, I think that one of the disadvantages of the system under which civil servants work is that there have been very few civil servants who were ever given the sack.

MR. TROUGHTON: On a point of personal explanation, if the hon. member will forgive me interrupting, I made the point that it did not seem to me to matter whether the civil servant had a contributory pension or a free one. I said it was all the same to me whether I got £2,000 a year and a free pension or £2,500 and had to pay £500 for my pension. I think that was the only remark I made on it, sir.

MAJOR KEYSER: Sir, I agree that he did make that remark, but I was not repeating verbatim everything he said. (Laughter from Unofficial Members.) (MR. RANKINE: How very convenient!) I read his speech this morning, and my recollection is that at one point he said there was an advantage in a pension as the thought of the loss of it might lead to better service. (MR. TROUGHTON: That applies to a contributory pension as well.) But there is another effect that a free pension might have, and it is this, that a head of a department would feel reluctant to deprive a servant of his free pension and might possibly put up with unsatisfactory service rather than deprive him of his living in his old age, whereas with a contributory pension a head of a department would not have that particular feeling.

The Commission has recommended that these increases should date from 1st January, 1946, and I can see no reason why that particular date should be adopted. They give in paragraph 370, I think it is, their reasons for that date: "Our reasons for recommending January 1st, 1946, as the operative date were three: in the first place, the great majority of our witnesses—and not only those who represented civil servants—favoured that date." Well, I am not a kill-joy, and I think it is awful fun for everybody to have all the money they want, but I do think that that was a very poor date. If we adopted that attitude, I think the celestial industries would be very hard pressed in manufacturing moons for all the children who cry for moons—(laughter)—and that is all these people are saying, that merely because a majority of witnesses thought that was a good date they have recommended it. To my mind, it is a very poor reason.

"Secondly, there appeared to us to be no grounds for drawing any distinction in this matter between East Africa and

[Major Keyser] West Africa, where the revised scales became operative on 1st January, 1946." My view is that there must be some relation between the cost of a Civil Service and the economy of the country that pays this Civil Service. (Hear, hear.) In this Colony you have the primary produce, profits, and control all kept in watertight compartments, they are not based on what is happening either on the West Coast of Africa, England or America at all. They are completely on an East African basis, so how you can put the economy of the country on an East African basis and the expenditure it has to find for its Civil Service on a world basis or West African basis and say that is sound economy is beyond my comprehension.

"Thirdly," they say, "that was the date from which the revision of salaries of certain super-scale posts in the East African territories became operative." That brings me to a point which has got to be very carefully considered. That is, we sometimes do something and we do not think of the repercussions. These super-scale salaries were recommended for a particular reason, and that was—and this is my recollection—because it was considered that the responsibilities of the holders of those posts had increased. At that time presumably we did not think it was going to be used as an excuse for ante-dating the whole of the salaries of the Civil Service. I think that in future we have got to be extremely careful of what we say and do, so that it is not turned into an implied promise.

Finally, I would like to stress the point that this Colony has to consider very seriously before it can adopt the whole of the recommendations of this report. It has to consider very, very seriously whether it can afford to do so. So far, the information that has been given us has not been very full, and I consider that nobody can vote for or support the whole of the recommendations of this Commission until they see exactly what the financial implications are going to be. (LADY SHAW: Hear, hear.) It may be again a question of crying "Wolf, wolf!", but should we find eventually that we are not going to be able to support the Civil Service on this basis then we are going to have to go back to the awkward state of 1932 that I mentioned

before and of trying to cut down the services under these conditions. If we are going to consider the recommendations of this report we should very carefully consider a great reduction in the numbers of civil servants to-day, at this moment, rather than go on and wait until the crisis does arrive.

I beg to oppose.

MR. COOKE: Mr. Speaker, I rise to support the motion. (UNOFFICIAL MEMBERS: Shame!) (OFFICIAL MEMBERS: Thanks!) I feel fortified for the first time in my life in receiving support from the other side of Council. (Laughter.) In saying I support, I mean that I accept in the main the recommendations of the report, for I do reserve to myself the right to propose amendments in the committee stage.

I, like my hon. friend who has just spoken, have no intent of congratulating the hon. mover, because I, too, as an old member of this Council, have always admired his clarity of expression and his facility of thought. But, sir, I, too, think that I discovered this time under his Hibernian exuberance something I have not discovered before—a great sincerity and conviction. I feel that that is not an unimportant point, because if he will excuse me saying so, he has never been greatly notorious for any sentimental regard or sentimentality where civil servants were concerned. Therefore I am all the more convinced that if he thinks this plan is workable and the report a good one, it fortifies me in my support of the report.

I do not know the line which will be taken by other speakers on this side of Council, especially the non-European speakers, but I do say that if they wish to convince intelligent persons as to the rightness of their arguments, they will address themselves to the avowed arguments of my hon. friend rather than indulge in any kind of tirade against the report itself. As I said, I am in agreement with the arguments of the hon. Financial Secretary, and there is no need for me to traverse them further in my speech, but I would make one or two points.

I regard the composition of this committee as quasi-judicial. The reason is that if we examine the personnel we had Sir Maurice Holmes, probably the doyen of English civil servants, a barrister by

[Mr. Cooke] profession, and one used to sifting and weighing evidence. We had in Mr. Fitzgerald a man well known and respected in this country, and one, if I may say so again without offence, who was during his term here noted for not being unduly sentimental with regard to the civil servants of the country. Then we had Mr. Corney, a retired and distinguished member of the Colonial Audit.

These gentlemen heard the evidence and sifted it, and whether other members on this side of Council agree with me or not in summing up their credentials, I think they must at least agree that, having heard the evidence, they were in a better position to judge than most people in this country, because they heard not only the evidence of the civil servants but the evidence of such responsible people as the Elected Members Organization. (MAJOR KLYSER: They did not accept it.) I said they heard the evidence, not that they accepted it, and the hon. Attorney General will agree with me that not always is evidence in court accepted. (MR. FOSTER SUTTON: They sifted it) (Laughter.) And there were the Electors Union and Associated Chambers of Commerce. Having heard all that evidence, they came to the conclusions embodied in this report.

A second reason I have is that we must take a long-term view of these matters. We have read in the Woods Report and the Plewman Report that this country is in a sound financial position, and I think we must judge all this expenditure against that background. There are a few people in this country, unfortunately, who imagine that all the money paid out to civil servants is the same as if you put £400,000 of pure gold into an old dhaw in Mombasa Harbour, took it out to sea and sank it. Of course, it is no such thing. A lot of this money will come back in the way of taxes, and a good deal in the form of income tax and indirect taxation and, as the Deputy Financial Secretary said in Uganda when he was speaking in the Uganda Legislative Council, there would be a great saving in two or three years time in the savings on passages and leave. The Uganda Financial Secretary calculated that at £60,000 a year. Perhaps we might calculate it at nearly £100,000 a year in this country. Again, and I join with my

hon. friend who has just spoken, if Government implements its intentions in drastically dealing with inefficient people and drastically enforcing retirement at 45 years, there will be a great saving in pensions later on.

For the reasons which I have given, I give the report my support.

I think my hon. friend in speaking forgot to mention, when speaking of the probable expenditure of £800,000, that we had already, due to the provision of Government, at least £200,000 in the kitty, so that we have only really to add to the actual expenditure, taking that £200,000 away, £600,000. (MR. TROUGHTON: Seven.) A third point is that Uganda and Tanganyika, I think I am correct, have accepted this report. It may be just too bad that they have accepted it, but the fact of the matter is that it is a fact we have got to face, and no amount of crying over spilt milk will now alter that position.

I ask hon. members to direct their attention to what would be the result now that Uganda and Tanganyika have accepted this report and its terms and we in Kenya do not. It is bound to have a very adverse effect on recruiting. The hon. gentleman mentioned, I think, the Kenya Civil Service. I happen to be very *au fait*, being a member of the European Civil Service Advisory Board, with the recruitment of local youths and local people for the Kenya Civil Service, and I will tell you this. So far—and I think the hon. Attorney General, who is chairman of the Board, will bear me out—the response from local youths has been very small indeed. (MR. FOSTER SUTTON: Practically nil.) It certainly is not 20 per cent, and we have had to go home to recruit people for our own local service. The reason given in many cases is that they can get higher pay in commerce than in Government service.

I cannot agree with the hon. Member for Trans Nzoia when he says that it is not necessary for locally born people to go home. I believe it is necessary because I believe—I am talking of Europeans—that it is essential if the British way of life is to be preserved in this country that people should go home every four or five years. I will point out that the terms proposed are very much less generous than they were under the old conditions.

[Mr. Cooke]

What is the outside world going to say if Nigeria and Uganda and Tanganyika, built on a native economy, can say "We can afford to pay these sums of money", whereas this country, built on a European economy—and that is a matter of which we are justly proud—says "We cannot afford these sums of money"? Surely it will lead to rather difficult repercussions from our critics at home. (MR. MACONOCHE-WELWOOD: A matter of opinion.) Yes, it is a matter of opinion of intelligent people which always goes a long way. (Laughter from Official Members.)

There is a "but" in all these matters, and I would enter this caveat and follow my leader, the hon. Member for Trans Nzoia, in this respect. We must see that Government carries out its intentions and be ruthless in getting rid of the inefficient. I think the hon. gentlemen on the other side of Council will bear out how tiresome I have been in Standing Finance Committee in insisting time after time that we must not go on increasing the personnel of the service in this country, and I believe, although it is regarded as an exaggerated statement, that we could probably get rid of 25 per cent of the Civil Service in this country at the moment. I know many departments are under-staffed, the department of the hon. Attorney General I think is, but in my opinion a great many other departments are greatly over-staffed. I may say that as a *sine qua non* at any rate of my acceptance of this report, that we must receive a real assurance from Government that the inefficient, the idle, and those not pulling their weight shall be ruthlessly got rid of.

In this respect I make this suggestion. It is, as the report points out, very difficult for the head of a department, perhaps playing golf or tennis two or three times a week with subordinates, to take a very strong view of such men and be unsympathetic perhaps with men he meets so often in this comparatively small country. Therefore I suggest that a committee of Executive Council should be appointed, with the power to co-opt heads of departments, which would go into each department and would recommend cutting out the dead wood. That would shift the responsibility from Government or would put more respon-

sibility on the shoulders of the gentlemen on this side of Council—(hear, hear)—and I think that would not be a bad thing.

I was rather perturbed to read in today's paper this heading, that the report does not satisfy civil servants, and my first reaction was to be rather bitter against the Civil Servants' Association which I thought had completely misled me if this is the case. So I rang up the chairman of the Association, and he tells me that the report which appears in today's paper was not submitted by the Civil Service Association and that it is in many respects inaccurate, more especially with regard to what it says about the police.

I accept this report, because I think that civil servants as a whole are in favour of it. The hon. Financial Secretary referred to "eating your cake", I think it was, "and having it". I would say also that you cannot expect to take all the plums from that cake. This report is not perfect, and it does not satisfy everybody; no report could. But it is, I feel myself, a report for the greatest good of the greatest number. I, too, have a certain amount of sympathy with those married people with two or three children; but they must remember they have not been damaged by this report, they are in no worse position than before. It is really a question of "Friend, I do thee no wrong". It is true that a number of people are better off, but that is no reason for people who should take an unselfish view of these matters to complain. Actually, I am giving away no secret when I say that this particular class got off very well indeed under the old regulations, because they not only drew full C.O.L.A. in respect of their children, but they also drew rebates in income tax, so that they used to get it both ways. However, I personally, because I think a great many of these junior officials are finding it very difficult to carry on, propose in committee to move amendments by which their conditions will be slightly improved.

Finally, it is the boast of the farmers of this country that the European primary producer is the mainstay of the country. (A MEMBER: Hear, hear.) An hon. gentleman says "Hear, hear", and I hope he will say "Hear, hear" to my colleague! The administrative officer who

[Mr. Cooke] administers a district without friction, the medical officer who improves physically the native and their welfare, the labour commissioner who sees that people get a fair wage and fair conditions, and not only that but that they do an honest job of work—(MAJOR KEYSER: Oh!)—those people are in the widest economic sense contributing as much to the primary produce of the country as either the hon. Member for Trans Nzoia or the hon. Member for Nyanza. (OFFICIAL MEMBERS: Hear, hear.) I think the hon. Secretary for Commerce and Industry will bear me out that in the widest economic sense that is true. I am glad to see that he nods. I feel, and I have preached this doctrine ever since I have been a member, that if this country is to go ahead it must realize that all are interdependent, and whether a man is a financier or a farmer, an Indian or an Arab, unless we stick together in these matters the country will not go ahead.

I am very optimistic about this country. I do not believe in talk of trade recession at the moment. I have listened to the hon. Member for Mombasa and other financiers like Sir Alfred Vincent time after time in Standing Finance Committee saying that the customs revenue was bound to fall. Year after year it is up by half a million or a million pounds, but, of course, if those gentlemen go on guessing long enough some day they must win the jack-pot. In the meantime we must hope to convince other people in this country to take a more realistic view of these matters. So I would commend that we all stick together, and realize that the only way the country can go ahead is to have really honest, efficient and loyal civil servants, and I do not believe that we shall get that honest, efficient and loyal service under present conditions. I am borne out in what I say by the latest leading article in that very neutral paper *African World*, where it says that an efficient Civil Service calls for high morale which in turn is dependent on good conditions of service and adequate opportunities for advancement to higher posts of responsibility. I am a great supporter of super-scales, because I think that every civil servant enters the service with a field-marshal's baton in his haversack, and it is all to the

good that people who work as hard as those on the other side of Council should get a remuneration which is adequate to their abilities.

With that I support the motion.

Council adjourned at 11.10 a.m. and resumed at 11.30 a.m.

LADY SHAW: Mr. Speaker, I hesitate to take this plunge immediately after a speaker such as the hon. Member for the Coast, who, I feel, must run very closely neck and neck with Mr. Ernest Bevin at home as to which of them collects the most applause from the opposite side of the Council. (Laughter.)

However, I should like to begin by saying that he offered a piece of advice to this Council, or at least to this side of it, when he said he thought we would be wise to spend our time refuting the points raised by the hon. Financial Secretary rather than in entering into a diatribe about the report itself. I am not going to take his advice—at least not all of it. I am not going to enter into a diatribe about the report, nor am I going to refute necessarily the points raised by the hon. Financial Secretary, but I do propose to refute the points made by the hon. Member for the Coast—at least I hope I shall refute them.

First of all, I think I should enter into this wolf-chase because I feel that most of us probably oppose this report very largely because we feel that the finances of this country probably cannot support the vast commitments which we are faced with if we accept the new scales of salaries and if the Civil Service is as large, or remains as large, as it is at present.

I do not claim to be, I would not dare, a financial expert in any way, but I do claim to have a certain knowledge of history. I have lived in this country many years and have seen a good deal of what has gone on in it, and I have also a good knowledge of historical facts connected with the country. We all know that there have been many fluctuations in the world economy. I have lived through a good many of them, and we also know, and most of us I think would admit, that what happened once may happen again. I think that probably the hon. Member for the Coast's guess is not one atom better than the guess of

[Lady Shaw] the hon. Member for Trans Nzoia. However, I want to give my guess, too, though I feel that we must avoid too much guessing and we must try to provide against the future, and that we are not justified in embarking upon a vast scale of fresh expenditure when we really know nothing at all about the future. We know nothing.

We can guess what we like—I can guess one way; you can guess another, but the point is that we are not justified in any way in formulating a policy, laying down a large scale of expenditure which is not just for to-day or just for to-morrow, but which lays us under a great debt in the future, without having any knowledge of the financial position of the country either to-day or to-morrow. In other words, I think that we have got to go with caution.

We have heard a great deal about the Civil Service and the clearing out of dead wood and so on; I have no desire to suggest that individuals in the Civil Service are inefficient. I must suppose—I do not suppose it entirely—but I must be ready to suppose that everybody is efficient and hardworking, but I am perfectly certain that the Civil Service as a whole is neither efficient nor (I was going to say hardworking, I will not say that) but it is certainly not efficient. It is top-heavy, and there must be large areas in it which could be reduced. I am not going to elaborate that point, because it has been dealt with already, and in that particular case I feel I am not refuting the hon. Member for the Coast.

The hon. Member for the Coast made a very considerable point about the fact that Uganda, Tanganyika, Nigeria and Zanzibar had all consented to these new salary scales. I do not think that is the slightest reason why we should consent to them. To begin with, the Civil Service in all these countries, I think I am right in saying, is considerably smaller than the Civil Service in this country, and I think that the mere fact that any commitment that they may undertake will of itself be very much smaller, and that their pensions bill (which is probably the most alarming part of the whole thing) will also be very much smaller, makes it very different from our point of view.

The hon. Member for the Coast said it would be a disgrace for a country which has a large number of European settlers in it, to take a different attitude. I think that in this case this country is probably the first in which public opinion has been heard, for the people who voted the large increases of salary in other countries voted them for themselves, which makes a very considerable difference when we come to consider the Kenya point of view. I am also not prepared to believe that, it having done in Tanganyika and Uganda, without any consultation with us, it automatically involves us in having to consent to doing the same thing. (UNOFFICIAL MEMBERS: Hear, hear.)

The hon. Member for the Coast mentioned the personnel of the Salaries Commission. I should like to point out that every single one of those people was a civil servant, and I do think that again makes a certain difference to one's point of view. I agree they were able to receive evidence; the hon. Member for the Coast says they probably had a better opportunity of seeing the thing as a whole than any of us can have, because all saw it from a different point of view, but equally I think the point of view from which they regarded it was a rather one-sided one.

Again, this question of the overhaul of the Civil Service. I think that this overhaul is overdue undoubtedly, but at the same time we have very often—I say this with due respect and without wishing to be unpleasant or rude—received assurances from Government in the past, and I personally would like to make this overhaul of Government services a condition of the improved salary scales. (UNOFFICIAL MEMBERS: Hear, hear.) Personally, I think that once we are committed to this expenditure we shall find it extraordinarily difficult to get rid of people, just as we have always found it difficult. I should like to see this overhaul carried out and a reduction of staff carried out, before we are committed to our new scales. In the meantime I am not suggesting for one moment that people who are suffering hardship now should continue to suffer hardship; I am only objecting to the idea of immediate consolidation. I should like to see the machine put right before we undertake this business of consolidation. I cannot

[Lady Shaw] believe that this is the proper moment for consolidating salaries, for a complete consolidation. I believe there should be an increase in some basic salaries and that there should be a proper scientifically worked out cost of living allowance to cushion the immediate future.

Lastly, I should like to refer to one small point that has been touched upon and about which I feel very strongly. The hon. Member for the Coast spoke of the dissatisfaction of the Civil Service. He rather, I think, discounted the fact that there were a certain number of dissatisfied people. I have not the same contacts with the Civil Service as the hon. Member for the Coast has, but I have attended meetings of the Civil Service and have also heard very violent expressions of opinion made by the Civil Service, and there is no doubt that, right or wrong, there is great resentment in the lower grades of the Civil Service—the lower and intermediate grades. Whether it is justified or not I am not going to discuss. You probably know much better than I do, but the fact remains that this resentment is there, and one of the purposes of the report was that there should be a contented and satisfied Civil Service. Now I believe that, if this report is implemented, you will achieve a thing which I do not believe you have really had before, except as a temporary matter—a really dissatisfied Civil Service. I also think that you are going to produce something which I doubt ever existed before and that is a sense of intense resentment felt by the lower and middle grades in the Service against those people, who are after all their superiors—the super-scale people.

For these reasons and several others, which I think other people will touch upon, I oppose this motion and support the hon. Member for Trans Nzoia in his views. (Applause.)

MR. PATEL: Mr. Speaker, it is very difficult to make up one's mind on the motion before the Council for two reasons. Firstly, one cannot deny one fact, that owing to inflation and the salaries offered outside the Civil Service, it is difficult reasonably to resist increasing civil servants' salaries. If I may give an instance only of the Asian members of the Customs Department, I have lately read time and again advertisements by

the Commissioner of Customs for Asian civil servants, but he has invariably failed in attracting young Asians to join his department. Well, before the war in 1939, these young men were competing with each other to join the department. That shows what a change has taken place. At the same time I share the fears of those who believe that perhaps the new conditions may bring about a top-heavy Civil Service in this country. We cannot deny one fact, and that is that this expenditure may prove to be outside the capacity of the country. With those conflicting considerations it is very difficult to make up one's mind whether one should support the report or reject it.

One thing I should like to say in support of those who have spoken in regard to keeping the cost of the Civil Service down as much as possible, is that the cost of the Civil Service must be commensurate with the economy of this country, the national income of this country. (Applause from Unofficial Members.) Having said that, I must express my great regret that I am not in a position this morning to examine the report free from racial references. Unfortunately the report divides the Civil Service into racial compartments and has made recommendations referring to racial considerations, and I think the Council will pardon me if I mention these matters.

In the first place, the hon. Member for the Coast took upon himself the self-imposed duty of advising us that we must advance arguments which will appeal to intelligence. Now, I think he is right, but there is one difficulty: whether that intelligence is receptive to arguments advanced when the persons who hear them have pre-conceived notions of inequality between the different groups. (MR. COOKE: What about unification of the services, which is non-racial?) Well, I shall support that unification of services with great pleasure, and I hope the hon. Member for the Coast will support me when I argue that there should be a Civil Service, unified, open to all races with requisite qualifications, with equal pay for equal work. I think the hon. Member for the Coast will not then retreat from that position.

I am very disappointed at the recommendations of the Salaries Commission Report in certain matters, particularly

(Mr. Patel) when they have not been bold enough to say that the salaries must be attached to the post and not to the person belonging to a certain group; that the salaries must be paid according to qualifications and the work which is done, irrespective of race; instead of recommending the salaries should be paid according to the person who will occupy that post, and that the qualifications of that person will be judged according to the group to which he belongs. That, in my submission, is very unfortunate. For that reason personally I have felt unable to support the recommendations of the report, and I felt inclined at one time to reject the report *in toto*, but on further reflection I felt that there were two reasons why I should not reject the report, but try my best to move amendments. I am quite certain that one of my colleagues will in due course move the amendments which we, the Asian members, feel very strongly about.

But there are two things which I must say. Firstly, the Asian Civil Service has not received a fair deal from the Government for a long time and, secondly, during the last ten years a revision has taken place in regard to the European Civil Service, but no revision has taken place with regard to the Asian Civil Service. Before I go into that in detail, I should like to say one thing. Whether those who are placed in the position of discriminating in regard to the Civil Service will agree or not, but this country will have one day to face the question of a unified service without any discrimination whatsoever, based on merits. That day may not come to-day: it will have to come to-morrow. Nobody will be able to resist it.

When I said that the Asian Civil Service have not received a fair deal from the Government, I was half inclined to say that I should like to accuse the Government of deliberately ignoring the claims of the Asian Civil Service, and I would have done so with a certain amount of justification. The other thing is that, whatever representations were made by the Asian Civil Service during the last 13 years, they were treated with a certain amount of shabbiness by the Government. I will mention only two facts in order to show that the Asian Civil Service has not received

a fair deal and that it will be necessary for this Council to consider impartially any points of view which may be submitted by the Asian members at the committee stage.

Firstly, during the last ten years the European Civil Service terms have been revised three times. First there was the Harragin Committee, then the Surridge Committee, and later the European Civil Service Advisory Board. During all those investigations the Asian Civil Service made representations to Government to appoint a similar committee to go into the terms of the Asian Civil Service. The Government felt that there was a case for appointing a similar committee, and promised time and again to do it, but they never did it. Finally, I remember in this very hall giving notice of motion to Sir Gilbert Rennie, who was then Chief Secretary, but he was in such a great hurry to close the session of Council that he came to this table and requested me to withdraw the notice of motion, and promised he would appoint an *ad hoc* committee fairly soon. (MEMBERS: Shame!) That committee was appointed and was known as the Webster Committee, but that Webster Committee never functioned! (Laughter.)

I would say that that Webster Committee was appointed in 1944 and when we pressed that the committee should go on with its work we were told that Mr. Hill, the Commissioner, was investigating these matters and that therefore there was no need to go on with the work of the committee. When the Commissioner's report was out we again pressed for action to be taken with the investigation in regard to the Asian Civil Service, and Government said: "Yes, we are contemplating re-appointing the Webster Committee", but it never functioned it was never reappointed. Probably it was under active consideration of the Government all the time—(laughter)—and I read in some newspaper only lately that when the Government says that the matter is under active consideration it means that the papers have been lost, but that they are trying to find them! (Laughter.)

Then the Asian Civil Service Advisory Board, on which there are European official members, also made unanimously certain recommendations in 1947, and when there are unanimous recommendations from the Asian Civil

[Mr. Patel]

Service Advisory Board one would expect that some steps would be taken to implement some of the recommendations, if not all. What happened? We were told: "The Salaries Commission is arriving to investigate the whole question, therefore the Asian Civil Service must wait". And I may say that the Asian Civil Service had to wait, whether they liked it or not.

Three re-examinations have taken place during the last 10 years, but not a single one of the Asian service. If necessary, I can put before Council the dates and facts of what took place during these last 10 years, but I do not want to waste time by doing so. I merely repeat and say, with all sense of responsibility, that Government has ignored the representations of the Asian Civil Service for an examination of their terms during the last 10 years. If they had taken steps similar to those which they took in regard to the European Civil Service in the last 10 years, probably the Asian Civil Service would have been better recommended by the Salaries Commission Report.

As I have indicated, one of my colleagues proposes to move an amendment to the motion before Council indicating the Asian point of view, so I do not propose to take up the time of Council, but I would like to say at least one thing before I sit down. Government has from time to time made changes in the clerical grades of the European and Asian terms of service. Before 1920 a European clerk was paid £250 as against the Asian first-grade clerk's £240, a difference of £10 only. In 1920, from £250 the European went to £400; the Asian to £312, a difference of £88. In 1923 the European went to £500 and the Asian to £300, or £200 difference. In 1935 the European went to £600, the Asian to £300. Thus the Asian is paid 50 per cent of the European. Now I am glad that at last the Commission has attempted to raise them to 60 per cent of the European salary, an increase of 10 per cent.

When I read Sessional Paper No. 2 of 1948 of Kenya Government I was thoroughly disappointed. I went through the schedules very carefully and found that the Kenya Government had mutilated even the recommendations made by the Salaries Commission in a large number of Asian cases by reducing

their scales from those proposed by the report. In the committee stage I shall be quoting figures to show how in many cases European rates have increased and how in many cases, as far as Asians are concerned, they have reduced the scales, and you will find that as far as the Asians are concerned the percentage of reduction is much greater in comparison with the Europeans. That I will show in the committee stage.

For those reasons I am at present simply going to say this: I am thoroughly dissatisfied with the recommendations of the report and would have felt inclined to reject it *in toto*, but on reflection I do not want to stand in the way of whatever meagre advantage the Asian civil servant is getting, and that is why at this stage I do not reject the motion.

MR. HOPE-JONES: Mr. Speaker, I did not propose to intervene in this debate really, but I felt that for the assistance of the Council a certain number of facts might be of value for the course of this debate. I myself would have found it extremely difficult to support the Salaries Commission Report unless I had been able to obtain certain facts which I propose to pass on to hon. members.

In the first place a number of hon. members have asked: What is the national income? Those who have not asked it, I am quite sure have been asking themselves, because when I first read the report myself that was certainly the first question I asked myself, and unless I could have got an answer which at any rate would have gone some way to satisfying me I should have found it extremely difficult as a matter of conscience to support the implementation of such a tremendous and important report for the community of Kenya. For two and a half years now, and in fact for longer—certainly for the two and a half years since I came to this country—we have been trying to measure the national income of Kenya. It is a very difficult thing to measure the national income of any country. You can measure it in three or four different ways. The only safe way is to measure it, quite independently, in three or four separate ways, and then compare the results, and if there are big discrepancies to go back and do the whole job again.

[Mr. Hope-Jones]

I have said enough to indicate that it is very difficult to measure the national income. It took them many years to do it in the United Kingdom with all the resources of the Government available. The task was greater there than in any other country, with the possible exception of the United States of America. It took them two or three years in Southern Rhodesia to do this. It has taken us nearly three years in Kenya to get a figure to which the Director of Statistics is prepared to put his name.

Now, before I give this figure, I should in fairness to that very efficient and hard-working official say that he has made a calculation. He would not, more than any other professional man, be prepared to say absolutely and categorically that it is absolutely right in every respect, but what he is prepared to say is this: that with a tolerance of 20 per cent—that is, a marginal error of 10 per cent upwards or downwards—the national income of Kenya in 1947 was £50-million sterling. That is a figure about which we should consider a very great deal, because it has the greatest possible relevance to the recommendations of the Salaries Commission, it has the greatest possible relevance to the relationships of the Kenya Government's wages bill to that national income, it has the greatest relevance in considering whether we can afford to implement these recommendations, whether we should pay more or whether, after all, we must pay less.

I, sir, for one prefer to look at this matter from a purely economic point of view, and while paying the greatest possible tribute to the members of the Commission I would say that very rarely have I seen a Commission which would have been so much improved by having qualified economists sit on it. (UNOFFICIAL MEMBERS: Hear, hear.) Having blown the trumpets of the economists, I pass on to point out that if we take the increase in the wages bill of the Kenya Government consequential on the Salaries Commission Report, at say, £400,000 per annum—you can make it £500,000 if you wish for the purposes of arithmetic, or any other figure—a £400,000 increase on the present wages bill of Kenya Government for 1947, leaving out of account the High Commission and the Railways and Controls,

all of which figures can be looked up in the estimates—I am doing this because arithmetic is not my strongest point—that amounts to some £3-million per annum.

Now, £3-million per annum in 1947 is not a very big percentage on £50-million. You can probably work it out more quickly than I can. A £400,000 per annum increase on £3-million is £3,400,000—(MEMBERS: Hooray! and laughter.)—and that again comes to slightly less than a 1 per cent increase in relation to the national income. That is a very important factor, and one I am quite sure hon. members will wish to take into consideration before committing themselves upon this report. Those were the figures, those were the facts I personally must have before I committed myself.

Now, to come to an even more difficult question to deal with, and I can only do my best here. As the hon. Member—and I think I should say the gallant lady—for Ukamba said in her very brilliant speech, and sincere maiden speech, on which I congratulate her most sincerely, as she said, we can only peer into the future. None, unfortunately, can say what the future holds, but we do know what has happened in the past. Like the hon. lady, I, too, am a student of history, and I think it is at least reasonable to say that by a careful study of history one can predicate with some degree of reasonableness what is likely to happen at any rate in a medium term as distinct from a long term.

Well, if I may bore Council with more figures. On 31st December, 1938, there were deposited in the commercial banks in Kenya £51-million. That represented, in terms of deposits, the total effective purchasing power of the country deposited in commercial banks. On 30th June of this year there were on deposit credited to people in this country £30-million. Now that is indeed a staggering increase. There are, I think, some more figures in relation to those deposits that are again of the very greatest interest. At the end of June the total average of drawings—that is, cheques drawn against deposits on commercial banks in Kenya—amounted to very nearly £900,000 per day. Per day. The wages bill of the Civil Service of this Colony amounted to something over

[Mr. Hope-Jones] £10,000 per day. Unless figures are indeed more misleading than I have found them, I think it is unlikely that the drawings of the Civil Service, taking into account their total wages, was much over £10,000 a day. I think it is unlikely that drawings by civil servants were a very significant contribution to that £900,000 per day.

I would ask hon. members to look at the significance of these bank deposits that I mentioned a moment ago. Would any hon. member suggest that the increase in bank deposits from £53-million to £30-million, would any hon. member on the other side of Council suggest that those deposits were the result of large savings by the civil servant, either European, African or Arabs? I do not believe that a single member opposite would make such a suggestion. I do not wish to indulge in debating points too much, but I do ask hon. members to consider the very great significance of these figures which I have given. But hon. members are no doubt asking themselves: "Oh, yes, here are all the figures, but they are merely of inflationary significance". Of course there is inflation. Let us consider that the inflation in prices and the fall in the value of money has been as much as 75 or 100 per cent since 1939, just for the purpose of argument. Then, if inflation has been 100 per cent, all we have to do is to divide everything by two—the national income, Government expenditure, the whole lot—and the proportion remains exactly the same. (Laughter from Unofficial Members.)

I think I have probably bored Council sufficiently at this stage with figures, but there is one further figure I personally would very much like to give Council, because it has the greatest relevance of all. Unfortunately, and I am being perfectly frank, we have not got that figure in the sense that I have been able to say that we have got the figure of the national income for 1947. The figure I am referring to is the figure of the national income in 1938, the last normal year before the war. That figure is very relevant indeed. I and other hon. members on this side of Council have addressed the Director of Statistics with all the force in our power to give us that figure, but he, as I have said, is a man

of the very highest professional integrity. That is why I quoted the 1947 figure with such confidence, but, quite rightly, he is from the professional point of view, not prepared to give that figure for 1938 in the way he has given those I quoted. But what he did say was this: "The reason why I cannot give that figure is because, unfortunately, owing to one of those terrific waves of economy, lack of faith in the future of the country, a very important part of the Government machine was swept away", and I refer to the Statistical Office. Unfortunately, he was not able to check the national income for 1938 by three separate methods in the way he has done for 1947. He was not able to make three separate calculations and compare the results, but he has done a very great deal of work on it.

I, too, have done a very great deal myself, and I am not committing him in quoting this figure. But I am perfectly prepared to commit myself in saying that I think this is about the best guess, the best calculation, we can make under the circumstances. I would say that the national income of Kenya in 1938 was somewhere between £10-million and £12-million. Now, sir, that was at 1938 prices. The present national income at 1947 prices is £50-million, and at 1938 prices, according to the best guess—and I underline the word "guess"—we can make under the circumstances, was somewhere between £10-million and £12-million. We cannot get nearer than that. Therefore, if you take 75 per cent from the national income to-day consequential upon inflation and the fall in the value of the £, which I submit is a very generous figure, then no doubt hon. members can do that sum more correctly than I can, and we get what is a true comparison between the national income for 1947 and 1938. And the relative increase in the national income between those two dates is very much greater when we reduce 1947 expenditure by that same 75 per cent, the proportionate increase is very much greater than the increase in expenditure, and I submit without fear of contradiction that the proportionate 1947 relation of Government expenditure, at 1938 prices, in relation to national income, at 1938 prices, is a good deal less to-day than it was

[Mr. Hope-Jones] in 1938, and even after the Salaries Commission Report has been implemented will still be a great deal less.

Those are facts, they are not opinions, they are not fables, they are facts subject, as I say, to margins of error. Where I have not been able to apply the strictest statistical consideration I have said so; where those considerations have been applied I have also said so. From a factual point of view I have laid the cards on the table, and I am prepared in committee, as I think Council intends to move at a later stage, to supplement any figures I have given in so far as they are dependable, and with those that are "guesses" I am prepared to show how they have been arrived at—I cannot do more.

I just wish to say that, having studied this report very carefully, having considered it in the light of these figures, as every hon. member will wish to do for himself, I have found that I can conscientiously support the report. But before sitting down, I would like to draw attention—and here I am speaking personally and not as a member of the Government—I would like to draw attention to two very important considerations as I see them.

First of all, I consider that in a most important section of the report for the good of the Service, for the good of Kenya, inasmuch as any country must have administrative and technical services, there is some possibility—I would not put it higher—there is some possibility that the Service can be run as far as possible along commercial lines. I refer to the provision by which any inefficient person can be retired without reason being given at a certain age. I have spent my life in business, I have spent my life in the service of that great corporation that has been referred to from the other side earlier to-day, namely, the Anglo-Iranian. (MEMBERS: Shame!) I do not think it a matter of shame but a matter of pride! (Laughter.) But I would refer to their policy, which is to get rid of dead wood very quickly indeed, and to permit rapid promotion. A man who has given loyal service and will not go further, they retire him on a fair pension in relation to the duties he has undertaken, and I would draw attention to that part of the report

because it is a means by which commercial considerations of efficiency and dispatch can be applied to the Civil Service, and which is essential.

I would also emphasize the point made by the hon. Member for the Coast, that many civil servants are productive. Nobody would deny, for instance, that the efforts of a veterinary officer in preventing an epidemic are not just as productive as the man who ploughs his own land and makes maize grow where very little had been grown before. Nobody would deny that the medical services are productive, nobody would deny that the agricultural services are productive—I would hesitate to say that the efforts of economists are in any way productive. (Laughter.)

I am not saying any more except that I support this motion. I support it with sincerity, otherwise I would not do so. I support it in the light of the figures I have given. I would be foolish if I did attempt to deny that there are parts of the report that I personally do not like. I think it would be a very great pity if hon. members found it impossible to support this report in principle, because there are some parts of it which possibly they do not like. I suggest that in the light of the facts I have given some hon. members may change their minds—I changed mine. I found at one stage that it was very difficult to support this report. I suggest that in doing so they will be making a gesture that will show their confidence in the community and in those who attempt, with varying degrees of success but with a remarkable degree of sincerity and devotion to duty, to serve that community.

I beg to support the motion. (Applause.)

MR. JEREMIAH: Mr. Speaker, in rising to speak on the motion before the Council, I am not quite sure whether to support the report of the Salaries Commission or not. As I am speaking for the Africans especially, I would say that it was not received by them with pleasure at all.

I am going to speak especially on certain points mentioned by the Commission. The first is that it is necessary to have three separate scales of salary. The Commission agreed that some of the posts which are held by all races are

[Mr. Jeremiah] equal, but that it is not possible to pay the same salary. They went on to make very damaging remarks about the African especially, but I cannot blame them as a whole, because their remarks were chiefly based on the evidence given them, and I can only say that the people who give such evidence are not at all eager to see that the African takes the place in the Civil Service which he ought to take.

However, the report did in some cases at least improve the present scales of salary as applied to Africans. I should like to point out that the Africans and Asians were serving on similar terms before 1927. Salary scales, leave and other conditions were the same, but, for reasons which cannot be explained and which the Commission did not explain fully, the services were separated and Africans were given far inferior conditions and scales of salary. The Africans have since that time been trying hard to get Government to change those terms of service and to at least introduce one service which should apply to all non-Europeans. Since 1927, over 20 years ago, nothing has been done.

In 1943 Government found that it was time to review African terms of service, but I am very sorry to say that the result of that revision was far worse than it was before. For that reason some members of the Service did not agree to accept the terms introduced in 1943, and they are still on the same terms as they were on in 1927. I think it is unfair that in the last 10 years European terms of service have been revised, but for the last 20 years, at least 18 years, the African Service has been neglected. When this Commission came we at least thought that our request for a unified non-European service would be listened to and approved, but the result is, as I have said, very disappointing.

Turning now to the proposed expenditure by Government, the Government has in some cases rejected the Commission's recommendations and I should say that in most cases the rejections apply to the recommendations affecting Africans. For that reason I think it is rather unfair. The question of consolidating the cost of living allowance with salary would be acceptable in the case of Africans if the salary was better than

that suggested by the Commission. Otherwise, I would suggest for consideration whether the Government-recommended salary should be the basic salary, and the cost of living allowance continued. We have just had a report of the national income of the country from the hon. Secretary for Commerce and Industry. I believe that report is very convincing, and that it shows that the country is in a very sound position to be able to pay its servants a reasonable salary in order to ensure efficiency.

I should like to mention three points, and one is the retiring age. The hon. Financial Secretary, in moving the motion, mentioned that he was going to propose that the retiring age of Africans should be extended to 55 years and that he must serve at least 30 years before qualifying for pension. I do not understand it, because I do not think it has been proved that Africans live longer than any other community! (Laughter.) I do not think it is at all fair that one should be released from the Service when he is going to spend only a month before he is buried! (Laughter.) The retiring age should be the same for all races. It has been proved that the climate of this country is quite good for everybody, and if it is good for the African it is good for the others. If it is necessary for anybody to be retired at the age of 45 then it should be for everybody, and not Europeans and Asians only, and the Africans made to work longer.

I was also very much surprised to hear the hon. Financial Secretary say that, although we have heard that Uganda and Tanganyika have accepted the unified services, he has got an assurance from the two Financial Secretaries of those territories that the pay which they are going to give to the Africans there is not more than that to be given to Africans in this country. I do not know whether to believe that or not—(laughter)—because the European and Asian terms of service are different from the African terms of service, and if these countries are going to take the Asian terms of service, surely they will get more than the Africans get in this country. I should like to have that made clear, because it is not understandable to me.

Now I come to retroactivity, and I would support very strongly the effective date being 1st January, 1946. The main

[Mr. Jeremiah] reason for that is that Government servants are in favour of it, because their salaries are governed by legislation, and with all the prosperity in the country the salaries of Government servants have remained fixed and they could not be increased automatically, as I believe has been the case with regard to commercial people. Furthermore, there were different cost of living allowances which did not appreciably offset the rise in the cost of living. The African particularly suffered because he was always regarded as single and no account was taken at all in relating his cost of living allowance to his family commitments. For that reason I would support very strongly that the date should be 1st January, 1946, because it may perhaps help the African to pay his debts and also allow him to live at the standard he is supposed to live at as a civil servant.

May I now mention paragraph 4 of the Sessional Paper, which says: "The Government agrees with the general principles enunciated in this paragraph but prefers to consider these cases individually on their merits, both in regard to the question of increase of emoluments and its effective date". We are willing to accept that provided Government makes it clear that the African temporary employee is not forgotten, because a Government employee is sometimes zealous for about 34 years, and still he is regarded as temporary. If those 34 years are regarded as temporary I wonder what is not temporary.

Also, in paragraph 5, it is proposed that the recommendation should not be accepted in full—that is, the increase for employees on a salary of Sh. 40 and under should be not less than 100 per cent. An increase of 100 per cent on a basic salary of Sh. 40 or under will only bring it to Sh. 80 a month, and that will only affect a few people. Most of them will still be getting less. The cost of living should be included according to the recommendation.

In paragraph 6, I believe that the Government was prepared to accept a unified service, but perhaps feared that if they did it in a very clear way it would be rejected, and that is why they recommended a redesignation of salaries, but it is still three grades for the three races. It is not fair at all. In paragraph 8 it is

proposed that the scales—and it obviously refers to Africans—should be reduced by £3, from £75 to £72, which is done so that they can be eligible for pension. I think it should be £75 to £108 as it was.

Retiring benefit. It is proposed that half the period of their service prior to 1943 should be taken into consideration in computing pension, but these people might have served for 20 years before 1943, and thus 10 years would not be considered. I think it is not quite fair. They were not contributing, but they were entitled to a gratuity. That gratuity should also be taken into consideration as a contribution to the appropriate fund for pension, and their period of service should be counted in full. Under the conversion, as was said by the hon. Member for Eastern Area, the Government has mutilated very much the recommendation made by the Salaries Commission, and I would refer hon. members to paragraph 19 of the Sessional Paper No. 2 where Government say that "persons on a segment of an African Civil Service scale will be placed on the appropriate segment of the new scale (in accordance with the Conversion Tables on pages 200 and 201)". I propose that that should actually be the position on conversion.

In conclusion, I hope that this Council, after weighing up the position, will at least decide to recommend either one unified service, or at least two services, in the country. As there are some improvements made I am not going to reject the report as a whole, but there are other matters which will be raised later with regard to leave for Africans. Nothing very much was said in the report about either vacation leave or casual leave. In regard to sick leave and other privileges, too, the African is not mentioned. I believe that the hon. member and Government should make that clear.

With those remarks I beg to support the motion.

Mr. NICOL: Mr. Speaker, first of all may I, on behalf of this side of Council, congratulate the hon. Member for Ukamba on her very excellent maiden speech. (Applause.) I sincerely hope we shall hear a lot more from her during the deliberations of this Council over the next four years.

[Mr. Nicol]

First of all, there are two complaints that I want to register and get on the record. I must thank my hon. friend the Secretary for Commerce and Industry for putting the adjectives into my mouth to categorize this report. He referred to it as being a momentous and important report, and I heartily agree with him. Surely Government could have realized that this report was going to be momentous and important and was going to be looked forward to by all sections of the community, particularly the Government service, but also the taxpayer. I want to register this complaint, and that is that Government did not take sufficient steps or interest, shall I say, to see that sufficient copies of the report were available in this country at the time the document was released. (Hear, hear.) I want to say, too, that the commercial community are extremely annoyed about it. They have not had an opportunity of getting hold of this report and studying it. In fact, I know of a number of people who have not been able to get hold of a copy at all. What is more, in regard to one particular institution that has a standing order with the Government Printer that a copy of any document which is produced by the Government is sent to this organization, up to a fortnight ago anyway that institution had not had a copy.

The second complaint I want to register is regarding the unilateral action taken by the adjoining territories in declaring, before the report had even been published, the date to which they were going to make the recommendations retroactive. It does not look to me as if that augurs well for the future of the High Commission Services. (UNOFFICIALS: Hear, hear.) If we are going to have one territory playing off against another it is going to be no good. Which reminds me of the practice followed some years ago—I think my hon. friend the Financial Secretary will remember—when a certain Postmaster General, if he could not get a thing through Standing Finance Committee here, used to go round to the other two territories, get the thing passed there, and then come back and say: "Oh, but the other two have agreed and you must". We are not prepared to stand for that sort of thing in the future.

Having studied this report and having studied the arguments, I personally find that 1st January, 1946, is acceptable to me, but I am prepared to say that, if I had not been satisfied, I should have said so, and I should have been prepared to fight it all the way despite the adjoining territories.

I agree most wholeheartedly that the Civil Service do deserve and do need increased basic salaries, but I look on this report as a bad report because I do not think justice has really been done to the lower and middle grade officers. Because they had not got an economist on the Commission, the point may have escaped them, but surely the Commission were aware at the time they were sitting that the cost of living was rising? Did they see any possibility of the cost of living being checked, because I cannot understand why they have gone in for complete consolidation when there is this rising cost of living and nobody having the slightest idea as to when it is going to stop or fall. (MEMBERS: You have not read the report.) (OFFICIALS: Read Chapter 4.) Well, I cannot read Chapter 4 now—(laughter)—unless the hon. members would like me to.

My hon. friend the Financial Secretary has on many occasions maintained that officers in the service are in debt. Well, I do feel that if this report is adopted in its present form they are liable to get further into debt. I do not see where that relief of a cash nature is going to come in which the hon. member, and I believe the majority of the Civil Service, were led to anticipate, and it was only recently when I went to Mombasa to discuss the report with both the Chamber of Commerce and the civil servants, that I suggested to the Chamber of Commerce that it would be perhaps advisable to postpone this report for further consideration, to see whether we could not iron out these various anomalies and get a more satisfactory basis of remuneration for the Civil Service. I made it perfectly clear then that I had not had an opportunity of discussing the matter with the Civil Service, and it was the feeling also of the Chamber of Commerce that, while they appreciated and entirely agreed that the civil servants should have increased emoluments, the method proposed in the report was not of the best.

[Mr. Nicol]

Then I saw the civil servants, and I think I am correct in interpreting their view by saying that they did not like the report any more than anybody else; they are not satisfied with it. But there is undoubtedly a sense of mistrust permeating the ranks of the Civil Service as to the intentions of Government in regard to their emoluments. Ever since the end of 1945 they have been asking for better terms of service and they were promised that a commission would sit, and while the Commission was sitting any suggestions for increases or things like that were answered by "Oh, wait until the Commission have reported, do not anticipate the Commission's report". So they have got to the stage now "Here is something, anyway, let us have that now and then start arguing about other things later".

One or two points on the report. First of all I should like to know why the Commission and why the Government appear to have started a down-grading in the Education Department. I am going to touch on this very briefly now, because we can deal with the subject when debating the recommendations of the Commission in committee, but I understand—at least I am informed, and I have no reason to doubt the words of my informant—that for the last 20 years officers joining the Education Department have been assured that their status was exactly the same as that of the administrative officer. I see my hon. friend the Financial Secretary shakes his head, but I am assured that that is the position and that prior to the recommendations of the Salaries Commission an education officer carried *pari passu* salary scales with an administrative officer. (MR. TROUGHTON: To £840.) And so does the administrative officer. (MR. TROUGHTON shook his head.) That is a point I can argue when in committee. I disagree with my hon. friend the Financial Secretary and so do, as far as I can make out, the whole of the Education Department.

Another anomaly that seems to have crept in, I do not know why, is that there seems to have been some difference as between the Police and the Prisons. I think that is a matter that will have to

be ironed out when it comes to the committee stage. Unfortunately we did not have an opportunity of discussing that subject yesterday, but I should have liked to have had the opportunity of a word with my hon. friend the Attorney General.

The hon. mover referred to the possibility, or possibilities, of a depression coming in the future and he said that he was in favour of these *ad hoc* measures advocated in this report. He said he did not say we will have to do what we did in 1930 and have a levy. He said we should then have to cut down the establishment. Now I suggest that is a real acknowledgment of weakness, because if we are going to be able to maintain the same efficiency with adequate staff in a depression, then I suggest he had better start getting that staff depleted right now.

Other hon. members have discussed the question of weeding out the dead wood, I am going to add my plea to that, and if this report is accepted Government must give a guarantee to give the public far greater efficiency, and they have got to guarantee to get rid of surplus as well as dud staff. That very interesting speech of my hon. friend the Secretary for Commerce and Industry has indicated to me—and I am quite satisfied on that one—that, taking the national income figure at the figure he gave, the increase envisaged in this report is really very small indeed, but I do think that the figure he gave us does indicate that the tax-gatherers of the Government side ought to pull up their socks and get a bit more in, and what is more, if this report is accepted, I see little reason, or little need, for any increase in taxation, and in fact I think that it ought to be a *sine qua non*, if this is accepted, that it is not made an excuse for increased taxation.

The debate was adjourned.

ADJOURNMENT

Council rose at 12.50 p.m. and adjourned till 10 a.m. on Wednesday, 18th August, 1948.

Wednesday, 15th August, 1948

Council reassembled in the Memorial Hall, Nairobi, on Wednesday, 15th August, 1948.

His Honour the Speaker took the chair at 10.10 a.m.

The proceedings were opened with prayer.

COMMUNICATION FROM THE CHAIR

The Speaker informed members that a meeting would be held at 5.30 p.m. that afternoon in the New Stanley Hotel at which Major the Rt. Hon. James Milner, M.P., M.C., Deputy Speaker of the House of Commons, would be present for the purpose of an informal discussion on parliamentary procedure.

MINUTES

The minutes of the meeting of 17th August, 1948, were confirmed.

SALARIES COMMISSION REPORT

WITH SESSIONAL PAPER No. 2 of 1948

The debate was resumed.

MR. NICOL (continuing): Mr. Speaker, I did think, when I woke up this morning, that I might start off to-day by reading that Chapter 4—(laughter)—but I have decided to let hon. members off that punishment.

Now, sir, in regard to the retiring age of 45, does this mean that Government intend to keep an officer, whether he is good, bad or indifferent until the age of 45 before retiring him? Surely they can make up their minds in the first three or four years whether he is any good at all, and in fairness to him and the Colony that is the time when we want to get rid of duds, the way we do it in commerce. On this question, the yardstick of measuring efficiency should not just be the capability of an officer to collect taxes, the main yardstick is courtesy, and officers dealing with all sections of the public must be courteous. (GOVERNMENT MEMBERS: Hear, hear.) I am glad to hear "Hear, hears" from the other side, it is an excellent sign! (Laughter.)

That brings me to the question of pensions, and there are two reasons why I personally prefer a contributory pension scheme. I think it is fairer to an officer,

because if he leaves before the retiring age or dies, then his estate benefits by the contributions he has paid to the pension fund. That also is a matter which I consider makes it easier to get rid of people who are not pulling their weight, because if a man has what is known as a "free pension"—of course, it is not really free because he draws a lower salary than a contributory pension—but if he is on a free pension I can quite see the head of a department being a little bit shy of throwing a man out on his ear and the fellow losing his pension. I think that if contributory pensions were introduced it would make their dismissal easier.

Why I raise this particular point of eliminating officers who are unsuitable for Government service is that it has been said in the past that once in Government service it is home from home, and unless a man is actually caught with his hand in the till he cannot be sacked. That has got to be stopped. (Laughter.) (MR. RANKINE: Is this Government service or commercial practice?) Even in Government service. Further, I should like to support the suggestion put forward by the hon. Member for the Coast that there should be a special committee for examining that particular problem.

Yesterday we had a lot of "Wolf, wolf!" going around, and I should like to make one or two points on that. During the war years we were extraordinarily lucky. The customs revenue was exceedingly buoyant, but we always feared that if there was a major disaster at sea that would materially affect our customs revenue. In the consideration of the estimates for this year, the hon. Financial Secretary will recall that in my budget speech I challenged his figures of customs revenue and said they were far too low, and we put them up. That gives me that one! At the same time, there is no doubt about it that the sellers' market is over at the present. The bazaar here and in Mombasa and up-country is overstocked, and indeed there are indications of merchants selling at below cost, let alone below the price allowed by the "Price Control. I think we are now definitely off the sellers' market.

Therefore, this is a bad time in my view to make a consolidation of basic salaries at the present juncture for all

[Mr. Nicol] time. I think these basic salaries will have to be reviewed in the light of economic conditions in about three or four years time.

I would like to refer to the speech of the hon. member Mr. Patel. Of course, he was quite right in expressing the views he did and, indeed, I have considerable sympathy with them, but what impressed me was when he said he had to raise that particular racial question. I do think it was a great thing that there was a lack of bitterness or anything like that in his remarks, which augurs very well. (Hear, hear.) It is a very good sign indeed.

The motion is really to allow the Council to go into committee to consider a lot of recommendations, and I think the best thing to do is for Council to go into committee, and therefore I support the motion.

MR. HAVELOCK: Mr. Speaker, I rise to oppose the motion, not that I dislike the setting up of recommendations, so that opportunity may be given to consider them separately, but I have certain objections to the recommendations of the report, and I sincerely feel that the best interests of the Civil Service of this Colony and of the Colony will be served by this Council refusing to consider the recommendations and thinking again.

Before I go on to my objections to the Commission's report I should like to refer to the very eloquent speech we heard yesterday from the hon. Secretary for Commerce and Industry. What do all these figures he has given us really mean? What does this £50-million national income really mean and how does it affect the debate? The hon. member has tossed an astronomical figure into this debate, and I suggest that whether he intended to or not he has fogged the minds of many people. Yesterday evening I was asked why on earth we were worrying about a mere million pounds extra to be spent on the Civil Service when our revenue was £50-million. (Laughter.)

MR. HOPE-JONES: Mr. Speaker, on a point of explanation, I did not say the revenue was £50-million. I was referring to the national income. (MEMBERS: Nor did he.) (MR. TROUGHTON: It must have been late at night!) (Laughter.)

MR. HAVELOCK: I know! Obviously the person made a mistake, and I suggest that many others will. I myself do not really know what national income means. I do know that it does not mean revenue. Perhaps the hon. Secretary for Commerce and Industry is trying to make the point that as our national income has increased we can say we should increase our revenue. Or, to put it another way, the country's income is now so large that it is now in the super-tax class and we should pay a greater proportion than heretofore in taxes. Is it possible that this is not the last we shall hear of this big and enormous figure, which I would liken to the chimera which is the king of the herrings? I suggest that yesterday's announcement may be the beginning of a propaganda campaign from the other side directed towards convincing us on this side that, because of our great wealth, we are not paying sufficient in taxes. Naturally, during the course of this campaign, little mention will be made of the obligations which this Council, if they are so shortsighted, may incur if they accept the Salaries Commission Report, which would be, I suggest, the real reason for a necessity to increase taxation and bolster up the revenue.

May we look very quickly at what we may expect as regards revenue? The estimated figure is round about £8-million, and the Civil Service has to be paid from that and many other things. Civil Service and education total £3-million approximately, and the extra commitments under this report come to something in the region of half a million without pensions; payments to the High Commission and D.A.R.A. are another million. So far we have got £4½-million. The public debt, military, and contributions to the amalgamated customs are another half a million. We are now at £5-million. Shall we say there is another three-quarters of a million provided in the estimates for war expenditure civil which may or may not decrease in future? That brings us to £5½-million out of a revenue of £8-million.

I suggest to the hon. Financial Secretary that it would be very unwise to pay less than £500,000 to the pension reserve fund, that is, over and above what we pay already. There is another half a million. So we have come now to

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[Mr. Havelock] envisage an expenditure of £64-million out of a revenue of £8-million approximately. That leaves us £14-million to pay for all expenses of Government other than salaries and any other commitments we may have in the way of increasing certain services we may consider necessary and, of course, keeping something back for the future. For instance, paper, red tape must cost us a lot, all the materials and transport needed by the Public Works Department such as cars, petrol, instruments for the laboratory and equipment, medicines, all are very expensive, and costs are higher than they were, even to Government.

It has been suggested that customs duty might be lowered to lower the cost of living. That has a certain bearing on the question. How are you going to be able to put anything into the reserves and carry out the recommendations of the Plewman Committee if we accept this enormous liability suggested in this report, without at the same time accepting increased taxation? I would put that to hon. members who are considering supporting the recommendations.

But I have not yet finished with these £50-million. This enormous national income may prove that we are on the crest of the wave. Who is to say that in four years time we shall not be in the trough, especially if escapist money stops coming here, when the figure may drop to £20-million? I suggest that in that case even the eloquence of hon. members on the opposite benches will not convince the representatives of the taxpayers that heavy taxation to pay the Civil Service salaries and pensions is justified, and I would emphasize pensions, as I notice that the hon. Secretary for Commerce and Industry in a very facile manner definitely forgot to mention our enormous commitment in that respect when producing to the cheers of the convinced and converted that meaningless figure of 1 per cent as being the cost of the increased salaries in relation to the national income.

May I please now very shortly deal with one or two remarks of the hon. Member for the Coast? He said that the Uganda Government had stated that some £600,000 would be saved—(A MEMBER: £60,000.)—I am sorry, that some £60,000 would be saved on

leave pay and passages in their country should the report be implemented there, and implied that a saving of the same sort would be made in this country. I suggest that nothing like that sum would be saved, otherwise, and it is possibly the strongest reason for my contention, the hon. Financial Secretary would have mentioned it. However, as in Kenya the greater proportion of the civil servants are, I think, local civil servants, under the Salaries Commission Report the local civil servant benefits on leave, whereas the colonial civil servant does not, and as the greater proportion are local servants in Kenya I suggest that on the average the total service will benefit and the cost will probably be more than before.

Apropos of the Colony's ability to find the money envisaged the hon. Financial Secretary has said that he sees no need for an inquiry similar to that of the Plewman Committee into the taxable capacity of the country. With your permission, sir, and that of Council, I would quote the first paragraph of the summary of conclusions and recommendations of the Plewman Committee: "After reviewing the trends of national prosperity in general, the committee, guided by the evidence available to it, concludes that the revenue resources of the Colony cannot be expected to remain at the present high level". I accept that statement, which bears out my own conclusions, that we cannot and will not be able to afford the expenditure envisaged by the Salaries Commission. I agree with the hon. Member for Finance that there is no need for an inquiry, but a case for economy in, and not an increase of, public expenditure has, to my mind, been established.

The hon. mover has argued that partial consolidation of cost of living allowances should not be considered because it would be unfair on the pensioners. That is all very well, but we in this Council must ensure that the total consolidation will not be unfair on the taxpayer. It is probably true that, after a period of inflation, money never returns to its former value, but I suggest it is also true that deflation necessarily follows inflation. I understand that the cost of living index figure in the inflationary period following the 1914-18 war remained, even after deflation, at some 15 points over that of 1914.

[Mr. Havelock]

In fact, money was permanently devalued to that amount. Let us be generous and say that after this period of inflation the cost of living index will only fall to 130, instead of 170 as at present. In other words, it will remain 30 instead of 15 points higher than that of 1939.

The Commission was working on an index figure of 165 and advocated consolidation of allowances at that figure, which is 35 points higher than what I suggest the index figure will be when the inevitable recession takes place. The taxpayer is being asked, therefore, to face the probability of paying in future pensions, for an unaccountable period, based on salaries to meet the present cost of living, which is 35 points higher than the level which may be pertaining by the time the pension is paid. Surely the fairer method of dealing with this situation would be to consolidate the salaries and pay the pensioners on the figure that we can reasonably expect to be pertaining after the period of deflation, say, 130, and, if deflation is delayed, then have a cost of living allowance for salaries and may be another type of allowance for pension, to cover the excess cost of living until the index figure drops.

In this connexion I must refer again to the figures which the hon. mover gave us regarding the possible commitment with which we may be faced on account of pensions. It is to my mind the most important figure of the whole discussion, because it is one that will affect us not now, but in 10 years time, and it will grow until it reaches its ultimate total.

He stated that Europeans on overseas terms of service are to face a reduction in the pension constant, and that Asians will benefit by an increase in the pension constant. So I gather our present pension commitments to those already on pensions will remain approximately, the same, at some £450,000. On the other hand, the 1,050 Kenya Local Civil Service officers will be given free pensions and, if on retirement they average £400 per annum each, the ultimate figure will be some £400,000. The 1,200 Asian Local Civil Service personnel—may I suggest—will draw on retirement an average of £200 a year, and that will reach an ultimate commitment of some £240,000. The 3,300 Africans on Grade III and upwards may mean some further £300,000 com-

mitment. Then there are the special pensions for Police and Prisons African officers and others which the hon. mover mentioned. I suggest it is reasonable to expect that an ultimate total increased commitment on pensions of some million pounds per annum.

It would seem that, if the Commission's recommendations are accepted, this Colony will have to face a recurrent expenditure, in some years to come admittedly—say 8 or 10 years—of the half a million we already have and a million over that: one and a half million pounds for pensions alone. I submit that this is a fantastic burden with which to saddle a very young country.

The hon. mover made a point of the effect of uncertainty for the civil servants, both as regards their pensions and their salaries, if the cost of living allowance is not fully consolidated. Later he stated that if conditions altered in the future, so that the country could not afford this extra commitment, then *ad hoc* measures would have to be taken. What is more likely to create uncertainty in the minds of civil servants than the knowledge that, if a recession takes place (and it looks very likely and seems very logical) the "Geddes axe" will fall, and the risk they will face is not that of a reduction in cost of living allowances, it is not that of a reduction or even a levy possibly on their salaries, the risk they may have to face is the total loss of their livelihoods, with probably a small pension or gratuity at the end—at the abrupt end—of their abbreviated careers. The civil servant is entitled to expect security, for which, of course, he must pay, by accepting a slightly lower salary than that in force in other spheres of life, but he is entitled to expect security, and I suggest that if this Salaries Commission Report is accepted as it stands, or even accepted at all, there will be very little security ahead of any civil servant.

At this juncture may I be permitted to draw an imaginative picture of my view of the Civil Service, and for my simile I go to the seaside for sanity, which the hon. Member for the Coast may appreciate? I see heads of departments in sun-suits playing on the beach—(laughter)—competing with each other in an exciting game of piling pebbles, one on top of the other, on top of the sandcastle of Kenya's economy. This mound

[Mr. Havlock] of sand was originally thrown up by the distortion of the flat beach of international economy and it is still being added to by other children who come to it with buckets full of sand and add to that sand-castle the sand which they have pinched from the British pile—the escapists, you might say. I also see that the tide has turned, that the sea of depression is coming in, and I have to link that sea with the carnivorous crabs and other sea monsters. It is only a matter of time before the castle is flattened, the pebbles are scattered, and the children playing on the beach are scampering, quits happily, away somewhere else! (Laughter.)

The hon. Financial Secretary gave us some figures of the increase of the proposed salaries over the pre-war level. He gave us two sets of figures, the second allowing for what he termed the rent element, and he stated that the net increase for European salaries was only 27 per cent more than 1939. The Commission based its recommendations on an increase in the cost of living of 65 per cent, which is consolidated. Does this mean (here I am genuinely asking for information) that the Commission statutorily reduced the basic salaries in many instances? (MR. TROUGHTON: Yes.) There seems then little doubt that the higher paid posts are getting a little more than 27 per cent. (OFFICIALS: Less.) Therefore the middle groups have been increased basically. (MR. TROUGHTON: Nobody has been increased.) (Laughter.) I do not accept that. (MR. TROUGHTON: Only the coffee farmer!) Well, I must say that if the coffee farmer could have a more valuable crop every time he has a child it would be a very good thing! (Laughter.)

I presume that the responsibilities of heads of departments are reckoned to be greater in proportion to the increase of subordinate staff. Can this be the reason for the prolonged cry for more bodies which we have heard for so long? Continually there are rumours of new arrivals in this country who are left hanging around with nothing to do except, possibly, to look for accommodation. Is it possible that in some cases the main object of increasing the number of subordinate staff is that thereby a strong case is made for an increase in the

salaries of superior officers, and that finding something for the subordinate staff to do on arrival is not the first consideration? I suggest that it would be very much wiser for every senior officer or head of department to state how few men he can do with—not how many they can persuade this Council to pay for. I should like to see this Council decide the total bill that the Colony can afford to pay for each department, and then it is quite obvious that the less people paid out of that the more each man will get.

But, if I may, I should like to refer to the inflationary tendency of accepting the Salaries Commission Report, the subject with which the hon. Financial Secretary was dealing when he came to the figures I have been discussing. No matter what the proportional increases of the salaries may be as regards the average individual man of each race the total which will be placed in the hands of the spenders is some £900,000, plus £400,000 a year in the future. The total spending power of the Civil Service as a community of citizens is surely being increased over 1939; anyway this year. Whether or no such money is being used to pay debts, the cash will be put into circulation, and there can be no doubt at all to my mind, and it is borne out by the remarks of people I have spoken to in commercial circles, that costs will tend to rise. Only a week ago this Council agreed that the cost of living must be reduced, and even the efforts of the hon. "St. George" will be fruitless if the dragon is supplied with a new head worth another million pounds. It seems to me that no member of this Council who purports to think logically could, after having supported the cost of living motion, vote for this one, which is a negation of the former.

The hon. Financial Secretary implied that because West Africa had agreed to full consolidation Kenya should follow suit. This particular matter, I know, has been dealt with by other hon. members, but may I suggest that the economy of the two countries is definitely different to start with and, secondly, that over on the other side there is not a vociferous settler community to put the point of view of the primary producer. (OFFICIALS: Hear, hear.) (MR. TROUGHTON: And to increase the national income.) The Civil Service have made a

[Mr. Havlock] great point of the glittering prizes of commerce—(OFFICIALS: When?) (MR. ENYE: You are not the whole Civil Service over there.) (Laughter.)—and how they should be paid at the same level as non-officials—(MR. TROUGHTON: No.)—or nearly so. I suggest that even now they are not so badly off—that is before the implementation of this report—as compared with other taxpayers.

Let us take, for instance, a clerk on the K.E.C.S. drawing, say, £450 a year, a man who has no special qualifications. I am told that emoluments, such as leave pay, passage, medical attention, contributory pensions, etc., are worth some 40 per cent of the basic salary. I would put that figure higher, but let us be generous. Will hon. members bear with me while we do a little arithmetic? It will be simple arithmetic of the farm accounts standard. Forty per cent of £450 is £180. That, added to the basic salary of £450, comes to £630, I understand. Leaving out the matter of his family and treating the clerk as a married man, the cost of living allowance he will get as a married man is Sh. 225 a month, which I calculate at £135 per annum. This brings our clerk to £765. (AN OFFICIAL MEMBER: Make it a round thousand!) (Laughter.) (THE SPEAKER: Order, order.) It seems that hon. members on the other side are trying to be even more generous than I. However, I would round it off at £800.

Eight hundred pounds, I think, per annum, without leave admittedly, without any of those emoluments, is a pretty good salary, even in commerce, but for a farmer it is an extremely good one. Eight hundred pounds a year for a 40-hour week. (OFFICIALS: Nonsense. Come, come!) I do not suggest that the majority of civil servants only do a 40-hour week. I would not insinuate, I would not suggest, that any member on the opposite side does so, but a great many of the ordinary civil servants do. This is borne out by my hon. friend the Member for the Coast, who only yesterday referred to juniors and seniors playing golf together at least three times a week. But I do suggest that, if you look at it from the farming point of view, £800 a year is a pretty good salary. After all, the farmer has to pay interest on his capital, and that must be taken off his income to be quite fair,

and you will not find very many farmers getting an income of £800 a year when you have taken off the interest on his capital.

However, I have no intention of being mean at all, but I do think the civil servants have got to consider a slight reduction in their standard of living, rather than to shout for increased emoluments the whole time. In spite of my gratification that the hon. Financial Secretary has announced that efficiency and economy will be enforced in the Civil Service, that does not alter my opinion that the report should not be accepted at the moment. I would like to see a weeding out and reorganization—especially decentralization—in Government before I withdraw my opposition. I think that my contention is borne out by the remarks made by the hon. Member for Eastern Area when he pointed out that the Asian civil servants were promised lots of things and nothing was ever given to them until just lately. In other words, let us see something happen first and then let us play our part. We should examine, I believe, each department, and spend the great majority of money available on (a) the departments which help to keep peace, order and good government within this Colony, and (b) those which assist the production of real wealth. Those are the two primary considerations. I submit, for the expenditure of the money available. If we could reorganize the Civil Service on such lines I have no doubt that we could save the taxpayer considerable expense, you would have a keen and contented Civil Service and, incidentally, lower the cost of living.

As regards retroactivity, it seems to me as contentious as the rest of the report. The main argument in favour, as I heard it, is that a cash payment will allow some officers to pay their debts, but in the European grades those who may be expected to be in debt do not seem to be getting much of a cash payment. There may be a case for some other bonus method of providing cash to the civil servants who have had a very hard time economically. I think that other ways and means should be studied. If, after a review by efficiency experts and this Council, it was found that some officers have been carrying an excessively heavy burden—and I am sure there are some—burden of work and burden of

[Mr. Havelock] responsibility and, in view of reductions elsewhere, it was agreed to put such officers on better basic terms, then such improved conditions should and could be made retroactive to their appointment to such posts. I would support that thoroughly.

If, on the other hand, cost of living allowances were continued at least in part, as I personally think they should be, then such allowances could be based on the index figure mentioned by the hon. mover—170—and payment made retroactive to the date when the index figure reached that level. In those two ways officers would be supplied with back payments. But here I must qualify my remarks by saying I do not agree with the cost of living allowance, calculated as it is on the number of children born to a civil servant. If children are to be subsidized, then let such subsidies apply to all citizens. The present method suggests that civil servants consider themselves a race apart and of such quality that it is in the interests of the taxpayer that they should be encouraged to propagate their species! (Laughter.)

I doubt if there is one recommendation in the report that I agree with—apart from the expense, I think a contributory pension is much better psychologically than a free pension.

On the matter of leave, I cannot agree with the application to Kenya of the Commission's statement in the third line of paragraph 168 that "vacation leave is granted for the purposes of recuperation after a period of service in the tropics". Such a basis for accepting leave cannot be accepted. I contend that Europeans can live here and flourish from the cradle to the grave without any ill-effects on health. (Laughter from Official Members.) In my opinion, there are only two grounds on which overseas leave should be granted. The first is as part of the terms to attract men from overseas, men for technical posts, with which all would agree. The second is the mental stimulation. I will leave out the matter of a doctor's certificate, because it does not matter where a man lives he can get one to send him to Switzerland.

I disagree with complete unification. Let me say here that I do not say that any of our local boys should suffer, and I should like to see them able to receive

any promotion which they can qualify for, but I do not understand or see if a man's home is in this country the need for him to go to England every four years. It would probably be to the benefit of the service if officers were sent to centres of European cultural training for refresher courses at the expense of Government, and perhaps for overseas leave, for four or five months every five or six years, which would have a good effect in providing a background and experience, but the Commission's terms are too extravagant, and more than one middle grade official has said that leave is a liability and he prefers not to take it. It is not an asset, and he would be very pleased to take a cash compensation instead. (MR. THUGHTON: Because the salary is too low.)

Even regarding personnel from overseas, it is time to think of extended tours as the commercial community have done by shortening the leave periods. Many civil servants find it trying to keep up the holiday spirit for seven months. I would rather go to one of our excellent country hotels in Kenya for a while than wash up in a villa in Shore-ditch. Even those stationed in unhealthy areas can recuperate better on Kenya food and sunshine than on rations, blizzards and heat-waves, etc., which seem to rack the United Kingdom. This is a fundamental issue. I, like so many other Kenyans, have staked my all on the answer to this issue. We believe with every nerve in our bodies that this is a white man's country—(MR. PATEL: Question)—and as such there is no need on health grounds for a white East African to go jaunting overseas every few years.

I have said enough to show that I disagree with the Commission. (MEMBERS: Hear, hear and laughter.) And in some cases I disagree markedly. Even to comparatively minor points I have objections. I am not satisfied with the long scales and I distrust the promotion bar. I believe all officers should have free quarters and a reduction of salaries, the question of the necessity of Whitley Councils is doubtful, and I am not satisfied with Sessional Paper No. 2. I will not go into details because other hon. members will agree that I have held the floor long enough. (Applause from some members.) It is only because of that that I will not go into it, not because I think

[Mr. Havelock] I shall be given an opportunity later on to bring my views forward again. Surely a majority will not vote for this motion and provide me with that opportunity? (Laughter.) I cannot believe any member on either side would wish to support such completely unsatisfactory recommendations.

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

DR. MACLENNAN: Mr. Speaker, it is very difficult for members on this side of Council to add anything constructive to the very comprehensive speech made by the hon. Financial Secretary in opening the debate, and it is with some reluctance that I do rise. But it seemed to me that hon. members might be interested in the reactions of the head of a professional and technical department to the report of the Salaries Commission. I feel, while I state briefly the reactions of my own department, that officers of other technical departments may possibly find what I say is to some extent useful to them. In any case, they may correct me or implement my remarks if they wish to do so.

In a report of this complexity there are bound to be a great many anomalies and disappointments, and disappointments and anomalies there certainly are, but I know that quite a number of these have already been adjusted in Sessional Paper No. 2, and I hope that certain others may be adjusted as a result of this debate. Despite these anomalies and despite these disappointments, I wholeheartedly support the motion before the Council, and in doing so I will say this: that I believe a great majority of officers in my department would wish that I did so. I support it for many reasons, and many of them have already been given, but there are one or two matters to which I should particularly like to refer.

The first of these is the anxiety and frustration that exists in the service at the present moment, and has existed for some years. I do not think for a moment that it is a bogey. I know it from experience. I sensed it when I came here two and a half years ago, and I think I probably know more about that through discussions with my medical officers who, when all is said and done, have very close and intimate contacts with civil ser-

vants, that is through cases of illness of officers being unfit to carry on. Medical officers all through the service have informed me that, due to this anxiety and frustration, there is no question that there is to some extent lack of efficiency growing in the service.

Further to that, I would say that if this report were to be emasculated or macerated in any way I do feel that this anxiety would develop into inefficiency. I feel quite convinced of that, and I think I am in a better position to say that because of my intimate knowledge of service conditions through my medical staff.

Take, for instance, my own medical staff, whose salaries have remained practically static since 1926, and this is now 22 years afterwards. Can you imagine that these people are satisfied with present conditions? This report will, I feel, despite its disappointments, do much to relieve that anxiety which I feel at the moment is causing inefficiency and will cause further inefficiency.

I would like to mention the fact that the service is sometimes criticized because it is said that officers who join it do so for protection and security. As far as the professional and technical officers are concerned in my department I do not agree with that at all, and I believe it equally applies to all officers in the service. Take my own example, which I ask Council to consider for a moment. I left the Public Health Service in England, where I had security and protection just as much as I have here. I left it not because of that. I left it because the Public Health Service in England seemed to me to be becoming rather dull, monotonous and routine, there were very few avenues for initiative.

When I left that service 21 years ago to come to the Colonial Service I did it not for protection and security, but because I felt that here was an opportunity of developing that initiative and doing something. That is what I felt. I have never regretted that even though I had seven years in Palestine, where protection and security were nil. I believe that many officers come to service in the colonies because of a further point I make, and I can say the majority do, because they wish to develop that initiative and desire to do something and

[Dr. MacLennan] achieve something. That is why I definitely feel that this criticism of the service, that they come into it to secure protection and security, is entirely wrong. (Hear, hear.)

There are one or two other points with regard to general conditions:

The question of hidden emoluments has always been a great cry with regard to the service. If any report lays bare the conditions and terms of service from the point of view of the service officers, this report lays bare the question of hidden emoluments. The question of housing, free medical attention, and so on are all laid bare in the report, so that there can be no further criticism of the question of hidden emoluments. But there is the other side to the question that many of the general public do not quite know.

They probably do not know that an officer, say, on £600 a year, joining the service has, immediately he arrives in the Colony, to purchase a car at a cost of between £600 and £700, because a cheaper car will not allow him to function. Admittedly Government gives him a loan interest free to pay for that, but an officer having to purchase a car is already in debt as soon as he arrives. Furthermore, the cost of maintenance of a car, motive power and transport now is so high that the travelling allowance granted him—I say this with all due deference to the hon. Financial Secretary—is not sufficient to keep that car on the road. (Laughter and hear, hear.) In the old days when an officer was unable to pay the cost of running his car he could leave it behind and go on a walking safari, in the good old days which everybody enjoyed thoroughly, but today no officer has time for that. I say it with regret. That is one point regarding the service.

I now come to the question, and a very serious one, of recruitment. The question of recruitment is a very serious one as far as my department is concerned, and I venture to say it is with several departments of Government I would like to point out the present position in the Medical Department. When I say this I would like to add that Kenya is a very attractive colony to live in from all points of view—(hear, hear)—and if any colony did attract recruits it should

surely be Kenya. Despite that fact and that we have now had three years of so-called peace, recruits are not coming forward, and the only reason I can see is that the salaries are not sufficient to attract them.

In my department we are 14 medical officers short of establishment, we are 8 sanitary inspectors short, and they are the backbone of the preventive side of medicine in this country, we are 8 short in an establishment of 20. As for laboratory technicians we simply cannot get them, and have been informed that we cannot recruit laboratory technicians at the present terms of service. With regard to nursing sisters, a class of officer I regard as essential, recruitment is a little better, because two years ago the Colony adopted the recommendations of the overseas Rushcliffe Committee which did improve their terms of service. But there is a tremendous wastage in this type of officer. I myself have been accused of running a matrimonial agency in Kenya—(laughter)—and while I reject that, nevertheless the fact remains that there is a tremendous wastage with regard to this type of essential officer. (Laughter.) Did I say wastage? Well wastage, I am afraid, is not quite the correct term! (Laughter.) Nevertheless, we must maintain recruitment of nursing sisters and other essential staff at a high level if we are to maintain the efficiency of the department, and my remarks probably apply to other departments as well.

Coupled with recruitment, we have the question of resignations from the service. While I agree entirely with the recommendation of the Commission that officers can be retired at the age of 45, we have been very unfortunate in losing excellent officers who have given us, perhaps, 20 years' service, and who were good for another five years or more of excellent service. I am talking about first-class medical officers, who are not only good as medical officers but who are of so much value in the instruction of the African races in this country and also in instructing new medical officers coming to the country. We have lost several excellent officers, and the reason given in each case is that they were tired of waiting for something to be done. They had gone on all these years without any increase of salary, despite the

[Dr. MacLennan] increase in cost of living, and were sick and tired of it all. And the same applies to one or two officers recruited in the last year or two, who said the conditions of service were not satisfactory and would rather go home or work somewhere else.

This is a very serious thing for the Kenya service, a service which has in the whole of the Colonial Service a name for efficiency and a service that a great many officers would like to join.

Turning to the report itself, the summary which is the subject of the motion to-day, I should like to refer to it in one or two places.

I strongly support the recommendations contained in paragraphs 5 and 8. I believe in this long grade with an efficiency bar. We have had it in the Medical Department throughout its existence, and it has proved most effective, and I do believe that promotions re efficiency bars have given a great stimulus to officers in my department. I believe it could be extended elsewhere where conditions are favourable. I also support paragraphs 10 and 11 of the hon. Financial Secretary's memorandum, that certain anomalies might be adjusted during a later stage and also during discussions in the Standing Finance Committee on the 1949 draft estimates.

Now I should like to turn to questions of leave, question which have been raised already in this Council. I must say that I could not agree with the remarks of the hon. Member for Kiambu. While I do not agree with much of what he said, I agree still less with what he said about the question of vacation leave. Turning to the summary in the Commission's report, it is very interesting to see that Kenya is classed by itself. The terms and conditions of leave for Kenya are not in future, if the report is to be implemented, to be as good as they were hitherto. I agree, and shall give reasons shortly, but it is interesting to note that Tanganyika, Uganda and Zanzibar are put in a place apart. Probably an unbiased observer looking at the summary would probably say: "Well, we notice that in Kenya there are healthy and unhealthy stations, whereas as far as one can see all the stations in Uganda, Zanzibar and Tanganyika are unhealthy".

That may be, I do not know, but it does say this, that we have at least a few healthy stations in Kenya, and possibly the Medical Department may have something to do with producing these few plums we have.

With regard to recommendations which, as I say, are not so good as they were or are at the moment, I agree that from a physical point of view the climate of Kenya is good, though one must remember that officers are not always stationed in the Highlands; there are unhealthy stations and so on. But the question of vacation leave is not a question of physical health alone and entirely. Partly it may be, but even the hon. Member for Kiambu has admitted that generally speaking it is much more than physical health; it is mental health, it is a question of a complete and utter mental change from the environment one lives in going to meet friends, relatives, the old people and, as he mentioned, developing or taking special courses and so on. All that is concerned. Certainly the physical side does come in, but I think a complete and utter mental change is very much more important.

Some criticism has been levelled at the proposal of the Commission to allow the fixed Asian establishment to proceed to India on leave, and I think the suggestion was made that the climate of India was not nearly so good as the climate of Kenya. Of course, everyone knows that the climate of India varies very much, and many Indian officers go home in the winter time and so on, but, as I say, it is again a question of that complete mental break, and general questions of consanguinity come into the picture. I might say that going home and spending four months in the West Highlands in the pouring rain is not as salubrious as going to Nyeri, but at the same time I do not go home for that reason: I go home for entirely other reasons which I have mentioned. (Mr. HAVELOCK: Why every four years?) Because that seems a suitable period from all points of view. Even Americans to-day and they are several generations removed from us, take their vacation leave in the old country to see the tombs of their ancestors, and I would strongly commend that that leave conditions laid down in this report be adhered to as much as possible. It all boils down to the question of going home and all that home meant,

[Dr. MacLennan]

I think that these are the main features that I wish particularly to emphasize. I do feel that after what I have said about anxiety in the service and the question of impairment of efficiency of this report will do much to maintain the efficiency and integrity of the service, and encourage the recruitment of officers. For those reasons alone I would strongly support the motion.

MR. RODDAN: Mr. Speaker, I would like very strongly to support the views of the hon. Director of Medical Services and to say a very few words about the recruitment position as regards my department.

Yesterday the hon. Member for Trans Nzoia said that the universities were working hard turning out technical officers and that soon large numbers would be available. The point of his argument was, I think, that, since large numbers were becoming available, technical officers would soon be two a penny and that this was the wrong time to raise salaries, that we should wait until we could get them on a cheap market. I have nothing to say on the principle involved, except that I dislike it and disagree with it entirely. (Laughter.)

On a matter of fact I should like to quote, with your permission, from a letter received this month from the Colonial Office which deals with the recruitment position as regards agricultural officers in the Colonial Service. The extract reads: "There is no need to emphasize how very serious the recruitment problem is. At the present time there are over 95 vacancies for agricultural officers in the Colonial Service and probably not more than 10 appointments will be made this year. This means that we are barely holding our own and making good normal wastage from retirements, resignations, etc. We realize to the full how serious the position is becoming in nearly every colony and that unless something can be done to improve matters it will be impossible to implement development plans which have been already approved. Recent inquiries made from the universities do not indicate any appreciable increase in the numbers of men likely to come forward within the next year or two."

That applies to agricultural officers. The position is even worse as regards specialist officers, and we have in the department at the moment 14 vacancies—a good few of which have been asked for by the coffee industry!—(laughter)—and not just for the Director to enlarge his staff. I have had over the last five years very close contact with the recruitment branch in the Colonial Office, and I know that the same position as I stated for the agricultural service also obtains for the veterinary and forestry services. I think everyone agrees that Kenya needs scientific and technical officers badly. If we are going to get these men we must provide them with a decent living wage, and I therefore recommend the adoption of the motion.

MR. CHEMALLAN: Mr. Speaker, I rise with conflicting views in my mind as to whether I should reject or support the motion. I will begin at the beginning of the report and deal with contract officers and temporary employees.

I think that these members of the service should be brought into the new set-up which the Salaries Commission has recommended for other members of the service. These people have been temporary for some time, some of them, and, taking into consideration the work these temporary workers have done for Government and also taking into consideration the prevailing salaries of these people according to the districts they are in, there has been a great difference in the award of salaries to these people for a very long time, and especially during the war when the question of C.O.L.A. was introduced. As regards employees of Sh. 40 a month or under, we think that these are the majority of the African people who are in Government service, and it appears to me that there is great inequality there. These people should be regarded as citizens who must be encouraged to live a civilized life, and as such are required to contribute towards the development of Kenya as a whole, not with an empty hand; they are required to pay for the education of their children.

The Commission referred to the African Service as markedly inferior, especially to that of the Asian. Well, I do not know what to say on that, but it

[Mr. Chemallan]

appears to me that this is simply purposeful discrimination, especially when there exists many concrete examples of members of the two races being employed in posts which carry similar responsibilities. Of course, there is the usual accusation that the African lacks sense of responsibility, but can you expect the African to attain a sense of responsibility when you segregate him and put him into a corner in a separate service carrying separate, inferior salary scales? I do not think you can. No matter how much an African may be irresponsible I think the right thing is to put him with the other members of the service and to make him practise responsibility along with them; not by segregating him. Otherwise it seems to me that Government is stopping the advancement which the African has been able to make. There is the question of economy, and I very well realize that the Government, or the country at least, must pay the civil servants according to the wealth resources of the country, but there can never be any justification for applying "economic salaries", particularly to one race, simply because they happen to be the majority in the service.

Now I come to the question of Asian and African officers of the unified service. I do not understand this. It appears to me that English is used in two different ways. There is the official English, which is usually made so complicated that when we have something like the motion before us now every word seems to have double meanings. (Laughter.) Anyway, I sincerely hope the hon. mover will try to clarify this point and tell us where we are.

The Police and Prisons Services. Here I have one point to make, and that is with regard to literacy allowance. That I can very well understand, and I should be pleased to see all literate members of the Police or Prisons Service given Sh. 5 literacy allowance, but it should not be an allowance; it should be counted as part of his salary. Also in paragraph 14 of the Sessional Paper it says: "The Commission's scale for sergeants is £66 by £3 to £81 by £3 to £90". Now the minimum has been reduced to £60, and it says that it has therefore been extended by two increments to £93. Well, I do not think £3 is two increments. I take it to be one, and I wonder where the other is.

I see that these scales have very small minimums, but everybody in those scales will not get to the top. Therefore I should like to see a fair minimum so that entrants would benefit by it, in case they are not able to stay long in the service and get to the top.

Now I come to housing. It is a very difficult problem to understand. In the first place I see that an officer may pay rent on a percentage of his salary, or he may pay rent on a percentage calculated on the capital value of the quarters he occupies. I do not understand this. I hope that the hon. mover will try to help me to understand it. There is one thing I should like to point out. If these recommendations are implemented I should like to see Africans on Grades III and IV allowed free quarters, because as it is now they are allowed free quarters because of inadequate pay, and I think that even if these recommendations were implemented they should still be allowed to keep free quarters.

The question of leave. The Commission rather confused the leave they recommended for African members of the service. They allow 28 days for members in Grades II and above, and 22 days for members on the lower grades. I do not see, out of the 28 days, which is local leave and which is vacation leave. I do not agree that members of the African Service should have two different leaves. I should like to see leave for Africans made uniform. The question of sick leave is also not clear as far as the African is concerned, nor are travelling facilities. I think the Commission and Government have overlooked some of the recommendations regarding travelling facilities, especially on the railway, which the Kenya African Civil Servants' Association made, or submitted for consideration, and I should like to have a word from the hon. mover as to what happened to those recommendations. It also happens that a member of the African Service is given, say, 10 days' leave. If that officer leaves a place like the N.F.D. or Mombasa and his home is in Nyanza or Rift Valley it is a good distance from where he works. What happens when he is given 10 days' leave? Those 10 days are gone as soon as he gets home. He gets home after two or three days, and when he comes back he has to waste another two or three days getting back. I do not think that

[Mr. Chemallan]

can really be called leave. At least a day or two should be given to him as some sort of travelling concession.

I would have liked to deal with the question of retiring benefits, but my colleague dealt with this point in detail yesterday. I must say I entirely support the statement made by the hon. Director of Medical Services. Generally, the report does not go any way to try and remove the anomalies and anxieties which members of the service have encountered. That is why I say I cannot decide whether to reject the report or support it, but anyway I think I should be doing a disservice to Africans in the service if I decided to reject the report, because a single cent to them is a great relief, and so with these remarks I beg to support the motion.

MR. COLCHESTER: Sir, I ask the leave of Council if I may also enter for these maiden stakes going on at the moment, though I cannot hope to be the high-flying Valkyrie that the hon. Member for Kiambu was. I am a civil servant and have to be content to be the well-tempered plodding cart-horse. (Laughter.) But I am a back-bencher and, geographically at any rate, I stand on the extreme left of the Council. It depends on which way you look at it, but you must choose between the hon. Members for Trans Nzoia and Rift Valley and the Director of Medical Services, and I do not know if they would like the honour!

I should like, if I may, to take the privilege of a back-bencher and that you should not expect from me the objectivity of the front Government benches. I should like also, standing on the extreme left, to speak on behalf of civil servants. It is true that a number of members of this side are civil servants, but it happens that only one other member and I are members of the council of the Civil Servants' Association, and that gives me some claim to speak for civil servants. I was very careful not to talk of "the civil servant", but of civil servants in the plural. I suppose the civil servants are as much divided on this report as is the rest of the country; they have, in fact, as many opinions as the rest of the country!

Some civil servants have done well out of this report. The members of the Kenya

European Civil Service who had no pensions, leave or passage privileges like other members of the service are now placed on a parity with members of the Overseas Service, and for that they must necessarily offer up thanks, particularly as one of the signatories of the report was one of the fathers of that "so-and-so" K.E.C.S. By and large, civil servants are not content with this report, and I should like subjectively to show how they view it. The fact that they are not content is made somewhat worse by the fact that criticism of the report tends sometimes in some quarters to be criticism of the Civil Service. As a civil servant sees it and hears it, he is told it is going to cost the country £900,000 for arrears of allowances and pay, that it is going to cost the country £400,000 annually, and he becomes aware that the country by and large often sees no further than those figures. It was very unfortunate that a certain figure received publicity as to what difference it would make to the European Civil Service to adopt this report. I find some people outside this Council had an idea that the report gives the European civil servant 41 per cent over his present pay. The plain fact, as I think is now known, is that it gives him an average of 27 per cent above 1939 pay.

When the hon. Member for Kiambu was in the middle of his speech, I heard him talk of consolidation of salaries on a basis of a figure of 65 per cent. At one time I thought he also laboured under the delusion that a civil servant was having his pay consolidated by something related to the present cost of living index, but he went on to mention a figure of 27 per cent. The plain fact is that the cost of living has gone up by 70 or 80 per cent (according to whether you allow a civil servant to drink or smoke or not) but he is only getting 27 per cent, or roughly one third of the gross increase in the cost of living.

If I may quote from the report, there is one particular phrase which civil servants find not just irritating but unjust, and it is this: "The two major wars of the present century have to be paid for, and civil servants, no less than other members of the community, must make their contribution towards the cost". (Mr.

[Mr. Colchester]

COOKE: Hear, hear.) Well, the civil servant is perfectly willing to make his contribution towards the cost, and he thinks that it can be done in two ways: it can be done by taxation, and it can be done by a reduction in the standard of living for everybody. I am not suggesting there are no other alternatives. No civil servants think they can continue to enjoy the standard of living they had in 1939, even though they cannot fail to see many people in this country in other walks of life not enjoying a lower standard of living, but they think that if they are getting 27 per cent for the 70 or 80 per cent increase in the cost of living they are making more than enough contribution towards the cost of the two wars. Further, we will pay our share of taxation towards the cost of the wars.

But another fear that the civil servant has is that the Civil Service wage structure is in some way to be used as a sort of Beveridge Plan. I was very pleased to hear the hon. Member for Kiambu say there was no reason why the productivity of civil servants out of office hours should have something to do with their pay! (Laughter.) There is a tendency to say that the civil servant is having a bad time and that there must be a special allowance made for him. We want the pay for the job without regard to the size of a family or the size of a man's income—(hear, hear)—and I submit that the main argument for going back to the 1st January, 1946, for the carrying out of this report is that one is entitled to the pay for the job. It is quite true that the Commission does use the argument about what is done in other territories, but the man argument is, I think, that we are entitled to presume that at a certain time after the war is over civil servants can go back to the ordinary conditions of service, and the main argument for the 1st January, 1946, is that it is a date when one can get away from the principles of war sacrifice. The extra pay some servants were getting as cost of living allowance was related to their basic salary and the size of their families, and 1946 is as fair a date as any, and certainly not too far away from the present to be a date on which one gets back to the principle of the pay for the job. That, I submit, is the main reason for choosing such a date.

Much has been made of the security of civil servants. It is true that during times of depression many of us thought that the levy on official salaries was nothing like the fall in the cost of living index, and I do not think any civil servant expected to get 100 per cent rise in the cost of living. The hon. Member for Trans Nzoia said we should have to be 100 per cent sure before we adopted this report, but to the civil servant it is no more than 27 per cent right. We have security, but there is a tendency to make security a servitude, and if the issue before the country is whether it can afford this Commission's report or not let it not be at the expense of all the civil servants in servitude. If the country cannot afford this Commission's report let it, as the hon. Financial Secretary said, cut down the numbers but not cut down the salary of the individual. (Hear, hear.)

Much has been made of the security which a pension gives, and much has been made of the desirability of the contributory pensions. I think many of us would like contributory pensions, many civil servants would, many would not, but I think that if there had been contributory pensions in the past 20 years many civil servants would have left the service. Many who did go away on the whole earned outside the service very much more than they got in it.

I said that I rose as a back-bencher, and I rise as back-bencher to support the motion. I support the motion because I do not think that, by and large, we stand much chance of getting a better award—(UNOFFICIAL MEMBERS: Well done!)—and that there is a case for receiving a better. I support the motion.

MR. HOPKINS: Mr. Speaker, there are many points in this report with which I do not agree, but as quite a number of them have been covered in the debate so far I will give Council the comfort of knowing that I am going to refer to four matters only.

The hon. mover pointed out that it would be false economy to under-pay the service, and that it would be far better to have a small, contented, well-paid service than a large one full of under-paid discontented. It was with the express purpose of enabling me to emphasize this point that I asked my Question No. 58, requesting Government

(Mr. Chemallan.)

can really be called leave. At least a day or two should be given to him as some sort of travelling concession.

I would have liked to deal with the question of retiring benefits, but my colleague dealt with this point in detail yesterday. I must say I entirely support the statement made by the hon. Director of Medical Services. Generally, the report does not go any way to try and remove the anomalies and anxieties which members of the service have encountered. That is why I say I cannot decide whether to reject the report or support it, but anyway I think I should be doing a disservice to Africans in the service if I decided to reject the report, because a single cent to them is a great relief, and so with these remarks I beg to support the motion.

MR. COLCHESTER: Sir, I ask the leave of Council if I may also enter for these maiden stakes going on at the moment, though I cannot hope to be the high-flying Valkyrie that the hon. Member for Kiambu was. I am a civil servant and have to be content to be the well-tempered plodding cart-horse. (Laughter.) But I am a back-bencher and, geographically at any rate, I stand on the extreme left of the Council. It depends on which way you look at it, but you must choose between the hon. Members for Trans Nzoia and Rift Valley and the Director of Medical Services, and I do not know if they would like the honour!

I should like, if I may, to take the privilege of a back-bencher and that you should not expect from me the objectivity of the front Government benches. I should like also, standing on the extreme left, to speak on behalf of civil servants. It is true that a number of members of this side are civil servants, but it happens that only one other member and I are members of the council of the Civil Servants' Association, and that gives me some claim to speak for civil servants. I was very careful not to talk of "the civil servant", but of civil servants in the plural. I suppose the civil servants are as much divided on this report as is the rest of the country; they have, in fact, as many opinions as the rest of the country!

Some civil servants have done well out of this report. The members of the Kenya

European Civil Service who had no pensions, leave or passage privileges like other members of the service are now placed on a parity with members of the Overseas Service, and for that they must necessarily offer up thanks, particularly as one of the signatories of the report was one of the fathers of that "so-and-so" K.E.C.S. By and large, civil servants are not content with this report, and I should like subjectively to show how they view it. The fact that they are not content is made somewhat worse by the fact that criticism of the report tends sometimes in some quarters to be criticism of the Civil Service. As a civil servant sees it and hears it, he is told it is going to cost the country £900,000 for arrears of allowances and pay, that it is going to cost the country £400,000 annually, and he becomes aware that the country by and large often sees no further than those figures. It was very unfortunate that a certain figure received publicity as to what difference it would make to the European Civil Service to adopt this report. I find some people outside this Council had an idea that the report gives the European civil servant 41 per cent over his present pay. The plain fact, as I think is now known, is that it gives him an average of 27 per cent above 1939 pay.

When the hon. Member for Kiambu was in the middle of his speech, I heard him talk of consolidation of salaries on a basis of a figure of 65 per cent. At one time I thought he also laboured under the delusion that a civil servant was having his pay consolidated by something related to the present cost of living index, but he went on to mention a figure of 27 per cent. The plain fact is that the cost of living has gone up by 70 or 80 per cent (according to whether you allow a civil servant to drink or smoke or not) but he is only getting 27 per cent, or roughly one-third of the gross increase in the cost of living.

If I may quote from the report, there is one particular phrase which civil servants find not just irritating but unjust, and it is this: "The two major wars of the present century have to be paid for, and civil servants, no less than other members of the community, must make their contribution towards the cost". (Mr.

(Mr. Colchester)

COOKE: Hear, hear.) Well, the civil servant is perfectly willing to make his contribution towards the cost, and he thinks that it can be done in two ways: it can be done by taxation, and it can be done by a reduction in the standard of living for everybody. I am not suggesting there are no other alternatives. No civil servants think they can continue to enjoy the standard of living they had in 1939, even though they cannot fail to see many people in this country in other walks of life not enjoying a lower standard of living, but they think that if they are getting 27 per cent for the 70 or 80 per cent increase in the cost of living they are making more than enough contribution towards the cost of the two wars. Further, we will pay our share of taxation towards the cost of the wars.

But another fear that the civil servant has is that the Civil Service wage structure is in some way to be used as a sort of Beverage Plan. I was very pleased to hear the hon. Member for Kiambu say there was no reason why the productivity of civil servants out of office hours should have something to do with their pay! (Laughter.) There is a tendency to say that the civil servant is having a bad time and that there must be a special allowance made for him. We want the pay for the job without regard to the size of a family or the size of a man's income—(hear, hear)—and I submit that the main argument for going back to the 1st January, 1946, for the carrying out of this report is that one is entitled to the pay for the job. It is quite true that the Commission does use the argument about what is done in other territories, but the main argument is, I think, that we are entitled to presume that at a certain time after the war is over civil servants can go back to the ordinary conditions of service, and the main argument for the 1st January, 1946, is that it is a date when one can get away from the principles of war sacrifice. The extra pay some servants were getting as cost of living allowance was related to their basic salary and the size of their families, and 1946 is as fair a date as any, and certainly not too far away from the present to be a date on which one gets back to the principle of the pay for the job. That, I submit, is the main reason for choosing such a date.

Much has been made of the security of civil servants. It is true that during times of depression many of us thought that the levy on official salaries was nothing like the fall in the cost of living index, and I do not think any civil servant expected to get 100 per cent rise in the cost of living. The hon. Member for Trans Nzoia said we should have to be 100 per cent sure before we adopted this report, but to the civil servant it is no more than 27 per cent right. We have security, but there is a tendency to make security a servitude, and if the issue before the country is whether it can afford this Commission's report or not let it not be at the expense of all the civil servants in servitude. If the country cannot afford this Commission's report let it, as the hon. Financial Secretary said, cut down the numbers but not cut down the salary of the individual. (Hear, hear.)

Much has been made of the security which a pension gives, and much has been made of the desirability of the contributory pensions. I think many of us would like contributory pensions, many civil servants would, many would not, but I think that if there had been contributory pensions in the past 20 years many civil servants would have left the service. Many who did go away on the whole earned outside the service very much more than they got in it.

I said that I rose as a back-bencher, and I rise as back-bencher to support the motion. I support the motion because I do not think that, by and large, we stand much chance of getting a better award—(UNOFFICIAL MEMBERS: Well done!)—and that there is a case for receiving a better. I support the motion.

MR. HOPKINS: Mr. Speaker, there are many points in this report with which I do not agree, but as quite a number of them have been covered in the debate so far I will give Council the comfort of knowing that I am going to refer to four matters only.

The hon. mover pointed out that it would be false economy to under-pay the service, and that it would be far better to have a small, contented, well-paid service than a large one full of under-paid discontented. It was with the express purpose of enabling me to emphasize this point that I asked my Question No. 58, requesting Government

[Mr. Hopkins] to give comparative figures of the number of European personnel in the service in January, 1939, and in January, 1948. I chose 1939 because it was the last year before the war in which conditions were fairly normal. Had I chosen a couple of years later, towards the beginning of the war, the comparison would have been very much more marked. I excluded Mombasa and Nairobi from my question because it is well known that those places are full of controls, and we have already had an assurance from Government that they would be done away with as soon as possible.

The figures given me, however, show that there has been an over-all increase in out-stations of just over 97 per cent in the European personnel. In my own area there has not only been an increase since January this year, there has actually been an increase since I asked my question. You will realize, moreover, that each additional European entails additional subordinate staff. It all hangs on the European staff. It is a most extraordinary thing to me that the country has watched this progressive increase in staff with scarcely a protest and scarcely a murmur. It is a remarkable thing how they have more or less ignored this, and yet got so excited about this present report. I think it would be correct to say that in 1939 the service was reasonably efficient, just as efficient as it is now yet, as shown by Government's statement, there were 97 per cent less men, plus, of course, less ancillary staff. When war broke out the work increased to a phenomenal degree, but for quite a long time the number of people in the service decreased; they did not increase. I do admit that circumstances were exceptional, but under the exceptional circumstances a most remarkable degree of efficiency was maintained.

Surely, therefore, it would not be unreasonable to ask Government to reduce at once its swollen personnel and then to pay adequate salaries to those who remained? (UNOFFICIAL MEMBERS: Hear, hear.) A few years ago we in the service—as most of you know, I was a member of the service—would have looked upon to-day's Civil Service as full of fancy departments, fancy posts and fancy services, and I maintain that it is these and

not good salaries that the country cannot afford. I feel, therefore, that the figures given in answer to my question, coupled with those given in reply to a question by the hon. Member for Nyanza, show the necessity for an immediate reduction in the personnel of the service, and I hope that Government intends to take those steps as soon as possible.

That brings me to my second point. While I am in complete agreement with the object which the report sets out to achieve, to get a contented service, I think it has failed in many respects, and serious respects at that. It is quite obvious that no report can satisfy everybody, but this report, I feel, has been most unfair to a large section of people in the Civil Service, whom I think one might regard as the backbone of the Civil Service. I refer to the men whose salaries lie between £500 and £750 a year and who have wives and families. A study of the report shows that those people benefit in inverse ratio to the size of their families. I realize, of course, that these people are the very ones who have done best out of C.O.L.A. I realize, also, that if they wait long enough they will ultimately derive benefit from the recommendations of the report. The fact remains, however, that they are in urgent need in a great many cases of some immediate cash relief, and this is one thing they will not get.

I presume that one of the main reasons for the retroactivity to 1946 was that it was intended that those who were in need of immediate cash relief should get something, but, as I say, this is just what does not happen. I feel strongly, therefore, that some formula should be found which will enable some cash benefit to be paid to all civil servants, no matter whether Europeans, Africans or Asians, and I think this will not add to the cost of the recommendations if the matter were considered in conjunction with the retroactive date.

That brings me to my third point. I would like to say that, in regard to this matter, I have discussed it with quite a number of civil servants, and I have not discussed it merely with those who get no benefit from the retroactive date, and I am left with the very strong impression that the great majority of men look upon the date of the 1st January, 1946,

[Mr. Hopkins] as being over-generous. Several officers have, moreover, pointed out to me that it is quite unnecessary and unjustifiable to back-date all Africans to that date, even if one excludes, as suggested in the Sessional Paper, those who draw Sh. 40 and under. The reason is that in the past the money provided for African salaries has been notoriously insufficient, not only in 1946 but long before that, so that it was not possible to engage the best men. One had to engage the best men you could get for the salary available, and had there been more funds better men would have been engaged.

I am not saying that I do not want Africans to benefit, and I do not feel they should not have the adequate salaries. They should have had them before, but it is unnecessary and unjustifiable now to pay huge amounts in back pay to people engaged and paid all along at their full market value. I think, therefore, that Europeans, Asians and Africans alike could quite safely be back-dated to the 1st January, 1947, and that the saving so achieved might be put to bringing some immediate cash benefit to the group of people to whom I have referred and adjusting other anomalies.

The final matter to which I wish to refer is the position of the district officer if the recommendations of this report are adopted. As you know, the whole quality of the work in the out-districts depends upon the energy and personality of the district commissioner—(hear, hear)—and it is largely for that reason that so much care has been taken in the past to choose the right type of man. What I mean is that whereas a young technical officer has to have good technical qualifications, the administrative officer has also to have qualities and virtues which though they may not entail such prolonged study and longer work are, nevertheless, even more difficult to attain.

It is well known that, so far as native reserves are concerned, the departmental officer can really accomplish nothing unless he has the backing of the local administrative officers. In the Government station also, life revolves around the personality of the district commissioner. On him falls the main burden of entertainment, and it is to him that all officers go, whether departmental or

administrative, for advice, both on official and personal matters. He is, in fact, the recognized senior official of Government in his district, and it is his responsibility to see that the work of all departments goes on smoothly and efficiently. It is difficult to understand, therefore, how Government can be prepared to accept the recommendations which make the position of administrative officers rather worse in proportion to technical officers than it is at present.

I am going to give now some comparative figures which will show the position under the report of the administrative officer, the agricultural officer, the Public Works Department engineer and the veterinary officer. Before I give you these figures I should like to say that in no way am I showing that the scales allowed to them are excessive. I am merely trying to put the case of the administration.

The district officer now, according to which scale he is on, goes from £400 to £920 or from £350 to £1,000, the agricultural officer goes from £400 to £840, the P.W.D. engineer from £450 to £1,000, the veterinary officer from £600 to £1,000. I may say that all these people under the report are on the same scale: they merely come in at different points. Under the new scales the district officer will start at £550, remain there for two years, jump to £620 and go on to £1,320; the agricultural officer starts at £585, stays there two years, jumps to £655, and then goes to £1,320—in other words he is always £35 ahead of the administrative officer of equal seniority; the P.W.D. engineer starts at £655, remains there for two years, takes the proportionate jump to £725, goes on to £1,320—in other words he is always £105 better paid than the administrative officer of equal seniority; the veterinary officer starts at £865, stays there two years, does his proportionate jump to £935, and goes on to £1,320—in other words he is always £315 ahead of the district officer of equal seniority.

I can, of course, see the justification for starting technical officers at a higher notch in the salary scale on the ground that their education has taken longer, but surely when the district officer has got to the state of efficiency when he is capable of taking over a district and exercising supervision, as he has to, over these

[Mr. Hopkins] various officers, surely he is then entitled to expect a jump himself that will bring him at least equal to the P.W.D. man. (OFFICIALS: Hear, hear.) The Commission say in paragraph 68 that they have taken into consideration the duties and responsibilities attached to the various posts. It is very difficult to believe that they have done so when they were considering the scales of administrative officers. It looks rather as though they had given to much weight to the fact that there are at the present moment very few technical officers to be had, and I should like to say here that I think everything the hon. Director of Agriculture said seems to confirm what was said by the hon. Member for Trans Nzoia, that there is a shortage at present, but that that shortage will not last so very long.

We do know that there is a shortage now and he, in the evidence he was able to bring, argued that it would last for at least another two years. After all, that is not very much in the history of this Colony; at least I hope not, and I do think that it is quite possible that the Commission gave too much consideration to the present temporary shortage, because it is well known that the universities, not only at home but also in South Africa, are completely full up with people studying for the professions. It seems quite obvious then that in a few years to come technical officers will be more plentiful and, in modern parlance, we will not have to go into the black market to get them. (Laughter.)

Again, as there is no demand for administrative officers in India, Palestine and other portions of our lost Empire, it is quite obvious that it is not so difficult now to get the right type of man for the East African Administrative Service, which has always been one of the most popular. But, if the Commission have cashed in on the fact that administrative officers are now plentiful and technical officers are now difficult to get, I think they have made a great mistake and are adopting a policy which will not pay dividends for very long.

I have referred only to these four matters, but I feel that there are so many serious defects in this report, that it will not be possible to put them right in committee unless the motion is amended,

which I hope it will be later on in the debate. For that reason I beg to oppose it.

MR. OHANGA: Mr. Speaker, I have listened with a great amount of pleasure to the speeches made on both sides of the Council on this motion. There is one point which I want to dispose of right at the beginning. It is a matter for regret that there is no other way of dealing with it, but it does not appeal to my rational sense as correct that civil servants, who have a pecuniary interest in the report, are allowed to speak in support of the report here. I realize that there is no other way of doing it, but I feel it hardly right.

I go on to say that I have learned a great deal from the speeches made and, in fact, many of the points which I would have made have already been covered throughout, and that reduces the whole of my speech to a few remarks only. The first of the things that I have in mind is that one has a great deal to say in support of this report, but I regret to say that I have not heard enough stronger criticism applied to this report from both sides of Council, because, although in many ways it is a good report and it does provide something with which we are able to go forward, paragraphs 79 and 84 are to my mind absolutely damaging. It seemed to me that this report, from our point of view, should have been regarded as a bombshell which has been dropped among us from a distant rocket, and while there is much that can be praised and supported here, these two paragraphs, which deal with racial questions, damage the whole thing and tend to make us much more critical than we should have been.

I will begin by agreeing with the hon. Member for Trans Nzoia in his opening remarks yesterday, when he said that this report gives rise to feelings which could be avoided. I thought that was a very true remark and applied generally in a very fitting manner to the whole of the provisions here. I also agree with the remarks of the hon. Member for Eastern Area, Mr. Patel, when he said that salaries should be attached to the post and not to the person, taking into account the qualifications of the individuals. These remarks I agree with most heartily, and they seem to me to be the key to most of the recommendations here being what

[Mr. Ohanga]

I feel they are. Racial difficulties in this country have been bad enough in the past, and in my life I have never found a time when there has been so much prominence given to the racial factor in a public report like this. Paragraphs 79 and 84 give publicity to some of these antagonistic problems which one does not usually like to talk about in public, particularly in a report of this sort, which assumes responsibility for everybody in the country.

If our scales are to be according to race and domicile, and in the manner that the Commission has attempted to frame them, it seems to me that we are all going to have difficulties, some of which I thought we had already passed. The Commission have suggested in paragraph 100 clerical and general scales for Europeans, Asians and Africans, and the Government, in support of the point of view I am advancing now, took steps in the Sessional Paper to amend them by making them A, B and C. It is my opinion that we on this side of Council ought to follow the Government in that action and to go a little further. It seems to me that all these scales should be one service and one scale for all people who are qualified to hold them, but to go on marking them A, B and C is not going the whole way.

The debate was adjourned.

ADJOURNMENT

Council rose at 12.40 p.m. and adjourned till 10 a.m. on Thursday, 19th August, 1948.

Thursday, 19th August, 1948

Council reassembled in the Memorial Hall, Nairobi, on Thursday, 19th August, 1948.

His Honour the Speaker took the chair at 10.10 a.m.

The proceedings were opened with prayer.

MINUTES

The minutes of the meeting of Wednesday, 18th August, 1948, were confirmed.

ORAL ANSWER TO QUESTION

No. 66—R.A. & H.S. SHOW AT NAKURU MR. BLUNDELL:

1. Is Government aware that the Royal Agricultural and Horticultural Society of Kenya propose to hold an agriculture show in Nakuru on the 22nd and 23rd October, 1948?

2. If the answer is in the affirmative, is Government also aware—

(a) of the dissatisfaction and uncertainty prevailing among breeders of cattle at the long delay and indecision in the issuing of a veterinary clearance certificate for east coast fever for the show ground;

(b) that judges are being invited from the United Kingdom and Holland to judge cattle entries?

3. Will Government also please state how soon the necessary veterinary clearance certificate will be issued?

MR. RODDAN: The answer to the first part of the question is "Yes".

The answer to (a) of the second part of the question is that there has been no avoidable delay or indecision regarding the issue of a veterinary clearance certificate for east coast fever.

The showground authorities did not complete the fencing of the ground until early this year although they had been advised by the district veterinary authorities at an earlier date that if they wished to hold a show in 1948 the fencing of the ground should be completed without delay.

The short time allowed by the late-ness in fencing the showground and by the fact that the intention to hold a

[Mr. Roddan] show in October was not announced by the showground authorities until April this year was insufficient for the normal measures to be taken to ensure the ground being free of east coast fever.

As soon as it was possible to do so immune cattle were placed in the area and dipped by the Veterinary Department in order to collect the ticks from the ground. Thereafter susceptible cattle were introduced to test the area as being free from east coast fever. It will be appreciated that the longer the period of both these phases of the test the greater is the security offered. It is purely in the interests of stockowners themselves that the test should continue as long as possible.

The answer to (b) of the second part of the question is in the negative.

Regarding the third part, the Government understands that the Director of Veterinary Services proposes to withdraw the testing stock at about the end of August, after which, if the tests justify it, the necessary certificates will be issued.

SALARIES COMMISSION REPORT WITH SESSIONAL PAPER NO. 2 OF 1948

The debate was resumed.

MR. OHANGA (continuing): Mr. Speaker, when the Council rose yesterday I was commenting on the unsatisfactory nature of the report, in that it tried to emphasize too much the racial element and thereby coloured all the recommendations that were affected by that element. We in this Council have a high opinion of our ability to work together as a team, and I do not think the emphasis of that particular element gives very much encouragement, or helps us in the least. Because of that I have said that this report in a way is a sort of bomb dropped among us, and has done, or is about to do, a certain amount of disruption. The development of this country is a joint task for us all, and in a report of this kind, which has to do with the working people, they and all the people who give their life to the service and development of this country should be encouraged jointly on the same basis. I do not want to dwell on that point, but there are two other points I should like to draw attention to, if I may, before I sit down.

The next one is that the African civil servants in this country have for many years pressed the Government for a unified non-European service. I know that that is only a half-way house, and I should like to say how very much I appreciated the speech of the hon. Member for the Eastern Area when he said that one day this Colony will have to face one service only for everybody. What the Africans want now is one non-European service, but that is a half-way house only. The ultimate aim, to meet the demands of us all, is one service for the whole country. We are doing it merely for practical politics. We realize that, if it is impossible to have one non-European service, how much more difficult will it be for Government to accede to the proposal that there should be one service for all. We do it in the sure belief that it is something which should be done, and later we will move the other, so that it is done step by step until the ultimate object is reached.

Another point is menial staff. In moving this motion the hon. member said that the pay of these men should be related as closely as possible to the pay which is given in private industry or private employment. I agree that that may be necessary, but I should like to add that, apart from that, there are also other factors which must be taken into account. It is time that this country gave some encouragement to the menial labourer. These people are the backbone of this country, and without their activities the country would be dead. Those who supervise or advise would have nobody to supervise or advise if they were not here—and if, as is suggested, retroactivity is not going to be extended to them I am sure they will be greatly discouraged, and if the labourers are discouraged, I am not quite sure what the effect will be.

There has been a great deal of cry from the White Highlands that the African of this country is more and more turning to white-collared jobs and is not doing the work he did before he knew white collars. I should like to say that if we discourage menial labourers by paying them very low wages and double the pay of the white-collared, at their expense if I may say so, then I am quite sure we will be responsible for attracting people to the white-collared jobs and discouraging

[Mr. Ohanga] ing them to work with their hands. I believe that if we can to-day in this Council emphasize the case of the menial worker and allow him retroactivity and also double his pay, as suggested by the Commission, we will go a long way in redressing the position. The Government would like to wait and see what the private employer does. I should like to suggest that that is not the best way of doing it. Government should give the lead. It may be a protection to those people who cannot as yet defend themselves. The Government has at times met the position by laying down minimum wages. I believe that it is their duty not only to set an example by paying fair wages, but also to give a lead to the private employers to pay what is fair to their employees, regardless of what they themselves feel is justified. I say that because I know that anybody acting alone in his own private firm has little chance of seeing what is done outside, and the general view can only be put clearly by the Government who is best placed to estimate what is fair for all.

My fourth point is about the non-acceptance of the motion. It seems to us that the report does not meet us the whole way, but I do think it is the best in the circumstances, and for that reason it is our object to give it our support. With those remarks I support the motion.

MR. WYN HARRIS: Mr. Speaker, this happens to be rather a historic occasion for me, as it is the first occasion, I think, when both the hon. Member for the Coast and myself have been in agreement. (MEMBERS: Shame!) For nearly two years, therefore, one of us at least has been right, and to-day, when we both feel we are right, the odds are almost astronomical—(MEMBERS: Question.)—that we must be right this time! (Laughter.)

The duties and loyalties of my office, particularly in a job of this nature, are threefold. In the first place, I have my duty and loyalty as a member of Government to the Government and the general welfare of the Colony. My paramount duty, possibly, is the second duty, as the agent of the active trust which Government exercises on behalf of the African community. And, thirdly, this particular post carries a traditional duty and traditional loyalty towards the provincial

administration. It dates from the days of Ainsworth who entered this service in 1889, and has been carried on by my predecessors. In consequence, there must be a certain conflict of loyalty, in my opinion, over this particular motion, and it has given me a very considerable amount of thought exactly how I can solve that particular conflict. It is not made much easier, as I am grateful to see hon. members on the other side of Council have recognized, in so much that all of us on this side of Council are civil servants and, in consequence, our conditions and pay are also under review and we have to divorce our minds from that particular aspect.

Well, sir, let me deal with my first duty first, and my first duty—and I can do it with a clear conscience—is to support this motion. I support it, and by this support I understand not that we are only just referring the report to a committee but that we support the main principles of the report. What are the main principles? In my opinion they are three in number. The first one is that a case has been made out for appreciable increases in the salaries of civil servants. The second main principle is that such increases should be made, not by adjustments of cost of living allowances, but by consolidation of pay. The third main principle behind the report, as I see it, is that as far as possible all the various Civil Services which exist at present, such as the Kenya-European Civil Service, the Overseas Service and the various Asian Services, should be as far as possible correlated in their conditions, particularly their conditions with regard to pensions.

Now, sir, with the single exception of that champion of the Kenya Civil Service, the hon. Member for Kiambu, I think this Council accepts the first principle—that a case has been made out for an appreciable increase in the salaries of the Civil Service. (MR. HAVELOCK: So do I.) Well, I can only reply to the hon. member that, if he says so, I do not know how, mathematically, he will work it out. He says that he is for economy but he is against the "Geddes axe", and, if he wants increases in salaries, where the money is coming from I cannot imagine. (OFFICIAL MEMBERS: Hear, hear.)

Then there is the case for consolidation. The hon. Financial Secretary

[Mr. Wyn Harris] has put the case very fairly, but I should like to add one or two remarks. In the first place I would say that consolidation means that we return once more to the normal payment for services rendered, which is based on what a man does and not what his family commitments are, and the quicker we get back to normality in abnormal times the more likely are we to produce normal times. The next one is that consolidation gets away from wages chasing prices. We have had a debate on the cost of living here, and there appears to me to be no question about the danger of a cost of living allowance based on the cost of living, for the whole time you stand in danger of the wages of civil servants chasing prices and it is one of the most inflationary things in this country. In consequence, consolidation must mean, to my mind anyway, that it is a serious attempt to peg wages chasing prices for a large number of employees in this country.

There is on the other side of Council a feeling of resentment that Tanganyika and Uganda have tended to force our hand. (UNOFFICIALS: Hear, hear.) I would submit that it is not Tanganyika, and it is not Uganda, who have forced our hand: our hand has been forced by conditions right throughout the world, and each colony is attempting to get back to normal once more. Salaries have been influenced on the West Coast; they are being influenced in other colonies, and commercial firms also are endeavouring to study how they will create a framework for post-war salaries, and for that reason I consider we have to accept this report, because it does give us a basis to achieve normality.

To those who would advocate that we should review our cost of living allowances and not deal with our basic salaries, I would remind them that the cost of living allowance is very much of an *ad hoc* measure. It varies between the races, it works very unfairly particularly among the African communities, and we have a large number of anomalies. It was only the other day that I came across an African on a basic salary of Sh. 4/50 and whose cost of living allowance amounted to Sh. 15. If we are going to re-study the whole question of cost of living allowance it would mean studying the whole

framework of the payment of salaries in this country, all the various different conditions of service, the Kenya European Civil Service, the Overseas Service and, I think I am right in saying, there are three or four different Asian Services, and there are certainly three African Services.

On the question of the relation of pensions, we are already committed to free pensions in this country for a large number of overseas employees, and we have got to go on offering such free pensions if we are going to attract to this Colony the right type of men. We have already gleaned from the hon. Director of Medical Services of the shortages of medical officers; that occurs in all the technical branches, and I am afraid I myself could not possibly accept that in two or three years time we are likely to fill our quota of technical officers. All the information from England is that everybody is desperately short of technicians and that it will be a decade before we have sufficient to meet the demand.

The greatest point in favour of the acceptance of this report is the disappearance of the cleft between the European Civil Service and the Overseas Service and the bringing together under more or less similar conditions and pensions those Services with the Asian and African Services. It has always been a cause of bitterness to the K.E.C.S. that they had inferior terms, particularly with regard to pensions, and we in the Overseas branch have always regretted this cleft, and this is an opportunity now to get rid of something which has done a great deal of harm, in my view, to the efficiency of the Civil Service in this country. One had only to listen to the hon. member Mr. Patel with regard to conditions in the Asian Civil Service to realize that we have got to do far more than give an *ad hoc* increase in cost of living allowance to put our house in order in that Service. I will deal with the Africans later.

What are the objections to consolidation and free pensions? The day before yesterday, a rather vocal wolf wandered into this Council, rather, I think, to the surprise of the member speaking. I have always been taught that that particular story was to give advice to us not

[Mr. Wyn Harris] make false alarms until a thing actually occurred. I was not particularly impressed, I do not know whether Council was, when told that we are at the beginning of a deflationary period merely because there happens to be a bumper crop of wheat in the hungry world and that there has been over-buying in the Indian bazars. I think there is every possibility that in the future we may have a slump, we may even have a catastrophic slump, but we live in 1948, and we live in very dangerous times not only financially but politically, and it would be a very bold man indeed who would say exactly what the position will be in, say, three, four or five years time; to my mind, if he did attempt to look with trepidation into the future and say that this or that will occur we shall never be able to come back to normality. We have got to plan definitely for the normal, and if through ill-fortune we do not get back to normal we shall have to take those *ad hoc* measures quoted in the report.

There have been advocates, as I see it, of partial consolidation of salary and partial cost of living allowance. I think it has been made perfectly clear from this side of Council in point of fact what has happened, particularly with the Kenya European Civil Service, that there has been partial consolidation only with no cost of living allowance, and that the partial consolidation has not been particularly high. The figure for the cost of living is 71 per cent above the normal, whereas the consolidated increase proposed for the whole of the European Service is 27 per cent. I do submit in all seriousness that it would have to be a fairly catastrophic slump to bring down the cost of living 40 points in the next three or four years, and it has got to fall 40 before we have even the European civil servant back to his 1939 purchasing power. For instance, already we know that applications have been put forward which might easily affect the cost of living in an upward direction, an application from producers for increases in the prices of flour, butter, meal, poultry and eggs. They, if granted, will obviously push the cost of living in an upward direction, and I see very little prospect of the cost of living falling catastrophically in the next few years. If it does, we shall have to use the *ad hoc* measures.

I should like for a few moments to refer to the speech of the hon. Member for Kiambu. I should like to take his remarks, if I had the time, as a string of gems and examine them one by one carefully and lovingly, but I feel that I could not do my hon. friend on my left out of some of the fun he gets out of his job! (Laughter.) In consequence, I will obey the advice of Izaak Walton, when he advises fishermen how to impale a frog as a live bait: I will treat the hon. member as though I loved him that he may live the longer. (Laughter.)

I found myself in agreement with him on one point only, that he was in a fog over the speech of the hon. Secretary for Commerce and Industry. (Laughter.) He suggested that the fog had been created by my hon. friend on my right, but personally it appeared to me a miasma carried around by himself, because I found that speech as clear as crystal. I do not say that I agree with all of it. I say the facts were there, and I know a large number of members on the other side disagree with a large part, but no one could say that the speech was not clear. Incidentally I myself would like to have seen the hon. Member for Kiambu explaining the difference between national income and revenue to his friend that evening!

In the speech of the hon. Member for Kiambu I particularly regretted the obvious lack of sympathy shown by the hon. member for the Kenya European Civil Service. He did not approve, as I said, reductions in personnel; he accused us as likely to wield the Geddes axe, and said there was a case for economy; he indicated to me that what he really felt was that there was no case at all for an appreciable increase in the salaries of civil servants. He took the hon. Member for the Coast to task for suggesting that there would be savings over the question of leave. He was quite right. There will be no saving, but it will be set off by the very different leave conditions offered to us who are on overseas terms and we, birds of passage as we are—myself with 22 years in this country—welcome very much indeed that our leave conditions will be made less favourable if in fact it will mean that men engaged locally, many the sons of residents in this country who have a greater stake than we have, do get conditions comparable

[Mr. Wyn Harris] to our own. (Official applause.) It will in our view very definitely remove a source of great bitterness which occurs in the Civil Service.

The hon. member also suggested that it was in the interests of the Civil Service to disregard the report because *ad hoc* reductions would be necessary if we had a catastrophic slump. No civil servant expects more than reasonable security, and we know that our fortunes are intimately bound up with the fortunes of the Colony, only that when a slump occurs they fall more slowly than others. It is also true and is obvious to-day, that when the Colony gets on the crest of the wave our fortunes rise more slowly, but it is most untrue to suggest that we would not be prepared to face with some fortitude and lack of complaint a catastrophe such as occurred in 1930, when all allowances went by the board and there were several cuts in pay. If that comes about again we shall have to face it, and there will be no argument that in abnormal times we shall not do what we can to help them come back to normal.

I think it a fair generalization to say that, on the whole, the non-officials in the country, not the civil servants, have gained far more recently than they have lost by the fall in the purchasing power of the pound, and that is borne out by the figures of the hon. Secretary for Commerce and Industry. (A Member: They needed it.) I think I am also right in saying that this Council is agreed that it is not whether salaries should be increased but how they should be increased. I do feel over this particular point that if it is true that civil servants are doing so well at the present moment, as was suggested by the hon. Member for Kiambu, we have yet to see a large number of desperate farmers trying to get into the ranks of the Kenya Civil Service—(Laughter and disturbance.) (The Speaker: Order, order.)—If you remember it was the hon. Member for Kiambu who suggested that acceptance of this report would mean inflation, and that nobody who supported the cost of living motion could support this report. The hon. Secretary for Commerce and Industry pointed out that £900,000 (the estimated cost) means one day's drawings from the banks of the Colony. I

should like the hon. member to remember that 1948 is leap year—are we going to have a rise in the cost of living? (Laughter.)

The hon. Member for Kiambu suggested that the European Civil Service should accept reduced standards of living. I cannot help feeling that before he made that remark he should have studied some of the depths and some of the shifts to which the lower ranks of the Civil Service are reduced at the present moment, and know something of the difficulties and debts with which they are struggling. I do not consider this was a fair remark! I know myself men in the middle group who are finding it very difficult. I have not studied in detail the lower groups, but the difficulties must be correspondingly greater. So much for Buckingham.

I now turn to my second duty, the African. I myself as a well-wisher to the African believe that this report, if accepted, and implemented, will do a great deal for improving the African Civil Service. It will give them social security in their old age, and it is social security which we have to have in this country if we are going to relieve the pressure on the land. It is a tremendous step forward from that point of view. Also, in the past the African has not, in my view, received sufficient study as to what his needs were and his duties were and whether he carried them out efficiently. This will give us a chance to build up a really efficient African Civil Service.

I do not propose at this stage to go into details, but one point I must make in welcoming these proposals. That is, that I cannot agree with the hon. member Mr. Ohanga that the remarks in the report regarding the African Civil Service should not have been made. They are made by three men who obviously had the welfare of the African at heart, and were made in the light of the evidence. The hon. member has complained of the criticism, but I am afraid that I must range myself on the side of the Commission and say that this criticism is fully justified, and my advice to the African community is that they should take it fully to heart. It is a fact, and a fact that no African who is honest will deny, that there has of recent years been a deplorably low standard of

[Mr. Wyn Harris]

integrity among certain Africans in the Civil Service. It is my weekly duty almost to advise the writing off of this and that amount which has been stolen by a member of the African Civil Service.

It is due, I think, to two or three reasons, one of which can be laid at the door of Government. I do not consider that we have in the past studied sufficiently the welfare of our African civil servant, but when I have said that I am afraid that the bulk of the blame must rest with the African himself. I feel it is because there is not yet sufficient public opinion among the Africans that integrity is the highest prize a man can have. I would say with all sincerity, that if we get these new conditions for Africans, it will be up to the elders—and I know I will get their support—to see that hard work, efficiency, and integrity is the *sine qua non* for a job in Government. (Hear, hear.)

While I am on the subject of efficiency, I would say that I welcome very sincerely the remark from the other side that we should root out the dying wood, and make the Service as efficient as we possibly can. We ourselves individually in this Council feel we are efficient and have a large bulk of efficient Government servants. That we have weaker vessels it is true, and it would be doing us a great service if we can clear out the dying wood.

I propose to deal with my last duty now; that is, my duty to the Administration. It is a very difficult one, because in some ways it does quite obviously conflict with my other two duties.

Shortly after the report of the Commission came out, I made a study of 60 men in the Administration, and two particular points became quite clear. That was this. That in the European Civil Service, not only in the Administration but right through, Europeans in the middle group between £500 basic and £700, nobody will get any immediate advantage unless he is a bachelor. In other words, those people who are in difficulties and have children get no immediate benefit. It went further. Some would be better off on the old scale for even seven, eight or nine years. It is the very group in the Administration which is particularly worrying.

It is quite obvious that if we are going from a cost of living allowance based on family commitments to consolidated pay, it is bound to cause hardship to those with families. What can we do without in any way altering the principles behind the report to temper the wind to the shorn lambs and see how in the transition period that particular group can be looked after? I am going to recommend to the other side of Council that when we come to the committee stage sympathetically to consider that group.

It also became clear when I examined the Commission's report that district commissioners, who are on the whole very much younger than those of ten years ago, are finding it extremely difficult to carry out their duties with reasonable efficiency, because the salaries are not sufficient to enable them to do so even when that salary is consolidated. When I say carry out their duties efficiently, there were a large number of duties referred to by the hon. Member for Aberdare which cannot be in terms of money but which include the giving of entertainment to other people in the station, to non-officials, African local native councils, and so on, all of which cannot be put down as a claim against entertainment. I would ask very sincerely that when it comes to the committee stage their particular case might be considered.

I should like to take the opportunity of thanking most sincerely the hon. Member for Aberdare, who put the case for the Administration, and merely to add that not only does it apply to the married group in the Administration. I know that it applies to Europeans, and I have every reason to believe that it applies to certain groups in the Asian service. I believe a formula could be devised for that group without altering the principles of the report which would do much justice to a very hard-pressed group of people.

There is one small point to deal with, in which I found myself in disagreement with the hon. Member for Aberdare; that was over the question of the 97 per cent increase in the European staff in the districts.

The truth of the matter is that you cannot have increased services unless you have increased staff, and I do not

(Mr. Wyn Harris) propose to comment on that beyond asking hon. members to look at the oral reply as it applies to their own districts. There may be one or two unnecessary Europeans in the group and, if so, let us get rid of them, but I will take the 1939 figures and read over the figures for Nakuru, which will illustrate exactly what I mean. The Administration in 1939 had four officers, in 1948 five; one extra man was doing administrative magistrature at Naivasha; agriculture went from four to 25 covering the Egerton School of Agriculture; education went from 11 to 14 covering the increase in the number of children in European schools at Nakuru; forestry, nil to one; on the Judicial side, one and one; European Settlement Board, nothing to six; K.I.O., one, which is for the whole of the province running a mobile information unit; medical, five to six; posts and telegraphs, three to eight; police, eight to 11; prisons, one to two; Board of Agriculture, nil to 12; public works, nil to 16; Meat Marketing Board, one to four; and veterinary, three to five; Control of Prices, four; African Settlement Board, one; Central Commodity Distribution Board, three. Certain wood might possibly be cut out of many controls, but it does not amount to a great deal. The vast majority of the increase is to cover development. In consequence, although I think we could reduce the number of Europeans in certain departments, it would be idle to suppose that we could continue with development and not expect an increase in the European staff.

With those remarks I beg to support.

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

MR. ERSKINE: Mr. Speaker, I rise to support this motion. (UNOFFICIALS: Shame!) (OFFICIALS: Applause.) I am aware of a growing feeling of unanimity in this Council. This has been borne in upon me during the last quarter of an hour especially: that unanimity refers to the earnest desire that I should be hief! That, sir, I do not intend to be. (Laughter.)

After nearly ten years of crises, starting with the Anschluss in June, 1938, the cost of living has been growing, and I have always myself regarded it as a

basic fact that civil servants' salaries are one of those things which can be used as a stabilizing factor in the rising cost of living. Now during the first few years of the war and the crisis, no increases were made in the salaries of civil servants. Other costs, other salaries, and prices, rose by an inevitable law which could not be checked. It is now, after nine or ten years, that belatedly we come to the question of the consolidation, or the stabilization, of civil servants' salaries. It has been explained already by my hon. friend the Chief Native Commissioner that we are consolidating only a part of those salaries, and it has been suggested throughout the country that the balance should be left as a buffer, to rise and fall, but we are doing no such thing: we are leaving no buffer at all, we are just consolidating at a figure of about one-half the total increase in the cost of living. I therefore consider that the taxpayer in this country has driven a very hard bargain, and from his point of view a very satisfactory bargain. (UNOFFICIALS: Question.)

I repeat, sir, that the increase—though I must not drum something which has already been drummed into your heads for the last few days—for Europeans is 27 per cent, and later on I want to try and show how in supporting this motion that we should go into committee to consider the details, it will be possible for a few carefully thought out amendments to be brought in to make the proposals workable and acceptable to everybody.

Civil servants, again as has been said already, do not expect to benefit by the fluctuations in the cost of living. They are used as the one stabilizing factor in preserving an ordered economy, but there is—and this I want to stress—an economic law which produces a gradual fall in the value of money. It goes on all the time, it goes on in peace-time; it is due to a very small percentage wastage. This is due to the imperfections of mankind and the necessity of having to employ a Civil Service, as we do not like to do the necessary administrative work ourselves. (Laughter.) During war-time this wastage increases tremendously, and it has been suggested to me that the 1 per cent normal wastage per annum of peace-time increases to a 6 per cent wastage during the modern type of war.

(Mr. Erskine)

This means that there would normally be a salaries revision every 20 or 30 years in peace-time, but when war comes this salaries revision has to come rather quicker, six times as quick in fact.

If you take ten years of crisis and war, as I have already said, call it 6 per cent per annum, that brings you up to a 60 per cent increase over the 1938 or 1939 cost of living. The present proper cost of living index figure would be about 180. So I am basing my calculations on 160, leaving the other 20 points as the froth of inflation, due to temporary shortages, either genuine global shortages, or artificial shortages—unnecessary ones. I believe that the Kenya taxpayer on that basis has indeed struck a grim but good bargain for himself, and I feel that it should be the duty of all of us here to realize that, and, when we go into committee, to do our very best to see if we cannot, as has been said already by my hon. friend the Chief Native Commissioner, temper the wind to the shorn lamb.

Straight away I agree with the Commission's finding that there is a case for an appreciable increase in the salaries of all officers, but after reading the whole of the preamble and turning to the conversion tables and the scales I found an astonishing *non sequitur*. There did not seem to be any tie-up at all between the written report and the figures at the end. As one progressed in one's study of this book one found even greater anomalies, and I must stress that these are mostly in connexion with the European scales, and I should like to give some examples of that. They have been taken at random by myself.

I have one here on the administrative scale. The old scale for this grade was £720 a year. The new scale, after deducting housing, is £873, but the old scale plus the cost of living allowance came to, as near as I can work it out—in fact exactly, as I have checked it—£915. So here is a loss to the administrative officer of £42 per annum, which is made up to him by a non-pensionable allowance. This means that he will work for two years without any increment whatsoever, so actually he loses from salaries revision. The person on this scale would be a married man with three children.

Another anomaly which I have picked out for myself is a clerk, grade II, with one child. This individual has been on a basic maximum salary of £420, he has had house allowance of £80, and his cost of living allowance, although he only has one child, is £162. I may say that, according to my interpretation of the scales, he is on his maximum, and so he is at present drawing all told £662. He now comes on to the new scale, which involves him in a loss of £87 per annum. Of course, he gets that made up by a non-pensionable allowance, but unless he gets promotion—and I am not exactly clear in my own mind how promotion works from Clerk, grade II to grade I—he will continue throughout his service drawing a sort of *ex gratia* non-pensionable allowance of £87 per annum.

I have two amendments which I think will put both these matters right. When I say I have two amendments, I have about 32 amendments (laughter), but there are only two main amendments which I propose to put forward when the Council goes into committee, and I do hope that this Council will bear with me while I skim through very rapidly the two of them, so as to give members—

THE SPEAKER: I do not think that would be in order. We have allowed the limits of this debate to wander a good way, but I do not think, as you are going to move the amendments in committee, you should anticipate them.

MR. ERSKINE: I will proceed rapidly, pausing only to hand to my hon. friend on my left (Mr. Hopkins) so that he will not have another sleepless night, copies of the two amendments. (Laughter.) There have been nine years now of rising cost of living and increasing emoluments for people in other walks of life. We now find ourselves, therefore, in the position of being able to turn round and say to the civil servants, who have not benefited by these fragmentary increases, "We will now try and assess the difference between 1938 and 1948", and I maintain that we have done this in a way which, frankly, I regard as parsimonious. I would not dream of trying to strike a bargain of that kind with anyone who was in my own private employ. We are going from the Mundy formula (which was always considered parsimonious, based as it was on a sort

[Mr. Erskine] of minimum subsistence level and one-sixth war sacrifice) to our salaries revision, and I want to try and describe very briefly what the difference is between these two.

The Mundy formula ranges from £75 per annum in the super-scales to a maximum of £250 for a £600-a-year man with four children. The average of those two figures comes to £162.10s. in the case of an average income (and I am talking of European scales) of £750; that is a 21 per cent over-all increase. It does not mean that everybody gets 21 per cent on the Mundy formula, the maximum is an increase of 45 per cent. But I am taking average figures. From the average Mundy formula increase of 21 per cent we are going to an average salaries revision increase of 27 per cent. In other words, we are changing from an admittedly parsimonious-war-time formula to a post-war scale of salaries, and the difference is exactly 6 per cent, on an average, for the European or European scales.

It has been frequently asked whether this country can bear the burden of these increases. It is said that the country cannot afford it, and my hon. friend the Secretary for Commerce and Industry, I was delighted to hear, gave as the most interesting figures. It immediately occurred to me, as he gave that vast figure of the national income, that this meant that the average income of population of Kenya was £10 per head per annum—perhaps? (Laughter.) And it struck me that it might be of interest to hon. members if I was to make a very brief comparison with the national income of a more developed country such as Great Britain. In Great Britain the national income is reputed to be just under £10,000 million, which is £200 per head per year, as against £10 per head per year in Kenya.

That postulates that Kenya Colony is on the very bottom rung of the ladder of development, and I myself do not believe that there is a lower rung. I believe that we have now got to climb. I believe that development finance is pouring into this country because it is believed that we can go forward and that there is a period of development before us. I do not believe that it would be honest for us to allow investors to

come to this Colony to plough barren acres. I believe that we are conscious, really conscious, that those acres are not barren and that there will be some reward for general development starting from this period.

People have said also, against salaries revision, that this is the wrong time to consolidate, but as I have said we are not taking the dangerous course of consolidating at too-high a level. It would be possible for the cost of living to drop an average of 42 points and we should still, the taxpayer would still, have a little bit of profit in the kitty.

Another point raised against this motion is that there are too many civil servants and that they do not work hard enough. I was considering this complaint when I arrived in my office yesterday, where I found a message from a father of a civil servant who wanted me to take up the question of his son who had been kept working until half-past eleven for quite a few nights and had to start again next morning at half-past eight; and this was in a department of Government which I for one have been attacking quite recently in this Council!

Another point regarding the objection to salaries revision is that the taxable capacity of this country is such that we cannot afford any more, and I should like to say here (though I admit I cannot prove what I am saying, I can only quote) that three years ago, I think it was, an economist, Mr. Colin Clarke, advanced a thesis that a nation's taxation should not exceed 25 per cent of the national income. For Kenya then, our taxable capacity would be in the region of twelve and a half million, always assuming we accept the figures we have been given. In the United Kingdom I may mention, in spite of Mr. Colin Clarke's warnings, taxation has reached a figure of 37 per cent of the national income!

In regard to retroactivity I feel I should say a word. I think it would be a deplorable thing if Government, to whom we look as an example to show us the way, were to show employers of labour a way of avoiding their duty to their employees. (OFFICIALS: Applause.) Thus every time an employer of labour was asked by his employees to increase their salaries he would put them off with the plea that he was too busy or had

[Mr. Erskine] not got the full facts and figures of the revenue and expenditure of the business, and would keep them waiting and save so much each month during the period of the delay. During the past few years, and there is no question about it, European stenographers, to give one example, have risen in salary scales from £20 to £35 per month; African employees on the lower scale have arbitrarily risen from about 20 shillings to 38 shillings, and every salary—I could give a list of them—has shown an increase of about 75 per cent to 90 per cent, up to 100 per cent. I feel therefore that, as these increases took place very shortly after the war, or even earlier, we cannot argue against a measure of retroactivity for civil servants.

In regard to leave I have one brief word to say. I notice from *The East African Standard* this morning that I am quoted as having suggested that the only people who should have overseas leave privileges were those who had been recruited abroad, who wished to undergo an approved technical course, and those who must have a holiday for health reasons. As I read those words it was recalled to my mind a poem of that great poet of Empire, Mr. Rudyard Kipling, who wrote: "If you can bear to see the truths you've spoken twisted by knaves to 'make a trap for fools'". I am sure it would be of interest if I were to repeat what I actually said on that occasion and what my solution is to the leave problem. It is as follows.

I suggest that as this country progresses, and I am not proposing this at once—I shall not put it forward in committee—I am going to suggest that overseas leave should cease to be an automatic privilege, but in order to qualify for leave an officer (a) must have been recruited abroad from the United Kingdom or India; (b) must apply to do a technical course in the United Kingdom or elsewhere, and such application must be approved, (c) health reasons. (a), (b) and (c). It means that, instead of overseas leave becoming an automatic privilege, most of the same people who get it now would still get it, but it would have to be applied for and gradually more and more people would take their leave in the country. I would not like anybody to misunderstand me: I believe

in the full liberty of the Press, but once again I should like to quote: "Oh liberty, how free we make. Freedom, what liberties we take". (Laughter.)

I have one or two words about pensions. I do not think it is sufficiently understood that under the 1/600th constant a civil servant works exactly 25 years in order to retire on half pay; the civil servant who retires after ten years voluntarily or compulsorily at 45, assuming he started late, will get only one-fifth as his pension; and it will be necessary for an officer to work 33½ years in Government service to retire with two-thirds pension. I do not think, therefore, that the pension scale proposed by the Salaries Commission is in any way too generous.

We have heard a lot of talk about security, that it apparently is an ambition with persons to come into the Civil Service for security. I think an unbiased listener who listened to yesterday's debate would probably get the impression that a civil servant's job is the most precarious in the world! It seemed to me, especially after listening to my hon. friend the Member for Kiambu, that he regards civil servants as the lineal descendants of Little Tommy Tucker but he has no intention whatsoever of giving them their supper. (Laughter.) It is a case of:

Pat-a-cake, pat-a-cake, baker's man,

Bake me a cake as fast as you can,

Beat it and knead it and boost up our sales,

But please do it all on your pre-war scales.

(Laughter and applause.)

MR. HYDE-CLARKE: Mr. Speaker, my purpose in intervening in this debate is to try and deal with some of the points that have so far emerged, giving reasons why some of them I think should be supported, and to try and dispose of some of the others.

The first point I should like to make is the question of the removal of dead wood, and although it has been dealt with fairly thoroughly it requires a little more dealing with. We all agree on this side that the necessity for it has been made clear, but the hon. Member for the Coast has made the suggestion that there should be a sub-committee of

[Mr. Hyde-Clarke] Executive Council to deal with it. Speaking as the head of one department, I should very much support that. (Hear, hear.) The hon. Member for Mombasa also spoke of the necessity of attacking this dead wood at an early stage, and personally I could not agree more. I believe it is the fundamental responsibility of a head of a department in the first six, twelve or eighteen months of an officer's service to take the responsibility of cutting away—I believe the technical term is sucker, although I do not believe it is used only in that sense! (Laughter.) I believe the system which we in the Labour Department have adopted of holding departmental boards on new entrants at short intervals is infinitely preferable to leaving a man, who may be married, with children, to reach the stage when you cannot really remove him. I would press that point as a responsibility we as heads of departments ought to take.

The next point I should like to make is to refer to the very able maiden speech of the hon. and gallant—I believe gracious is the better word—Member for Ukamba. If I correctly assessed her point, it was, to sum up, a plea for improved conditions of service with a reduction in staff. Can it be that the gospel which we have preached in the Labour Department is at long last beginning to bear fruit? fewer bodies and higher pay! May I welcome her and the hon. Member for Nairobi South as new recruits to the Labour Department—on such terms and conditions as the hon. members on the other side may approve? (Laughter.)

On the question of the points made by the hon. Member for Kiambu, I have got three bones to pick with him. The first is that in all sincerity I do think that as heads of departments we resent the suggestion that we are anxious to increase the size of our departments in order to bolster up the size of our own salaries. This is a point which I think is often overlooked: we are given certain tasks to perform, and if we are to perform them we must have the staff to do so. In many cases we do not want the tasks. To give you one example. The resident labour inspectorate was given to my department to carry out, which it cannot properly do because we can-

not get the right type of person as we cannot offer decent conditions of service. It is a fact that if a man has to come into a job of that nature on a purely temporary basis, he is not and cannot be a satisfied, contented and efficient civil servant.

The second point. I really ought to congratulate the hon. Member for Kiambu on his temerity, in dismissing in one sentence a system which has worked effectively for 30 years over the whole of the United Kingdom Civil Service—I refer to the Whitley system created by the Rt. Hon. J. H. Whitley, Member of Parliament, a former Speaker of the House of Commons, a distinguished predecessor of our distinguished visitor at this moment. There is a good deal of misunderstanding about the system, but I will only give a brief dissertation on it now. It is not merely machinery for negotiation, that burks the whole issue; it is the whole spirit of Whitleyism of which the negotiating machinery is but the embodiment and only one of the many ways of making it effective. Whitleyism is using the will and disposition on the staff side and official side to use that machinery to the utmost mutual advantage, the will to reach settlement by collaboration and compromise rather than by conflict or coercion. In a small pamphlet on the subject published by the Ministry of Labour, the object of Whitleyism is set out as follows: "Briefly, to secure the greatest measure of co-operation between the Administration, in its capacity as employer, and the general body of the staff in matters affecting the department, with a view to increased efficiency in the department combined with the well-being of those employed; to provide machinery for dealing with grievances, and generally to bring together the experience and different points of view respecting conditions of service within the department". Surely that is a laudable and proper objective to increase efficiency, and surely that is what we on both sides of this Council are aiming at? I therefore welcome the suggestions made in paragraphs 296 and 299 of the report and hope it will be possible for Government to apply them to Kenya in such modified form as may be appropriate to the peculiar circumstances of a non-self-governing territory.

[Mr. Hyde-Clarke]

Further, I want to take up the point of the hon. Member for Kiambu on the subject of overseas leave. Bearing in mind the point made by the hon. Director of Medical Services, who stressed the mental aspect, I think it still stands out a mile in the hon. member's speech that, when he himself was an official, he suffered from a lack of sufficient overseas leave! (Laughter.) (MR. HAVELOCK: I am at home!)

There is one point on which I am entirely in agreement with him, and that is the question of the removal of the cost of living allowance based on family commitments. It is a matter on which realism must be achieved. In the circumstances of the war there were certain measures which had to be adopted, and they were suited to the occasion and justified, but now the principle cannot continue to be accepted, and we must approach the matter by a different method. Speaking to Africans on this same subject, for they have bitterly attacked it because of the difference in treatment, I made it quite clear to them, and they have accepted it, that when they go to a dealer to buy something they do not pay him any more because he has ten children or less because he has none at all. This point has been well taken by them, and I acknowledge it.

If for a moment I might turn to the remarks of the hon. Member for Aberdare I, too, like the hon. Chief Native Commissioner, am most grateful for his warm support of the Administration. I feel that in my own case I have not quite the same outlook as the hon. Chief Native Commissioner. He has, after all, an interest to declare, but I regard myself as somewhat of a disinterested person. What I think is not clearly understood or appreciated is the responsible element of a district administration. It is that in the whole of the 24 hours a district commissioner is on duty. It applies to other departments to a certain extent like the police and prisons and some medical posts, and in certain cases to the Education Department, but I do not believe that anybody who has not experienced it realizes to the full the strain. In the whole area under a district commissioner everybody—every technical department, every member of the community (Asian, African or European)—

in any emergency or difficulty appeals to the district commissioner for an immediate and acceptable solution. That does really place a very great strain on him.

In the earlier days we had inter-tribal wars. I am speaking for myself now, when there was a murder in which I remember there were to be two victims, out of three possible nominees, of whom I was one. (The other two were in fact murdered.) We had to deal with floods and we had to deal with famine. In more recent days the whole community is infinitely more sophisticated, and there are other problems of an equally worrying nature. Recently, look at the Mombasa strike, the Gatundu murders, the Uplands riot, troubles at Malakisi and at Fort Hall—all these represent a terrible strain on officers of Government who look after the districts and who have to deal with each new difficulty immediately and effectively. I well remember in the early days when going on leave feeling a tremendous sense of relief that, if on the boat on which I was sailing the engine or something went wrong, the cabin boy would not come to me and say "Bwana, Kuni nakwishia"! I welcome the proposal of the hon. member and hope that in the committee stage it will be possible to reach some sort of agreed amendment which will meet that particular case and acknowledge that strain.

Thinking over what the hon. Member for the Eastern Area (Mr. Patel) said, I cannot help having some sympathy with his strictures on the question of the review of Asian salaries. In the nature of things, Government realizes to a tremendous extent the loyal and long service of a very large body of Asian clerks. (Hear, hear.) I refer especially to the clerks in the out-districts. In many cases they are far from their normal communities. I will not call them the backbone of the Administration, but I think it reasonable to call them the handmaidens; no district commissioner can get on without his Asian clerk or cashier. They work extremely long hours and often on Sunday mornings trying to clear up stuff, and I take this opportunity of expressing my appreciation for their assistance as one who has served with them for a long period. I believe also that had it been

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possible to achieve the Whitley system earlier, some of their legitimate grievances would have been dealt with. I do not wish in saying this to decry the extremely valuable work performed by the three Civil Servants' Associations or the three Civil Service Advisory Boards, without which things would have been infinitely worse. I do believe there is a possibility of improving them.

On the question of consolidation, several members have urged that it would be desirable to consolidate part of the pay and to keep part of the cost of living allowance basis. I do agree with the remark which I think was made by the hon. Member for Nairobi South, that one of the major factors in the cost of living is the uncertainty of the wage rates. My point in supporting this principle of consolidation is to achieve stability. I do not believe it is perhaps realized how much a stabilizing factor would be the complete consolidation of Civil Service rates. There are 9,000 European men in total paid employment in the Colony, of whom 3,000 are in Government service. That means that you can stabilize one-third which will have a stabilizing effect on the rest in employment. In respect of Asians, there are something like 2,500 out of 20,000, which is a good proportion. In the case of Africans, if we take service on the Railways as well as Government, there are some 80,000 out of 300,000, that is, between a quarter and a third. Therefore, if you stabilize that very large proportion of the employed community of the country, you must be doing a considerable service to regulate wage rates and general stability, and therefore make an effective contribution towards a reduction in the cost of living.

I will now turn to the speeches of the hon. Members for African Interests. There can be no doubt, and I entirely agree with the hon. member Mr. Ohanga, that the economic prosperity of this country depends on the recognition of mutual interests between the three main races of the Colony, and there is no question in our minds of the very great part played by the African in our economy. I cannot accept that the time is ready yet for complete acceptance of the principle of equal pay for equal work, although it occurs to me that it

has been accepted in at least one instance before us at the present moment; that is, in the remuneration given to unofficial members. Whether the word is "equal" or not I do not know! But equal pay for equal work cannot be based on mere ability to do the job but, as was pointed out by the hon. Chief Native Commissioner, it means the obligation to go on doing it day after day, week after week, year after year, and doing it with integrity.

I should like for a moment to refer to a meeting held not long ago in Nairobi at which were shown six films; each had a theme of showing an Englishman, woman and child at work. Three stand out in my recollection. The first was a film dealing with agriculture, which showed that even after some thousands of years it took us the last 400 years to reach our present knowledge of and development in agriculture. The second was about steel, which showed people working for 200 years before it was discovered how to reach the present standard of steel production. The third film was on the trade union system, which showed that it took about 100 years to evolve it. Small wonder then, and I speak with all sincerity, if employers are inclined to be resentful when, in some cases, the request for equal pay for equal work comes from persons who have done little but watch their wives work for 30 or 40 years, who have possibly collected a few flowers which they put on the back of a cycle on which they freewheel downhill to where they sell them, after which they put their cycle on the top of a bus to go home and do not even go uphill by their own efforts. (Laughter.)

I do not want to be misunderstood. I have tremendous regard for the African, as I think will be well recognized. My astonishment is not how little he has progressed, but how far, in the short period of 50 years, he has come, and I think it a good augury for the future. I want to make it clear to the hon. member Mr. Ohanga that I think he must have misunderstood one of the most important features of the Commission's report; that is, not that there are three separate services but, for the first time in the history of the colony, there is the possibility of the African or the Asian going right through three scales, C, B and A. I regard that as a most enormous step forward (Hear, hear.), and one not

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obviously appreciated. It means for the first time that the oppressive ceiling of the old services scales which nobody breaks through, however efficient he was, have now gone. They should appreciate that and welcome it. As the hon. Chief Native Commissioner pointed out, the ability to break that ceiling and get into the next grade lies in their own hands and in their own efforts.

Lastly, on the question of the African rates, some criticism has been applied to the paragraph dealing with those drawing under Sh. 40. What I want to make clear there is that in my view there is a strong distinction to be drawn between established employees and industrial labour, and this in effect means the "under 40's" and refers to industrial labour. Industrial labour rates are related to current market rates, and there is not the same case for retroactivity as in the case of established positions in the Civil Service. There is a proposal I note in the White Paper issued by the East Africa High Commission regarding the Railways, and if some proposal of that nature suitably adapted could be adopted in their case I think it will go a long way to meet the position, but they have not the right to claim back pay for the whole period.

Finally, to deal with the report itself very briefly. I think it certainly has anomalies, but it goes a very long way to meet the situation, it points the way to stability, it means pensions for a very large number of people, especially those in the lower wage categories, but it cannot, I think, be expected to please all. In fact, we come back to our old friend the curate's egg. We think it smells a bit. We think the date on it should read 1-1-46, other people have different attitudes towards that. We think the average attitude on the other side is that they regard it as an ostrich egg, we think it a mere bantam's egg. But, taken with the usual seasoning recommended by Mother Trough—I mean Mother Beeton—with the salt from the official side and a good deal of pepper from the unofficial side, giving it a more stimulating and spicy flavour, I believe it will be found suitable for consumption and, in the final analysis, it will be found to be about the right size and shape. (Mr. COOPER: Don't sit on it!)

I beg to support.

MR. WADLEY: Mr. Speaker, in rising to support this motion I wish to say at the outset that I consider the report of the Salaries Commission to be a good one. To my mind, the Commission has dealt very skillfully with problems of immense complexity and has expressed itself with admirable clarity. (Hear, hear.) I cannot pretend that I agree with all the recommendations made. Indeed, there are several of them which my department and I myself view with some disappointment, but I think that in general the report provides a satisfactory solution to the problems which have confronted the Civil Service in this country, and a reasonable basis for its future structure.

It seems to me that there is, in some quarters at any rate, a feeling that, if the recommendations now before this Council are approved, they will remain in force for ever. It is, I think, to be hoped that they will set the pattern for many years to come, but in my opinion it is clear that, as new factors emerge and as new responsibilities evolve, certain modifications will have to be made. Indeed, the report itself indicates that such action will be necessary.

At the risk of repeating some of the points which the hon. Chief Native Commissioner has already made, I wish to say that there is one contention which has been put forward by members on the opposite side of Council with which I must express my very strong disagreement, and that is that the need for increased salaries in the Civil Service could best be met, not by full consolidation of salaries, but by a smaller basic increase, together with a cost of living allowance, presumably on a fluctuating basis, the fear being that the higher pensionable salaries recommended will ultimately involve the Colony in financial commitments which will make retrenchment necessary. In reply to this I would say that I consider that the proposals now before us represent the least that could reasonably be contemplated (OFFICIALS: Applause) and, while sharing the hon. Financial Secretary's detestation of the phrase, this Colony cannot afford not to provide them.

There is another point in this connexion, and that is that there is

[Mr. Wadley] among civil servants a strong desire for stability of salary. There is a strong feeling, too, that it is high time that the uncertainties of the war and post-war years, reflected in cost of living allowances, came to an end; that pensionable salaries should be at a reasonable level, and that pensions, which are equally as important as salaries, should be proportionately increased. The continuation of the fluctuating element, an element of uncertainty, is not acceptable. The need is for some measure of permanent security, and this, sir, I maintain, can best be secured by wholly consolidating salaries.

The fear has been expressed by the hon. Member for Kiambu that, if the proposals now before us are implemented, there will be a further rise in the cost of living. I maintain that the opposite will be the effect of these proposals. The introduction of a consolidated salary and the termination of cost of living allowances will in itself, I think, be a stabilizing influence, and I think it will have a profound effect on the cost of living, a matter which is exercising all members of this Council and which formed the subject of a motion only the other day by the hon. Member for Nairobi South. I think there will be a feeling that, after passing through the troubled waters of the war and post-war years, we shall at last have reached firm land and that we intend to stay there.

There have in the course of this debate been a number of allegations and attacks made against the Civil Service, and as a civil servant of some twenty-two years experience I feel that I cannot allow them to pass unchallenged. We have been told that heads of departments have a habit of gathering round them large numbers of Asians and Africans to whom they can dole out their work. We have further had our attention drawn to the fact that since 1939 the increase in the European establishment in various districts has increased by 97 per cent. The implication of all this is that heads of departments have been trying to put "a quick one" across, that they have been advocating increases which somehow or other have got past the hon. Financial Secretary and have "got past" this Council itself.

On the first point I maintain that it is the duty of a head of department to dole out work—he would not be doing his job properly if he did not do so. He could not, if he did not delegate a very considerable amount of work to his subordinate officers, deal adequately with those problems which are his proper concern; but, sir, the implication also seems to be that heads of departments want an easy time. The greater part of my service has been spent in colonies other than Kenya, and I can therefore view this matter from perhaps a more objective point of view than those who have been here for the whole of their service, and I have no hesitation in saying that in my own experience the heads of departments in Kenya—indeed the senior officers of all departments that I know—have as high a sense of duty and as high a standard of work as any I have met. (Applause.)

I should like to say that this idea that heads of departments and their senior officers are not working hard or pulling their weight is entirely false. In my own department the situation is so serious that it is necessary for practically everyone to work for long hours of overtime. I think it is true to say that there is not one head of department or senior officer that I know who does not wish that every day contained forty-eight hours instead of twenty-four hours, in order that he might do all the work that lies before him. (OFFICIALS: Hear, hear.)

I will now refer to this vast increase of 97 per cent. So far as my department is concerned, the increase since 1939 is 150 per cent, but at the same time the increase in services rendered by that department is also 150 per cent. I should like to quote some figures here. The enrolment in European schools in 1939 was 1,207; in 1948 it is 2,636. In Indian Government schools the enrolment in 1939 was 4,430; in 1948 it is 11,421. If the hon. Member for Aberdare has any method to suggest by which an increase of 150 per cent in services can be met by an increase in staff of less than 150 per cent I should very much like to hear it, and so I am sure would my hon. friend the Financial Secretary.

Another attack which has been made on the Civil Service is on the ground of inefficiency, and here I would be quite

[Mr. Wadley] frank and say that I recognize there is an element of inefficiency which I think can be divided into two heads. The first is an element, I would say, of inefficiency of a general nature; not so much the inefficiency of the individual, but the failure to produce 100 per cent results, not because of the inefficiency of the individual but because of the conditions of service under which the individual is working. When I first came to this country I was shocked, for example, to find that the average life (by life I mean working life) of an African male teacher was ten years, instead of the twenty-five to thirty-five years to which I had previously been accustomed. This is because the teachers felt that they were not being fairly paid, that they had not got satisfactory terms of service. They never felt that they could settle down to their job, because there was always the inducement to consider, and frequently to accept, other and more lucrative forms of employment.

In other words, this type of inefficiency is due to instability of staff, and I would say that stability of staff, while it is important in any branch of the service, is particularly so in education. We do not want teachers who will serve just for a few years; we want men and women who will regard teaching as their life's task. The recommendations of this report will do much to improve that position, and particularly because the prospect of a pension is placed before a large number of Asian and African teachers.

While I am on the subject of pensions I should like to refer to what I can only describe as the most astounding figures placed before this Council yesterday morning. The hon. Member for Kiambu (laughter) drew our attention (UNOFFICIALS: Interruption) (THE SPEAKER: Order, order!), the hon. Member for Kiambu drew our attention to a number of figures which he added together, by a process of simple arithmetic, to a total of one million pounds, as the probable additional commitment in respect of pensions which would be caused by the implementation of this report. I maintain that his arithmetic was a little too simple. (OFFICIALS: Hear, hear.) I am not an expert on actuarial investigation,

but I have had many years experience of dealing with a large establishment and in working out the immediate and the ultimate financial implications of such an establishment. I have gone into this matter and I find that the hon. member was working from the outset on what I can only regard as the completely false assumption that the number of officers in a given establishment at any time on pension would be equal to the number of officers in that establishment. I maintain that, if all the relevant factors are taken into consideration (namely, the age of entry into the service, the length of service, the expectation of life) the hon. member's figure can at least be halved; or alternatively, we must assume that civil service pensioners in this country will live to the very ripe old age of 85 or 90! an assumption which even with this climate of Kenya is, I think, not worthy of serious consideration.

Now there is another type of inefficiency which I must confess has taken place, and that is specific inefficiency of individual officers, though I am glad to say that this is comparatively rare. But instances have to my knowledge occurred where it has been necessary to show leniency and to act with tact and discretion, where normally more rigorous disciplinary action would be applied, and this is entirely through fear of losing altogether staff which could not easily be replaced—staff which would walk out tomorrow because of the more attractive terms of service offered in non-Government employment.

This brings me to the question of the clerical grades, to which again the hon. Member for Kiambu referred yesterday. He said that the total emoluments, actual and hidden, of the average male European clerk in Government service were £800. He was pleased to round off the figure at £800. But even assuming that this figure is correct, which I doubt very much, then the average emoluments of the non-Government clerk are considerably higher. I do not express this as an opinion; I state it as a hard fact which I have learned from my own knowledge and experience, and I am sure that all heads of departments will agree with me when I say that one of the biggest problems we have to face to-day is to

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[Mr. Wadley] secure and to retain satisfactory clerical staff in the face of competition from non-Government employment. (OFFICIALS: Hear, hear.) These two aspects of inefficiency can both, and I am sure they will both, be dealt with by the implementation of the proposals before us.

I should like to say that there is one point on which I am willing to agree with those hon. members who have opposed this motion, and that is the need for the imposition of more rigorous standards in regard to the award of increments and to the passing of efficiency and promotion bars. There can be no doubt that that is very necessary, but in regard to the pruning out of dead wood and to the elimination at the age of 45 of inefficient officers, I have a few words to say.

I think that if there are such officers they should be weeded out, but I sincerely hope, as did also the hon. Member for the Coast, that such weeding out will take place much earlier. It is these officers, with ten, fifteen, or twenty years service, who should form the backbone of the Civil Service, and there is in fact provision in the terms of service of all officers for that weeding out to be done at an earlier stage. All officers are appointed on probation, and that probationary period should be one during which the officer is closely watched, and at the end, if he cannot show that he has promise of becoming an efficient permanent servant, then there should be no sentimentality, no kindness; that officer should not be confirmed. (Hear, hear.) I have seen only too frequently the result of mistaken kindness in this regard. I maintain that it is in the interests not only of the Service, but also of the individual, that if he has to go he should go as early as possible. (Hear, hear.)

Another suggestion which has been made is that overseas leave for European officers is quite unnecessary, and further that there should be an attempt to build up an entirely East African Civil Service. Well, sir, I would be among the first to welcome the employment on a large scale of young men and women, born and educated in Kenya, but there is one thing which must be remembered and that is that the majority of them, before

they could be employed in the service of this Government, would require to undergo further training overseas. And further, even if we used the local young men and women to a much greater extent, we should not meet the needs of the Civil Service without recruitment from the United Kingdom itself. Again, unless there are great movements of population, or alternatively, unless there is some radical re-orientation of cultural influences within the Empire, I can see no prospect within the foreseeable future of East Africa becoming independent in this regard.

For those reasons, therefore, I maintain that overseas leave is necessary. For those reasons, and for reasons of family ties, and because also it would be necessary to maintain direct contact with what I may call the fountainhead of the British way of life.

Another criticism which has been made is that we should deal with this matter in isolation, without regard to what other colonies either have done or propose to do. This, Sir, I maintain is not so. We shall find when we reach the committee stage of this report that we cannot consider the position of one officer without considering him or her in relation to the general salary structure, because of the various repercussions which might result if any alteration were made. Similarly, we here cannot consider this matter quite independently. I maintain, of other colonies. If we are not to experience difficulty in recruitment, or if we are not to undergo the possibility of further inefficiency, we must offer salaries and terms of service which, even if they are not identical, are at least comparable to those offered elsewhere. (OFFICIALS: Hear, hear.)

I am aware that several of the points which I have made, have previously been covered and that some of them have been dealt with, even in some detail, by the hon. Financial Secretary, but I felt that I must put forward my own observations, based on my knowledge and experience of what is one of the largest departments of this Government.

There is one further matter which I desire to mention which is concerned peculiarly with education.

In the opening speech of this debate the hon. Financial Secretary drew attention to the position of local authorities

[Mr. Wadley] in regard to the recommendations now being considered, pointing out that those authorities had assumed responsibility for very substantial social services which, if the revised proposals were passed, would involve them in a greatly increased financial burden. One of the social services in which local authorities are particularly interested is education, and on education in this year they are spending the very considerable sum of £125,000 as grants-in-aid of primary schools. The staff of those schools consists of lower primary and elementary teachers. I would remind hon. members that teachers in those two grades are also employed in Government schools. It consequently happens that of the men and women who are trained in various schools throughout the Colony, some proceed to schools financed wholly by Government, while others proceed to schools financed either wholly or in part by local authorities. If the salary recommendations now before Council are passed, the Government teachers will reap the benefit of them, and it is obvious that an undesirable—I think inequitable—situation will arise if the non-Government teachers to whom I have referred, men and women with the same academic attainments and the same professional qualifications are to be paid at a different rate.

The problem which will confront the local authorities even on their present commitments is great enough. The problem of the future will be infinitely greater if the proposals for the development of African education, to which I have referred, are to be carried out. I have drawn attention to this particular question because, although in the first instance it is a matter for the concern of the local authorities themselves, it is also one which I think the central Government cannot fail to devote serious attention.

Another reason for dealing with this matter is because a similar situation arises as between Government African and Indian schools and schools of those two races which are aided by the central Government. As in the case of the primary schools, so in these schools there are men and women with the same academic attainments and the same professional qualifications as their colleagues in the Government schools.

Further, those aided schools provide educational facilities for which, if they were not undertaken by voluntary agencies, Government would find it very difficult not to accept some responsibility. Further, many of the Indian aided schools—in Nairobi, Mombasa and Kisumu actually provide a service which, by virtue of the compulsory education rules, is a statutory obligation to Government.

It is the earnest desire of my department that there should be so far as is possible similar terms of service for teachers, whether they are in Government or non-Government schools, and I think it will be appreciated that such parity is only equitable. What we need is a unified teaching service. The grant-in-aid rules say that the grants shall be on salaries which are based on the salaries paid to teachers in Government schools. It is true, of course, that under the grant-in-aid rules there is always the proviso that the grants must be subject to the necessary funds being voted by this Council. But I think it is clear from what I have said that any claims from teachers of aided schools for equality of treatment, and those claims have already been made, must receive serious and sympathetic consideration.

I have mentioned those points because I feel it my duty to present hon. members with as full a picture as possible of the situation as it concerns education, and because I feel they should realize the implications and the possibilities attached to the recommendations we are now considering. But one thing I wish to make quite clear: that I would not on this account wish those considerations to act as a deterrent because of a possible increase in financial commitments. I do not think those commitments would be so great that we need seriously be perturbed by them. I wish to repeat, therefore, what I have said already, that I support this proposed salary revision very strongly. I think that not one of the main arguments which have been advanced from the other side of Council can really carry any very great weight. The only important consideration, to my mind, is that of finance. (LADY SITAW: Hear, hear.) (Laughter.)

But here we have been told by the hon. Financial Secretary that if we are to approve in full these proposals we shall

[Mr. Wadley] need courage. There are at least two hon. members in this Council who are students of history, and I am sure they will agree with me when I say that no real advance has been made, no victory won, without a display of courage. So far as education is concerned, the proposed new salaries will provide for a very marked improvement in the general conditions and status of the teaching profession. This improvement has been long delayed, and I think it is very necessary. No country can achieve real advancement unless it looks well after the interests of its teachers on whose work and ability ultimately all development depends.

I feel that we must do everything we can to see that our teachers are a contented and respected community. On them we rely not only for the acquisition of the desired academic results and standards but, what is far more important, for the training of the boys and girls and men and women of character, with a sense of duty and responsibility towards the very complex community in which they will live. In other words, we rely on the teachers for the production of good citizens from whom will emerge the future leaders of this country.

I beg to support.

The debate was adjourned.

ADJOURNMENT

Council rose at 12.45 p.m. and adjourned till 10 a.m. on Friday, 20th August, 1948.

Friday, 20th August, 1948

Council reassembled in the Memorial Hall, Nairobi, on Friday, 20th August, 1948.

His Honour the Speaker took the chair at 10.18 a.m.

The proceedings were opened with prayer.

MINUTES

The minutes of the meeting of Thursday, 19th August, 1948, were confirmed.

ORAL ANSWERS TO QUESTIONS

No. 49—FENCING

MR. MACONCHIE-WELWOOD:

Will Government please state its intention with regard to the fencing of native reserves adjacent to European farms? Will Government also state whether if the first cost of the erection of such fences is met by the European owner or occupier of the farms it would agree to make the Local Native Council responsible for the particular native reserve area meet the cost of maintaining such fences in good order?

MR. TROUGHTON: The Government has not considered the question of fencing Native Reserves adjacent to European farms, except as part of the general question of bringing the Fencing Ordinance into force. In this connexion the Development Committee endorsed the comments of the joint Agricultural and Veterinary Services Sub-Committee of the Development Committee which were as follows:—

"Paragraph 88.—We must agree at once that this expenditure (that is on fencing) has to be faced as early as possible in the interests of the farming industry, both European and Native, but at the same time we cannot regard it as equal in priority to expenditure on the development of water supplies, the construction of dips, the reclamation of eroded areas, the settlement of new areas, etc. The question of making the necessary financial provision must accordingly depend on the general picture of the capital expenditure involved in the Development Committee's proposals as a whole."

[Mr. Troughton]

That was accepted by Legislative Council in general terms.

The whole question of fencing and the financial implications of it are being examined with a view to the preparation of a scheme for consideration in connexion with the revision of the development plans.

As regards the second part of the question, it will be appreciated that the Government cannot force Local Native Councils to undertake financial responsibilities which are not imposed by law. However, if owners or occupiers of farms in specified areas will put up to the Government detailed proposals for the fencing of adjacent native boundaries, with fencing of a specified standard, the question of providing for the maintenance of such fences after erection will be carefully investigated in consultation with the Local Native Councils concerned.

MR. MACONCHIE-WELWOOD: Arising out of that reply, is Government aware of the continued spread of disease throughout European farms from native areas adjacent to European farms where grade cattle is kept, and that this cannot be prevented without the acceptance of communal responsibility?

MR. TROUGHTON: Government is perfectly aware of the dangers of the spread of disease and for that reason regards the provision of fencing as important to be undertaken when funds are available. The other question cannot be answered in the absence of the hon. Member for Agriculture, but if the hon. member is not satisfied perhaps he will give notice of a further question.

MR. MATHU: Is it a question of the fencing of native lands adjacent to European farms or fencing European farms adjacent to native land units?

MR. TROUGHTON: It is a question of closing the gap between the two!

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MR. TROUGHTON: It has to be done by someone.

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No. 67—DOLLAR LICENCES FOR CARS AND LORRIES

MR. BLUNDELL:

In view of the increasing difficulty of obtaining spare parts for well known and popular makes of cars and lorries from the U.S.A. and Canada, will Government please give the following figures:—

(a) The amount of provision in dollars for cars and lorries manufactured in the U.S.A. or Canada requested of the Imports Controller by agents for these vehicles in this country for the year 1947 and the first six months of 1948?

(b) The amount actually granted by the Imports Controller?

MR. HOPE-JONES: (a) The amount of provision in dollars for spare parts for cars and lorries manufactured in the U.S.A. and Canada requested of the Imports Controller by agents of these vehicles in this country was as follows:—

1947.—\$65,955 dollars.

First 6 months of 1948.—Nil.

In 1948 the allocation to agents of dollar licences for spare parts was made on a yearly basis for the whole year, and was conditioned by the dollars available. This position being known to the agents the question of applications did not arise. Licences for spare parts were issued to the agents immediately the number of dollars which could be earmarked for this purpose was known, and agents simply awaited this issue.

(b) The amounts actually granted by the Imports Controller were as follows:—

(i) 1947.—\$65,955 dollars. The amount was arrived at after consultation with the Motor Trade Section of the Chamber of Commerce and was related to the total amount of spares expected to be available from dollar sources.

(ii) 1948.—\$714,659 dollars. In 1948 motor spares were regarded as one of the essential items for which dollars should be made available. The allocation was made on a generous scale since it was necessary to restrict the number of new American vehicles licensed for importation. The allocation to agents

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[Mr. Hope-Jones] was made on the basis of the number of cars and lorries of their agency in use on the roads of Kenya, and works out at 17 dollars for a car and 51 dollars for a heavy vehicle.

SALARIES COMMISSION REPORT WITH SESSIONAL PAPER NO. 2 OF 1948

The debate was resumed.

MR. THORNLEY: Mr. Speaker, a good deal has already been said in this debate, and it seems that there is a good deal more still to come. I therefore propose to be extremely brief in the remarks which I am now going to make. I would like to say at the outset that I support very strongly the main principles embodied in the recommendations of the Salaries Commission. I do so for precisely those reasons which my hon. friend the Acting Director of Education gave at the outset of his excellent maiden speech yesterday, on which I should like to take this opportunity of congratulating him. (Applause.)

As the debate has progressed it has seemed to me that the critics have fastened on to four particular recommendations in the report. The first and main criticism seems to be that the country cannot afford it. Well, it was not in the terms of reference of the Commissioners to decide what this country could or could not afford, and I do not really understand, when hon. members get up and say that this country cannot afford to accept the Salaries Commission Report, what exactly it is that the country cannot afford. All that the Commissioners recommend in the report is what terms and conditions we ought to offer to men with whom we wish to staff our Civil Service. What they say in effect is "that if you want doctors, or teachers in the schools, or anybody else to administer your social services, these are the conditions which we feel you will have to offer in order in the first place to induce these men to give you those services, and in the second place to remain content in that service". If they were asked whether Kenya could possibly afford their recommendations they would say "All we say is, if you want these men to administer services, this is what you should pay for them. If you want thousands and thousands and thousands of doctors, you will have to

offer to each one of them these conditions. Otherwise you will not get them. If you only want half a dozen, that is all right, you will still have to offer the same conditions to each one in order to get him".

I would remind hon. members that it will be our responsibility when we come to the budget for 1949 to decide how many of these officers we want, and I do sincerely hope that when that time comes we are not going to say that we want a number of officers, but having only funds sufficient to pay them less than their true worth, they will have to go short of what they really deserve.

Another point on which there has been some criticism and which is not accepted by all hon. members is the recommendation that free pensions should be offered to all, and one of the arguments adduced by those who prefer contributory pensions is that it would make it easier for heads of departments, who may wish to dispense with the services of one of their officers, so to recommend to Government, because they will not have at the back of their minds any fear that they will be doing that man out of a pension. That, sir, is quite wrong. An officer serving on a free pension, if for any reason he is not perhaps one of the brightest and if for any reason Government should consider it necessary to dispense with his services, it is, under the present law, open to the Governor in Council to consider awarding him a pension, and there are ways and means under the law by which pensions can be awarded to deserving officers in such circumstances.

Another point relates to the date from which these recommendations should have effect. One or two hon. members opposite have said, despite the remarks by my hon. friend the Financial Secretary in moving this motion, that they could see no reason whatsoever why that particular date—the 1st January, 1946—should be the operative date. I feel sure that these hon. members must either have overlooked, or not fully appreciated the point which my hon. friend made regarding the effect of these proposals on officers in the Civil Service who, at the request of Government and in the interests of this country, agreed to remain on in the Service right throughout the war,

[Mr. Thornley] long after they were fully entitled to retire. Quite a number of these officers, in fact, only left the service after VJ Day, and I cannot believe that any hon. member—all of us agree on the considerable rise in the cost of living since pre-war days—really appreciating and understanding that point, would wish these officers to leave the Service on pensions completely out of relation to the present day costs of living (OFFICIALS: Applause.) Yet that would be the effect of fixing that date a year or more later.

I must, I am afraid, make some comment on the speech of the hon. member for Kiambu. I can perfectly understand the embarrassment with which he was no doubt faced when he listened to the quite admirable speech, if I may say so, of the hon. Secretary for Commerce and Industry. It is always very awkward when one has a carefully prepared speech, all ready for delivery (laughter), to have somebody pull a fast one which makes it look a bit different, and I suppose that the hon. member must have bethought himself of the old proverb, "Where ignorance is bliss, 'tis folly to be wise", and therein found his salvation and justification to deliver the speech as if nothing had happened! But I do not really think that even that proverb justified him in allowing the suspicion to arise in his mind that the hon. Secretary for Commerce and Industry, who after all was only giving the Council what hon. members had asked him to give (hear, hear), was in fact launching a propaganda campaign for increased income tax. I think that perhaps on reflection my hon. friend will agree that that suspicion might have been quelled in his mind at the outset.

He did, when very frankly admitting his ignorance about the national income, rather ask for some information as to what it was all about. Well, I only wish that our rules of procedure allowed my hon. friend the Secretary for Commerce and Industry to answer him on that point, because he would do it infinitely better than I can hope to do, but I would just like to say that these are some of the principal factors which enter into calculations of the national income: the value of food manufactures and raw materials, minerals, etc., produced and

consumed in Kenya, and services; the value of food, raw materials and minerals, etc., which are exported out of Kenya including manufactures; also the value of services sold outside Kenya, such as tourism, harbour facilities and educational facilities; there is also the value of claims on the national resources of other countries, such as pensions from the United Kingdom or India, and the income from overseas investments; and, if one deducts from these items interest on overseas loans and pensions paid out of this country, we arrive at the net figure which we call the national income.

There is one other point that I must refer to which was made by the hon. Member for Kiambu and which related to these curious holiday visits that he makes to the coast. I do not know what he does when he goes on his holidays, or exactly how he spends them (MR. FOSTER SUTTON: He seems to take us with him!), but he seems to see the most extraordinary things, whether in the light of day or in his dreams I really do not know; but if in his dreams, then he must be one of those unfortunate people who suffer from nightmares. What in fact he says he sees are heads of departments in sun-bathing suits, disporting themselves on the shore, building castles of sand and pebbles, which they expect to see washed away by seas of depression. I rather think that that was his point. Well, you know, these castles of sand are castles which should properly be built by hon. members of this Council and not by heads of departments. If I understood the analogy aright, those sand castles are precisely the policies which heads of departments are required to carry out, and it is not the heads of departments who dictate policy. It is the function of heads of departments, to inform us in this Council of staff requirements which they require to enable them to carry out the policies laid down in this Council (OFFICIALS: Applause); and I am perfectly sure that my hon. friend must have woken up in a frightful perspiration (laughter) at seeing this privilege of Legislative Council being exercised in this manner on the beaches of Mombasa by heads of departments.

May I say, before I sit down, that I personally have very considerable sympathy with what my hon. friend the

[Mr. Thornley] Chief Native Commissioner and other members opposite have said about the effects of the recommendations in this report on certain officers, particularly married officers, in the middle of the long scale. It is a fact that at the moment they do not do well out of these recommendations, and it is also an unquestionable fact that these officers are finding it very difficult, and in some cases impossible to make ends meet at present. But in saying that I must make it clear that I believe that it is really important to get away from the present basis on which cost of living allowance has been paid. I think it is absolutely wrong that officers should be paid according to the size of their families or, if they have no family, on their bachelor status. I cannot see that it is right to do anything else but pay an officer his worth, whether he is married, single, or whatever he is. (GOVERNMENT MEMBERS: Hear, hear.) What is really trying to these officers, as I see it, is this very sudden change over from basic pay plus Cost of Living Allowance to consolidated rates, and if there could be any way of easing that transition it will have my very strong support.

The very last point! I would just like to refer to one question, one point, made by the hon. Member for Trans Nzoi. He said, according to my notes, that he could not understand why, when people in the United Kingdom were paying to get out of it, it ought to be necessary for this country to pay them more to attract them to come to this country. This is a very beautiful land. There are many people who will say that Kenya is the brightest gem in the whole of the British Empire, and yet those people who want apparently to get away from the United Kingdom, do not seem to come to Kenya. Indeed, those people do not even know, I imagine, of the existence of its attractions in the Civil Service. What is it that does not attract them? The only answer to my mind is that, so far as civil servants are concerned, conditions are such that they will not come, despite those attractions. (MR. BLUNDELL: Non-sense.) (MEMBERS: Question.) Let us see to it before we complete this debate that we do agree in this Council that those conditions shall be such as to attract.

Then they will come, and thereafter they will be only too glad to stay.

I beg to support.

MR. MADAN: Mr. Speaker, to begin with, for your information I should like to correct two misstatements that have appeared in the Press so far as the attitude of the Asian members is concerned. The first was in the Wednesday issue of the *East African Standard*, and the second was in the form of an editorial in the *Daily Chronicle* yesterday morning. Both seemed to suggest that my leader, the hon. member Mr. Patel, supported the motion. It was nothing of the kind. What the hon. member said was this, that it was very difficult for him to make up his mind about this report, that it did not meet all the requirements, the just requirements, of the Asian Civil Service, but that it was an advance for a very small minority; therefore he would not reject it. That is far from giving our support to the report or to this motion. We cannot possibly, and I think this is also appreciated, we cannot possibly lend our support to any report or to any motion which is based upon racial discrimination.

Now, if I may just for one moment turn to the remarks made by the hon. Member for the Coast in regard to the contribution which non-Europeans make in this Council on this motion. I am confident that our contribution will be found to be intelligent in spite of what he says. The Asian members are prepared not only for themselves, they are prepared to give the benefit of doubt not only to themselves but to every member in this Council, that we are all intelligent people. (Laughter.) Perhaps that is why we are here. (MR. ENYE: Question! and laughter.) The Asians regard this report as was said yesterday, like the curate's egg, but subject to this proviso, that it is more bad than good. In fact, we go further and say it is a rotten, stinking egg—

THE SPEAKER: Your language is hardly parliamentary.

MR. MADAN: Sorry, sir!

As my leader said, the claims of the Asian Civil Service have been ignored for many years, and when this report came out it was expected that things

[Mr. Madan] would be put right, and it was expected that justice would be done to their claims. But there was nothing except bitter disappointment, and that disappointment goes many years back.

As far as we know, in 1919 the salaries were on a parity in comparable posts, but after that, as a result of various revisions which have taken place for the European Civil Service and ending in 1935, a distortion has been taking place with the result that the proportion was fixed at 55 per cent for the Asians to that of the Europeans. You, sir, have only to look at page 43 of the interim report of the Asian Civil Service Advisory Board to mark what efforts the Asian Civil Service has been making during the past years to redress their grievances. The Asian Civil Service Advisory Board consisted of European heads of departments and Asian civil servants. What was remarkable about that report was that it was a unanimous report, and it did recommend a four-fifths salary for Asians as compared to the Europeans. But that has been further reduced. The Asians feel that that is most unjust, because first of all it takes them about 25 to 30 years to reach the maximum grade and then, after that, there are not enough vacancies for everyone to reach, either as special or first grade. Compared to that, the European posts are specially designated and merely provide a stepping stone for promotion.

When I draw attention to these comparisons, I do not wish it to be understood that the Asians are against the Europeans getting what they deserve. (MR. COOKE: Taking all the plums and leaving the rest.) I am not against giving everybody in the Service, whether Europeans, Asians, or Africans, what he deserves on his merits only. I say, let us look at the claims of the Asian Civil Service purely from the point of view of justice and give these fellows their due. It has been said in this Council with all frankness by the hon. mover and the hon. Labour Commissioner, that the Asians have rendered loyal and faithful service to this country. Surely that must count for a lot. That reward cannot be given to them in the form of reducing their salaries to a ratio of three-fifths of Europeans. It is difficult to understand

why, after all the assurances that were given, the recommendations contained in the Asian Civil Service Advisory Board's report would be implemented, the ratio has again been reduced to three-fifths. Perhaps the hon. mover would say why he thinks that the Commission's Report should override the report of that board? We think that these posts in the second resolution should be open to all candidates, that there should be no difference in salaries for Asians, Europeans and Africans, that it should be based on merit, and that anybody who is fit for the job should get what he deserves. To that extent the Asian members will, at the appropriate stage, move an amendment. But we would not like our amendment, if carried, to be left in the form of a resolution only. We would like to see it implemented.

As to how unjustly the whole thing works, I should like, with your permission, sir, to give some examples. The principal of a European school is supposed to get £1,320 a year, while the principal of an Indian school is supposed to get a maximum of £750, and even here the hon. Financial Secretary has not given the three-fifths salary that they are supposed to get, for that is less than three-fifths. I am aware that probably the hon. Financial Secretary will stand up and say he does not strictly regard the Educational Department as part of the Administrative service. We think it would be better, instead of introducing this racial discrimination, if there was one unified service for all carrying unified salaries for members of the Service with promotion according to merit. Let us not, as has sometimes been the case in the past, look at the claims of Asians and dismiss them merely by saying "Oh, forget about it, those Asians are always shouting for something or other". Let us, as I submit to this Council, look at it from the point of view of justice and without any bitterness in our hearts that Asians might get more, perhaps, than Europeans. Proceeding on that basis, let us revise whatever is necessary in the scales on the basis of a unified service, and make provision for granting expatriation allowance when necessary to obtain people from abroad.

[Mr. Madan]

I wish that I could say what some Asian civil servants have said to me when I had a meeting with them, but I cannot use their language! What, in effect, they said to me was: "You go ahead in Council and say what we have told you. Do not worry about what the hon. Financial Secretary says or thinks about you, because he is a miser in any case". (Laughter, and cries of "Shame.") I cannot say that he is a miser, because I am confident that if necessary and when the occasion demands and if he is satisfied that the justice of the case requires it, I have no doubt that he will cure the defects in this Council.

With your permission, sir, and with the leave of the Council, I should like to read from the Hill Report, paragraph 171, page 34, where it says: "I have examined this policy from every conceivable angle and from whatever point it is viewed the same answer is reached in the end that the salary paid is the value of the work performed". In that case there is no necessity to have different scales for nationals: If the value of the work performed in the lowest scales is not worth more than the amount offered it is not unfair to say that whoever may be appointed to do that work should receive more money on grounds which have nothing to do with work values". That is the basis which the Asian members recommend should be adopted.

MR. COOKE: On a point of order, I suggest that the hon. member addresses himself to arguments put forward in this report rather than quote from other reports, and he might then convince intelligent people.

THE SPEAKER: The hon. member who is in possession of the floor is well aware, I imagine, of the rules of relevancy, and I hope he will not wander from the general purpose of this debate, which is a motion that Council go into committee of the whole Council on certain proposals.

MR. FOSTER SUTTON: In fairness to the hon. member, was he not relevant in developing his argument in the manner in which he was doing? (MEMBERS: Yes.)

THE SPEAKER: I have not ruled him out of order.

MR. FOSTER SUTTON: I was directing my attention to the hon. Member for the Coast.

MR. COOKE: I was not saying that the hon. member was being irrelevant but that it would convince intelligent people if he confined himself to this report.

MR. FOSTER SUTTON: Then it was not a point of order! (Laughter.)

THE SPEAKER: The hon. Member for Central Area is in possession of the floor.

MR. MADAN: Permit me to say that it is not my fault if the hon. Member for the Coast could not understand what I quoted. (Laughter.)

What I was saying was that European members of the Civil Service are paid more because of the increased cost of living. To a large extent that also applies to the Asian Civil Service. It is a bad thing, but there you have the fact, and for that reason if for no other consideration I would support the date if it is fixed at 1st January, 1946.

There is a more serious point, the question of the provident fund. I have failed to understand why that should be paid into the general revenue of the Colony. I know the answer to that is that these fellows will get a free pension in return for it. That is true, but why cannot Government be more generous and, like Uganda and Tanganyika, refund personal contributions to the members of the Civil Service? That would be more equitable, I submit.

On the question of housing, nobody is more hard pressed than the Asian civil servants. When these people were engaged, in appropriate cases they were assured that Government would provide free housing. I am aware that Government does not wish to escape their moral responsibility to find the necessary accommodation for civil servants, but that assurance is not so strong now as it was in the past. Whatever policy Government might pursue in that connexion, we would like to have a more definite assurance that Government will do everything possible to provide, if

[Mr. Madan]

necessary by acquiring private houses, housing for the Asian Civil Service. I need hardly say how badly and how inadequately they are accommodated at the present time.

When the hon. Member for Ukamba was speaking, I was disappointed that she did not mention that salaries of women should be equal to the salaries of men. (Laughter.) The point becomes important in this way. To begin with, an Asian gets three-fifths of salary of a European, and of that three-fifths women are supposed to get four-fifths. I do not know what it means, but perhaps the hon. Secretary for Commerce and Industry can work it out. (MR. RANKINE: Ask the hon. Member for Kiambu!) (Laughter.) In the Asian Civil Service the women would get four-fifths of three-fifths. We are aware, and I believe the Council is also aware, that it is extremely difficult to get qualified Asian women teachers for Asian schools from India into this Colony and for them there is a great need, because the salaries offered are so little or so inadequate that they provide no attraction at all. When the hon. Financial Secretary comes to consider the matter I wish he would try and find a reasonable way out of this.

I wish he would also consider the question of stagnation that takes place in the Asian Civil Service after a certain number of years. That happens very particularly in the case of the Asian members of the Police Force. It also happens, I believe, in the case of the teachers. I would ask the hon. mover to make sure that a teacher, when he has reached the maximum on the number of years that are required before he can obtain promotion, should be entitled to promotion as of right and not get stuck because there are no vacancies and because the number of posts in the higher grades are limited. If I am right in thinking that the Asian teachers suffer because of lack of qualifications in comparison to clerks in the Civil Service, I wish something could be done about that also, because some men in the Service would gain promotion more easily. It has been a long standing grievance that principals and inspector posts for Asians are not specialized, and the Commission got out

of it easily by saying that in so far as Asian schools are concerned they are based on the non-racial system. That may be so, but they do the same amount of work as other teachers in preparing pupils for examinations, whether Europeans or Africans, and I submit that they are entitled to better treatment.

Turning to the more serious question of finding the money for this project, two days ago I heard a very short story that, with your permission, I should like to relate. A man used to live near a bridge and got used to feeding a catfish by hand. The catfish got so used to the man that it started to follow him. One day the man took it over the bridge, but the catfish had never seen the bridge before and it dropped into the river and got itself drowned! That gives you an idea of what I think of the scare caused by the hon. Member for Kiambu. There is as much logic or truth or sense, with respect I say this, as in that story I have just related. But apart from the hon. mover's suggestion that, in order to meet the increased cost of the Civil Service, we should weed out the inefficient and unnecessary people, I do not think that any reasonable person could be in disagreement with that. We will support that. But I go further than that: I say that if this Colony requires efficient civil servants, and if it requires those civil servants in so many numbers, then it must be prepared, even if necessary in the form of additional taxation, to pay for that pleasure.

As I have already intimated when we reach the committee stage we shall be proposing the necessary amendments, and before I sit down there is just one question I should like to ask the hon. mover, and it is information that I seek. Two grades, one with a maximum salary of £590 has been reduced to £550; and the second, with a maximum salary of £495 has been reduced to £450. Why, sir? These are the salaries recommended in the Commission's report. I repeat, sir, that when we enter into the committee stage we would like our claims to be examined from the point of view of honesty and justice, and not to be thrown out just because they come from Asians.

Council adjourned at 11.10 a.m. and resumed at 11.40 a.m.

MR. MATHU: Mr. Speaker, I rise to support this motion, and for three main reasons:

Firstly, I have had conferences with the members of the Kenya African Civil Servants Association, and at the last conference we had to discuss the report they said that, subject to certain reservations or observations which they had already communicated to Government, they would be prepared to accept this report in principle, and I may say that the points I am going to raise later as criticisms of this report will be mainly based on the observations that the Kenya African Civil Servants Association have made on the report.

The second reason is that I have not been convinced by any of the speeches of the critics of this report. I have listened very carefully to the remarks made against this report in principle by the various members on this side of Council, and I have not been prepared on any one point to change my mind on the ground of being convinced by the arguments advanced. On the contrary, I have been strengthened to support this motion after listening to the speeches that have been made, because I feel that there has been some half-heartedness in the attacks made on the report.

The third reason why I support this report is my own personal study of the whole situation. I feel, like the hon. Deputy Chief Secretary, that it is not exactly what everybody wanted. There are parts of the report that are not liked, and there are likeable parts; and taking the whole on balance I feel that we have a basis in the recommendations of this report on which to build a contented and satisfied public service in this country. (OFFICIALS: Hear, hear.)

The speech of the hon. mover has been commented on. I personally would like to congratulate him on the very convincing way, and sincere way, in which he delivered his speech. I do not mean that I accept every word he said. As a matter of fact, I am going to take him up on a few points almost immediately.

The first one is that he said in his speech that the people that are going to benefit from the recommendations of this report are the Africans and Asians

in the Service. As reported, the phrase is "all Africans and Asians benefit". I should like to disagree with him on that point. As a matter of fact the shoe is on the other foot. It is the European civil servants who are going to reap a very heavy benefit out of this. (MR. TROUGHTON: No, no.) I have already said that we are going to disagree on that one (laughter) and I hope that the hon. mover will agree that we should differ on this one.

The second point I want to disagree with him on is his remarks in regard to salary scales in relation to race and domicile. He did say that he knows that the neighbouring territories have a different attitude towards this matter, and that, in order to make sure that he was not left alone in this campaign, he conferred with the Financial Secretaries of the other Governments and got them to agree with him that they were not going to propose scales for the non-European that are higher than the scales which this Government has already proposed in the Sessional Paper. The Kenya African Civil Servants Association takes tremendous exception to that approach of the hon. Financial Secretary. I take great exception to that also. Personally, I feel that the African civil servants of this country would be prepared to take less attractive terms if the Governments of the neighbouring territories are prepared to give their African servants better terms, because the African Civil Service—the point has not come out at all in the speeches made here—is a very loyal body of men, and no Government speaker has said that nor any other member of this Council. They have taken the negative side of the situation, and I am going to deal with them presently.

I should like to take up the hon. Financial Secretary, and say that it is most unfortunate that he did try to persuade the representatives of the other Governments to fall in line with him, and my question is this: Is Sessional Paper No. 4 of 1948 of the Tanganyika Government to be read and believed, or to be read and said of it that it is trash? That is perhaps not parliamentary. In page 2 of the Tanganyika Paper these words appear: "The Local Civil Service, which affords equal salaries and opportunities to Africans and Asians, was established fifteen years ago, and the Government is

[Mr. Mathu] unable to accept the Commission's recommendations for the differentiation of salaries on a racial basis in the general and clerical divisions". Surely the hon. mover would have to do a good deal to convince us that the Government of Tanganyika does not mean what is stated here? Further, on page 4, talking about the proposals with regard to salaries of Police and Prisons, the Government of Tanganyika said this: "The Government cannot accept the proposed differentiation between Asian and African rates of salary"—that is in the Police Department. Is that to be believed or not? Then, finally, the Prisons scales. They say: "There is at present no differentiation between the salaries of African and Asian Chief Warders, and the Commission's proposals for such differentiation cannot be accepted".

The deduction that I make out of all these points—I mean the deduction that has been made by the Kenya African Civil Servants Association—is that the salary paid to non-Europeans in Tanganyika and Uganda will be necessarily higher than those proposed for the African Civil Service, who do not come under the recommendations in paragraph 100 of the report, or those who come under the three-fifths rule in paragraph 92 of the report. They feel, therefore, and I agree, that we would not be convinced by the statements made by the hon. mover and reported in the *East African Standard*. The conclusion he came to was that there could therefore be no question of this Government being criticized for being less generous to its African civil servants than either of its neighbours. We disagree because we know the other people will be treated more generously than our civil servants.

In continuation of this question of the arguments advanced, that the members of the Civil Service in this country will be treated in separate compartments in regard to salary scales and conditions, I should like to add what my hon. colleagues on this side of Council have said in regard to paragraphs 79 and 84 of the Commission's report. I was most disappointed to hear the remarks of my hon. friend the Chief Native Commissioner on the question of the African civil servants' integrity. I do not disagree with him that

there are certain members of the African Civil Service who have shown that they have not the integrity required, but I disagree with him entirely in making that a general statement. In paragraph 79 the Commission state that they came to the conclusions laid down there on the evidence, and in many cases given by people who had the interests of the advancement of the African at heart. Surely a statement like the one made by my hon. friend yesterday, and which had headlines in a local paper, is against the Africans' interests. This is the headline in the *Daily Chronicle* this morning: "African Civil Servants lack integrity. Native Commissioner on Salaries Report". I do not think there is any other statement that could be more damaging to African civil servants than that, "African civil servants lack integrity"—all of them.

MR. WYN HARRIS: On a point of personal explanation, I am not responsible for the local Press, thank heaven! (Applause.)

MR. MATHU: I would say that I was here listening to the debate and I would say that the way that I should have liked that statement was not the way it was. It was really a general statement. The *East African Standard* has exactly the same to say. I should like to quote just one line: "It is a fact that there has of recent years been a deplorably low standard of integrity among Africans in the Civil Service". Again a general statement. I agree that some Africans in the Civil Service have behaved in this way. That I know. I know also that some European members of the service have also come into this. We have read the papers. Some Indians of the Civil Service have also come into this and, as a member of the Standing Finance Committee, I know that certain of these things do happen. If I say that an Indian civil servant misappropriated public funds in the Nairobi District Treasury, another one in Kakamega, and a third one in Mombasa, therefore all Asian civil servants lack integrity. That is not logical, and it is the generalization that damages the whole position. I should like to defend the African Civil Service and to say that, although they hold subordinate posts on meagre pay, and have done so for many years, they have helped this Government

{Mr. Mathu} and this country to progress to the state that they are in to-day. (Applause.)

I speak with feeling because it is a matter I have very closely at heart. If I might put paragraph 79 in the form of a logical proposition it is like this: The African Civil Service is less than the Asian Civil Service (as proposed in paragraph 84). The Asian Civil Service is less than the European Civil Service. Two propositions. Third proposition—the conclusion: The African Civil Service is less than the European Civil Service. In other words, I do not know whether this was the intention of the Commission, but they cancelled out the Asian Civil Service; which means that there are only two services now, logically and mathematically, and I think it is high time the Indians went home to India. (Laughter.) But I should like to say that in spite of that, and in spite of the speech of the hon. Member for Central Area this morning, and in spite of what was reported in the paper yesterday about the Asian Civil Service, being an unwanted race, I should like to say to the Asian Civil Service and the Asian representatives of this Council, that they are the members of the Service that the Government of this country takes very serious consideration of and gives them soft cushions in every department, and they have been very highly privileged in every case. To say that they have been an unwanted race cannot be accepted, because we know, the African Civil Service know, that in every department European officers would not listen to anything that an African officer has to say before an Asian officer says "That is O.K."

Regarding the question of efficiency, we agree with the members of the Government and the members on this side of Council that the Civil Service must be of a very high standard and that efficiency must be the watchword. But inefficiency is a disease that attacks every human being. It would not attack an African civil servant alone. It attacks Asian civil servants, it attacks European civil servants equally, and the Commission did not make any suggestion that there could be any inefficiency as far as European officers are concerned. That is not a fact, and we know this, that no

member of this side of Council would like to convince anybody that weeds occur only in the African's garden.

MR. COOKE: On a point of order, the report did point out that the efficiency bar regarding Europeans had not been enforced in the past.

THE SPEAKER: That is hardly a point of order, and I have nothing to rule on. Pray continue.

MR. MATHU: Thank you, sir.

The next point I should like to mention is this, that although the Asian civil servant complains and three or four Government speakers have praised the Asian Civil Service very highly, there has been no mention of the Africans. I should like with your permission, sir, to tell you of a saying of the Kikuyu which I think is very relevant. It is this. Young persons come into the home, the mother of one of them brings her food in a gourd. One of them puts a finger into the food and tastes it, and says "This food is not well salted". The second one says it is not, the third one says "She forgot to put in any salt", and by that time the first one has had three or four helpings, and by the time they have all gone on complaining not a drop of food is left. (Laughter.) Is that not exactly the case about Government in relation to the African Civil Service? Inefficiency is the first, lack of judgment is the next, small output is the third, and so on in negative terms, but all the time the work is kept going, letters are being typed, offices swept, everything is being done, and the man complaining does nothing—can you beat it? (Laughter.)

If these young fellows meant business they would have returned the Mother's food to her for the salt, and Government would have dismissed all African servants and now how it got on. I would not like to do it myself.

The next point is one that the hon. Labour Commissioner made yesterday. I would like to try that the question of workers asking for equal pay for equal work is going to continue. The hon. member agrees, but says the time is not yet ripe. The day will come, and I disagree with him on the question of these fellows asking for this thing when they watch their wives working and put

{Mr. Mathu} flowers on the back of their bicycles to bring to town. The point I want to make is that he talked about wives, not women. Africans do not believe that it is wrong to marry more than one wife, and the wives help to keep the family going. In Europe maybe you have fewer wives and more unmarried women who work hard in factories. I have seen them working in England and working hard, actually harder than men, and perhaps the hon. Labour Commissioner will tell me why that is so. The second point is that they have to bring flowers to sell because people cannot grow them in their own gardens to decorate their own houses. The hon. Commissioner did not say it should be stopped, because I am sure he would not like the houses to go without sweet scent!

To come to the report itself. The under Sh. 40 a month, those are the fellows who are actually in large numbers in Government departments. The Statistical Department of the East Africa High Commission puts them, the most recent figure I have, at 33,000, and those 33,000 are working for Government, and although Government may say the food is not salted they still use them. I suggest in all seriousness that three considerations be given by Government to these people. First, that the recommendation of the Commission of 100 per cent increase be considered. If that is found to be impossible, the second point is that a system by which they will be paid part of their salary retroactive to 1st January, 1946, might be considered. If that is found impracticable I suggest a third; that a bonus on a generous flat rate basis, should be given to these people. They are low in the scale of things, but they have helped Government most loyally, and they must not be discouraged because they are low in social status.

The hon. Member for the Coast did make one point which I should like to challenge and which, perhaps, as an intelligent man, he has not thought over very carefully. In supporting the motion he did say that this report is going to lead us to the end where John Stuart Mill and all the philosophical people wanted to get us during the 19th century, the greatest happiness for the greatest

number. I should like to say that this report does not produce the greatest happiness for the greatest number, and if the hon. Member for the Coast would like to read his books again after this debate, say Utilitarianism, or Kant, he will find that I am right this time. This report does not produce a position where the greatest number can get the greatest happiness. Over 33,000 do not, so that surely that principle of John Stuart Mill does not hold good.

I will agree with him on one point, actually to thank him for bringing a philosophical outlook to this report, because I agree with him that we have supported principles that can carry the greatest happiness, because if hon. members opposite agree the intention of Government is to make the conditions of people working for the Government such that they will really live happily with all obstacles removed from their path, then they will have what the hon. Chief Native Commissioner and myself agree is necessary, integrity in the Service in general. (Hear, hear.)

Another point also brought up by the hon. Member for the Coast that the greatest happiness for the greatest number should be a sound principle here as a general rule, is that you have qualified men of all races and that non-Europeans are put on a three-fifths salary of Europeans. You can see, therefore, quite a number of them, the majority of members of the two non-European races, will not come to the top of everything. I should like to say that the Kenya African Civil Servants Association were very worried about this, and suggested that the three-fifths rule should be removed and the four-fifths rule which the Asian civil servants wished put in its stead, but we would propose having a three-quarter rule as being between the two.

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[Mr. Mathu] application of that rule. The Commission recommends this on the ground that the posts are mono-racial. In relation to the Education Department that is not true. For example, in an Arab school at Mombasa the Africans are the teachers there, and in African schools we do not only have African masters but European masters doing the same job. I should like to suggest most seriously and would support the hon. Acting Director of Education—and congratulate him on his maiden speech—when he said that there could be no development in any country without teachers. But this recommendation of the Commission will make it difficult for the Education Department to recruit first class African men and women to come into the teaching profession, and will militate against the development we desire to see in this country.

I do not want to comment on housing and pensions and leave, but I have two points which I should like to make before I sit down. One is that this question of conversion where most of the African Civil Service in grades 4 and 3 will benefit only by Sh. 5, 6 or 7 a month, should be seriously taken into consideration, because that is really a very small amount to a fellow who has been working so faithfully and loyally for Government for so many years. I would suggest for consideration, and actually—have members on this side supporting it, that this question of pension and salary and cost of living should be reviewed. I personally would like the salaries recommended by the Commission to be basic salaries and the cost of living allowance continued, because without that the relief given to the very low paid Africans and members of other races will be very little. If I may adopt a verse from the Bible here, the African Civil Service thought that when the Commission was appointed they had come that we might have relief and have it more abundantly. But that does not seem to be the case, because a very loyal body would not have the relief, let alone having it more abundantly.

I have already said that I will support this motion, and although I do so I would like, as I have endeavoured to do this morning, to put up the case of the

African Civil Service and say that the major point of debate in this Council has been this question of salary scales in relation to race and domicile, but that the African feels that on economic grounds, not racial grounds, a non-European Service as in Tanganyika and Uganda would be the answer. If you have those two members of the Service on one scale of pay, you will be moving towards the relief of a large number of people and bringing satisfaction and contentment to the members of those two Services.

With those remarks I beg to support the motion.

MR. JONES (Acting Director of Public Works): Mr. Speaker, it is with some diffidence that I rise to support this motion, following after so many able and experienced orators. The pros and cons of this case have been debated at very great length, and I do not wish to take up the time of the Council in expressing my personal reactions to the various points. There is, however, one aspect of the matter that has not, in my opinion, been brought forward with due emphasis, and this is a point which vitally affects the Public Works Department.

I am referring to the effect that the adoption of this report will have on recruiting. The hon. mover has said that, against his own inclination, he must admit that this country cannot afford not to accept these recommendations, and it is on this question of recruitment that I most heartily agree with him. The Public Works Department at the moment is seventy Europeans under strength, and approximately the same number of Asians and Africans. Of these seventy Europeans, forty are engineers, and of those forty engineers twenty are required in the hydraulic branch. I submit that that is a very serious situation. (Hear, hear.) It affects both the development programme and the development of the water resources of this Colony.

The hon. Member for Trans Nzoia has suggested that this shortage of engineers is entirely temporary, and I am not certain whether it was he or someone else in the debate gave a figure

[Mr. Jones] of two or three years in which this matter would be rectified. Well, I must wholeheartedly disagree. The universities of England and South Africa before the war were only just managing to provide normal replacements, and were failing utterly to supply the increasing demand for trained technical men required for normal development of civilization. The war has very much accelerated that demand for trained technical men. In 1937 the Public Works Department endeavoured to recruit six engineers on the old salary terms—they managed to get one. I say that it will take many years and a very much bigger organization if the universities of England and South Africa are going to supply the needs of engineers in our department.

I may say that the Public Works Department is in a small way doing its best to assist that position. We have already got schemes for training local Egyptian engineers in our department; we have also a scheme for training local Africans in engineering, and hope shortly to have a similar scheme for the Asians. If this Colony is going to get the engineers it requires for its various schemes, then I say that we must go into the world market and offer terms which are going to be attractive to engineers. As a back bencher I think I am allowed to a certain extent to express my opinion, and my opinion is that the proposals of this Commission do not go far enough, but it is a step in the right direction, and as such has my personal as well as my official support. To elaborate the effect that I think the adoption of these proposals will have on recruitment, I would like to take two imaginary cases.

Supposing two engineers, both of whom valued their services at about £1,000 a year, came into my office and applied to me for employment. I, after having examined their qualifications and their experience and having due reference to seniority of existing members of my staff, decided that they could come in at the £720 point of the existing salary scale. Supposing one of those men is single, I can offer him £903 a year. When I add house allowance and cost of living allowance. He would probably refuse that because he is looking for a

job at £1,000 a year. Supposing the other man is married and has four children, I can offer him £1,057 a year, which he might accept. I will refer to that "might" again later. The point is that it does not matter that the single man might be the better man of the two, I have to offer the higher salary to the married man. Referring to that question of might, the professional man who has got on in his profession and has decided that he is in the £1,000 a year class, does object and object very strongly to taking a post which is in the £700 a year class. Admittedly he may get the full £1,000 a year, but on the other hand his professional status remains in the £700 a year class because that is his basic salary, and I feel that that has a very definite effect on recruitment.

The new scale converts £720 into £1,095 less £109 for house allowance, making it £986. Well, that is sufficiently near to what those two men require that they would probably accept, and not only that, but the job they are accepting is in the £1,000 class. For those reasons I am quite convinced that the adoption of this report will have a marked effect on recruitment. I would point out that in the case of the single man Government apparently has to pay £83 more under the new terms, but many a man, I consider, on getting a £1,000 a year job has been known to get married; he also sometimes would start a family. Therefore I say that the apparent advantage to Government might very easily disappear. Let us look at the case of a married man with four children. Government is actually saving £71 by adopting the new scale.

Before I leave this question of engineers I would like to refer to a comparison that was made by the hon. Member for Aberdare on the relative position in seniority between Public Works Department engineers and administrative officers. He pointed out that the maximum of the two scales was the same, but that the engineer, due to his professional training, started at a higher point. I do not think that is a correct comparison. There are forty administrative districts in this country controlled by District Commissioners, and there are five Public Works divisional engineers corresponding to a

[Mr. Jones]
District Commissioner, and the senior engineer on the maximum salary of £1,320 would be *vis-à-vis* with the Provincial Commissioner at £1,775. I do not see that this puts the Engineer in a favourable position as compared with a District Officer.

There has been a good deal of talk about inefficiency and cutting out the dead wood. All of us are agreed that inefficient people must be retired, but when I am faced with the problem of being seventy officers short I feel that I must be cautious at least in making certain that before I cut out the dead wood there is going to be young wood to come up and take its place, and such is not the position at the moment, although as I have said I hope the implementation of this report may assist in this matter.

In conclusion, there has been a good deal of talk about wolves in this debate. Having viewed the steady rise in the prosperity of this country for the last twenty years, and in spite of occasional set-backs which apparently so much disturb the sleep of the hon. Member for Mombasa and having myself had to submit to a levy on my salary during one of its temporary depressions, I still do not think that this talk of wolf is a sound guide to the future. There is a legend that Rome was founded by Romulus and Remus who were suckled by a wolf. May I express the hope that the prosperity of this country may in like way be nurtured by the imaginary wolf of the hon. Member for Mombasa! (Laughter.)

The debate was adjourned.

THE SPEAKER: I think this would be a convenient moment to interrupt the debate in order that the hon. Member for Trans Nzoia may make a statement.

The debate was adjourned.

VALEDICTORY

Hon. S. W. P. Foster Sutton.

MAJOR KEYSER: In view of my departure on Tuesday to England, I should like on behalf of my colleagues, and with your permission, to refer briefly to the impending transfer to the Malay States of the hon. Attorney General.

Mr. Foster Sutton, during the five years that he has been in this Colony, has gained the respect and the admiration of all who have come in contact with him, whether it has been in an official or in a social capacity. (Applause.) This has been due to his great charm and his sincerity and frankness at all times, which we have very much appreciated, and also the pains that he has always taken to examine the other man's point of view and to give it very great consideration. (Applause.) His sense of justice, and his courage at all times in upholding it, have made a very great contribution to putting sound laws on the statute book of this Colony. With the background of the debate that has taken place in this Council during the last week, or two weeks I think it is now—I have really forgotten the time—(laughter)—the service that he has given to this Colony stands out as an example to us all of untiring and conscientious devotion to duty.

His loss to the Colony will be made easier to his many friends by the knowledge that he is leaving on promotion, and the firm belief that it is only a rung in the ladder.

On behalf of the European Elected Members I wish Mr. and Mrs. Foster Sutton a long and prosperous and happy future, and assure them of a real welcome at any time that they return to this Colony in the future. (Applause.)

DR. RANA: Mr. Speaker, it is a matter of very great pleasure, and a great privilege, on behalf of my Asian colleagues to rise and support everything that has been said by the leader of the European Elected Members Organization. (Applause.) I would add that if there were some other adjectives which the hon. leader had used I would have supported him all the more! It is in respect particularly of the period of the war and after, when the hon. Attorney General held the post of Director of Man Power, and when there were various difficulties in connexion with immigration, that I must pay a very high tribute to him for the courtesy and the very straightforward way in which he has always dealt with us. A sign of his popularity is the number of invitations to sundowners which have been issued

[Dr. Rana]
to him, which is a clear testimony of his personality!

I do not want to take up the time of Council, but I should like to wish him and his family all the best of luck and happiness. Wherever he is going, I hope his service and his charm will be as attractive to them as it has been to us in this Colony. (Applause.)

MR. MATHU: Mr. Speaker, on behalf of the African Unofficial Members Organization I should like to associate myself with the remarks that have already been made by the two previous speakers.

I think I am going to take a slightly different approach to it, because I have had the great privilege and pleasure of working in committees with Mr. Foster Sutton during the past four years. On various committees, the Standing Finance-Committee for example, we say that the Government is wrong to say that a particular officer is irreplaceable. We can always get another one. I think that in this case it is slightly different, and I would say that I do not think we are going to have a person of the calibre of Mr. Foster Sutton to take his place. (Applause.) I should have thought that you would have said "Mr. Foster Sutton, please think again. Stay with us in Kenya for a further tour". But as it happens not to be the general view of the speakers, I should like to say that, regrettably, we wish Mr. and Mrs. Foster Sutton a very happy and successful life wherever they are going in their new appointment, and request that they should not forget this country, and any time they happen to be on leave they might spend it here, in spite of what people say about spending leave abroad. (Laughter.) I should like to support the hon. Member for Kiambu in this case! (Laughter.)

I should very much like to associate myself with what has been said in praise of Mr. Foster Sutton for the very good work he has done in this country, and to say that personally I am doubtful whether we shall have another person to replace him. (Applause.)

MR. RANKINE: Mr. Speaker, it is with very great pleasure that we on this

side have listened to the tributes that have been paid to my hon. friend, and I know that I can speak not only for the members of this Council, but for all my colleagues throughout the Service, when I say that it is with the greatest pleasure that we hear such tributes paid to our colleague. We are losing a respected and valuable colleague and also a friend. I myself came here a very short time ago, a very young and inexperienced person, and I can tell you that I found no greater friend, or no better adviser, than the Member for Law and Order.

Outside the Council we lose Mr. and Mrs. Foster Sutton, who are great friends to all of us (hear, hear), and I think it is with great sincerity that we say we wish them every happiness and prosperity in their new life and that we hope they will come back to the land of sunshine and visit us again. (Applause.)

MR. FOSTER SUTTON: Mr. Speaker, may I say how very touched I am at the extremely kind things that have just been said about me.

I should in reply like to say this. This is the third Colony I have served in, and I can honestly say that I have enjoyed my service here more than in any other country that I have served in up to date. I have found the people here kindly and generous and friendly. The work in this Council was so different to the work in the last Council that I occasionally used to attend. Here we often disagree, we often throw stones at each other, but it is all done in a very friendly and decent spirit. (Hear, hear.) Moreover, it has been a great honour to me—and I mean that—to serve with my colleagues on this side of Council, and my friends on the opposite side of all races. We have had many difficult jobs in committee, and we have always somehow seemed to get over those difficulties because there has been so much friendly give and take. I have never noticed any of those things which are very frequently complained about in our committees. I refer to racial feelings. We have all been friendly, we have got on; we have had a job of work to do, and I have never noticed in one single meeting of these committees any of this racial prejudice and feeling that one hears bruited

[Mr. Foster Sutton]

about so much. Every member of every race has always endeavoured to pull his weight and be helpful, and has always in my opinion had the best interests of the country at heart. As I say, I regard it as a great honour to have been able to serve this country.

I am not quite certain what the position is as regards this Kenya affiliated branch of the Empire Parliamentary Association, whether we are actually formed and whether by leaving I am going to lose any chance of remaining a member. I sincerely hope everyone here will protect my interests because I wish to claim membership of the Association through my membership of this Council. (Hear, hear.)

One of the first things we did when we finally made up our minds to go to Malaya was to apply for two certificates of permanent residence (laughter), because we wanted to stake our claim so that we could come back here, even if we did not come back for service, as ordinary civilians, for one might find oneself—one never knows—on the other side of the Council instead of this side! (Laughter.)

Again, may I say on behalf of my wife and myself how very greatly we appreciate all the kindness shown to us since we have been in Kenya. I cannot tell you how much we dislike leaving it, and it took me a long time, if I may say so, to make up my mind to go, but I feel one is in a service—it is an Imperial service—and if one is asked and pressed to do a thing, I think one's sense of duty must compel one to accept the decision of the people on top, and that is really the only reason why I accepted to leave this country. I have got a tremendous amount of work I wanted to complete. I have been unable to complete it. I think things have been moving during the war and aftermath of war rather slowly, and I can only hope that things will be shoved on and that this debate we have been listening to, the result of it, will help.

May I again say thank you very much indeed. I am most sincerely grateful to you all. (Applause.)

TIMES OF MEETING

MR. RANKINE: Mr. Speaker, before we adjourn I should like your permission to make an announcement regarding the rest of our business. As you know, we have a very heavy programme to finish this session and, after consultation with my friends and colleagues, it has been agreed that on Tuesday, if you are agreeable, sir, we should sit from 9.30 a.m. until 12.45 p.m. and again in the evening from 8.30 p.m. to 11 p.m.

MR. MATHU: With your permission, sir, might I point out that the African members on this side of Council might be caught by the police if we are kept out after 10 o'clock, because of the municipal by-law, and that Africans coming to listen to us at night may also spend the rest of the night in a cell.

MR. FOSTER SUTTON: May I say that the hon. member drew my attention to something that really flabbergasted me. I am going to make it my business to put the matter right and I will make it my business to see that it does not occur.

ADJOURNMENT

Council rose at 12.45 p.m. and adjourned till 9.30 a.m. on Tuesday, 24th August, 1948.

Tuesday, 24th August, 1948

Council assembled in the Memorial Hall, Nairobi, on Tuesday, 24th August, 1948.

His Honour the Speaker took the Chair at 9.30 a.m.

The proceedings were opened with prayer.

ADMINISTRATION OF OATH

The Oath of Allegiance was taken by Captain A. T. A. Ritchie, O.B.E., M.C., Game Warden, who had been summoned under Article XIXA of the Royal Instructions.

MINUTES

The minutes of the meeting of Friday, 20th August, 1948, were confirmed.

PAPERS LAID

The following paper was laid on the table:—

By DR. MACLENNAN:

Medical Department Annual Report for 1946.

ORAL ANSWERS TO QUESTIONS

No. 51—TAX DEFAULTERS

MR. MATHU:

Arising out of Question No. 32 and its answer, as there were over 3,000 Africans in detention camps and over 400 in the prisons of the Colony in 1946 for failure to pay hut and poll tax, and as I cannot trace any punishments in the prisons reports for 1945 and 1946 under the Personal or Income Tax Ordinance, will Government state why European and Asian tax defaulters are not punished in this way to ensure proportional equal penalties?

MR. WYN HARRIS: Government does not accept the principle of proportional equal penalties for the non-payment of tax by the various communities as the taxes paid, both in their incidence and their methods of collection, are entirely different.

The fact that it is necessary to commit a number of Africans to imprisonment or detention appears to indicate that an appreciable part of the African community has not yet awakened to its obligations.

The hon. member will be aware that poll tax is only payable by adult males

and also that powers of exemption exist which are generously exercised. In consequence, those who are committed either have the means of paying or could have obtained work to fulfil their civic obligations. In view of the widely different circumstances Government cannot relate penalties to be imposed for the various offences in the different Ordinances, but must work on the principle of imposing such penalties as are necessary to ensure that each community does in fact pay its legal due.

MR. VASEY: Sir, arising out of that answer, could the hon. member inform this Council: (a) the cost to the taxpayers of committing Africans to prison for non-payment of tax, and (b) the gain to the taxpayers by the imposition of fines on the non-native community?

MR. WYN HARRIS: I should require notice of that question.

No. 69—MOTOR VEHICLE OFFENCES

LADY SHAW:

(1) Will Government inform Council if they are aware of the great dangers to which the road using public are subjected to by the lorries that carry such materials as stone and firewood and drop them on the road?

(2) If the answer to (1) is in the affirmative, are Government satisfied that existing legislation is adequate for the suppression of this nuisance, and, if so, will they state why it continues to be so widespread?

MR. THORNLEY: Government fully appreciates that danger may be caused to persons using the roads of the Colony by stones, pieces of firewood and other objects which fall from vehicles, and is not satisfied that the existing law is adequate to suppress this nuisance.

It is accordingly proposed that legislation should be introduced which will make it an offence to carry any object on a vehicle unless it is secured in such a manner that it cannot fall from the vehicle, and the preparation of the necessary legislation is now in hand.

LADY SHAW: Arising out of the answer, would Government inform Council whether the legislation referred to will come before Council this session?

MR. THORNLEY: The legislation will take the form of rules under section 49 of the Traffic Ordinance, and will be got in hand and pressed on with as fast as possible.

MR. COOKE: On a point of order, certain hon. members refer to you, sir, as "Mr. Speaker, sir", and others as "Mr. Speaker"—will you give a ruling on that point? (Laughter.)

THE SPEAKER: I do not see that we need get worried about minor matters of that kind. It does not seem to me important whether I am addressed sometimes as Mr. Speaker or Sir, but the usual form is Mr. Speaker. But I cannot see that I can rule anybody out of order for addressing me as Sir. (Laughter.)

MR. COOKE: I refer to the opening.

THE SPEAKER: Mr. Speaker is the custom.

MR. EBYE: Mr. Speaker, arising out of the question recently answered, would Government also consider making legislation embodying some rules in regard to the prevalent practice of lorry drivers leaving large stones on the road which they have placed behind their lorries when they have stopped on hills? (Hear, hear.)

MR. THORNLEY: I am advised that lorry drivers who leave stones behind lorries on hills may be prosecuted under the law as it now stands as a nuisance.

MR. FOSTER SUTTON: The trouble is to catch them!

BILLS

FIRST READINGS

With the leave of the President, MR. FOSTER SUTTON moved: That Standing Rules and Orders be suspended to enable the following Bills to be read a first time: The Penal Code (Amendment No. 2) Bill, the Criminal Procedure Code (Amendment No. 2) Bill, the Workmen's Compensation Bill, the Hide and Skin Trade (Amendment) Bill, the Stock and Produce Theft (Levy of Fines) (Amendment) Bill, the King's African Rifles (Amendment No. 3) Bill, the Special Districts (Administration) (Amendment) Bill, the Trout Bill, the Kenya Police Force Reserve Bill, the Employment of Women, Young Persons and Children Bill.

MR. RANKINE seconded.

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

On the motion of MR. FOSTER SUTTON, seconded by MR. THORNLEY, the above Bills were read a first time, together with the Resident Labourers (Amendment) Bill, the Possession of Industrial Alcohol Bill, the Courts (Emergency Powers) (Repeal) Bill, and the Local Government (Municipalities) (Amendment No. 2) Bill, and notice given that the subsequent stages would be taken during this session.

PENAL CODE (AMENDMENT No. 2) BILL

SECOND READING

MR. FOSTER SUTTON: Mr. Speaker, I beg to move: That the Penal Code (Amendment No. 2) Bill be read a second time.

With your leave and the leave of Council, I propose to refer to my "memorandum of objects and reasons", which will keep me on the rails!

Clause 2 of the Bill seeks to amend paragraph (a) of section 47 of the Code by making it an offence to seduce any person serving in the military forces of the Colony or any member of the Police Force from either his duty or his allegiance to His Majesty. The present paragraph makes it an offence to seduce any such person from his duty and his allegiance, and that is obviously not what is intended. A person would have to be seduced not only from his duty but also his allegiance before an offence is committed, and it seems quite obvious that that is not what was intended.

Clause 3 seeks to repeal and replace section 91 of the Code. This is considered necessary if the penal sanctions are removed from the Employment Ordinance, 1948. That is the new title which is being given to the Employment of Servants Ordinance, 1937, the Bill to amend which will be before this session of the Council. The new section 91 seeks to make it an offence for any person to use obscene, abusive or insulting language to his employer or to any person placed in authority over him by his employer, in such a manner as is likely to cause a breach of the peace. It also seeks to provide that if any person brawls or in any other manner creates a disturbance in such a manner as is likely

[Mr. Foster Sutton] to cause a breach of the peace, he will be guilty of an offence. Sub-clause (2) of clause 3 merely re-enacts the provisions of the present section, and there is nothing new in it at all.

The provisions I have just referred to can be found at the foot of the Bill in clause 3. New sub-clause (1) has been drafted in the light of discussions which have taken place between members on this side of Council and members on the other side, and I think it does completely meet and implement the agreement which was reached. To reassure the hon. members representing African interests, I would point out that it is far preferable to have that sort of provision in the general law of the Colony, applicable to members of all races, rather than to have it included in an Employment Ordinance which, by its nature, is chiefly confined to dealing with members of one race. I think it is an advantage to incorporate it here, making it applicable to members of all races. I cannot understand why something like that was not in before, because if anyone does that type of thing in the United Kingdom and in most other countries, it is an offence. It is an offence in the United Kingdom and common law, and why our Code was deficient of that provision I find it difficult to understand.

Clause 4 seeks to add a new section 174A, making it an offence for any person to take part in the organization, management or conduct of a "Pool", which is defined as "any invitation to the public to foretell the result of any game, race or event, which the Governor in Council has declared, by notice in the Gazette, to be a Pool for the purposes of this section". It was rather difficult to frame the amendment to cover the type of thing that we were aiming at. The type of thing we were aiming at was pools such as football pools; they are being run now, and I understand they are fairly flourishing. Also the sort of thing they have in England, the dog racing pools. It is considered by this Government, rightly or wrongly, that that type of amusement is undesirable, and we hope to prevent it gaining any ground in this country. I wish it had never gained any ground in the United Kingdom! (Hear, hear.)

Clause 5 seeks to amend section 203 of the Code. Section 202 provides that,

where homicide is committed in the heat of passion caused by sudden provocation as defined in section 203, the accused is guilty of manslaughter and not murder. In section 203 provocation is defined as a wrongful act or insult of such a kind as to deprive an ordinary person of self-control and induce him to assault the person offering the provocation. The effect of a recent decision of the Court of Appeal for Eastern Africa is to interpret these provisions in such a way that, if an ordinary person would have been induced by the provocation to commit even a mild assault, the offence would be reduced to manslaughter, notwithstanding that the assault actually committed and causing death may have been of a savage and brutal description out of all proportion to the nature of the provocation offered.

This ruling was expressed by the Court of Appeal in the following terms: "Provocation which under English law might for this branch of the law excuse only a slap with the open hand, in East Africa excuses a fatal attack with a lethal weapon to the extent of reducing the fatal attack to manslaughter, however savage, brutal and unbridled such attack might be". That clearly could not have been the intention of the legislature when this legislation was enacted. It seems absurd. Under the present law, if two people quarrel and one person slaps the other with his open hand, the offence would be reduced to manslaughter if the other person thereupon took up a cutlass, or whipped out a revolver and shot the other person dead. That is not the law in the United Kingdom, nor is it the law in any other country I know of. It seems to me that any force used must be reasonable. It is quite unreasonable to take up a lethal weapon and kill somebody, merely because he gave you a slight shove or slap on the face. The other territories have amended their legislation, and I commend the amendment to this Council.

Clause 6 seeks to amend section 304A of the Code by providing that if any person uses any aircraft, vessel or vehicle in connexion with an offence of receiving stolen property, contrary to the provisions of section 315 of the Code, such aircraft, vessel or vehicle shall be liable to forfeiture. In a recent case where it was suspected that persons had used vehicles

[Mr. Foster Sutton] for the purpose of theft, the evidence disclosed a doubt as to whether or not the vehicles were so used, but a conviction was obtained for receiving stolen property. In such cases no forfeiture of the vehicles concerned can be ordered by the magistrate. When we amended the Penal Code—I was responsible for introducing the amendment—we did not think far enough ahead. I only had in mind theft, because I thought that normally one can prove theft, but there was a case in Mombasa, which I went into in detail myself, in which I thought the evidence was strong enough to warrant conviction for theft, but the court took an opposite view and the persons who were convicted of receiving got away with their vehicles. That was not the intention of the Council when the amendment was brought in; we intended to enable vehicles which were used in the commission of an offence to be forfeit to the Crown, whether it was by way of receiving or theft, and this amendment seeks to give effect to the intention of the Council when we passed the original amendment.

The other amendment is merely a verbal one. We did a thing which one does not normally like doing—we legislated by reference—and this seeks to put that right.

Mr. RANKINE seconded.

The question was put and carried.

EMPLOYMENT OF SERVANTS (AMENDMENT) BILL

SECOND READING

Mr. THORNLEY: Mr. Speaker, I beg to move: That the Employment of Servants (Amendment) Bill be read a second time.

This is one of several measures of labour legislation which it is the intention of Government to bring before the Council at this present session. These measures are put forward as a further step in the revision of our labour legislation to which my hon. friend the Labour Commissioner referred in this Council some two years ago when moving the second reading of the Workmen's Compensation Bill. He then explained that it was the policy of Government gradually to move towards the compilation of a comprehensive and consolidated labour code of the kind, which they have in certain other colonies.

This legislation—the Employment of Servants (Amendment) Bill, and the other bills to which I have referred—take us further along the road towards that goal.

The objects and reasons for each clause in this Bill at present before you are set out very fully on pages 20 to 25 of the Bill, and I do not propose to weary hon. members, or to waste the time of Council, in going through the Bill in these circumstances clause by clause. Hon. members will, however, wish to hear from me something of the fundamental objectives of policy to which it is sought to give effect in this Bill. These are the progressive removal of penal sanctions from our labour legislation, the better control of juvenile employment and apprenticeship contracts, and the better control of recruitment, and I will deal, if I may, one by one with those four major objectives.

The first, and to my mind the most important of these, is the progressive removal from our labour laws of penal sanctions. It is a question which has been under consideration by Government and the Labour Advisory Board ever since 1943, and we now feel, as explained by the hon. Attorney General a few moments ago, that the time has come to put such legislation in the Penal Code, where I am sure we shall all agree that it should properly belong. We have felt that the existence of such provisions in the labour laws has been inclined to result in Africans looking upon contracts with aversion rather than pride, and in considering a written contract of service more of an oppression than anything else, instead of, as it should have done, inculcating into African workers a respect for contracts as being a higher form of relationship than one simply based on custom.

On the other hand, we do not feel that the time has yet arrived when it would be reasonable to remove all the penal sanctions in the existing legislation. The general principle has therefore been adopted that penal sanctions should for the time being remain in the law where, by the act or omission of a servant, his employer is involved either in pecuniary loss or damage to his property. Generally speaking, with just the one exception to which my hon. and learned friend has just referred, which I do not need to discuss further, in all other cases it is

[Mr. Thornley] sought by this Bill to remove penal sanctions.

The penal sanctions existing in the present law are set out in sections 58 and 59 of the main Ordinance, and it will be immediately apparent to hon. members that the more serious offences, and those which do involve the employer in loss or damage to his property, are those set out in section 59 of the main Ordinance, and those it is proposed to retain in the law. In consequence, it is proposed that section 59 of the main Ordinance should now disappear from the law. The only amendment which it is proposed to make to section 59 is to bring sub-section (e) of that section into line with the new definition of "desertion" in clause 3 of the Bill, confining that offence to desertion in circumstances involving the employer in pecuniary loss.

I turn now to the second major objective, that of better control of juvenile employment. The present law on this subject is contained in Ordinance No. 16 of 1939, but hon. members will be aware that this Ordinance has never actually been brought into effect, firstly because of the advent of the war during that year and subsequently because, on further examination of the provisions of the law, certain of its provisions were found to be impracticable and certain others not very desirable. It was thought, for instance, that the provision that a juvenile should wear a disc was an undesirable feature of the Ordinance. It was thought, also, that it was not really reasonable to require that the parent or guardian of a juvenile should have to accompany the child to his district headquarters, and there give his consent to his going out to work; and, in fact, it was found in many cases to be impracticable of performance. It is, after all, I think, asking a great deal of a parent or guardian to require that he shall in many cases walk a great many miles with his son, simply to qualify the son for employment.

Clause 27 of this Bill seeks therefore to lay down very stringent safeguards concerning the movement of juveniles, while at the same time seeking to avoid these undesirable and sometimes impracticable provisions in the present law. I do not propose now to go into all details of the new sections 25 to 30 (e) for which provision is made in this clause of the

Bill. I would, however, invite attention to sub-clause (2) (a) on page 9 regarding section 30A. It states that an approved authority shall not grant his certificate in any case where the guardian is not prepared to grant permission for the juvenile to go out to work.

It is the intention of Government that administrative officers, certain approved African officers such as chiefs, and labour officers, shall be declared to be approved authorities for the purpose of this Ordinance. The idea is that the first two named—administrative officers and native officers—shall see to it that the circumstances of a child are such that it is right for a certificate to be issued, and the third mentioned, labour officers, will see to it that the interests of a child are properly looked after and studied at the site of his employment, and the labour officer as the approved authority will have authority under the law to cancel a certificate in any case in which he thinks that it would be in the interests of the child that he should do so.

I would also point out that under the new section 30B, the appeal from any action of an approved authority lies to the Provincial Commissioner. This is in line with the general principle that responsibility for operating the provisions of these sections should lie with the Provincial Administration, for they alone are in a position to see that the proper social structure of African life in the reserve shall be maintained.

I might, perhaps, mention here one illustration of the sort of thing that can happen if children are allowed to leave their reserves and go off without any sort of control in search of employment. Some time ago, a party of children came down to take up specific employment in the vicinity of Nairobi. Very soon after they got here they were found trotting around a golf course in search of work as caddies. That phase did not last very long, and the third and final phase, the most undesirable of all, was that these children became a nuisance on the streets of Nairobi and had to be returned to their reserves. I am sure that all hon. members will agree that we should have laws in this country which prevent that sort of thing happening. I am sure we shall agree also that nothing should be left undone which we can do to ensure that these youngsters shall be properly

[Mr. Thornley]

looked after when they first go out to work. It is, after all, the youngster of to-day who will be the adult worker of to-morrow, and we feel very strongly that we should do all we can right at the outset to give him some pride in the dignity of labour. We feel also that these provisions ought to inculcate in the youth of the country a respect for their elders in that it will be perfectly clear to them that they do not go forth in search of work without the permission of their elders being given. I feel that the sense of discipline which we hope that this will result in, will have nothing but a beneficial effect on the reserves.

I would now mention briefly the provisions set out in clauses 17 to 26, under which it is sought to regulate and control apprenticeship schemes. We believe that in two respects in particular these new sections are a great improvement on the present law. In the first place, it will be seen that provision exists for a deposit to be made on behalf of the apprentice with his employer. The employer will in this way have some security against a youth who is learning his trade at the expense of the employer, running away before he is trained and giving the benefit of his teaching to some other employer who had earlier taken no interest in him.

The second important change which we now seek to introduce in this Bill is to make it an offence if a new employer, once he has discovered that an employee was in fact under an apprenticeship scheme with another employer, continues to employ that apprentice. Obviously it will be quite wrong to expect the new employer necessarily to know that an employee of his was an apprentice, and the law makes it perfectly clear that he only commits an offence if he continues to employ the youth after he has discovered and has been informed that the lad was an apprentice.

I now turn to the fourth major objective which I mentioned, that of introducing a better form of control over recruitment. It is, I think, generally accepted that the present law dealing with this subject has been shown by experience to be inadequate and to have failed to prevent some pretty scandalous goings on by recruiters (Hear, hear.) This has been particularly noticeable in the Kavirondo district of the Nyanza Province. I am

told that Africans quite frequently are bribed to go to work for one employer and, having agreed to do so, have almost immediately been tempted by the greater needs of yet another employer, and consequently are given a higher bribe to desert the first and to go and work for the second.

Well, that we have felt is a shocking state of affairs, and one which should be remedied. Touting and all the evils that go with it has definitely been going on in the reserves, and one result of the sort of thing I have mentioned is that the costs of employers unquestionably go up. An employer has to meet certain costs for every employee recruited, and if a recruit goes off to somebody else, the employer has paid something for nothing, which means that his costs of production go up and the cost of living generally goes up. For these reasons we feel that there is urgent need to tighten up on this question of recruitment.

The purpose of clause 31 of this Bill is, therefore, to restrict recruiting to persons who can satisfy the hon. Labour Commissioner of their good credentials, and to tighten up very considerably the conditions under which they can do their work. Again I do not propose to discuss the details of all the new sub-sections (1), (2) and (3), but I think it will be immediately apparent to hon. members that they do in fact give to the Labour Commissioner much more effective means of controlling the activities of recruiters.

I do not think that I need deal at this stage with any other clauses in this Bill, but before I sit down I should like to make the point to hon. members that neither this Bill nor the other Bills which I hope will come before Council at this session are simply and solely the product of the fertile imagination of the hon. Labour Commissioner. It is certainly not so. These Bills have been considered at very great length and in detail by the Labour Advisory Board under the chairmanship of the hon. Attorney General, and I would like in mentioning that to state who are on that Advisory Board, because it is a very high powered board. It is a board which might almost be described as a select committee of this Council, with the addition of a number of public spirited men who have devoted a tremendous lot of time to a study of these labour matters. There are on this board, apart from the

[Mr. Thornley]

Attorney General, the Chief Native Commissioner, the Hon. Member for the Western Area, the hon. member Mr. Mathu, and the Hon. Member for Nairobi North—all members of this Council. Outside this Council are Mr. Billington, representing the Imperial Chemical Industries; Mr. Villiers Stuart, representing plantation interests; Major Dudgeon, mixed farming; Mr. Merritt, coffee farmers; Mr. Claridge, the oil companies, and also forming a necessary liaison with the Coast Labour Advisory Committee at Mombasa; Mr. Arjan Singh, representing Indian employers. In addition to this membership, the Labour Commissioner and his experts are invariably in attendance. I should have mentioned that Sir R. E. Robins, Member for Transport in the High Commission, is also a member of the Board.

I have gone into some detail over this because I do want to impress on members that this legislation is not brought forward without the most exhaustive and careful examination, not only of our needs here in Kenya but also of the ways and means which other countries have sought to solve the sort of problems that face us, and I would ask hon. members to bear that in mind when speaking on this and the other legislation. I recommend to hon. members that this Bill should be passed into law. It is my honest belief that we shall be placing on the statute book a piece of legislation conceived for the purpose of improving relations between employer and employee in this country and generally for the benefit of all concerned in the prosperous and harmonious development of this country.

MR. HYDE-CLARKE seconded.

MR. MATHU: Mr. Speaker, I am just going to make a few remarks on the Bill before Council and to welcome this measure. In doing so, I should like to make two or three observations.

The first one is to welcome the point made by the hon. Deputy Chief Secretary repeating what the hon. Attorney General said about bringing this labour legislation on a non-racial basis. We have just passed the second reading of the Penal Code (Amendment) Bill, and the hon. mover has pointed out that the penal sanctions now in the Employment of Ser-

vants Ordinance have been removed and placed in their proper place in the Penal Code. In that connexion I should like to remind the Council that it is not the bringing of these pieces of legislation on a non-racial basis that is the end and be all. It is really how these pieces of legislation are administered. The persons who commit the offences provided here in the Penal Code, which have been removed from the Employment of Servants Ordinance, ought to be punished whoever they are, but in actual practice it does seem to me that the African is hit harder than anybody else, and I should like to emphasize that aspect of it, to say it is not definitely the intention of the hon. mover or this Council that that should be the case and that the law should be administered justly, punishing all offenders of whatever race, creed or class. (Hear, hear.)

The second point I should like to raise is to refer to clause 39 of the Bill, where there are the remnants of the penal sanctions. I do not like paragraphs (4) (a) and (c) at all. I should have been pleased to have that part of it put in the Penal Code. I shall get a reply to that, I know, and the hon. mover does know that I have raised this point all along in committees, and that I have asked that my desire right through has been to make sure that no injustice is done by the interpretation of the phrase "aggravated circumstances". It is, I think, for me to suggest that an employer carries weight in giving evidence against an employee, rather than the reverse. I should like to be corrected there, but I should like to know how that phrase will be interpreted, even by a magistrate, when an employer comes and says "This employee has used abusive language about ten times". How to prove that I think is going to be the difficulty of an aggravated instance. I have not yet been satisfied that we will administer justice to our employees in interpreting that clause.

Regarding (4) (d), I think that it is really redundant, if we take into consideration what we have done in amending clause 3 of the Penal Code, and in the committee stage I shall move that it be deleted.

The final point is to refer to clause 22 of this Bill on the question of apprenticeship and the deposit that has to be made in order than an apprentice should con-

[Mr. Thornley] continue to work faithfully during the period of his training. I refer to the proposal that the deposit should be from Sh. 100 to Sh. 200 to be made by the father or guardian of the apprentice. I do not object to the principle of such a deposit, because I take it an apprentice is the same as a pupil in school, and pupils pay fees. I am not opposing the principle, it is a question of the amounts.

THE SPEAKER: That will be dealt with in committee. On the second reading of a Bill only principles are discussed, details will arise in committee.

MR. MATHU: I agree, sir. I was only pointing out that as I was not opposing the principle I would suggest that in committee those amounts might be reduced.

Those are the points I wanted to make, and before sitting down I would repeat what I said before, that the principle of bringing this legislation in on a non-racial basis is welcomed; and to emphasize that if the administration of the law is just we are going along the right road to bring about better relationships between employer and employed.

MR. HAVELOCK: Mr. Speaker, I welcome this Bill, but in doing so I should like to take the opportunity once again to get a little information from the Government side, and also to give notice of amendments which I wish to move at the committee stage. They are not very important ones.

The first will be on page 2, line 45, merely the insertion of "in Council" after "Governor", to tie up with section 4 of this Bill, which is section 2 (a) of the principal Ordinance. On section 2 (a) I should like to ask whether there is any idea in future of either raising or lowering the present amount which is described as the maximum monthly wage (I believe it is Sh. 100 at present), or whether Government is quite satisfied with the amount as it stands, and would it be possible for Government to give some idea of the maximum weekly and daily wages, the maximum amounts to be prescribed under this new section?

Turning to page 7, clause 23, of this Bill, referring to section 23 (b) of the principal Ordinance, I beg to give notice of moving an amendment in the committee stage after the word "of" in line 55,

inserting the words "entering into contracts of apprenticeship under the provisions of". I think that really makes the whole thing rather tidier and shows exactly what the Labour Commissioner is going to approve.

May I ask when the special registration cards—which are going to take the form of contracts, I understand, will be in use or will be ordered to be used by the hon. Labour Commissioner, because I feel that they should be coincidental with this Bill being put into force. I think the whole thing is tied up with the way this Bill is administered. I understand there is a card—I hope I am in order—which will take the form of a monthly contract which will not require the thumb-print of the employee. Perhaps the hon. Labour Commissioner or the hon. mover in his reply could give me an assurance that that card will be taken as a written contract in spite of its not having the thumb-print of the employee on it.

Turning to clause 10, I should like to see in sub-clause (3), instead of "Labour Commissioner", "Member, after consultation with the Labour Advisory Board". I am not pressing that point very strongly, but I should like the hon. mover in his reply to refer to it and give me his explanation.

Clause 15—this is merely asking for information—does the repeal of section (a) of the principal Ordinance mean that the period of leave is now to be included in the contract? It might read that way. I should like clarification.

Also referring to clause 23, I should like clarification of the word "classes" in line 56—"no specific numbers and classes of employee may enter into deeds for apprenticeship". I am not quite clear what is meant by classes in that particular instance.

Clause 26, section 25, of the principal Ordinance: I strongly support that. I think it is most important that when juveniles are properly apprenticed they should not be persuaded to leave that apprenticeship or to be taken on by other people, who realize that they are trying to take them away from proper apprenticeship. This was referred to by the hon. mover. I feel so strongly on this that I should like to see the punishment for it even stronger than it is, for second and subsequent cases. I do not know whether

[Mr. Havelock] it would be possible to make imprisonment the punishment without the option of a fine for second and subsequent cases.

Section 27 of the principal Ordinance, line 29, reads: "except under verbal contract of service". It seems that juveniles can only be employed on verbal contracts of service, but I would refer hon. members to clause 30b on page 9, line 57, where a recruiting authority may terminate or cancel any contract of service. It does give the impression that there might be other types of contract for juveniles other than verbal. I should like an explanation of that to be given.

On section 27 again, would the hon. Labour Commissioner or the hon. Deputy Chief Secretary consider making it obligatory for a juvenile to carry his certificate, or a letter from his approved employer, should he be out of his place of employment or outside his own home? In that way I think it would be very much easier to control the movements of juveniles who are not supposed to be in townships, or even in settled areas, if those who are supposed to be there have to carry some sort of identification. Then anyone without a form of identification can be collected and the situation inquired into, and probably sent back to his home. I feel very strongly on this and support the hon. mover very strongly on the question of better control of juveniles, and I think that this particular procedure might help.

Section 28 is to my mind a little queer, the matter of the authorized officer being able to disapprove any place of residence for which the employer pays no rent. I presume that does not apply to the homes of African employees who live in the reserves and come over the line of the reserve to an adjacent farm to work each day. I should like a reply on that. That happens very much in my district. People who are on monthly or six monthly contracts live in the native land unit across the border, and come to work on European farms daily, going back to their place of residence, their homes in fact, every evening.

Section 30: I should like to ask if the hon. mover is satisfied that those people who have been recruited by a private recruiter — not a professional — are covered by workmen's insurance whilst

travelling from the place of recruitment to the farm or place where they are to work. In many cases, especially in respect of planters, the kind of recruiter who is sent into the native land units to recruit labour is incapable of signing the contract for that labour. In fact, the contract is not signed until the labour arrives actually on the farm. Are these men covered by workmen's compensation during the period of travelling from the reserve to the place where they are going to work? I should like the hon. mover to give me some information on that.

Clause 33. There has been dissatisfaction with the working of the old Ordinance as regards desertions and people being arrested for desertion and action taken under reports of desertion. Under the second, I would suggest that Government might table each year or each half year the number of complaints entered under this clause and the number of actions taken. I think it would go a long way to satisfy members on this side of Council.

Clause 45: I am asking for information here again. I should be grateful to be told the maximum number of employees to be prescribed over which labour officers or labour supervisors will be necessary.

I know that the hon. mover and the hon. Labour Commissioner have had a great deal of work and worry over this particular Bill and it is always the case, I think, in Kenya, that any labour legislation is extremely tricky and it is very difficult to satisfy everybody. I would suggest, for their consideration, that possibly a précis in simplified form of the objects and reasons of this Bill be given wide publicity. I feel that there are certain elements in this country who might take one or two clauses from this Bill and make quite a lot of it and cause discontent—I am not talking of any particular class of people. The same might apply to the employer or the employee class, with certain clauses of this Bill. I would suggest that if the public is given a simplified picture of the whole, there can be no complaint, because there is no doubt it is a very fair Bill.

Before sitting down I would refer to the remarks of the hon. mover, and I support him entirely, on the better control of juveniles, on the better control of recruitment, and I also support him on the progressive removal of penal sanctions.

[Mr. Havelock] on both employees and employers. (Hear, hear.) May I also take this opportunity to express my gratitude and appreciation of the fair-mindedness that has been so obvious, the painstaking work put into this very tricky bit of legislation, and to congratulate the hon. mover and the hon. Labour Commissioner on what I think is a very fair Bill. (Applause.)

MR. VASEY: Mr. Speaker, in welcoming this Bill I feel that there are one or two matters on which I personally must sound as it were a warning note.

I would refer particularly to clause 4 of the amending Bill which introduces the new section 2 (a) into the principal Ordinance. This introduces a principle about which there may well be some grave doubt in the future. It introduces the principle that the Governor in Council may, by notice in the Gazette, prescribe a maximum monthly, weekly or daily wage for the purpose of the application of this Ordinance. Now, sir, it is quite possible that that principle may have existed unnoticed somewhere in some labour legislation, but to introduce it into an Ordinance of this kind, just prior to the possible introduction of another Bill to make provision for the fixing of wages and general conditions of employment, might well lead to members on this side of Council being accused of having accepted in advance the provisions and principles of the subsequent Bill, and I would say very definitely that that is a principle which I personally could never agree to being carried to any extent into the legislation of this country.

The prescription of wages is one which may well have a far reaching economic effect at any time upon an industry or upon the economy of the country as a whole. I am, of course, fully aware that it is open for any member to move a motion in this Council making a protest against the maximum award having been fixed, but I would suggest that it would be found in future, though perhaps not always so, a pleasant method perhaps—sometimes a more uncomfortable method—but I suggest that in the long run it would be found a more satisfactory method that orders prescribing maximum awards should be laid on the table of this Council under the rule-making provision.

MR. FOSTER SUTTON: On a point of order, is the hon. member in order? This

clause that he is discussing has nothing whatever to do with the fixing of a maximum award: it is merely fixing, by using the footnote of wages, the people to whom the legislation shall apply. It has nothing to do with the fixing of basic minimum or maximum awards.

MR. VASEY: I would respectfully point out that the clause reads: "The Governor may, by notice in the Gazette, prescribe a maximum monthly, weekly or daily wage for the purposes of the application of this Ordinance".

MR. FOSTER SUTTON: Yes, that is exactly what it does.

MR. VASEY: I am pointing out that it does include the principle that the Governor in Council may prescribe the wage, and I would respectfully ask you, sir, whether it is possible to make any other interpretation of that particular sentence? (MR. FOSTER SUTTON: Yes.)

THE SPEAKER: The interpretation given now is that this fixes certain amounts, by the month, day or week, below which the Ordinance will operate. In the case of anything above that the Ordinance does not operate. Let us say it is fixed at Sh. 200 a month, everything below Sh. 200 will come under the Ordinance.

MR. FOSTER SUTTON: The only principle there is not to fix the wages of any particular person, but to fix the rate for the operation of the Ordinance as a whole.

MR. VASEY: That, if I may say so, was the point I was trying to arrive at: that the prescription of a maximum monthly, weekly or daily wage for the purpose of the application of this Ordinance by the Governor in Council may well set the level of wages, and that the Governor in Council may exclude any person or class of persons from the operation of the Ordinance.

Again, I contend that that is a power which it is undesirable the executive should exercise without the rules being laid on the table of this Legislative Council. I feel that we are passing through a stage in our constitution where the difficulties of administration being fully recognized, it is the duty of this Legislative Council to make the administration easy; but it is, I contend, also

[Mr. Vasey] the duty of this Legislative Council to see that the policy and the shaping of the policy remains as far as possible in the hands of this Legislative Council. I would therefore utter a caveat, a personal caveat, that in this regard while one accepts it in this Ordinance, one does not of necessity accept it as a principle to be of any general application.

One other point, and this was the point raised by the hon. member representing African Interests, Mr. Mathu, it is a general world wish that there should be a better relationship, wherever possible—or should I say a good relationship wherever possible—between the employer and the employee, between the employee and employer; but that good relationship must be based on a twofold understanding. It must be based on the employer side on the recognition of his duty to provide the greatest possible remuneration and the best possible conditions to his employee, in conformity with the economy of his business. It must, on the other hand, also be based in the case of the employee on a full understanding that there are rules of discipline and effort which must apply. Where the basic employee has reached a developed stage, as in many industrial countries in Europe, then precautions and safeguards which are necessary in such countries as this, where the employee has not reached such a developed and disciplined stage, are unnecessary.

It would, I think, be doing a grave disservice to the economy of the country and the final relationship between employee and employer if there were to be any belief that this is other than a progressive step and that it cannot be undertaken at this stage, I suggest, either by the Administration or by the majority of members on this side of the Council, that there can be a complete removal of these disciplinary measures which are necessary during the time when the individual employee is progressing towards a sense of disciplined responsibility and effort.

In clause 39, to which the hon. member Mr. Mathu seemed to take exception, if we read paragraph (b) it says: "(3) Where an employee is summarily dismissed for lawful cause, other than for gross misconduct, he shall be paid"—the positive "shall"—"on dismissal, his

wages up to and including the date of dismissal. (4) For the purposes of subsection (3) of this section gross misconduct shall include an aggravated instance of any one of the following acts by an employee:— These are merely the causes for which the employer may withhold wages, and I would suggest that to eliminate at this stage in the development of the working population, and particularly the African working population, safeguards of that kind would be going too far along the progressive road and might, indeed, lead to a worsening of the relationship between employer and employee. I would say personally that I should oppose any amendment to eliminate clause 39 (b) (4) (c) as a reason why the employer should not pay wages compulsorily. If the employee feels that he has been unjustly treated he has, after all, recourse to the labour officer, to the Labour Commissioner, and to the courts, to compel the employer to prove that his dismissal was other than lawful.

The reason I have made these remarks on clause 39 is that it is imperative that we should work together well. That working well can, in my opinion, be better achieved by our being frank and honest with each other at this stage. There are few of us, certainly in the European Elected Members Organization, who are not prepared to go completely step by step along the lines of wiping out anything difficult and awkward in the labour legislation of this country; but in each step and at each stage we must see that the reaction has been one that leads us to accept the next step, and such that without that reaction we shall naturally be hesitant to go too fast and too far.

I beg to support. (Applause.)

Council adjourned at 11.05 a.m. and resumed at 11.25 a.m.

MR. FOSTER SUTTON: Sir, I am sorry that the Hon. Member for Nairobi North is not in his seat because I was going to say that, speaking of red herrings, I have never seen so many so successfully drawn across the trail (laughter), and, if I may so say, so persistently. As I pointed out when I rose to a point of order, I might explain that that particular clause has absolutely no bearing on the point that was made by the hon. member, in my respectful submission, and the hon. member, I see, is now in his seat. I really rose to refer to the point made by the

[Mr. Foster Sutton]
hon. member—Mr. Mathu on clause 39 which seeks to amend section 60. I think that the mere fact that the hon. member said what he did indicates that it is susceptible of misrepresentation, and I welcome the opportunity of being able to explain what we are trying to do.

As he is fully aware, the object is to remove these as penal sanctions, and in my respectful opinion what we have done here is merely restating the ordinary law, and it operates, I think—and my opinion is shared by the hon. Chief Native Commissioner and the hon. Labour Commissioner—in a very great measure as a protection to the worker, and that is what is intended. Unless you have this clearly set out and tied down, it would be possible for an employer to deprive an employee of his wages, so what we have tried to do is to set out the circumstances under which wages may be withheld. All of those circumstances would constitute normal gross misbehaviour, I think you will agree, and would in fact abrogate the contract so we are merely restating the law as it is. If a worker committed any of these acts I think all would agree that there is substantial grounds for saying that some punishment should be inflicted. Without this, the only remedy of the employer would be to take the man to court and prosecute him for a criminal offence.

I do venture to submit for the hon. member's consideration that it is far safer to put in here what constitutes gross misconduct rather than leave it to an employer to suit his will. The clause starts off: "For the purposes of subsection (3) of this section gross misconduct shall include an aggravated instance of any one of the following acts:—". I would emphasize "aggravated instance", and it will only be when it is an aggravated instance that an employer will be justified in withholding wages. The hon. member was rather troubled, and I am sure he was sincere in his mistrust of the clause, because he said that normally speaking an employer's word would probably be more likely to be accepted by a court than that of an employee. It would be for a court to say whether a particular thing is an aggravated instance, and that will depend on the facts. Unless a man is prepared to go into the witness box and commit perjury, which you can

never provide against by any legislation, the court will have all the facts before it and be in a position not to be swayed by the mere word of the employer but to judge by the facts if it is a case falling within this clause.

I have none of the fears expressed by the hon. member. I do not think that the average decent employer is likely to go into the witness box and state on his oath things as facts which never took place. I should be very sorry to see this cut out of the Bill because I am quite confident the provisions will operate properly. They were put in because we felt they were necessary. I know there are people with other opinions, but they will operate as a protection to the man and are unlikely to operate against him. It merely clarifies the position.

MR. HYDE-CLARKE: Mr. Speaker, I should like first of all to express appreciation of the acceptance in general by the Hon. Member for Kiambu of the provisions of this extremely important Bill. I want to accept his personal reference and to say that I am most grateful to him for those words and for the way in which he and his colleagues have dealt with this extremely difficult matter. But, in saying so, I should like to join in that expression of appreciation both the hon. Chief Native Commissioner, who has worked on this matter for some two or three years, and the hon. Attorney General, who both as chairman of the Labour Advisory Board and as legal adviser to the Crown made it possible to bring this Bill forward at the present stage.

I will now get on with the actual details. My task is to deal with some of the points raised in debate; I will not deal with any point which requires acceptance by Government, because that is a matter for the hon. mover in his reply. If I omit these points, it will be understood that they will be covered by the hon. Deputy Chief Secretary.

The first point that the Hon. Member for Kiambu raised was regarding the ceiling of the amounts to which this Ordinance will apply under new section 2A. The present amounts are Sh. 100 a month, except in the case of foreign contract service, where it is Sh. 500. I have no present intention of recommending to the Labour Advisory Board or to this Council that there should be any

[Mr. Hyde-Clarke]
change, except with one possibility, and that only after consultation, that we might raise the present limit of Sh. 100 in the case of artisans, but that depends on the degree of skill they have, and will not be done without full consultation with the Board. The present figures are Sh. 100 for employment in the Colony, Sh. 500 for employment on foreign contract service, and there is no intention at present of making any alteration. (MR. HAVELOCK: Rations?) Including rations?

The next point raised by the Hon. Member for Kiambu was the question of the form of contracts and postcard returns. What we are doing in this matter is to provide a more convenient form for written contracts and reducing the amount of work at present imposed on employers in submitting labour postcard returns. We have had a sub-committee of the Labour Advisory Board on this matter, with a very strong unofficial majority, and their recommendations will be provided for if this Bill is accepted.

Briefly, the scheme will be this. As regards verbal contracts, which is any contract for a period under a month, which you recognize by the ordinary postcard return, a duplicate of that return will be given to the employee, and will be recognized as a record of his contract. The original will be sent to the Labour Department as is done at the moment, and it will enable us to have a copy of the contract. As regards contracts of longer than a month, the same general procedure will apply, but because we are working towards improved conditions for employees and, from the point of view of the employer, a more stable labour force, we have arranged for that type of postcard to be printed in a different colour. It will provide for written contracts for any period up to the maximum legal limits for contracts, which varies from two or three years according to circumstances. Up to six months it will rank as a written contract, when the employee has put his thumb mark on it and it is witnessed by a headman or whoever it may be. Contracts of over six months by law require attestation by a magistrate and medical examination. Where a man is recruited to work at a place far away from his home for a period in excess of six months he also will require

to have his contract attested unless his case is covered by the exemptions to the recruitment provisions. I think most people know you can recruit in an adjacent district without attestation. That is a little difficult to explain, and if there is any further information needed I will ask the hon. Deputy Chief Secretary to give it. It does simplify the present procedure. It does mean that contracts of a month and under remain as at present without thumb marks or any material change in the present position, it makes it easier for employers to enter into long range contracts that may stand for a year or more, ensuring more stable and contented labour on the one hand and without going through all the other paraphernalia to achieve this on the other.

The next point raised was on the question of clause 10 of the Bill. The additional provision is this. It says briefly that you may not take an employee outside the boundaries of this Colony without a foreign contract of service. The exception to that is a domestic servant or any other class prescribed by, at the moment, the Governor in Council, and I would make no resistance whatever to the suggestion that the person who may prescribe the class to serve outside Kenya without foreign contracts shall be the Member after consultation with the Labour Advisory Board, but I do not see a case for it. As an example, servants in the East African Railways and Harbours, other than domestic servants, are not supposed to go out of the Colony without a foreign contract of service, but it would be quite ridiculous to impose that. If it is the wish of hon. members that these relaxations should be in the hands of the Member after consultation with the Board, I shall be quite happy, but it seems to me more rapid progress will be made if that discretion can be left to the Labour Commissioner.

The next point was with regard to the deletion of section 16A of the principal Ordinance. If you look at the section you will find that it refers to the provisions of section 8A of the Native Registration Ordinance, which has since been repealed; therefore you cannot leave in a section referring to something which no longer exists. It is really a consequential amendment upon the repeal of the other Ordinance.

(Mr. Foster Sutton)
hon. member Mr. Mathu on clause 39 which seeks to amend section 60. I think that the mere fact that the hon. member said what he did indicates that it is susceptible of misrepresentation, and I welcome the opportunity of being able to explain what we are trying to do.

As he is fully aware, the object is to remove these as penal sanctions, and in my respectful opinion what we have done here is merely restating the ordinary law, and it operates, I think—and my opinion is shared by the hon. Chief Native Commissioner and the hon. Labour Commissioner—in a very great measure as a protection to the worker, and that is what is intended. Unless you have this clearly set out and tied down, it would be possible for an employer to deprive an employee of his wages, so what we have tried to do is to set out the circumstances under which wages may be withheld. All of those circumstances would constitute normal gross misbehaviour, I think you will agree, and would in fact abrogate the contract so we are merely restating the law as it is. If a worker committed any of these acts I think all would agree that there is substantial grounds for saying that some punishment should be inflicted. Without this, the only remedy of the employer would be to take the man to court and prosecute him for a criminal offence.

I do venture to submit for the hon. member's consideration that it is far safer to put in here what constitutes gross misconduct rather than leave it to an employer to suit his will. The clause starts off: "For the purposes of subsection (3) of this section gross misconduct shall include an aggravated instance of any one of the following acts:—" I would emphasize "aggravated instance", and it will only be when it is an aggravated instance that an employer will be justified in withholding wages. The hon. member was rather troubled, and I am sure he was sincere in his mistrust of the clause, because he said that normally speaking an employer's word would probably be more likely to be accepted by a court than that of an employee. It would be for a court to say whether a particular thing is an aggravated instance, and that will depend on the facts. Unless a man is prepared to go into the witness box and commit perjury, which you can

never provide against by any legislation, the court will have all the facts before it and be in a position not to be swayed by the mere word of the employer but to judge by the facts if it is a case falling within this clause.

I have none of the fears expressed by the hon. member. I do not think that the average decent employer is likely to go into the witness box and state on his oath things as facts which never took place. I should be very sorry to see this cut out of the Bill because I am quite confident the provisions will operate properly. They were put in because we felt they were necessary. I know there are people with other opinions, but they will operate as a protection to the man and are unlikely to operate against him. It merely clarifies the position.

MR. HYDE-CLARKE: Mr. Speaker, I should like first of all to express appreciation of the acceptance in general by the Hon. Member for Kiambu of the provisions of this extremely important Bill. I want to accept his personal reference and to say that I am most grateful to him for those words and for the way in which he and his colleagues have dealt with this extremely difficult matter. But, in saying so, I should like to join in that expression of appreciation both the hon. Chief Native Commissioner, who has worked on this matter for some two or three years, and the hon. Attorney General, who both as chairman of the Labour Advisory Board and as legal adviser to the Crown made it possible to bring this Bill forward at the present stage.

I will now get on with the actual details. My task is to deal with some of the points raised in debate; I will not deal with any point which requires acceptance by Government, because that is a matter for the hon. mover in his reply. If I omit these points, it will be understood that they will be covered by the hon. Deputy Chief Secretary.

The first point that the Hon. Member for Kiambu raised was regarding the ceiling of the amounts to which this Ordinance will apply under new section 2A. The present amounts are Sh. 100 a month, except in the case of foreign contract service, where it is Sh. 500. I have no present intention of recommending to the Labour Advisory Board or to this Council that there should be any

(Mr. Hyde-Clarke)
change, except with one possibility, and that only after consultation, that we might raise the present limit of Sh. 100 in the case of artisans, but that depends on the degree of skill they have, and will not be done without full consultation with the Board. The present figures are Sh. 100 for employment in the Colony, Sh. 500 for employment on foreign contract service, and there is no intention at present of making any alteration. (MR. HAVELOCK: Rations?) Including rations.

The next point raised by the Hon. Member for Kiambu was the question of the form of contracts and postcard returns. What we are doing in this matter is to provide a more convenient form for written contracts and reducing the amount of work at present imposed on employers in submitting labour postcard returns. We have had a sub-committee of the Labour Advisory Board on this matter, with a very strong unofficial majority, and their recommendations will be provided for if this Bill is accepted.

Briefly, the scheme will be this. As regards verbal contracts, which is any contract for a period under a month, which you recognize by the ordinary postcard return, a duplicate of that return will be given to the employee, and will be recognized as a record of his contract. The original will be sent to the Labour Department as is done at the moment, and it will enable us to have a copy of the contract. As regards contracts of longer than a month, the same general procedure will apply, but because we are working towards improved conditions for employees and, from the point of view of the employer, a more stable labour force, we have arranged for that type of postcard to be printed in a different colour. It will provide for written contracts for any period up to the maximum legal limits for contracts, which varies from two or three years according to circumstances. Up to six months it will rank as a written contract, when the employee has put his thumb mark on it and it is witnessed by a headman or whoever it may be. Contracts of over six months by law require attestation by a magistrate and medical examination. Where a man is recruited to work at a place far away from his home for a period in excess of six months he also will require

to have his contract attested unless his case is covered by the exemptions to the recruitment provisions. I think most people know you can recruit in an adjacent district without attestation. That is a little difficult to explain, and if there is any further information needed I will ask the hon. Deputy Chief Secretary to give it. It does simplify the present procedure. It does mean that contracts of a month and under remain as at present without thumb marks or any material change in the present position, it makes it easier for employers to enter into long range contracts that may stand for a year or more, ensuring more stable and contented labour on the one hand and without going through all the other paraphernalia to achieve this on the other.

The next point raised was on the question of clause 10 of the Bill. The additional provision is this. It says briefly that you may not take an employee outside the boundaries of this Colony without a foreign contract of service. The exception to that is a domestic servant or any other class prescribed by, at the moment, the Governor in Council, and I would make no resistance whatever to the suggestion that the person who may prescribe the class to serve outside Kenya without foreign contracts shall be the Member after consultation with the Labour Advisory Board, but I do not see a case for it. As an example, servants in the East African Railways and Harbours, other than domestic servants, are not supposed to go out of the Colony without a foreign contract of service, but it would be quite ridiculous to impose that. If it is the wish of hon. members that these relaxations should be in the hands of the Member after consultation with the Board, I shall be quite happy, but it seems to me more rapid progress will be made if that discretion can be left to the Labour Commissioner.

The next point was with regard to the deletion of section 16A of the principal Ordinance. If you look at the section you will find that it refers to the provisions of section 8A of the Native Registration Ordinance, which has since been repealed; therefore you cannot leave in a section referring to something which no longer exists. It is really a consequential amendment upon the repeal of the other Ordinance.

[Mr. Hyde-Clarke]

Clause 26, Here—I can only speak personally. I can see no objection whatever to the acceptance of the proposal of the Hon. Member for Kiambu that there should be a more stiff penalty in aggravated cases of an employer who has been told that he is employing an apprentice who is already in somebody else's employment and fails to discharge that apprentice, but I will leave that to the hon. Deputy Chief Secretary to discuss.

The next point was clause 27, the question of verbal contracts for juveniles. Juveniles may not enter into any but a verbal contract, and such contracts must not be for more than one month at a time to get over shorter periods of one week or a day or a stated number of days. The new clause does not widen the provisions of the law by giving powers to various officials to cancel a contract, they already have the power; it only relates to verbal contracts for a month or a lesser period. On the other point I find myself in some difficulty. I am not very happy about the suggestion that juveniles should be obliged to carry a certificate or a letter from their employer. I see no objection to that as an administrative practice to assist the authorities in the administration of this particular law, but as we propose to administer it at the moment it may be that it will be desirable for an employer to hold the certificate while the juvenile is in his employment. Perhaps we can examine this later at the Labour Advisory Board, but I do not want to be pressed to make legal provision that a juvenile when he leaves his actual place of employment should be forced to carry a certificate or letter. I think it is desirable that administratively he should be given a letter for the reasons I have given, because it would be much easier when finding him in a town to check up on him.

I would remind the Hon. Member for Kiambu that by other legislation at present in force the employment of juveniles in townships is controlled by a permit system, and I believe, having regard to both these factors, we shall be able to operate without imposing additional obligations. I hope the hon. member will not press that point, because I do not think it will work.

The next point was under clause 30, the question of the application of workmen's

compensation. The whole reason for the inclusion of this new sub-clause is to make it quite clear that, from the moment an African employee is diverted from whatever he was going to do by reason of becoming recruited, the employer is responsible for any injury which may occur to him. If you send a private recruiter to the reserve, the moment that recruiter has got the agreement of a boy to come and work for the employer he is in that employer's service, notwithstanding the fact that he has not yet been engaged or "signed" on, so from the point of view of the private recruiter the position is completely covered. The definition of employee in the Ordinance includes an engaged or recruited servant. A servant is recruited the moment he is diverted and starts towards the given place of employment, but that is not covered in the case of a professional recruiter. A professional recruiter, of whom you heard remarks with which I entirely agree, cannot tell where the probable recruits will be employed. There is the danger from the point of view of the employee that during that period between recruitment and engagement the lorry conveying him may overturn and he is injured, and this provision makes it clear that, unless that professional recruiter is actually engaged in recruiting for a particular employer, the professional recruiter is regarded as the employer and must get covered by insurance or carry the risk himself.

There is a further class which has given us a good deal of difficulty and of which the hon. Member for Kiambu is well aware, the question of the engagement of coffee-picking labour coming down from Reserves often in lorries owned and driven by Africans. That represented a good deal of difficulty, but I think we have overcome it. At a meeting held recently at Ruiru with representatives of the coffee industry and native authorities, it was agreed that in the coffee picking season any African driver who wanted to engage in the transport of daily paid labourers coming to and from work every day, or even three-monthly labour engaged for the season, should obtain a letter from the employer who was going to employ him first; he should then go to the local Production Sub-Committee, who would be able to organize the whole movement, and then

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to the District Commissioner of the area concerned to get a temporary licence under a relaxation of the transport licensing provisions. The condition on which that licence would be issued by the District Commissioner would be that from the time a lorry leaves the reserve, it must be known to which farm that lorry load is going. By that means we think—I am not guaranteeing it—we have tied up the question of injuries occurring to Africans employed on coffee picking on their way to or from their homes.

The next point is clause 45. This provision has been copied from Uganda where the law is that any employer who has more than five hundred employees is required to have a labour manager. I discussed this with the people who were likely to be most concerned, that is Government departments, the Railway, and the tea planters. The tea planters, of course, already have their welfare officers and labour managers and are perfectly happy about it. It does not necessarily mean that you should employ an extra body as it were, but that you should designate one of your bodies as labour manager, so that it is perfectly clear to the Labour Department or to the worker to whom others may resort where there are difficulties arising out of the nature of the employment or contract. The figure I have in mind at the moment is five hundred. I do not think that is going to create much alarm or despondency because, outside the Government and the Services, there are only about fifteen employers who have a greater number of employees than five hundred.

I entirely agree that this Ordinance, and indeed most other Ordinances affecting labour, should have the widest possible publicity, and I will make it my business to see that this is given publicity, and in both instances I shall call upon the hon. Member for Kiambu to assist me, if I may, to ensure that the consumer end of it, so to speak, is tied up with what we think should be done from our end.

I think I have dealt with the points raised by the hon. Member for Kiambu, with one exception which I did not notice. That is the question of the new section 31, clause 28 of the Bill, which

deals with the responsibility for housing. This has always been a headache with us, and this new amendment is, I believe, going to be much more workable than the previous one. The law as it stands at the moment says: "The employer shall at all times at his own expense either provide proper housing accommodation at the place of employment, or pay the rental of proper housing accommodation". That has given rise to a lot of difficulties and, to be quite blunt, we cannot operate it. The Government, as with most other people, are in default in Nairobi itself, as you will realize from the speech of the hon. Attorney General, in an earlier debate in this Council. What we have done in this new clause is to say that the "employer shall at all times, at his own expense, provide reasonable housing accommodation for his employees at or near to the place of employment or shall pay to the employee such sufficient sum, as rental, in addition to his wages, as will enable such employee to obtain reasonable accommodation". The word "reasonable" is quite important there, because it might be reasonable for office boys to be housed in a room with three or four others, but if an employee does not like that and wants a better or a bigger room, there is no reason why he should not himself pay the difference.

The question of disapproval by an authorized officer, which is the real point raised by the hon. member, arises in this fashion. It is quite all right in most cases, particularly in the case of reserves bounding upon farms, to take no action whatever about approving or disapproving a man's own home, but there are cases in townships bounding on a reserve where—to give examples, Kisumu and Nyeri—you do not want to be faced with the position of a large slum-like growth on the periphery of the township which you cannot otherwise control, and we have tied this particular proviso up with any order which may be made under the Minimum Wages Ordinance for that particular purpose. We do not intend to operate it obviously in connexion with daily labour coming across the Reserve to a farm daily, but it would be foolish to allow towns to grow up, as they have in South Africa on the periphery of Johannesburg and Pretoria, into slum-like growths which you cannot control.

[Mr. Hyde-Clarke]

This will give us a measure of control. If this system does not work we will try and look for another one, but that is the reason for allowing an authorized officer to disapprove of a house.

That, I think, deals with the points made by the hon. Member for Kiambu. I am going to ask my hon. friend the Deputy Chief Secretary to deal with the matters of principle which Government will or will not accept.

I beg to support.

MR. THORNLEY: Mr. Speaker, I should like first of all to join with my hon. friend the Labour Commissioner in expressing appreciation, very warm appreciation, at the reception which has been given to this Bill by my hon. friends opposite who have spoken and on behalf of those for whom they spoke. It has meant a very great deal of detailed work, not only by my hon. friend the Labour Commissioner, but also by the draftsman in the Legal Department, and I think they know how grateful I am to them for the work they have put into it.

There are one or two—not very many points—which have been made to which replies are still outstanding. Most of the points made by the hon. Member for African Interests have been dealt with either by the hon. Attorney General or by the hon. Labour Commissioner, but regarding clause 22 he did make a point about the amounts set out for these deposits. If I understood him aright, I think he felt that amounts as high as that might in certain cases debar otherwise admirable apprentices from entering into apprenticeship arrangements, and I will gladly accept at the committee stage a small amendment to the new section 23A (1) which will allow in exceptional cases, so long as the Labour Commissioner is himself satisfied on the point, either the amount of the deposit to be reduced or dispensed with.

I am very grateful for the remarks which were made by the hon. Member for Kiambu, and for some of the helpful and co-operative suggestions which he made. Those in detail were, firstly, an amendment suggested in line 45 on page 2 to the effect that the Governor in Council shall be substituted for Gov-

ernor. I shall be perfectly ready to accept an amendment in those terms in the committee stage. Another suggestion of his referred to clause 23, and I will be ready in the committee stage to accept also the amendment which he will put forward to make it perfectly clear that this section refers to apprenticeship agreements. My hon. friend the Labour Commissioner has commented on the suggestion that in sub-section (b) in the new clause 10 the words: "Member, after consultation with the Labour Advisory Board" should be substituted for "Labour Commissioner". I hope that my hon. friend will not press that one, but I would certainly, if he wished to do so, consider it in the committee stage. I do agree, however, with my hon. friend that it would be better to let the section stand as it is drafted.

Another point related to clause 26 and the new section 25. The hon. member felt that a more severe penalty might be included in the law, particularly in the case of second or subsequent offences. Well, under the law as it now stands the penalty for which such an employer would be liable would be a fine of £30 or three months imprisonment in default. I think it is not a bad maximum, and I feel myself that at any rate until we see how this new Bill works we might really leave it at that. But there again, if my hon. friend would like to press in committee for, say, a further penalty in the case of a second or subsequent offence of a fine up to £100 and in default six months imprisonment, then I would be prepared to accept it. But, as I said, I feel that for the time being it might be as well to let it stand at the maximum of £30 fine or three months imprisonment in default.

As regards the hon. member's comments on clause 33 on page 12 of the Bill, I will gladly accept his suggestion that statistics of the kind that he asks for shall be laid on the table of this Council at fairly regular intervals. At the moment the facts which the hon. member asked for are to be found in reports which are published from time to time by the Labour Commissioner, but I will see to it that these precise figures are extracted from those reports and laid on the table, as requested.

[Mr. Thornley]

I liked his suggestion very much, and I am grateful to him for it, that we should prepare a précis of these objects and reasons and publish them and broadcast them as widely as we possibly can. As already intimated, by hon. friend the Labour Commissioner will consult the hon. Member for Kiambu with a view to getting out a suitable statement for that purpose.

I think that that now covers all the points which have been made during the course of this debate, and it remains for me to make one further point.

I said quite a lot in moving the motion about the work which had been put into this measure and others by the Labour Advisory Board. I would like, before I sit down, to say how very much—and I am sure members of that Board would wish me to say it—they are going to miss their chairman the hon. Attorney General (Hear, hear.) His work as chairman has been one of those pieces of work which have already been referred to in this Council, but as it was one particular one which during the short time that I have been responsible for labour matters, has been of the very greatest assistance to me, I should like to add my own personal appreciation of it. (Applause.)

The question was put and carried.

CRIMINAL PROCEDURE CODE (AMENDMENT No. 2) BILL

SECOND READING

MR. FOSTER SUTTON: Mr. Speaker, I beg to move: That the Criminal Procedure Code (Amendment No. 2) Bill be read a second time.

All that I need say about this Bill is this, that it seeks to enable a person who commits an offence under section 304b, that is to say for damaging or for unlawfully removing detained aircraft, vessel or vehicle, to be arrested without a warrant, and seeks to enable a subordinate court of the first or second class to try offences created by that section. I think both of the provisions are necessary. If one had to get a warrant under such circumstances one might frequently find that the offender had disappeared before the warrant was available.

MR. RANKINE seconded.

The question was put and carried.

WORKMEN'S COMPENSATION BILL

SECOND READING

MR. HYDE-CLARKE: Mr. Speaker, I beg to move: That the Workmen's Compensation Bill be read a second time.

I am not going to take up the time of Council on this particular matter. I understand it is the wish of the Council that it should go to a select committee and I am very happy that that should be so. All I am going to do in speaking to this is to make just two main points.

The first is that this Bill is merely an extension of the Workmen's Compensation Ordinance which this Council enacted some two years ago. The need for it arises on the following grounds. We are trying more and more in the three East African territories to reach agreement over labour legislation, particularly in matters which I might call of a technical nature such as this, in which employers and commerce particularly are vitally interested, as for instance the insurance companies are over this particular measure. Uganda introduced an Ordinance just before we did based on the model East and West African Ordinance. We followed, and made certain extensions to the Uganda law because we thought they were insufficient in certain matters. Tanganyika is now going to follow Kenya, making again certain extensions to the Kenya Ordinance. At one time Tanganyika had in mind to follow the Southern Rhodesian Workmen's Compensation Ordinance, but in our view the Colony is not ready for that measure, which is extremely advanced and which deals with pensions and all sorts of complications for which, as I said, we do not feel ourselves ready. We have therefore, in consultation with the Labour Commissioners of the two other territories, drafted amendments to the Kenya Ordinance which is the basis of the new inter-territorial legislation, to meet certain difficulties which we have come across in the working of that Ordinance.

My hon. and learned friend the Attorney General had two alternative courses—either to publish the Bill making the necessary amendments to our original one, which are not very many; or to re-publish, for the sake of clarity, the entire Ordinance, with a view also to bringing it into line, section by section,

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with the Bill in Tanganyika. I must express my appreciation to him for adopting the second course, which makes the Bill absolutely clear and makes the position clear as a whole and not piecemeal.

It only remains to say that the new provisions of the Bill provide for medical aid, because it is a feature of any normal Workmen's Compensation Ordinance that the purpose is not only to compensate for the injury, but to endeavour to rehabilitate the workman, to make him a whole man as an economic unit. Therefore medical aid, which was provided for before in the existing Ordinance, but rather sketchily, is now provided for by a special part in the new Bill. It was not clear previously as to the length to which such aid should go. There was no clear limit to what liability the employer might find himself involved in and, at the request of the insurance companies, we have now set a limit of ninety-six months. To clear up uncertainties over medical treatment we have added a third schedule which brings into the Ordinance occupational diseases. The need for that, I think, is clear from the objects and reasons. Cases have occurred of arsenical poisoning arising from locust campaigns, and anthrax has arisen also in the veterinary service, and tanning poisoning.

The last point I want to make is this. After consultation with the insurance companies we have included at the beginning of this Bill a suspension clause and, in consultation with the Labour Commissioner of Tanganyika, we have agreed, subject to this Council agreeing and to Government's approval, not to bring this new Ordinance into force until the 1st January, 1949. We shall operate under the existing Ordinance for the next six months. That will give time to the insurance companies to work out the new premia, which will not be very different, and to advise their present clients what new liabilities are to be shouldered.

I do not propose to take up any more time.

MR. FOSTER SUTTON seconded.

MR. NICOL: Mr. Speaker, I do not think there is anybody who would oppose a Bill of this nature, but we have been

having a considerable rush of labour legislation which is very complicated, and people have not had very much time to study all the implications, Chambers of Commerce particularly have not had the opportunity, or a sufficiency of time, to study this new Bill. For that reason I am very glad to hear that the Government are prepared to allow it to go to select committee, because I was going to ask for that course to be taken in any case. I would ask that ample time be given to the Chambers of Commerce to prepare any comments or remarks or suggestions that they may wish to put forward, and I would ask that considerable publicity be given to the fact that the select committee is sitting and when it is going to sit, so that people from outside Nairobi can come to the capital for the purpose of giving evidence.

I must say I am extremely glad to hear that in connexion with this measure, like other measures, the adjoining territories are working in together, but I was not quite certain what the hon. mover said in regard to the Bill that Tanganyika are bringing in. Are they bringing in the extensions to the Ordinance under which we are operating at the moment, or will it be extensions to this Ordinance?

MR. HYDE-CLARKE: Exactly the same as this.

MR. NICOL: Thank you. Well in that case I have nothing further to say. I support this.

MR. FOSTER SUTTON: Sir, one small point. Under the original Ordinance we left out all the provisions regarding compensation in so far as the mining industry was concerned, chiefly because they were slightly more favourable to the workman than the workmen's compensation legislation. Now it can be said that this, if anything, is certainly more favourable because it includes occupational diseases and more generous provision regarding medical treatment. Because of that we have sought in clause 45 to repeal that section of the Mining Ordinance which deals with workmen's compensation. The mining industry have agreed to it, but some may not realize that it is included in this Bill.

MR. MATHU: Mr. Speaker, there is just one point I should like to bring before Council in regard to clauses 13 and 14,

[Mr. Mathu]

where requirements to give notice of an accident and the methods of application are provided for, requiring an employer to report when an injury has been caused to a workman. Publicity also requires to be given to the African workers and African trade unions, because cases have come to my knowledge in the operation of the present Ordinance where the workers did not know anything existed of this nature where they could apply for compensation when injured in employment. That is an omission which I should like to suggest should be covered so that workers could know, if they happen to be injured in employment, that there is provision in the laws of the country where they can claim compensation if employers and others report such incidents to the proper quarters.

I beg to support.

MR. HYDE-CLARKE: Mr. Speaker, there are three very short points, but I am most grateful for the general reception accorded to this measure.

With regard to the remarks of the hon. Member for Mombasa, I should just like to add one point. It should go on record that the Bill now before Council is clause for clause and word for word the same as that contemplated in Tanganyika. One cannot have an exact similarity because that is a mandated territory and we are a colony and protectorate, and some of the work to be done by labour officers in this territory will be done by other officers in the other. But, as far as possible, we have kept in line. I should like to reiterate in answer to the hon. Member for Mombasa, that we have worked hand in hand with the insurance companies for the last six months in preparing this new Bill. Many of the points they asked for have been included, so that I feel that commerce has not been neglected merely by reason of the shortness of the time in which commerce as a whole has been given to study it. But we are to deal with it by way of select committee.

In regard to the hon. Member Mr. Mathu, I would make two remarks. We had a communicate ready, both in English and Swahili, for publication and broadcast of the provisions of the existing Ordinance. I was in two minds

whether to issue it straight away or to hold it up until January. My own view is to proceed straight away with the communiques we have ready under the existing Ordinance. I am sorry to hear difficulties have arisen in regard to Africans on the question of serving of notices. Clause 29 follows exactly section 30 of the old Ordinance which, in respect of all employees earning less than Sh. 100 a month, gave full powers to the Labour Commissioner or any person authorized by him to take all action, including the serving of notices upon the employer on behalf of such workmen. (MR. FOSTER SUTTON: If he knows.) The very fact that something like 1,200 claims occurred last year makes me think there is not the same amount of ignorance on the subject which might be thought to exist from those remarks. I am grateful again for the general measure of acceptance accorded this Bill.

The question was put and carried.

MR. HYDE-CLARKE: Mr. Speaker, I beg to move: That the Bill be referred to a select committee consisting of the hon. Attorney General (Chairman), the hon. Deputy Chief Secretary, myself, the hon. Members Messrs. Nicol, Blundell, Madan, and Chemallan.

MR. RANKINE seconded.

The question was put and carried.

HIDE AND SKIN TRADE (AMENDMENT) BILL

SECOND READING

MR. RANKINE: Mr. Speaker, I beg to move: That the Hide and Skin Trade (Amendment) Bill be read a second time.

As hon. members are aware, in March of this year a comprehensive measure was passed to regulate the trade in hides and skins. For this purpose, among other things, it was proposed to set up an advisory bureau. I will not take up the time of Council in going into the purposes of that bureau, because I believe they will be within their knowledge. But the establishment of this bureau was an integral part of a scheme to which the three territories had agreed in principle. In section 1 of the principal Ordinance it is provided that the Ordinance "shall come into force on such date as the Governor may, by notice in the

[Mr. Rankine] Gazette, appoint" The hon. Attorney General has advised that under that section the Ordinance can only be brought into force as a whole. Unfortunately, the Director of Veterinary Services who will be responsible for operating the Ordinance, and Dr. French, who will take charge of the advisory bureau, will not be in a position owing to lack of staff to operate Parts II and III of the Ordinance, but it is important to start levying a cess and to set up the advisory bureau as soon as possible. Therefore it is proposed to amend section 1 of the Ordinance and allow it to be brought into force at different dates for the different provisions of the Ordinance. That will enable a cess to be levied and the advisory bureau to be set up, but the other parts of the Ordinance will not be brought into effect until we have the staff to operate them properly. I may say in conclusion that it is the present intention to set up the bureau and start levying the cess with effect from 1st January, and we hope to bring the rest of the Ordinance into operation from about 1st July next.

MR. FOSTER SUTTON seconded.

The question was put and carried.

STOCK AND PRODUCE THEFT (LEVY OF FINES) (AMENDMENT) BILL

SECOND READING

MR. FOSTER SUTTON: Mr. Speaker, I beg to move: That the Stock and Produce Theft (Levy of Fines) (Amendment) Bill be read a second time.

I am sorry, but I have completely forgotten all about this Bill. (Laughter.) I will, however, read the "objects and reasons" in the memorandum to this Bill—I really find it impossible at times with the volume of work on one's plate to commit these things to memory! "Under the provisions of section 3 of the Stock and Produce Theft (Levy of Fines) Ordinance, 1933, provision is made whereby any fine imposed by a court under the provisions of that Ordinance, can be recovered by way of distress either against the property of the person fined or against the property of his family or tribe. In practice it has been found that when an attempt is made to

recover compensation or costs, as distinct from a fine, a distress for compensation and costs cannot be made on the property of the family or tribe, the person who has been ordered by a court to pay compensation or costs invariably denies ownership of any property capable of seizure and the court order therefore becomes ineffective."

What this Bill is really seeking to do is to include compensation and costs within the meaning of the word fine. At present, I am told by the Administration, that almost invariably people against whom these orders are made get out of paying anything at all. It happens frequently that the cattle stolen is slaughtered for meat, and this is an effort to make it possible to levy on the tribe or community in a case where the ownership is denied by the person who has really committed the offence. There has been a great deal of obstruction in these matters. There are tribes or communities who refuse to come forward and assist the authorities in giving evidence which will enable a case to be proved. This is an effort to tighten up the position and protect the persons whose property is stolen.

MR. RANKINE seconded.

MR. MATHU: Mr. Speaker, for the first time in this series of Bills I stand in opposition, and it is on the ground of principle, the ethical principle that whoever commits an offence that is the person who ought to be dealt with by the law. This Bill is an attempt to maintain the position where a person or group of persons who have committed an offence are punished by levying the fines on the whole community. It is a system of law which, in my own view, is most unjust and which should not be on our statute book. I entirely agree that the person who steals property or produce should be dealt with as severely as possible, but I put it to you, sir, that when one person steals two head of cattle or more and he bolts away across the Tanganyika border, and the Administration goes to his tribe and levies a fine on them for the stolen cattle, it is most unfair and unjust. On those grounds I would like to register my strong protest and opposition to the Bill which punishes people who do not commit the crime. I oppose the motion.

MR. BLUNDELL: Mr. Speaker, I rise to support this Bill warmly. In the Rift Valley recently there have been a tremendous number of stock thefts, and any measure which is likely to reduce this will be welcomed. I am particularly sorry the hon. Member for African Interests, Mr. Mathu, raised this point of ethics, because, while I am quite prepared to agree to the ethical principles in this particular case, I do feel that the rights of the individual have got to be impinged upon, because individually speaking he will not accept the duties of a citizen. You cannot have it both ways. If you wish to be treated as a proper citizen, then you must accept the responsibilities of a citizen and, sir, I am particularly glad to get up and say this because I hope I may be allowed to speak on behalf of those Africans whose stock is likely to be stolen and taken over into other land units, and who will be equally as affected as any European farmers in my own Province. (Hear, hear.) For those reasons I beg to support.

MR. WYN HARRIS: Mr. Speaker, I intend to be brief. I cannot agree with my hon. friend Mr. Mathu on this particular point. We have not in my opinion reached the stage where in many places we can possibly relieve the community of its responsibilities. This sort of thing is occurring within twenty miles of this town at the present time and it has nothing to do with European or African. It is the Masai and the Kikuyu. We have had any number of battles on that border recently, and we are having the greatest difficulty in bringing any offender whatsoever to book. It is absolutely essential that, if we do catch the Masai offenders, or the Kikuyu offenders on that particular boundary, we should be able to bring it home to the section of the tribe responsible, because I am absolutely satisfied in my own mind that the Masai, particularly in this case, know exactly who are the culprits and they are doing nothing about it. It would be quite impossible to administer the law unless we have some such power of putting responsibility on a community whom we have reason to believe knows who has committed these offences. I beg to support this Bill very warmly.

MR. FOSTER SUTTON: Mr. Speaker, I am very grateful to my hon. friend the Chief Native Commissioner for what he

said. The whole picture has now come back to me! (Laughter.)

I think that if we accepted the hon. Member Mr. Mathu's objection and withdrew the measure, it would really be doing considerable harm to his own community. Recently we have had, as the hon. Chief Native Commissioner has drawn attention, a large number of cattle thefts and they have been chiefly perpetrated by the Masai against the Kikuyu. Quite recently we have been very apprehensive of bloodshed, by reason of the fact that these raids have been so repeatedly made, and the Kikuyus on the Masai-Kikuyu border have got so annoyed about it that they have threatened to go in and commit what would be almost tantamount to acts of war against the Masai. The police are now investigating a very serious case of cattle theft committed, we know, by the Masai against the Kikuyu, and they are getting sick to death of it. Unless we can do something like this and insist upon compensation being paid, then the wretched person whose cattle has been stolen has absolutely no remedy at all.

I think I am at fault for not having, in moving the second reading, given a little more detail. At the moment you can levy a fine. Admittedly it amounts to the type of thing the hon. member has referred to, making a community pay for an individual's offence, but that is so now under the existing law. All we are doing here is to make the same law applicable to compensation, and that is the point—compensation and costs—so that the people who have had their cattle stolen can be compensated by the individual, if he can be found and his property can be found, or by his family, tribe or community.

Are we not really barking up the wrong tree when we object to extending the principle? The hon. member knows as well as I do that in most cases the cattle is owned by a tribe or a family, and sometimes by a whole community. Here it is commonly known as collective ownership, and what is the remedy for the person whose stock is stolen if the cattle is collectively owned. He has got no remedy at all. It must be made against the tribe, family or community. I readily agree with the hon. Member for African Interests that it is not desirable,

[Mr. Foster Sutton]

but so long as the system of collective ownership exists it seems to me it is absolutely essential for justice to be done in regard to people who suffer losses by these constant depredations by cattle thieves.

As the hon. Member for Rift Valley has said, the offence is occurring. I know of case after case where people have lost most valuable cattle. They take away blood stock and slaughter it, sometimes cattle worth several hundreds of guineas, and unless you bring in the power to levy distress for compensation, the people who have really perpetrated the offence, or who refuse to assist those persons seeking to enforce law and order and who go there to try and ascertain who the culprit is, so long as they continue to oppose and to obstruct, it seems to me they are only asking for it and they deserve this type of legislation. I agree with the hon. Member for Rift Valley that it is quite as much in the interests of the African as of other communities who carry on in the profession of farming.

The question was put and carried.

KING'S AFRICAN RIFLES (AMENDMENT No. 3) BILL

SECOND READING

MR. THORNLEY: Mr. Speaker, I beg to move: That the King's African Rifles (Amendment No. 3) Bill be read a second time.

The reasons for clause 2 of this Bill are clearly set out in paragraph 1 of the objects and reasons and, with regard to clause 3, the necessity for this new clause arises out of administrative difficulties which have to be contended with at the moment, owing to a much more closely timed recruiting campaign. I think I need only add to what is set out in the objects and reasons the information that clause 3 of this Bill will not apply to men serving on existing agreements at the present time, and I should like to make it clear that the General Officer Commanding-in-Chief has informed Government perfectly clearly that the provisions of this new clause will be very fully explained to new recruits.

MR. FOSTER SUTTON seconded.

The question was put and carried.

SPECIAL DISTRICTS (ADMINISTRATION) (AMENDMENT) BILL

SECOND READING

MR. WYN HARRIS: Mr. Speaker, I beg to move: That the Special Districts (Administration) (Amendment) Bill be read a second time.

The principal Ordinance which this Bill seeks to amend is an Ordinance which is applied to the more remote areas of this country, namely, to the Turkana District and the old Northern Frontier District, and it brings a little colour into a rather mundane meeting, I feel, when it says: "Where a blood feud or other cause of quarrel likely to lead to bloodshed exists . . ."

I will go through it clause by clause very briefly. The amendments have been made at the request of Mr. Reece when he was Provincial Commissioner, Northern Province, in order to make up for certain defects in the main Ordinance. The first one is the question of preventing the tribeswomen leaving the Northern Frontier. In increasing numbers, I regret to say, certain of the tribeswomen have been leaving the Northern Province for the purpose of prostitution down country. It is at the request of the tribesmen themselves that this amendment has been made.

With regard to the arbitral tribunal, an arbitral tribunal is a tribunal which is appointed at the present moment by the District Commissioner when he suspects that a blood feud is likely to take place, or when a blood feud has taken place and the two sections of the tribes have to be brought together in order to come to some decision regarding such blood feud. Under the present law it is necessary that an equal number of tribesmen from each section be appointed, and in consequence the arbitral tribunal usually goes on for two or three months and, for some extraordinary reason, the votes on either side are always exactly equal and they never come to a decision. In consequence it is proposed that the District Commissioner shall become the tribunal and that he should have assessors from the persons concerned in order that such tribunal can come to proper conclusions.

Clause 8 seeks to give powers of arrest to the police both of persons and of

[Mr. Wyn Harris]

cattle when they find persons committing offences with regard to grazing. Under the principal Ordinance the Provincial Commissioner is entitled to give certain instructions with regard to grazing areas and anybody breaking those instructions is guilty of an offence. At present the police have no powers of arrest. It is quite clear that, if you met a tribesman with let us say 200 camels 100 miles west of Wajir and you have to go back and get a summons, by the time you have returned to seize the camels and tribesman he is probably rather further away than nearer to Wajir. In consequence it has been the practice in the past for the police to arrest without warrant. This is to give legality to that action.

Finally, the last clause is merely to alter the law with regard to the mode and type of evidence that can be taken down at a tribunal. At present the Criminal Procedure Code has got to be followed, and obviously in such a tribunal some latitude must be given, and power is given under this Bill to ensure that evidence according to native law and custom can also be recorded.

MR. FOSTER SUTTON seconded.

The question was put and carried.

Council adjourned at 12.45 p.m. and resumed at 8.35 p.m.

TROUT BILL

SECOND READING

CAPT. RITCHIE: Mr. Speaker, I beg to move: That the Trout Bill be read a second time.

I do not think that hon. members will wish me to give any general dissertation on trout fishing in the Colony, or on the various factors that have now to be taken into consideration in legislating for trout fishing and the control of trout rivers. I would, however, like to make a few remarks in order to give a slight background as to reasons for this Bill.

In 1928 the Trout Protection Ordinance was passed by Government, and since then we have worked entirely on that Ordinance. During the last twenty years conditions with regard to trout, trout fishing and the rivers in which trout are found have altered to a terrific extent. In the first place—it is a small point, but it gives some idea of one change—the number of trout licences has trebled. During last year Government sold just

under 2,000 trout licences. That gives you some idea of the number of people who now enjoy this sport. A further change is that in 1928 the majority of trout fishermen were people who had some knowledge of fishing as a sport, and had some knowledge of the traditions of fishing. Well, to-day there are a number of people—I do not say that they are not potentially just as good fishermen—but people to whom fishing is something rather new and they have not the tradition which makes them realize that laws and regulations with regard to trout fishing are not necessarily just interference on the part of Government with a reasonable amusement, but that they are and do exist for a purpose.

You can divide the laws to regulate trout fishing into two parts: the first one to protect the trout, and the second one to protect the trout fishermen—to protect him, I may say, from himself and from making, or allowing him to degrade what is and must be a sport, and should be a sport and, if it is worth while at all, must remain a sport—degrade it into the mere killing of fish. A certain number of our present day fishermen regard trout fishing as merely the killing of fish, and they consider that the end, which is the killing of fish, justifies the means. That is one of the attitudes that any legislation dealing with trout fishing must obviously do all it can to stop. (Hear, hear.)

A further alteration in the conditions with regard to our trout rivers is that in the past very few of the folk in the vicinity of the majority of the fishable rivers were fish eaters. In the last twenty years that has altered almost entirely, and there are very few people in this Colony now who, if they can get fish will not eat it. I think we can all sympathize with that point of view, but it can readily be recognized that it is a very grave temptation with regard to poaching and also breaches of an Ordinance that says no fish may be sold, bartered or exchanged by people who live on the banks of rivers that hold fish.

Still another point that we have recognized in the last twenty years, which should certainly have been recognized when we brought out the old Ordinance, is the deterioration that takes place in the fishable conditions of rivers after a certain period. We believed that all we had to do in order to provide decent fish

[Capt. Ritchie] was, when we saw a beautiful virgin stream, to put fish in it and let nature do the rest. Unfortunately, nature in East Africa is not entirely kind to this imported fish, the trout, and while, if I may use such a metaphor, the virgin river over the honeymoon period proves up to every possible expectation, when it comes to settle down to a humdrum existence year in year out, it shows grave deterioration! And we have realized now that we must get more knowledge with regard to the causes of the deterioration and the means that we should take to combat it.

I think this Council is aware that my Department has recently been granted a freshwater biologist, and we are fortunate in having obtained the services of a very highly qualified officer. If, I hope, before long will be able to give us advice as to what we can do to our rivers to keep them in the form that they first show after being stocked. We have also the assistance of the Central Angling Advisory Board, advisory to the Member for Agriculture and Natural Resources, and, so to me and my department, and they are of great assistance, together with the special boards that they have instituted to advise them with regard to what measures are necessary in the various districts of the Colony.

I think those are the only points that, in general, I wish to make before dealing in detail with some of the points in the Bill. I think it necessary just to point out that we have realized in the last twenty years that the conservation of trout is a much more complex business than we thought, that it has grown in a way that one could never have imagined possible at the time the old Ordinance was brought in, and that it is now very necessary that this new Ordinance, which gives wider powers and includes greater assistance, should be introduced and, I hope, passed. I do not intend to deal with any points in detail other than those that are new, except where it is necessary to make possibly some comment with regard to an old provision which may appear in a new form, or on which we may consider taking more drastic action than we have in the past.

If I may deal with the points in the Bill as they appear. With regard to clause 4 (h), it may have occurred to hon.

members that there is a possible redundancy there, because in sub-clause (a) of that clause there is power vested in the Game Warden to declare water open. It is quite obvious that there is also power vested in the Game Warden to close the same water, whereas paragraph (b) of clause 4 makes it possible to declare a close season. These two actions are similar except for this one point; that, if a water is closed it is closed without any termination and, from the point of view of keeping the public informed as fully as possible, which I think we all agree is a reasonable thing to do if one knows that only a certain period of closure is necessary, it appears reasonable to declare a close season but suggest a termination to the period of closure.

In clause 4 (f) there is a new power asked for. It gives power to specify the number of persons fishing on any particular piece of water at any one time. That has not yet proved necessary, but I have very little doubt that before very long it will. As an example of the possible necessity for that before long, I may say that on one river, the Gura, there were forty-three people fishing on one afternoon at the same moment. In the interests of the fishermen themselves, quite apart from the interests of the fish—(laughter)—it is quite clear that we must prevent overcrowding; otherwise our beautiful Gura River will look something like the end of Brighton Pier when there is a fishing competition on, and that is not a thing we want in Kenya. (Hear, hear.)

With regard to paragraph (g) of clause 4, that is also a new power, a very necessary one. The Game Department has over the last few years erected a number of fishing camps for the use of fishermen. These have no legal sanction at all, they have no legal status whatever. Accordingly we have no right to prevent anybody going into those camps. They are put up with public money, and accordingly any member of the public can go in there and can stay there as long as he likes, and we have got no power legally to charge them even the very small fees we do at present charge for the use of our fishing camps. It is obviously wrong and we must have power to regulate this. If it had not been for the fact that most of them are in the very remotest areas, there is very little doubt

[Capt. Ritchie] in my mind that they would have been squatted in by houseless persons over the last period of shortage, and you would have had a certain number of what are called in other parts of the world, commuters, using them as permanent residences. This clause gives us powers so that we can see that these fishing camps are used by the people for whom they were erected and used so that everybody shall have a fair share of their use.

If I may pass on to clause 5 (c), the clause prohibiting the use of poison, explosives, any electrical device, and so on, this is new to the Trout Ordinance and comes from the Fish Protection Ordinance, but it is obviously necessary that it should be in the Trout Ordinance, so that competent persons who act under the Trout Ordinance can take action with regard to these illicit means of killing fish. Paragraph (e) of clause 5 is also new and is very necessary. It prevents people who feel inclined from moving fish about the Colony without taking the advice of the Fish Warden and my department. More especially is that necessary in view of the civil war, one might almost call it, that is perpetually waged in fishing circles between the brown and the rainbow adherents.

The first three sub-paragraphs (a), (b) and (c) of clause 6 are new. (a) is self-explanatory. (b), which prevents sabotage to notice boards, camps and what not, is made necessary by the regrettable tendency of a certain proportion of the inhabitants of Kenya to imagine that the destruction of notice-boards is really one of the fine manly sports. Indeed, it is almost as popular in some parts of the Colony as trout fishing itself! Sub-clause (c) is, I regret to say, extremely necessary. It prohibits the transfer or lending of a licence to any other person. We have unfortunately found recently a great tendency on the part of persons, especially persons who are not so easily identified possibly as others, to lend one's licence when one does not happen to be using it oneself. Doubtless the *quid pro quo* is a couple of fish at the end of the day, and it is a very reasonable thing, but naturally we want to do what we can to prevent it.

There is one point that makes it even more necessary to legislate on that score, and that is, if we skip for a moment and

go to clause 7 (3), the possibility of obtaining a duplicate licence for Sh. 2. If one has a yearly licence for Sh. 25 and can obtain a duplicate for Sh. 2 and it is not easy to identify the holder of the duplicate, it is quite easy to see that there is a very considerable possibility of an evasion of the licence fee which should be paid.

To pass to clause 7, the fees for licences, there are two points to mention there because they are new. In the first place, the yearly licence will now run for twelve months from the date of issue, instead of ending in December. That brings it into line with the Game Ordinance and is fair to all licensees. It appears to me to be very wrong to take out a licence somewhere in May and have to pay the same amount as if it had been taken out in January, and I think a licence to run for a year is only fair. The second point is that a forty-eight-hour licence has been substituted for a 24-hour licence, the reason being that a 24-hour licence does tend to invite a breach of the Trout Ordinance. If people are working hard and trout fishing is one of their relaxations, they get off to an early start on Saturday, get to the river by 3 o'clock or 4 o'clock, fish the whole evening, and they will want to fish until sundown on Sunday and then come back Sunday evening or very early Monday morning, and a 24-hour licence cuts out five or six hours that they want to fish. Very few people can be expected not to take out a 24-hour licence; and chance a few odd hours one way or another, and I consider that a 48-hour licence is much fairer both to the people themselves who will be fishing and the Game Department, which does not want to put temptation in their way with regard to breaches of the Ordinance where those breaches can be avoided. (Hear, hear.)

Clause 8 is a slight innovation. Whereas in the past honorary trout wardens have been appointed for life, we are now proposing to appoint them as under the Game Ordinance for five years, the reason being that honorary trout wardens, who do an enormous amount of voluntary work in the interests of the fishing community and the interests of my department, after a certain time may tend to get tired or for once, if possible allow their enthusiasm to wane; and I think it is an extremely good thing that

[Capt. Ritchie]—The list of honorary fish wardens, as it is proposed to call them, should be revised every five years so that those who wish to re-engage and whom we wish to re-engage can be re-appointed.

Clause 9 gives certain powers to allow clubs and associations to police their own waters. That, I think, is a perfectly logical provision, and I do not think it necessary to say any more about it.

Clause 10 is a very important one from the point of view of further control of our rivers, because it does give recognition to our fish scouts who, in the past, had no legal status whatever. Clause 10 (3) makes it obligatory on any person who may be requested to sign his name in the trout fishing book. We have had trout fishing books now for a great number of years, but there is no obligation on anybody fishing or believed to have fished to write in that book. The majority of fishermen are extremely good and have written their names and various details of the fish asked for. There have been a number of others who have either refused or have certainly not written what one expected or what one desired. One or two persons, indeed, have gone so far as to take the names of more famous persons—I can only believe in vain—somewhat on the lines of our friends at Port Said. We have had Mr. Lloyd George, Queen Anne, Rajah of Dong, and Jack the Giant Killer. Jack the Giant Killer, I remember well that entry—I thought he really could not have all the qualifications expected of a fisherman because his imagination ran out after signing his *nom de plume* or *flna la sanaki*, because he entered his basket as "Nil". (Laughter.)

In clause 12 is only one alteration from the old provision, in that it empowers "any competent authority or honorary fish warden" to seize the trout as well as the rod, tackle, net, bait or lure, etc., illegally used. In the past they were able to seize anything illegally used, but one thing they were not able to seize was the trout, and since the trout may be very much necessary with regard to evidence in certain offences, we have now inserted it. (Mr. FOSTER SUTTON: I hope the case comes on quickly!) With regard to that point, you will see in sub-clause (2), that any rod, tackle, bait, etc., "and where possible, any trout seized under the pro-

vision" (laughter) shall be taken before the court—"where possible" I think covers your point, sir.

In clause 13 competent authority, it will be noted, includes any game warden or fish scout provided they have been properly granted powers by me in writing.

Clause 17 is inserted to prevent me breaking the law when I tell people to do things that the law would not otherwise allow me. (Laughter.)

That, sir, is I think all the comments I feel are called for at the moment. If I might, without being out of order, digress for one moment, I should like to say that an hon. member on the opposite side this morning remarked that it was quite proper that this Bill be put off for the evening rise. (Laughter.) If I might for one moment continue the metaphor, I would remind hon. members that ephemerides are one of the most important elements in the evening rise, and if ever there was an ephemerid in this Council it is myself. (Laughter.) The fate of an ephemerid is to flit about, dally for a short period, and then be eaten up by the voracious trout or unobtrusively fade away into obscurity. It remains to be seen which fate will befall me. (Laughter.)

Mr. FOSTER SUTTON seconded.

Mr. COOKE: Mr. Speaker, I feel a certain amount of nostalgia, if I may continue the metaphor of my hon. friend, in rising now, because it is the hour in my own country of Ireland when the evening rise is taking place tonight!

It is very gratifying to us on this side of Council that my hon. friend has introduced this Bill. He is well known to all of us as the inspirer, and indeed, the architect of the national parks of this country, and he is only less well known as one who has devoted his time here to the promotion of fishing in Kenya Colony. (Hear, hear.) Whether my hon. friend is impelled entirely by altruistic motives in promoting fishing I do not know, because I know that he himself loves to stalk the wily trout in the pleasant waters of the Gura, and in the translucent waters of Malindi, armed only with a spring gun and a pair of goggles, to brave in their lairs those marine monsters which inhabit the coast! He has been a great friend of the wild

[Mr. Cooke]. life of this country and, therefore, as I say, it is a great pleasure to us on this side of Council that he should have introduced this measure. (Hear, hear.)

The hon. member referred to the necessity of such measures on account of the great traditions which have been handed down from Izaak Walton and others with regard to trout fishing, and although many of the provisions of the Bill may seem vexatious they are really, if I may again risk receiving a small reproof from the hon. member Mr. Mathu, for the "greatest good of the greatest number". (Laughter.) And I would very humbly give this small reproof to my hon. friend; that he seemed to have forgotten his Oxford education the other day, because when he attributed those words to John Stuart Mill he, of course, meant the great Jeremy Bentham.

I am not dealing with the economic conditions of this Bill but I will leave that to my hon. friend the Member for Mompasa. (Laughter.) In the matter of tourism and that sort of thing; but I would say this, that we give the warmest welcome to the amendments in this Bill, because they do put on a more stable footing the present position. I would if I may, as an old inhabitant of this country, pay tribute to that tireless coadjutor of my hon. friend, Mr. Copley, who has done so much for angling. (Hear, hear.) I hope this Bill, if I may employ another metaphor, which is getting rather difficult at this time of night, will encourage the hon. gentlemen on the other side of Council to take up trout fishing so that they will not fall such ready victims in future to flies cast by hon. gentlemen on this side of Council! (Laughter.)

Mr. NICOL: Mr. Speaker, first of all may I congratulate my hon. friend the Game Warden on his speech—I believe it is his maiden speech? (MEMBERS: No)—and say that I am very sorry indeed that we have not had him with us during the past ten years.

I was very interested when the hon. member said that this year his department had sold 2,000 licences for trout fishing, and I hope that with the development of the station on the Sagana—where I was privileged to be last Christmas—that it is going to be possible

to attract to this country many more people to catch trout in our waters. I understand that we have a very big potential market from South Africa where, through reasons possibly economic to themselves, the waters are more or less devoid of trout, and there are many ardent and keen fishermen there who turn to Kenya to provide good sport and relaxation. It is therefore of extreme value to this Colony from the tourist travel point of view.

Now I do feel that, perhaps, despite what was said in the *East African Standard* this morning there are one or two people in this Colony, and I think in East Africa generally, who do not realize the extreme value of tourist traffic to the economics of the country, and I do want to emphasize that aspect of it, because if we can attract dollars, or even attract other hard currency, here we are doing a good job of work for Great Britain. I do feel that tourist traffic in the minds of some people is sort of scoffed at; they do not really know what it means.

Now I am going to turn to two clauses of the Bill, first of all clause 7. I want to criticise sub-clause (1) (a), the yearly licence of Sh. 25. I think that that is a ridiculously low figure. I think I am correct in saying—and this is subject to correction—that in Tanganyika a trout licence is Sh. 40, and I would submit that when we come to the committee stage perhaps my hon. friend the Game Warden, after he has given consideration to the matter, will be prepared to increase this figure to at least what I believe it to be in Tanganyika. I certainly think that the value of our rivers here, from a trout fishing point of view, is greater than the Tanganyika rivers, and under the able guidance of my hon. friend and Mr. Copley, to whom I should also like to pay tribute, I do feel that we can offer better organization and better sport than the territory to the south of us.

Mr. COOKE: Make it Sh. 50.

Mr. NICOL: My hon. friend has suggested Sh. 50, but I think perhaps we might even go a bit higher.

Now I want to turn to clause 8 where it is suggested that Fish Wardens should be appointed for a period of five years. I have no doubt that my hon. friend has a very good reason for doing that,

[Mr. Nicol] but can he tell me, is that the origin of the expression "poor old trout"?

CAPT. RITCHIE: Mr. Speaker, I should like to thank the hon. Member for the Coast and the hon. Member for Mombasa for their extremely kind remarks with regard to the Bill, and for what they have said about myself; more particularly what they have said about my Fish Warden, Mr. Copley, whose energy and enthusiasm is possibly greater than anybody of whom I can certainly think.

With regard to the putting up of the fee for the yearly licence to Sh. 40, the hon. Member for Mombasa says that in Tanganyika the fee payable is Sh. 40 for the annual licence.

MR. NICOL: I think that is so.

CAPT. RITCHIE: I wonder if that is not the licence to the angling club who run the waters? The fee of Sh. 25 is the Government licence, and over and above that is the club licence which is payable as in Kenya by people wishing to fish in club waters. We have always believed that whatever big game shooting fees may be, the grand sport of fishing should be kept within the reach of anybody who wishes to indulge in it (hear, hear), and it is for that reason that we have never considered putting up the scale of licences. However, I understand that the matter of fees payable in respect of licences will be considered in committee.

With regard to the second question, I think it is a rhetorical one and, perhaps, does not need any answer.

The question was put and carried.

KENYA POLICE FORCE RESERVE BILL

SECOND READING

MR. FOSTER SUTTON: Mr. Speaker, I beg to move: That the Kenya Police Force Reserve Bill be read a second time.

Sir, hon. members will no doubt remember that earlier in the session of this Council when I was moving the second reading of the Prisons Bill, I did say I hoped it would be possible during the present session to introduce a comprehensive and new ordinance in respect of the Police Force of the Colony, and I said that we were going to try and do that because we wished, if at all possible,

that the legislation should be included in the revision of the laws which is now being done by Sir Donald Kingdon. Unfortunately, due to considerable pressure of work, it has been impossible to get the Police Bill ready to introduce during this session. Apart from any question of work in connexion with the drafting of the Bill, it was an impossible task to ask the Government Printer to embark on as he is absolutely snowed under with other work. That being so, it was thought necessary to introduce this Bill with the object of giving legal status to the Kenya Police Reserve which is, in fact, in being at this moment. I hope that when the comprehensive police legislation is introduced it will contain the clauses in this Bill and will be embodied in one measure that will then be before the Council.

Before going into details of the measure, I should like to pay tribute to the many persons of all races in this Colony who have in the past, and still are, doing magnificent work as special police officers. (Hear, hear). They give their time free to the country, and have performed an extremely useful service, and one can only hope that they will come along and join the ranks of the new Kenya Police Reserve. May I say, sir, when I said all races I meant what I said, because we have had magnificent support from all races. We have had tremendous support in Mombasa, and our African colleagues in the Force have there and elsewhere done magnificent work. (Hear, hear).

The Bill first of all seeks to create the Kenya Police Reserve, which is open to any person who has attained the age of eighteen years. In that connexion, fears have been expressed as to whether the Kenya Police Reserve will interfere with people who may eventually decide to join the Kenya Regiment when it is brought back to life again. The answer to the question is in the negative. We have given instructions that, even though a person may join the Kenya Police Reserve now, if they wish so, when the Kenya Regiment comes into being again, they will be allowed to join the Kenya Regiment if they think they would prefer to serve in that. In other words, we do not intend to allow competition between the two forces to creep in.

[Mr. Foster Sutton]

Clause 5 makes the provision regarding the manner in which the Police Reserve may be employed.

Clause 6 provides that it shall be divided into two classes, Class A to consist of reserve police officers who, upon enrolment, undertake, in writing, to carry out (a) such police duties as they may be required to do by the Commissioner; and (b) such training as may be ordered by the Commissioner; and Class B to consist of reserve police officers who upon enrolment undertake, in writing, to carry out during an emergency such duties as the Commissioner may determine. It is intended that Class A should be really the active part of the Reserve, and that Class B should be a sort of special reinforcement reserve consisting of people who cannot, by reason of their private affairs, devote as much time to work in the force as persons who join Class A.

Clause 7 requires every officer joining either branch of the Reserve to take an oath of allegiance. Clause 8 provides for a minimum service in the Reserve of two years, and it allows any person to re-engage for further periods of two years.

Now hon. members may feel, as I did when I first saw the provisions, that that is rather a short time, but I discussed it with the Commissioner of Police, and in the light of experience it has been found that some people join this type of force and then get tired of it, and the Commissioner wants to be able to say to a person, if he finds he is not pulling his weight in whichever branch he enrolls, at the end of the two years that it would be better for the Force if he did not want to be re-engaged. He says it has been the experience in the past that some people do tire and they more or less, although they are members, do nothing much about it, and he does not want members in the Reserve to be cluttered up by people who are not really interested.

Clause 9 is an important part of the Bill to which I draw particular attention. It enables the Commissioner to call out in an emergency the Reserve; and sub-clause (2) seeks to empower a police officer in charge of a province to take exactly the same action in his own province in respect of those members of the Force that are directly under him. It

also requires him to report to the Commissioner the action he has taken and his reasons for so doing. That was put in because it was considered desirable to invest a certain degree of flexibility, and allow quick action to be taken if circumstances in any province at any time seemed to demand that something should be done.

Clause 10 refers merely to the issue of equipment and arms. Clause 11 enables the member, who is defined in clause 2 as the member for the time being responsible for Law and Order, to apply certain or all of the provisions of the Police Ordinance to the Reserve. That is absolutely essential because it would be necessary to give these officers when actually on duty the powers of a regular police officer, and, in addition to the powers, the immunities and privileges that those officers enjoy.

Clause 12 enables an officer who receives permanent or temporary injury on duty to be compensated in respect of that injury. I think that that is a fair and just provision, and I do not think that many people would be prepared to enter a force of this kind if some such provision was not included. Clause 13 enables the Governor in Council to make regulations for the matters set out in paragraphs (a) to (f).

Those are the provisions of the Bill, and may I say for the information of hon. members, that recruiting has already started and we are very satisfied with the result of that recruiting. Members of all races have come forward in fairly considerable numbers and offered their services to this Police Reserve. (Applause.) I think that the country owes a considerable debt of gratitude to those people who are prepared to come along and give their services free in the interests of the whole community. (Applause.) I need hardly add that they are called up frequently to work not only all day, but sometimes at night; so that it is not merely a matter of putting on an arm band, or putting on a uniform. There is the question of giving real service to the community and, as I say, I think the country owes these people who are prepared to give their services in that manner a very considerable debt of gratitude. (Applause.)

MR. RANKINE seconded.

Mr. NICOL: Mr. Speaker, I am sure that I am speaking—in fact I know I am speaking, for my colleagues when we say we wholeheartedly accept this Bill, and I as a member of the Law and Order Committee feel it is a great privilege to be able to welcome this Bill and to really give this fine Special Police Force the status of a member of a Force of which we are justly proud—the Kenya Police. (Applause.) I agree with the hon. mover that the service these men have rendered to the community is one of which not only they themselves may be proud, but of which we may be proud, too, that we have them in our midst. I do ask all members of the community, not necessarily members on this side of Council or on the other side, but all members of the community, to encourage their friends and their young men to come forward and enrol in this Special Police Reserve of which we are proud and are going to be more proud in the future.

I was very glad to hear from the hon. mover about the services rendered by the Special Police Force in Mombasa. Indeed, I know the work they have done there, and I must say the hon. mover is quite correct—their work has been excellent.

I do not know whether it is fitting or not in this debate, but I should like, as a member of the Law and Order Committee, to pay a tribute on behalf of that committee to our chairman, the hon. mover. (Applause.) He has worked extremely hard and he has had a number of very great difficulties. Therefore, in fairness also to him, there is a point I want to raise and that is, if you will turn to page 4 of the Bill, in the objects and reasons it is stated that, if this Bill becomes law, a further sum of £10,000 will be required for 1948, and it is considered that the annual recurrent expenditure will not exceed £14,000. As he is going away I think it is only fair to bring this point out, and that is that in recent days there has been formed an air branch of the Special Police Reserve, which is going to be very valuable indeed, but it is naturally going to create perhaps a bit more expense. I think it is only fair to my hon. friend, if additional expense suddenly comes along and he is not here to prevent somebody getting up and

saying, "Well, of course, when this thing went through we were told it was only going to cost £14,000", we should have it on record that it may cost a bit more than that; and I have no doubt my hon. friend will be able to make the position perfectly clear.

Mr. MADAN: Mr. Speaker, I rise to support this Bill, which has the complete support of the Asian members of this Council. Those of us who have the privilege of being connected with the Law and Order Committee can appreciate the importance and the necessity for a measure of this kind and, so far as the Asians are concerned, I would go further and say that members of the Asian community, provided with the opportunity, and equipped with the necessary material, are only too anxious to do their job in this beautiful country of ours. (Applause.)

It has been suggested to me that some people might consider the duties to be imposed upon the Reserve Police officers to be onerous when we come to think that people in ordinary civilian walks of life will be expected to discharge those duties efficiently, but I want to assure Council that, so far as the Asian community is concerned, however onerous the duties and however difficult the job, they will be only too glad to have the privilege to serve.

I beg to support. (Applause.)

Mr. MATHU: Mr. Speaker, I rise to support the motion for the second reading of this Bill, and in doing so I should like to make two or three observations.

The first is in connexion with clause 6. Under class A, paragraph (b), provision is made for the training of these officers who will form the Kenya Police Force Reserve, and I should like to take this further opportunity, as is customary with me, to suggest that I need not really repeat the necessity for such a Force to be as courteous as possible in dealing with the civilian population. It is not really a reflection on either the existing Special Police generally, or the Kenya Police Force, also generally, but I think I would be failing in my duty if I did not say that sections of both forces existing at the moment have not demonstrated to the civilian community that they can deal with them firmly and courteously,

[Mr. Mathu] and I should like to suggest that in their training, under the clause I have referred to, should be included the idea that a very noble part of the whole force is courtesy to the public.

But definitely I want to endorse that they must not deal leniently with any people who do not act and behave within the law. That is not my intention, but I believe it is possible to be firm and strong, and yet courteous and cultured in dealings with all members of the public, because in my opinion the success of this force—and we all wish it every success and we do know we are going to support it with all our might—depends upon how these people behave in dealing with the civilian population.

The second point I should like to make is that fears have been expressed about the question of emergency. I hope the hon. mover will dispel those fears by giving inside information, if he can—which usually Members of Law and Order have and do not give out!—that there is not expected to be any emergency or any trouble in the near future; that we are only preparing ourselves to keep this country decent and well ordered, and that we are not expecting an emergency in the near future.

The final point is that which has been raised by the hon. mover and the hon. Member for Mombasa, in giving high praise to the work that the Special Police have done particularly in Mombasa, because I happen to know that that has been the case. I should like also, on behalf of my colleagues, to pay a very high tribute to the members of all races who have given loyal service to this country in the duties that have been allotted to them in that regard. (Applause.)

Mr. SHATRY: Mr. Speaker, I rise to support this Bill, as my community has always been ready in any emergency to help keep order in this Colony. (Applause.) In Mombasa especially the Arab Police Force was organized during the war and my community, I think, served the Government in all emergencies, and therefore I think this Bill will be backed by my community in every way possible.

I beg to support.

Mr. FOSTER SUTTON: Mr. Speaker, if I may deal very briefly first of all with the point raised by my hon. friend the Member for Mombasa, the figures inserted in the ultimate paragraph of the memorandum of objects and reasons are only intended to cover the ordinary day to day expenses under normal conditions. It is true that, if it was ever necessary to make use of the air force, so to speak, portion of the Reserve, it would cost some money, but I am glad to say this, that the persons concerned—and they consist of all the companies who are operating aircraft (the small ones and the large ones) in this country—have offered machines and personnel on a non-profit basis. (Applause.) In other words, they are prepared in an emergency to use their personnel and machines merely at the cost of running, with no profit attached to it. I do think it is a most public spirited effort on their part. It is an extremely keen section of the Reserve and I am perfectly certain that, if ever required in the public interest and public service, they will be of enormous help in maintaining law and order. (Hear, hear.)

I am very grateful to the hon. Member for Central Area for the support that he has indicated the Force will receive from his community, and I am glad to say that his words are no empty ones, because that support has already been forthcoming, as indeed it has been from the African portion of the community, and the European, and the Arab. I entirely agree with the remarks made by the hon. Member representing African Interests, Mr. Mathu. Courtesy begets courtesy, and I can only hope that all branches of the Force will bear that in mind. I am perfectly certain, if I may interpose this remark, that it is the intention of my friend the Commissioner of Police to see that courtesy is extended to the public of all races in this country. (Applause.) It hurts no one to be courteous, and I think hon. members will agree with me that we should aim—we may never achieve such a high standard—at attaining that high degree of integrity and courtesy that is displayed by the Metropolitan Police (applause), which after all is looked upon by every country in the world with envy and respect. I think that that is the sort of standard we should aim at. As I say, I entirely

[Mr. Foster Sutton] endorse every word he said, and his views are going to get, and are getting, support from our new Commissioner of Police, Mr. Ward.

I am very happy to give the assurance in a public statement in this Council that this Bill is not being introduced because we anticipate any emergency in this country. We do not anticipate it. It is merely being introduced because the Police Reserve is in process of formation, and I felt that it was only fair to the people who are giving their services to the country, and to the Commissioner of Police, and to the officer who has done such sterling work (Col. Cummings), that it should be given a proper legal basis to work on, and that is the sole reason for the introduction of this Bill during this session.

The question was put and carried.

EMPLOYMENT OF WOMEN, YOUNG PERSONS AND CHILDREN BILL

SECOND READING

MR. THORNLEY: Mr. Speaker, I beg to move: That the Employment of Women, Young Persons and Children Bill be read a second time.

This Bill, the greater part of it is simply a re-enactment of the terms of the 1933 Ordinance, which it seeks to repeal under clause 31, in a shorter and simpler form. There are only three new provisions of any particular importance for which provision is made in this Bill.

In clause 2 the Bill seeks to increase the minimum age of a child from 14 to 15 years, and is in line with an international convention to which we have adhered. Another new provision is included in clause 17 of the Bill, in which we seek to empower a duly authorized officer to enter premises in which he has reason to believe some person covered by the Bill may be in employment. The third new provision that this Bill seeks to include is that referred to in clause 19, under which the member of Government responsible for labour matters may make rules for the better carrying out of the provisions of the Ordinance.

As it is my intention at the conclusion of the debate to move that the Bill be referred to a select committee of this Council, it will be unnecessary for me,

I think, to delay members further at this stage.

MR. TROUGHTON seconded.

MR. OHANGA: Mr. Speaker, as this Bill is going to be referred to a select committee, I do not intend to take up much time speaking about a small point that I have in mind, but I should like to give notice of one or two amendments which I should very much like to see made to the Bill.

The first is under clause 14, which deals with penalties. The figures are Sh. 40 and for a subsequent offence Sh. 100; that is dealing with people who employ children or young persons contrary to the law. I suggest that we are dealing with people who know the law or who have opportunities of knowing it, and if they go and break it deliberately I think leniency will do more harm than good. In the same legislation in Nigeria I understand that the penalty is Sh. 200, and in Tanganyika for the same offence it is Sh. 1,000. For that reason I feel that the figures of Sh. 40 and Sh. 100 in this Bill ought to be raised to Sh. 500, and I shall be glad to move an amendment in the committee.

The next point is a small one only, in clause 10 (d). This deals with the employment of women in underground works. It says: "a woman who for any other reason" be employed underground. I should very much like to know what the "other reasons" are. I should also like the "non-manual occupation" to be specified.

With those remarks I beg to support.

MR. BLUNDELL: Mr. Speaker, I am willing to support this Bill although there are two points to which I wish to draw attention and, later on, to move amendments.

The first is clause 2 (c). Until such time as the Member is answerable to this side of Council, I personally am unwilling to give him the powers which he has now under (c). From the agricultural point of view, three great industries—tea, coffee and pyrethrum—are dependable to a certain extent upon young people to pick the product, and I should not like myself to give power to the Member to prescribe, without reference to the public through this Council, the elimination of that type of labour from that work.

[Mr. Blundell]

The other point that I wanted to raise and to which I would move an amendment later on, is clause 7 (a), young persons over the age of 16 years. Personally, I think that for the industries enumerated 16 is too young. Unless, as sometimes happens in Europe, there is an economic reason to put young people to work, I think it is quite wrong that people of 16 should be employed at any time in the industries named in (i) to (v) of this clause, and I would ask the hon. mover to consider whether he could not extend that limit.

Apart from those, I am prepared to support the Bill.

MR. HYDE-CLARKE: Mr. Speaker, I will just take up two short points raised by the hon. Member for Rift Valley.

One is the question of the application of the provisions of this measure. If I may explain the reason, if you will look at the original Ordinance, "industrial undertaking" does not exclude the processing of raw products of agriculture. The new definition in this Bill does, and in line one of paragraph (b) there is inserted in brackets "(other than the raw products of agriculture)". That is in effect a relaxation proposed under the new Bill, because if we stick strictly to the existing law you would not legally be entitled to employ a child on a coffee estate, because there the raw products are put through a factory, or on a sisal estate, or in many other types of agriculture. For that reason an exception has been made, but because you have to have safeguards in certain aspects of that processing—for instance, in a sisal factory, where children might easily be caught in the machinery—you have to have power to prevent the employment of children in a particular aspect of employment where processing of the raw materials of agriculture takes place. That is the first point.

The second point is clause 7 (a). This is a technical Ordinance, and we have got to keep in line with similar provisions in all the other colonies in which this legislation has been adopted. I do not hold any particular views about the age of 16, but it is in line with Tanganyika, Uganda, and the West African territories, and it is also the minimum age prescribed by the international convention under which this legislation is framed. I beg to support.

MR. VASEY: Mr. Speaker, the hon. Labour Commissioner has, I think, rather misunderstood the point which the hon. Member for Rift Valley raised with regard to paragraph (e) of clause 2. There is no question on this side of Council that children should be excluded from any undertaking that is dangerous, and the hon. Member for Rift Valley's quarrel was not with the fact that certain undertakings should be excluded. It was on the principle which has been enunciated by all sections on this side of Council from time to time, that where it is a matter of making administration easy we are prepared, and willing, to grant the Member concerned as much power as may be necessary, but where certain principles of policy enter we on this side of Council, as the hon. Member for Rift Valley said and other members have said from time to time, are not prepared to allow prescriptive powers of this kind. (Hear, hear.)

The operative words to which the hon. Member for Rift Valley has objected are "by notice in the Gazette". If the Member concerned is to lay before this Council the undertakings that he wishes exempted, I am sure he will find little opposition to any good case. The same point arises in clause 6, where the Member may, "by notice in the Gazette, prohibit the employment of any child in any specified trade or undertaking". This we regard as a matter where policy may well be carried out by means of "administrative practice," and I think it is correct to say that during this session we on this side have said that that is a principle which, at this state of development in the constitution of the country, we are reluctant and unwilling to accede to.

I beg to support the Bill, and welcome the appointment of a select committee.

MR. HOPE-JONES: Mr. Speaker, I do not wish to detain the Council more than two minutes, but I do wish to speak as a member of the Pyrethrum Board and also of the Coffee Board. I wish to say that I find it somewhat difficult to understand the reply of the hon. Labour Commissioner to the point made by the hon. Member for Rift Valley. It is a most important point, and I am sure the hon. mover in reply will deal with the point raised by the hon. Member for Rift Valley. In short, the point is that

[Mr. Hope-Jones]

we seek information, in view of the fact that the three industries quoted are absolutely vital to the future of this country from the point of view of export and from the point of view of balanced trade, and we would seek to elicit that we are sure that we can expect from the hon. mover a clearer reply to the point made by the hon. Member for Rift Valley.

MR. FOSTER SUTTON: Sir, while the hon. Member for Nairobi North was speaking, I could not help noticing two rather fierce looking eyes directed in my direction, and I suppose it is because I had the temerity to oppose the laying on the table of some rules during one of the debates that took place in this Council! I am still unrepentant about it. (Members: Shame!). I do not care what the hon. Member for Nairobi North says! I cannot see the point of merely laying rules. The point of my argument, as I said and still adhere to, is that the mere laying of rules on the table of this Council is a waste of public money because if there are a lot of rules, such as one sometimes has, it does cost an enormous amount of money to have them printed and laid. If you are going to say that the rules shall be laid and shall cease to be operative within a certain period unless approved by resolution of the Council, then I entirely agree with you, because you have the control you are asking for, but the other thing, I venture to say, means nothing.

MR. VASEY: On a point of explanation, sir, the hon. Attorney-General is entirely mistaken. Not once in my speech did I mention rules. What I said was that if it was desired to prescribe any under-faking, that desire should be made known and laid before Council. With all due respect, I never mentioned rules, and suggest that the hon. member is still off the point.

MR. FOSTER SUTTON: I am afraid that the hon. member is not as familiar with our laws as I unfortunately happen to be. (Laughter.) Prescribed, normally means, if you look at your Interpretation Ordinance passed this year, and not so long ago, "prescribed by the Ordinance in which the word occurs or by any rules made thereunder". If you want to mention everything that can be done, I know

perfectly well that the hon. Member for Nairobi North never mentioned rules, but he meant exactly what I am talking about, and I am not off the point. (Laughter.) What he was talking about, unless I "misheard" and "misunderstood" him—which is quite possible, because he is quite capable of drawing all sorts of red herrings across the trail—what I understand him to be talking about, and I think most members of the Council will agree with me (Members: Question!), he objected to certain powers being conferred on a Member. That is what he was talking about. It does not mean administrative, he mentioned the word administrative, the administrative functions being performed by a Member, but he objects to anything which might touch the life of the community being placed in the hands of a Member and no one able to say "No". That is what I understood he meant. Probably he thinks he was talking about something else.

But I do urge on Council, that if you are going to do this I suggest, with the greatest respect, that there should be a provision added, and I would suggest, in order to allow flexibility, it should be in the negative sense and not the affirmative. Whatever you are going to do by prescription be allowed, and if a resolution is not passed disapproving it within a certain period then it remains law, but it ceases to exist if a resolution is passed. I suggest that otherwise you will get into trouble from time to time, because it may be urgently necessary to do something, and if you do it in the negative sense it may hamper the business of the country. What I mean is that we have done it before, you can provide that rules may be made but not come into force until approved by resolution, and it is dangerous under certain circumstances, especially in things connected with law and order and agriculture, but I do urge Council to introduce, without meaning it offensively to the hon. Member for Nairobi North, a little reason into this.

MR. VASEY: That is what we are trying to do, a little reason.

MR. THORNLEY: Mr. Speaker, it is good to find so many other people interested in this subject.

I would say that, with regard to the point made by the hon. Member for African Interests, I will certainly see that

[Mr. Thornley]

his point about the penalty in clause 14 is considered when we consider the Bill in select committee. With regard to his other point regarding clause 10, I imagine that sub-clause (d) will in fact cover very few women indeed. I suppose that one particular woman who might wish to go down a mine under sub-clause (d) might be a woman inspector, or possibly the secretary of the mine manager taking him a cup of tea! But I do not imagine that more than one or two women a year would go down under sub-clause (d).

With regard to the point raised by my hon. friends the Member for Rift Valley and the Member for Nairobi North, regarding clause 2 (e) and clause 6, I do not propose either to put the gloves on or take them off on that particular issue at this stage. I will only say that in so far as I am concerned, and without, I hope, in any way detracting from what has been said by the hon. Attorney-General, I certainly would not under this Bill see any particular objection to consulting the Legislative Council before I exercised the powers which this Bill seeks to vest in me under these two particular clauses.

I think that that covers all the points which have been raised.

The question was put and carried.

I beg to move that the Bill be referred to a select committee of this Council consisting of myself as chairman, Mr. Lowe, Mr. Hyde-Clarke, Lady Shaw, Mr. Havelock, Mr. Mathu and Mr. Ohanga.

MR. FOSTER SUTTON seconded.

The question was put and carried.

RESIDENT LABOURERS (AMENDMENT) BILL

SECOND READING

MR. HYDE-CLARKE: I beg to move: that the Resident Labourers (Amendment) Bill be read a second time.

This Bill is largely consequential upon the two measures already passed in this Council, I refer to the Registration of Persons Ordinance, 1947, and to the second reading given to the Employment of Servants (Amendment) Bill earlier to-day. I take this opportunity of saying that the Council well knows that the whole question of the terms and condi-

tions of employment under which this class of worker is engaged are at the moment the subject of examination by a committee under the chairmanship of the hon. Member for Agriculture. I had hoped at this stage to incorporate in the Bill the recommendations of that committee, but this is not possible, and it may be necessary later in the year to have a short amending Bill to give effect to any proposals as may arise from that committee.

On this Bill itself there is little to add to the two points I have already made. I would, however, draw attention to clause 13, which is the only controversial clause in the Bill.

With the removal of the penal sanctions consequential upon this morning's action, difficulties may well arise over the question of a resident labourer who, having entered into a contract, fails to come to the place of work, but installs his family and allows that family to cultivate the land. In fact, as many people know, that had already occurred under the existing Ordinance, and with the removal of the penal sanctions there must be some consequential balanced action to enable the employer, after reference to a magistrate, to take such action as he can, first to rid himself of an encumbrance, because there is no question of any intention to work, and secondly, if necessary, and if the magistrate so decides, to deprive the particular resident labourer who has not come to work of the crops which his wife or family have grown on the employer's farm. I think it is absolutely essential to include this provision in view of the removal of the penal sanctions under the original section 25.

The only other very short point is that under the present Ordinance the powers of inspection have been somewhat ineffective, and the relevant clause here gives power to the authorized officer to enable him to ensure that the provisions of the Ordinance are properly followed.

MR. RANKINE seconded.

LADY SHAW: Mr. Speaker, there is one small point which members on this side of Council, and people in the Colony generally, would like to clear up, and that is with regard to one or two of these clauses, especially clause 13 (e), (f) and (g). As members know, a native is not

[Mr. Hyde-Clarke]

always employed for wages. He resides on the farm and receives certain advantages and privileges, such as grazing of cattle, cultivation of garden, and a house, and although all the time not actually employed for wages is in the position of owing certain duties and responsibilities to his employer. We on this side of Council would like to have it made clear to us that though the word sometimes used is "employee" and sometimes "resident labourer" if they are in fact one and the same thing, and owe us these duties enumerated in sub-clauses (e), (f) and (g) whether at the time employed for wages, when the hon. member is replying to this debate.

MR. MATHU: Mr. Speaker, I beg to support the second reading of this Bill. I have three points I should like to raise.

One refers to clause 5 of the amending Bill where it amends the existing section 7 by putting in the words "an adult is". In fact, it is not making it applicable to any person other than an adult, because the present law says: "No occupier shall allow any native or Somali". This Bill now wishes to confine the giving of cultivation rights only to adults. I should like the hon. mover to explain why that is necessary, because half an acre, which is the amount of acreage that this law allows such person to cultivate, and with the meagre wages that this type of person gets, I do not think they will be able to raise their standard of living.

This point is in conjunction with clause 12 of the Bill, which amends section 17 of the existing Ordinance, and provides that the authorized officer may require certain things to be produced, or may require certain persons to produce certain things, and (c) and (d) seem not to fit very well. (c) reads "any authorized officer may require any resident labourer to take all reasonable steps to produce any member of his family residing on a farm, forest area or on Railway land", and (d) reads—and the comparison is not very pleasant—"at all reasonable times require any resident labourer to produce any stock kept by him on a farm, forest area or on Railway land, upon which he is residing". I think (c) looks at this problem from a very inhuman way, and I do not see why this labourer should produce members of his family as if they were pieces of wood,

and I should like at the appropriate stage to suggest that this section be deleted, because I do not think it is helpful and necessary. I look at it from the human aspect.

My final comment is on clause 13, where powers are given to a magistrate to decide whether it is equitable or not to allow a resident labourer to have rights for growing crops or not. I personally would prefer to stick to the present provision, which is section 24 of the principal Ordinance, because the proviso in clause 13 (a) reads: "Provided that in any such case the magistrate may, if he considers it equitable so to do, order that the employee shall retain his rights over growing crops". The present provision, I think, covers the point very well and I do not think we need tamper with it any more. It says: "Provided that in any such case the native or Somali shall retain his rights over growing crops unless the occupier elects to give him reasonable compensation therefor.". The only time that the magistrate comes in is when there is a dispute as to whether the growing crops require so much for compensation, and then the magistrate decides that the crops would require so much money if the occupier wishes to retain them. The hon. Labour Commissioner definitely knows my views. I do not think that the two persons concerned should suffer in the process and, if justice is to be done, the present proviso under section 24 is the one which I should stand for.

Therefore, in the committee stage I should also like to propose that the proviso under clause 13 (a), the first one, should be deleted and substituted by the present one. With those remarks I beg to support.

MR. HYDE-CLARKE: Mr. Speaker, dealing with the questions raised by the hon. Member for Ukamba touching on the three cases of breach of contract, I would like to make it clear that in this Bill we have retained the words "resident labourer", whereas in the Bill which was dealt with this morning the parallel clause talked about the "employee". Now, a resident labourer is always a resident labourer throughout the duration of his contract, whether or not he is actually at that time employed on gainful work paid for by the employer. It is a matter which we believe is covered by

[Mr. Hyde-Clarke]

that particular difference between this Bill and the Bill which was passed this morning.

Turning to the point raised by the hon. member Mr. Mathu, clause 5 is inserted for this reason. I think, with due respect, the hon. member has a little bit missed the point. This is the one clause in the Bill which says who, not being a resident labourer, may cultivate land. This makes provision for the ordinary casual employee to cultivate a small garden patch without being a resident labourer. This does not mean that a resident labourer is restricted to the half acre. It does mean that the daily or monthly paid casual employee is restricted to not more than half an acre, unless he becomes a resident labourer. The reason for the insertion of the words "who is an adult" is because we have found in practice that a certain number of occupiers who wish to defeat the principles underlying this Ordinance have "employed", as their ordinary casual servants, we will say, a boy and his wife and perhaps two children under the age of 10 or 11. The boy is paid a normal wage, his wife and children perhaps at Sh. 1 a month each, and they have given these four persons half an acre each. In other words, the family gets a two acre plot and the occupier escapes the terms and obligations of a resident labour contract. I hope I have made that point clear.

With regard to clause 12, paragraph (c), the object of that is to ensure that the Ordinance is properly observed and, if there are a number of people on one contract, to enable a check to be made. But I would see no objection whatever to the deletion of it at the committee stage. I cannot agree to the deletion of sub-paragraph (d) because the number of cattle or stock of a resident labourer is definitely limited by regulation and, if we cannot have powers to call upon him to produce his stock, it is quite impossible to check whether the Ordinance is being properly complied with or not.

On the last point, clause 13, I did refer to that in my opening remarks. The fact is that this new provision only attacks the bad hat; it only attacks the man who has really no intention of performing his part of the contract. He previously could be dealt with under section 25 which contained among a number of other penal

sanctions three which could be resorted to, all of which enabled the occupier to obtain relief through the court on that particular matter. You must be able to cope with the bad hat, and, personally, I am sorry I cannot possibly accept the proposal of my hon. friend Mr. Mathu to retain the existing provision.

It may be rather out of place at this present moment, but I did mention this morning my personal appreciation of the work of the hon. Attorney General in connexion with these labour Bills, and I should like to take this opportunity to couple with his name that of Mr. Lowe, who has also done a tremendous amount of work on all these labour Bills, apart from many others. I have personal knowledge of this. His grasp of detail—and he has had to jump from one Ordinance to another all the time—his enduring patience and good humour, are a model to us all and I wish to place on record my appreciation of his assistance. (Hear, hear.)

The question was put and carried.

POSSESSION OF INDUSTRIAL ALCOHOL BILL SECOND READING

MR. FOSTER SUTTON: Mr. Speaker, I beg to move: That the Possession of Industrial Alcohol Bill be read a second time.

In case the mention of the control of alcohol should cause fear and alarm and despondency to my hon. friends on the other side of Council, I hasten to add that all we are trying to do is to control methylated spirits, rectified spirits, mineralized spirits, power alcohol, and any spirits with which any substance is mixed. So that, if they do not indulge in the use of any of those, they have nothing to worry about! (Laughter.)

The reason for this measure is this. During the war, I think it was—I am speaking from memory—1944, it was discovered that methylated spirits and industrial alcohol generally were being consumed, not for the purpose for which they were manufactured but as a beverage, and the police at the time convinced the Government that their use as a beverage had been responsible for a considerable amount of violent crime. I believe—I have never used it myself (laughter)—it has a very exhilarating

[Mr. Foster Sutton]

effect and it does seem to excite people to do some of the most extraordinary things. It was very much in use in certain areas in and about Nairobi. Very large quantities were being used in certain areas, and it was decided by means of Defence Regulations to control the issue of it in those areas, and a very distinct improvement, once they were enforced, was apparent.

This is merely an enabling measure to give us the same powers as we had during the war. They will obviously not be clamped on unless it is considered in the public interest to do so. The proof of the pudding in this particular case is the exercise of the powers that existed up to last year—I think it was 1947—under Defence Regulations. As I say, they proved very successful, and we were able to curtail the use of these beverages and to bring down the incidence of violent crime at the time. I commend this Bill to the consideration of Council.

MR. RANKINE seconded.

MR. NICOL: Mr. Speaker, all I should like to say on this is that I sincerely trust that the passage of this law is not going to mean that we are going to sit in session to late hours such as this evening!

The question was put and carried.

COURTS (EMERGENCY POWERS) (REPEAL) BILL

SECOND READING

MR. FOSTER SUTTON: Sir, I beg to move: That the Courts (Emergency Powers) (Repeal) Bill be read a second time.

Time is running out! I have explained in the "Memorandum of Objects and Reasons" the object of this Bill. It merely seeks to repeal the Ordinance of 1944 which, at the time it was passed, hon. members will probably recollect, afforded a measure of protection in respect of judgment debts to members of His Majesty's Forces. It is now considered that the reasons for the passing of the Ordinance have disappeared, and we now seek to repeal it. The repeal of the Ordinance has the support of the Chief Justice and Judges and of the Law Societies of Kenya and Mombasa.

MR. RANKINE seconded.

The question was put and carried.

LOCAL GOVERNMENT (MUNICIPALITIES). (AMENDMENT No. 2) BILL

SECOND READING

MR. COLCHESTER: Mr. Speaker, I beg to move: That the Local Government (Municipalities) (Amendment No. 2) Bill be read a second time.

I have not very much time in which to speak, and this seems to be the last item of an evening's entertainment. It is well known that the last item of an after dinner entertainment should be the best, but I unfortunately have a rather wearisome and dreary Bill of fare to offer!

Municipal authorities have long been trusted and reliable instruments of public welfare. Unfortunately, the Ordinance under which they work is far from trusty, and in its past history of twenty years it has been amended almost as many times as there are Bills before Council this session. This Bill has 32 clauses, and I am afraid that I shall have to take them one by one, but I shall do so as briefly as considerations of lucidity allow. Some of the clauses go back in history to two years ago, when Sessional Papers Nos. 3 and 5 of 1945 were laid before Council for the reorganization of local government. Some of the clauses in the Bill give effect to that reorganization, others are amendments which the experience of the Local Government Department and municipal authorities has shown to be desirable. Nearly all of them have been referred to local authorities, and although there may have been a slight disagreement on points of detail among local authorities over them, in the main the amendments are acceptable to local authorities. Some are enabling clauses and do not meet with the approval of all authorities, but involve powers which a local authority need not exercise unless it wants to.

Turning to the clauses, clause 2 is quite simple. It shortens the title of the principal Ordinance to "Municipalities Ordinance", for it is unnecessary to mention both "Local Government" and "Municipalities". Clause 3 introduces a definition of "building" which I hope to be able to explain when I come to clause 20. It also introduces the Member for Health and Local Government into the law. At the moment he has no

[Mr. Colchester]

existence in law, and this introduces him for the first time. Clause 4 is a formality, and transfers to the Member for Health and Local Government in place of the Governor the responsibility of nominating certain members of local authorities; it is a power which in effect he exercises now.

Clause 5 gives legislative sanction to certain changes in the constitution of Mombasa Municipal Board. An inquiry was held into what changes were thought desirable, and a recommendation was made that there should be added to the board two African members and a further Arab member, with the Lwali for the Coast as a statutory member. Since last year, all municipal authorities in Kenya, except Mombasa, have had African members, and it may be asked why Council should now have to give legislative sanction to a change in the constitution of the Mombasa Board which has been approved without reference to this Bill for nearly all local authorities.

The answer is that for the past twenty years (and not since the debate last week on the Prisons Bill and an hour or so ago on an obscure clause in the Employment of Women, Young Persons and Children Bill) it has been the function of this Council to approve changes in the constitution of Mombasa and Nairobi local authorities. In its wisdom, as long ago as 1928 this Council was not content to leave such important questions to the unfettered, irresponsible powers of ministers. This recommendation that there be two African members and that there be other minor changes, has the approval of the Standing Local Government Committee, the Governor in Council, and the Mombasa Board, and I hope this Council will also give its approval.

Clause 6 is a consequential amendment on the last clause. Clause 7 is also a rather minor matter, and gives sanction to a practice allowed during the war whereby a rather cumbersome procedure, which exists by reason of the present law and which has to be followed before certain amendments can be made in the constitution of other local authorities, need no longer be followed. Even the most minor change in a ward or

boundaries or minor constitutional changes require a formal statutory inquiry and other formalities, and this clause will retain them for Mombasa and Nairobi with an option as to their use for the other authorities.

Clause 8 is intended to make clearer the rights of municipal authorities to deal with land which comes into their possession. Clause 9 introduces an English practice whereby the members of a Council can be required on assuming office to take an oath of fealty and good service. This is a touch of solemnity which need never come amiss.

Clause 10 deals with the forfeiture of a seat by a member of a municipal authority who is absent from a certain number of meetings. At the moment, he forfeits his seat if he is absent from three meetings of the authority. It may not be true of this Council, but it is true of a local authority, that the real work is done in committees, and on the motion of the leading authority in this Colony and with the support of other local authorities this clause seeks to involve the forfeiture of a seat where a member is absent from a certain number of committee meetings. It does not mean that the seat will be forfeited if he is absent for good cause. He can be absent by leave of the council or the chairman, but if absent without permission from a certain number of committee meetings he will forfeit his seat in the same way as he would forfeit it by being absent from full meetings of the authority. Sub-clause (b) is a minor matter which remedies an anomaly of the present law.

Clause 11 allows the local authority to do what one or two authorities are doing now, and that is to co-opt to committees persons who are not full members of the original body. It is a very useful device, and in the United Kingdom it is obligatory on local authorities to go in for co-option to a modified extent.

Clause 12 is again an enabling section which will allow a local authority to join with other local authorities in establishing a joint committee to consider and discuss and, within limits, to make decisions on matters of joint concern. Clauses 13 and 14 were suggested by the Nairobi Municipal

[Mr. Colchester] Council, the leading local authority, and they aim to make the process of municipal procedure work faster.

Clause 13 replaces the rather stringent control which is exercised by the finance committee of a Council. Again it is modelled on United Kingdom procedure, and will allow a committee to spend money within its own approved estimates without going back to the finance committee for the finance committee to approve. It will be within the power of the local authority to impose other conditions if it wishes to.

Clause 14 is also a mild relaxation of the present Ordinance but rather returns the position to where it was in 1939. Under the law which exists, a local authority cannot place contracts for work or buy goods to the value of more than £75. In 1939 that was a reasonable sum but, with the fall in the value of money to-day, it is reasonable to raise the figure to £150, and that is what this clause does.

Clause 15 deals with the calling of public meetings by mayors, not the sort of pleasant meeting we earlier attended this evening but meetings on rather more wearisome subjects. Clause 16 again introduces English practice, and allows a municipal authority to regulate proceedings and minutes and the conduct of its officers and so forth by standing rules rather than by by-laws. Clause 17 is a corollary to clause 15. Clause 18 clears up some old drafting faults.

Clause 19 (a) and (b) refers to this question of buildings which I spoke of in relation to the opening clauses of the Bill. Sub-clause (c) is no more than a formality; and sub-clauses (d), (e) and (f), together with (h), confer on local authorities powers which they have in fact been exercising for some time by administrative dispensation.

Clause 20 fulfils a promise made to Council by Mr. Mortimer, Member for Health and Local Government, when this Council was considering the Control of Hotels Bill. During that debate the hon. Member for Nairobi North complained about the unreasonable, unjust and harmful obstacles which stood in the way of public health authorities and municipal authorities which wished to do

their duty. At the moment, the hands of the public health authorities and municipalities are tied in two ways when they come to deal with the sort of shanty towns which on all sides one can see springing up. If I may go back to clause 3 of the Bill, you will see that a building is there defined, and that definition is intended to cover the sort of structure of bamboo poles and old sacks which we see in many parts of the town and which the public health authorities have not been able to deal with under the present law. This clause improves our laws, first, in that it enables the authority to get at the real nigger in the woodpile, and secondly, because it enables the local authority to do the work of demolition itself.

Clause 21 is a minor drafting amendment. Clause 22 would follow on approval of clause 20. Clause 23 is a question simply of the removal of anomalies and of tidying up the Ordinance to accord with the amendment which has been made to clause 20. In one particular it gives a local authority new powers to deal with obstructions on the streets. At the moment people can leave old junk all over the streets in a municipality, and the local authority has to remove that old junk, but it has no protective legal powers if someone comes along and claims that what was taken away was a valuable museum piece.

Clause 27 again gives legal cover to what has been the custom for a good many years. It is rather an involved matter to explain, but the position is that the Crown pays a contribution in lieu of rates on all Crown property in municipalities. It comes to quite a tidy sum for the larger authorities. Now, the municipal authorities can impose a rate on land, or on buildings, or on both. The Crown's liability for the rate on land is its liability according to the value of that land, assessed in accordance with the ordinary rules of valuation but, for reasons which I need not go into now, the Crown's liability for rates on buildings was not determined on the value of Crown buildings, but by the ratio between what the Crown was due to pay on the land compared with what the general public paid on the land.

[Mr. Colchester]

In only one instance has a rate been struck on buildings in this Colony; and that was in Mombasa about fifteen years ago, and at that time, by agreement, the Crown was made liable only for the rate due on the true value of the buildings, and not of the Crown land. This gives sanction to that practice and is entirely and eminently fair. It means no more than that the Crown is paying on the same basis as the rest of the public. The other sub-clauses of clause 27 are purely formal.

Clause 28 has as its object simpler and more rational estimates procedure. Sub-clause (a) deals with the question of publishing estimates. The law requires that the annual approved estimates of every local authority shall be published for the public to see, but there is no provision in the law for supplementary or revised estimates to be published and, because it sometimes happens that supplementary estimates are a radical reformation of the original estimates, it is thought desirable in the opinion of the Standing Committee and other advisers of the Government that there should be power for the Member to require publication of supplementary estimates. Sub-clause (b) removes certain doubt as to the meaning of the word "majority" in the existing law.

Sub-clause (c) is formal. Sub-clause (d) is intended to deal with the varying resources of local authorities in this Colony. At the moment a local authority is allowed to vary its estimates by as much as £100 on any single item. Well, £100 is a very great deal for a small municipal board up-country, but nothing for an authority like Nairobi with a budget of half a million pounds. The idea is to substitute for this rather wooden yardstick of £100 a proportion of the gross revenue from rates of the local authority.

Clause 30 is a formal amendment which is, I think, uncontroversial. Clause 29—which I fear I missed—is again the adoption of English practice, and in effect gives the Member legal powers to do things which have been done administratively for some years. Clause 31 is consequential on the current conception of the duty of Members. The Chief Secretary has his duty, his own portfolio

of subjects to deal with, and he leaves the Standing Committee for Local Government and the Commissioner for Local Government takes the chair. Clause 32 is consequential on approval of clause 30.

I have tried to explain a rather complicated and disconnected series of amending provisions in the law as clearly as I can. I am afraid it is rather a miscellany of disconnected items, and, at the committee stage there may be one or two other points raised. It may be noticed, if members have remembered what was in Sessional Papers Nos. 3 and 5 of 1945, that there is no mention of a local government board in this Bill. These Sessional Papers suggested that a local government board should be set up which should deal with all the local government authorities of the Colony.

That idea was taken up with the local authorities and with the Standing Committees for Local Government, and it is the view of most local authorities, and I think of the Standing Committees, that a local government board was not a very desirable development, that it is unlikely to make decisions wiser, and that it would probably be an obstruction to the quick and efficient dispatch of public business. This Bill, therefore, makes no provision for the establishment of a local government board: The local government board, if it had been established, would probably have been rather like a second chamber. If its recommendations had agreed with those of the Standing Committees, it would have been thought superfluous, and if they had disagreed then it would have been thought wrong!

MR. RANKINE seconded.

MR. VASEY: Mr. Speaker, I have unfortunately rather a number of remarks to make upon this Bill, at the request of one or two of the local government authorities, and I wondered whether, in view of that and the lateness of the hour, you would prefer to adjourn. (Hear, hear.)

The debate was adjourned.

ADJOURNMENT

Council rose at 11 p.m. and adjourned till 10 a.m. on Wednesday, 25th August, 1948.

Wednesday, 25th August, 1948

Council reassembled in the Memorial Hall, Nairobi, on Wednesday, 25th August, 1948.

His Honour the Speaker took the Chair at 10.05 a.m.

The proceedings were opened with prayer.

COMMUNICATION FROM THE CHAIR

The Speaker informed Council that he had received a letter from Major the Rt. Hon. James Milner, M.P., M.C., T.D., Deputy Speaker of the House of Commons, acknowledging the way in which the Council had received him on his recent visit.

MINUTES

The minutes of the meeting of 24th August, 1948, were confirmed.

BILLS**FIRST READING**

On the motion of Mr. FOSTER SUTTON, seconded by Mr. Rankine, the following Bills were read a first time: Trades Disputes (Arbitration and Inquiry) Bill, Native Poll Tax (Amendment) Bill, Wages and General Conditions of Employment Bill, Forest (Amendment) Bill, Domestic Employment (Certificate of Registration) (Amendment) Bill, and Credit to Natives (Control) Bill, and notice given that the subsequent stages would be taken during this session.

LOCAL GOVERNMENT (MUNICIPALITIES) (AMENDMENT) No. 2) BILL**SECOND READING: RESUMED**

The debate was resumed.

MR. VASEY: Mr. Speaker, in rising to welcome the greater portion of this Bill I would like for one moment to deal with the principle of this particular Bill.

I think it is correct to say that a great number of people in this country feel that the development of local government is of paramount importance, and certainly those who have taken part in local government, in the municipalities and townships of this country, feel that, inch by inch—shall I say bit by bit—they wish to lessen the shackles, albeit the silken shackles, which Government has over certain aspects of local government.

I say that because that is the background to one or two of the amendments that I am going to suggest to this Bill, and also the background to one particular matter which I shall raise towards the finish.

I am moving first of all to clause 5, which deals with the Mombasa Municipal Board and its constitution. On the constitution of the Board it is not my province to say anything. It has been the result of inquiry, I think I am right in saying that it has been agreed to by the majority of the Board concerned. But there is one point on which I should like to pass comment: the position whereby a district commissioner shall automatically be chairman of a local government authority. District commissioners come and go, there is no continuity of residence, and I think it is undesirable that we should tie up the Ordinance to the principle that the district commissioner should be automatically chairman because of this point.

I should like to suggest for the consideration of the hon. Commissioner for Local Government, and for Government, an amendment somewhat on these lines: Recognizing that the composition and the racial problems which exist in local government authorities at this stage make it probably desirable that something in the nature of an independent chairman, as is presumed by the appointment of a district commissioner, is desirable, I would suggest that the Member be given power to appoint a chairman. That need not of necessity be the district commissioner, it need not exclude the district commissioner, but it would open the way for the appointment of an unofficial chairman, should a chairman of outstanding quality and ability be available who is acceptable to the majority of the board over whom he would preside. That would mean that Mombasa would at last begin to achieve something that, to my own knowledge, has been lacking very seriously in these years of local government—continuity of responsibility in the chairmanship and familiarity with the conditions.

As it is, district commissioners are very hard worked people, and to push on to them a job of this kind is to give them not only additional work, but to put them in the position where either a great deal must be sacrificed to the work of the municipal board, or the work of the

[Mr. Vasey] municipal board must become a sideline amongst many other activities. I suggest it is not in the interests of local government that that position should be allowed to continue. I therefore respectfully suggest for the consideration of Government that some amendment of that kind should be accepted at the committee stage.

Clause 10 refers to the necessity to obtain the consent of the Governor to the nomination of a substitute. Yesterday I was present, in my capacity as an Alderman of the Nairobi Municipal Council, at the Municipal Council meeting. Two councillors, one European and one Asian, were asking for leave of absence. They submitted two names which were acceptable to that Council. I should like to correct that because only one name was submitted officially. A name was submitted which was acceptable to the entire Council as a substitute for the member going on leave. That person's substitution cannot be operative until the consent of the Governor has been obtained, and I would suggest that that is an entirely unnecessary delay in procedure. Where a name has been unanimously accepted as a substitute on the body on which the substitute member will have to work, there is in my submission no need to ask the consent of anybody outside that particular body, and I would respectfully suggest that that is another amendment which can be considered in the committee stage, and I should be glad to hear from the hon. mover that Government would be prepared to accept an amendment of that kind.

Clause 13 is one which, as Chairman of the Finance Committee of the local authority with the largest budget of any local authority, I feel I could not accept. This, if carried out logically, means that the entire Council could pass the estimates of expenditure, and that from that moment onwards any committee of the council could spend the money voted, within the limit of the sums provided in the estimates, without reference of any kind to the Finance Committee. I have discussed this with the hon. Financial Secretary, and I have his personal authority for saying that he himself supports the point of view that I have just put forward. It is far too dangerous a procedure to accept, in my opinion, and

I would suggest to the hon. mover that the provisions of this clause should be altered and made within, say, a limitation of expenditure of £25, if necessary, to facilitate the administration but not on any other grounds at all. If, however, there can be no amendment accepted, then I shall have to vote against that particular clause.

Clause 15 is a strange clause for a local government ordinance. I have had the pleasure in the last two or three days of discussing local government law with a man very well versed in local government law in England, and he knows of no comparable provision made in the local government law in England. There is a provision which operates under the English system, or shall I say the British system, whereby when a municipality or a borough intends to introduce a Bill into the House of Commons, it must then call a public meeting and give its citizens full chance of expressing their opinion on that Bill. It is compelled, on demand, to undertake a plebiscite of its citizens, but that only occurs when a borough wishes to introduce a private Bill into the House of Commons. There is nowhere that we have been able to find in the British law such provision as this which compels the mayor of a town to call a public meeting upon requisition of a number of the inhabitants of the municipality. It does not even say "local government electors". There is no definition that we can see of the word "inhabitants" and if, as the interest of the ratepayers is stimulated by the increase of rates, it is desired by any particular group of people to harass the administration of the town, this is a particularly fine weapon under which to render the life of the mayor untenable.

I would suggest to the hon. mover that, instead of the amendment which stands under clause 15, we should take the original section 37 and either delete it altogether, because no mayor could hold his position if he resisted the lawful demand of any group of ratepayers to call a public meeting, either delete it altogether or eliminate the words "and upon receipt of a requisition signed by such number of residents of the municipality as may be fixed by resolution of the Council or by-law". I see from the hon. mover—if I may mention this—that it is obvious that Government is

[Mr. Vasey] prepared to accept that particular amendment, and I should like to express my appreciation of that fact.

Clause 28 is the only other direct clause an amendment to which I would give notice of. This is in (b) (3), which reads: "The annual estimates shall be passed at a meeting of the Council, specially convened for the purpose, by a majority, which shall not be less than a majority of the whole Council, voting in favour thereof". That has been found to be rather a difficult thing to work. It is, of course, quite correct that estimates should be passed at a meeting specially convened for the purpose, but let us take the case again of the Nairobi Municipal Council. There are 29 members of that Council. Adequate notice is given of the meeting at which the estimates will be considered. A majority of the Council, 15, may well turn up to the estimates meeting, though many of them feel that it is unnecessary as they have all of them done their work during the months of slogging in committee before the estimates are presented. But suppose that a majority turn up and suppose that one member votes against the estimates being accepted, then the Council is placed in an unworkable position.

I should like to suggest, from the point of view of all local government authorities, in the municipalities of this country, that it should be: "at a meeting of the Council specially convened for the purpose by a majority voting in favour thereof". If the councillors concerned have not sufficient interest to turn up at a meeting which they know to be specially convened to consider the estimates for the year, then I think they must abide by the majority vote of those who have been sufficiently interested and keen to turn up to the meeting. That, I feel, is an amendment which I think the hon. mover should be able to accept.

One other point on local government, and in regard to which I would not press an amendment on the hon. mover, but which I should like him to consider and to which I should like a reply.

In the boroughs of Britain the position of a local government authority, established by tradition, recognized by custom, is that inside its own area it is the supreme local government and responsible authority. That means that in all

functions the mayor of the town, in the case of London the Lord Mayor, in the case of a city the Lord Mayor, has precedence over every person in that town at any function except when a direct representative of the King is present. Nairobi has felt for some considerable time that the position should be established and recognized in this town. It is felt that it is an elected body; it has, it believes, proved its ability to control its own affairs; and it believes that the time has arrived when something of the nature of the system which exists in Britain should be placed in the law of this land, to recognize the position of the mayor in every municipality as it reaches the stage where a mayor is elected.

The phrase used in the British law, if turned into one applicable to this Council, would be something on these lines: "In every municipality established under the jurisdiction of a municipal council, the mayor shall have precedence in all places in the municipality, provided that nothing in this sub-section shall prejudicially affect His Majesty's royal prerogative", and I would ask the hon. mover to give me his reply and opinion, if possible, upon that matter.

There are two other small items that I would like to suggest for the consideration of Government. It sometimes—

THE SPEAKER: I do not think that would be quite in order if anything has got to be put into an amending Bill. It is hardly within the principles of a second reading.

MR. VASEY: If you wish me not to, but I shall have to raise it at some other time.

MR. SPEAKER: If I unduly favour you I shall be hauled up by somebody else.

MR. VASEY: I bow to that, sir.

The point then, is that in the main this particular Bill is, I think, going to make the administration of local government a little easier. I am among those people who regret that this Bill does not provide for the institution of a local government board. I believe that a local government board instead of the Standing Committee for Local Government—which is to be established, or, shall I say, reconstituted under clause 31—that a local government board wherein

[Mr. Vasey] all types of local government authorities meet and air their problems, would have been an extremely useful step forward in the local government structure of this country. However, the decision has been made, and the Standing Committees themselves, as the hon. mover said, have felt that this is the best method for the time being, and under those circumstances I must accept it. But I hope that some form of liaison, if necessary by joint membership or certainly association membership, between the various local government bodies, municipalities, township local authorities, local native councils and district councils will be established so that there can be some interchange of experience in these local government matters.

I trust that Government will feel that it can accept these amendments that I have suggested, and would like to close by paying my tribute to the manner in which the Department of Health and Local Government has dealt with local government authorities and bodies during the past few years. (Hear, hear.) It is quite common in England for the local government bodies and the central authorities to argue and disagree, but here, when there is argument and when there is disagreement, there is never, or very seldom, any stage of violent protest reached, because thanks to the tact of the department and the men who lead it, we have nearly always found ourselves able to solve problems by sitting around a table and arriving at reasonable compromises.

MR. MATHU: Mr. Speaker, I have very little to say on this amending Bill. I would like to support the motion that the Bill be read a second time, and to comment on the constitution of the Mombasa Board as provided for in clause 5.

There are two principles there laid down for returning members of the various races to the Municipal Board. There is the elective principle and the nomination principle. The elective principle has been accepted in many parts of the world, and it has been the most equitable system of democracy, and I would like to suggest that consideration be given to whether that board, which is very go-ahead, would like to try the experiment of returning two African

members by election instead of nomination. The African residents of Mombasa could definitely return; their two members by election, and we could then see what reaction there would be in other municipalities like Nairobi, where, as the hon. Member for Nairobi North will agree with me, we have an African community that can exercise a vote most intelligently.

I hope the hon. Member for Nairobi North will be able to support me on this point, because it is important that councillors should be responsible to the electors, and here we would have a basis on which to build a democratic system of local government applicable to residents of all races. I should like to hear the views of the hon. member on that.

I beg to support.

MR. PATEL: Mr. Speaker, I support the second reading, but I have some comments to offer on clause 5.

I agree with the hon. Member for Nairobi North that there should be enabling power so that the Member could appoint an unofficial as chairman if he considered that circumstances justified it. I do not say that it will be possible for the Member to appoint an unofficial chairman at present, but while we are amending the Ordinance it will be advisable if we could give powers to the Member to appoint an unofficial as chairman when he thought the case might justify it.

I welcome the nomination of two African members as provided for in clause 5. I also welcome the fact that the Arab representation on the Municipal Board has been increased. I believe that in 1929, when the Mombasa Board was instituted, a grave injustice was done to the Arab community in giving them weaker representation at that time.

I have strong comments to offer on sub-clause (7). There power is given to the Member to nominate not more than four members to represent the Government of the Colony. I think I have informed this Council twice already and should like to repeat it again, that in this matter there has been a breach of agreement on the part of Government with regard to the nomination of an Indian to be one of those four members. When the Mombasa Municipal Board was constituted about 1929, no African

[Mr. Patel] took part in the controversy about the constitution, nor the Arab. The parties to the dispute were the European community and the Indian community, and a round table conference was appointed to decide the whole question. An amicable settlement was arrived at whereby it was agreed by both parties that there should be seven unofficial European members and seven unofficial Indian members.

Later on, there was a dispute about the four Government members. In regard to that, I was one of three people who saw the then Local Government Commissioner, Mr. Logan, but two of my colleagues are no more, and I am the only one of the three able to say what happened then. Unfortunately when the Secretariat was burnt, papers bearing on this agreement were also lost, and the only person who can speak about the matter is myself and nobody else. (Laughter.) I can say that an agreement was arrived at between the representatives of the Indian Association, Mombasa, and the Commissioner for Local Government, that on all occasions one of the four should be an Indian and, in the very first board, an Indian was appointed, and an Indian was appointed all the time, I believe until 1946, for 17 years continuously. That supports what I say.

In 1946, when the Local Government Commissioner desired to appoint an African member he did not know how to do it. He wanted to maintain the European majority and still desired to appoint an African. When there was a re-nomination of those four members, he deliberately omitted the Indian member after a practice of 17 years, a practice followed in pursuance of a solemn agreement made between the Indian representatives and Government. One would have expected some sort of round table conference or some sort of discussion again. I protested even at that time, but now, when African members are given separate seats and four are left to be nominated by Government, I resubmit my claim which was made in 1929. There is a breach of the agreement for two reasons: one, because they wanted to nominate an African member, and two, not to disturb the European majority.

I do not know how long Government will be able to maintain a European majority in that town with a floating population of Europeans, many of whom, I say with confidence, are hardly prepared to take up the responsibilities of local government. There is no doubt that they opposed it when the Board was constituted; responsible people even opposed the franchise for European women, and that is the history of European membership in Mombasa. I personally submit very strongly that either the Commissioner for Local Government should call a round table conference again of all parties—Africans, Arabs, Europeans and Indians—to decide how these four seats shall be filled, or at least, I submit as an Indian, the old agreement should be carried out.

With those remarks I support the second reading.

MR. SHATRY: Mr. Speaker, I rise to support this Bill, and have only a remark to make on the suggestion put forward by the hon. member Mr. Mathu. In clause 5 (4) it is mentioned that two Arab members will be nominated by the Member. I think that, instead of being nominated, if those two Arab members could be elected then they would have the courage to work, and would have the support of my community.

I wish to associate myself with the views put forward by the hon. member Mr. Patel, that injustice has been done to my community in the past, and you will find the same again if two Arabs are to be nominated, which is an injustice. The Arab ratepayers in Mombasa are more than two-thirds of the European ratepayers, and I should like to see an amendment that instead of two Arabs being nominated three should be elected.

I beg to support.

MR. MADAN: Mr. Speaker, I also rise to support the second reading of the Bill, subject to a few comments I have to make.

To begin with, I also welcome, like my colleague, membership for the Arabs and Africans.

According to clause 8, a small point, the word "acquiring" is to be substituted for "purchasing". I hope municipalities will not lose the essential ingredient of purchasing, the will to pay for it.

[Mr. Madan]

So far as clause 15 is concerned, that depends on how one looks at the matter which deals with section 37 of the principal Ordinance. As far as I am aware, except perhaps at the present time, the Mayor of Nairobi has not been called upon to call a meeting of the inhabitants of the municipality, and if it is left to his discretion he may never call a meeting at all. To say that the mayor may be called on to hold a meeting of inhabitants, is probably derived from a recent requisition submitted to him by ratepayers to hold a public meeting, but to say that life would become untenable because he is called on to hold a public meeting is, I submit, going too far. Mayors should be used to holding public meetings, but I find the same safeguard for what the hon. Member for Nairobi North was worrying about, that even ridiculous demands could be made on a mayor for meetings. I find the safeguard in the section itself: "The mayor may from time to time if he shall see fit, and upon receipt of a requisition signed by such numbers of the inhabitants of the municipality as may be fixed". I myself would be against calling on the mayor to hold a meeting for a ridiculous purpose, and for that reason I personally would not be able to support the amendment suggested by the hon. Member for Nairobi North.

In the new clause 52A there is a small point which the hon. mover might perhaps consider incorporating a suggestion, where it says that notice shall be given "in not less than two consecutive issues of a newspaper circulating in the municipality". I suggest that he should make assurance doubly sure with one notice to be published in the Official Gazette as well. It is a small point, and perhaps the hon. mover will consider it.

Subject to those remarks, I beg to support.

MR. FOSTER SUTTON: Sir, I find myself in some sympathy—although up to this morning I was out of sympathy—with the amendments suggested by the hon. Member for Nairobi North to clause 15. The only opposition I was offering was because I thought that by inserting "may" instead of "shall" would make the whole section ridiculous. It seemed to be redundant to have two "mays" in, but it is really a question of

drafting. I think the hon. Member for Central Area is looking at the section through different eyes to myself, because I cannot find the protection he suggests exists there. All the section does, if you read it, is that a council may fix by resolution the number required to requisition a meeting. That is all, so that I see little or no protection in the section as it now stands. I would suggest that a mayor be given power, as the hon. Member for Nairobi North suggests, to summon meetings, and so amend it, or wash it out altogether. But it might be as well to have it in because it gives a sort of *locus standi* to a public meeting convened by the mayor if he thinks a matter grave enough to be discussed at a meeting.

I do not know what the hon. Commissioner for Local Government is going to say about an amendment to clause 5, but I venture to suggest that the points made by the hon. member Mr. Patel can be met by simply changing the wording of (1) by saying "the chairman (to be appointed by the Member)", and if it is the policy to appoint the district commissioner it is entirely a matter for the Member. I can see no difficulty about it. If he wants to put the district commissioner in he can, it is entirely a matter for his discretion. I am awaiting with interest the hon. Commissioner's comments on the point made by the hon. Arab member about the election of Arabs, especially in view of the fact that we already have elections down for Legislative Council.

MR. JEREMIAH: Mr. Speaker, I wish to support the second reading of this Bill and I should like to emphasize what my hon. colleague Mr. Mathu has said, and that is that we should, in regard to clause 5, consider the question of introducing elections among Africans. I do not think this will be very difficult, and I recommend that it should receive serious consideration by the hon. mover. We go further by saying that two Africans, which is the number suggested for nomination, are to my mind inadequate. We should have more than two Africans in the municipal boards or councils. African interests in such places as Mombasa are very large. The number there is more than the other races, and for that reason I think it is only fair that the representation on such

[Mr. Jeremiah] boards should be at least proportional to the number of inhabitants and not as it is now.

It may be argued perhaps that the Africans have advisory councils in which they can discuss all the matters concerning them. Well, sir, I have had experience of such councils. They are only advisory, and though what they discuss there may be of vital interest, in many cases their views do not receive the support that they should. For this reason I think that this Council should do justice to the African by at least increasing the numbers either by nomination or election to such council or board. With that remark I beg to support.

MR. WYN HARRIS: Mr. Speaker, I only want to make one brief remark and that is with regard to the possibility of the election of the African members to be nominated to the Municipal Board of Mombasa.

It is a convinced belief among a lot of Africans, I think, that the ordinary form of election as used in Great Britain must of necessity throw up the best representatives. Well, sir, our experience in the local native councils is that we have not yet succeeded in finding the best form of election. We are experimenting at the present time, as my hon. friend Mr. Mathu knows, both with the secret ballot, which has been tried in the Nyeri district, and with proportional representation, but many of us who are really most interested in getting the best members on councils are not yet satisfied that the best way of setting about it is by some form of electoral college. I believe myself that the time is nowhere near ripe when we should start experimenting inside the municipalities; not until we are much more certain where we are going in the native areas.

I myself am very sympathetic to the idea that the African should have some voice in the nomination or election of their people, but I do not believe that the ballot box is in the best interests of the Africans themselves, particularly at the present moment, until we have found the best method of election. For that reason I oppose the amendment.

MR. COLCHESTER: Mr. Speaker, nothing could be more gratifying than the interest that this Council has shown in

the subject of local government, and it is of course eminently true that the welfare of society far more depends upon the drains, the roads and the sewers of local government than upon the eloquence and the high principles of this Council.

If I might reply—

MR. HOPE-JONES: Mr. Speaker, on a point of order, is not that a breach of privilege, referring to this Council in such contemptuous terms? I suggest that those remarks should be withdrawn. (Hear, hear.) (Laughter.)

THE SPEAKER: I must rule against you. I shall not order the hon. member to withdraw them. (Applause.)

MR. COLCHESTER: Thank you, sir. (Laughter.) (THE SPEAKER: Order, order.)

This Council has been rather given to classical allusions and there was yet another classical illusion which is associated with the name of Hope-Jones which I cannot resist. There was an opera by the name of Dido and Æneas, which was performed in Nairobi last week, with which the name of Hope-Jones was closely connected. One of the principal airs and tunes in that opera was "Our next motion is to storm!" (Laughter.)

Dealing now with the point made by the hon. Member for Nairobi North, nearly all he said is, I think, acceptable to Government, although there may need to be some discussion over the exact way in which it is to be put.

I should like first to turn to clause 5 on which he commented and on which other members also commented. First, I should say that it was only about 10 months ago that an inquiry was made in Mombasa into the constitution of the Municipal Board, and everybody was given an opportunity to say what they thought about the constitution of the Board. Some of the suggestions he has made were not made locally at that particular inquiry, or if made were not very strongly supported. The suggestion now made is that the district commissioner should cease to be the chairman of the Municipal Board. This was a point which was discussed in Mombasa, and in general the local feeling was in favour of keeping the district commissioner as chairman. If it is now suggested that it

[Mr. Colchester] should be within the power of the Member to say who shall be chairman, I, and I think the Government, would be prepared to accept it, but it was not a point which was made in Mombasa.

Another point was the question of both Arab members, or one, being elected, and here again I would say that the Arab community in Mombasa did appear to give evidence at this inquiry, but did not at that time ask that elections should take place. Since, however, it is the custom of this Council that at least one of the Arab members should be elected, and since the system of election does already exist, the Government would accept the suggestion that either one or both of the Arab members should be elected.

As for the question of electing African members, I can only support the hon. Chief Native Commissioner. I am certain that it would not be practicable, and I am fairly sure it would not be desirable. So far as the question of practicability goes, in Mombasa there is a moving African population, it has no stability; and the question of determining who should be the electors in the elections would be an impracticable task. After all, the municipal franchise for elections, rightly or wrongly, is linked to the owning of property or the earning of a certain income, and it would be a racially discriminatory practice to introduce African elections which were not tied to that policy. I do not think the hon. Member for African Interests would wish to have a system of elections for Africans different from that for other races.

Now for the question the hon. member Mr. Patel raised of breach of faith. As he said, the records went in the great fire, and we have no record in the Local Government office, nor has Mr. Mortimer in his exceedingly reliable memory a record of any such agreement. Moreover, I cannot see that it was ever constitutionally admissible that the Governor's powers to appoint members to municipal authorities could be pledged in any way. It might have been customary to appoint an Indian as one of the Government members, but it was not constitutionally proper or legally enforceable in any way that these powers of nomination, which clearly are prerogative powers, could be pledged. This

amendment does not say who the four members to represent the Government of the Colony shall be, and I do not think that it would be proper in any way that it should be said now, or elsewhere, or at any time, who those nominees will be. They must be the best people to represent Government interests.

There was one other minor point on the question of representation on the Municipal Board of Mombasa, and indeed on all municipal authorities. The hon. Member for Eastern Area was careful to avoid the issue of representation being based on the owning of land or property, but the hon. elected Arab member fell into it. The plain fact is that, if one bases representation on ownership of rateable property, the Government more or less sweeps the board in Mombasa, because the Government is predominantly the biggest land owner in Mombasa. We would be wrong to base representation on the ownership of property. (DR. RANA: I do not agree.) (Laughter.)

If I might turn now to clause 13 to which the hon. Member for Nairobi North suggested a certain amendment, that amendment is accepted. In a way it ties the hands of the local authority more than this clause here was intended to tie their hands. This clause, if you look at the "objects and reasons" of the Bill, shows an awareness of the desirability of fixing the maximum sum within which the committees of council should operate, but it was intended to leave the fixing of the sum to the local authorities themselves. If, however, it is the wish that it should be fixed at so many pounds, then the Government would accept that suggestion. (MR. FOSTER SUTTON: £25.)

Clause 15, the calling of public meetings by mayors. I do not really think it matters very much what the law is because reality and custom, rather than law, really determines when mayors hold meetings. The plain fact is that the mayor is the first citizen of a town and, if there is a public demand, he is supposed, and inevitably bound, to call a meeting. I would accept the amendment by the hon. Member for Nairobi North, and I would say that the intention of this clause was no more than to make the original meaning of the section clear and not to raise

(Mr. Colchester)
this whole question of how it should be enforced.

The other point raised by the hon. Member for Nairobi North was in regard to clause 28 and the majority required to pass the annual estimates of accounts. I have never seen this raised before or heard of it being raised by other local authorities, but it is a reasonable amendment, and it is, I think, true that if one insists that the majority to pass the annual estimates shall be the majority of the whole council, you do give a minority party within the council power to sway what a decision shall be. In effect you sort of recreate locally the Irish party which dominated politics for a certain time in England in the 19th century, and which to a certain extent dominates it here still!

I have one further point, and that is the suggestion that to appoint substitute members of local authorities to replace elected members absent from the Colony should not require the approval of the Governor or the Member. The hon. Member for Nairobi North did mention the word "delay", but I think he would agree that actually there never is any material delay when any names are put up, nor is there ever any demurrer at the names. But I do agree it is important to amend it as he suggests. It is an amendment which has never occurred to the Local Government Department, and it shows the virtue and strength of a Local Government Department with other people outside it to keep it moving. That amendment also would be accepted.

There are two other points left, and those are the points raised by the hon. Member for Central Area. First, clause 8, the meaning of the word "acquiring". Acquiring in this context, and I suppose in the dictionary too, does not mean forcibly taking possession of; it means no more than buying or obtaining by exchange, and so forth, and I can give an assurance that this does not entail compulsory powers of acquisition.

As for clause 20, the suggestion that notices should appear in the Official Gazette, I cannot see the point of that. The idea of publishing notices to the owners of buildings to show them that the local authorities wish to do something about their buildings is that the

owner should receive the news. I do not see that a notice in the Official Gazette would really let him know, since on the whole the circulation of the Official Gazette does not rival that of the newspapers. I hope these points will be considered in committee.

MR. VASEY: Precedence?

MR. COLCHESTER: On the question of the order of precedence for the mayor, you, sir, ruled that this was perhaps inadmissible in so far as it is new matter, and for that I felt rather glad, because it does absolve me completely from making a firm answer. I would, however, say this, that Government has accorded to the mayor the same precedence that he enjoys in England. Precedence in this Colony is not a matter of statute and, as far as I know, if one gave the mayor precedence by statute you would be giving it to one person and not to others with good claim. I hope the hon. Member for Nairobi North will accept the assurance that, by means of such devices as precedence is fixed out here, the mayor will be accorded precedence. But I must just make one exception of historical fact. The hon. Member for Nairobi North said that in all the towns of England the mayor had precedence after the King's representative. In the city of Oxford and the Borough of Cambridge he comes after the Chancellor of the University. (Laughter).

The question was put and carried.

Council adjourned at 11.15 a.m. and resumed at 11.30 a.m.

BILLS

— IN COMMITTEE

MR. FOSTER SUTTON moved: That Council resolve itself into committee of the whole Council to consider, clause by clause, the following Bills: The Local Government (Municipalities) (Amendment No. 2) Bill, the Penal Code (Amendment No. 2) Bill, the Employment of Servants (Amendment) Bill, the Criminal Procedure Code (Amendment No. 2) Bill, the Hide and Skin Trade (Amendment) Bill, the Stock and Produce Theft (Levy of Fines) (Amendment) Bill, the King's African Rifles (Amendment No. 3) Bill, the Special Districts (Administration) (Amendment) Bill, the Trout Bill, the Kenya Police Force

(Mr. Foster Sutton)
Reserve Bill, the Resident Labourers (Amendment) Bill, the Possession of Industrial Alcohol Bill, and the Courts (Emergency Powers) (Repeal) Bill.

MR. RANKINE seconded.

THE SPEAKER: Before I leave the chair I should like to say a few words based upon having listened now to debates in this Council since last October.

Both in the old Council and in this Council it has been borne in upon me that a large amount of time is taken up in the debates on the second reading of Bills on matters which could be more properly dealt with in the committee stage, and that, by reason of what I have already said, we are in danger of turning the committee stage into a semi-rubber-stamp organization. That is to say, Bills go through the committee stage at a rate, well, like a machine in the post office sorting letters. I do not imply by what I have said is any criticism upon any hon. member because I know the answer—it is the old one: "We have always done it that way". But I do ask hon. members to take this statement of mine into their consideration. That is all.

The question was put and carried.

The Speaker vacated the chair and Council went into committee of the whole Council.

Local Government (Municipalities) (Amendment No. 2) Bill

Clause 5:

MR. JEREMIAH: I move to amend the clause by the deletion in the proposed new section 9 (5) of the comma and words "to be nominated by the Member" and the substitution therefor of the words "to be elected". The reason for this is, as I said before, that it will be a very good proposal for Africans to have the elective principle in Mombasa. I do not hold with the objection that elections should start in the reserves, for in the towns I think it would be more easy as Africans in towns are more advanced and can appreciate these things better, and it is in the towns that we should start with this principle.

MR. COLCHESTER: On behalf of Government I must oppose this amendment for the reasons which were explained during the second reading.

The question was put and negatived by 19 votes to 9, 1 not voting. Nos.: Messrs. Andrews, Blundell, Colchester, Edge, Erskine, Wyn Harris, Hope-Jones, Hopkins, Hyde-Clarke, McLennan, Nicol, Rana, Rankine, Robbins, Lady Shaw, Messrs. Foster Sutton, Thornley, Vasey, 19. Ayes: Messrs. Chemallan, Jeremiah, Mathu, Nathoo, Ohanga, Patel, Pritam, Seif bin Salim, Shatry, 9. Did not vote: Mr. Madan.

MR. FOSTER SUTTON moved: That section 9 (1) be deleted and replaced by the words "(1) A chairman, to be appointed by the Member".

The question of the amendment was put and carried.

MR. FOSTER SUTTON moved: That new section 9 (4) be amended by deleting the words "to be nominated by the Member" and substituting therefor "to be elected".

The question of the amendment was put and carried.

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

Clause 6:

MR. FOSTER SUTTON moved: That new section 10 (1) be amended by the insertion of the words "for a period not exceeding 3 years but shall be eligible for re-nomination" before the full stop.

The question of the amendment was put and carried.

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

Clause 10:

MR. FOSTER SUTTON moved: That paragraph (b) be deleted and the following substituted therefor "(2) Where any councillor, other than a councillor nominated by the Member, leaves the Colony for a period not exceeding eight months the Council may co-opt a fit and proper person to discharge the duties of such councillor during his absence from the Colony: Provided that if any councillor is absent from the Colony for a period not exceeding eight months his seat shall become vacant".

The question of the amendment was put and carried.

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

Clause 13:

MR. FOSTER SUTTON moved: That paragraph (b) be amended by inserting the words "does not exceed £25 and" after the word "expenditure" on the fourth line.

The question of the amendment was put and carried.

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

Clause 15:

MR. VASEY moved: That the clause be deleted and the following substituted therefor: "15. Section 37 of the Principal Ordinance is hereby repealed and the following substituted therefor: "Summoning of public meetings. 37. The Mayor may from time to time summon, at such place and time as he may determine, public meetings of the inhabitants of the municipality for the discussion of any matter which he considers to be of public importance: Provided that no such meeting shall be summoned for the purpose of promoting, opposing or discussing the election of any person as a councillor or as a member of the Legislative Council".

The question of the amendment was put and carried.

The question of the new clause was put and carried.

Clause 28:

MR. FOSTER SUTTON moved: That paragraph (b) be amended by substituting a full stop after the word "majority" where it first occurred and deleting the remainder of the paragraph.

The question of the amendment was put and carried.

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

*The Employment of Servants
(Amendment) Bill*

Clause 3:

MR. FOSTER SUTTON moved: That paragraph (g) be amended by inserting the words "in Council" after the word "Governor".

The question of the amendment was put and carried.

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

Clause 22:

MR. MATHU moved: That new section 23A (1) be amended by inserting the comma and words "unless the Labour Commissioner otherwise direct" after the word "shall" in line three.

The question of the amendment was put and carried.

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

Clause 23:

MR. FOSTER SUTTON moved: That new section 23A be amended by the insertion of the words "entering into deeds of apprenticeship under the provisions of this" between the words "of" and "this" on line two.

The question of the amendment was put and carried.

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

Clause 26:

MR. FOSTER SUTTON: The hon. Member for Kiambu said he intended to move an amendment in committee and hoped Government would accept that amendment. He wished that it were possible for the court to be able to impose a heavier penalty than the ordinary penalty. If you look at the new clause it says: "shall be guilty of an offence against this Ordinance". The effect of that is that the penalty comes within the scope of the general penalty clause; that is £30 or in default of payment three months. That is to say, a £30 fine maximum or, in default, imprisonment up to six months. He was contending for a bit more than the Government was prepared to accept. He wanted, as I understand the position, to make it imprisonment as well as a fine, and no alternative. I personally feel that this is really a civil offence. Normally you could sue the person who persuaded the apprentice to break his deed of apprenticeship; you could sue him for damages. Therefore I suggested to the hon. member, and I believe he accepted it—I am sorry he is not here to say yea or nay, but I was under the impression he accepted it (MR. THORNLEY: He did) that we should increase the fine by including the penalty here and adding the words "and shall be liable on conviction therefor to a fine not exceeding £100 or in default of payment to

[Mr. Foster Sutton] imprisonment for a term not exceeding six months". We propose that the amendment should take that form, because it will give the court power in a case where it is not a serious case to give a nominal fine, but if it is a really bad case, with dirty work—to use an unparliamentary expression—he can impose the maximum, though he will not be able to sentence him to imprisonment unless the person fails to pay the fine.

MR. FOSTER SUTTON moved: That new section 25 be amended by inserting after the word "Ordinance" on line five the words "and shall be liable on conviction therefor to a fine not exceeding £100 or in default of payment to imprisonment for a term not exceeding six months".

The question of the amendment was put and carried.

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

Clause 32:

MR. FOSTER SUTTON moved: That the words "death or" be inserted after the word "by" on line five.

The question of the amendment was put and carried.

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

Clause 39:

MR. MATHU moved: That paragraph (d) in new sub-clause (4) be deleted and paragraph (e) be relettered (d).

The question of the amendment was put and negatived.

Clause 41:

MR. FOSTER SUTTON moved: That the word "mandated" be substituted for the word "mandate".

The question of the amendment was put and carried.

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

The Trout Bill

Clause 2:

MR. FOSTER SUTTON: I move an amendment to the definition of "Member" by deleting the words "Agriculture and". The reason why we wish to delete that is that the member of Executive Council responsible might not always be

acting in both capacities and it allows a little more flexibility.

The question of the amendment was put and carried.

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

Clause 7:

MR. NICOL: I beg to move an amendment to sub-clause (1) by the deletion of the figures Sh. 25, Sh. 10 and Sh. 3 and the substitution of Sh. 60, Sh. 20 and Sh. 5. I have not, since I spoke on the second reading, had an opportunity of checking up as to what the comparable licences are in Tanganyika. I had hoped that perhaps my hon. friend the Game Warden might have been able to find that out. I do feel that the rivers of this country are far and away better fishing than the rivers of Tanganyika, and also a lot of money is being spent on these rivers and on the protection of trout, and I think it is only reasonable that the figures I have suggested should be accepted.

MR. FOSTER SUTTON: I did take the opportunity to ask the Game Warden to ascertain this, which he did, and it might help hon. members if I gave them some information before they speak on it, and if you will bear with me I will read a letter I received in Council this morning. First of all Captain Ritchie says this: "(a) I have confirmed by telephone to the Game Warden of Tanganyika that the Tanganyika Territory Government Trout Licence charges are the same there as in Kenya—that is to say the same as in the clause in the Bill—(Sh. 25 for 12 months, Sh. 10 for a fortnight, and Sh. 3 for 24 hours) and that any sum paid in excess of Sh. 25 per year must be a contribution to the club or association that manages the water". I can state from personal experience that at Lushoto you certainly do pay a fee to the club. The majority of the money seems to go to the club there.

"(b) The Central Advisory Angling Board"—and I would emphasise this—"not long ago considered the question of cost of Trout Licences in Kenya, and advised against any increase". Well, in that connexion it may not influence this Council, but I would suggest that we have got a body whose duty it is to go

[Mr. Foster Sutton]—into these matters and they are performing a public service. They probably have considerably more experience of the whole position than we have and I would suggest that that certainly ought to influence us to some extent.

"(c) There is one point worthy of mention. It often happens that a number of members of one family fish—father, mother and several children. If the cost of the licence is put up it will hit such families rather hard, for a number of lower salaried people in Kenya are keen fishermen. (Incidentally for your information it was suggested that we should introduce a family licence, that is to say, if one parent held a licence, other members of the family, for example wife and children, might take out licences at a very reduced rate." We turned this down flat because we thought it would cause abuse.

"(d) I think accordingly it would be a mistake to increase the fees payable for trout licences."

MR. RANKINE: Mr. Chairman, I ought to say that, while this amendment would be quite acceptable to Government, Government has no strong views on it, but would be prepared to leave it to a free vote of the Council. I might perhaps add that my hon. friend the Financial Secretary would welcome it. (Laughter.)

MR. EDYE: I am afraid I must oppose the proposal put forward by the hon. Member for Mombasa. I feel that we should not put the cost of fishing, which is a healthy sport, beyond the pockets of many people who are able to afford the Sh. 25. If there is any question of money being needed to improve amenities of the rivers, that can be obtained by subscriptions to the clubs which provide the amenities, but for the ordinary man in the street I should be opposed to any rise beyond Sh. 25.

MR. FOSTER SUTTON: After all, you have to go a very long way for people in Nairobi, for instance, it is not a very cheap sport as it is. You have to go upwards of eighty or ninety miles to get this fishing and it is fairly expensive. I think the hon. mover, if I may say so, was really thinking more of tourists than the people who live here. (MR. NICOL: I

was, yes.) Before putting the question, would hon. members be prepared to accept a slight increase on those figures, or would they prefer to leave them as they are?

THE CHAIRMAN: That will be discovered when I put the question.

MR. NICOL: In view of the general feeling, I will withdraw my amendment.

The question of the clause was put and carried.

The Kenya Police Force Reserve Bill Clause 4:

MR. FOSTER SUTTON moved: The deletion of the commas after the words "Colony" and "and" and the substitution of the word "having" for "have".

The question of the amendment was put and carried.

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

The Resident Labourers (Amendment) Bill

Clause 12:

MR. FOSTER SUTTON: The hon. Member representing African Interests, Mr. Mathu, urged Government to accept an amendment by deleting paragraph (c), and my hon. friend the Labour Commissioner indicated that Government would accept the proposal. That would merely involve the deletion of the whole of paragraph (c) and the renumbering of paragraph (d) (e) and (f) as (c) (d) and (e).

LADY SHAW: On a point of information, I do not understand quite why it should be deleted or why the Government is accepting it, if there was any good reason for putting it in in the first place.

MR. HYDE-CLARKE: This was inserted chiefly in respect of statistics. I am quite happy that that information can be obtained by rules made under the Statistics Ordinance. It was inserted because of a particular incident which occurred in Nairobi twelve months ago when we failed to get information because, I think, of an omission in the Statistics Ordinance, not because of an omission in this Ordinance.

MR. FOSTER SUTTON: All I can say is that, had I understood this, I should have contested the inclusion of it originally, because it is a misuse of the provisions of this legislation.

MR. MATHU moved: That paragraph (c) should be deleted and that paragraphs (d) (e) and (f) should be renumbered (c) (d) and (e).

The question of the amendment was put and carried.

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

MR. FOSTER SUTTON moved: That the following Bills be reported to Council with amendment—The Local Government (Municipalities) (Amendment No. 2) Bill, the Employment of Servants (Amendment) Bill, the Trout Bill, the Kenya Police Force Reserve Bill, and the Resident Labourers (Amendment) Bill, and the remainder without amendment.

MR. RANKINE seconded.

The question was put and carried.

Council resumed, and the Speaker reported accordingly.

THIRD READINGS

MR. FOSTER SUTTON moved: That the thirteen Bills be read the third time and passed.

MR. RANKINE seconded.

The question was put and carried, and the Bills read accordingly.

TIMES OF MEETING

THE SPEAKER: Before I adjourn Council, I understand that there has been some discussion among members as to the times of sittings, and it seems to be agreed that we should start earlier in the forenoons, about 9 o'clock, and not have any break, because it is possible for members to go out at any time they like—nobody is chained to his chair. Therefore, that being so, I will adjourn Council till 9.15 a.m. tomorrow.

MR. HOPE-JONES: Could we not suggest that we should have a break and that there should be a little more time allowed for it?

THE SPEAKER: You are not agreeable to having no break?

MR. FOSTER SUTTON: Surely it does waste half an hour, and any member can leave the chamber. I have never been accustomed to these intervals before coming to Kenya, as in other places members used to go out as they pleased. Until quite recently it seemed to be considered all wrong for members to leave their places, but now they are getting out of that habit and people are moving. At one time people looked askance if you put your foot up underneath your table!

MR. RANKINE: As far as Government is concerned, we are anxious to get on with the business, but we are at the disposal of Council.

THE SPEAKER: I think that in the nature of things, we could meet at 9 o'clock on an ordinary day. I am making it 9.15 tomorrow because I have a meeting arranged with the Indian representation committee, but on a normal day I suggest 9 o'clock, and adjourn at 12.45, without a break.

MR. VASEY: Mr. Speaker, if I may say on behalf of members on this side, we agree to the 9 o'clock suggestion, because we feel there is a tremendous amount of work before this Council and obviously we must make an effort to get through it. We are agreeable to doing without a break for the next day or two, but a number of members feel they would like an opportunity to discuss that matter first.

MR. RANKINE: One other question, sir—hon. members will appreciate that it is very hard on the reporters to do without a break.

MR. FOSTER SUTTON: I am sorry, I had completely forgotten that. I agree that it is impossible for two people only to keep going without a break.

MR. NICOL: I take it that if we sit at 9 a.m. on future days there will be no evening session?

THE SPEAKER: I hope not. (Laughter.)

MR. BLUNDELL: What is the suggestion, that there should be no break tomorrow? Because I am opposed to that. (MEMBERS: Hear, hear.) If we start at 9. The trouble with the break is that it lasts such a long time. If we make it short, we should get the relaxation we need and would not waste too much time over it.

THE SPEAKER: Would you agree to a definite ten minutes? (MEMBERS: Yes.) If it is limited to that it is not such an interruption, but it is difficult to fix ten minutes sometimes with any degree of accuracy unless we have somebody in the nature of an official time-keeper, which I cannot do.

MR. VASEY: I suggest that Government and this Council give some consideration to an effort to provide something in the nature of a room where we can have tea or coffee in order that we may get through the break quickly. The difficulty is that when members go to outside places for refreshment they are very often not served expeditiously. I suggest that perhaps you, sir, might intervene on behalf of the Council and see if some other arrangement cannot be made to have accommodation in this building.

MR. MADAN: I support that, sir, and we should have not only a tea room but something else to buck up one's spirits. (Laughter.)

THE SPEAKER: If and when accommodation becomes available the suggestion will be carried out, but I am given to understand that at the moment no accommodation in the Memorial Hall is available at all. I cannot get a room here, and there is no room available for committees except by pushing somebody else out of a room from time to time. That is all that can be done at the moment. For the time being we are faced with a large amount of work, and I do hope, therefore, that the break will be limited strictly to the time suggested and that we shall meet regularly at nine in the morning.

MR. FOSTER SUTTON: Surely it might be possible to put up some sort of lean-to with a counter outside where we could have our coffee? It would suit everybody if it was there, and there is a good deal of space.

THE SPEAKER: I believe that tents are tolerable, and I daresay there are caterers in the town who would take on the job of supplying refreshments in the mornings, but I would have to leave that to the clerk of Council.

MR. BLUNDELL: I would not agree to a tent for if we once had it we would

not get rid of it. We should have a tea room, and not have any nonsense about it! (Laughter.) If we once had a tent we would be tenting for the next twenty years.

MR. HOPE-JONES: Would it be in order to ask what is the relationship of the present occupants of offices in the Memorial Hall, to the trustees; could any approach be made in that direction with a view to getting some space?

MR. VASEY: Might I suggest that you use your right and appoint a committee from both sides of Council to go into the question of accommodation in the Memorial Hall and see if (a) a room, which is the right of the Speaker of this Legislative Council, cannot be taken for yourself; and (b) whether this Legislative Council cannot be recognized as having precedence over most things in this Colony in the execution of its work. (Hear, hear.) (Applause.)

THE SPEAKER: That seems to be received with acclaim. I will proceed about that later.

ADJOURNMENT

Council rose at 12.55 p.m. and adjourned till 9.15 a.m. on Thursday, 26th August, 1948.

Thursday, 26th August, 1948

Council reassembled in the Memorial Hall, Nairobi, on Thursday, 26th August, 1948.

His Honour the Speaker took the chair at 9.25 a.m.

The proceedings were opened with prayer.

MINUTES

The minutes of the meeting of 25th August, 1948, were confirmed.

SALARIES COMMISSION REPORT WITH SESSIONAL PAPER No. 2 OF 1948

The debate was resumed.

MR. NATHOO: Mr. Speaker, it is not my intention to take up much of the time of Council this morning in dealing in detail with points in the report, but I would be failing in my duty were I not to associate myself with my colleagues in protesting against the basis on which the recommendations of this report have been made.

I fail to appreciate the justification for the introduction of the three-fifths formula for non-Europeans holding posts in the unified service. If they are to attain the qualifications which are necessary for non-Europeans to hold those posts, a man has to devote his time and perhaps a little more expense in getting the qualifications to enable him to fulfil the duties entrusted to him. Moreover, I consider that the three-fifths formula is inconsistent with Government's declaration in paragraph 6 of the Sessional Paper in which it is recommended that the scales proposed by the Commission in paragraph 100 of their report should be "redesignated as A, B and C (instead of European, Asian and African) and that exceptionally able and useful individuals of any race should be advanced from scale to scale".

This means that there is some intention of equal pay for equal work. If that is intended by Government for ranks below the unified service level, why then is the same formula not applied to the unified service? I also note that the maximum point of the unified service level starts at much below those of the scales A, B and C, inasmuch as a qualified medical officer is getting paid £500 against £580 to be paid to an officer who

has attained the level B in these scales of A, B and C, and that the officer attaining level A in those scales will get paid £740 against £580 of the officer in the unified service. I must confess that the position to me seems very far from clear.

At this juncture I should like to say, without in any way meaning to prejudice the claim which has been made by the non-European community of equal pay for equal work, I would like to say that if this racial discrimination is to be persisted in that the three-fifths formula does not give to the Asians the benefit of this undesirable practice. The system made by Government under the three-fifths rule gives Africans parity with the Asians. Surely this is not consistent with the statement in paragraph 92 of the report, which mentions that the real income level from which the applicant comes has to be taken into account. Therefore the Asian ought to be paid a higher level of pay than the African in the unified service level. No mention is made of the privileges to officers in the unified service level in which a member of the unified service level is not given higher class privileges than those enjoyed by his colleagues.

As regards the pension privilege, I consider that it was long overdue, and that all classes of civil servants ought to be treated equally as far as free pensions are concerned. When the contributory pension scheme was introduced for the European civil servants, from experience it has proved to be a failure, and the same complaint comes for the interim measure which was introduced for the Asian, and by the representations which have been made by the African Civil Service and which have been accepted, for free pension benefit, it seems that the measure was long overdue and should be granted.

There is one other point which I should like to mention, and which I believe has been touched on by the hon. Acting Director of Education, as regards the staff in the grant-in-aided schools. At the moment I understand that Government has made no decision on this point, but I would urge on the hon. Financial Secretary that the grant-in-aid institutions are doing an extremely useful piece of work and if the teachers in those institutions are not given the same scale as

[Mr. Nathoo]

that for Government servants the structure of those institutions is going to fall, and Government will have to share the full burden of the educational costs of the community.

I do not propose to say very much more, except to say that all my remarks are not actuated by any racial feelings or bitterness. If the European Civil Service has got away with better terms and more pay, good luck to them. But at the same time the non-European communities ought not to be penalized unfairly on this score.

Then there is the question of cost. It seems to me very doubtful whether in times of depression the Colony can meet a bill which will be more by giving the higher rates, but I do not think there is any justification for denying the Civil Service its just due. What we feel is that when the time comes or even before, it is imperative that a very close scrutiny should be made of the establishments of the various departments, and that inefficient officers ought not to be allowed to be carried as passengers but at the first opportunity should be dispensed with.

There is another point in which I should make myself clear. It is that in the ordinary course of events I should have felt very diffident about supporting this report, but we feel that for the last eleven years the Asian Civil Service has been left in the cold, and if we do not support this measure and get it through, doubts which exist in the minds of Asian Civil Servants that they will not be given a fair deal will be confirmed, and that will be one of the main reasons why I support this report.

MR. FOSTER SUTTON: Sir, I am not proposing to take up very much time of the Council, because I think that almost everything that can be said has already been said. May I at the outset say that I entirely agree with the view expressed by hon. members on both sides of Council, that the country is entitled to demand absolute efficiency from its civil servants, and I entirely agree that it ought to be made more easy to get rid of inefficient officers. I have not been long in the colonial service, but long enough to know that it is almost impossible under existing circumstances to get rid of an inefficient officer. Unless he puts his hand in the till and is almost caught in the

act, it seems to me to be very nearly impossible to get rid of him. I think my colleagues here will agree with me that that is a problem one must face up to if you want to have an efficient service. This country does demand efficiency. If anything goes wrong you have only got to look at the back page of the daily paper and see the attacks on everybody, left, right and centre, that have nothing to do with the problems they are grousing about.

Having admitted that one should demand an efficient service, and this country does, does it not necessarily follow in fairness to the service that you have got to pay for it? You cannot have it both ways. You have either to pay people properly and expect and demand a decent job from them, or you are going to get second or third raters. Let us look at some of the facts that come under my wing, because I think that if one is going to deal with this on a rational basis one must look at the facts. It is no use saying the country cannot afford it. It has got to be run, you have got to carry on your services, and I believe that if you do demand absolute efficiency and pay efficient people to do the job, in the long run you are going to save money. That is my opinion. I would much rather have three or four efficient officers in my department than twelve second raters.

I think hon. members will forgive me mentioning the Police Force, but the police are the best example. You have heard some striking figures given by the hon. Acting Director of Public Works, you have heard the position in his department. We have had a commission sitting recently on the Public Works Department, and in all fairness to them, how on earth can you expect that department to be run efficiently if it is 70 technical officers down? It seems to me that you are asking the impossible, and one only wants to be fair to people. When I heard his figures I felt considerable distress over the fact that we have had this inquiry, and things have to a very great extent been tolerated. There may be faults, and no doubt there are, and I think some of the people running that department would be the first to admit it, but you cannot expect them to run efficiently without getting an adequate staff, and the same thing applies to other departments of Government. They cannot get the men,

[Mr. Foster Sutton]

and why? Because the conditions of the service offered to them are not good enough.

I do feel that it is no use sticking your head in the sand like an ostrich and bleating. You have got to do something about it. Admittedly it might be possible to reduce the service, I have sympathy with that, and if you want to reduce numbers and demand absolute efficiency you should pay them properly, and unless you do you will not get them and have to continue with probably many hundreds more than you do because there are second and third raters doing the job.

In the Police Force, since the 1st January, 1946—these are almost as startling, if not quite as startling, as the figures given by the hon. Acting Director of Public Works—we have had 46 resignations from the European personnel. What does that mean? That means that you are spending a considerable amount of money in importing those people and training them, and by the time they become useful they go. Why? Because they are dissatisfied with the conditions of service. That is the plain truth. Then among the Asian inspectors and constables there have been nine resignations, and among the rank and file, sergeants and constables, not less than 751.

Well, you know you cannot run a service if you are going to lose personnel like that. I regard it as a very serious matter, and, as I said before, and you will forgive me saying it again, I think it does deserve emphasis. It is no good bleating about law and order and other things if you have not got the police to do the job. I would qualify that and say that this Council has always treated the police since I have been here most generously. I have not complained, and it would be churlish of me to complain—I think they have been given an exceedingly fair show. But the fact is that, we are not going to get the people and keep them, which is even more important, unless the terms of service are made attractive enough.

I sit with the hon. Member for the Coast on the European Civil Service Advisory Board, I have been there since its inception in 1944, and we know the difficulty we have in getting the right people for the job. Sometimes, although we have a whole list of applicants for

one post or several posts, on occasions we have had to reject them all because we did not consider one good enough to be recommended. Sometimes we feel that the head of a department is in such a terrible position from the staff point of view that we have to recommend someone, and we have to take the best of a very poor lot sometimes. Why is it? Because very few people are prepared to play. We had a case the other day of a first class man whom we were unanimously of opinion we could put into a particular job in which he would have done excellently, an ex-naval officer, but he was offered a better job by a firm in Nairobi and refused two jobs we would have recommended him for. Those are facts that one can speak of from personal knowledge.

I have a great deal of sympathy with a lot that was said by the hon. member Mr. Patel, and I am expressing my own personal view. I think he is probably aware of my views on the subject and I have a great deal of sympathy with a great deal of what he said. I think that is all that I may as a Government member say probably, but I think that all will agree on this side with him when he said there is very little credit due to Government in the way the Asian staff has been treated. They have been deferred consideration of their case time after time, and I think it is a credit—and I am glad to be able to say so here—a credit to that staff that they are as loyal and decent as they are. (Hear, hear.) And we have got some first class Asian officers.

The hon. Member for Mombasa mentioned a point, and I mention it in passing because there may be some slight misunderstanding. He seemed to think that under a contributory pension scheme it was easier to get rid of an officer than now. I beg to differ with that view, because under the present pension regulations you can get rid of an officer for genuine inefficiency, although admittedly, as I told you, it is extraordinarily difficult, and you can get rid of a man on reorganization, they can be chucked out, and so on, and awarded a pension commensurate with service. But I think we want something more drastic than that, just a change over from one scheme to another will not put the position right. I think hon.

[Mr. Foster Sutton] members here will agree with me that, speaking personally, I would prefer, and a lot of us in the service would, a contributory pension scheme because it belongs to you; and I think those who have thought about it a great deal would rather, I myself would, have a contributory pension. If I wanted to go tomorrow I would get out with the money Government has contributed and my own plus some interest, whereas the ordinary officer, after doing ten years like I have, if he wanted to retire would retire with nothing. So that there is some advantage from an officer's point of view, but I admit it is susceptible to opinions.

There is one point that the hon. Member for Kiambu—he has been shot at enough and I am not going to shoot at him in what I say now. I think we all of us often say things we do not intend to be taken too literally. He said a thing which I mention because I would like it out right in fairness to the service. He said something about shouting for increased emoluments the whole time, but he would rather have a reduction in the cost of living, that was the effect of it. But he did say they had been shouting for increased emoluments the whole time. Since I have been in the service I can honestly say that I have not heard one shout, not one single shout, from the service for increased emoluments. As chairman of the European Civil Service Advisory Board, on not one single occasion have I seen come before that Board any shouting for increased emoluments, and we should have been the first to hear it.

What the service has been doing—after all they have been promised this for a long time ago a revision of their salaries, and they have been loyally waiting for that revision to take place, but they have not been bleating. Many, I know, are unable to keep their family going without their wives working. I know case after case where women had to go out to work, not because they wanted to save money but because they wanted to live at a reasonable standard. Their wives were compelled, although they had children, to do a job of work, and they have not been bleating. I think they have behaved most loyally to this country. They have been waiting for precisely what is taking place to-day, and they have waited a devil of a

long time for it. (OFFICIALS: Applause.) I only mention it, not to give offence, but because I believe it to be the truth, and I think it is better that the position should be absolutely clear to the country.

I do not think I have very much more to say. I do not think, if I may say so, that the accusation that was made against heads of departments about increasing their staff in order to sort of increase their own position, and possibly to increase their own emoluments, is fair. There may be cases of it, but not within my experience. My experience of the average officer here is that he is loyally trying to do a decent job, and usually with a tremendous shortage of staff. It is idle for them now to ask for an increase in staff, because you cannot get them. Except possibly for one short period, I do not think my department has ever been up to establishment. When I leave here it will be three down on establishment, with an enormous increase in the work. It means working the whole time under terrific pressure to get the job done, and the job is not as well done as the country is entitled to expect because of that pressure.

Before sitting down—I will not say it gave me sleepless nights, but I have thought a great deal about it and I think you have got to take your courage in your hands and you have got to say what you feel. I could balk the issue by referring to other departments, but I am not going to. I am leaving the country, and I trust that you will accept my statement that anything I say is not intended to feather my own nest, or that of anybody else. I am just going to give you very shortly a few facts which I think ought to be known.

The hon. Member for Ukamba (this arises out of something she said) asked, why should we follow Tanganyika and Uganda? I agree that on the face of it seems absurd. Why should you? I will tell you one reason why: because this Colony, I think, is always regarded as the most important Colony of the three East African territories. I think we regard ourselves as the leading Colony of the three East African territories. But look at the absurd position which is going to be created if we do not keep somewhere in line with them. You will find that it will be promotion for an officer to leave Kenya to go to Uganda or to go to

[Mr. Foster Sutton] Tanganyika. Take the position as a result of this Salaries Commission Report. As I say, I am leaving and I am not asking that anything should be done that would improve my position—I do not want it—but take the Attorney General and the Financial Secretary in Tanganyika and in Uganda. In Uganda he is only (I apologize for mentioning it, but I think it is fair to mention it) the Attorney General. The Attorney General's work in Uganda—I am sure he will agree with me—is nothing like as heavy as the Attorney General's work in Kenya; nothing like it. And the Attorney General's work in Tanganyika is nothing like the job in Kenya, and I am sure those two colleagues would be the very first to come here and support that statement on the floor of this Council if they could do so.

In Uganda, under the Salaries Commission Report, and the same applies to the Financial Secretary's post, he is going to be paid for that office £1,950 a year. The post of Attorney General—this is the plain fact—is a responsible job, but it is not a Member's job as in Kenya. In Tanganyika they have only recently adopted the Membership system, and there is going to be a difference of £50 a year between the two Members in Tanganyika and the two Members in Kenya. I venture to say that is ridiculous. If one knew the conditions and if one was a person who liked an easy, idle life and was offered the two jobs, one would not hesitate. You would say "of course, take the Tanganyika job. Why go to Kenya and break your neck the whole time for a difference like that?" (Laughter.) I mean, you would not do it. (Applause.) I personally, and I know my colleagues too, are not working for money. You get a job and you try and do a decent job. I could have made a tremendous bleat when they suddenly transferred me from Attorney General to Member for Law and Order. I knew what it meant. Ever since then, for the last four years, I have been shot at, and that would not have happened if I had been just Attorney General. (MR. BLUNDELL: How bored you would have been!) No, I should have been able to get up with enough work without killing myself. The same applies to the hon. Financial Secretary. No, that is not so; it is a jolly interesting job. I could have changed

over to the other side, but I prefer to stick to my law.

As I say, in answer to the hon. Member for Ukamba, on the face of it it is a strong argument—why follow the other territories? All I say is that if you do not follow and do a little better, you will not get the right type of man for the job. If you want second-raters or third-raters, well have them—that is your affair. I may have embarrassed my hon. friend the Financial Secretary, but his post is in exactly the same position, and there are several heads of departments in the same position. It will be, for practical purposes, promotion for them to leave Kenya and go to Tanganyika or Uganda. It is ridiculous. That is partly because there is practically no difference in the salaries—none at all in most cases—and because they have an infinitely easier and more comfortable job in those territories.

Dealing with the question of retroactivity, personally it is a matter of indifference to me whether it is made retroactive or not. I do not mind, speaking personally, but I do feel that the service has been waiting loyally for this thing to happen for years now. In my experience it takes years in this country for anything to happen. It is a most extraordinary thing, but it does. Now we have it done—it ought to have been done four years ago—and now that it is done we are going to deprive them of it. (Applause.)

MR. BLUNDELL: Mr. Speaker, like most people in dealing with this report, I have had great difficulty in making up my mind about it. It seems to me the position is fairly clear: you either swallow what you don't like and accept the report, or, like me, you will not do the swallowing. I make no bones about it, I am opposed to the motion before Council. I want to say straight away at the start that you will get from me no recriminations about the integrity, ability and hard work of our Civil Service, because I know—speaking absolutely frankly—that we have got an extremely first-class Civil Service of the very highest standards of integrity and outlook. I want to make that clear in order to remove now, before I get on to the rest of what I have to say, any thoughts of bitterness on the other side. The plain fact of the matter is that the civil servants in this country of ours are partners in the development of the country. (Hear, hear.)

[Mr. Blundell]

We need to say that to get the thing absolutely clear.

I want to deal later mainly with two points arising from this debate: one, the economics, and two, the psychology, which are matters that have not up to date been largely dealt with in this Council. I do not want to bang away at points about retroactivity, although I shall mention one or two things like that; nor about whether X should have more than Y, and anomalies which arise from the report. I do not want to bang away at these because I think they have been dealt with.

What do we want in this report? We want only two things: we want the best Civil Service we can afford, and we want a contented Civil Service. Now, we are not going to get it; we are not, in my opinion, going to get a contented Civil Service out of this report, despite what members on the other side of Council have said. I have met and talked to innumerable civil servants who are accepting this report, if I may say so, *faute de mieux*; they are fed up and they consider the report is the best they can do, but it is not good—I was going to say damn bad, but I thought you might interpose, sir. (Laughter.)

If you do not agree with what I am going to say, I should like to mention one particular instance, to drive home my point. The great middle group of the European Civil Service, who comprise the great majority of the European Civil Service, are—and we know it is true—going to receive a salary which is in many cases slightly below what they are now getting with their cost of living allowance and their allowances. Take a £700 a year man, a district officer, married with one child, he drops about £15 a year under the report, and he will run on his present allowances until the difference is made up. Hon. members on the other side have told me that many of them are in debt. What is the good of accepting a report when you know that people have got into debt on a salary slightly greater than the salary suggested in the report? It is fantastic.

Dealing with this middle group, I would say two things: either their standard of living is too high and that is why they are in debt, and I do not believe it so I shall dismiss it; or they have not

been paid enough, because whether a man is a civil servant or not he is entitled to a salary that enables him to bring up his children properly. (Hear, hear.) I say that now because I want to debunk a lot of talk about family commitments. The line upon which you must draw a salary is not the line of the miserable bachelor who is doing nothing towards providing cannon-fodder for the next war (laughter), the line upon which you must draw your salary, without doubt, is the line upon which a man can rear a decent and respectable family, decently educated as the future citizens of the world.

That deals, I think, largely with the grievance side, I do not believe we shall get out of this report a contented Civil Service, and I should like to take up the point made by the hon. Attorney General and say I was astonished to hear him make it. If you look at the figures and take the example of an assistant inspector of police, you will find under the terms of the report that over five years he drops an aggregate of £109 on his present allowances, and I am sure—and I should like to see my hon. friend nod his head—as a result of this report he is going to have a much more discontented Police Force than he had before. Well, he shakes his head and I am sorry to see it! (Laughter.)

There was one other small point I wanted to deal with, arising out of the hon. Member for Kiambu's speech, before I get down to the economic and psychological aspects. My hon. Friend the Member for Kiambu did not raise this point about overseas leave in order to deprive officers of something which they value. The point he wanted to make, and we all on this side want to make it—whatever our race, colour or creed—is this: that eventually we hope to produce a Civil Service from Kenya and for Kenya, which will regard Kenya as its home and for whom home leave, as it is now called, may only be necessary for technical or mental reasons. (UNOFFICIALS: Applause.) That is the point, and I do ask hon. members not to peg away at him because they see their visits home stopped. That is not the point he was driving at. What we want in this Colony ultimately is a Civil Service within the Colony, for the Colony, and some of us do regard that provision which allows everyone—Asians and Europeans, wherever they are recruited and whatever their

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technical qualifications—to go home, willy-nilly, as something which, if hon. members opposite will forgive me for putting it this way, is rather a dash to our hopes of creating a Kenya for Kenyans.

I now want to deal with the economics of this report. My hon. friend opposite the—I was going to say Mr. Speak-no-evil—Secretary for Commerce and Industry entered into this debate about ten days ago and, with trumpeting tones, threw into the arena a lot of figures. I am not going to be so stupid as to query his figures. (Hear, hear.) I am sure he put those figures up with the most absolute integrity, but when you are considering his figures I do ask you to let me draw your attention to what he said only a short time ago when introducing the Plewman Committee Report. He said "A more eminent economist than myself"—I do not know whether that is possible (laughter), but that is what he said—"A more eminent economist than myself said this: 'Economists attempt, through a defective mechanism, to determine the relationship of the imponderable to the unknown which is human nature' ". How right he was! (Laughter.)

I want to take his figure, if he will forgive me, his £50 million. I do not dispute it, but it is not germane to the ultimate economic situation which will arise from this report. It may be £50 million to-day, but we cannot say what it will be in the future. The national income must depend on the continuing productivity of this country, and I did want to give two words of warning. The first is this, and it has not been mentioned in this Council. We have a rising commitment which will come very heavily on this Colony at the very time when the implications of this report will—D.A.R.A. You have got in ten years or so a recurrent expenditure arising out of D.A.R.A. which will not be met for many years by equivalent recurrent revenue. Secondly—the point, I think, quite missed possibly by an eminent economist—we have got at the moment a declining capital asset in this Colony in the fertility of our land. (UNOFFICIALS: Hear, hear.) I mention that because I suggest that this £50 million was a delightful thing to throw into the arena of this Council to bolster up the courage of those who want to support this report, but it really has nothing to

do with the future whatsoever, and I am quite sure the hon. member would not get up and tell me now that he was prepared to guarantee that figure.

The next point I want to deal with in this respect is his £30 million on deposit. I accept that figure, but again I suggest that it means nothing unless it is broken down and the hon. member did not break it down, so I cannot help feeling that it was perhaps not appropriate to his argument. If you break down the £30 million what is it composed of? It may, one, be a large amount of military deposits and, two, be a large proportion at any rate of funk money which is only lying here idle and which may be removed and may not actually further the development of the Colony. Finally, he mentioned the figure of £900,000 as a day's drawings from the banks, and I tell him straight out now that I shall deal with that one in a moment, and I hope you will be pleased with the way I deal with it. (Laughter.)

I want to deal with my hon. friend the Financial Secretary, and I am going to ask him: did he come here when moving his motion as a welfare officer of the Civil Service, or as a Chief Establishment Officer, or did he come here as Member for Finance? (MR. TROUGHTON: All three!) (Laughter.) I am sorry because, and I say it unreservedly, many people in this country have a tremendous admiration for his integrity and his ability and his unflagging work on our behalf (applause) but I do not like the role in which he presented himself to this Council, and I tell him so straight out.

In my opinion, if he wanted me to vote for his motion, he should have come as follows. He should have said: "the ultimate commitment, as far as I can calculate it, is as follows". He has not. All he did was to throw into this Council a vague statement about courage—I was going to say "My god!", but I say "my goodness". Courage!—It is not courage, it is complete and utter recklessness. The first thing I want to know before voting on this motion is this: What is it going to cost me? I have a right to know it. What I want is a proper figure—not a lot of vague bolony thrown around like balloons in the air. Another point I want to know is, what is he going to do now in the way of retrenchment in order to enable this country to carry this report? We have heard a lot of talk and a lot

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of bowing at the altar of efficiency. I should like to see a definite statement of retrenchment put before this Council before we do all this bowing at the altar of efficiency. Bowing gets you nowhere; what we really want is retrenchment.

Lastly, I want to raise one point and it is this. It is on taxation. You cannot have it both ways. When the hon. Financial Secretary moved this motion he said that he accepted the provisions or he mentioned the Plewman Committee Report. Now, sir, that report has already stated that the taxation level of this country is, if not too high, at a proper level. I would ask the hon. Financial Secretary, unless he is going to tell us the retrenchments that he proposes, how is he going to avoid implementing this report without increased taxation?

I want to deal next with the aspect which will come out of this report as far as inflation goes, and I should like to quote you in this respect the following honeyed words: "We are fighting a bitter battle against inflation and to keep the cost of living down, and it is proving more difficult now than it did at any time during the war". And, again, these words: "All this means money. It means purchasing power being pumped into the country and available for spending in the country, admittedly bringing profits and prosperity on the face of it. But it will mean a stern battle in order to keep costs down, not only to keep Government expenditure within bounds, but the cost of living within bounds, to avoid privation and hardship and poverty for the wage earner, irrespective of race, and to avoid the spiral of inflation with wages chasing prices". (Mr. TROUGHTON: Hear, hear.) I am glad to hear you say "Hear, hear", and you can say it till you are black in the face and be the first civil servant to pass from scale C to scale A. (Laughter.) I said that you can say "Hear, hear" until you are black in the face and be the first civil servant to pass from C to A. Those were the dulcet tones of the hon. member opposite, the arch apostle of anti-inflationary methods, and what does he propose to do? To bung into the arena £900,000 of retroactive pay. I am very glad to hear that this is not inflationary, and am going to deal with it in a moment arising out of the speech of the hon. Chief Native Commissioner.

He said that we need not worry about £900,000 being inflationary, because what was it? It was only a day's drawings from the banks. Right, I have prepared some nice little figures. If you pay Sh. 20 more for a bag of wheat, 50 cents for a pound of butter, Sh. 10 for a bag of maize, produced mainly by the exporting producers of the Colony, you will only add the equivalent of one and a third days' drawings from the bank, and it is not therefore inflationary. Yet I know, and everybody knows, that the man who has done his best to prevent this use and who has trumpeted forth that the primary producer is only entitled to a fair return and no more is the hon. Financial Secretary who on inflationary grounds is now going to have £900,000 put into the economic arena of this Colony.

I am going on to the psychological aspect of the report, and it is a serious one. The basis of this report is that the Civil Service of East Africa must be integrated with world economy. We have heard over and over again that we have got to pay to get the right man for the job, I agree with it, but I suggest that we cannot support a Civil Service recruited on world economy, on a closed economy. We are in this country at the moment, due to the machinations of the hon. member opposite, we are sitting in a closed economy, and it is suggested that we should recruit people from overseas from an open or world economy. To give you an idea of what I mean: The price of maize in this Colony is Sh. 20 a bag—(Mr. HOPE-JONES: Shame!) Quite right, it is not often that you hear words of that nature from the other side so perspicacious! (Laughter.) The price of maize in this Colony is Sh. 20; the f.o.b. price of Argentine maize for 5th August was Sh. 50. Wheat here is Sh. 33, f.o.b. Argentine is Sh. 70.

I mention those points not because I want to elaborate what a world and closed economy is, but for this reason, that if we accept this report without regard to all its implications we will undoubtedly set up in this colony a very serious psychology which will cause people everywhere to demand higher prices. There is no doubt about it. Apart from that £900,000 going into the economic arena causing inflation—and if it does not the hon. Financial Secretary can raise our produce prices to-morrow

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—apart from that, the standard wages set out in this report will undoubtedly cause a corresponding rise in the rate throughout the colony, both in business houses and primary producers, with leave every four years and free passages for so many children, and if you are going to have pensions for all it is only fair to allow the ordinary community to attain the same standard. That must be the object of Government. The result will be that throughout the country there will be a rise in the actual overhead costs of production, whether from commerce or agriculture, which will inevitably lead to the cost of living taking us back to where we began, that is the present salaries plus cost of living allowance.

I say this, that if you accept this report it will not be long before you are going to have the Salaries Commission revision and cost of living allowances on top. (MR. RANKINE: I thought you said they were not enough?) You could not have heard what I said, I said in the middle group—I do not think I was referring to you. (Laughter.) If I could just take that point on. That brings me back to one of the things that I cannot swallow in this report economically, a consolidated rate of salary, for the very reasons I have brought out. If you have a consolidated rate, which in my opinion is morally wrong, we shall have consolidation plus cost of living allowance in so many months time, and there will also be the writing on the wall, as the hon. Attorney General agreed yesterday, of increased grievances caused if the cost of living rises and tribunals give greater wage rates, while the Civil Service will not be on this, but a consolidated salary, especially in the lower and less educated grades. As a result they will have a sense of grievance. (MR. TROUGHTON: What about pensions?) The hon. member need not be afraid—I am dealing with them. (Laughter.)

I want to deal with one small matter which the hon. Deputy Chief Secretary raised, almost with tears in his eyes. He said it would be wrong for civil servants who, from patriotic motives, worked from the beginning of the war until 1946, when they could have retired, if they did not get an increase in their pensions. I have two things to say on that. From patriotic motives most of us went away

in the war but, dear me, if civil servants did not have patriotic motives there might not be any civil servants because we might have lost the war.

The next point is—I went away and many hon. members did the same for the war. Many were not so fortunate as I, and I do not see Mr. Troughton giving me retroactivity on my pounds of butter from 1946 onwards or on my maize or wheat, or anybody else. The hon. Member for Nairobi South says "I've had it". I did not, and if I did it would take the hon. Financial Secretary six months to give it to me. I hear murmurations from members—what I am saying is perhaps sinking in. (Laughter.) (MR. TROUGHTON: It has not sunk in yet.) No, that is the whole trouble. It bounces off, and I will say no more on that one! (Laughter.)

Now I want to deal with the social and what I call the psychological aspect of the report because there are factors that have not been considered, and I myself would not agree to the motion until I had had more time to examine them. I believe, I can assure hon. members on my left, that most of us on this side have no very strong objections to equal pay for equal work, and I say that straight out for the reason I believe the hon. Member for Nairobi North will deal with later, in his speech: I say that to clear the air and because I do not want my hon. friends on my extreme left to be disquieted at what I am going to say.

In this report there are two details which I want to bring to your attention, as I consider them anomalies, and consider them at the present stage of development dangerous anomalies. I begin with 1939, and elementary teachers, and from Makerere, will get an increase of 220 per cent and 226 per cent over and above their 1939 salaries; further, if you add the factor for pensions, you will find that both the elementary teachers and Makerere trained teachers will reach a salary of 400 per cent in excess of the salary earned in 1939. (MR. HOPE-JONES: How much?) Four hundred per cent: I am glad the hon. member does not appear to be deaf. (MR. MAHUI: What is the actual cost of living index?) I have no actual objection to anybody having an appropriate salary for a job, and I do not raise it from that aspect at all. (MR. RANKINE: Hear, hear!) For ultimately we must

[Mr. Blundell] expect great differences in the salary scales or wages of all Africans. We have got a ten-year education plan, and it seems to me that it is dangerous to start off on a salary scale, as I told you, 400 per cent in excess of 1939 scales, if you take the pension into consideration. It is dangerous, because you are going to build up in the native land units among teachers a sort of oligarchy rather divorced from the people they are going to teach. I do not want to delay Council too long in a matter of this sort, but I suggest that obviously we must lead eventually towards raising the standard of living of the Africans, but I doubt whether in the initial stages it is wise to put a few Mount Everests all over the landscape in the salary scales.

The only question I ask is, what is the justification for this very large increase? Is it because it is supposed that grievances will be remedied? Because they will not. And is it because a large inducement factor is necessary? Because there again no inducement factor is necessary, and that is the only thing I stress. I do wonder whether it is wise to put the equivalent of the village schoolmaster in England on a salary scale in the present stage of the development of the colony at 25 times approximately in excess of the wages of the fathers of the children he is teaching. In England, generally speaking, the village schoolmaster, has possibly a salary 2½ to 3 times in excess.

I am not going to delay Council any longer, and I hope I shall not hear too many "Hear, hear's", and on that I want to say straight out that I do consider, for the reasons given—economic and social, grievances and anomalies arising from this report—that we are being rushed into it, and I would like to have time for consideration of these various aspects of the report. For that reason, and with your leave, sir, I am going to move the following amendment: That all words after "resolutions" be deleted and the following substituted therefor: "(1) This Council, bearing in mind that the Report of the Civil Service Salaries Commission will not achieve its object of removing a sense of discomfort from the Civil Service and may well be a serious burden to the future economy of the Colony, recommends that the consideration of the adoption of the Report be postponed and

that an immediate re-examination of the terms of service to be made by a committee appointed by this Council, having regard to the needs of the Civil Service including those about to retire, and the colony's resources. (2) This Council agrees that while this re-examination is in progress, in order to meet the immediate needs of the Civil Service the following measures should be accepted: (a) cost of living allowance be revised to reflect fluctuations of the cost of living index without regard to family commitments and excluding the one-sixth war sacrifice; (b) the effective date of any such adjustments shall be from 1st July, 1947. (3) Subject to the views expressed in the resolutions already passed in committee, this Council agrees to the provision of the funds required to give effect to them".

Speaking briefly to my amendment, I do ask hon. members not to jump up and fill the air with tremendous wails about having to wait. That is not the purpose of the amendment. I am genuinely moving it because I feel that before we accept the report we should have time to consider it. If you do not think I am right, I would draw attention to Uganda. In Uganda they rushed the report and accepted it, and what have they done? They have already produced two sessional papers explaining Government's point of view and have appointed a committee to consider anomalies. I, for reasons which I have outlined, wish to do that before accepting the implications of the report. There are two points that I want to deal with, because I feel sure that the hon. Member for the Coast is writhing in his chair with a desire to get up and deal with it. (MR. COOKE: Hear, hear!) (Laughter.) One is the question of recruitment. I do not intend this amendment to postpone matters indefinitely, I simply want a re-examination of the problems arising out of the many points raised by people on the report, and I am doubtful whether it will seriously affect the recruitment position. There are two reasons which I believe affect recruitment, not unduly that of salary. They are, one, the shocking standards of housing that Government have allowed to grow up out here, and two, the genuine lack of technical people, which has been emphasized already, owing to the war. I doubt whether, if we increase the salaries, we shall get the type of people we want.

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I just want to deal with another point, that is Tanganyika and Uganda, and I must crave leave to be a little longer on that point. I believe it is absolutely wrong to be influenced in judging the principles of the report because they have accepted it. (MR. RANKINE: What about the price of wheat in Argentine?) (MR. SPEAKER: Order, order.) I have told you what it is. (MR. RANKINE: It has no bearing.) Not for the reasons I think the hon. Chief Secretary is implying do I ask you not to accept the decisions of Tanganyika and Uganda on this report. The hon. Member for the Coast said we must bear in mind that this colony is borne on a European agricultural economy and Tanganyika and Uganda on the peasant system. The truth of the matter is that because Tanganyika and Uganda have accepted the report it does not necessarily follow that they can afford it. That is the point I want to make. There is one thing which to my mind is most interesting. A far better Member for Rift Valley—I hope you will say "Hear, hear!"—than I raised this very point in 1921, when the increased salaries proposed by Sir Alfred Lascelles brought the matter up in this Council, and I leave you to judge why Tanganyika and Uganda accepted the report willy nilly, and the Rt. Hon. the Noble Lord Delamere, then Member for Rift Valley, did urge members of the Council not to allow that acceptance to prejudice their acceptance of the report. It is most vital. It is easy to agree with what my hon. and learned friend the Attorney General said. I did wonder whether he would be happier in Tanganyika; he might be (laughter), but I will say this, that we should not be. (Hear, hear.) The point I do want to make is this. We should not allow our acceptance of this report to be willfully distorted by the fact that Tanganyika and Uganda have accepted it.

With those words—I was going to say few words (laughter), perhaps that was wrong—I beg to move my amendment. (Applause.)

MR. EDYE: Mr. Speaker, in rising to second this amendment I feel I am stepping into a far from limpid pool, the limpidity of which has been very ably disturbed by my hon. friend the Member for Rift Valley, who has mercifully left me with very little to say. I might begin

by stressing one aspect in particular with regard to the opposition which has been voiced by various hon. members on this side of Council to the main motion, and I do so because, whilst I am—

MR. FOSTER SUTTON: On a point of order, is the hon. member in order in having a portmanteau in front of him on his desk?

MR. EDYE: That is a point of preference, if you will allow it, sir. (Laughter.) (MR. FOSTER SUTTON: What has he got behind it?) Never your mind. You will learn in due course, I trust.

That opposition, with which I am in fully sympathy, does not mean in any way that we are opposed to members of the Civil Service being paid an adequate wage for the services they render; nor, indeed, that such payment shall take into account present day factors and costs, so long as these factors exist and so long as there is certain elasticity in regard to the final consolidation. I mention this because it has struck me from some of the remarks made by hon. members on the other side of Council that some misunderstanding has arisen on this point, and I think it would be a very great pity if any such misunderstanding arose.

While on the subject of salaries, I might perhaps take this opportunity of commenting on the question of the salt with which the hon. Labour Commissioner proposed to season the Government dish. Incidentally, we might perhaps at this juncture lend the Government our one and only Cooke. (Laughter.) (MR. RANKINE: We would be glad to have him!) (OFFICIAL MEMBERS: The pay is too low!) (Laughter.) Referring to salt, Crowther, if I may be permitted to quote him, says: "Salt in the days of the Romans was a much valued commodity, and from it came salary. A Roman soldier who was not worth his salt was not worth his salary, and was disposed of." I cannot help feeling that the Roman method of disposal would engender much eagerness to pass the efficiency bar!

The main point at issue is the size of the bill that the Government motion will automatically present, and our ability to pay it. In moving the motion which this amendment seeks to replace, the hon. Financial Secretary covered a great deal of ground, but he did not tell us what, in Government's opinion, this colony can

(Mr. Edye) afford to pay for its Civil Service. He openly admitted that he could only guess at the final cost of his proposals. Now, sir, he made it quite clear from his speech, or at any rate I took that reading from his speech, that the only aspect from which this problem has been tackled had been one of internal detail within the Civil Service, rather than its impact on the financial structure of the Colony. Government knew, from repeated requests by the Civil Service over many years, that this problem would have to be tackled. They also must equally have known that the result of any such inquiry would be greatly to increase the Civil Service vote.

That being so, I would suggest that surely the most commonsense method of dealing with this problem would have been as follows: to ascertain what in fact was a reasonable total sum which the Colony could afford to pay for its services. That is the first thing. Secondly, to inquire into the salary position more or less on the terms of reference given to the Salaries Commission; thirdly, to decide what services were essential to the Colony; and fourthly, to decide what retrenchment of personnel, if any, was necessary, having regard to the recommendations of the Salaries Commission, in order to keep within the sum which the Colony could reasonably afford to pay. Had the matter been presented in that manner this Council would have had something to bite on and might have been able to come to some reasonable and sound conclusions; instead of which we have been treated to a last wicket stand by that adroit batsman, the hon. Secretary for Commerce and Industry, put in to try and deal with some rather doubtful boundary shots—(OFFICIALS: Last wicket?) Yes, you presented the report first and put him in afterwards. (Laughter.) (MR. TROUGHTON: First wicket down.)—which was given the odour of sanctity by having been presented by an eminent economist.

Far be it from me to cast doubt upon this brilliant exponent of the tipster's art, but in the words of an eminent economist, which have already been referred to by the hon. Member for the Rift Valley, but he did not go quite far enough, because following on from what he quoted just now this eminent econo-

mist goes on to say: "I suggest that unless that modest definition of economic science is accepted, and unless one admits that thesis, one would be in danger of living in cloud cuckoo-land". (Laughter.) I feel tempted here to quote a little ode, since odes seem to be very popular in this debate on the Salaries Commission. It has been composed in honour of the hon. gentleman to-day. It goes somewhat on these lines:—

Hope springs eternal in Jones,

Who declared in his confident tones,

Fifty million my dear, in the kitty each year,

Why spoil the report with your moans?

(Laughter.)

From which you will gather that, while the very last thing I would attempt to do is to suggest for one moment that the hon. gentleman is at all attempting to pull the wool over our eyes deliberately, nevertheless I am not convinced that the figures he gave us bear anything like the relationship to the problem in front of us that the Government would have us believe. They are figures which relate to the past year, a most buoyant year, full of "hot" money—I believe the expression is—whereas what we are concerned about are the future years which may not be anything like so buoyant, with a revenue which may be quite unable to meet the total cost of Government's proposals without seriously unbalancing the budget.

The hon. Financial Secretary is obviously himself somewhat worried about the position, to the point of envisaging possible retrenchment, which can only mean that he fears that the bill he is trying to present us with will cause some difficulty in the meeting of it. In paragraph 44 of Sessional Paper No. 2 it is quite frankly admitted that it will not be possible to budget accurately because of Government's proposals, until the Departments have received and examined the Commission's report. It is even more alarming when we consider the likely repercussions of the pensions cost. And yet this is the same Government which gave utterance to the following warnings in the Memorandum on the 1946 Estimates: "The growth of recurrent expenditure is, however, becoming so rapid that in the opinion of the Government a halt must be called if serious financial difficulties are to be

(Mr. Edye) avoided". And that was in one of the buoyant years we hear so much about.

Having been placed in this position, it would be obviously unfair and unjust to the individual members of the Civil Service if the present position was allowed to continue without adequate interim relief while the position is being re-examined, which relief is suggested in the amendment which I have pleasure in endorsing.

All of us are elected or nominated to this Council to represent the Colony's interests as a whole, without fear or favour. It is our duty to see that that portion of the peoples represented by the Civil Service are fairly and justly dealt with; but it is not our duty to be rushed into ill-considered judgment without all the implications before us. (Hear, hear.) I beg to second.

DIRECTOR OF ESTABLISHMENTS (Mr. Hartwell): Mr. Speaker, the Government cannot accept the amendment by the hon. Member for Rift Valley, and I rise to oppose it. I think the amendment would be unjust to the public service, unpractical and illogical. I will state the reasons for this view as shortly as I can. Most of the arguments have already been used by other speakers. I shall confine myself to the amendment, because it may be necessary for me to speak again on the substantive motion.

The amendment reads as follows: "bearing in mind that the Report of the Civil Service Salaries Commission will not achieve its object of removing a sense of discontent from the Civil Service...". The work of the Salaries Commission was not to remove a sense of discontent from the public service. The terms of reference of the Commission are set out on page 7 of the report, but briefly it can be said; as the hon. Financial Secretary has already explained, that the function of the Commission was to devise salary scales and terms of reference which would attract and retain suitable people for each grade of the service. I believe that the report of the Commission, if it is implemented, will do that. Of course, everyone will agree it is very desirable that discontent should be removed from the public service and I believe that, if the report is implemented, it will also have that effect. (UNOFFICIALS: Question.)

I have been associated with a number of salary revisions at various times in various colonies, and in every case I think the public service has been disappointed with the recommendations made by the commission or committee. The fact is that the public service usually allow their hopes to run away with them, and when the report of the commission or select committee is published they find that all their expectations have not been realized, and they are disappointed. There usually follows a spate of petitions and memorials purporting to show that some section of the public service has not been justly treated; I may say that in this particular case I have been struck by the very small number of representations of that kind which we have received. In the ordinary way these representations are examined by the Government, usually some concessions are granted, but, in the majority of cases, Government sticks to the recommendations of the select committee or commission; and in a year or so everybody settles down quite happily on the new salary scales.

I am not suggesting for a moment that we ought, in examining the complaints which have been made by the public service about this report, to be unsympathetic or cynical, but I do think it is the duty of the Council to look at the complaints in a very realistic and critical way. What are the main complaints which have been made by the various groups of the public service about the present report? The hon. Member for Rift Valley, as far as I could see, referred only to the complaint—and it is a single complaint—made by the European section of the Service; but I will take the African Service first, because they are the most numerous section of the Service. I am not going to deal with the merits of the complaints, because that will come later in the committee stage. I am just going to run through the main objections raised to the report.

In the first place, the African Service objects to the principle of racial differentiation, which is an essential principle of the Commission's report. They would like all three races to be on the same salary scales and, if that is not possible, they would like the Asians and Africans to be fused into a single service. They naturally object to the three-fifths principle set out in paragraph 92 of the

[Mr. Hartwell] report, and urge that if some differentiation on the unified service level between Europeans on the one hand, and the other races on the other, must be made, then the proportion should be three-quarters instead of three-fifths. Secondly, the African Civil Service Association, objects to the Government's proposals in paragraph 5 of the Sessional Paper about menial employees; they think we ought to accept literally the Commission's recommendation for a 100 per cent increase. They also think the increase should be retroactive. Thirdly, the African Service has objected to the proposal in paragraph 143 of the report and paragraph 35 of the Sessional Paper that persons who elect to free pensionable status should be made to surrender their provident fund contributions. They think their provident fund contributions should be refunded. Finally, the African Service thinks that the proposal in paragraph 36 (2) of the Sessional Paper about the Arab and African Clerical Service is unjust, and considers that the whole of the previous service of these people should count towards their pension. Those are the main objections raised by the African Service, although I do not pretend that the list is exhaustive.

Next the Asians. They also object to the principle of racial differentiation. They consider that the scales proposed by the Commission are generally too low. They think that the pension constant of 1/600th should apply from the beginning of an officer's service in the case of those already pensionable. On that point we have met them; that is, the proposal in one of these resolutions. They object to the surrender of provident fund contributions by those who elect for free pension status; and they complain that the Commission has not dealt with a number of outstanding grievances, such as the weight for age anomaly and stagnation at the top of Grade II in the clerical grade of the Kenya Asian Local Civil Service. They also object to the proposals in paragraph 9 of the Sessional Paper that men on the old pensionable terms should be placed on the same new scales as people now in the Kenya Asian Local Civil Service. They also think that the interim relief measures introduced in 1947 should be taken into account in converting to the new scales, whereas we have said in paragraph 100 of the Ses-

sional Paper that those measures should not be taken into account. Finally, the Asian Service draw attention to the fact that some people will receive no immediate increase of aggregate emoluments, and may not, in fact, receive an increase for a considerable time.

Turning now to the European Service. There has been some little criticism from the European Service, or from any sections of it, of the salary scales themselves; in some cases it has been represented that a particular scale is not adequate for a particular grade of the service. But the main complaint made by the European Service is that stated by the hon. Member for Rift Valley, that many officers in the middle grades of the service, say up to £750 a year, will not receive any immediate increase of their aggregate emoluments, and in some cases it will be several years before they receive an increase. Of course, this is because the officers concerned have been receiving relatively generous cost of living allowances. I got the impression from the hon. Member for Rift Valley that he had perhaps overlooked paragraph 373 of the report, because he seemed to think that some would actually lose by the Salary Commission's recommendations. (Mr. BLUNDELL: You need not worry, I did not!) Council will appreciate that nobody will be worse off than they are at present.

In addition to that, there is the point that, although they are not going to get more aggregate cash emoluments they will have certain other concessions which they do not get at the present time. To begin with, the passage concession is more generous. In addition, the new salaries contain a housing element and they will draw that element while on leave, whereas at present they do not draw house allowance while on leave. Moreover, and this refers particularly to the District Administration, the Commission has recommended that we should investigate the desirability of paying entertainment allowances, and there is already a committee in existence examining that matter. That will not assist all officers, but it certainly will assist some if a system of entertainment allowances is approved.

I think it is clear that if the wishes of the service were to be met in all these matters and the reasons for discontent

[Mr. Hartwell] removed, it would be necessary to incur expenditure over and above that which would result from the report, because in every case the service is asking for concessions over and above those recommended in the report and the Sessional Paper.

Turning to the next part of the amendment, which is to the effect that the report is likely to "be a serious burden to the future economy of the Colony". Obviously the hon. Members for Rift Valley and Nyanza think that it is so serious a burden that the Colony cannot support it. (Mr. EDVE: Hear, hear.) The economic arguments are outside my province—(Mr. BLUNDELL: That is the trouble.)—and I will leave it to the hon. Financial Secretary and hon. Secretary for Commerce and Industry. But one point was touched on by the hon. Member for Nairobi South, though he did not elaborate it, and it is one of great importance, I think, in considering whether the economy of the Colony will be able to afford the cost of the public services if the report is implemented.

Kenya is economically a young country, and I submit that the human and material resources of the Colony are only now beginning to be developed. The skill, knowledge and ability of the African population, an important factor in every kind of production, is gradually increasing. The area of land under cultivation is increasing. The agriculture of the Colony is reasonably diverse—it is not confined to two or three crops as is the case in many tropical countries. Secondary industries have started, making it possible for the population to provide themselves with things like blankets, soap, crockery, shoes, furniture; and it is reasonable to think that more such industries will come into existence. Therefore it is reasonable to assume that there will be a great increase in the real wealth of the country in spite of temporary fluctuations in the prices of commodities, and in the cost of living. If I am wrong, I am sure the hon. Secretary for Commerce and Industry will have much pleasure in putting me right. (Laughter.)

The amendment goes on to suggest that consideration of the report be postponed. This is obviously the real essence of the amendment—that consideration of the report be postponed. If there were any

good reasons to think that we would be in a better position in the future, say in 1950 or 1952 or 1955, to decide definitely whether or not the cost of the public service would in future be more than the Colony could bear, there might be some reason for deferring the whole thing; but, as the hon. Member for Ukamba pointed out, there is no prospect whatever that we shall be in a better position in some future year than now.

LADY SHAW: On a point of explanation, I did not say anything of the sort.

MR. HARTWELL: I beg your pardon, that is what I understood.

In any event, there is no reason to think that we shall be in a better position after one or two or five years to estimate whether the Colony can bear a particular figure as the cost of the public service than now. Nobody can foresee whether prices will go up or down, or become more or less stable. If it did turn out that at some future date the Colony was unable to bear the cost of the public service, I submit that the proper course at that time would be in the restriction of the service, reduction of establishments, and similar measures. But if the Colony now requires a service on a particular scale the only right thing to do, is to pay reasonable and adequate salaries. There is this further consideration, that in any year when the estimates are passed by the Legislature, there is the opportunity to examine existing establishments and to scrutinize carefully proposals for additions to it—that happens automatically every year when the estimates are considered and passed. Moreover, there is the opportunity at any time to appoint a select committee to examine establishments.

The amendment goes on to ask that "an immediate re-examination of the terms of service be made by a committee appointed by this Council, having regard to the needs of the Civil Service, including those about to retire, and the resources of the Colony". It is all very well to talk about an immediate re-examination, and of course it could be undertaken, but if the job has to be done all over again it seems to me the select committee which did the work would have to go through the whole process again. They would first of all have to collect and examine the evidence

[Mr. Hartwell]

given the Commission; then, I suppose, hear evidence all over again from the public, public service, and departments. It took the Commission more than a year to produce this report, and I think it would probably take about the same time for a select committee to do the job over again.

An exhaustive examination by an expert and impartial body has just been completed, and the report now under examination by the Council is the result of it. The scales and terms of service which they have recommended will be examined in detail in committee of the Council. There has been no detailed criticism of the salary scales in the report (except perhaps from the hon. Member for Rift Valley), and no serious attempt to demonstrate that any of the salaries proposed are excessively generous. With regard to the criticism of the hon. Member for Rift Valley of the scales for teachers, I must confess that I do not understand exactly what he means, and perhaps it will be elucidated in the committee stage. But if hon. members will look at pages 200 and 201 of the report, they will see set out the conversion tables of the present scales of the African Civil Service and the proposed scales. African teachers are on the African Civil Service scales and, as far as I see, the increase over the present scales is 100 per cent in the lower ranges and less at the top. But the present scales carry a cost of living allowance, so that the increase does not amount to anything like 100 per cent gross.

Council adjourned at 11 a.m. and resumed at 11.15 a.m.

The debate was resumed.

MR. HARTWELL (continuing): Sir, I had been saying when we adjourned that an exhaustive examination of the salaries and conditions of service has just been completed, and it seemed to me that the proper course was to arrive at a decision on this report, not to begin the job all over again. The removal of the grievances which have been referred to by the hon. Member for Rift Valley would necessarily cost more money. But the hon. member's main objection to the Commission's proposals is that they are too costly. It seems to me therefore that the two objects of the amendment are in conflict.

The last part of the amendment says that in the meantime, "in order to meet the immediate needs of the Civil Service, the following measures should be accepted—(a) cost of living allowance be revised to reflect fluctuations of the cost of living index without regard to family commitments and excluding the one-sixth war sacrifice". The cost of living allowance at the present time is determined, except in the lower ranges of the African Civil Service, by the Mundy formula, which is C multiplied by E or S upon 6 (whichever is the less), minus S upon 6. (C is the cost of living factor, E essential expenditure, and S salary.) E, essential expenditure, is laid down in the Mundy Report and varies in the case of Europeans from £200 for a bachelor to £500 for a married man with four children. If, as the amendment proposes, in future cost of living allowances were to be without reference to family commitments, then E, essential expenditure, will be the same for everybody; it would not be greater for a married man with children. If the one-sixth is abolished, the deduction of a sixth of the salary would disappear. The result of this would be that the cost of living allowance would be more generous, or relatively more generous, for unmarried officers and officers on the higher ranges of the salary scale, and relatively less generous for the married man with children in the lower ranges of the scale. This is exactly the complaint made by the European Service about the report of the Salaries Commission, and exactly the complaint which the hon. Member for Rift Valley referred to; that is, that the people in the middle ranges are not doing well enough.

For those reasons I consider that the amendment proposed would be unjust to the public service, because it would deprive them of an immediate revision of basic pensionable emoluments to which they are morally entitled. I think it is illogical, because it seeks to achieve two things which are inconsistent with each other. I think it is unpracticable because it merely postpones and does not solve, or make any contribution towards solving, the problem before Council. I therefore beg to oppose the amendment.

DR. RANA: Mr. Speaker, I rise to oppose the amendment moved by the hon. Member for Rift Valley. (Govern-

[Dr. Rana]

ment applause.) At the outset I must make my position perfectly clear, that I am in sympathy with some of the sentiments expressed by him regarding the future financial position of this country, but I am afraid, to use a medical term, that the treatment he has prescribed for the good of the country, which we are all here to advance, is going to be very fatal for the future of this country. The reason I say so is that to-day, as far as the British Government and the British people are concerned, I would say even the whole world, they have got an eye on the future of Africa. We have very big projects under way, which, rightly or wrongly I have been a party to, have in the last three years been agreed to by this side of Council, and now it is perfectly clear that without an efficient staff of all categories, including administrative and technical staff, we cannot make any progress.

I honestly congratulate the hon. Member for Rift Valley on the courage and boldness with which he has brought his amendment, but I feel he was not voicing his own personal opinion but the opinion of the people he represents. (Laughter and "Shame.") (MR. EDVE: Nonsense.) As a matter of fact, many of us do that and have to do it to catch votes. (Laughter.) (MR. EDVE: That is what you are doing now.) (Laughter.) To be absolutely frank, I am going to do what the hon. member did himself. (Laughter.)

Coming to the suggestion he has made in the amendment of a re-examination by a committee of this Council, here was a Commission, if I am not wrong, at the end of 1946 with the full consent of this Council and of the country, appointed by the Colonial Office. They went all over the country, and took evidence from all sections of the communities, and visited institutions and, rightly or wrongly, here is their report which we are supposed to discuss. I make it clear that as far as the community I have the honour to represent is concerned, it has been said by my colleagues last week and I think this week, we are not satisfied with all the Commission has done, but I cannot see any advantage by having another committee of this Council. We admit that the people appointed by the Colonial Office had better quali-

fications and better experience, and I think they were quite impartial as far as their views were concerned with the expenditure proposed. If we go back and postpone this suggestion, particularly as far as the Asian Civil Service is concerned, what will be the impression? It has been admitted, I am sorry to say, by both sides that real justice has not been done by Government to these people. I am not exaggerating, but I have to pay a tribute not only to the Asian but all other civil servants who during and after the war have carried out their duties most loyally, and I know of some cases of civil servants, who are poor people due to the high cost of living, who have actually had to sell or mortgage some of their belongings in order to make both ends meet.

With all these facts before us, is it fair that we should again postpone and ask these very people, who are asked to be efficient and honest, to wait, and not to give them now actually what is their right? In those circumstances I think the treatment prescribed by the hon. Member for Rift Valley is really no good. I am not flattering the opposite side as far as the official section is concerned, because I have no desire to go into Government service as, first, I am too old, and secondly—(MR. TROUGHTON: The pay is too low.) (Laughter.)—but we have to admit that the amount of integrity and, I should say, honesty, is something we should be very proud of. The Administration and Judicial Departments of this Colony, I must say, with very few exceptions, have quite really decent and honourable staffs. I have been told by reliable people from the part of the world I come from and from the adjacent territories that we in Kenya are very fortunate in having administrative and judicial department officers who are above any kind of corruption or bribery. That is the position, and it is only fair that we should face the facts. I hope I am not rude when I say, let the devil have his due, and I rise to oppose the amendment moved by the hon. Member for Rift Valley.

On this question of the cost of living, I would like to say in reply to the hon. Member for Nairobi North, who in his very able speech last week referred to the cost of living index, that if we go on giving increased cost of living allow-

[Dr. Rana] ance, with all this machinery and officials, there will be no end to it. If I am not wrong, the hon. Financial Secretary is supposed to be the head of the various controls that we have got in this country—I am sorry, I have just been told it is now the hon. Secretary for Commerce and Industry. But I must say that I am not so alarmed at him—I think he is trying to remove some of them—as I am with the hon. Financial Secretary who for the past four years has kept on some of these controls very badly. Anyway, I think that by fixing the basic salary and not giving any chance of a cost of living allowance to officers would, in my opinion, be to the good of the country.

The world is passing through one of its longest nights. During these trying periods it reminds men of duties and responsibilities, and I would appeal to members of this Council that, with an open mind, they will take up those responsibilities and duties and do justice to those who deserve it. I think we shall be lacking in our responsibilities and duties if we get this matter postponed to a future date. It would be most harmful to the very thing we all desire, the development of this country, if the staff of the country is at the point of frustration. I do not think that that is quite the applicable word, but they are completely dissatisfied. Regarding pensions and other things, I do not intend to waste the time of Council, and with those few words I oppose the amendment moved by the hon. Member for Rift Valley.

MR. HOBSON: Mr. Speaker, I desire to express at the outset a feeling of keen disappointment which I personally feel at the turn which this debate has now taken. When I first came to Kenya it was impressed upon me that the Kenya settler was a practical person and a person who got down to brass tacks, if I may use the term, whenever it was possible to do so, and that is why I am surprised that the amendment now before the Council has emanated from my hon. friend the Member for Rift Valley and has found a seconder in my hon. friend the Member for Nyanza.

I oppose the amendment because—and I say it not without thought—it is a destructive amendment. It seeks to destroy at one fell swoop the careful and hard work which has been put into this

matter by a Salaries Commission composed of eminent persons who have spent a year or more at work upon the matter, and I cannot support too strongly the words which have emanated from the last speaker on the Government side, that if a select committee or another committee were now to be appointed, that one year's hard work would have gone and that there would be no certainty that another year would not go too, and then we would be having a debate of this nature over again and a great deal of time being taken over the same question.

There is another matter, and it is a serious one for the Civil Service of this country: it is the question of the arrears of salary, because that is how I term this question of retroactive payment. It is the question of arrears, and I am reminded of the words of the hon. Member for Nairobi South when he suggested that, if your servants have been pressing you for a considerable time to raise their salaries and you put them off by saying you have no time at present to consider the matter that there are other more important things to consider, you cannot, when at last the matter has been considered, say "Oh, well, we shall pay you from the date on which we first began to consider the position". If this amendment is carried it is going to be a tremendous blow to these unfortunate people, to those unfortunate civil servants who have been struggling along for years, who have been doing their work loyally and efficiently with very few pleasures to break the monotony of that work. It is going to be a blow to those people, who are depending upon that retroactive payment of a lump sum which will give the opportunity for their wives, perhaps, to buy more clothes, to themselves to have a holiday or, what is far more serious, to get away from the mounting burden and crushing weight of debt in which many of them are now involved.

If this amendment is carried all these matters will be indefinitely postponed. What guarantee have we got that when this new committee does report back to the Council, my hon. friend the Member for Rift Valley and his constituents will be satisfied with it? None whatever. There will be a further debate on the same matter (MR. FOSTER SUTTON: And another committee.), and another committee possibly after that, as my hon.

[Mr. Hobson] and learned leader reminds me. (MR. BLUNDELL: You ought to know.) What about the economics of the matter? The Salaries Commission did not cost this Colony tuppence, and the fresh committee which my hon. friend seeks to appoint will again involve an outlay of the Colony's funds.

I suggest that the present motion, the substantive motion before the Council, and the 28 other motions which follow it, which it is sought to debate in the committee stage, present ample opportunity for members of Council on the other side, and this side as well, to move any amendments and to make any changes in the report that they wish to do. I suggest my hon. friend the Member for Aberdare has taken a realistic view. He is not satisfied with some of the matters in the report, and he said he would move an amendment in the committee stage in an effort to put them right. I suggest that is a realistic way of approaching this matter. I suggest that the substantive motion before Council is a constructive motion, and that there should be no further delay in putting it to the question and passing it, and that the amendment is a destructive amendment. For many years past the lot of the civil servant has been jam yesterday, jam to-morrow, but never jam to-day. I do plead with Council, let us get on with it and give the civil servant some jam to-day.

MR. PATEL: With your leave, sir, I beg to move that the question be now put.

MR. EDYE: On a point of order, sir, before taking the vote I should like your ruling.

THE SPEAKER: I do not think I can take a point of order at the time when I am actually trying to put the question for closure of the debate on the amendment.

MR. EDYE: It is a point of order on the voting.

THE SPEAKER: I doubt it. You will have ample opportunity for raising your point of order. It will not interfere with the motion now put to close this debate on the amendment.

MR. EDYE: Do I understand correctly that, if this motion is carried, there will

be no further debate on the amendment and that you will then put the question on the amendment?

THE SPEAKER: I shall have to put the question.

MR. EDYE: On the amendment?

THE SPEAKER: Yes.

MR. EDYE: I will raise it then, sir, if I may.

Council divided and the motion was negated by 32 votes to 5. Noes: Messrs. Andrews, Blundell, Chemallan, Colchester, Edye, Erskine, Harris, Hartwell, Havelock, Hope-Jones, Hopkins, Hyde-Clarke, Jeremiah, Jones, le Breton, MacLennan, Maconochie - Welwood, Mathu, Nathoo, Nicol, Ohanga, Rana, Rankine, Robbins, Roddan, Seif bin Salim, Shatry, Lady Shaw, Messrs. Thornley, Troughton, Vasey, Wadley, 32. Ayes: Messrs. Cooke, Hobson, Patel, Priyam, Sutton, 5.

The debate on the amendment was continued.

MR. MACONOCHE-WELWOOD: Mr. Speaker, I rise in support of the amendment. Should it be passed I may speak on the main motion afterwards. The point I wish to make is a small one.

The hon. Member for Rift Valley mentioned the enormous cost that this report recommends for native teachers, and I should like to point out to the African members that, if they allow this report to go through as it stands, that enormous cost of native teachers will mean either greatly increased local taxation in the Local Native Councils or reduced other services. I think that at this stage in the Colony's development the African members will agree with me that other services are even more important than education, such as health services. (AFRICAN MEMBERS: No.) Health services, I should have said. That is the point I wish to make.

There is one other matter I should like to take up the hon. Solicitor General on, in which he said that this was purely destructive and unfair to the Civil Service. I would point out that in the amendment the words appear: "that cost of living allowance be revised to reflect fluctuations of the cost of living index without regard to family commitments

[Mr. Maconochie-Welwood] and excluding the one-sixth war sacrifice". I think it is a little unfair of the hon. Solicitor General to suggest that this amendment would leave the Civil Service exactly where they were before. The amendment, I suggest, covers that. I beg to support.

MR. HONSON: On a point of explanation, I did not say it would leave them exactly where they were before. I did say that retroactivity being definitely postponed would be a serious blow and was most important to bear in mind.

MR. HOPE-JONES: Mr. Speaker, I rise to oppose the amendment. At a very early stage in this debate I mentioned some figures. So that I will not be out of order in dealing with certain points that have been raised, I would refer to the fourth line of the amendment, where it states that the Salaries Commission report is certain to be a serious burden to the future economy of the country. I stated that the national income of this country for 1947 was £50 million, and that there was a tolerance of 10 per cent either way. I further stated that, if we allow a tolerance of 75 per cent for inflationary influences, the national income of this Colony was still very much greater than it was in 1939 or in 1938. As far as I remember I drew no conclusions from those figures.

MR. VASBY: On a point of order, is the hon. gentleman in order in referring to his previous speech when it is in fact the amendment he is discussing? I suggest he is entitled to answer the arguments, but not to re-express opinions previously expressed.

THE SPEAKER: In the form that this amendment is, it is a matter of extreme difficulty for any member to draw the line between the previous motion and the amendment (laughter), but if the hon. gentleman takes advantage now of scoring off some previous remarks which do not relate to the amendment, I shall not allow him to speak again, of course, to the substantive motion, because he has already spoken once to that. I would also ask him to confine himself as well as he can to the amendment.

MR. HOPE-JONES: I will do my best, sir.

Referring to the fourth line of the amendment (laughter), I would point out to hon. members that, if we refer to the matter being a "serious burden to the future economy of the country", I find it very difficult not to refer to the national income. (Laughter.) I apologize for repeating my words: I was saying that on the substantive motion I drew no conclusions other than to say it was impossible to forecast the future, but I notice that the hon. mover, my hon. friend the Member for Rift Valley, has no diffidence at all about forecasting the future, and he suggests that it is certain to be a serious burden.

MR. BLUNDELL: On a point of explanation, it is not fair of the hon. member. In the amendment before this Council the words are "may well be". The words in front of you, I did explain, were not the words actually given to you, Mr. Speaker.

THE SPEAKER: The words are "it may well be". That is all. (MR. COOKE: A distinction without a difference.)

MR. HOPE-JONES: I withdraw because the words are "may well be". I admit there is a very great difference. I am glad to see that the hon. Member for Rift Valley realized his mistake in time. (Laughter.) Referring to those figures is relevant, I submit, to the amendment. I would suggest that the heavy dragoons in the person of the hon. Member for Rift Valley, the hussars in the person of the hon. Member for Nyanza, whipped up their chargers, they whipped up their steeds, and those chargers were the chargers of conviction; they were the chargers of knowledge; they were the chargers of certainty as regards the future. But, sir, on the rise was the very humble—I was going to use an unparliamentary expression—were the infantry, and the infantry represent the facts that have been laid before this Council. Now, sir, what happened? The heavy dragoons urged their chargers on; the hussars urged their's on; but as they approached the infantry, what happened? Curiously enough, their chargers collapsed (laughter), and the convictions collapsed!

It has been asserted that those figures were irrelevant. I have heard from hon. members opposite that red herrings have been drawn across the trail; I have heard

[Mr. Hope-Jones] from hon. members opposite that those figures are irrelevant; I have heard from hon. members opposite that I have drawn conclusions from them; but I fail to have noticed any conclusions whatsoever have been drawn by hon. members opposite from those figures. I fail to see that hon. members have faced the issue that has been placed before them. They have confined themselves to saying that the issue is irrelevant. But there is one thing I notice they have not done: they have not questioned the accuracy of those figures. (Hear, hear.) I am perfectly prepared to show the methods of calculation to the nth degree to any hon. member opposite who wishes to come and look at it. I am perfectly prepared, if requested to do so and if hon. members will bear with me, to give them every detail in my possession. I can do no more than that. I will now, with your permission, refer to the relevance of those figures as I see them.

I would ask hon. members to listen somewhat carefully, as I have been charged with drawing conclusions that so far I have not drawn. I will not be foolish enough, I would not attempt to, to mislead hon. members in any way whatsoever, by saying that on the basis of the national income figures for 1947 we can predict with the certainty that I thought the hon. Member for Rift Valley was making sure of. One cannot predict the national income for the next ten years, of course not, and to that extent it is a perfectly valid criticism of these figures. But where are we without them? Without these figures, with an outside tolerance of 10 per cent either way, we have nothing, but at least with them we have got a sheet anchor to start on, and no member on the other side will question that in relation to the national income of £50 million an expenditure of £7 million approximately is unreasonable. In Southern Rhodesia the national income of that country according to preliminary estimates, for 1947, is £52 million. The budget of that country, and I am subject to correction, is in the order of £12 million. Would any hon. member suggest that the country of Southern Rhodesia is a country crippled with taxation, a country without a future, a country in which the inhabitants have no confidence?

As I said, I cannot forecast what the national income of Kenya will be in seven or eight years from now, but I notice that hon. members opposite, representing the permanent inhabitants of the country, almost all of them lack faith in the future development of the country, and to this extent all of them cry "Wolf". They cry "Wolf" because they must fear a catastrophic reduction in the national income. It may be the forces outside our control, war or threat of war, may result in things that will be unpleasant for this country in common with the rest of the world. That is not a thing any of us can provide for, but with what little information and intelligence we have I think it is reasonable to assume that during the immediate term—and by medium term I mean a period of three or four years—it is reasonable to assume—and I personally say this—that there will not be a catastrophic depression in this colony. (GOVERNMENT MEMBERS: Hear, hear.) I say this, and I am perfectly well aware it may be wrong. If I am wrong, hon. members will be perfectly free to quote this against me in the future, but I have reasons for saying this. I do not mean that there may not be some fall in prices. What I said was, that I do not believe there would be a catastrophic depression in the immediate term future, and I have good reasons for saying that.

If we consider what are our export crops in the form of sisal, in the form of coffee, in the form of pyrethrum—I need not go through the whole list—with the exception of the last one I mentioned, and I mentioned it deliberately, those are not speculative crops. The price in regard to coffee is covered by long term contracts; in regard to sisal, there is likely to be a continuing shortage of fibre. What about the price structure in regard to commodities produced inside Kenya and largely consumed here? Would any hon. member on the other side suggest that in the medium term future we are likely to have a large surplus of butter, a large surplus of meat, a large surplus of meal, or would any hon. member on the other side of Council suggest that we are going to have in this country in the immediate term future surpluses so large that we cannot get rid of them? I do not believe that any hon. member would make any such suggestion, with the exception of one or

[Mr. Hope-Jones] with one that, while it does not keep the whole of the rain off, keeps off quite a lot? (LADY SHAW: It depends on the rain!) The answer to the hon. lady is: would she prefer to have no bread or half a loaf? I suggest that it is a very untenable position for any hon. member to say: "We want to help civil servants, we think they want it, we want to see they are put in a proper position, but we do not like this report; we have heard a lot of criticism". But every one of the criticisms they have heard, I think, means: "Because the report is criticized we do not propose to give them anything at all". I would not suggest that the hon. Member for Rift Valley says that; of course he does not. What he suggests is on the face of it perfectly reasonable, but it is untenable. I will put this to him in all seriousness, it will result in further delay, it would result in further inflationary forces in the economy of this country by tying the whole of the wages rates of this country for an indefinite period to the chariot wheels of inflation through additional cost of living allowances. Prices are not going to fall in any of these commodities we have mentioned in the next year or two. What will the hon. member let us in for? He will let us in for cost of living allowances attached to temporary price rising. Prices will stabilize one day. He will attach us to inflation to which I could not imagine any reasonable Government could agree.

That is why I say that the basis of £50 million as a known figure now, on the basis of what we know, is likely to be in the immediate term future the course of prices for our principal export crops, taking into account the consumption figures in this country, grown and produced but not exported, then I submit that it is reasonable, it is reasonable, that in the immediate term future there will not be a catastrophic depression. If there is no catastrophic depression, if prices do not fall catastrophically, taken together with the undoubted fact that production is still increasing in this country and will go on increasing in this country, that there is more intensive farming and more intensive development, then it is reasonable to conclude, in my submission, that while the national income may fall some, it is not reasonable to assume that, making the necessary adjustments for inflationary or deflationary forces, the national income in the immediate term future will fall catastrophically.

That, I submit, is not irrelevant to the amendment. I submit those are opinions based on facts. I say opinions, because some are my own, of facts that cannot be dismissed as red herrings or irrelevancy. They are highly relevant to the adoption or rejection of this report. There is no way of avoiding the issue. I am not going to detain members very much longer, but I must say one further thing, and that is this.

If we believe in the future of Kenya, and I do—otherwise I would not get up and say these things—if we have courage in the future of Kenya and confidence in its future, then surely as a matter of business, as a matter of commonsense, we want a service that will be worthy of this country. I am not suggesting that the report is perfect, I am not suggesting that it will make a wholly contented service, of course it will not, but what I am suggesting to hon. members who say the report is imperfect, is extravagant and the service does not like it, is: would they sooner go out into the rain without taking any raincoat or would they sooner go out into the rain

with one that, while it does not keep the whole of the rain off, keeps off quite a lot? (LADY SHAW: It depends on the rain!) The answer to the hon. lady is: would she prefer to have no bread or half a loaf? I suggest that it is a very untenable position for any hon. member to say: "We want to help civil servants, we think they want it, we want to see they are put in a proper position, but we do not like this report; we have heard a lot of criticism". But every one of the criticisms they have heard, I think, means: "Because the report is criticized we do not propose to give them anything at all". I would not suggest that the hon. Member for Rift Valley says that; of course he does not. What he suggests is on the face of it perfectly reasonable, but it is untenable. I will put this to him in all seriousness, it will result in further delay, it would result in further inflationary forces in the economy of this country by tying the whole of the wages rates of this country for an indefinite period to the chariot wheels of inflation through additional cost of living allowances. Prices are not going to fall in any of these commodities we have mentioned in the next year or two. What will the hon. member let us in for? He will let us in for cost of living allowances attached to temporary price rising. Prices will stabilize one day. He will attach us to inflation to which I could not imagine any reasonable Government could agree.

One other point, and that is on retroactivity. I would point out, and it is the opinion of hon. members, that many civil servants are in debt. They are in debt as a general rule to their banks—that means overdrafts have been created. What will happen if four out of five or nine out of ten cases when overdrafts are paid off with their back pay? The credit that has been granted will automatically be cancelled. That means that in every case the overdraft is cancelled. The basis of credit has been narrowed; that is factual. If you narrow the basis to the extent of cancelling a few hundreds or thousands of overdrafts, you narrow the basis of credit to that extent, and to that extent it is deflationary, and to create new credit requires in every case a specific act on the part of the bank. The bank to allow new overdrafts comes into the whole of the circumstances, and

[Mr. Hope-Jones] when you have narrowed the basis of credit by one collective act in that these cheques will be paid into the banks and result in overdrafts being cancelled, you narrow the basis by that extent. To widen it again means perhaps 3,000 or 4,000 separate acts granting new overdrafts, and to that extent, I will not say wholly because I would not be correct, to that extent if back pay or retroactive pay, whichever you prefer, would be disinflation.

With those words I beg to oppose the amendment.

MR. MATHU: Mr. Speaker, I rise to oppose the amendment on my own behalf and on behalf of my African colleagues in this Council. We do so because we feel that this amendment is a destructive one, and is an amendment that is based on abnormal psychology. I use the words "abnormal psychology" because the hon. mover of the amendment did have some remarks to make on what he called the psychological aspect of the report. His amendment is exactly based on that psychology to which I have referred as abnormal. It is abnormal because he will agree that psychologically expectancy would create disappointment if the thing they were expecting did not come, it would produce frustration, and frustration creates hopelessness. I am sure the hon. Director of Medical Services will agree with me that he would not like to have most of the civil servants in the Mathari Mental Asylum. (Laughter.)

It is for that reason that I cannot support this amendment. We want a motion based in positive terms, that can carry the Civil Service to an improvement in efficiency, and I submit that this amendment does not give us that promise.

There is one further point that I should like to make, and it is this. I should like, in spite of what I have said, to congratulate the hon. mover of the amendment, because he delivered his speech with a certain amount of boldness and vivacity, which demonstrated that the volcanoes of the Rift Valley are not yet extinct. (Laughter.) It is because of that diversity that I agree with him on one score, that the principle of consolidation of salaries and cost of living allowance may lead us to some difficulties in the future. That is provided for in the report. The Commission visualized that there

might be a case where you have to review the whole question of the cost of living allowance due to economic difficulties that may occur. In my earlier speech I referred to this, and suggested that the salaries recommended by the Commission might be taken to be the basic salaries and consideration given to a cost of living allowance over and above the salaries recommended. That will increase the wages bill, but I do not think we can avoid it much longer.

It is unfortunate that the hon. mover did take the example of the heavy burden which this country has to bear, the question of African teachers, the primary and Makerere teachers. I was not surprised that he did take that example, or that the hon. Member for Uasin Gishu should take it as an example, because I am well aware of the views of their constituencies in the Rift Valley in regard to African education. I think I am right in saying that the most backward areas educationally in Kenya as far as the African is concerned are represented by the hon. Member for Rift Valley, and therefore I was not surprised, but I should like to put to them and put to the Council the view that was expressed.

MR. BLUNDELL: On a point of order, what has this got to do with the amendment before the Council?

MR. COOKE: He is replying to your points.

THE SPEAKER: The hon. member is addressing himself to the extraordinary statements that you made about the 400 per cent increase. (Laughter.)

MR. MATHU: Thank you, sir. I am glad I am in order because I should like to pursue this point further.

It has to do with the amendment because the teachers were referred to both by the hon. members I have mentioned and by the hon. Member for Uasin Gishu, who went to the extent of saying that there are other services more important than education, and he instanced health services. The African members shouted "No". We shouted "No" because, if the hon. Member for Uasin Gishu knew that was the position, he should advise other races in this country not to embark on compulsory education for European children and Indian children, and he should tell them that

[Mr. Mathu] health services are more important. I disagree with him entirely. No country in the world would put education last in any development. The hon. Director of Education in his maiden speech the other day said that development depends upon the teacher. There can be no greater truth. Where can we get men to produce the wealth of the country—and the hon. mover of the amendment did say that productivity is the basis of a stable economy—how can we get the men and women unless we train them in the schools? I do not see how any development can be based on any other foundation than education, and my own view is shared by the Secretary of State for the Colonies who referred to it in a speech he made recently when he came out to this country.

A further point made by the hon. mover was that, if you do pay the fantastic percentages he referred to—I did not get that written very well—you are going to create an oligarchy. I put it to this Council that that statement is unsound and untrue for this reason. If he had recently visited the native land units as I have done he would have found that it is not the teacher who has formed an oligarchical class: it is the businessman, the agriculturalist; they are the oligarchy at the moment.

How is he going to deal with that psychological situation? The situation in which the teacher teaches a pupil, a fellow who is very wealthy, owns a house, motor car and lorry, and 100 head of cattle. How is he going to deal with that psychological situation, where the teacher feels he is in an inferior position, in which case he will be inefficient in the school and not teach the children to become worthy citizens of the country. How is he going to deal with that? In my view the future of this country depends upon the teacher. I do not see how on earth we can produce the money we require and all the services we require without well-trained staff, and if you hinder education you hinder the development of this country, and I am sure no Government in the world would listen to such suggestions.

Before I sit down let me say this, that we have been very critical of this report. The African Civil Service Association's

point of view has been reiterated by the hon. Director of Establishments and, although we have done that, we see in this report a basis on which we can produce a class of civil servants who will be contented and efficient and of the highest integrity. This amendment, if passed, would not produce that, and we on this side of Council often criticize Government of delays, and the hon. Attorney General this morning did say that this country takes years to do anything. Here is an opportunity to demonstrate to the world that we mean business. Let us go on with it; let us do it; do not let us come to the psychology of postponement. I beg to oppose the amendment.

LADY SHAW: Mr. Speaker, I want to support this motion, and in doing so I want to deal with the points raised by the hon. Secretary for Commerce and Industry. As his remarks were within the amendment I take it any remarks made on his remarks must also be within the terms of the amendment. He began by saying we were questioning the accuracy of his figures. Nobody has questioned the accuracy of his figures.

MR. HOPE-JONES: On a point of order, I actually said that I noticed nobody had questioned the accuracy of my figures.

LADY SHAW: I beg your pardon. Nobody has questioned the accuracy of the figures, but the reason for there being no question about them is very obvious, and it is that probably nobody knows as much about them as the hon. Secretary for Commerce and Industry. At the same time we do question the conclusions that he draws from his figures, which are quite a different matter.

The hon. Secretary for Commerce and Industry says we have drawn no conclusions from his figures. I submit there are very definite conclusions to be drawn, and one of these conclusions is given in his own speech, when the entire time in mentioning the future he talks about the medium-term future. To my mind that is the whole weakness of his standpoint. This Salaries Commission is dealing with the future. It is a future which is not the medium-term future; it is a long-range future, and it does not

[Lady Shaw] even come into operation in a big way for probably ten years, when the full weight of the pensions will fall upon this country. Therefore, I think a lot of his arguments are undercut by the fact that he talks about the medium-term future.

He mentioned the £12-million budget of Southern Rhodesia. That is a very interesting figure, but to my mind again it is inconclusive, because it does not tell us how that £12-million budget of Southern Rhodesia is spent, whether it is spent on development projects or whether it is spent on the salaries of a very large, possibly non-productive, staff. He accuses us of lack of faith in this country and of shouting out "Wolf!" again. This wolf is becoming almost a tame zoological specimen in this Council! But I do not believe that, because one is taking a cautious view, remembering a certain amount about the past, believing that by going carefully forward and trying to see one's way rather than plunging headlong in, that one is necessarily showing lack of faith. I will give place to no one in this country in my faith in this country. I believe in it absolutely—(hear, hear)—but I do not believe we are serving this country by wild—I think I used the word "guessing" before; I use it again—I think we have got to guess up to a point, but let us guess with some sort of caution, and do not let us believe that an inflationary period such as the present is going to set the pace for the future.

Personally I do not believe, in spite of my faith in this country, that the actual wealth of this country, the real wealth, the wealth produced by agricultural means has increased to the same extent as the actual comparative figures one could give for increases in deposits in the banks, rates of drawing from the banks, and the value of imports as between the present time and before the war. That, I am perfectly certain, would be a completely unsound conclusion, and one which one could never possibly draw if one was even moderately cautious and not looking out for snags at all. If we do believe in the future of this country I am convinced that we have got to see that that future is not clogged by actions

we take now because, unless we are extremely careful, we are going to find ourselves with something on our hands which must be a brake on the wheel and which we can only discard by possibly greater injustice to persons individually.

I just want to take up this matter of cost of living allowance. The hon. Secretary for Commerce and Industry says cost of living allowance (I cannot remember his exact words) is undesirable and impractical and ties us to the chariot wheels of inflation. That may be so, and I hope Government will remember those words when the cost of living goes up (if it does go up) and a demand for cost of living allowance is made again. With regard to that I think the hon. member Mr. Mathu's suggestion also comes in for a certain amount of criticism.

That is really all I want to say, but I want to reiterate my faith in the future of this country—I think I may say our faith in the future of this country—(hear, hear)—and it is because we have faith in its future and because we want to guide it along the best lines, the lines we believe are safest, best, wisest and most far-seeing, that we support this amendment, that I personally support this amendment, and have opposed before the substantive motion. (Applause.)

MR. ERSKINE: Mr. Speaker, in rising to oppose this amendment—(OFFICIALS: Applause.)—I should like to say that I enjoyed the speech of my hon. friend the Member for Rift Valley almost as much as I believe he enjoyed it himself! (Laughter.) As he spoke, I could not help but feel that when he studied the Salaries Commission Report he got stuck at the first point of the summary, which reads: "The case for an appreciable increase in the salaries of all officers is established". It is those words—and I am going to refer to them as unfortunate words—that have caused all the Little Red Riding Hoods throughout the country to say: "What big eyes you have got, Grandma!" (Laughter.)

Now I want to refer very briefly to paragraph 2 (a) of the amendment. I should like to refer to the whole of the amendment, but I do not think there is time. (Laughter.) It was during the

[Mr. Erskine] course of the hon. mover's speech when he moved to point No. 2 (a) that I jotted down, or tried to jot down, some Latin words, but I could not remember them correctly, so I put them down in English, "Whom the Gods wish to destroy", and then I decided not to go on with it! (Laughter.) The words in paragraph 2 (a) conclude: "excluding the 1/6th war sacrifice". It is suggested by my hon. friend the mover in all seriousness that, in lieu of the Salaries Commission's findings, we should accept, for the future, a cost of living allowance which will be altogether different from the Mundy formula and will exclude the 1/6th war sacrifice. It will also be without regard to family commitments. I have just made a very brief calculation. The 1/6th war sacrifice is 1/6th of S (salaries) in the formula and, taking the European scales, or the A scales, shall I call them, I rather think that its removal would lead roughly to an average increase of about 20 per cent on the present figure of the cost of living allowances. It might easily make the average cost of living allowance for the A scales not 21 per cent as at present, but 41 per cent. That is only a very rough guess, but it is probably not more than 10 per cent or 20 per cent out, but it would lead to a very big increase indeed on the present Mundy formula which, as I have said, gives an average of 21 per cent.

MR. BLUNDELL: On a point of explanation.

THE SPEAKER: Order, order! You must catch the eye of the Speaker if you wish to interrupt him.

MR. ERSKINE: Yes, I will give way.

MR. BLUNDELL: I am sorry to interrupt, but I never did say that this was for the future; I made it absolutely clear that I regard this as a temporary measure only.

MR. ERSKINE: I accept that, sir. (Applause.)

For the next few months, then, we are to have an increase which I have calculated as growing from 21 per cent, on pre-war 1939 salaries, to 41 per cent. Now, sir, we have heard a lot about psychology—I am going off at a tangent now, having been interrupted by my

hon. friend!—but just how does that tie up? What does he do for an encore when we try to make a fresh start with salaries revision when the cost of living allowance has gone up to 41 per cent. (OFFICIALS: Hear, hear.) The salaries revision as proposed in this book amounts in the A scales to an average of 27 per cent. Therefore I feel that it would be wise to go ahead with this measure, and to take the bull by the horns and accept what is really a parsimonious measure, and I think we have made an extremely good bargain. This sounds rather a churlish point to make, but nevertheless it is only too true.

The other point I wish to make is about the cost of living figures. We should need to see a 40 point drop in the cost of living index before we could say that the Civil Service were making a profit! That applies to the A scales and the B scales and the C scales in larger or lesser degree. I am hoping we will get a 10 point drop—I hope to get that engineered. A 20 point drop in the cost of living could only happen as a result of a rather serious depression and, as we have heard from the hon. Secretary for Commerce and Industry, it is not particularly likely, but anything in the nature of a 30 or 40 point drop would mean something in the nature of a cataclysmic—(laughter)—something in the nature of a catastrophic—whatever you like—something in the nature of a world calamity or crisis, and that is amply covered in this book by its reference to *ad hoc* measures. Sir, I should like to oppose with great vehemence this amendment. (OFFICIALS: Applause.)

MR. VASEY: Mr. Speaker, speaking to the amendment, I should like to say that I feel I must place on record the reason why I regretfully cannot support the amendment. I have not as yet spoken on the main motion and when I do, with your permission, sir, I shall move one or two additional resolutions, but I feel that we cannot delay the matter that is before Council. (OFFICIALS: Hear, hear.) The important thing, I feel, is that we agree with the Salaries Commission in principle or in detail. We must at least go into committee and we must discuss, inch by inch, the points before us. It is important, I believe,

[Mr. Vasey] from the point of view of the Colony and of the Civil Service that full consideration of the details of this report should be given and the opinion of this Council expressed. For those reasons I regret I cannot support the amendment. (OFFICIALS: Applause.)

MR. RANKINE: Mr. Speaker, I rise to oppose the amendment, and in doing so I should like to make it clear that I am speaking to the amendment only. I make this reservation because, in speaking to the amendment, members have covered such a wide field that it is difficult to be relevant.

In opposing the amendment I should first of all perhaps congratulate the hon. member who moved it on his speech. (Hear, hear, and applause.) I think I am right in saying that we all enjoyed it nearly as much as he did. It was the more brilliant in that it was based on such firm foundations—(laughter)—and, while I do not necessarily associate myself with the hon. member who has suggested that in making that speech he was expressing the views of his constituents and not his own—(MR. BLUNDELL: Shame!)—the hon. member says "Shame", so do I!—(laughter)—I am led to that conclusion by the fact that when it came to vote on the hon. member Mr. Patel's motion he did not even appear to know which way to vote! (Laughter.)

I have very great sympathy with the hon. member who moved that the question should then be put. I was tempted to vote with him, because I feel that this debate has already lasted long enough, but in voting against it I did so because it has already been suggested that this Council is being rushed and that insufficient consideration is being given to the question, and therefore, so far as the Government is concerned, we wish to make it absolutely clear that full consideration should be given.

The hon. member has said that the report has been much criticized and that it will not remove discontent. It seems to me inevitable that a report on which so many hopes and fears have been based should be criticized. It has been said that it pleases nobody. That, I believe, is an over-statement. Nevertheless, it seems to me hardly surprising that the

report should not be criticized. If on the one hand, it had pleased all the taxpayers in the Colony, then all I could say is that it would come as a very bitter disappointment to the civil servants. If, on the other, it was fully acceptable to all the civil servants, then all I can say is that it would have given a much greater shock to the hon. Member for Rift Valley even than it appears to have done.

But, when we come to consider it, it seems to me essential that we should clear our minds on two points. The first is, what the Civil Service is and what it does, and the second is what this report sets out to do. The Civil Service is the machinery for carrying out the policy of Government. Civil servants are servants of the public engaged on giving the services which the public demands and which hon. members opposite have been among the first to demand. While I should hesitate to—in fact, I have no intention—under-estimate the value of economy in administrative methods, nevertheless it remains a fact that the total bill for the Civil Service is determined by the policy of Government: it is not determined by the whim of heads of departments. Take, for instance, the educational service. It is not for the Director of Education to say that this service or that service should be provided—the services which have to be provided are determined by the policy of Government. In the case of European education and Asian education, for instance, the services, and in consequence the expenditure on the services, are determined by the law which makes education compulsory.

I do not wish to be misunderstood in this connexion. I should be at one with hon. members opposite and, indeed, on this side of Council, who have suggested that Government or the Colony should not build up commitments which it cannot afford. I entirely agree with that suggestion. I should be lacking in my sense of duty and responsibility if I did not. But when you come to say that this Colony cannot afford to pay civil servants the salaries which are set out in this report, it seems to me that one essential link in the chain of thought is missing. Let me take a simple example to try and elaborate what I mean. Say,

[Mr. Rankine] for the sake of argument, that you were proposing to build a house. What do you do? If you are a prudent person you consider what you want in relation to your means—(Mr. EDYE: That is what we are suggesting.)—I am glad to hear that! You consider what you want in relation to your means. You may want a four-roomed house, but when you add up the cost you find that you cannot afford it. What do you do? You do not go to the bricklayers and carpenters who are going to build that house and say to them "Look here, I am very sorry, old boy, I cannot afford the house I wanted, but I am going to have it all the same, and what I am going to do is to pay you half of what I ought to pay you". Of course, you do not. You decide on what you can afford and then you pay your bricklayers and your carpenters a reasonable and a fair wage, and I suggest that it would be a most immoral thing to do anything else. The total cost of the Civil Service of the Colony is determined by the services which this Colony decides that it wants and that it can afford.

This Salaries Commission Report does not determine the total cost of the Civil Service. All that it does is to set out what it considers a fair and reasonable rate for the job, a fair and reasonable rate in order to attract to the Service men and women of sufficient qualities and abilities to carry out the job. That, as I have said, was the main purpose of this Salaries Commission Report, and I suggest that it would be wrong, that it would be shelving the issue, to put off a decision any longer. It is essential now that we should fix the basic salary scales for the job.

I would like to quote from a report of a select committee of the House of Commons on colonial development to illustrate my point. The report says that in May, 1948, there were 1,185 vacancies in the Colonial Service, but far the largest number, 315, was for men with engineering and architectural qualifications, but there was also a great shortage of administrators, doctors and agriculturists. It also went on to say that the revision of the salary scales should be regarded as a matter of urgency. It is a matter of urgency. We have got to

get the right men for the job. Moreover, when we have got them we have got to keep them in the Service. I do not think I could do better in support of my argument than to quote the hon. member who has seconded this amendment. This is what he had to say on the subject: "You cannot implement any legislation if you have not got the staff, and I am equally exercised over this question. I am sure everyone will agree that the success of any policy is dependent on the calibre, quality and enthusiasm of the personnel who are there to carry it out." (Mr. EDYA: I have never denied that.) Nobody has said you have yet. If you do not want me to quote any further? (Laughter.) (Mr. EDYE: I cannot remember what I did say, so carry on!) "We cannot get good quality personnel and we cannot engender enthusiasm if their terms of service and their period of employment are not attractive. What precisely are the terms of service which are being offered by the Government and what length of employment is offered in that service? It would be fatal to success and very much more costly in the long run if the wrong type of man was allowed to try and carry out Government's policy in the reserves. I am equally aware that to obtain suitable man-power to-day is extremely difficult. In fact, it is obvious from the report of the Development and Reconstruction Authority laid on the table yesterday, and therefore I presume it will be necessary to train possibly a certain number of people in this country. There does not seem to me to be very much object in training personnel if, when you have trained them, the terms of service are such that they will immediately try to get another job."—(OFFICIALS: Laughter.)—"rather than carry on in the Service".

Mr. EDYE: On a point of explanation.

Mr. RANKINE: How can there be?

Mr. EDYE: Very definitely. I should like to make this clear. I agree with every word, but in seconding the amendment I said that what I was worried about was the total number of people employed and the bill. It has nothing to do with what they are being paid, and I am sure Government would not twist it the other way round.

THE SPEAKER: The word "twist" is not quite parliamentary.

Mr. EDYE: I withdraw any offensive intention on the part of Government, and say that we are not prepared to pay the numbers the adequate salaries that they need.

Mr. RANKINE: I should like to say straight away that I have no intention whatever of twisting anything the hon. member said. (Mr. FOSTER SUTTON: It is a case of "If the cap fits.") If I have, I apologize and withdraw. My point is that we should pay the people the salaries necessary to attract them and keep them in the job. (Mr. EDYE: Hear, hear.) There again, if that is what the hon. member intended to say at the time I now congratulate him on his arguments! I have no intention of twisting anything the hon. member has said, indeed, there is no need to; I should like to place on record that I am merely saying what he said to strengthen my argument.

I do not think there is anything further for me to say. My argument has been that it is necessary to determine now what should be the basic salary required to attract the right people for the job and to keep them in the job when you have got them.

Sir, I beg to oppose the amendment.

Mr. HAVELOCK: Mr. Speaker, I will not take more than three minutes. I think there are two points which have been missed in the discussion on this amendment. The first one is that the fears in the minds of the supporters of the amendment are firstly for the ultimate commitments, and that they would like the whole economic set-up reviewed in view of what may be the ultimate commitments, and also in relation to what extra taxation this country might have to accept to pay for the ultimate commitments. I hope I have made myself clear on that.

I would stress again the point which was debated rather hotly just now, and that is that I personally anyway have nothing against paying a man what he is worth, and if he is worth more than he gets now, good enough, let him have it; but I do not see that we can afford

to accept the Salaries Commission Report as it is at the moment without facing the fact that we shall probably have to pay extra taxation. That, I suggest, has been borne out by the speech we heard to-day from the hon. Secretary for Commerce and Industry. It does seem, according to the figures he gave us, that the revenue of Southern Rhodesia is £12-million on a national income of £52-million. Our revenue is £7-million on a national income of £50-million, so it seems, according to the economists' theory, that there is a case for extra revenue in this country.

Mr. HOPE-JONES: On a point of order, I did not at any time suggest that there was a case for extra taxation. I quoted the figures.

Mr. HAVELOCK: I did not suggest the hon. Secretary for Commerce and Industry suggested that at all.

THE SPEAKER: I thought you did.

Mr. HAVELOCK: I am bringing forward these figures which do seem to show that this country, according to the economic theory—

THE SPEAKER: I hardly think it arises very much on the amendment. It is now quarter to one and we will adjourn until 9 a.m. to-morrow.

The debate was adjourned.

ADJOURNMENT

Council rose at 12.45 p.m. and adjourned till 9 a.m. on Friday, 27th August, 1948.

Friday, 27th August, 1948

Council reassembled in the Memorial Hall, Nairobi, on Friday, 27th August, 1948.

His Honour the Speaker took the chair at 9.10 a.m.

The proceedings were opened with prayer.

MINUTES

The minutes of the meeting of 26th August, 1948, were confirmed.

PAPERS LAID

The following paper was laid on the table:—

By Mr. TROUGHTON:

Schedule of Additional Provision No. 2 of 1948; and notice given to move the reference of the Schedule to the Standing Finance Committee.

SALARIES COMMISSION REPORT WITH SESSIONAL PAPER No. 2 OF 1948

The debate on the amendment moved by the hon. Member for Rift Valley was resumed.

MR. HAVELock: (continuing): Mr. Speaker, at the adjournment yesterday I was trying to explain my reasons for supporting the amendment, and the first one I considered the most important part of this amendment is the fact that it means a postponement. Although hon. members have referred to postponement as being a negative action, I really feel it is a constructive action. I feel we need postponement to consider this Salaries Commission Report, and also especially the financial implications in regard to the figures supplied to us by hon. members on the other side, and some figures which have not been supplied, such as the unknown factor of the pension commitments, etc. I really think that we on this side need more time to consider this very very important problem with its grave implications to the country.

I think there is a certain doubt in the minds of hon. members on the other side as to the intention of the mover and seconder regarding the length of time. There have been suggestions of 1952—I am absolutely certain that the hon. Member for Rift Valley had no intention of postponement of consideration until

that date. (MR. HOBSON: Question.) (MR. EBYE: No doubt whatsoever.) (MR. COOKE: He does not know himself.) I submit that his idea was six months at the most. That was my idea, and so convinced am I on this that I have no doubt that he would accept an amendment to the amendment creating a deadline—(MR. TROUGHTON: Deadlock.)—so that there would be no doubt at all in hon. members' minds that the consideration of the report would not be put off *sine die*.

One very important consideration I would suggest hon. members might consider, is that it would be very wise for this Council to consider the 1949 Estimates before making up our minds regarding this report, and six months' postponement would enable us to do that. I suggest that it will be wiser to consider the reductions that could be made in numbers, and therefore in expenditure, before considering increases and trying to make reductions offset increases as much as possible. We should therefore consider the 1949 Estimates in the light of the implications of the report.

On this point, I would refer to the remarks of the hon. Chief Secretary yesterday, and say that I quite realize that the heads of departments are not responsible for increases of their establishments without confirmation by this Council, but I would point out that when we consider the Estimates this year it will be the first time that an unofficial majority will have to take the responsibility of passing the Estimates. In the light of the Salaries Commission Report, it is a very grave responsibility for hon. members on this side. (MR. COOKE: We can take it.) There are too many anomalies in the report as is quite obvious from remarks made on both sides, and I consider that a committee as suggested by this amendment, consisting of local people, would be able to straighten many of them out in quite a short time.

I consider that if we accept the recommendations as they are at the moment, that is not the end but merely the beginning of more and more controversies and further representations by people who are dissatisfied. I quite understand and agree that nobody can expect the whole country and everybody to be satisfied with this report, but I think that if we had further time to consider it

(Mr. Havelock) and a committee to go into it, we have a very good chance of getting more people satisfied with it than at present.

I would like again to refer to the remarks of the hon. Chief Secretary, when he quoted the remarks of the hon. Member for Nyanza yesterday. I would like to suggest that the principles enunciated in the speech that was quoted are very similar to the principles which the hon. Member for Nyanza enunciated yesterday in his speech. I would suggest that the principles are these. First, that we should ascertain what we can afford; secondly, that we would have a Salaries Commission Report; thirdly, we would decide what services and what posts were essential; fourthly, tie the whole lot together and have a complete picture. I suggest that that is the way we should proceed. We have now only the report, we have not considered what we can afford. (MR. RANKINE: What about the Estimates?) We have not yet considered the Estimates, and that is the point I tried to make just now. It would be much safer to see the 1949 Estimates first and consider what services are essential or could be reduced.

I think that before accepting the report we should consider all those things together, and that is what I am certain the hon. Member for Nyanza was explaining yesterday in his speech and in the speech quoted by the hon. Chief Secretary. In fact, there is only disagreement on one point, I suggest, and that is postponement to allow for the consideration of all these implications together and not separately. I feel that if we could come to agreement on that point of postponement for six months, everybody would be satisfied.

The hon. Chief Secretary made a comparison between the present situation and a man building a house, a very excellent comparison from the Member responsible for D.A.R.A. (Laughter.) I will admit that I did not quite get his point, undoubtedly that is due to the fact that my brain has not had the usual four-yearly leave stimulus. (Laughter.) However, I would like to give my idea of a true picture on the same lines.

May I suggest that we take a man who has plans to build a double-storied house and has money to do it. He engages 50 men, artisans, etc., to

do it. Within a short time he finds that the prices of materials have gone up and his men ask for higher wages on a level with people in the same employment elsewhere. He finds that he cannot afford to build a double-storied house with the money at his disposal, and says: "I will cut off one story and build a bungalow, but in order to do that I have got to reduce expenses as well as far as the men are concerned." How does the builder go about it? He will first have new plans made for a smaller house, as suggested by the hon. member; he will then consider reduction of staff, where he can reduce, how many men he needs to build the bungalow, and then decide which men are the ones he can do without. He will then dismiss those men and, lastly, call together those who remain and raise their salaries in accordance with what he is saving on the dismissals. That, I suggest, is the business-like way of going about it.

I well understand, and sincerely sympathize with, this feeling of frustration and, indeed, desperation, displayed by civil servants, for they are tired of waiting. They have waited long enough and want to take what they can get and get on with the job. I realize that, but I feel that on this side we must take a responsible view. We who are supporting this amendment are also tired, we are absolutely fed up—if you, sir, will excuse the unparliamentary language—with this debate. We would much rather go ahead and let events take their own course so that we could get back to our own occupations as quickly as possible, but we feel a real sense of responsibility, and we must have time before we accept this very, very big implication.

I would suggest, therefore, that it would not be a calamity to hon. members on the other side of the Civil Service if that postponement for six months did take place. If they think about it, would it really be such a calamity? And would it not be wiser? Nobody would suffer, because meanwhile civil servants would have some cash remuneration.

I beg to support.

COMMISSIONER FOR LANDS, MINES AND SURVEYS (Mr. Robbins): Mr. Speaker, while listening yesterday to the delightful speech of the hon. Member for Rift Valley, I was reminded of a story which was told recently by a celebrated K.C.

[Mr. Robbins] and which I read in a recent legal publication. I was also reminded of the same story this morning when the last speaker used the expression "deadline". With your permission, sir, I would like to inflict the story on the Council. It goes something like this.

It concerned a case in which learned counsel had applied for a postponement of a case for a matter of three weeks. The judge, in assumed horror and bearing in mind the advanced age of the judges of the day, retorted: "But, Mr. Jones, three weeks? Why, all the judges of the King's Bench Division might well be dead by then". To which the learned counsel smilingly replied: "That would be too much to hope for, my lord". (Laughter.) (MR. EDVE: There are no optimists on this side.) I am not so optimistic as some hon. members on the other side seem to be, that the postponement of consideration of the Salaries Commission Report would solve the problem of the Civil Service salaries. I believe that it will have the entirely opposite effect.

I have the honour and privilege, I think, of having completed the longest period of service as a Government servant in this Colony than any one person in this Council this morning and, during that time, I have had every opportunity of studying at close hand all grades of the service and the reactions from time to time of my colleagues, and I think I can say without fear of contradiction that at no time during that long period do I ever remember such feelings of dissatisfaction among civil servants and unsettled conditions as those which exist to-day, and have existed throughout the service during the past four years. I therefore feel that any further postponement at this late stage will have a more calamitous effect, perhaps not so calamitous as the hon. member Mr. Muthu suggested yesterday morning, but on the other hand, I feel certain that it would be against the wishes of the whole country and in particular the Civil Service if there is to be any further postponement.

As I understand it, the reasons advanced by the hon. mover of the amendment for asking for this postponement is mainly on two grounds. In the first place, he quite rightly points out

that the recommendations of the Salaries Commission do not solve the whole problem, as it would lead to further problems to be solved in the future. That, I think, is a minor point and can be agreed to by most people. The next point is, I think, that he and some members on the other side feel that at the present time and certainly in regard to the future, there may be some doubt whether the Colony can afford to implement these proposals. On the second point we have had some interesting figures given by the hon. Secretary for Commerce and Industry. In that connexion, I have my own sources of information in regard to the present internal wealth of the country, and would like shortly to give the Council those figures.

Up to the beginning of the war and for about ten years previous to the opening of the war, the average annual value of land—bought, sold, transferred and leased—was of the order of three-quarters of a million pounds. From 1944 onwards that has steadily grown until the figure of £74-million was reached last year, and there is every prospect that this year the figure will reach the highest recorded in the history of the country of £10-million. (MR. HAVELOCK: Hot money!) It is obvious to me, therefore, that whatever may be the future, so far as the prosperity of the country is concerned at the moment, there can be no doubt about it that the country can afford the implementation of these proposals.

Another point why I believe these proposals should not be postponed is because I feel that any further postponement will have the effect of seriously undermining the morale of the members of the service at the present time, and I do not think that there is any guarantee that even if during the postponement a further committee is appointed to go over the same ground they would provide any better solution than that provided by the Commission.

I beg to oppose.

MR. NICOL: Mr. Speaker, first of all I should like to congratulate my hon. friend the Volcano of the Rift for bringing this motion, because I think it has been of great value and has produced useful discussion, but nevertheless I am afraid I cannot support the amendment.

[Mr. Nicol]

(OFFICIALS: Applause.) I have got a reason for that. What in effect does this report say? As I see it, it is the considered view of the Commissioners, after taking detailed evidence, that, if you want to have certain services performed, they consider that you should pay the individual who is going to perform those services so much. It really does not commit us to anything, except that, if it is accepted, we are committed to the estimate of cost of my hon. friend the mover of the original motion—the £900,000 with retroactive effect. In regard to the future, I take it his estimate of £400,000 additional is based on the present establishment.

My second point is this. We know that the Commissioners, like anybody else, are human beings, and human beings are liable to make mistakes; hence anomalies have crept into this report. Surely the object of going into committee to consider these various resolutions—28 or 29 of them—as proposed by the hon. Financial Secretary, is to iron out these anomalies. (OFFICIALS: Hear, hear.)

In regard to what our commitment is going to be, the time to study that is when we come to consideration of the 1949 Estimates. The argument in my view as to whether we can or cannot afford the recommendations of the Salaries Commission is not really germane to this debate. (MR. TROUGHTON: Hear, hear.) There will be opportunity for discussion as to whether we can afford it when we come to consider the Estimates, and at that time we shall say to a head of department: "Have you got any duds in your department?" and that is the time when we can weed these people out. We can also—

MR. COOKE: On a point of order, is the hon. gentleman speaking to the original motion as proposed by the hon. Financial Secretary, or is he speaking on the amendment?

THE SPEAKER: I think he is addressing us on the amendment.

MR. NICOL: Sir, I am speaking on the amendment and—perhaps my hon. friend did not hear me—I referred to a committee. There is a committee referred to also in the amendment which presumably will do what the committee of the whole Council is going to do later on either this morning or to-mor-

row; but if I am going to get any more interruptions from my hon. friend in front, I think we will be here for another three weeks! (Laughter.) As I say, presumably the same questions would be asked of heads of departments in the committee envisaged in the amendment, and it is when we are considering the Estimates that we should decide as to what services we want and what services we can afford to pay for. Then we have this as a yardstick. These eminent gentlemen have said that they consider that an officer operating such and such a service is worth so much, and I think that is the whole basis of the thing. Therefore, I am afraid I have got to oppose the amendment. (OFFICIALS: Applause.)

MR. TROUGHTON: Mr. Speaker, sir, the observations—

THE SPEAKER: I thought we were dropping the "sir" and we were having simply "Mr. Speaker"? (Laughter.)

MR. TROUGHTON: Mr. Speaker, the observations made by my hon. friends on both sides of Council in this debate have mercifully left me with not too much to say. (MR. FOSTER SUTTON: Thank the lord!) Thank the lord indeed! (Laughter.)

Regretfully, like the hon. Member for Nairobi North but for a different reason, I must oppose this amendment, and my regret is the greater, because I think that the effect of this amendment on the Civil Service will be unfortunate. But I realize that the intentions of the sponsors were good, though I would remind them of the road which was paved with good intentions!

I am afraid that the hon. mover and sponsors of this amendment showed a degree of muddled thinking which I have found but seldom in this country—I have found it in an up-country journal whose name I forget (laughter)—and I was glad to hear the hon. Member for Mombasa a minute or so ago throw a little common sense and clarity into the arena, in regions which I suggest were badly in need of it. The hon. mover quoted extracts from a number of speeches made by me in which I had stressed the importance of applying a brake on recurrent expenditure and had expressed strong views against inflation. So far as I am concerned, I do not retract one word. Indeed, if I were not excessively

[Mr. Troughton] modest, I would say that the author of those speeches showed a remarkable grasp of the realities of the situation (laughter), and that his words have proved prophetic! I have often had to eat words in this Council, but I do not have to eat those, and there are certain other words that I used in the budget debate last year which are very relevant to this—very relevant—which I do not propose to eat either. Having described the relief from taxation proposed, I went on: "I must, however, give a clear warning that it may not be possible to maintain relief of this order during future years. The estimates of recurrent expenditure, as I have pointed out, are increasing. The continuance of the development programme will mean a further increase, and I should be surprised if a further increase in taxation and possibly a further increase in income tax, can be avoided next year or the year afterwards". I do not eat those words. That is the answer to the point raised by the hon. Member for Kiambu.

To get on to the lack of clarity, or middleheadedness, of which I accused the sponsors of this amendment.

First of all, the hon. mover suggested I should name a figure as to what this thing would cost for the future. I have named a lot of figures in this Council and I have often had to eat them, so I am becoming wary in my old age, and I am not prepared to name a figure as to the ultimate cost. For this reason, that it is not possible to name a figure. We were very careful in the drafting of the Sessional Paper. I would refer hon. members to paragraph 46—they need not turn it up, I will read it. We said: "Bearing this in mind, the estimated net increased charge on the Colony's budget is estimated at £400,000 per annum on the basis of the 1948 Estimates". I repeat the words—"on the basis of the 1948 Estimates". What will be the cost for the future? It entirely depends, as my hon. friend the Chief Secretary pointed out, on the future policy adopted by this Council from year to year in respect of the Estimates and Supplementary Estimates, and that, sir, is entirely unpredictable.

Let me give an example. Not long ago unofficial members of this Council, and

official members for that matter, approved proposals for the reorganization and strengthening of the Police Force, estimated to cost ultimately £150,000. Now, on that increase alone, there will be an increase of something like £30,000, on account of the adoption of the proposals in this report. Next year hon. members may decide that a further increase in the Police Force is justified. In that case the proposals in this report will cost more. On the other hand, I do not know what the law and order position is going to be next year. Hon. members may decide that the Police Force should be reduced. In that case the cost of putting these proposals into effect will be, *pro tanto*, reduced. I have not the foggiest notion, and neither has the hon. member if he takes the trouble to think about it, what the long term cost of the adoption of these proposals will be, and I suggest that, unless the member has the gift of Isaiah, or perhaps Jeremiah might be more appropriate (laughter), it is impossible to tell what the future cost will be. Michael was a saint and not a prophet! (Laughter.) (LADY SHAW: On the side of the angels.)

On another aspect of this loose thinking, the hon. Secretary for Commerce and Industry speaking on this yesterday said, I think, all that there was to be said about this figure of £4-million—£50-million, I am so sorry! (Laughter.) I was very, very glad indeed to hear the hon. Member for Mombasa throwing, as I say, a little bit of crystal clear water when he said, or implied, that the question of the extent to which these proposals could be afforded was not really germane to this debate. It is common ground on all sides in this Council that the Colony needs a really first class Civil Service. Even the sponsors of this amendment have left us in no doubt whatever of their views on that matter. They admit they want that service and that they are prepared to pay for it, provided there is a little postponement.

As a digression for a moment, hon. members have said in this debate on the amendment, and the hon. Member for Ukamba particularly, that we should not be bound to follow Tanganyika and Uganda. I entirely and fully agree with the hon. lady on that point. (UNOFFICIALS: Applause.) On the contrary, I would suggest that it is our duty to lead them. (Hear, hear, and laughter.) The

[Mr. Troughton] hon. Director of Establishments and I endeavoured to do that to the best of our ability during the inter-territorial discussions on this report, but I am afraid that this Council is like a general leading his army from the rear. Hon. members will remember the Duke of Plasatora: "In enterprise of marshal kind, where there was any fighting, he led his regiment from behind—he found it most exciting". (Laughter.) "But when away the regiment ran, His Grace was at the fore; oh, the celebrated, cultivated, underrated nobleman, the Duke of Plasatora." (Laughter.) I suggest that this Council is in danger of becoming something like a composite Duke of Plasatora in its own entity!

To return to the first class civil servant—I am not really going to be long (laughter)—the issue before us is very, very simple, and I think we could even simplify it beyond what the hon. Member for Mombasa said: Can we get first class civil servants on terms less generous than are set out in that report? And can we keep them? I have not heard one criticism about one salary, that it might be less, except, possibly, African teachers, and I am going to say a little about them in a moment.

Let us take the salary of my hon. friend the Attorney General which was thrown into the arena yesterday. Can we suggest that, if we reduced the proposed salary to, say, £2,000 from £2,150, we would have any chance of getting anything like a reasonable successor to my hon. and learned friend? I suggest we would get some young advocate who was looking forward to promotion in the fullness of time to the post of Attorney General, Tanganyika. Can we get administrative or engineering officers on terms less than these; or Asian clerks on terms less than these; or Africans? I think that possibly we might get African primary teachers on terms less than are proposed here, we might. But after all, the minimum salary proposed for African elementary teachers is only a little over twice the minimum award prescribed by law for Africans in Nairobi; in other words, only about twice the wage which is earned by a hewer of wood and a drawer of water. I do not think that can be characterized as excessively generous for an African teacher. (OFFICIALS: Hear, hear.)

To none of these questions, to none of them at all, has the figure of £50-million or the taxable capacity of the country any relevance whatever. Either we require a first class Civil Service or we do not.

Now, sir, the figure of £50-million and the taxable capacity have certainly got a relevance in another way. First of all, because it indicates, it gives a guide, to the number of civil servants who can be employed. (Hear, hear.) I feel very worried about it, I must say I do. I would not be surprised myself if the proposals in this report did not mean the closing of some African primary schools, unless very heavy additional revenue is forthcoming from African local authorities. These African local authorities have a most serious problem to face, and thank goodness I am not their financial adviser! I should hate to have to deal with the problem. These proposals will certainly mean an increased levy if standards of education are to be maintained; but is it not better to do that? Is it not better, if we are not going to have to close some schools, to have higher rates and taxes than to have schools staffed with ill-equipped and under-paid teachers? (OFFICIALS: Hear, hear.)

The £50-million and the taxable capacity are very relevant to that side of the question, but I suggest that they are not relevant really to the level of salaries, because we cannot afford to pay less salaries than those which will attract the best.

One other aspect of the matter. There has been a lot of glib talk by some hon. members opposite on the subject of retrenchment, and I got the impression that some hon. members thought that retrenchment was something that might be carried out, that staffs might be pared down, benefitting the taxpayer without hurting anyone very much. Now, sir, I think you will find that the amount of retrenchment which can be carried out in that way is very limited. I am possibly the only member on this side of Council who has been through a retrenchment campaign in this country. I was secretary to the Retrenchment Committee in 1933 and I do know what I am talking about. If you put a retrenchment committee on to certain offices—for example, if you put a retrenchment committee on to the office of my hon. and learned

[Mr. Troughton] friend, or on to my own organization, that committee would come to the conclusion that not only could no retrenchment be carried out, but that if the offices are to function efficiently the staffs should be increased.

MR. COOKE: On a point of order, is the hon. member speaking on the original motion or is he speaking on the amendment? I am certainly very puzzled. Has he a speech to make later on on the original motion, or is he making it now?

MR. TROUGHTON: I propose to make it later on. (MEMBERS: Groans!)

THE SPEAKER: There was a discussion on this yesterday, and I said then that it would be very difficult for members to distinguish and that a certain latitude must therefore be allowed. After all, there is an amendment; it is a reasoned amendment, it is not substantially negative, and the arguments are bound to be repetitive, and I must ask the hon. Member for the Coast to bear it in patience (laughter) as I have to do! (Laughter.)

MR. TROUGHTON: I will endeavour to tax your patience, Mr. Speaker, as little as possible. I am not so concerned about the patience of the hon. Member for the Coast!

On this subject of retrenchment, on which there is always a lot of loose thinking, it would probably be found that a Retrenchment Committee would find that staffs would need to be increased, that is, unless that committee had a mandate from the public not to increase any staffs, in which case the value of their opinion would be affected accordingly. Retrenchment, in fact, to be worthy of the name means curtailment of services. I can remember sitting on a Retrenchment Committee where the members seriously and anxiously discussed the question of closing the Kenya Girls High School and leaving that education to private enterprise. If we are going in for a retrenchment programme that sort of grave question would have to be discussed, and we should certainly have to consider the repeal of compulsory education, leaving the education of European and Indian children to private enterprise and aided schools and all those sort of unpleasant things which would

arise. There is no escape from them when one considers a retrenchment campaign and any retrenchment campaign must take those things into account.

I do not say there is no waste in Government departments; of course there is, but very little, and it is policy, as my hon. friend said yesterday, which causes increase in expenditure and only policy that will cause reduction in expenditure, and if as a matter of policy it was decided to save £400,000 by reducing the Police Force, or to repeal compulsory education legislation, by reducing our commitments in that way, the extra cost of this will be nothing at all.

One final word. When the hon. Member for Rift Valley was talking yesterday about partial consolidation, I interrupted him, and I am afraid that I was not very clear, for which I apologize. I said "What about pensions?" I should be glad when he replies to this debate to hear his views.

MR. BLUNDELL: On a point of order, I have no right of reply to the amendment.

THE SPEAKER: No, you have not.

MR. BLUNDELL: Unless it is allowed? Perhaps the hon. member would allow it to be carried to give me my right of reply? (Laughter.)

MR. TROUGHTON: If the hon. member has no right of reply, I feel it is not fair to put the point I was going to, because one has already been made in my opening speech on the substantive motion and I have received no answer to it. Perhaps one of the hon. members colleagues who has not yet spoken would be able to tell us why 1st July, 1947, was chosen at the date to be included in the amendment? The reason was not made clear to any of us. That is all I have to say.

I do feel that the effect of this amendment has been unfortunate, and I will not make it more unfortunate by saying more on that aspect of the matter. I think that the sponsors of this amendment have left us in no doubt about their intentions that people should be paid adequately, and I certainly think one can accept their views there and I would urge my colleagues on this side of Council to do likewise. Someone said yesterday that hon. members on the opposite side and

[Mr. Troughton] hon. members on this side are partners in the enterprise of developing this country—we will not get a partnership working smoothly unless each partner understands the difficulties of the other, and I hope that this debate may do something to achieve that end.

MR. LE BRETON (Trans Nzoia): Mr. Speaker, I do not wish to engage the attention of Council for a very long time, as most of the arguments in favour and against have been fully ventilated, but I must say that the district I represent is greatly exercised and alarmed at the amount of the extra expenditure which a complete acceptance of this report would entail, even if a complete acceptance of this report does not help many of those civil servants in the middle ranges who so badly require it. The hon. Secretary for Commerce and Industry stated that of the retroactive payments, a few thousands would be paid back into the bank in cancellation of overdrafts, and this is quite a factor in favour of deflation. But it is not a question of a few thousands, it is a question of £900,000. (MR. HOPE-JONES: A few thousand people, not a few thousand pounds.) I stand corrected. I understood it to be a few thousand pounds. But in view of the undoubted proved rectitude of our civil servants I cannot imagine they ran so badly into debt to the extent of anything like £900,000, and supposing it is a question of £50,000 being paid into the bank in reduction of overdrafts, I submit that we shall still have £850,000 suddenly thrown into circulation, which will be a factor in favour of inflation.

I agree that we do want a well paid Civil Service, and I would submit that the reason why 1st July, 1947, has been chosen by the mover of the amendment is because it has been stated that it was from that date that the prices of commodities really started steeply to rise.

I have heard it said that there is no meat in the amendment that has been proposed. I would say that the meat, in fact the brand essence of this amendment, is that the whole report examines the problem of salaries from the point of view of the amount of salaries which we should all like to give to our civil servants provided the resources of the Colony will allow us to do so. (Hear,

hear.) The report makes no attempt to examine the facts, whether the resources of the Colony are capable of sustaining such charges. It is for that reason that the district which I represent is largely concerned, and considers the adoption of this report should be postponed until a re-examination can be carried out in relation to the resources of the Colony, and the national income.

I beg to support the amendment.

MR. COOKE: Mr. Speaker, I have been asked by the hon. Member for Rift Valley to make it clear that the reason he has suggested the date of 1st July, 1947, is that given by the hon. gentleman just now in an excellent maiden speech (hear, hear), and also to reassure civil servants of the country that there is nothing in the amendment which would justify them in thinking that the hon. member is not anxious to see that their houses are put in order.

I have very little to say. I spoke very early in the main debate, and I venture to suggest that hon. members should address themselves to answering the excellent points put up by the hon. mover. I have listened very carefully to the debate and like the hon. member Mr. Mathu, I have not heard very many arguments against those points he put up. We had a most excellent exposition of the financial point of view from the hon. Secretary for Commerce and Industry, and I have not heard anyone on this side of Council, with the possible exception of the hon. Member for Ukamba, make any attempt to give a reasoned reply or reasoned answer to his figures.

The hon. mover of the amendment, I rather thought when I listened to his tempestuous oratory, was under the impression that he was under the hustings at Nakuru addressing those simple-minded farmers whom he represents and not the intelligent gentlemen who comprise the membership of this Council, because I did not discern a great deal of close reasoning in his speech! The hon. gentleman had, if I may say so, the temerity to mention that word "distortion". Well, I hope he will use his influence in this respect of distortion, any influence he may have with the operations of the daily Press of this country, which has from the very

[Mr. Cooke] beginning to the end of this debate lent itself to distortion of the proceedings of this Council. The hon. gentleman even—

MR. BLUNDELL: I would ask the hon. member on a point of order to withdraw that phrase on the question of distortion.

THE SPEAKER: The hon. member has given way to you, and if you think the charge is unfair you will state your reasons.

MR. BLUNDELL: I did say that I was going to ask the hon. member to withdraw. I take it that my hon. friend is implying that the Press in which I am interested as a director has wilfully distorted the proceedings of the Council, and I would ask him to substantiate those charges. That is all.

MR. COOKE: I will not substantiate or withdraw it at the moment. The hon. member said "wilfully". I do not believe they wilfully distort. The reporters may not have quite clearly heard what was said on this side in this Council, which may lead to distortion, and the reason that they commit it at times is perhaps on account of the acoustics of the hall. Nevertheless, I repeat, distortions have appeared in the daily Press of the proceedings in this Council, and if the daily Press in any way resent what I have said I shall be glad to give them, or the hon. gentleman himself, a great many instances of these distortions.

The hon. gentleman then went on to distort what I said in this Council; that was with regard to following the example of Tanganyika and Uganda. No one more than I in this Council has protested time after time at being led by the nose by Tanganyika and Uganda. The records in Hansard will show that. I do not say or suggest that what Tanganyika does to-day we should do tomorrow, but I called attention merely to the fact that Tanganyika and Uganda, rightly or wrongly, had accepted the report, and my whole argument was based on the fact that, having done so, it would leave us in a very difficult position with regard to recruitment. That argument may be a good or a bad one, but at least it is an argument, and I do not think anybody has a right to distort it. It is quite obvious, an argument based on fact, that it will be difficult for us to recruit *vis-*

à-vis Tanganyika and Uganda if Civil Services of those territories have better prospects. I think every hon. member will agree with that.

Before I sit down, and I am confining myself entirely to what the hon. member said, I would ask him three or four simple questions, and I hope the hon. gentleman will answer them while I am on my feet, "Yes" or "No". I want to ask the hon. gentleman: Does he or does he not accept the statements, the very grave statements, made by the hon. Director of Medical Services? Will the hon. gentleman say "Yes" or "No" about the personnel, the shortage of 14 medical officers? Will he agree whether there is truth in that statement or not?

MR. BLUNDELL: I am prepared to accept the statement of the hon. Director of Medical Services.

MR. COOKE: Then the hon. gentleman takes up the position that he would postpone for six months and subject the children of the country to the disease, say, of infantile paralysis and other grave diseases. (Disturbance.) Does the hon. gentleman or not accept the statement regarding shortage of staff made by the hon. Acting Director of Agriculture? (Laughter.) (MR. TROUGHTON: He is sitting on the fence!) (Laughter.) Following his instinct—

MR. BLUNDELL: On a point of explanation, I think I can perhaps shorten the speech of my hon. friend the Member for the Coast by saying straight out that I realize that in the delay which I have put forward there are certain aspects of it which must affect us, but I do not envisage that the delay would be longer, frankly, than three months. That being so, there is nothing to prevent us having to listen longer to the questions the hon. Member for the Coast has proposed.

MR. VASEY: On a point of order, sir, is the hon. Member for the Coast in order in endeavouring to obtain for the hon. Member for Rift Valley the right of reply to the amendment? (Laughter.)

THE SPEAKER: The hon. Member for Rift Valley is quite capable of looking after himself. (Laughter.)

MR. RANKINE: On another point of order, may we know how many speeches we are going to have from the other side on this subject?

MR. COOKE: Does the hon. Member for Rift Valley accept the statement of the hon. Acting Director of Agriculture? If so, does he accept the position that the great national wealth of the country, the land, should be dissipated during the next three or six months while waiting for more agricultural officers? Does he accept the statement of the hon. Attorney General about the police, or the statement of the hon. Acting Director of Public Works about the lack of engineers? If he does, he is acknowledging that we could wait while the natural resources of the country and law and order are imperilled. (LADY SHAW: They have been for twenty years.) All the more reason for expedition. I have forgotten what I was going to say! But may I quote "Hope deferred maketh the heart sick"? And if we defer longer after so many years of delay we shall increase that feeling of, not resentment, but the feeling among civil servants that their case has been too long delayed, and for that reason I oppose strongly the amendment of the hon. gentleman. (OFFICIALS: Applause.)

MR. EDOY: May I address you, sir, on a point of order?

THE SPEAKER: Yes, what is it?

MR. EDOY: I should like to have your ruling on Standing Rule and Order No. 41, which reads: "No member shall be allowed to vote on any matter in which he may have a direct pecuniary interest". (Laughter.) I would suggest that the other side have a very direct pecuniary interest in voting on the matter before us.

MR. BLUNDELL: Mr. Speaker, before you give your ruling may I draw your attention to a precedent in this matter? I am given to understand, though I have not been able to find it actually in writing in Hansard, that in the debate on Sir Alfred Lascelles' report in 1919/21 hon. members opposite, being the Government and being directly interested under Rule 41, did not vote. Further, if you look at Erskine and May, I think it is—

THE SPEAKER: What edition are you quoting?

MR. BLUNDELL: Mine is the 13th edition, yours is different. But it is quite clearly laid down there that in the

Hansard series of debates No. 3 a Minister of the Crown was not allowed to vote when a question affecting the salary of his position was being debated in the House.

MR. FOSTER SUTTON: May I say something, as two members have chosen to make remarks on this point? I submit that they have misread the rule and misread Hansard, because, if the submission was correct, then we could never pass the estimates of expenditure in this Council, because Government members have a pecuniary interest in the estimates of expenditure, as indeed have we all on this side of Council. Every single year there are votes included in the estimates of expenditure for travelling expenses, subsistence allowances and all the rest of it, and everybody in this Council is interested. If you call that a direct pecuniary interest you could never get your estimates through, and might just as well close up shop. I submit that the answer is that it is not a direct pecuniary interest. In the Commons it is a rule that no member who has—

THE SPEAKER: Have you got the page?

MR. FOSTER SUTTON: Page 412. My edition is the same as yours, Mr. Speaker, the 14th edition. At first blush I readily admit that it does look as if there is something in the point, but I think if one examines it and thinks about it, I do not with respect agree. (Laughter.) (THE SPEAKER: Order, order!) I am being told to sit down by those on my right, but I am not going to sit down!

MR. TROUGHTON: May I rise on a point of order?

THE SPEAKER: We will deal with one point of order at a time, and when a point of order is raised it is the duty of members to address the chair on it, and it is the duty of members to listen as well as to speak in this Council.

MR. FOSTER SUTTON: I was going to refer you to page 412, which reads: "In the Commons it is the rule that no member who has a direct pecuniary interest in a question shall be allowed to vote upon it, but, in order to operate as a disqualification, this interest must be immediate and personal, and not merely of a general or remote character. The

[Mr. Foster Sutton] interest must be a direct pecuniary interest and separately belonging to the persons whose votes were questioned, and not in common with the rest of His Majesty's subjects, or"—or—"on a matter of State policy". If this debate does not involve a matter of State policy I think it would be difficult to find one that did and, as I say, if the reasoning of the persons who have raised this point of order is correct, all I can say is, and I mean it, your could never pass the estimates of expenditure of this Council because everybody has a direct pecuniary interest in them.

MR. TROUGHTON: On this point of order, is not the motion merely that this Council should go into committee to consider these things instead of to consider certain other things? I would suggest that hon. members opposite are the only people who have a direct pecuniary interest, in that they get paid £3 a day while in committee, whereas we do not get anything! (Laughter.)

THE SPEAKER: I was going to remind the hon. member who raised this that, after all, we are now at the stage of payment of members and that we shall have some time or another to vote their stipend, and the application of this rule must be in the main that which was laid down by a Speaker of the House of Commons so long ago as 1811, which has been already quoted to us by the hon. Attorney General: "The interest must be a direct pecuniary interest and separately belonging to the persons whose votes were questioned, and not in common with the rest of His Majesty's subjects, or on a matter of State policy". Those words were used at the time when there was a motion for disallowing votes of bank directors upon the Gold Coin Bill. That is a long while ago, and the history of it we need not go into now, but it is obvious, and should be obvious to all members, that in a small Council of a Colony such as this it is impossible to apply the rule to votes on salaries, unless that particular vote is something entirely separate each time from the other votes. That is the only way in which it could be carried out in practice, and I think this must be regarded here as a matter of policy. This is a motion to go into committee and discuss certain resolutions in relation to salary scales. The question of spending money does not

arise directly at all here, and this is not the time, if at all, to raise the particular point of order. I rule that any vote given on the question I am about to put will be in order. (Applause.)

The question of the amendment was put and negatived by 30 votes to 6. Noes: Messrs. Andrews, Chemallan, Colchester, Cooke, Erskine, Harris, Hartwell, Hobson, Hope-Jones, Hyde-Clarke, Jeremiah, Jones, MacLennan, Madan, Nithoo, Nicol, Ohanga, Patel, Pritam, Rana, Rankine, Robbins, Roddan, Seif bin Salim, Shatry, Foster Sutton, Thornley, Troughton, Vasey, Wadley, 30. Ayes: Messrs. Blundell, Edey, Havelock, le Breton, Maconochie-Welwood, Lady Shaw, 6.

The debate on the original motion was resumed.

MR. VASEY: Mr. Speaker, in rising to support the motion before the Council I do so because it has become to my mind increasingly clear that it is important that the Council should know exactly where individual members stand. I have listened to this long debate, and I have come to the conclusion that it may well be said of this debate, as was said by a very clever speaker once, that the optimists are often just as wrong as the pessimists, but at least the optimists are happy. I feel that, with all the figures and all the doubts and all the fears that have been spread about in this debate, that perhaps is the only thing of certainty which has emerged. All members in this Council have, I think, reached agreement on the need for adequate pay for the Civil Service posts of the country. Most things have been said that could be said on these matters, and I propose therefore only to deal with one or two points of particular interest to myself.

On the question of leave, when we reach the committee stage I shall put forward a suggestion for the consideration of Government. On the question of the Police I have always taken, I think I may say, a fair interest in the conditions of service of the Police Force of this country. I have pressed continually for separate terms of service to be given to the Police Force. There is no mention of that in the Salaries Commission Report, but I would remind at this stage the hon. Financial Secretary of an assurance he gave me some time ago, that

[Mr. Vasey] immediately this report had been dealt with such separate terms of service would be considered.

There is one point I should like the hon. mover to deal with in his reply or, if he is unable to deal with it as quickly as that, to at any rate produce the information during the committee stage of the debate. I am under the impression that the consolidation and conversion of the salaries of the Police Force have taken place on the conditions existing on the 1st January, 1946. I was a member of the Police Terms of Service Committee which sat and recommended far more generous terms, or shall we say not far more generous, but far more equitable terms, for the Police Force than those existing on the 1st January, 1946, which were niggardly in the extreme and were the cause of great discontent in the Police service. They were, indeed, the cause of such discontent that this Council was compelled by public opinion to appoint what was known as the Pilling Police Terms of Service Committee. I consider that an injustice has been done to the Police service in the fact that the Salaries Commission has gone back to consolidation, so I am told, on the 1946 terms and not on those awarded them by that committee, and accepted in the main by Government, as the terms on which the members of the Police Force should serve. I would ask Government for an assurance that during the committee stage that position will be reconsidered and, if necessary, referred to the Standing Finance Committee.

One thing in particular I would welcome in this report is the appointment of a Public Service Board or Commission. To my mind it is something which will contribute greatly to the efficiency of the public service of this country. I would, however, suggest, based on the comments that the hon. Financial Secretary and I heard during our recent visit to Southern Rhodesia, that Government give serious consideration to the practice that has been found finally advisable. I think, in Southern Rhodesia, and that is an independent chairman, a man outside either the unofficial community of the country or the Civil Service itself.

On pensions I shall support, because of the overwhelming demand of the Civil Service, the idea of free pensions,

but I would like to express my own personal feeling. I regret that the contributory service pension has not been continued. To my mind it enabled the Civil Service to walk with its head in the air, in the full understanding that the pension they were given was something they had paid for; whereas the words free pension are a misnomer—there is no free pension. The pension is arrived at by an adjustment of the salary and a deduction from the level; and from the point of view of the Civil Service, as a Civil Service, I do deeply regret that they have accepted as a whole this free pension misnomer.

In general, and I promise—as indeed has every member of this Council so far—not to keep the Council long. One explanation I should like from the hon. Financial Secretary was with regard to a remark in his opening speech, when, if I heard him aright, he said Government would consider assistance to local government bodies affected by the Salaries Commission Report, if adopted. That, at any rate, is the impression which I can assure him he has given to some local government authorities, and it is perhaps, from the point of view of the local government authority, wise that he should clarify the position, because the local government authorities are going to be very seriously affected if this report is adopted. It will set a reasonable level, a good level or a high level—whichever way you like to term it—it will set the level for services of certain kinds, and the local government authorities will have to compete at that level, if they in their turn are to obtain staff of the quality which they must have. I should be grateful if the hon. Financial Secretary made a statement of clarification on that point.

I voted against the recent amendment because I feel that we cannot delay the situation. I feel that we must at the earliest possible opportunity get away from the present uneconomic basis of the payment of the civil servants of this country. During the war, willy nilly, we had to fall perhaps into the trap of paying a man for his job with regard to his family commitments, and that I consider is a disastrous basis for any service or any country to found its economy on. Its wage economy must obviously be based on what the job and what the man are worth, and beyond that, in the long

[Mr. Vasey] economic run, it cannot go. I therefore welcome the fact that some stage has been reached with regard to consolidation.

Consolidation has also another very great merit, in my opinion, to recommend it. The world economic situation to-day is suffering a good deal from instability. Somewhere, at some time, as in the previous post-war period, somebody has to take the stand in an endeavour to stabilize the economic factors of the country, and, to my mind, it is important that we should take that stand to-day with what I may term the leading body of wage earners. It would be better from the civil servants' point of view to delay this and let consolidation take place in another six months, when the price of primary products is almost certain to have risen again, and the cost of living factor could not be taken at the level at which the Commission based it but the level then existing. But we, from our point of view, having responsibility for the economy of the country must, I think, seize this nettle and consolidate and stabilize at the earliest possible moment. For that reason, although at one time I was very afraid of consolidation, I have come to the conclusion that I must support the principle of consolidation as laid down in the Salaries Commission Report.

One other point on that, and I feel that I should like here to issue a word of warning. There is a tremendous lot of talk, a tremendous amount of loose thinking, about inflation in this country. One endeavours to stem the rising cost of living mainly because prices are always ahead of wages, a factor which causes hardship to the wage earner. But we must be extremely careful as to how far we carry this talk of the desirability of deflation, because during a time of mild prosperity and mild inflation at least the purchaser has money with which to purchase goods and at least a merchant can sell goods, but if a policy of deflation is carried too far in the opposite direction you may very well see what is apparently the danger state in the United Kingdom—that is, goods on the shelves of shops without purchasers' money available to buy them. That to my mind is something which economists of the Empire and of this country must bear in mind if they try to drive too far towards a deflation-

ary tendency. It is to my mind something that should be very, very carefully watched.

On the general report, what has emerged from the debate? (Mr. Cooke: Words!) The hon. Member for the Coast says "Words". I would say there have emerged more than words. Words are expressions of hopes, dangers, and fears of the various members. The members who on this side moved and supported the amendment, the same as those on this side who voted against it, were sincere in their expressions of the dangers and fears of this report. (Hear, hear.) It means, as has been truly said of this report, that it will lay down the level of remuneration of the number of servants who receive that remuneration, and therefore the quantity of services this country demands will have to be decided by this Council, and the members who vote for this report must be prepared, when we face the 1949 Estimates in a few months' time, to take serious cognizance of their demands for services. They will have to decide what services are really and absolutely essential, and what services, no matter what public pressure may be behind, they are prepared to say "No" to. That is the position which will, I suggest, arise from this report. It will need complete dispensing of non-essential services that cannot be afforded, and every penny of expenditure will have to be of revenue-earning and reproductive capacity.

I realize that fear is ahead, I realize there is fear from this side of Council and certain members, I think, on the other side, that there are perhaps too many people already in certain parts of the service while there are not sufficient in others. Realizing that fear, I am going to suggest in a moment an amendment which I trust hon. members on the other side of Council will find themselves able to accept, something which will endeavour to give this Council in committee the opportunity of considering ways and means to meet on the one side those fears of the danger to the economy of the country by accepting a long period commitment, which have been expressed by certain members of the public, commercial and agricultural industry and on the other side fear which has not been expressed but which, I believe, is a fear just as active—the fear, particularly of

[Mr. Vasey] (the middle group of civil servants, that, by accepting consolidation at this level to-day, should Government prove unable to stem the rising cost of living, they may well once again and in a short time be caught between the grinding mill of rising costs and static wages. Therefore, with your permission, sir, I move the following amendment: That the motion be amended by inserting after paragraph 28 the following paragraphs: "28. This Council agrees that a committee be appointed, with executive powers, to investigate the question of 'superfluous' personnel in any branch of the Civil Service, the retirement of officers holding such posts, and the abolition of those posts from the establishment list. 29. That the conclusions now arrived at by this committee of the whole Council shall, if accepted by the Council, be reviewed at the end of a four-year period or earlier should (a) the cost of living index figure vary by 25 points from that existing on 1st July, 1948, or (b) a financial emergency arise; and that the present paragraphs 28 be renumbered 30".

The only words I wish to say on that amendment are that I believe the suggested No. 29 will provide (a) this Council with an opportunity of reviewing what is thought by some a high level of commitment should there be a substantial fall in the cost of living index figure, and (b) a chance for those members who fear as I do that consolidation may press heavily on the civil servants of this country a chance for us to automatically ask for reconsideration should the cost of living figure rise sharply by such a margin as 25 points.

Mr. MACONOCHE-WELWOOD: Mr. Speaker, I beg to second. As I think I am the last speaker on this side, I can at least promise to be brief, because pretty well everything that could be said against the report has been said; some, indeed, have said it twice! But there are one or two points that I should like to make.

THE SPEAKER: I do not think you are entitled to go beyond the amendment now. I have given members scope before because it has been the custom of members making maiden speeches to give them every opportunity, but you are now speaking to the amendment and nothing more.

MR. MACONOCHE-WELWOOD: I will confine myself to the amendment, but in supporting the amendment there are certain reasons for doing so which I should like to put forward. One of those reasons is this, that we on this side of Council have a feeling that the development of this country is going to be a costly and expensive business. It is all very well for members such as the hon. Secretary of Commerce and Industry to give us the figures which he has done and which we on our side do not fully understand. We represent, or at least I represent, the agricultural interests of the country, and we have discovered over long experience that enormous sums of finance are used up and expended in the development of the land, and much of the large sums put into it to-day cannot ever hope to yield more than 1 per cent or even 2½ per cent on what is put in.

For that reason we feel that some sort of safeguard such as this amendment gives must be made, and this particular amendment seems to me to cover many of the points which have frightened us on this side of Council. We think that much of the work of the country which is done by the Civil Service is unnecessary, that many services have got to go in fact, and it will call for a very great self-sacrifice. I may say, from this side of Council as well as the other if this amendment is really implemented. Because of this I think the executive committee when it is set up should have large unofficial representation on it, because it is not only for the civil servants to consider this matter and cut unnecessary services but also for us. In England to-day an enormous Civil Service has been set up, and it is definitely cramping the development of the country, and I for one view with the gravest apprehension that this is beginning to happen also in this country.

We have been given the figures of 1,890 European civil servants by the hon. Financial Secretary. I think it was in answer to a question. This is roughly one in fifteen of the total European population of the country, and I submit that that is a most dangerous position for a new, producing country to get into. I do not think we can face that figure, and here I should like to say something as a word of warning to Africans who have asked for equal pay

[Mr. Maconochie-Welwood] for equal work, that we may have to replace gradually a lot of Europeans by Africans or Asians, but if Africans ask for equal pay for equal work they should bear in mind the example of Southern Rhodesia, where that led to the non-employment of Africans. It would also be very disastrous for this country if that arose, because we cannot indefinitely afford this enormous number of European civil servants.

Another reason why we should have very full unofficial representation on this committee is, I think, contained in a remark of the historian Fisher who said that when the English quarrelled they always quarrelled over money. Particularly is this true in colonial affairs, and this debate has been a very good example, for we always quarrel over money in a colonial legislature where we are responsible to the people who pay the piper, but the theme of the tune is inevitably called by Whitehall and variations are supplied by hon. members opposite. This executive committee should give us the opportunity of taking our share in seeing at least that the payment for the tune is not too heavy. I hope also that that executive committee will remember that there are many services which if done by contract will cost more to-day and less to-morrow. I would rather pay more now while we have the money than pay later in pensions when perhaps we shall not have the money; for every civil servant, to my way of thinking, is in some sort a hostage to fortune, and there should be a definite limit to the number of hostages we can afford to give.

MR. RANKINE: Mr. Speaker, like other hon. members I do not want to take much of the time of Council; I hope in this case that I will not.

Before this debate closes, I should like to pay one tribute, and that is to the high level on which it has been kept. Civil servants are not less sensitive than any other sections of the community, and when our salaries are under discussion naturally it is somewhat embarrassing. For that reason we are very grateful for the objective manner in which this matter has been discussed. Criticisms have been made of the Service, but for the most part those criticisms have been

constructive, and I think I can speak for all my colleagues and, indeed, for the Service as a whole, when I say that those criticisms will be taken in the manner in which they were intended. (UNOFFICIAL MEMBERS: Hear, hear.)

I am grateful to the hon. Member for Mombasa because he has made a point for me which I was trying to make yesterday, very much more clearly than I could have done myself and, I think, in less than half the words. That point is we are not now really debating the total cost of this salaries revision—all we are debating is the salary for the job. The total cost depends, as has been said, on the policy of Government, and that comes under review at least every year when the estimates are under discussion. On these the whole Council then has the opportunity of deciding what services we can afford in the light of the revenue position.

The important thing is to attract to and to retain in the Service men and women of sufficient abilities and qualifications to carry out their job. All the Civil Service asks is that they should be paid reasonable salaries in order to enable them to live in reasonable dignity, to be able to do their duty to the State, and to carry out their responsibilities, as I have said, in reasonable dignity, not in luxury. The Civil Service does not ask for generosity any more than it ask for charity. All it is asking for is salaries in reasonable relation to those for other corresponding employments.

Finally, before I close, I should like to refer to the question of inflation. I do not wish to enter the lists in argument as to whether these salaries are inflationary or not, we have already had experts on that subject. All I would say is this, that if there is inflation, and if measures are necessary to combat inflation, the Civil Service would take its share with everybody else, but it does not feel that it should make the only contribution to combat that inflation. As I have said, if the payment of these salaries is going to put too much money into circulation chasing too few goods, then if it is necessary to take measures to deal with that situation, the Service should take its share with everybody else. But those measures should be

[Mr. Rankine] taken on a Colony-wide basis, not only in relation to the Civil Service.

In conclusion, I would say this, that the Civil Service asks for what is reasonable. We would ask hon. members opposite to treat us as they would wish to be treated if the situation were reversed. I beg to support.

The question of the amendment was put and carried.

The debate on the motion as amended was resumed.

MR. HOBSON: Mr. Speaker, I wish to speak very briefly on the original motion to put up at this stage two reasons why it should be supported, and the first of these reasons is that, from the whole matter of the debate and from the tone of some of the speeches of those who have opposed the motion on the other side, I think it may be well to point out to those hon. members, and perhaps to the public generally, what exactly the implementation of this report means to some individual civil servants. I am not an economist, nor am I a financier (I have never been able to handle enough money to be either the one or the other!), but I would put forward for the consideration of some of the opposers of this motion these figures.

Take the example of an officer who in 1939 drew a salary of £1,500. The pound is now worth roughly 60 per cent of what it was worth in that year. He is therefore drawing to-day a salary which is worth about £900. Supposing that salary is now raised to £1,850. Out of that £150 goes for a house; so that the actual increase in cash which he gets is £200, and that, at 60 per cent, is worth to him £120. So he will actually draw in cash the sum of £1,020, amounting to an increase of about 14 per cent of the salary which he is drawing to-day. I do think that those figures ought to be considered by hon. members on the other side of Council who are opposing this motion. Of course, on that he pays income tax, so I do not think it can really honestly be contended that such increase will lead to an officer selling his old Chevrolet or Ford and arriving at his office in the morning in a Rolls Royce driven by a chauffeur.

I am not saying we are not glad of the increase, but I am saying that it is not a tremendous increase. It is not over generous—I often wonder if those who do not belong to the Service have ever considered what it costs an officer to move from one station to another, or from one colony to another. It means he has to buy a new car, and then, if he changes his station and gets into a new house, the cost is very far from being inconsiderable. This is only an attempt to keep up with the depreciated pound, and I do submit that nearly everybody else has done that, not least the producers of this country, and I am only saying that there has been no cogent reason advanced by anybody in this debate why the Civil Service should not also have an opportunity of catching up in the same way.

My chief reason for rising at this stage was to bring to the notice of Council certain figures, lest it may be thought that this is only happening here. We all know it has happened in other colonies. I want to quote from the report of the Remuneration Sub-Committee of the Association of His Majesty's Inspectors of Taxes which was published in October, 1946, and I am quoting from a schedule to that report which deals with the comparison of English Civil Service salaries in 1913 and 1939, and some post-war figures. In 1913—and salaries have not been raised here since 1926, except under the Hill Report—in 1913 (or call it 1926) certain heads of departments were drawing £2,000 a year. In 1939 their salaries were raised to £3,000, and they have now been raised to £3,500. Assistant secretaries in 1913 drew £850 to £1,000. In 1939 these salaries were raised to £1,150 to £1,500, and have now been raised from £1,320 to £1,700. I think that the most remarkable increase has been made in the post of assistant executive officer who, in 1913, received £320 to £400, and in 1939 £550 to £650, and is now drawing £640 to £740—the salary has been doubled since 1913, or shall we say 1926.

I wished to draw these figures to the attention of Council and that was really my chief reason for getting up. There are other things I could say in support of this motion, but I think a number

[Mr. Hobson] of them have been said already and I do not wish to detain the Council any longer. I beg to support.

Council adjourned at 11.10 a.m. and resumed at 11.20 a.m.

MR. TROUGHTON: Mr. Speaker, most of the questions raised in the debate have already been answered by someone or other and, as you have said, I was able to have a fair innings during the discussion on the amendment. Therefore my observations in reply to the debate will be proportionately reduced.

I am sorry that there is only one of my hon. Indian friends in the Council at the moment, and I am also sorry that the hon. Attorney General is not here, because I shall now deal with the observations which he made regarding the treatment of the Asian Civil Service. The hon. member Mr. Patel drew a comparison between the treatment accorded by the Government to the Asian Civil Service and that accorded to European officers, and I feel it is very important that the facts about this boggy should be ventilated. I am not saying that the Government's attitude has been beyond criticism, for it certainly has not.

The short facts are these. Both the Asian and the European Local Civil Services were started off in 1935. The Harragin Committee sat in 1939 and examined European terms in the light of experience gained. The recommendations of that committee left the salary structure of the European Local Civil Service almost unchanged. In one particular case four increments were crowded into a period of three years. Now, sir, since that revision of European terms of service was carried out the Government, of its own motion and without the appointment of any committee at all, has carried out a corresponding revision of Asian terms. That was in 1942. The revision in respect of Europeans was applied to Asian circumstances, and applied without any publicity at all other than the publicity of a Secretariat circular.

The next examination of European terms was carried out by the Surridge Committee in 1944. Although this committee recommended changes in the

European salary structure, it recommended no basic alteration. The clerical scale, which was the yardstick against which all other scales were altered, remained unaltered. All that happened was that the relations between the non-clerical scales and the clerical scales were revised. Then the Webster Committee was appointed to examine Asian terms of service, and here I am bound to admit the Government is open to criticism. That committee did not sit forthwith. At that time it was decided to have a Civil Service Commissioner, and Mr. Hill came along, and Government decided that the matter should be postponed until Mr. Hill reported. I personally think now that that decision was wrong, although I accepted full responsibility for it at the time. That Hill document, it so happens, was completely unacceptable and it made no substantial contribution at all towards the problems with which we were trying to cope, so we referred the matter to the Asian Civil Service Advisory Board.

I must pay a tribute to the work put in by the members of that Board. They did a lot of very hard work, but that is about as far as I can go in the matter of bouquets. The recommendations of that committee were such that no Government which had any sort of sense of responsibility to the taxpayer could possibly look at. It is not too much to say that the Board went berserk, ran amok, on the salaries of Asian staff. Fortunately the Salaries Commission came along, and now we are able to deal with this matter, I hope, finally, and if the Government's proposals are accepted retroactively there will not be any serious damage done to the Asian Civil Service, whose work incidentally I am very happy to acknowledge once again.

There has been a tremendous amount of loose thinking about salaries in relation to race—

MR. BLUNDELL: On a point of order, I am a little confused. Is the hon. member in order in speaking at all? I understood that the amendment moved by my hon. friend the Member for Nairobi North had been carried, in which case we are speaking to the amendment, and the amendment has become the substantive motion before the Council. I understand that my hon. friend opposite is

[Mr. Blundell] giving his reply to the original motion. I think that is out of order. Could I have a ruling?

THE SPEAKER: In what way is it out of order? The motion before the Council is the motion moved by the hon. Financial Secretary which has been amended, and it is in its present form as amended. It has not got to be proposed again from the chair.

MR. BLUNDELL: No, sir, but I understood that we had voted on the amendment and that it was carried and must now be the substantive motion before the Council.

THE SPEAKER: The debate was resumed on the substantive motion—that is the question originally proposed from the chair. I forget how many days ago now.

MR. COOKE: On a point of order, was not the substantive motion, as amended, carried?

MR. TROUGHTON: On a point of order, no.

THE SPEAKER: No.

MR. COOKE: I was under the impression it had.

THE SPEAKER: The motion as amended has not yet been put. I attempted to put it, but the hon. Acting Attorney General managed to get a speech in before I could put it, so the debate continued.

MR. COOKE: On a point of order, it was put and carried.

MR. TROUGHTON: On a point of fact, it was not. On the amendment, but not on the motion as amended. Am I in order in proceeding?

THE SPEAKER: I rule that you are in order in replying now on the debate on the question originally raised, which has been proposed a long while ago from the chair. There have been two attempts to amend it—one has failed; one has succeeded. So it stands! (Applause.)

MR. TROUGHTON: At the time when I was interrupted on this point of order I was about to refer to the question of salaries in relation to race.

I should like to suggest that nothing could represent a greater disservice to the Asian and African communities than the principle of equal pay for equal work irrespective of race, because it would mean, in the case of the African, that they would not secure employment except as hewers of wood and drawers of water in menial positions. The hon. Member for Usin Gishu said something about Southern Rhodesia, and I must say a little more. My hon. friend the Member for Nairobi North and I were down there about a fortnight ago, and we noticed that repair work in the town of Salisbury was being carried out entirely by European artisans. On inquiring the reason I was told that this was because of the colour bar; so I asked what the colour was, and we were told that the colour bar operated simply because there was no discrimination at all in rates of pay according to race. They have in that country an Industrial Conciliation Act, which is a perfectly non-racial measure, and it says that any member of a trade union shall be entitled to the same rate of pay, whatever the colour of his skin, and that it will be an offence to employ any member of a trade union at less than the appropriate pay for the job—the grand old principle of the pay for the job. The trade unions are open to members of all races.

In fact, there could be no more enlightened non-racial legislation, but how does it work out in practice? If you have to pay an Asian artisan the same rate as a European artisan, the experience of Southern Rhodesia is that you do not get any Asian artisans employed. Everyone who wants artisans goes for the European. (MR. PATEL: We do not mind it.) In the same way you do not get African artisans employed where Asian artisans can be obtained, and I suggest that there could be no greater disservice to the African community in this Colony than to fix the same rates of pay as for the Asian, and there could be no greater disservice to the Asian than to fix the same rates of pay as for the European. (INDIAN MEMBERS: Question!) It is a question, admittedly, on which every hon. member is entitled to his own opinion, and if the hon. member wants large-scale Asian unemployment he can have it by having this

[Mr. Troughton] sort of legislation, but I would suggest that large-scale Asian unemployment is not an altogether desirable thing, except in so far as it may tend to keep down wages.

I would suggest that not only would the principle of equal pay, irrespective of race, be a disservice to these communities, but it would be a disservice to the country as a whole. If, for example, a house in Nairobi were to be built by European artisans the cost of the building would soar. If Asian clerks were to be substituted for Africans in all departments of Government, departmental expenditure would soar, and we would be much less efficient. I would suggest that discrimination on racial grounds—frankly racial grounds—is in the interests of all communities and, in the wider interests of the public as a whole, in this country. (OFFICIALS: Applause.) In the same way regarding discrimination between men and women, which was a point mentioned earlier in the debate. In this report it has been proposed that the salaries of women should be four-fifths of those of men. Well, we have found in practice that we work—men like my hon. friend the Chief Native Commissioner—something like 16 hours a day, and he still manages to bear up under the strain. If you had a woman—Chief Native Commissioner I should give her a week—(UNOFFICIALS: Shame!)—at the same place of work as my hon. friend has to do and with the same volume.

Finally—I do not want to refer to points of detail and am not going to—there is one matter which was mentioned by the hon. Member for Nairobi North about local authorities which I must mention. It is this.

The Government contributes to local authorities in various ways. Sometimes it contributes a proportion, a substantial proportion, to the cost of a service. For example, in Nairobi we contribute half the salary, or a proportion of the salary at any rate, of the Town Clerk and the Town Treasurer. Well, if those salaries are revised we would invite this Council to approve an increase in the Government's contribution. In the case of African local native councils, we reimburse those councils the cost of cer-

tain services. If their salaries are revised we would invite this Council to approve the corresponding increase. But, sir, where the Government contributes a fixed sum, subject to review at the end of a period of years (as for example to the Nairobi Municipal Council in respect of main roads, or a consolidated grant to the Nakuru Municipal Board), that, in our judgment, should come up for review at the appropriate time and should not be reviewed forthwith.

That is the whole boiling. This debate has been long. I do not think it has been entirely a waste of time; and anyway, so far as it has been a waste of time, I propose that we call it a day and waste no more (Applause.)

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

THE SPEAKER: The question of the future programme is apparently disturbing the minds of hon. members and they would like a little time to think about it, so we will adjourn Council for ten minutes. Would ten be enough?

MR. RANKINE: Yes, sir.

Council adjourned at 11.35 a.m. and resumed at 11.50 a.m.

COMMITTEE TIME TABLE

THE SPEAKER: Before the Council formally goes into committee I have to inform hon. members, first, that I shall not leave this chair because it has been found very inconvenient for me to sit at the clerk's table. Members cannot catch the Speaker's eye from certain angles there. So I shall remain here.

It has also been agreed that on these 29 resolutions which are for the Committee's consideration the speeches shall be limited in the first place, where they are not amended, to five minutes. If an amendment is proposed the speeches may extend to ten minutes, and the ordinary committee rule that members may speak as often as they like will not be interfered with. It is also agreed that no debate on any one resolution shall exceed four hours—(OFFICIALS: Three hours.)—three hours.

MR. COOKE: It is too late now for me to criticize it, but I think it is very unwise to go into committee on these

[Mr. Cooke] resolutions now. It would have been better to have gone on with the Bills on the Order Paper and to have started when we are fresh on Tuesday going into committee. I think it is very unwise, when we are all sick and tired of this report, to go into committee now.

THE SPEAKER: I do not think Council can decide procedure with regard to the convenience or wishes of any one member. It is for the Council itself to decide, and when I announced that it had been agreed I take it that it had been accepted at least by the majority.

SALARIES COMMISSION REPORT SESSIONAL PAPER No. 2 OF 1948 IN COMMITTEE

With the adoption of the motion moved by the hon. Financial Secretary, as amended, Council went into committee to consider the motion.

Resolution No. 1

MR. TROUGHTON: Mr. Chairman, I beg to move Resolution No. 1: This Council accepts the conclusion that the case for an appreciable increase in the salaries of all officers is established.

MR. MADAN: Mr. Chairman, I beg to move a formal amendment to Resolution No. 1, that a comma be substituted for the full stop at the end of the resolution and the following words be added thereafter: "but recognizes the fact that the Salaries Commission Report is found to be unsatisfactory by the Civil Service as a whole".

It has been said by most hon. members that this report does not meet with the requirements of the Civil Service, and the best that can be said now is that it must be accepted because we are making an advance and it does provide certain relief for the Civil Service. I should like to place on record that, although we have to accept the report in the absence of anything better, we are definitely of the opinion that it is not found satisfactory by the Civil Service as a whole, whatever community they may belong to. I want to place this on record for another reason also, which is that the amendment moved by the hon. Member for Nairobi North leaves

the door open to reduce salaries should the necessity arise in the future.

THE SPEAKER: You must not anticipate what is coming on afterwards. You must keep strictly to the amendment you are moving and to the resolution now before the Committee.

MR. MADAN: What I was trying to say was that that, if the door is being left open in the sense that, if the necessity arises in the future to demand further increases in salaries, especially for Asians who are receiving only three-fifths of the new scales, then the words that are proposed will place on record their dissatisfaction with this report and will also provide them with an opportunity in future to try and reopen the question if it becomes necessary.

I beg to move.

MR. PATEL: I support the amendment, Mr. Chairman. The amendment puts before this committee the true facts. Everyone recognizes that the report does not meet with what the Civil Service would like to have. Therefore I do not see how any objection can be raised to the amendment suggested.

MR. TROUGHTON: Mr. Chairman, so far as the Government is concerned, it will allow a free vote on this amendment. I personally would vote against it because I think it is wrong generalization to say that this report is bound to be unsatisfactory to the Civil Service as a whole. It will be unsatisfactory to certain members of the Civil Service, but I would suggest that a very large number of civil servants recognize that in a business like this we must try and find something which is fair both to the Civil Service and to the taxpayer, and I think a great many people in the Civil Service regard the report as satisfactory from that standpoint.

MR. HOPE-JONES: Mr. Chairman, I beg to oppose the amendment. Just as I found it possible to support the report in relation to what I consider is wise and sound from the economic point of view, while I have sympathy with the mover of the amendment I cannot accept as a matter of principle that, just because something is unsatisfactory or alleged to be unsatisfactory to a substantial group, however deserving, that that in itself

[Mr. Hope-Jones]—~~There is an overriding reason for support. This is a very important amendment that has been proposed. I oppose it and in doing so I should like to say that I have every confidence that members will not distort any motives, and I should like to say, in view of the importance of this amendment, that I hope it will not be distorted, not that I have any reason to say that the Press will distort it. I would deplore any reflection on the Press, and I consider that they have very faithfully recorded this debate.~~

I beg to oppose the amendment.

DR. RANA: Mr. Chairman, I wish to move a further amendment that after the words Civil Service the word Asian be inserted.

The reason for this is, and I hope Government will accept it, is that we as the representatives of the Indian community have already informed Council that the Asian Civil Service is dissatisfied with the recommendations in general.

MR. MADAN: If it helps matters I will accept that amendment.

MR. RANKINE: I would like to oppose this amendment, not because I have no sympathy with the Asian Civil Service. I have a great deal of sympathy with it, but for this reason. This report deals with the whole of the Civil Service. That is a very complicated structure as anyone who has had any dealings with establishment matters knows. It is very difficult to get all the various sections concerned into proper relationship, and if we say that this report does not deal fairly with one section of the Civil Service then there are many sections—in fact, every section of every class of the Service could also raise complaints and objections to it. I think it is most important to preserve the report as a whole, and for that reason I oppose the amendment.

MR. COOKE: Mr. Chairman, I oppose the amendment. At the same time I would say that on the question of distortion which has been mentioned, I cast no reflection whatever on the efficiency of the courteous gentlemen of the Press. My criticism was entirely of

the policy of the paper which enables distortion to take place in that paper. I should like to make that clear.

MR. PATEL: The purpose of the amendment, the immediate purpose, is not to show how the Asian Civil Service has been dealt with by the report but to show that the Asian Civil Service is not satisfied with the report, and that is a fact. I know of my own knowledge that this is a fact, and I do not see what objection there could be to the amendment. If it had suggested that the report does not deal with the Asian Civil Service fairly, then the objection raised by the hon. Chief Secretary would have been correct, but that is not what the amendment suggests. It merely says that Service is not satisfied, and that is a fact which cannot be ignored.

The question of the amendment was put and negatived.

The question of Resolution No. 1 was put and carried.

Resolution No. 2

MR. TROUGHTON: Mr. Chairman, I beg to move Resolution No. 2: This Council agrees that all posts should be open to candidates of all races possessing the requisite qualifications, but that the economic laws of inducement and other considerations necessitate different rates of salary for Europeans, Asians and Africans.

I have nothing to add to what the Commission said and what has been said by various spokesmen during the debate.

MR. MADAN: I beg to move: That the resolution be amended to read: "This Council agrees that all posts should be open to candidates of all races possessing the requisite qualifications, but that the economic law of inducement and other considerations may necessitate higher rates of salary in certain cases".

Hon. members will see from the wording that the idea underlying my amendment is to remove the racial discrimination which appears in the resolution proposed by the hon. Financial Secretary. They will also observe that my amendment leaves the way open for payment of higher salaries where that

[Mr. Madan] is considered necessary and desirable, and it also takes into consideration that, whenever the economic law of inducement and other considerations come into play, there will be no objection to paying higher salaries in certain cases, whether they be Europeans, Asians or Africans. We accept that principle, we accept that men must be paid according to qualifications and amount of work a man can do and the efficiency he can produce. But we are of the opinion that the words "Europeans, Asians and Africans" are unnecessary. They are racial, and should be removed from the resolution.

I do not think that anyone could seriously oppose this amendment, because it allows for everything the resolution itself contains but makes it more palliative. It removes merely the racial bias, and I suggest that for that reason it should receive sympathetic consideration.

MR. VASEY: Mr. Chairman, it is correct to say that a number of members on this side of Council would very much like to have time to consider as an organization this particular resolution and the amendment now proposed. They would therefore be grateful if Government would accept the suggestion that the debate on this particular amendment stand adjourned till next Tuesday.

MR. RANKINE: Government will accept that.

MR. VASEY moved: That the debate stand adjourned till next Tuesday.

The question was put and carried, and the debate on Resolution No. 2 and amendment stood adjourned accordingly.

Resolutions Nos. 3 and 4

MR. TROUGHTON: Mr. Chairman, I beg to move Resolution No. 3: This Council agrees that the salaries of the higher posts (i.e. those of unified service level, see paragraph 7 of Sessional Paper No. 2 of 1948) should be determined in the light of the amounts necessary to secure the services of Europeans, and that the salaries of non-Europeans appointed to such posts should be three fifths of those amounts.

There is one point I should make speaking to this. The Salaries Commission itself gives the argument in the appropriate figures and I do not think I need add anything to it, but I would like to explain what is meant by a post of unified service level, because I think there is possibly some misunderstanding.

There are in the Colonial Civil Service a number of services applicable to the whole of the Colonial Empire. For instance, there is the Colonial Administrative Service, and the members of it who came in since it was formed are liable to transfer anywhere throughout the Colonial Empire. There is the Colonial Agricultural Service, embracing the agricultural staffs of Kenya, Uganda and Tanganyika and elsewhere, with the same conditions of service and so on, and by posts of unified service level we mean posts of that type.

MR. PATEL: I should like to move: That the debate on Resolutions Nos. 3 and 4 be adjourned till next Tuesday, because as we have adjourned the debate on No. 2 I think there is some relation between Nos. 3 and 4 and No. 2. The debate on Nos. 3 and 4 may be influenced by the result on No. 2.

MR. VASEY: Mr. Chairman, I should like to support that. I think the feeling on this side is that there are quite a number of resolutions on which we should like to have consultations with other members, and because of that I would suggest that the debate on these particular resolutions stand adjourned, and that we deal only, if possible, with those which may be taken as non-controversial.

MR. COOKE: Mr. Chairman, that is precisely the reason why I asked that the debate should not be started and that we should adjourn till Tuesday to get in touch with unofficials and find out what their amendments were going to be, thus facilitating the business of Council and the committee.

THE CHAIRMAN: Unfortunately the rules provide that amendments may be made without notice given. I hope that eventually the rules will be revised, which will be better. There is now a motion to adjourn.

The question was put and carried, and the debate on Resolutions Nos. 3 and 4 stood adjourned till Tuesday.

Resolution No. 5

MR. TROUGHTON: Mr. Chairman, I beg to move Resolution No. 5: This Council agrees that the principle of the long scale at present applied to the Administrative, Medical and Legal Services should (with certain exceptions) be extended to other professional and technical posts; that the scales should be divided into two segments by a promotions bar; and that there should be opportunity for accelerated promotion of outstandingly useful men as contemplated in paragraph 126 of the report.

I spoke on this subject in general terms in opening the debate and I do not think I need add anything now.

LADY SHAW: Mr. Chairman, is this simply a resolution to bring in matters regarding services such as education, would this be the appropriate time to deal with them? Because I want to propose that consideration be given—I do not know exactly how to word it and would ask Council to help me!—to an amendment in some form that would enable consideration to be given to such posts as housemasters, Prince of Wales School, or the headmistress of the Girls School. In saying that I have due regard to the fact that in consequence higher school fees would have to be paid, and I am not trying to get up one minute and opposing increased scales and in the next proposing extra expenditure. I am fully aware that in making this proposal extra fees will have to be paid to cover the cost, but the particular officers I have mentioned have a greater responsibility and should be given special consideration. I think the masters of a big school like the Prince of Wales and the Girls School should be given very special consideration, for their responsibilities are so much greater than those officers who inspect schools and who should receive lower pay than those who have very great responsibilities for a large number of children.

MR. TROUGHTON: I may be able to help with that motion. I understand that some unofficial member proposes to move—and if he does not I would be

happy to do so—an amendment to a further resolution, that the Standing Finance Committee be asked to examine cases of hardship or anomalies or inequities resulting from approval of these scales. If that amendment is accepted as I hope it will be—

THE CHAIRMAN: You have a resolution to that effect later on.

MR. TROUGHTON: That refers to errors and anomalies, this particular business that the hon. Member for Ukamba is referring to is not an error—it is a deliberate act of justice. I suggest that we might agree on an amendment to be moved at that stage and the particular case to which the hon. member refers could be dealt with under that proposal.

LADY SHAW: I shall be most grateful.

MR. COOKE: I think that this is an entirely new principle. I think we have got to thresh it out on the floor of the Council rather than Standing Finance Committee, and I would oppose it.

THE CHAIRMAN: I am in a difficult position because the hon. member for Ukamba has not got a formal amendment prepared. Can you tell me what words you want taken out and what you want to put in?

MR. VASEY: May I at this stage bow to the superior wisdom of the hon. Member for the Coast, and move, in order to give all the various members time to sort their theories out, that Council do now stand adjourned till 2.15 p.m. on Tuesday, 31st August, 1948.

MR. NICOL: I would support that. The question was put and carried. The debate stood adjourned.

ADJOURNMENT

Council rose at 12.20 p.m. and adjourned till 2.15 p.m. on Tuesday, 31st August, 1948.

Tuesday, 31st August, 1948
Council reassembled in the Memorial Hall, Nairobi, on Tuesday, 31st August, 1948.

His Honour the Speaker took the chair at 2.20 p.m.

The proceedings were opened with prayer.

MINUTES

The minutes of the meeting of 27th August, 1948, were confirmed.

PAPERS LAID

The following papers were laid on the table:—

BY MR. RANKINE:

Annual Trade Report of Kenya and Uganda for 1947; Schedule of Additional Provision No. 6 of 1946; Report on the Kenya, Uganda and Tanganyika Savings Banks for 1947.

ORAL ANSWERS TO QUESTIONS

NO. 71—DAIRY CATTLE DISEASES

MR. HOPKINS:

1. Is Government aware of the threat to one of the Colony's main industries due to the high incidence of infertility conditions and sterility diseases among dairy herds in Kenya?

2. If the answer is in the affirmative, will Government please state what funds, if any, have been allocated in respect of 1947 and 1948 for the specific purpose of carrying out investigation and research into this problem?

3. As there is in the Kenya Veterinary Department one of the leading authorities on artificial insemination and diseases of the reproductive organs, will Government consider the provision of funds and facilities to enable this officer to step up research into this threat to the dairy industry of the Colony?

MR. RANKINE: The answer to the first part of the question is in the affirmative.

In reply to the second part of the question—the salaries of the Veterinary Research Officer and the Farm Manager stationed at Naivasha are paid by Government and in addition sums of £895 and £595 were contributed from the

votes of the Veterinary Department in 1947 and 1948 respectively.

The experimental station is run on a self-accounting basis, the balance of its expenditure having been met in the past from revenues earned by the station and by the farm.

With regard to the third part of the question, a comprehensive scheme designed to provide increased staff and facilities for extended research into infertility conditions and diseases in the dairy herds of Kenya was transmitted to the Secretary of State for the Colonies a short time ago and the matter of obtaining the necessary funds for the capital expenditure and part of the recurrent expenditure involved is being considered by the Member for Agriculture and Natural Resources in London.

NATIVE POLL TAX (AMENDMENT) BILL

SECOND READING

MR. WYN HARRIS: Mr. Speaker, I beg to move: That the Native Poll Tax (Amendment) Bill be read a second time. It will be recalled that the Plewman Committee Report dealt with the question of African tax evasion, and in the ensuing debate the hon. Financial Secretary and myself agreed that, although the evasion was nothing like the extent as found by the Plewman Committee, evasion was in fact going on, and it was undertaken by Government that every step would be taken to tighten up African poll tax collection.

The long term policy of attaching that collection to the Central Registry is going ahead, and a report by Mr. Armitage is under consideration at the present moment. The amending Bill before Council is a short term tightening up of the principal Ordinance, and I do not propose to spend a great deal of the time of Council on it. In point of fact, there are three main provisions in this Bill.

In the first place, it lays down that there should be an automatic penalty of Sh. 4 if an African has not paid his tax by 31st August. Obviously, in certain remote areas and districts where there has been a famine, it would be impossible to insist on a penalty where the general collection of the tax had been delayed by Government either for

[Mr. Wyn Harris] administrative grounds or because of famine. In consequence, a Provincial Commissioner may in his discretion exempt any area from thus automatic penalty, and a District Commissioner may, of course, for due cause, in an individual case forego the automatic penalty.

The second important point in this Bill is that there should be summary powers of arrest. It has been obvious for a very long time that the African who is an evader, as opposed to the African citizen who wishes to pay the tax, as soon as he sees a collector, particularly in the settled areas and municipalities departs, and it is quite impossible to bring that particular tax defaulter to book because there are no powers of arrest to bring him before a collector.

The third important point is the question of the *kodi* stamp system. It is proposed in this Bill that collections by employers should be compulsory to the extent of Sh. 4 a month, and that we should work it rather on the same way as the P.A.Y.E. system of income tax collection at home. It is quite clear that if this particular proviso is to be effective, it must also be practicable. In consequence, in this particular Bill the Governor may, by notice in the Gazette, exempt from the provisions of this section any employer or class of employer. It is considered by Government that it would be unreasonable to expect every employer in this country to collect the tax on the *kodi* card system, and regulations will be brought in under that particular section exempting employers of labour who employ small numbers of employees. The figure will probably be 20 or 25, whichever is considered most suitable. In addition, a large number of employers have given every assistance to Government in the collection of African poll tax, and a proviso has been made so that an employer can be exempted by the collector—that is, the District Commissioner or district revenue officer—when the collector is satisfied that the employer is making every arrangement for the collection of the tax of his employees in such manner as will ensure proper collection of that tax.

Those are the three main principles in this Bill. I do not propose to go through it clause by clause because its objects are clearly laid out in the "Memorandum of Objects and Reasons".

MR. HOBSON seconded.

LADY SHAW: Mr. Speaker, I wish to speak on clause 3 which contains the proposed new section 9, and to refer particularly to sub-section (1), which says that every employer shall collect this native poll tax.

I personally am opposed to this principle. I think it is entirely wrong that any employer should be expected to become a tax collector for his employees. I know that the P.A.Y.E. system was instituted in England, and was a war time affair in the first place; it would never have been admitted to the ordinary policy of the country but for the war. I think it is an entirely wrong principle that a man should be forced by law to collect tax from another man, whether white or black. I also think it produces a wrong relationship between master and employee that the master should become the tax collector for the employee's tax.

For those reasons alone I should oppose this. Most of the employers of labour in the country districts, or many of them, or most of them in the district I know, collect the tax by arrangement between the two, but that it should be compulsory and subject to a penalty is a definite incursion on the liberty of both subjects, the employer and employee. I hope that this Bill will go to a select committee. We have not heard from the hon. member that that is intended, but I believe it is, and I should like to put my points before the committee.

MR. MATHU: Mr. Speaker, we think that some of the provisions in this Bill are acceptable and that others are not acceptable, and I propose to comment on various clauses as briefly as I can. I should like to support the suggestion made by the hon. Member for Ukamba, that the Bill should go to a select committee, because some of the points are very controversial, and I think it would be unwise to rush the measure through this session.

The first point is that under clause 2 an automatic penalty is proposed of

[Mr. Mathu] Sh. 4, and also there will be court fees. Sh. 6, bringing it to Sh. 10. I would like to suggest that this is not going to be easy, and it is very likely that the detention camps and "prison accommodation" will have to be extended because quite a number of these fellows will not be able to pay. I refer to this in conjunction with Question No. 51 which was answered the other day, and suggest that the reason why quite a number of Africans go to detention camps and prisons is not due to lack of appreciation that they must pay their tax but to the fact that they cannot—they are too poor to be able to pay.

All I would like to say in connexion with this is that I entirely agree with the hon. member and also with the Plewman Committee, who in paragraph 145 said: "Ineffective collection and evasion cannot be tolerated." I entirely agree with that. We cannot have people in the country not paying their just dues to Government, in order that the services which Government has to provide for the people may be provided, and I do not think there can be any disagreement on that point. We must do all we can to see that the tax is collected thoroughly and that all those liable to pay do pay, and we cannot tolerate ineffective collection, neither can we tolerate evasion. But I would like to suggest that this question of automatic penalty which is bound up with the provision in clause 7—where it is provided that if these fellows do not pay at the right time they can be arrested "without a warrant"—is really going to make evasion worse.

In clause 2 I should like to suggest that the penalty does not operate until the 30th—

THE SPEAKER: That is a matter of detail, the motion is that the Bill be read a second time.

MR. NICOL: On a point of order, sir, perhaps Government could indicate whether this Bill is going to a select committee?

THE SPEAKER: That is hardly a point of order. The position is this. If hon. members do not accept the principles expressed in the amending clauses they should move that the Bill be sent to

select committee before the second reading so that the principles may be adjusted to suit them. If they are in favour of the principles enunciated in these amending clauses the Bill can go to committee of the whole Council after the second reading or, again, it can be sent to a select committee, but let us follow the procedure. That is all I am asking.

MR. MATHU: Sir, I am not an expert in matters of this kind, and I will take your ruling and go on to my next point. That is clause 3, the principle of getting employers to act as voluntary tax gatherers as the Plewman Committee in paragraph 143 said. During the discussion on that report I said that I was opposed to that principle, and I entirely agree with the hon. Member for Ukamba. My reason is mainly for the interests of the employers, not the employee. Immediately when you take so much from the average wage earner who is earning say Sh. 10 a month, and that is lessened by Sh. 4 a month, giving him Sh. 6 cash, the psychological effect of that reduction is really against the employer, and quite a number of employers have told me that they have become so unpopular with their labour because of doing this that they cannot get the flow of labour into their employ. I do not know that this principle and this practice pertains in England and that it has worked efficiently, but under our present system of African labour in this country I do not think it will be in the interests of the employer to adopt the P.A.Y.E. system.

I now come to clause 7, where "any collector, chief or headman may order any native subject to his jurisdiction, who he has reasonable cause to believe has not paid the poll tax due from him in respect of any year, at the time and place appointed by the District Commissioner, either to attend before the collector or to send the amount of the tax payable by him to such collector, or he may, without warrant, arrest such native and take him without undue delay to the place appointed by the collector under the provisions of section 5 of this Ordinance". The principle enunciated there is that any person who fails to pay his tax can be arrested without warrant and be taken "without undue delay to the place appointed by the collector".

[Mr. Mathu]

That, I submit, is going to be a great danger in the Administration, and you will find Africans being chased all over the countryside and beaten up as has happened in quite a number of cases, and we will again have confusion worse confounded.

I submit that any person who does not pay his tax should be brought to book, and I suggest that the way to do it is to arrest with a warrant and not without, because the administration of this law, when it comes to be interpreted by people in the districts so far as bringing a person "without undue delay", may mean rushing it and pushing him in the back until he gets to prison and sometimes his health may be endangered. It has happened, and I would not support a measure like that. Arrest a defaulter with a warrant in a proper manner to ensure that the law is not mis-administered. If Government will accept that this Bill should go to a select committee I need not detain Council any more, and all I need say at the moment is that I cannot signify my support or otherwise until I know whether it is going to a select committee or not.

MR. NICOL: Mr. Speaker, I have only got two points.

First of all I should like the hon. mover to tell us (this has been raised by the Chamber of Commerce in Mombasa) whether it is correct to assume that this Bill we are discussing does not apply at all to casual labour. That is a very very important point in so far as the Port and Railway employees are concerned.

There was a second point which the Mombasa Chamber wished to raise. This may be considered by you, sir, as a matter of detail, but I would say this, that I have been a member of this Legislative Council for ten years and it has always been the practice in the past that in matters of detail which are required to be considered by the select committee, or indeed the committee of the whole Council, should be mentioned at the second reading. Indeed, I recall one select committee where I was ruled out of order by the Chairman for raising a matter which was not raised in debate, and for that reason I consider it absolutely essential, in fairness to my hon. friends on the other side, that

matters of detail on which perhaps there is a difference of opinion should be considered at the same time as we are considering the principle—

THE SPEAKER: I must call the hon. Member to order. It is not within your province to question a ruling given from the chair in the manner in which you have done.

MR. NICOL: Mr. Speaker, if I am not in order I apologize.

I want to turn to clause 3 of this Bill. Here it is provided that the employer shall withhold, for the payment of *kodi*, some Sh. 4 a month. Would it not be fair to withhold a twelfth of the tax payable? It would be fairer on the employee, I feel.

MR. HOPKINS: Mr. Speaker, I should like to make one or two comments on this Bill in regard to clauses 2 and 5, and I am voicing the opinion of the European elected members generally. Under the present law it is competent for a court to impose a penalty of up to 50 per cent. In this amendment it is proposed that the penalty should be automatic—not within the discretion of the court—at Sh. 4. We feel very strongly that it would be far better if the automatic penalty followed the principle of percentage. That is because in some of the more backward districts where the tax is low it would appear that the people would have a higher percentage penalty. I appreciate the hon. mover's point that in the more remote districts the Provincial Commissioner can wipe out the penalty altogether, but we feel that this is probably the wrong way to do it. In the first place in the remote districts the tax is generally very much lower than in others, and in the second place, no matter how remote the district or how backward the people, there are always quite a considerable number of people these days who can well afford to pay their taxes. This also holds good in times of famine, and, as I know from my own experience, quite a large proportion of the people do make money even out of famines. These are the very people who are the first to take advantage of any wholesale concessions which are made to the poorer people. We feel that the penalty, which is automatic, should be 50 per cent of the tax due.

[Mr. Hopkins]

We also do not like the idea of a Provincial Commissioner having in his discretion the authority to wipe out the penalty altogether, for reasons I have already stated. We feel that if there is a case to be put up on this account it should come to this Council first for discussion. After all, the District Commissioner has in his discretion powers to remit part or whole in respect of any person, and I think there are generally not so many people that the District Commissioner cannot deal with them. In fact, he always does. He does not have to try all cases himself; they come up to him for confirmation, and it is then that I think the cutting down of the penalty should be done.

On these grounds we should like to see in clause 2 (1) the figure "Sh. 4" deleted and "half the amount of tax due" substituted; so that it would read: "The penalty of—"

THE SPEAKER: The hon. member is now proposing in effect an amendment to the detail of the clause and is not dealing with the principle of the matter at all.

MR. HOPKINS: I am sorry, sir, I thought I ought to give warning of amendments which will be brought up in the committee stage.

THE SPEAKER: There is no need to give warning at all. Any ruling there has been in the past is not binding upon me now. I have already tried to bring Council to the idea that the second reading should only deal with the principle. If the principle is obnoxious to members, then hon. members might move, before the second reading is given, that the Bill is committed to a select committee where the principles can be altered.

MR. HOPKINS: I apologize again, sir.

To go on to clause 6, there seems to be here a principle involved even more serious than the one referred to by the hon. Member for Ukamba, and that is, it is required of an owner or occupier of alienated land to give to the collector, or the District Commissioner, such information as he may consider necessary. The information which is invariably necessary is the man's name, his clan and tribe, and his sub-clan.

They are all matters which I do not think the ordinary farmer or employer of labour can possibly give, and I think it would be far better if this clause were altered so that an employer could provide the collector with facilities to collect the necessary information—not to give him the information himself. And the same applies to clause 2, because it seems quite wrong that an employer of labour, who might have 200 or 300 labour should be asked to give all the details which are necessary to the District Commissioner.

In clause 7 I am going to disagree with my hon. friend the member for African interests on (1), and agree with him to a certain extent on (2). I am very pleased to see that arrest without warrant will be made possible, because I do know the tremendous trouble that District Commissioners have when there is mass unwillingness to pay taxes, and it is quite impracticable and slows down everything if an askari has to go back to the *boma* every time to get a warrant. I think that is a very good innovation. In regard to part (2) I cannot quite see why its inclusion is necessary, but perhaps the hon. mover will be able to explain. It seems to me that provision already exists under the Native Authority Ordinance for running a man who disobeys a lawful order. In the case of poll tax a lawful order is always given out by the District Commissioner, and passed on by the chiefs and headmen, that everybody should come in and pay. I should like to have some enlightenment as to why this clause was put in.

That is all I have to say.

MR. RANKINE: Mr. Speaker, I understand that there is a desire on the part of Council now to put this Bill to a select committee, and I see from rule 54 of Standing Rules and Orders that it is in order to appoint a select committee at any stage of the proceedings. I would like to say that Government has no objection to it going to a select committee, but I was under the impression that members were willing to proceed with this Bill this afternoon, and it was Government's intention to move the second reading and to finish it this afternoon. But if, as I say, it is the desire to put it to a select committee now, and as some hon. members have been

Rankine] matters of principle with regard to the Bill, perhaps it would be as well to appoint a select committee now.

SPEAKER: Do you move to appoint a select committee?

MR. VASEY: That is what I was going to say. On the question of the principles of the Bill, you, sir—and it is quite right that your hon. member of this Council should argue with your ruling during our discussions—have ruled something that has perhaps destroyed, if I may say so, the principle of the past. I would therefore say, that there are quite a number of principles in this Bill which are extremely objectionable to certain sections on this side of the Council. On the principle of pay as you earn, which my hon. friend Mr. Mathu is disturbed about, his fears are shared by several members of other legislatures and, if there is to be any discussion or thought that the acceptance of a second reading means the acceptance of those principles, instead of as in the past the possibility of challenging them, it is correct to say—and I believe I am correct for all members on this side of the Council—that we would prefer that the Bill should be appointed before the first reading of the second reading is taken. (Hear.) I would therefore, with your permission move under Standing Order 54 that a select committee of the Council should be appointed to consider the Bill to amend the Native Poll Tax Ordinance, 1942. From our side—

SPEAKER: Before you proceed and your motion is seconded, if your proposal is proposed before I should then have two questions before Council at once. Would it be more advisable to move that the words after "that" in the motion now before the Council be omitted, and the words "the Bill be committed to a select committee consisting of so-and-so" be inserted, and then, if that were carried, the Bill had been dealt with in committee it would be moved to be read a second time.

MR. VASEY: I bow to your suggestion and will willingly accept the form of the amendment. We suggest that this select committee be appointed to consider all of the provisions of the Bill, and from our side of the Council we will name the following:—

Hon. Members for African Interests (Mr. Mathu), Central Area (Mr. Madan), Aberdare (Mr. Hopkins), Rift Valley (Mr. Blundell), and myself, Nairobi North, and we would suggest that Government should appoint, of course, their own representatives and nominate the chairman.

MR. RANKINE: I beg to second. I merely wish to add the names of the members from this side of Council:—

Hon. Chief Native Commissioner, hon. Solicitor General, hon. Commissioner for Local Government.

THE SPEAKER: If no other hon. member wishes to speak I will call upon the hon. mover to reply.

MR. WYN HARRIS: I am not quite clear what to reply to, because the second reading, as I understand it, is held in abeyance pending the report of the select committee.

THE SPEAKER: You are entitled to reply to the debate.

MR. WYN HARRIS: I have nothing to say, sir.

MR. NICOL: I raised one point of important principle on the question as to who is to be affected—casual labour or not?

THE SPEAKER: He is at liberty to reply. I cannot compel him to speak.

MR. NICOL: I will leave the Council then.

THE SPEAKER: You have the right of reply on the debate. An amendment has been moved, on which nobody wishes to speak, so therefore you have the right to reply on the debate as a whole.

MR. WYN HARRIS: I see, sir. Will that close the second reading?

THE SPEAKER: It will not do anything with the second reading until the questions are put. I cannot tell whether there will be a second reading. Most probably, judging by the tone of the speeches, the amendment will be carried.

MR. WYN HARRIS: I do not wish to reply.

MR. RANKINE: Mr. Speaker, I ought to say, on a point of explanation, that so

[Mr. Rankine] an attesting officer, who will be the district commissioner or the district officer, will continue.

far as the hon. Member for Mombasa is concerned, the Bill has now been referred to a select committee on matters of principle. Therefore I suggest he should leave this question until the Bill comes back to the Council.

THE SPEAKER: It has not yet been referred because the amendment has not yet been put to the vote.

The question of the amendment was put and carried.

MR. HOBSON: Before the question is put, sir, may I move that my hon. friend the Chief Native Commissioner be appointed chairman of the select committee?

MR. VASEY: I beg to accept the additional amendment. There is no need to put the additional question.

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

Mr. Nicol then left the Chamber.

CREDIT TO NATIVES (CONTROL) BILL

SECOND READING

MR. WYN HARRIS: Mr. Speaker, I beg to move: That the Credit to Natives (Control) Bill be read a second time.

On the statute book at the present time there exists an Ordinance called the Credit Trade with Natives Ordinance. Under that Ordinance no African can be sued for goods obtained on credit for a sum exceeding Sh. 200, unless the contract has been certified by a District Commissioner before the credit is granted. The memorandum of objects and reasons of this Bill make it perfectly clear why this Bill has been introduced. African traders are becoming more advanced, and it is obviously inconvenient for them to have to obtain a certification every time they require a credit for more than £10. In short, this Bill seeks to do one thing, and that is it seeks to protect all Africans who desire to retain that protection by not allowing credit for more than Sh. 200, unless the African himself goes and gets a certificate of exemption, which is registered with the Registrar General. In addition, the ordinary type of certification by

an attesting officer, who will be the district commissioner or the district officer, will continue.

There is only one question I believe on this particular Bill, which is designed entirely to protect the unsophisticated African, and that is whether it will apply to a company composed entirely of Africans. I can assure my hon. friend Mr. Mathu that it will not apply to a company as a company has no race or religion. It will not apply also to any African who has registered his name under the Registration of Businesses Ordinance.

MR. HOBSON seconded.

MR. MATHU: Mr. Speaker, the law obtaining in the country to-day which prohibits Africans from getting credit of more than £10 has been criticized by the African community for quite a number of years. When that criticism became very strong I had a conference with my hon. friend the Chief Native Commissioner on the matter, and he agreed—and I should like to thank him for this—to go into the matter and see what could be done. He has now produced this Bill before Council. When it was published I referred it to quite a number of African traders for their comments, and their comments were in two forms. Firstly, that they would like us who lead them to request that this Bill be withdrawn and that the present law be repealed. They felt that it was actually a reflection on the traders of the country that they should not be allowed to get credit.

Secondly they said "If you are defeated and you cannot get the Bill withdrawn and you cannot get Government to repeal the present law, then we suggest that Government considers most seriously the place where the African companies would come in". I have had experience, and quite a large number of African companies have had experience, that when they want to purchase goods on credit from big concerns in the country; they always get the reply "Bring your cash with you", which might be £500 or £700, because the traders say that there is a law prohibiting them from giving credit to Africans. A large number of African companies are finding it very difficult to deal on a large scale on a

Mr. Mathu] cash basis when all business is done by credit.

The hon. Member has assured me that companies have no race or religion or creed, but I should like to put it to him that African companies have been debarrred from trading on credit because of this law, and if he thinks that what an saying has not been experienced before I could produce figures for him, and produce various companies for him, and personally still think that this law will work against the African business.

Another point I want to make on this Bill is that we have, I think, agreed in this Council before, and Government has attempted to fulfil its undertaking in various matters, which is that in all new legislation like this one the word "native" will be replaced by the word "African". This is a new Ordinance—not an amendment—and I should like to suggest, though perhaps you will rule me out of order because it is a matter of detail, that the word "native" be removed wherever it occurs and the word "African" substituted.

If you look at the last sentence in the memorandum of objects and reasons you will find that "if the provisions of this Bill become law it is probable that a small amount of additional expenditure of public monies will be incurred in maintaining the register". I personally would submit that it is not necessary to spend public monies in maintaining the register. We feel that the traders can protect themselves and either give credit when they know they will get their money back, or give no credit where they know they will not get their money back. I am unable to support this Bill.

MR. WYN HARRIS: Mr. Speaker, I am extremely sorry that the hon. member Mr. Mathu feels that he cannot support this Bill. Even so, I consider that it could be supported by everybody who has the real interests of the four million Africans at heart as opposed to the traders. Everybody realizes that African traders have found it difficult to get credit because of the Ordinance, but this Bill is not to protect the trader, who can get out of the protection of the Bill, but the four million Africans who are not traders, and I quote from my own personal experience; if we do not have

some protection for them as regards credit we shall find the hire purchase racket going on in this country to an extent that it could not be controlled. We have had it in the past, when the unsuspecting African was a victim of the hire purchase system, particularly for lorries, and when he fell behind with one or two payments the lorry was taken back.

I should regret to see the removal of this protection for the unsophisticated African, but at the same time it is left to a trader to opt out if he so desires; there is nothing to prevent any trader who does not want the protection of the Bill from being exempted.

In regard to the second point of the hon. member Mr. Mathu, that African companies have found it difficult in the past to obtain credit because of the law, I can assure him that there is nothing in the law which prevented any company from getting credit because, as I said before, a company has no nationality in any respect. It is possible—I do not know whether it is or not—that a certain number of European and Indian firms were under the impression that they could not grant credit to registered companies, but when this Bill becomes law every publicity will be given to it to draw attention to the Registration of Business Names Ordinance.

Regarding the third point, that the term "native" should be replaced by "African", assurances have been given on this side that that will take place, but until such time as we get the revised edition of the laws the word "native" is the correct definition. I can assure the hon. member that if this gets into the revised laws the word will become "African", as it will if we get it through to-day.

I think that that covers all three points, and I would sincerely ask the hon. African members to reconsider their opposition to this Bill. I myself can assure them that it is entirely in the interests of the unsophisticated African. We have endeavoured to remove every single objection that a trader can legitimately have, and I consider it would be doing a grave disservice to the Africans of this country if we did not have this Bill.

The question was put and carried.

TRADE DISPUTES (ARBITRATION AND INQUIRY) BILL

SECOND READING

MR. HYDE-CLARKE: Mr. Speaker, I beg to move: That the Trade Disputes (Arbitration and Inquiry) Bill be read a second time.

At the outset I should say that this Bill merely replaces similar legislation passed in 1940, the working of which has been found to be slightly defective in one matter.

Commonly speaking, any dispute should be subject to three stages of machinery. The first is conciliation, the second arbitration, and the third inquiry. The existing Ordinance which this Bill seeks to replace establishes only the second and third principles, arbitration and inquiry. This Bill, therefore, seeks to make specific provision to cover the first stage: that is, conciliation.

The main differences between this and the existing legislation are found in clauses 4 and 9.

Clause 4 seeks to empower or to give better status to the Labour Commissioner to enter into the subject of a dispute at an early stage and endeavour to effect a settlement. Obviously, it is the duty of the Labour Commissioner to do so whether or not it is provided by law. The reason why this has been inserted is that if the Labour Commissioner or his officers are able to effect a settlement, that settlement can be reduced to writing when it becomes known as a "negotiated agreement". A negotiated agreement is merely an instrument recording the settlement of the dispute and may in certain circumstances rank as an "award" made under the Ordinance.

To turn to clause 9 for a moment, when a "negotiated agreement" is subsequently referred to the Governor in Council and confirmed by the Governor in Council, then such negotiated agreement replaces any other award made under any other law. The principal object of this is to assist Government to deal with the aftermath of the Mombasa Trades Disputes final award. We are, quite frankly, in some difficulty over the position, which will not be lessened by the adoption of the Salaries Commission recommendations, which will lay down

for labour employed by Government at Mombasa established conditions of employment. Those particular people in Government are already covered by the Trades Disputes final award, and it is necessary for us to provide means whereby some parallel action can be taken in regard to thirty or forty other classes of employees also covered by the award. This major new principle is introduced into this legislation.

A second and rather lesser point will be found in clause 13, and it is this. When it is desired to proceed to the inquiry stage because conciliation and arbitration have failed, there is a caveat that where an advisory board has been appointed under the existing Minimum Wages Ordinance, it is considered desirable that the reference to a board of inquiry should mean reference to that advisory board which has been sitting under the Minimum Wages Ordinance to regulate the conditions of that particular undertaking.

I am well aware of a feeling in this Council that this matter should be referred to a select committee. I think I am correct in saying on matters of detail, and I hope, in view of your earlier ruling to-day, sir, that it will be accepted that the principles and general application are acceptable and that a select committee will deal with details.

I do feel that there is a necessity for urgency in this particular matter—I am never quite happy about the position at Mombasa, and unless we can get some more effective machinery than is available at present we shall be in difficulties. There are bound to be repercussions in the application of the Salaries Commission recommendations, and I would like some sort of machinery available to refer to should those fears eventuate. If the Bill goes to select committee, I do trust that it will be possible for the measure to be dealt with expeditiously and for the committee to report back to this Council before the end of the current session.

MR. HOBSON seconded.

MR. VASEY: Mr. Speaker, there is in this particular Bill one very important point of principle which we on this side of Council would like some assurance on.

MR. RANKINE seconded.

The question was put and carried. Council resumed, and the Speaker reported accordingly.

THIRD READINGS

MR. HOBSON moved:—That the Bills be read the third time and passed.

MR. RANKINE seconded.

The question was put and carried, and the Bills read accordingly.

SALARIES COMMISSION REPORT WITH SESSIONAL PAPER No. 2 OF 1948

RESUMPTION IN COMMITTEE

Council resumed in committee consideration of the resolutions contained in the motion standing in the name of the Financial Secretary on the Order Paper dated 17th August, 1948, based on Chapter XIV of the Salaries Commission Report.

Resolution No. 2

MR. TROUGHTON: Mr. Chairman, on a point of order, according to the minutes the amendment moved to No. 1 was dealt with. So far as No. 2 is concerned, the amendment moved by the hon. Mr. Madan stands before the committee.

THE CHAIRMAN: Yes, but we agreed also to postpone No. 2 for some reason, and went on with Nos. 3 and 4, and then the debate was adjourned on the whole of them. The amendment has been moved, and the debate presumably continues.

MR. TROUGHTON: I beg to oppose this amendment. The motion as it stood said "that the economic law of inducement and other considerations necessitate different rates of salary for Europeans, Asians and Africans", and the amendment says "may necessitate higher rates of salary in certain cases". We have proposed different rates of salary according to race, and I suggest it is eyewash and nothing else to substitute "in certain cases" for "Europeans, Asians and Africans", and I would deprecate this Council pretending that something which is frankly racial is not racial. I suggest that is wrong and would be eyewash, and should be opposed.

MR. COOKE: I beg to oppose the amendment as well. I understood the

other day when the hon. member Mr. Patel was speaking that he issued a challenge to me as to whether I agreed with equal pay for equal work. I accept that challenge, and I do agree with equal pay for equal work, but it is the question of work that I am rather puzzled over. If I believed that the Asian was capable of the same stability and trustworthiness in his work as the European I would be perfectly prepared to accept the hon. member's proposition. (MR. PATEL: You are not the sole judge.) But I do not believe that, and I think it is only honest to say so. If an Asian or an African could produce the same reliability that is produced by the Europeans to-day I should be perfectly prepared to say "give them equal pay", although even then there might be this drawback that, certainly at the present moment, the standard of living of the European is very much higher than that of the Asian or African. It may not be so in many years time, but it is higher now, and if you gave the Asian the same pay as the European he would merely be overpaid *vis-à-vis*, as it were, the life and standard of culture he has to keep up. Therefore I make no bones about it. I believe that at the present stage of our evolution the average European is more trustworthy than the average Indian, and I believe the average Indian is more trustworthy than the average African. Therefore I have no hesitation in accepting this resolution No. 2.

MR. MATHU: Mr. Chairman, I should just like to comment on the last words of the hon. Member for the Coast regarding the average European and average Indian and average African. I cannot understand this coming from the hon. Member for the Coast, because if we could measure holiness scientifically and take that as a basis for giving wages and salaries, then they would come in this order: next to God the Europeans, and so on until the African becomes next to the Devil. I deprecate that.

MR. PATEL: I am surprised at the very startling remarks of the hon. Member for the Coast. He probably has not read the report of the commission appointed in West Africa, where the very thing which this amendment suggests has been done. The basic salaries for all people in West Africa are the same, with an expatriate allowance for people from overseas. It is

(Mr. Patel)

no new principle which this amendment suggests and, while discussing that amendment, the hon. Member for the Coast has, in my view, suggested principles which will not bear examination. In my view the principle of equal pay for equal work means that if a person is not fit to draw the salary attached to a certain post he should not be appointed. I personally would like to support the hon. Financial Secretary when he suggested in the course of his speech the other day that, if a salary is attached to a post and if an Asian or an African is not fit to occupy that post, he says "that post shall not be occupied by him", but to argue in the manner which has been done in this Council appears to me to be grossly unjust. I strongly support the amendment moved by my hon. friend Mr. Madan.

MR. COOKE: Mr. Chairman, so far as expatriate allowance is concerned, I should be perfectly prepared to accept it, if the British Government pay expatriate allowances, but that is not the question at the present moment. I am merely arguing that the African and Asian, on account of their unreliability *vis-à-vis* the European, cannot demand the same salary.

MR. TROUGHTON: Mr. Chairman, in replying to the debate the other day I tried to point out how the payment of salaries on other than a racial basis would in fact lead to unemployment, or lack of employment for Asians and Africans, and I submit that there is an unanswerable case in the conditions of this country in present circumstances for racial discrimination in regard to salaries. I see no alternative to it at all. An expatriate allowance in this country would be nonsense. Expatriation, I suggest, means being outside your home country and many of the Europeans in this country are inside their home country. (INDIAN MEMBERS: Question!) I strongly oppose the amendment.

MR. VASEY: Mr. Chairman, I should like the hon. mover of this amendment to explain to the committee exactly what the words "in certain cases" mean. I am a little in doubt as to the difference between the last three words of the amendment and the last four words of the original proposition.

MR. MADAN: Mr. Chairman, finding myself as I do between, I am not quite sure whether it is the Devil and the deep sea, or the Lord and the Devil, the real purpose of my amendment was to ensure that, wherever you find a deserving case, whether he be European, Asian or African, we should not discriminate because of colour, that we should discriminate on the basis of efficiency. It is surprising that the principle is found difficult to accept. It can only lead one to believe that the Asian and African must always play second fiddle just because there are certain people who must keep on playing, and it is necessary for them to believe, even in this changing world, that conditions do not necessitate adopting such a course as equal pay for equal work. The words that appear in my amendment "in certain cases" can be said to refer to posts or persons whom we may have to import from abroad, persons with high technical training, persons who cannot be obtained in Kenya, and persons for whom ordinary rates of salary would not be enough. The purpose of my amendment is that everybody, it does not matter who they are, should be paid whatever they deserve.

THE CHAIRMAN: Not necessarily. The amendment, I believe.

MR. BLUNDELL: Mr. Chairman, I have an amendment, but are we not going to dispose of this amendment first?

THE CHAIRMAN: Not necessarily. The question is on the resolution. I will arrange the order of them.

MR. BLUNDELL: I wish to move an amendment as follows: That the words "and character" be added after "requisite qualifications" in the second line. I want to ask the hon. mover to accept my recommendation. I do not raise it from the point of view of hair splitting. I want to emphasize that especially because the first two words of resolution No. 2 refer to all races, and I should be very sorry if in future it might be assumed that qualifications did not include character. You could have all the qualifications in the world, but unless character is there, my own view is that a great deal of the value of our civil servants would be lost. As I see my hon. friend opposite is accepting my amendment, I will not delay the Council longer.

DR. RANA: Mr. Chairman, I should like to ask the hon. mover of this amendment whether the word "character" is quite reasonable, and whether he will judge it himself, or will it be the Government, or who will do it? If I am a doctor I hold certain qualifications, but I should like to know how you define the character of an individual, and I should like to know the authority which will actually sit as judge on the question of character.

MR. BLUNDELL: Mr. Chairman, it is precisely because I feared the point of view referred to by my hon. friend Dr. Rana that I wished the word "character" to be added. He might be the best doctor in the world, but I suggest that if he poisoned all his patients he would be lacking in character! I think that answers the point.

MR. RANKINE: Mr. Chairman, as regards the amendment suggested by the hon. member opposite, I should say at once that that would be quite acceptable to the Government. As I see it, character is included in the word "qualifications", but if on the other hand it is necessary to emphasize that, there certainly can be no objection to it. As regards the point made by the hon. member Dr. Rana, I think there are two people who must be the judge of character. In the first case the selecting authority who selects the recruit, and secondly, naturally, the Government when the recruit is confirmed in his appointment and when, as he carries on through the service, he is considered for promotion. Character is one of the qualities that is taken into consideration.

DR. RANA: Mr. Chairman, I should like to reply to the hon. Chief Secretary. I understood very well that it would be the Government who would judge, but in my opinion the word is superfluous, because the word "qualification" in itself covers the question of character. I think we are merely showing to the world that we do not understand what we are talking about.

MR. VASLY: Mr. Chairman, in rising to support the amendment I would point out that there is a danger where words are capable of two interpretations, as has been obvious from the speeches already made on this amendment. It is quite likely that the one side may well under-

stand that qualifications are professional qualifications arrived at by examination, and I think I am right in saying that the only motive in the mind of my hon. friend the Member for Rift Valley is that the other qualification of character shall be stressed and emphasized by this slight amendment.

The question of the second amendment was put and carried.

The question of the first amendment was put and negated by 22 votes to 10. Noes: Messrs. Andrews, Blundell, Colchester, Cooke, Edey, Hartwell, Havelock, Hobson, Hopkins, Jones, le Breton, MacLennan, Maconochie-Welwood, Rankine, Robbins, Roddan, Lady Shaw, Messrs. Thornley, Vasey, Wadley, Hyde-Clarke, Troughton, 22. Ayes: Messrs. Chemallan, Jeremiah, Madan, Mathu, Ohanga, Patel, Pritam, Rana, Seif bin Salim, Shatry, 10.

The question of resolution No. 2 as amended was put and carried.

Council adjourned at 4.15 p.m. and resumed at 4.30 p.m.

Resolution No. 3

MR. TROUGHTON had moved resolution No. 3.

MR. MADAN: Mr. Chairman, I beg to move: That the resolution be deleted and the following substituted therefor: "3. This Council agrees that salaries of all posts should be determined according to the resources and national income of the Colony but adequate expatriate allowances may be paid to secure the services of officers in higher posts from abroad".

THE CHAIRMAN: This actually means that the resolution should be omitted, but it cannot be, because the Council has ordered that it should be considered.

MR. MADAN: Perhaps it is not happily worded, but the effect is not to delete the resolution.

THE CHAIRMAN: It is purely negative and cannot be accepted.

MR. MADAN: Perhaps you would permit me to say that my resolution be substituted for the resolution moved by the hon. Financial Secretary?

THE CHAIRMAN: I cannot do that. As I have already told you, that cannot be done because the Council has already

[The Chairman] ordered that resolution No. 3 should be considered. That was, the effect of carrying the motion as a whole. I think you must accept that, and if you are unable to amend the resolution you must vote against it.

MR. PATEL: Mr. Chairman, I beg to move: That the resolution be amended by the deletion of the word "Europeans" and the substitution of the words "competent persons" therefor.

I do not think that I need take up the time of Council because this is a corollary to the amendment moved by the hon. member Mr. Madan in regard to resolution No. 2.

MR. TROUGHTON: If Government voted for this amendment it would be hypocritical eyewash, and Government therefore opposes it.

MR. COOKE: The hon. member Dr. Rana in a good-humoured way said outside the chamber he thought I had been a little insulting to the Asians—

THE CHAIRMAN: I do not think we ought to take up the time of the committee by reviewing what someone has said outside.

MR. COOKE: I was leading up to what I had to say. It is a question of reliability. The hon. member might think that Indians are more reliable than Europeans and I the Europeans more reliable than the Asians. It is the way one looks at it. (MR. PATEL: What about an impartial tribunal?)

The question of the amendment was put and negated.

MR. PATEL: In that case I propose to move another amendment: To delete three-fifths and substitute four-fifths therefor. My reasons for moving it are that the Asian Civil Service Advisory Board appointed by this Government is unwilling to accept three-fifths.

MR. TROUGHTON: On a point of order, sir, is the hon. member in order in moving that under Standing Rule and Order No. 32?

MR. PATEL: This is in committee, not in Council.

THE CHAIRMAN: I think the amendment is in order. It is not directly affecting the charge at the moment. These resolutions are all general expressions of

opinion in support of a policy, and the proportion of a system is being debated, so that an amendment to alter that proportion as a matter of principle could be moved.

MR. PATEL: Thank you, Mr. Chairman. Government appointed to consider the terms of service of the Asian Civil Service the Asian Civil Service Advisory Board, and that board was composed of official members, I believe some unofficial Europeans, and members of the Asian Civil Service. They have adopted the ratio of four-fifths for the purpose of the terms of service of the Asian Civil Service instead of 55 per cent which was the ruling ratio. I have, therefore, great support from a very impartial board which sat for a long time taking evidence and which finally made its recommendations, and I believe this very reasonable suggestion will prove favourable to Government.

The other remark I desire to make is this. In this resolution Sessional Paper No. 2 of 1948 is referred to, and in paragraph 7 it says: "It will not therefore cover such grades as teachers in the Education Department which are necessarily non-racial and are referred to in paragraph 94 of the Report". You will see from the schedule which is attached to Sessional Paper No. 2 how unjust Government has been in considering matters appertaining to the Asian Civil Service. I would refer only to one case to prove my contention. It is Appendix II, page 34. Under paragraph 107 "Education—(Kenya), Asian teacher grade I" has a present salary of £450 rising to £600, and the recommendation now is £560 to £750. Compared with certain other salaries I can say without hesitation that Government, in considering the increase in regard to this post, has not only not taken into consideration the needs of the community and the need to employ such a class of teachers but has completely ignored everything which has taken place in the Advisory Council on Indian Education.

What surprises me most is that there are one or two posts in the Asian Civil Service in which the present salary scale is less than £450 to £600 and they are now recommended for more than £750. There are three posts here that I myself have seen where the present scales are less than those for this particular teacher

[Mr. Patel] and still to-day are recommended for more than £750. In the case of this particular teacher, who is not an inspector of schools, he was principal of the Alidina Visram School in 1926, I think Government has failed to take into consideration all the circumstances, and what it will lead to is that we will not get any competent principals to run Indian schools. When I consider the attitude of Government on a question like this, I may say frankly that while my community considers me to be a moderate man, my blood boils, and I sometimes feel that in this country it is difficult to persuade Government to take a reasonable point of view of the Indian community. I say this advisedly and say these words with a great sense of responsibility, and I hope that my amendment that the figures four-fifths be substituted for three-fifths will prove acceptable.

MR. MADAN: Mr. Chairman, I wish to support that amendment as strongly as I can, and I cannot emphasize too strongly that the report of the Asian Civil Service Advisory Board was a unanimous report, of a board consisting of heads of departments who knew what they were talking about. They knew their job, and they urged the necessity for fixing a proper and adequate salary on four-fifths. After their report was published, I believe the Asian Civil Service was told that its recommendations would be implemented, but before that happened the Salaries Commission was appointed, and the Asian Service as in the past 15 years were told again that the matter would be considered later after the publication of the Commission's report.

One would have thought that things would have improved, that the Asians might have done better under the Commission's report, but what do we find instead? That the ratio has been reduced from four-fifths to three-fifths. Let us not forget, and I say this in real earnestness to all my hon. friends, that the gentlemen who drafted the report of the Asian Civil Service Advisory Board consisted of people who perhaps had a better knowledge of affairs in this colony. For that reason I submit that if because of the force of a sheer majority we cannot get anything better, let us give these poor devils their due which was promised to them by the Asian Civil Service Advi-

sory Board; that is, the ratio of four-fifths.

MR. HARTWELL: Mr. Chairman, regarding the point made by the hon. member Mr. Patel about the scale on page 34, all that has happened as far as Government is concerned is that we have rectified a small error in the scale the Commission laid down without materially altering the scale. The Commission's scale is to be found on page 32 of the report for Grade 1 teachers. The teachers are excluded from the three-fifths rule. They are referred to specially in paragraph 94 of the report. With regard to the three-fifths principle, it is not correct that Government have accepted the recommendations of the Asian Civil Service Advisory Board. That report was before the Salaries Commission, and they presumably considered the arguments in it, and came to the conclusion that the proper proportion was three-fifths. Government thinks it reasonable, and that it provides reasonable scales for non-Europeans, and sees no reasons, therefore, to alter the recommendation of the Salaries Commission in that respect.

MR. VASEY: I should like to ask the hon. Director of Establishments to make sure that I heard him aright—am I to understand that Asian teachers are excluded from the three-fifths rule?

MR. HARTWELL: Yes.

DR. RANA: Mr. Chairman, I do not want to add too much to what the hon. member Mr. Patel has said, but this resolution applies to the unified services in which the Asian personnel is very small. If three-fifths is given I do not think that Government will be able to attract many to these categories. If this applies only to the unified services, I submit that it is only professional and technical people who, after all said and done, spend as much time and years as anybody else in acquiring those qualifications. I would request that as far as this resolution is concerned with professional men it will not mean a great deal.

The question of the amendment was put and negatived.

MR. MATHU: Would I be in order in moving a further amendment?

THE CHAIRMAN: By all means, the three hours are not up yet!

MR. MATHU: I beg to move: That three-quarters be substituted for three-fifths.

THE CHAIRMAN: That is merely a dilatory amendment and I shall not allow it. We have already discussed and carried that the figures three-fifths shall stand part of the resolution. Is there any other amendment?

MR. BLUNDELL: On a point of order, I do not quite know how to put it, but I feel reluctant to accept your ruling unless the hon. member intended to be dilatory.

MR. MATHU: It was not so intended, as I raised the matter in my speech.

THE CHAIRMAN: We have already carried the motion that three-fifths stand part of the resolution, and to attempt now to move such an amendment would be a waste of time. Any other amendment to No. 3?

The question of resolution No. 3 was put and carried by 23 votes to 9. Ayes: Messrs. Andrews, Blundell, Colchester, Cooke, Edye, Erskine, Harris, Hartwell, Havelock, Hobson, Hopkins, Hyde-Clarke, Jones, le Breton, MacLennan, Maconochie-Welwood, Rankine, Robbins, Roddan, Lady Shaw, Messrs. Troughton, Vasey, Wadley, 23. Noes: Messrs. Chemallan, Jeremiah, Madan, Mathu, Ohanga, Patel, Pritam, Seif bin Salim, Shatry, 9.

Resolution No. 4.

MR. TROUGHTON: Mr. Chairman, I beg to move resolution No. 4: "This Council agrees that the posts listed in Appendix III to the report at present held by Europeans, and all posts held by non-Europeans (subject to certain exceptions) should be ultimately grouped into a General and Clerical Division, as contemplated in paragraph 99 of the report; the Council recognizes, however, that this arrangement will have to be brought into operation gradually, and that in the immediate future suitable arrangements must be made to ensure equitable opportunities of promotion for deserving and properly qualified persons of all races".

I think the various sections of the Commission's report dealing with this matter speak for themselves so that there is no need for me to take up the time of Council by reiterating them.

The question was put and carried.

Resolution No. 5

MR. TROUGHTON had moved: that resolution No. 5 be adopted—"This Council agrees that the principle of the long scale at present applied to the Administrative, Medical and Legal Services should (with certain exceptions) be extended to other professional and technical posts; that the scales should be divided into two segments by a promotions bar; and that there should be opportunity for accelerated promotion of outstandingly useful men as contemplated in paragraph 126 of the report".

The debate was resumed.

MR. COOKE: Mr. Chairman, before I move an amendment would the hon. gentleman state what the exceptions are?

MR. TROUGHTON: One exception which occurs to me is that the long scale is not proposed to be applied to the education officer grade, but it is proposed to retain the two segments of education officer and senior education officer as at present. There may be others. The hon. Director of Establishments may know.

MR. COOKE: I beg to move an amendment: That all education officers be put on the long scale. My reason for doing this is not that Tanganyika and Uganda have done it, but because Tanganyika and Uganda have, in my opinion, followed the right course.

THE CHAIRMAN: Before you continue, may I take it that you move to put in the words "educational" after "medical", and before "and"?

MR. COOKE: Mr. Chairman, it does not at present apply, so I cannot put it in there.

THE CHAIRMAN: I must have something concrete please. Let me have it in writing if you can.

MR. BLUNDELL: I suggest it should read "provisional and technical posts, including educational".

MR. COOKE: Mr. Chairman, the report says, paragraph 314: "To accord the long scale to assistant masters and mistresses would result in their receiving salaries disproportionate to their duties and responsibilities. . . . I feel that the duties and responsibilities of assistant masters are very great indeed, especially in a country like this where the future

[Mr. Cooke] of the European depends on the education of to-day, and there is no doubt that a great many of the assistant masters and other education officers feel a sense of frustration that they are not put on the long scale and therefore cannot get to the top salaries. I think that feeling of frustration in a country like this would have very bad results in the up-bringing of the European children of this country. I therefore move that education officers be included in the long scale.

Mr. TROUGHTON: Mr. Chairman, Government must oppose this amendment, but I think I can give an undertaking to the hon. member which will have the effect of meeting his point to a very large extent, and that is this:

We entirely agree that education officers should be paid salaries commensurate with their responsibilities. We have got a long scale starting at £550 and going up to £1,320. You have in the Education Department education officers exercising varying degrees of responsibility: you have some who are principals of schools; you have some who, though not principals, are exercising considerable responsibility, for example as house masters or house mistresses; you have others who are ordinary assistant masters and mistresses; and you have at the same time another grade of education officer, namely the education officer who is an inspector of schools and carrying out administrative, as opposed to teaching, work. Now it makes for flexibility if we have two grades and can have definite promotion from one grade to the other when we have people dealing with a variety of matters of this sort.

But I can give an undertaking, and I am very glad to give the undertaking, that it is not the intention of Government that any efficient education officer should stagnate unduly at the point between the two grades, that is £1,140, I think, on the new scale and £840 on the scale that applies to-day. We propose to invite this Council to approve from time to time the creation of additional posts of senior education officer to enable all those who are discharging responsibilities that merit extra pay to be paid accordingly. For example, we would have no objection at all—on the contrary, it would seem just—that officers holding down senior posts in the Prince

of Wales School should be senior education officers, and I have already given an undertaking of that sort to my hon. friend the Director of Education. With those words recorded in Hansard I suggest there is no need to revise the arrangements proposed for education officers, which have been agreed to by the Secretary of State's educational advisers who are concerned with the recruitment of teachers, and they are quite satisfied that under these arrangements we will be able to make rapid progress with the recruitment of teachers and will be able to get first class people.

Mr. PATEL: Mr. Chairman, in regard to this difference of opinion between the hon. Member for the Coast and the hon. Financial Secretary I desire to make up my own mind how I should vote. Therefore, I should like to have clarification from the hon. Member for the Coast as to whether when he speaks of education officers he means European officers or all officers in the country. The reason why I wish to make it clear is this: that the Indian teachers are equally education officers, unless there is a difference educationally in this colony, and as far as Indian education officers are concerned the Government has not taken a reasonable attitude.

I should like, with your permission, to make that point a little more clear. Twenty-one years ago the Indian community requested this Government to have as principals of Indian schools Indians who had taken an educational degree in English universities. They have not done it so far, and 21 years have passed. They have not done it because no Indian with an English university qualification would be prepared to serve as a principal of an Indian school on the meagre salary which this Government has from time to time offered. Even in 1927 when the salaries of Indian teachers in India were very low we were unable to persuade anyone to come here for £600 a year as principal of an Indian school. To-day we will not get, with the amount provided in this report, any Indian principal to come and serve in the Indian schools here with 4,000 pupils.

The principal of an Indian school with 4,000 pupils is not good enough even to draw three-fifths of the salary of the principal of the Prince of Wales School.

[Mr. Patel] and the reason, of course, is that this is a mono-racial question.

I should like to have clarification from the hon. Member for the Coast whether, in moving this amendment, he suggests all education officers or whether it applies only to one class of people.

Mr. COOKE: I was not concerned at the moment with Indian education officers. (Mr. PATEL: I thought so.) But I should be prepared actually to support the hon. member so far as the headmaster of the Indian school is concerned. I think it is a special post and should be adequately paid. I am perfectly prepared to support him over that. I was not quite satisfied with what the hon. Financial Secretary said. He referred to senior masters in the Prince of Wales School, but I am envisaging the headmaster of, for instance, a primary school, and primary schools are just as important in their way as the secondary schools. (Hear, hear.) Is there any avenue by which primary school headmasters can reach the top of the scale, £1,320, because I shall have to press my amendment unless I can get that assurance.

Mr. MADAN: Mr. Chairman, in view of the remarks of the hon. Member for the Coast and the "Hear, hear" which I heard him receive, will the hon. Financial Secretary indicate if he is prepared to consider the immediate revision of salaries of Indian teachers—headmasters, I should have said.

Mr. TROUGHTON: Mr. Chairman, in answer to the hon. Member for the Coast, Government would be prepared to propose to this Council from time to time the creation of posts of senior education officer to apply to teachers in charge of primary schools, if it appeared that the responsibilities they discharged warrant it.

Mr. VASEY: Mr. Chairman, surely at this stage it appears that the responsibilities of the headmaster of the European Primary School does warrant such a thing. (Hear, hear.) Surely it appears that the responsibilities of the headmaster of an Indian school with 4,000 pupils does warrant some consideration. (Hear, hear.) I would suggest that we should go a little further in the assurances, and that we should ask for an

investigation, perhaps under a later resolution, by the Standing Finance Committee, and get an assurance that such immediate investigation will take place. That, sir, might be accepted by this side of Council, I am not sure.

Mr. TROUGHTON: It would certainly be accepted by this side.

Mr. COOKE: I should prefer a definite assurance here, sir, before we dispose of this resolution.

Mr. TROUGHTON: Mr. Chairman, I would suggest that the hon. Member for the Coast is asking the impossible when he asks that Government should agree to increase the salary of any particular post across the floor of this Council. If we are going to consider whether any particular post should have its salary increased, consideration should be given to all aspects of the case and the matter discussed in Standing Finance Committee. I suggest it is impossible for Government to give an undertaking to increase the salary of any particular post.

Mr. COOKE: If that is the ruling, I think it is perfectly useless to discuss a lot of these resolutions, because there are one or two others coming along later and we are going to suggest increasing the salaries of certain posts. If that is the ruling, I think that this discussion is null and void.

THE CHAIRMAN: I do not think you can say that what Council has already decided, that is that the resolution should be considered, would be useless. Your amendment is there and will be put in due course.

Mr. RANKINE: Mr. Chairman, on a point of order, I do not wish to dispute your ruling in this connexion because when it was given before it was given on the ground of policy, and I do agree that when we are discussing the three-fifths rule, as it may be termed, we are discussing a question of Government policy; but on the other hand, with regard to these other amendments—

THE CHAIRMAN: There is only one: to add the words "including educational".

Mr. RANKINE: With regard to this amendment, I do submit, for consideration, that it is out of order on the grounds of Standing Order No. 32 in that it does increase the charge on the

[Mr. Rankine] revenue, and in support of that I should like to quote—

THE CHAIRMAN: What I want, is to be assured that the amendment would, if carried, produce a charge on the revenue. I am fairly well aware of the authorities on the subject, but I do not quite understand at the moment how the words "including educational" being put in there will increase the charge on the revenue. If you will put that before the Council I will quickly rule.

MR. VASEY: On a point of order, I would respectfully submit that the first three words of the resolution that we are considering in committee—"this Council agrees"—are important. Now, sir, the final decision with regard to expenditure will be taken by hon. gentlemen opposite, and surely there can be nothing to stop this committee of Council expressing its opinion on this matter? This committee of Council sits as a result of a resolution of the whole Council that they should consider these matters in committee, and if we are to be throttled from discussing and expressing our opinions on matters of vital importance, then, sir, the sooner we cease the farce of discussing these resolutions in committee the better, and I think that in that I speak for the entire membership on this side of Council. (UNOFFICIALS: Hear, hear.)

THE CHAIRMAN: I should like to hear the hon. Chief Secretary further on his point of order. I interrupted him with a view to getting it clear.

MR. RANKINE: My point was taken on these grounds: that I did not dispute for a moment the right of this Council to express an opinion or to make a recommendation, but it is a well-known principle that a charge on the revenue can only be introduced on the initiative of the Crown. That was my point.

MR. BLUNDELL: Speaking to the point of order, when we were speaking to the original motion we were clearly told by hon. members on the other side of Council that we could iron out in committee anomalies arising. I do submit that this must entail questions dealing with salaries of people which we think create anomalies.

MR. TROUGHTON: Speaking to the point of order, I can say that there is no

desire on our part, or no desire on the part of those of us who raised the point of order, to throttle discussion. All we are anxious about is that any amendments increasing the charge on the Colony's revenue should be moved by the Crown.

THE CHAIRMAN: I am still in doubt as to how the insertion of these words "including educational" will increase the charge. I have asked the hon. Chief Secretary to explain that. Perhaps you will. Then I can rule.

MR. COOKE: Before you go any further on the point of order, Standing Rule and Order 32 refers to debate in Council. I submit that this is a debate in committee now and that that rule does not apply.

MR. TROUGHTON: Mr. Chairman, speaking to the point of order, the amendment would imply that this Council agrees that the principle of the long scale should be extended to the Education Department. That, if approved by this Council, would surely mean that those education officers who are at present on the £840 salary point would proceed to the £880 salary point—the next point on the long scale—whereas at present they are on their maximum of £840. I therefore, would suggest that acceptance of this would be tantamount to the Council's instructing that each education officer on the £840 point should receive an increment of £40 on the appropriate date, and therefore would increase the charge on the Colony's revenue.

MR. VASEY: On a point of order, am I to understand from the remarks of the hon. Financial Secretary that a resolution passed on this matter by the Council or on any matter by the Council is automatically accepted by Government, even if it involves expenditure, or am I to understand that the initiation and certification rests with the Governor?

MR. TROUGHTON: I am not sure, speaking to the point of order, precisely the point made by the hon. Member for Nairobi North, but if this Council do approve the application of the long scale and funds were available under the personal emoluments vote of the Education Department, as they always are because there are various savings, I consider that

[Mr. Troughton] Government would be justified in taking the passage of this to apply that scale.

MR. PATEL: On the point of order, when we were discussing the terms of the Salaries Commission report I believe this Council did decide whether to increase those terms of service or decrease those terms. The question of a charge on the revenue does not arise, otherwise we would not be competent to discuss the terms at all.

THE CHAIRMAN: I think we have heard a good deal on the point of order now, and I would remind hon. members that the motion which was passed by this Council included 29 resolutions, and when those resolutions have been completed in committee the Council should then resume and subject to the views expressed in the resolutions already passed in committee, there is the further resolution that the Council endorses the proposals in the report as modified by the Sessional Paper and as modified by this committee's resolutions. I am satisfied now that as a matter of fact what the effect will be if those words "including education" are put into this resolution it will be a case of increasing the charge on the revenue. That being so, I must rule the amendment of the hon. Member for the Coast out of order.

MR. VASEY: In view of your ruling and the position being correct, I move that this Council do now adjourn.

MEMBERS: I beg to second.

THE CHAIRMAN: That is a motion on which members are entitled to speak, because the time agreed to is 6 o'clock, so that if any members of the committee wish to address the committee on the motion to adjourn—

MR. MADAN: Mr. Chairman—

THE CHAIRMAN: With all respect may I be allowed to speak from the chair? When Council is in committee I have to consider now whether I was right the other day in not permitting a motion simply to adjourn. The motion should be "Adjourn and report progress back to Council"—I think that is the correct form of doing it, and I should like the hon. Member for Nairobi North to move it in that form.

MR. VASEY: I thank you, and move that this committee do now adjourn and report progress to Council.

The question was put and carried.
Council resumed and progress was reported.

FUTURE SITTINGS

MR. VASEY: Mr. Speaker, as we are now in Council, I beg to move: That this Council do now adjourn until 2.15 p.m. to-morrow.

Several members seconded.

MR. RANKINE: Mr. Speaker, before Council breaks up, I suggest that it might be a good thing to ascertain the views of members as to future sittings of Council.

MR. VASEY: Mr. Speaker, my idea in moving the adjournment, if Government agrees, and you, is that we should stay behind for an informal meeting and try and clear up the tangle which has obviously arisen.

THE SPEAKER: I thought Council could have arranged its own business by some other method so that people would know ahead what the times are. I have an important committee meeting fixed for Friday afternoon, and naturally I do not want to set aside an arrangement already made, and if members meet informally I hope they will try and remember that.

The question was put and carried.

ADJOURNMENT

Council rose at 5.30 p.m. and adjourned till 2.15 p.m. on Wednesday, 1st September, 1948.

Wednesday, 1st September, 1948

Council reassembled in the Memorial Hall, Nairobi, on Wednesday, 1st September, 1948.

His Honour the Speaker took the chair at 2.20 p.m.

The proceedings were opened with prayer.

ADMINISTRATION OF OATH

The Oath of Allegiance was taken by A. G. Lowe, Esq., Acting Solicitor General.

MINUTES

The minutes of the meeting of 31st August, 1948, were confirmed.

ORAL ANSWERS TO QUESTIONS

No. 70—RAILWAY REALIGNMENT

MR. NICOL:

In reply to Question 52 of 1947, the hon. the Acting General Manager of Railways stated that none of the successful tenderers for the work on the realignment of the Nairobi-Uplands section will use mechanical appliances.

(a) Will Government inform Council how many of these contractors there were employed, and how many of these same contractors are still employed on that section?

(b) Will Government inform Council if any new contractors have or are being employed on that same section now, the name of such contractors, and if such contractors will be using mechanical appliances?

(c) If there are such new contractors and they be using mechanical appliances, will Government inform Council on what terms and at what price they accepted such contractors' tenders?

(d) And in the light of the answer to section (a) of Question 52 of 1947, will Government give comparable figures in regard to such new tenders in relation to the successful non-mechanical tenderers' accepted tenders?

(e) Will Government state if the contract given to the new contractors is in excess of the original quotations of the unsuccessful tenderers who proposed to operate mechanical plant?

(f) In reply to a supplementary question, the hon. Acting General Manager stated that the successful tenderers who were not using mechanical plant would require a labour force of some 5,000 labourers. Will Government inform Council of the number of labourers now employed on the Nairobi-Uplands section?

MR. RANKINE: I am informed by the General Manager, East African Railways and Harbours that:—

(a) When Question No. 52 was answered in Legislative Council in July, 1947, no contracts had been let for that part of the alignment between Limuru and Uplands, but contracts had been given to seven contractors on the section Nairobi to Limuru, of whom four are still employed.

(b) In 1948 two contracts were let for parts of the Limuru-Uplands section to Mowlem Construction Company (using mechanical equipment) and Mohamed Roshan (using manual labour). In addition, Messrs. Stirling-Astaldi (E.A.), Ltd. (using mechanical equipment), is now employed between Nairobi and Limuru on those sections for which contracts were originally let.

(c) The contracts given in paragraph (b) above were let on the Administration's normal conditions of contract for such work.

(d) The comparative figures in regard to mechanical and non-mechanical tenders accepted are as follows:—

Per 1,000 c. ft. Non-mechanical		Mechanical	
average			
Rock Sh. 200	.. Sh. 220	..
Soft rock Sh. 65	.. Sh. 47/30	..
Earth Sh. 35

Messrs. Stirling-Astaldi's contract will cost some £6,000 more than the original non-mechanical contractors' contracts, but this includes mechanical consolidation to banks, and it is not possible to assess the value of this. The contract given later to the Mowlem Construction Company between Limuru and Uplands will cost no more than the nearest tender submitted in 1947 by contractors using manual labour.

(e) The contract now given to Messrs. Stirling-Astaldi is less than the quotation of the original mechanical tenders.

[Mr. Rankine]

(f) The number of labourers now employed between Nairobi and Uplands is slightly under 2,000.

MR. NICOL: Arising out of that answer, sir, would Government inform the Railway Authorities that it would appear that it would have been quicker and cheaper to have employed mechanical appliances on this work than to upset the labour conditions up-country by employing labour which is estimated to take five million man-days?

MR. RANKINE: If the hon. member would give me the terms of his message I will convey it to the proper authority?

MR. NICOL: Certainly, sir.

INCOME TAX (AMENDMENT) BILL

FIRST READING

With the leave of the Speaker, Mr. Hobson moved: That Standing Rules and Orders be suspended to enable the Income Tax (Amendment) Bill to be read a first time.

MR. LOWE (Acting Solicitor General) seconded.

The question was put and carried.

Standing Rules and Orders were suspended.

On the motion of Mr. Hobson, seconded by Mr. Lowe, the Bill was read a first time and notice given to move the subsequent stages of the Bill at a later date.

SCHEDULES OF ADDITIONAL PROVISION

No. 6 OF 1946 AND No. 2 OF 1948

MR. TROUGHTON moved: That Schedules of Additional Provision Nos. 6 of 1946 and 2 of 1948 be referred to the Standing Finance Committee.

MR. RANKINE seconded.

The question was put and carried.

SALARIES COMMISSION REPORT WITH SESSIONAL PAPER No. 2 OF 1948

RESUMPTION IN COMMITTEE

Council resumed in committee of the whole Council consideration of the resolutions contained in the motion read in the name of Mr. Troughton

on the Order Paper dated 17th August, 1948, based on Chapter XIV of the Salaries Commission Report.

Resolution No. 5

The debate on Resolution No. 5 and the amendment thereto was resumed.

MR. NICOL: Mr. Chairman, in the original debate I drew attention to the question of education officers, and this was discussed again yesterday, and I do hope that an amendment will come forward that this particular resolution be referred to the Standing Finance Committee.

A point which I should like that committee to consider very seriously is the question of the long scale for education officers. I am informed that certain officers, though it is not in writing, were told at an interview at the Colonial Office that the Education Department was going to be treated in the same way as the Administration, that they were going to go on the long scale. I should like to have some information on that particular point, because I have got a memorandum here in which I am informed that that was the case. On looking at the Uganda and Tanganyika Sessional Papers, they have rejected the Salaries Commission's recommendations in this particular matter, and while I am the first person to oppose doing a thing because Uganda and Tanganyika do it, I do feel that, as far as education officers are concerned, it would be the most fantastic and frightful thing if we are going to make an education officer leave Kenya (to go to either of those territories).

After all, an education officer—I do not mind which race he is educating—is performing a most valuable service to the country. He is dealing with the youth of the country at the formative age, and it is absolutely essential that we have in this Colony the very best, we do not want to drive people away but to attract them to us. (Hear, hear.)

MR. EDYE: Mr. Chairman, I must oppose the proposals contained in this motion, not because I necessarily disagree with the actual proposal of the long scale but, having opposed the main motion, on the ground that I am not

(Mr. Edye) prepared to agree to an expenditure the total of which we have no idea of what it will amount to out of the revenue of future years—which may not be able to meet it—I cannot agree with this and other resolutions which allow for increased expenditure or the implementation of the report itself. Although I may be in agreement with some of the conditions contained in the resolution, I am opposing it on the main grounds on which I opposed the main motion. It is not my intention to waste the time of the Council by calling for a division every time when I know it will go through with a majority vote, but I should like to have recorded here and now my opposition to a number of resolutions on the grounds on which I opposed the main motion.

MR. COOKE: I wish to withdraw my amendment of yesterday, and to substitute the following: At the end of Resolution No. 5 the words be added "and that in the European Education Service ten men and five women promotion posts be established". I understood from the hon. Financial Secretary yesterday that there would be no objection to that.

MR. TROUGHTON: On a point of order, is the amendment in order under Standing Rule and Order No. 32?

THE CHAIRMAN: Not unless permission is first obtained. The only way to get over this difficulty is for you to move to cut out the word "agree" and substitute "recommend". If you do that then I think it would be in order.

MR. COOKE: I thought we had decided to do that.

THE CHAIRMAN: It would be in order to delete "agree" and insert the word "recommend" and add at the end of the resolution the words you have just read out.

MR. PATEL: Before the words "to be established" I propose to move to add the words "and in Indian education four headmasters (two at Mombasa and two at Nairobi) and one inspector of education".

MR. COOKE: I would be prepared to accept that, personally.

MR. VASEY: Mr. Chairman, I regret very deeply that I shall have to rise and oppose this particular amendment. To have just a point-blank figure of ten and

five or two and two placed before this Council is the suggestion that terms of posts should be opened without any reasons or arguments for the establishment of that particular post which is something, I suggest, that very few people could agree with. I would be perfectly prepared if the mover of the amendment would accept it to say that it should be referred to the Standing Finance Committee for consideration and investigation. That would at any rate mean that a presumably competent body could go into the matter in full detail. I should very much doubt whether Government itself could be justified in accepting such a blank decision as ten and five and two and two without some suitable argument, and I would suggest that, in order to save a great deal of argument and cutting down the time of Council in committee, the hon. Member for the Coast should indicate whether he is prepared to accept a recommendation of that kind.

MR. COOKE: Mr. Chairman, I am not prepared to accept it. The hon. gentleman must have been temporarily asleep yesterday when I gave my reasons for improving the prospects in the Education Department. I do not want to weary the committee with further details, but there is very good reason for ten and five, because that allows for the rank and file of the Education Department, it is about the right proportion of promotion posts to the number of personnel in the department. It is not mere guesswork, it has been carefully thought out. I think personally myself that it is irregular to refer this matter to the Standing Finance Committee. This place is a public quorum where the Press can attend and these things can be threshed out where these arguments can be made, and not between the four walls of the Standing Finance Committee. Besides that, that committee has also an unofficial majority and I must quote the same rule that you, sir, so ably propounded yesterday about the constitutional position. It would mean duplication of the work, as first the Standing Finance Committee would have to agree or disagree and then it would come before this Council once more. I say that this is the place and there is no other to decide the question. If it is to go to a vote and we lose the amendment, well and good.

MR. RANKINE: Sir, I have to oppose the amendment for one reason, and that is that I do not like the form in which it is proposed at the moment. It is proposed that the word "agrees" where it occurs in the first line should be amended to "recommend". It is my belief—it is the opinion, at any rate, of the majority of the Council—that they agree that the principle of the long scale should be applied to the administrative, medical and the other services set out in this resolution. In fact, what the hon. Member for the Coast wishes to propose is that we should at the end of the resolution add "and recommends that".

MR. COOKE: Yes.

MR. RANKINE: Again on that score, I would prefer to see the amendment put in the words "and recommends to Government for consideration". I think that if it was worded that way Government could accept it; otherwise Government would have to oppose it.

THE CHAIRMAN: I take it you move that?

MR. RANKINE: I will move that.

MR. COOKE: If the hon. member Mr. Patel accepts, I will.

MR. PATEL: Yes.

In view of the remarks made by the hon. Member for Nairobi North I should like to make some remarks as to why I proposed the amendment in regard to Indian education. As far as I remember, two predecessors of the present Director recommended that as far as headmasters of the high schools in Nairobi and Mombasa were concerned they should be appointments on what I believe are called "appointments by the Secretary of State for the Colonies". It had been urged by the Indian community for the last 10 or 15 years that it was difficult to run efficiently these secondary schools in Mombasa and Nairobi with a large number of children taking education up to the Senior Cambridge unless they could have highly competent headmasters, and it has been the view of the Indian community for the last 20 years that those headmasters should possess qualifications of English universities.

Why I mention four—two in Nairobi and two in Mombasa—was that we have one secondary boys school with a large number of Indian boys and one secondary girls school in each place, and I believe those schools are most important as far as Indian education is concerned. Perhaps hon. members are aware that more than two-thirds of the Indian population reside in Mombasa and Nairobi and the question of Indian education can only be solved if there are proper schools run in Mombasa and Nairobi. I believe it has been one of the great drawbacks to Indian education that we have not had at any time really competent headmasters, unless Europeans were appointed.

What we desire is really competent Indian headmasters in these schools, and it is also equally important that if an inspector is appointed in respect of Indian education he should also have very good qualifications. I personally remember that in conversation with predecessors of the present Director of Education they also mentioned that it was high time those Indian masters were appointed by the Secretary of State for the Colonies. For those reasons I honestly appeal to members of Council to agree to at least examine this question seriously and not in any careless manner as has been the case for the last 20 years.

MR. BLUNDELL: Mr. Chairman, I rise to oppose the amendment because to accept it involves also accepting the principle outlined in Resolution No. 5, and I associate myself with the words of my hon. friend the Member for Nyanza in that regard. I have much sympathy with the points which it is desired to cover in the amendment and, although I cannot support the amendment, I would be prepared to support the suggestions outlined in regard to education officers if they come forward under Resolution 10.

LADY SHAW: Mr. Chairman, I wish to associate myself with the hon. Member for Rift Valley and the hon. Member for Nyanza for exactly the same reason. Personally, I disapprove strongly of putting people on the long scale, irrespective of the posts they hold. The whole of my feeling on the subject of the increase of salaries is that people

[Lady Shaw]. should be paid for the job they hold and the job they do—not that they should be given sympathetic consideration because they have served for a long time and perhaps not been able to get to the top. To my mind that is an entirely uneconomic attitude. Therefore I oppose the amendment as it stands.

I also do not like the amendment in the form it takes because I do not like a blank ten men posts and five women posts, because I am not thinking of a proportion of people in the Education Department who should be promoted. To my mind that does not come into it. There must be a certain number of posts which call for people to be on a higher scale and people should be promoted to them, but I do not think it is necessarily 10, nor necessarily 8 or 12. Personally I think the thing should be investigated and gone into in detail, and any of these posts should be treated on their merits—not as a blank number of ten or five. I think the hon. member Mr. Patel's point is very much better covered, in so far that he actually mentions the people whom he wishes to have considered.

Therefore I am afraid I must oppose this amendment, although I have, as has the hon. Member for Rift Valley, considerable sympathy with the object of this amendment. It is the form I do not like, and I personally would oppose most strongly this question of putting people on the long scale irrespective of the jobs they hold.

MR. COOKE: Mr. Chairman, I think the hon. lady is under a misconception and has not probably realized, or rather, perhaps, has misread the words "recommends to Government for consideration". It does not necessarily mean that the number will be ten or five. With regard to people going automatically forward I think she is again under a misconception, because it is very stringently laid down in the recommendations that there should be a promotions board and also that there should be strict efficiency bars to be passed; so that no one goes automatically forward to the highest point unless he is qualified for the position.

MR. VASEY: Mr. Chairman, I oppose the amendment, although I find myself

in sympathy with the main principle laid down in Resolution No. 5. The reason that I oppose the amendment is that, if I accept it in the form it is in at present, I agree, without in my mind sufficient detailed examination, to the bringing into being of a certain number of promotion posts. I am in sympathy with the hon. member Mr. Patel in the case he has put forward; I am in sympathy with certain of the claims that certain members of the Education Department have put forward; but I am not in sympathy, until I have seen detailed examination given to it by a competent body, with giving a sort of blank cheque, saying ten and five, or two and two, of these posts should be established.

The reason why I should have preferred to have seen it referred to the Standing Finance Committee is this. It is not a question of anything in the nature of behind closed walls, because I have already suggested that any findings or recommendations of the Standing Finance Committee should be laid before this Council for consideration, and if the reasons adduced by that committee were such that Government felt that they justified the initiation of expenditure, then Government could move to initiate such expenditure in a formal and constitutional manner. But to suggest that because somebody says this is just the right proportion, or to suggest that because we feel that this must be done, that we must agree to a definite figure is to my mind to lose the sense of responsibility which we have finally as a Council for expenditure in this country—(hear, hear)—and that is why, if the amendment remains as it is, deeply as I regret it, I must oppose it.

I would therefore give notice of a further amendment: that the words "and recommends to Government for consideration" should be deleted and the words "and recommends to the Standing Finance Committee for investigation and report to this Council for consideration" be substituted.

MR. RANKINE: If it would help matters I would accept the hon. member's amendment.

THE SPEAKER: The hon. Member for the Coast has the right to say whether he will accept it or not.

MR. COOKE: It is entirely unnecessary. The hon. member has lost sight of the word "consideration". It says 10, but it might be 5; or it might be 8; it is a matter for consideration and I am not binding them. It might be 12, or it might be 15. (MR. TROUGHTON: Or none!) Yes, or none; but the hon. gentleman will hear more about it if it is none! (MR. TROUGHTON: He will hear more about it anyhow!) It might be 10 or 5; it might be less or more. The word "consideration" is the governing word there, I do not see any necessity for it to be considered by the Standing Finance Committee. My point is that it must be thrashed out in this chamber first. If Government refers it for consideration to the Standing Finance Committee after having thrashed it out here, I shall be quite happy about it, I have one or two more amendments coming along. (Laughter.)

MR. VASEY: Mr. Chairman, with all due respect; I suggest that the operative words are "agrees" and "recommends". The amended proposition recommends that ten promotion posts and five promotion posts, and two and two, be passed to the Government for consideration. That is an indication of the opinion of this Council on the level of promotion posts, and the operative word, I suggest, is "recommends". If the proposed amendment had said "recommends that promotion posts were established" that would be a different matter. I am not in a position myself to suggest that I recommend to Government that a certain number should be established, and that is why I feel it should go to the Standing Finance Committee for detailed investigation.

MR. COOKE: I am not much of a hand at quibbling! (Laughter.) If it pleases my hon. friend, it would be quite all right and I should be perfectly pleased to accept his amendment. (Applause.)

MR. WADLEY: Mr. Chairman, I should like to reply to one point raised by the hon. Member for Mombasa, when he said that a number of education officers had been told that their appointments would be on the same terms as those of administrative officers. There are two or three officers now in my department who have told me that when they were

appointed they were given to understand verbally that they would be on similar terms to administrative officers. I may add that when I was appointed there was some talk of interchangeability at that time between education and administrative officers, but nothing more came of it. There was nothing in writing; it was only said to two or three people, all of whom were appointed 15, 16 or 17 years ago, and there was, as I say, no written, and certainly no verbal, undertaking; it was only a statement and nothing more.

When speaking on the main debate I did say that there were one or two things in the report with which I was not entirely satisfied, and I should like now to express my personal opinion on the question of education officers. My own feeling is that there is a case for the creation of a number of promotion posts. I would not specify any number, and I do not wish to delay the committee by giving any detailed reasons, except one, in addition to those already made; that is that there is a very serious danger, I think, that men who have proved themselves competent in, say, European education and whom it is desirable to retain in European education, might be tempted, if there were not these promotion posts, to seek promotion elsewhere, either in another colony or in another branch of education.

Finally, to refer to points raised by the hon. member Mr. Patel, I should like to point out that in the Indian teaching establishment there are five promotion posts, one that of inspector of schools and four called grade I teacher. In addition there are two posts of principal for the two girls secondary schools, one in Mombasa and one in Nairobi. They are held by Europeans, and they are also promotion posts for Europeans. I should like to add that four of these five posts are already filled and we are shortly hoping to fill another, and that we are satisfied we have the right men for the posts.

MR. THORNLEY: Mr. Chairman, I only want to add one word to what has been said by the hon. Director of Education, and that relates to the remarks made by the hon. member Mr. Patel when urging that serious consideration should be

[Mr. Thornley] given to the amendment. If I understood him aright, his reason for urging that was that only callous consideration had been given to these matters in the past. I think those were his words. Whether or not you agree that callous consideration has been given by Government to salaries generally, it is certainly not correct—and I would not like the remark to stay on record uncontradicted—to say that consideration has been callous. You can disagree with it and the results as much as you like, but it is quite wrong that it should remain uncontradicted on the record that consideration is callous.

MR. TROUGHTON: One word only. In accepting this amendment and voting for it, I must make it clear that the Government does not thereby accept the principle that any particular number of promotion posts, or indeed any at all, are necessary. What we do commit ourselves to is investigation; that is all.

MR. NICOL: Mr. Chairman, following up on that, I do hope that the Standing Finance Committee, if this amendment is accepted and they study this question, will not commit the Government to any additional posts or anything like that. I want the Standing Finance Committee to investigate the possibility and the practicability and the desirability of putting the Education Department on to the long scale.

The amendments having been accepted, the amendment reading: "and recommends to the Standing Finance Committee for investigation and report to this Council that in the European Education Service ten men and five women promotion posts, and in the Indian Education Service four headmasters (two in Mombasa, two in Nairobi) and one inspector of education be established", was put and carried.

The debate on the motion as amended was resumed.

MR. HAVELOCK: Mr. Chairman, I will have to oppose the resolution as amended on the same grounds as the hon. Member for Nyanza, but apart from actual expense I should like clarification, if I may, from the opposite benches as regards how these long scales are going to work.

I would ask hon. members to turn to page 28 of Sessional Paper No. 2 where two examples of the long scale under the heading: Police are given, which indicate that an assistant superintendent of police and a chief inspector of police are both combined on one long scale. Is it correct that there is every probability that in time, if not immediately, an assistant superintendent of police, although senior to a chief inspector, may be drawing less salary? They are both on the long scale, and if the chief inspector has been for some while on that scale, I presume he may be drawing a higher salary than the younger assistant superintendent who has been brought in later; the younger superintendent being brought in, presumably, on his efficiency and ability. If that is correct I suggest it is going to be very awkward and difficult if the man in the senior position is drawing less than his junior officer.

I feel that Government themselves have been doubtful about this particular question, because the Government in Sessional Paper No. 2 have recommended that in regard to the Audit Department the senior auditor and auditor should both be on the same long scale. Now, sir, that position is going to be altered back again to the original recommendations of the Commission, or it may be altered under Resolution No. 9 which we will be discussing this afternoon presumably. Under that resolution the senior auditor has been put on a separate scale from the auditor, in spite of Government's recommendations previously under Sessional Paper No. 2. I suggest that there may be certain doubt in Government's mind on the advisability of having these long scales in every department, and I personally would much rather have the Standing Finance Committee or another body consider all the long scales. I cannot agree with the wording of Resolution No. 5 as it stands at the moment—that Council agrees that the principle of the long scale at present applied, etc., be extended to other professional and technical posts—again *en bloc*. I consider the matter should be gone into in more detail, and I am sure the Government would be wise to consider the matter again.

[Mr. Havelock]

As regards education officers, I think a case has been made out, although I still cannot see why the points brought up by hon. members on those particular posts cannot be covered by creating certain higher paid posts in the Education Department for, say, headmasters and housemasters and mistresses, too—(MR. COOKE: That is what my suggestion is.)—without putting them on the long scale.

I would stress this matter of expense again. I have given my opinion before on this and do not want to waste the time of Council, but in spite of all we have heard during this very prolonged debate, I am afraid I still have to oppose it on that one principle of expense.

MR. MATHU: Mr. Chairman, I rise to oppose the resolution as amended. My reason for doing so is that these resolutions, as we have already heard during the course of this debate, are already very racial, and putting in education officers for European and Indian education only makes the whole thing further racial. I do not think I can support that. I do not want to propose another amendment because it is becoming very tedious. I suggest that if they had said education officers generally, including everybody who had the necessary qualifications, then they would have had my support. As it is, I am going to oppose the resolution and the reason why I oppose it is that, according to Standing Rule and Order 32, it is going to create extra expense.

MR. MACONOCHE-WELWOOD: Mr. Chairman, I oppose this resolution on the ground that I consider it to be utterly inconsistent to support a resolution as amended like this which entails extra expenditure, having opposed most strongly the Salaries Commission Report in general on the ground that it entailed expenditure which this country in the future would be quite unable to support.

MR. COOKE: Mr. Chairman, I should be glad if the hon. member Mr. Mathu would explain what is racial in this proposal. The hon. member is well able to look after his own constituents and, if he proposes some amelioration of their position, he may or may not get some support from this side.

THE SPEAKER: Are you addressing the chair or Mr. Mathu? (Laughter.)

MR. COOKE: I think I said "Mr. Chairman".

THE SPEAKER: Yes, but you are addressing Mr. Mathu; it is purely a private affair between the two of you. It does not seem to interest the committee at all.

MR. COOKE: If the hon. member Mr. Mathu, sir, had any proposals to put up they might or might not be considered by this side of Council, but to say that because we are looking after the interests of our own people it is racial is not quite logical.

MR. HARTWELL: Mr. Chairman, with regard to the point raised by the hon. Member for Kiambu regarding the scales on page 28, the new scale for chief inspectors is £690 by £25 to £840 by £30 to £900. They are not on the long scale. It is the assistant superintendents and superintendents who have been put on the long scale running from £550 to £1,140, so that chief inspectors are distinct from assistant superintendents and superintendents. It is the case that a junior assistant superintendent might possibly be on a lower salary than a chief inspector, but the Commissioner of Police does not think that matters at all. I do not think so either.

With regard to senior auditors and auditors, the position is that we combined them on the long scale. Subsequently the Director of Colonial Audit expressed preference for two separate scales, the reason being that an assistant auditor is very frequently transferred from one territory to another and it is likely that they will be transferred from one territory to another before they reach the top of the lower segment of that scale. For that reason the Director of Colonial Audit prefers two separate scales rather than one long scale.

With regard to the general question of the long scale, it is already established in the case of the Administration, doctors and lawyers, and what the Commission has done is to recommend that it should be extended to cover other professional groups as well.

MR. PATEL: Mr. Chairman, I wish to make a few remarks in regard to what

[Mr. Patel] was said by the hon. Acting Director of Education:

It may be that I have misunderstood the titles given this post, but Sessional Paper No. 2, on page 34, provides the scale which will be paid to an Indian headmaster. Even now I would invite the hon. member to obtain an Indian with English university qualifications to start at £560, and I would congratulate him if he can do so. It has not been possible during the last 20 years, and I am quite certain he will never manage to get an Indian with the necessary qualifications about which the Indian community has been urging for the last 20 years. The facts of the matter are that for the first time in 1927 the Indian community urged the appointment of an Indian with English university qualifications, and it has not been done so far. If that is not carelessness I do not know what the meaning of carelessness is.

The question of Resolution No. 5, as amended, was put and carried by 26 votes to 8, 3 not voting. Ayes: Messrs. Colchester, Cooke, Erskine, Harris, Hartwell, Hobson, Hope-Jones, Hopkins, Hyde-Clarke, Jones, Le Breton, Lowe, MacLennan, Madan, Nicol, Patel, Pritam, Rana, Rankine, Robbins, Roddan, Seif bin Salim, Thornley, Troughton, Vasey, Wadley, 26; Noes: Messrs. Blundell, Chemallan, Edye, Havelock, Maconochie, Welwood, Mathu, Ohanga, Lady Shaw, 8. Did not vote: Messrs. Andrews, Jeremiah, Shatry, 3.

MR. COOKE: I have a further amendment to propose to the resolution.

MR. TROUGHTON: Can a further amendment be proposed at this stage?

MR. COOKE: I think the hon. gentleman has caught me out this time!

THE CHAIRMAN: I certainly paused quite a long while before I put the question.

Resolution No. 6

MR. TROUGHTON: Mr. Chairman, I beg to move Resolution No. 6. This Council agrees that, as a general rule, salaries of women should be four-fifths of those of men engaged on the same work.

I have already referred to this subject in one of my earlier speeches.

MR. PATEL: Mr. Chairman, I beg to move: That the resolution be amended by adding the words "but that it be recommended to the Standing Finance Committee that the salaries of Indian women teachers be equal to those of men teachers".

My reasons for moving this are that it is found very difficult to obtain Indian women teachers for the girls schools. It always has been found necessary to obtain them from India, as none are trained in this country. I have noticed that the Education Department has not taken adequate steps in regard to recruiting qualified Indian women teachers. The other day a highly qualified woman was prepared to come from India, and one of her friends, Mrs. Sheth, wrote to the Education Department stating her qualifications, and that she would not be paid less than Sh. 500 in India, but the department offered her Sh. 200, and the answer of Mrs. Sheth was that she was paying more to her cook. I know another case where it has been found that the department, under the pretext of not paying equal salaries to women have failed to attract qualified Indian women teachers. I move this amendment so that perhaps the Education Department may make an effort to recruit from India necessary women teachers.

MR. WADLEY: Mr. Chairman, I should like to reply to one point. It seems to me unfair to say that my department has not taken adequate steps to recruit Indian teachers. The reason is, as he admitted later, we were not able to offer adequate terms. It is quite impossible for us to offer salaries beyond those laid down. I should like to say this, though, that I have reason to believe that the new terms offered to Indian women teachers on the four-fifths basis will prove attractive, and I suggest that we wait and see, and consider the amendment suggested when it is proved that we cannot recruit them.

MR. TROUGHTON: Mr. Chairman, Government has no strong views about this amendment, and if it goes to a vote so far as we are concerned it will be free. But I suggest that it is a waste

[Mr. Troughton] of time for the Standing Finance Committee to consider this. The resolution as it stands says: "This Council agrees that, as a general rule". The phrase "as a general rule" implies that exceptions may be necessary from time to time, and if in respect of any particular posts there are strong reasons for making exceptions Government will not hesitate to propose to this Council that exceptions be made. I personally oppose the amendment for that reason, but Government has no strong views about it one way or the other.

MR. PATEL: Mr. Chairman, I am very glad that the hon. Acting Director of Education has admitted that so far he has not been able to recruit qualified Indian women teachers because the terms offered them are not suitable. That is an admission. The Advisory Council on Indian Education has asked Government to offer better terms to Indian women teachers for the last ten years, and they have not taken any steps so far, and that is the reason that I have been compelled to press this amendment so that Government will be in a position to consider the whole question in the light of the circumstances which they know. Further, I am quite certain that unless the terms offered are equal to those of the men they will not be able to recruit qualified women teachers. We have not got qualified women in this country, so we have to recruit from India. I am not suggesting that they should be paid more than in India, but they should be paid equal to the men.

MR. MADAN: Mr. Chairman, arising out of the hon. Financial Secretary's remarks, it is correct that the resolution does say "as a general rule", but we have to remember this, that these four-fifths salaries are, in the case of Asians, four-fifths of three-fifths, and we want to be sure that, so far as education is concerned, as a general rule salaries for Indian women teachers will be equal to those offered to men. Surely it should be the aim of the Education Department to attract qualified competent women teachers to this Colony. I say that because I am confident that everybody will agree with me that all those kids in the schools at Mombasa and Nairobi we want to see brought up properly as

good, honest, educated citizens, and the only way to do it is to give the Indian community the facilities so that a good education can be imparted to those children.

MR. WADLEY: I am just as anxious as the hon. member Mr. Patel that satisfactory Indian women teachers should be recruited, but I consider the resolution as originally worded covers the situation adequately, and therefore I do not propose to vote for the amendment.

MR. RANKINE: Sir, I also oppose the amendment on slightly different grounds. This debate gets more and more like a budget debate, in that everybody at the beginning stresses the need for economy and then goes on and suggests that everything else should be put up. (Laughter.) By the time we have finished it seems doubtful if there will be a single department or officer in respect of whom increases have not been suggested, and I would suggest it would be a great mistake to monkey about with this report, which is a very delicately balanced structure, in this way.

By agreement the amendment was altered to read: "but it be recommended to the Standing Finance Committee for investigation that the salaries of women teachers be equal to those of men teachers".

The question of the amendment was put and negatived.

The question of the resolution was put and carried.

Resolution No. 7

MR. TROUGHTON: Mr. Chairman, I beg to move Resolution No. 7: This Council accepts the general principle that incremental credit, subject to certain limits, should be allowed to entrants to the Service with approved professional experience and agrees that the detailed operation of this arrangement is a matter for the Government.

As regards the first part I have nothing to add to what the Commission says. As regards the second part, this is a matter of day-to-day administration. A question arises frequently regarding the filling of vacancies and quick decisions have to be of what salaries Mr. Snooks or Mr. Jones can be offered, and we endeavour to work in such a way as

[Mr. Troughton] to avoid anomalies. I commend this to the Council.

MR. HOPKINS: Mr. Chairman, I move: That the motion be amended by adding the following words: "This Council also recommends for the consideration of Standing Finance Committee and report back to this Council that district officers who get no such incremental credits on entry should be granted incremental credits on passing their first efficiency bar".

I was a little bemused as to how to frame my amendment, but I hope it is in a form that Council will be able to accept it. I ask for consideration and report back. I feel that the case for the Administration is so strong that, if it is considered, they are bound to come out better than they are at present. I have pointed out how badly the Administration comes off under the report. I gave figures to show how administrative officers are always £35 or one year junior to the salaries of the Public Works Department and Agricultural Department officers, £105 or three years junior to Public Works engineers, and £115 or nine years junior to veterinary officers. In all cases I am speaking of departmental officers who enter the Service at the same time as district officers.

I agree that an officer who has had long technical training could justly claim on the ground that his education has taken so long that he should start on a higher scale than an administrative officer, but surely a district officer could claim with equal justice that after he has completed seven or eight years and passed his efficiency bar and has qualified to undertake the very responsible duties of a district commissioner, he should then also be entitled to incremental credits to bring his terms something on a par with those departmental officers who work in his district under his guidance.

I must refer here to the remarks of the hon. Acting Director of Public Works as, if I let them pass without comment, they would give a wrong impression to some people in this Council. He stated that as there were 40 administrative districts and only five Public Works districts, it was quite clear that a Public Works engineer was more

on a par with a provincial commissioner, and on those grounds it was quite absurd that district officers and district commissioners should claim to have the same salary terms as Public Works engineers. At first sight the argument sounds quite logical, but he forgot to point out that although there are only five Public Works divisions there are a great many more than five Public Works engineers, and that there are not only five senior engineers who are qualified to take over a division who get those terms superior to those of a district officer, but every single assistant engineer on the establishment permanently is on better terms of salary than a district officer, until such time as they near the end of their service and reach the top of their scales.

Neither I nor anyone else is attacking the salary scales of the Public Works Department. I am most sorry that he should have used his eloquence to try and prove that officers in the Administration should not be treated equally as well as his own department, especially in view of the fact that departmental officers are now not only getting promotion to these new long scales, but they are, as I say, being put actually ahead of the district officer.

There is little doubt that the prestige of the post is intimately connected with the salary the post carries, and I think, therefore, that if we accept proposals which make a district commissioner inferior in salary to departmental officers working in his district of the same seniority we shall be doing not only injustice but upsetting the balance of the teams now working in the native reserves. I have good reason to believe that the country generally would not like to see the position of a district officer undermined in any way, and I sincerely hope, therefore, that members on both sides of Council will support this amendment and so help to ensure that a branch of the Service has justice done to its members who have never spared themselves to help others but who are notoriously diffident about putting up a fight in their own interests.

MR. TROUGHTON: Mr. Chairman, Government has no objection to accepting this amendment, but I should make it clear that, if it is decided in the event

[Mr. Troughton] that the principle advocated by the hon. member should be applied to the Provincial Administration, as a matter of justice it should be applied to certain other departments, too, and to more than one race, and the financial implications would be serious. However, there is no objection whatever on Government's part to the matter being considered by the Standing Finance Committee.

MR. BLUNDELL: Mr. Chairman, I rise to oppose the amendment. I do so regretfully as I am in sympathy with the case made out by the hon. Member for Aberdare. I suggest his point could be met by reducing the salaries of departmental officers so as to bear some relation to those of district commissioners for whom he craves our sympathy.

MR. COOKE: Mr. Chairman, I rise to support the motion, but I am compelled to agree with what my hon. friend the Financial Secretary has said. I think that in justice, if we give this consideration to administrative officers, we must give it to other officers who have been, as it were, unjustified by this report. I do not altogether agree with my hon. friend the Member for Rift Valley in his comments about professional officers. I was a district commissioner myself and I never felt any envy because of the fact that a professional officer was drawing a higher salary. With all respect, I do not think that the prestige of a district officer or district commissioner is in any way diminished because one of the executive engineers gets £30 or £50 more than the district officer. However, that is a small point. I should like to support the amendment, with the reservation that it should be considered in respect of other officers in the same position.

MR. HAVELOCK: Mr. Chairman, the hon. Member for the Coast said that the point he has just made was a small point—I think it was an extremely important one. I was certainly going to support this amendment in that I consider that a district officer, especially if in charge of a *boma*, one might say could be considered as the head of the community and, as such, should be paid for the prestige and responsibility which he carries. That does not mean that I

necessarily support the actual scales of salary laid down, but the principle I do support. The hon. Member for the Coast has rather cut my argument from under my feet by saying he thinks that no district officer worries at all knowing that the technical officers are drawing more salary than he is. (MR. COOKE: I do not think he should worry, he may worry.) I should like that point cleared up from the other side, if possible, because it makes a difference to the way in which I shall vote on this amendment. I would suggest that that was the point made by the hon. Member for Aberdare with regard to prestige, and in so doing he was rather supporting the contention which I made just now that senior officers should be paid more than their juniors according to the responsibility they carried.

MR. COLCHESTER: Mr. Chairman, I think I can answer the last point raised by the hon. Member for the Coast. Without in any way wishing to be unkind, I think the hon. member belonged to the days when an officer could afford to be slightly indifferent to his salary. It is no longer true that a district commissioner can afford the luxury of not caring whether he gets more than the next man in the team.

MR. EYDE: Mr. Chairman, the hon. Member for Aberdare asked for support, and hoped for support, from all sides of Council on this matter. I personally entirely support the principle which he has enunciated. I feel that if the district team is to work in harmony the commanding officer, in the form of the district commissioner, must be in a position to maintain that position and there is no question about it. I only very much regret that I cannot support the motion for reasons which I have already mentioned and which I do not propose to say again. (MR. RANKINE: Two wrongs make a right.) I cannot quite get your point in that. Had you presented the thing so that we knew what it was going to cost and what we could afford, we could have come to a reasonable decision, but when you ask us to decide the imponderable I say no. (MR. TROUGHTON: The hon. member is being imponderable!) Thank you.

MR. JONES: Mr. Chairman, I rise merely to explain in fuller detail

[Mr. Jones]

my comments with regard to the relative positions of district officer and Public Works Department engineer. The point I was making was that in an ordinary district the Public Works Department officer would be a foreman, an inspector of works, or at the most a junior assistant engineer, who would in no way be senior in salary or from any other point of view be comparable with a senior district officer who had risen to the position of being in charge of a district. By the time the Public Works Department engineer rose to the top of his scale, as I said before, he would be in the position of being in charge of a division, which covers a complete province. I therefore cannot see that the comparison of the two scales in any way affects the district commissioner's seniority in the district team.

MR. HOPKINS: Just replying to the hon. Director of Public Works about his remark that at most there would be a junior assistant engineer, if he will look at page 114 of the report he will see that the junior assistant engineer is three increments ahead of the district officer who might be in that district, who started on the same pay that he did. That was the point I was trying to make.

MR. THORNLEY: Mr. Chairman, I should only like to say that I would very strongly give my support to the amendment proposed by the hon. Member for Aberdare, but in doing so I find myself in the most unusual position of not entirely agreeing with the hon. Financial Secretary in the words which he used when he said that the Government would not oppose the amendment. I believe that the real point about it is that the district commissioner particularly is in a very special position of responsibility in his district. As I see it, his position is more special than the position of any other officer of any department in that particular district, and to that extent I do not think that we should be put off by considering the possible red herring of what may have to be done to other departments if, in fact, the Standing Finance Committee made a recommendation of the kind which the hon. member has in mind.

MR. WYN HARRIS: Mr. Chairman, I am most grateful to the hon. Member for Aberdare for moving this amendment. Over the last two months I have made a study of the effect of the Salaries Commission Report on the Administration, and it is a fact that all our younger administrative officers who are in charge of districts, and important districts, in the Central and Nyanza Provinces particularly, are finding it extremely difficult to live, and will continue to find it extremely difficult to live, on the new salary scales. It is not so much the fact that they should be paid for their responsibility, but I do consider most strongly that when men hold really responsible jobs and are really in key positions, we should ensure at least that they are paid adequately. I strongly support the amendment.

DR. RAMA: Mr. Chairman, I rise to support the amendment moved by the hon. Member for Aberdare. I quite agree that the district commissioners who are in charge of districts have very special responsibilities. While supporting this motion I am sorry to see that, as the Administration is of such importance the Government benches now (and I am glad they are supporting it) do not consider that the question of increased cost to the Colony arises at all. When the question of education, which is a very important question for all races, is considered the excuse is always made that the country cannot afford it! For all that, I still support the amendment moved by the hon. Member for Aberdare.

The question of the amendment was put and carried.

The question of Resolution No. 7 as amended was put and carried.

Resolution No. 8

MR. TROUGHTON: Mr. Chairman, I beg to move Resolution No. 8: That this Council agrees that generally there should be in all salary scales be promotion or efficiency bars, or both.

MR. BLUNDELL: Mr. Chairman, I beg to move an amendment as follows: That the following words be added: "that such promotion or efficiency bars shall be rigorously enforced". My only object is to cross the t's and dot the i's. I hope

[Mr. Blundell]

that my hon. friend opposite will accept the amendment.

MR. COOKE: I should like strongly to support that amendment.

MR. RANKINE: I should like to say straight away that the Government will accept that amendment. I do not think there is any need to stress it further because it is included several times in the report itself.

MR. COOKE: Mr. Chairman, I do not think that is entirely correct, with all due respect, because the report draws attention to the fact that it is very difficult for a man who is playing golf with somebody one day to give him a bad mark the next. So I think it does look as if the authors of the report were very suspicious that in the past efficiency bars had not been rigorously applied. Therefore I entirely agree with my hon. friend that we should get this straight and ensure that Government gives us a promise that something will be done.

The question of the amendment was put and carried.

The question of Resolution No. 8 as amended was put and carried.

Resolution No. 9

MR. TROUGHTON: Mr. Chairman, I beg to move Resolution No. 9: That this Council approves the salary scales set out in the appendices to the report, as amended by Sessional Paper No. 2 of 1948, subject to the following further amendments:—

Salaries Now Proposed

(i) Private Secretary to the Governor, £775.

(ii) Aide-de-Camp to the Governor, £600.

(iii) Surveyor, Staff Surveyor and District Surveyor, £550: £620 by £35 to £760: £830 by £35 to £1,005 by £45 to £1,320.

(iv) Senior Auditor, £1,095 by £45 to £1,230.

(v) Auditor and Assistant Auditor, £550: £550: £620 by £35 to £760: £830 by £35 to £1,005 by £45 to £1,050.

(vi) Senior Collector of Customs, £1,095 by £45 to £1,230.

(vii) Collector of Customs, £550: £550: £620 by £35 to £760: £830 by £35 to £1,005 by £45 to £1,050.

(viii) Principal, Government Secondary School (African Education), £1,185 by £45 to £1,320.

(ix) Assistant Commissioner of Prisons, £1,140 by £45 to £1,230.

(x) Inspector, Approved Schools, £1,140 by £45 to £1,230.

(xi) Warder, Prisons Service, £40 4s. by £1 4s. to £52 4s.

I do not know whether hon. members have given consideration to the way in which they would like to deal with this particular resolution. The various scales are set out in the appendices to the report, beginning at page 90. Perhaps hon. members would wish to take them all as read and proceed to vote on the resolution; or perhaps they would wish to go through them page by page. I feel that at this stage it might be better if I sought views on procedure, or would they wish me to take the whole thing straight away?

MR. PATEL: Mr. Chairman, I wish to move: That the schedule to the Sessional Paper No. 2 should be examined page by page.

MR. BLUNDELL: Am I in order in saying that I would prefer myself to have it taken straight away without going through it page by page, because, I think that under No. 10 hon. members can state anything they feel and have it examined in connexion with the 1949 Estimates.

MR. TROUGHTON: In that case, perhaps, if it is the general wish of hon. members—

THE CHAIRMAN: That is what I am trying to ascertain.

MR. COOKE: Could the hon. member Mr. Patel give us his reasons for wishing this procedure to be adopted, before voting on the matter?

MR. PATEL: My reasons for submitting that the appendix to Sessional Paper No. 2 be examined page by page are that I wish to show to this Council that the Government, in considering the recommendations made in the Salaries Commission Report, have reduced in the overwhelming majority of cases as

[Mr. Patel] regards the Asian Civil Service the salary scales recommended in the report. I have very roughly taken out the figures—

THE CHAIRMAN: I am sorry to interrupt you, but I have been thinking while you were speaking. We are in committee. Council has resolved itself into a committee to consider certain resolutions, and it has been forcibly borne in upon me that we are now going to consider some other resolution which was not ordered by the Council, and I doubt very much whether we should be in order in so doing.

MR. COOKE: I think that what the hon. member suggests would expedite proceedings, because his obvious reply to that would be take the thing item by item, instead of page by page, until he gets to what he desires.

THE CHAIRMAN: The resolution is to approve the salary scales set out in the appendices to the report, as amended by Sessional Paper No. 2, subject to the following further amendments, and Council has ordered the committee to consider that resolution. The point I want to get clear is that, if we in committee start to do something we were not instructed by Council to do, we shall be departing from the general rules of procedure.

MR. MADAN: Would the hon. member be in order in asking you to go through the appendices mentioned in Resolution No. 9?

THE CHAIRMAN: I think myself Resolution 9 must stand before us and must be debated as it stands.

MR. PATEL: I agree with you, sir. It was only because the hon. Financial Secretary asked us whether it was desirable to go through it page by page that I made this suggestion.

MR. VASEY: I take it there is nothing at this stage to prevent the hon. Member for Eastern Area (Mr. Patel) now proceeding to go through each page and express his opinion thereon?

THE CHAIRMAN: He can speak within the limits. I am not stopping him; I am only trying to keep the ship on an even keel.

MR. PATEL: Mr. Chairman, in view of that I propose to oppose Resolution No. 9, and in opposing it I wish to make it clear that I do so because the words "as amended by Sessional Paper No. 2 of 1948" occur in it.

It is very difficult to approach this subject without referring to the two services, the European Civil Service and the Asian Civil Service. As those responsible for preparing Sessional Paper No. 2 belong, owing to historic reasons and force of circumstances, to one class of people only, I want to show how, perhaps unconsciously, they have not, in the case of Asians, given the consideration which they ought to have given to the weighty recommendations in the Salaries Commission Report. In the Sessional Paper they have given three columns: the present salary scale; salary scale recommended by the Commission; and last, revised salary scale (that is as revised by the Government in the Sessional Paper). As far as the Asian Civil Service is concerned I notice that in the case of 666 members the salary scale is reduced compared with the recommendations of the Commission, while in the case of 13 only has it been slightly increased. In regard to the European Civil Service, in the case of 16 only has it been reduced, compared with 666 Asians, and it has been increased in the case of 88 Europeans, as compared with 16 Asians.

That speaks volumes and I do not think I need make any comments on it. The most unfortunate thing in this Sessional Paper is that even those Asians who occupy responsible positions as accountants or examiners in the Customs Department, and so on, are treated merely as clerks, and even in their case the salary scale has been reduced compared with the recommendations in the Salaries Commission Report. To give only one instance. As an advocate I have personal knowledge that there was a hue and cry in this Council that in regard to death duties and bankruptcy matters the accounts were not properly examined, and a special examiner of accounts was therefore appointed by the Registrar General's Department some years back. Because the scale of salary was not adequate two of them, very suitable people, left after serving for two or three years. Even in that case the salary has

[Mr. Patel] been reduced by the Sessional Paper as compared with the recommendations of the Salaries Commission Report.

I personally feel disappointed with the work which has been done in these matters and the discrimination which has been shown—I am sorry to use that word, but I cannot convey my feelings unless I speak what I feel—the discrimination used in this matter is very disappointing to me, and I am beginning to think that I am wasting my time in discussing all these resolutions and wasting the money of the colony by getting members here drawing allowances for a longer time than should have been the case. I wish that money could have gone to the Asian Civil Service instead of into the pockets of members here.

For these reasons I propose very strongly to oppose this resolution, and to put it on record, I repeat again, that the gentlemen who wrote this paper were not in position to judge correctly the needs of the Asian Civil Service and therefore have not done justice to them.

THE CHAIRMAN: This is a convenient time to adjourn for tea, is that your pleasure?

MEMBERS: No!

THE CHAIRMAN: Do you want to go on?

MEMBERS: Yes, finish this resolution.

MR. LE BRETON: Mr. Chairman, I think it would be a thousand pities if the unofficial members voted against this resolution and the whole question of the salaries of all civil servants is again thrown into the melting pot. If such a thing happened, I am afraid there might be all sorts of repercussions. It also seems to me that, on the other hand, if we now approve the scales of salaries as laid down in the report, we are cutting away the ground and qualifying Resolution No. 10, which says that anomalies will be rectified. If we have already accepted the scales, it seems to me that we are then unable to protect ourselves and rectify anomalies. I should therefore like to propose an amendment: That in the first line the word "approves" be deleted and the words "recommends that" be substituted therefor; and

further, that after (xi) the following words be added—"be referred to the Standing Finance Committee for examination and report back to Council". That will save the anxiety of the hon. member Mr. Patel about wasting the time of Council in examining all salaries in detail and make it possible for them to be examined by the Standing Finance Committee.

MR. COOKE: I wish to move two amendments. One is: that on page 15 of Sessional Paper No. 2, 91, Principal, Kenya High School for Girls, the old scale as recommended in the report of £1,200 be adhered to.

MR. TROUGHTON: On a point of order, I submit that the hon. member's proposal contravenes Standing Rule and Order No. 32 in as much as the substitution of this scale for the scale proposed would create a charge on the colony's revenue.

THE CHAIRMAN: It is impossible for me to deal with an amendment unless I can get it down. You are amending the resolution?

MR. COOKE: The resolution says: "This Council approves the salary scales set out in the appendices to the Report"—I am moving an amendment that it does not approve in this particular instance the salary of the headmistress of the Kenya High School.

THE CHAIRMAN: The approval in the resolution is subject to the following further amendment—could you not add "to add another item as they are set out in this form"?

MR. COOKE: Mr. Chairman, then I will move "and that the salary scale of the headmistress of the Kenya High School shall be £1,200 as recommended in the Report". It has been altered by my hon. friend in his search for false economy! It is page 15 of this Sessional Paper.

MR. TROUGHTON: On a point of order, No. 9 has been proposed by Government in accordance with Standing Rule and Order No. 32. I submit that this amendment would create a charge on the colony's revenue in that it would propose a higher salary than at present for the holder of the post in question, and therefore creates an additional charge on the revenue, which I submit is out of order under No. 32.

MR. VASEY: On a point of order, would the hon. Financial Secretary agree that it would be in order if the amendment that it be referred to the Standing Finance Committee for examination was carried?

MR. TROUGHTON: Yes.

MR. COOKE: I am prepared to meet the hon. gentleman, who I think is a little bit obstructive in this matter. I am prepared to add "and recommends that the salary recommended by the main report, that is £1,200, be considered". Does that meet the hon gentleman's case?

THE CHAIRMAN: I do not want a series of arguments over the wording of these things. It seems to me that while you do not negative the motion you want to negative it in part?

MR. COOKE: Yes, sir.

THE CHAIRMAN: It is very difficult to deal with one officer's salary or the salary scale for one officer at the present time without being in conflict not merely with Standing Rule and Order No. 32 itself but with Clause XXVIII of the Royal Instructions on which the Standing Rule and Order is based.

MR. COOKE: I have taken the same line as we took with other amendments.

THE CHAIRMAN: The trouble is that you want to amend resolutions without having the amendments ready. I cannot follow them, that is all.

MR. COOKE: I suggest that if we adjourn now?

THE CHAIRMAN: I proposed it a few minutes ago, but you wanted to finish this resolution. You want to add the words "and recommend that the Standing Finance Committee considers the scale of £1,200" and so on.

MR. LE BRETON: I will accept that as an addition to my amendment.

MR. VASEY: I take it that the amendment now includes the suggestion of my hon. friend the Member for the Coast that deals with the Kenya High School post?

MR. RANKINE: I move that we now adjourn for ten minutes.

MR. TROUGHTON: I beg to second!

MEMBERS: Not Divide!

Council adjourned at 4.20 p.m. and resumed at 4.30 p.m.

MR. COOKE: Mr. Chairman, I should like to propose that after sub-paragraph (xi) the following words be added: "That the salary of the Headmistress of the Kenya High School shall be £1,200 per annum; and further that the scale for matrons of European schools shall be from £385 by £25 to £560" and at the end of that "be referred to the Standing Finance Committee for examination and report back to this Council".

THE CHAIRMAN: One of the essentials of amendments is that they should be plain and understandable. May I put it this way: that after sub-paragraph (xi) the words be added: "that the matter of the salary of so-and-so and so-and-so be referred", etc.

MR. COOKE: Yes, I should be prepared to accept that.

THE CHAIRMAN: And leave out "shall be £1,200" because there you are conflicting against the rule again.

MR. COOKE: I say that this should be referred to the Standing Finance Committee for examination. I do not say they shall do that.

THE CHAIRMAN: I have got written here "shall be". I must say it is exceedingly difficult if hon. members will not do as some members do and put up their amendments two or three resolutions before we come to them, and in writing, so that I am not caught in this fashion.

MR. COOKE: Hon. members are not shorthand writers, and when a ruling is given and there are constant interruptions by my hon. friend the Financial Secretary it is quite impossible to get these amendments out in time. They are constantly being re-amended.

THE CHAIRMAN: I am prepared to accept an amendment in these terms: that the matter of scales of salary of certain posts which you name should be referred to the Standing Finance Committee.

MR. PATEL: With your permission, sir, I beg to move that the question be now put. (Hear, hear.)

MR. LE BRETON: On a point of order, does that cut out my amendment that the whole thing be referred to the Standing Finance Committee? I think that the intention is that the whole set of scales, as well as these two additional ones,

[Mr. le Breton] should be referred to the Standing Finance Committee.

MR. RANKINE: No, if the intention is that the—

THE CHAIRMAN: Can I answer one question at a time? The hon. gentlemen on the Government side, I understand, have been dealing with these resolutions for a lengthy period.

MR. COOKE: Yes, that is the reason they have the advantage over us.

THE CHAIRMAN: I think the question ought to be put in this form: that is the hon. Member for Trans Nzoia's amendment: that is to omit the word "approved" and substitute the words "recommends that".

MR. RANKINE: I beg to oppose that amendment because it will only lead to further delay; and I think that would be deplorable.

MR. DAFEL: On a point of order, I have already moved that the question be put.

MR. TROUGHTON: On a point of order, could we know on what the question be put, sir?

MR. RANKINE: Again on a point of order—

THE CHAIRMAN: I take it that by moving that the question be now put you wish to close the debate on the amendments: or do you wish to close the debate on the whole question?

MR. PATEL: On the amendment.

MR. RANKINE: May we know exactly what the amendment is, sir?

THE CHAIRMAN: The first amendment is to omit the word "approves" in the first line of Resolution No. 9 and to insert the words "recommends that".

MR. LE BRETON: On a point of order, that is only half of it.

THE CHAIRMAN: Yes, I am coming to the other half if you will only allow me. There are two further amendments: one is to add at the end of the resolution proposed by the hon. Member for Trans Nzoia the words "the Standing Finance Committee for examination and report back to Council". That is the next one.

MR. LE BRETON: On a point of order, that is only one amendment.

THE CHAIRMAN: I know you made it as one amendment, but I had to separate it because there is also a further amendment which is contrary to yours, namely, that by the hon. Member for the Coast.

MR. COOKE: I thought the hon. member accepted mine as part of his own.

THE CHAIRMAN: The hon. Member for the Coast moved that the matter of scales of salaries of the Headmistress, Kenya High School, and of Matrons of the European schools shall be referred to the Standing Finance Committee for examination and report. That is three amendments.

MR. LE BRETON: On a point of order, I did accept the hon. Member for the Coast's amendment as an addition to my own.

THE CHAIRMAN: As I understand your amendment you want everything referred to the Standing Finance Committee?

MR. LE BRETON: Exactly, sir.

THE CHAIRMAN: Therefore it conflicts. I cannot see how you can accept it.

MR. HOPE-JONES: I wonder if, possibly without interruptions from the hon. Member for Trans Nzoia, we could hear what we are being asked to vote on.

The question of the first amendment to omit the word "approves" and to substitute "recommends that" was put and negatived, the voting being 17 to 17, the Chairman not voting: Ayes: Messrs. Blundell, Cooke, Edye, Erskine, Havlock, Hopkins, Jeremiah, le Breton, Maconochie-Welwood, Madan, Mathu, Patel, Pritam, Rana, Seif bin Salim, Shatry, Lady Shaw, 17. Noes: Messrs. Andrews, Colchester, Harris, Hartwell, Hobson, Hope-Jones, Hyde-Clarke, Jones, Lowe, MacLennan, Rankine, Robbins, Roddan, Thornley, Troughton, Vasey, Wadley, 17. Did not vote: Messrs. Chmellman, Nicol, Ohanga, 3.

The second part of the amendment was not proceeded with.

The question of the third amendment—that the matter of the scales of salaries of the Headmistress, Kenya High School, and Matrons of the European Schools be referred to the Standing Finance Committee for examination and report to this Council—was put and carried.

DR. RANA: Mr. Chairman, I beg to move an amendment to the resolution by

(Dr. Rana) adding the following words: "and that it be recommended to the Standing Finance Committee to investigate the salary scales of all principals of Indian secondary schools with a view to paying them at the rate of £1,185 by £45 to £1,320, and to report to this Council".

My reason, as in the previous resolution, is that it has been found that the salary scales of Asian teachers, including a headmaster or a principal, do not go beyond £750. The European schools have a European principal, the technical education secondary school has a European principal, and I do not see why the Indian secondary school should be limited to having an Indian principal on £750. If a European principal is appointed I for one would have not the least objection, and I would strongly submit that this matter should be given sympathetic consideration by the Standing Finance Committee. I would say with all due respect that the education being imparted to the Asians is doing practically no good at all. All these big buildings are only to show the people that the schools are standing. The staff are mostly unqualified, and if you do not provide a principal with proper qualifications it is just as good as telling us that the Government do not want to give us education. I hope Government will accept this amendment. It is only for consideration and I want all three races to be considered at one level. One of the most important recommendations of Mr. Kazimi, who was sent from India specially to go into the question, was that the principal of the Indian secondary school should if possible be a European. I hope my colleagues will not tell me I am doing anything wrong, but what I want is that the principle should be that the salary must be on one scale for all races.

The question of the amendment was put and carried.

Mr. JEREMIAH: Mr. Chairman, I beg to move a further amendment: "and further recommends for the consideration of Government the possibility of adopting the Salary Commission's recommendation enunciated in paragraphs 112 and 115 of the Report". I am bringing this forward because several scales recommended by the Salaries Commission have been changed and reduced. This actually

refers to the Police and Prisons. When these people see that the Government has made reductions in their salaries as compared with the Commission's recommendations I do not think it will create good feeling. I hope Government will consider the possibility of accepting the original amounts recommended by the Salaries Commission.

The reasons given in Sessional Paper No. 2 for the reductions are not at all clear. The £3 for literates should, I think, be regarded as such to those who are illiterate, but to those who are literate already it should be taken as part of their salary. If it is only given as an allowance it does not count for the ultimate computation of pension. It is a very small amount and I do not think Government will find it difficult to accept this proposal that the £3 should be included in salary.

THE CHAIRMAN: The difficulty about this amendment is that the resolution says: "This Council approves the salary scales set out in the appendices to the report", and on a vote just taken an attempt to get rid of the word "approves" failed. If you add this you make the resolution quite inconsistent, and I think on that ground I ought not to allow it to be put. I therefore do not propose to put it from the chair.

Mr. TROUGHTON: Mr. Chairman, I beg to move a further amendment: That immediately after sub-paragraph (xi) be added: "(xii) Chief Native Commissioner, £2,150". (Mr. COOKE: Shame!)

Speaking to the amendment, I would ask hon. members to turn to page 17 of the Sessional Paper where there is a note: "The salary recommended by the Commissioner in respect of this post was £1,950" and in the margin it is stated: "It is for consideration whether the salary of this officer should not be in line with those of other official members of the Executive Council, namely £2,150". I am proposing this resolution in order that this committee may indicate its desires and feelings regarding the salary to be paid to the holder of this post, and in the event of there being opposition to it, widespread opposition, I should certainly on behalf of the Government withdraw the resolution.

The position of the post of Chief Native Commissioner is one which I

(Mr. Troughton) think is fairly well known in this country. The Chief Native Commissioner is a member, and a most important member, of the Governor's Executive Council. On the other hand, he is not an officer in charge of departments. It has been proposed by the Salaries Commission that the salaries of official members of the Executive Council in charge of groups of departments should be £2,150 on the basis of the Commission's report, and it is for consideration whether the Chief Native Commissioner's salary, although he is not in charge of a group of departments, should be brought into line. My own personal view, and it is a personal view—I am not speaking for Government on this matter—is that it should be brought into line.

The Chief Native Commissioner under the present constitution occupies a most important place in the Government, and his post is a key one. He has to be the main guardian of the interests of the African peoples of this country and he has a special and important responsibility to them. I think myself that it is proper that the post should enjoy the same rate of pay as those of the rest of us on Executive Council. At the same time Government recognizes that it is entirely a matter for this Council to decide, and there is no question of the Government whip being applied to this motion.

Mr. BLUNDELL: Mr. Chairman, may I ask the hon. member whether he would re-word his amendment to incorporate some such phrase as "that the proposal be submitted to the Standing Finance Committee for consideration and report back to this Council"? My reason is that the figure mentioned, I think I am right in saying, is not that which some hon. members on this side feel is right. I personally do not want to bandy across the floor the matter of the pounds, shillings and pence for this post, and it might well go to the Committee and be referred back to us.

Mr. EDYE: I support entirely what the hon. member has said. None of us wish to embarrass the hon. Chief Native Commissioner by discussing his personal salary across the floor of the chamber. It is one of the best reasons I have heard why the whole thing should be referred to the Standing Finance Committee.

Mr. VASEY: I support the suggestion. I find myself in this difficulty, sir, that under the constitution as laid down the Chief Native Commissioner is now the Member for African Affairs. That might not always be so. There may be an occasion arising when the Chief Native Commissioner may not be the Member for African Affairs, and if the motion as suggested by the hon. Financial Secretary is adopted we should lay down the salary level for the Chief Native Commissioner rather than the salary level for the Member for African Affairs. I therefore humbly suggest to the hon. Financial Secretary that in order to save a great deal of debate the matter should be allowed to go to the Standing Finance Committee for consideration.

THE CHAIRMAN: Before the hon. Financial Secretary replies to that question, may I ask him whether the Governor's assent has been signified?

Mr. TROUGHTON: Yes, sir.

THE CHAIRMAN: To the introduction of this amendment?

Mr. TROUGHTON: Yes, sir.

Mr. COOKE: I support the amendment for this reason—

THE CHAIRMAN: I have no other amendment except to insert this as sub-paragraph (xii).

Mr. COOKE: Mr. Chairman, I am supporting the suggestion of my hon. friend the Member for Rift Valley. I am doing it for this reason—

THE CHAIRMAN: Before discussing suggestions, I indicated that I would prefer to discuss an amendment. There is one amendment before us. If the hon. member wishes to move another, please move them, but do not let us keep on with vague suggestions.

Mr. BLUNDELL: I move this further amendment to that of the hon. Financial Secretary's—"that the salary of the Chief Native Commissioner be referred to the Standing Finance Committee for consideration and report back to this Council".

Mr. COOKE: I beg to support that amendment, but I do so for this reason, because I do not want to say anything offensive to the hon. Financial Secretary but he seems to arrogate to himself the right of proposing additions to the charge on the revenue—

THE CHAIRMAN: I especially asked him whether the Governor's assent had been signified and he said it had, and I do not think you should say that he is arrogating anything to himself at all.

MR. COOKE: It is very difficult when the hon. gentleman opposes practically every amendment from this side. He has all the cards in his hands, and he seems, at any rate to me, to be trying to get the leadership of both sides of Council and, indeed, to usurp your own functions. (MEMBERS: Withdraw!) I make that protest.

THE CHAIRMAN: There are now two amendments—one to add the words proposed by the hon. Financial Secretary, and the other to add the words moved by the hon. Member for Rift Valley, and both are open to debate.

MR. THORNLEY: Mr. Chairman, I would like to support the amendment moved by the hon. Financial Secretary, for precisely those reasons which he gave for it. I should like to add one word. The hon. member made the point that the Chief Native Commissioner is not like other official members of Executive Council because he is not in charge of a Government department. That is so, but it is inherent in that particular post that the Chief Native Commissioner must, if he is to function properly, be in the closest possible association almost to the point of sharing in executive responsibility with every single official member of Executive Council. I do not think it very seldom happens that any question of important policy on which any executive member of Executive Council has to take a decision does not affect African interests. That inevitably means that, before any decision or advice can be tendered to the Governor in Council on any matter of important policy by any executive member of Executive Council, the Chief Native Commissioner must have been in the closest consultation with that member, almost to the point of sharing with him his executive responsibility. For that reason I believe it would be very wrong, and I hope the decision will be taken, for the salary and status of the Chief Native Commissioner as a member of Executive Council not to be precisely and exactly the same as that of every executive member in charge of departments.

MR. BLUNDELL: Mr. Chairman, I am rising to support the amendment which I have put before the Council. (Laughter.) I do hope members will support it. I want to stress that there are quite a number of points that I might like to raise on this matter, but I do not wish, as I said before, to bandy them across the floor of the Council, and I believe we shall reach a very proper decision through the Standing Finance Committee and so save much embarrassment. There is also the point on which I feel as strongly as the hon. Member for Nairobi North. There is the point of the dual functions of Member for African Affairs, which seems to be the point on which my hon. friend opposite has spoken, and the functions of the Chief Native Commissioner. I have said I am not going to bandy words across the floor, and will therefore stop now and merely ask hon. members to vote for my amendment.

MR. HOPE-JONES: Mr. Chairman, I do suggest that in a matter of such importance, that while I have the greatest sympathy with the hon. Member for Rift Valley, there is another way in which this could be decided, in such a way that the Standing Finance Committee would have the necessary guidance of this committee. I suggest that the right and proper way is to ask strangers to withdraw, in which case there would be no embarrassment to the Chief Native Commissioner to have his salary discussed in this committee of which he is a member, than to have it discussed in another committee of which he is also a member.

MR. RANKINE: Mr. Chairman, I do not in any way wish to cut across that my hon. friend on my right has just said, but I should like to say that the amendment proposed by the hon. Member for Rift Valley is acceptable to Government. (Hear, hear.) As the hon. Financial Secretary said, Government considers that this is a matter for decision by this Council, and that is why it has been proposed in this way. Finally, I would merely like to say that in my own personal opinion the Chief Native Commissioner has quite as extensive responsibilities as any other member of Executive Council. Although he may not have in the same way the same executive responsibilities in that he has not a large schedule of departments for which he is responsible, nevertheless his responsibility is extremely

[Mr. Rankine] member, but on the terms that existed in the service on 1st January, 1946. When that Police Terms of Service Committee sat under the chairmanship of Sir Guy Pilling, we discovered that in our opinion the basic salaries paid to the police at that time were insufficient for anyone to expect the Police Force to maintain the high standard of integrity and loyalty that one expects and that one in the main has got from the Police Force of this country.

THE CHAIRMAN: Does the hon. Financial Secretary withdraw his amendment?

MR. TROUGHTON: I am very happy to support the amendment of the hon. Member for Rift Valley as it stands.

The amendment of the hon. Financial Secretary was by leave withdrawn.

The question of the amendment of the hon. Member for Rift Valley reading: "That the salary of the Chief Native Commissioner be referred to the Standing Finance Committee for consideration and report back to this Council", was put and carried.

The question of the resolution as amended was put and carried by 25 votes to 10. I not voting:—Ayes: Messrs. Andrews, Colchester, Cooke, Erskine, Harris, Hartwell, Hobson, Hope-Jones, Hopkins, Hyde-Clarke, Jones, Lowe, MacLennan, Madan, Nicol, Pritam, Rana, Rankine, Robbins, Roddan, Seif bin Salim, Thornley, Troughton, Vasey, Wadley, 25. Noes: Messrs. Blundell, Chemallan, Edye, Havelock, Jeremiah, le Breton, Maconochie-Welwood, Mathu, Patel, Lady Shaw, 10. Did not vote, Mr. Shatry, 1.

Resolution No. 10

MR. TROUGHTON moved Resolution No. 10: This Council recognizes the necessity referred to in paragraph 2 of Sessional Paper No. 2 of 1948 for a means of rectifying anomalies and errors, and agrees that in major cases this should be effected during the course of the examination of the 1949 Draft Estimates.

MR. VASEY: The Chairman, I am among those people who think that it is quite likely it will be found there are a large number of anomalies and errors in this report. One in particular I feel has already created a feeling of uneasiness in a force which we all place as among the primary interests of the country, the Police Force. There is a feeling that their conversion has taken place not on the terms of service as recommended by the committee which sat in 1946, and of which I had the privilege of being a

member, but on the terms that existed in the service on 1st January, 1946. When that Police Terms of Service Committee sat under the chairmanship of Sir Guy Pilling, we discovered that in our opinion the basic salaries paid to the police at that time were insufficient for anyone to expect the Police Force to maintain the high standard of integrity and loyalty that one expects and that one in the main has got from the Police Force of this country.

Here I would stress that I plead not the case of the European, African, or Asian, but of all members of that Force. I think it desirable that whoever rectifies the anomalies and errors of this report should consider this particular matter. I do not intend to move an amendment calling for a rectification of the police conversion. I merely at this stage ask Government for an assurance that the matter will be gone into. I am among those people, as I said in the report in 1946, who believe that if law and order do not prevail all else is wasted. Without law and order, without a disciplined population, all your expenditure on other services may well be money poured down the drain, and I believe that although when we face the budget session the members on this side of Council will have to do their best to cut the expenditure of this country on various services, there is at any rate one service which a great majority of us will be troubled to see that their conditions are the best possible under the circumstances.

Therefore, I will not move any amendment with regard to the Police Force, but I would move an amendment to Resolution No. 10, on different lines. The resolution says, "and agrees that in major cases this should be effected during the course of the examination of the 1949 Draft Estimates". The hon. Member for Mombasa has, I think, been here for some 10 budget debates, and I have been here for three, but my general experience is that in the hurly-burly of the battle on the Draft Estimates there is not the atmosphere to give calm and cool consideration to anomalies and errors. I think it is likely that, when the Draft Estimates for 1949 are submitted, we shall be fighting like tigers to keep expenditure within certain bounds. I think, therefore, it will be far better that this examination into anomalies and errors should be conducted at an earlier stage by another

[Mr. Vasey] smaller and compact body which could place before this Council when the Draft Estimates are considered its recommendations and its reasons for those recommendations.

I would therefore move the following: That all words after "effected" be deleted and the following substituted therefor: "by reference to the Standing Finance Committee which shall report its findings to Council for consideration".

If this is carried, I trust that the Standing Finance Committee will be able to deal with those anomalies and errors, and report them to this Council prior to the debate on the 1949 Estimates, in order that this Council shall go into that debate fully equipped with the knowledge of the errors and anomalies that may have a financial implication.

MR. RANKINE: Government is extremely glad to hear the desire expressed by the hon. Member for Nairobi North for expedition in this matter, and is quite prepared to accept that amendment.

MR. JIRAFIAH: I beg to support the amendment, and I trust that the anomalies which I think exist concerning the Police Force will be dealt with by the Standing Finance Committee and reported back to this Council.

MR. NICOL: Mr. Chairman, in the main debate I drew attention to certain anomalies between the Police and Prisons. May I commend to the Standing Finance Committee those anomalies and look for their findings when they report back?

The question of the amendment was put and carried.

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

Resolution No. 11

MR. TROUGHTON: Mr. Chairman, I beg to move Resolution No. 11: This Council agrees, however, that the Government shall have authority to correct errors and anomalies which in its judgment are not of sufficient importance to require the approval of the Legislature or its Standing Finance Committee.

There may be some minor points which arise, we do not know, and I think this resolution will be helpful.

MR. MACONOCHE-WELWOOD: Mr. Chairman, I should like to move an amendment: "Provided that such rectification does not involve a sum exceeding £50 per annum in any one individual case".

The object of moving that is clear. I think it desirable to know exactly what a small or large amount means, and so would prefer to fix it. We have a tendency on this side to greatly increase the expenditure of the Commission, and I am afraid that it might be infectious to Government. (Laughter.)

MR. TROUGHTON: I can assure the hon. member that it will not be infectious! We gladly accept the amendment.

The question of the amendment was put and carried.

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

Resolution No. 12

MR. TROUGHTON: Mr. Chairman, I beg to move Resolution No. 12: This Council approves the principles governing conversion from the old to the new scales set out in Chapter XIII of the report, as modified by paragraph 43 of Sessional Paper No. 2 of 1948; and agrees that any problems of conversion which may arise should be dealt with by the Government.

This is self-explanatory and the only reservation I would make is that we have just recently given an undertaking to the hon. Member for Nairobi North that certain police conversions should be referred to the Standing Finance Committee. That undertaking would, of course, stand.

The question was put and carried.

Resolution No. 13

MR. TROUGHTON: Mr. Chairman, I beg to move Resolution No. 13: This Council agrees to the principle that an officer must accept the new terms of service in full, or not at all. This Council also agrees that if an officer elects for the new terms of service and his new emoluments are less than his old emoluments, he shall be paid a non-pensionable allowance (to be eaten up by increments) equal to the shortfall.

This is self-explanatory. There is one point that I should like to add and that is in calculating non-pensionable

[Mr. Troughton] allowance. Members of the Civil Service widows and orphans pension contributions based on their salaries. When a person gets an increased salary he is liable to pay a higher contribution to the widows and orphans pension scheme; so it might arise under the proposals in the report as they stood that an officer would be out of pocket at the end of each month, because, although his salary and his non-pensionable allowance together show no reduction on what he had been getting before, the fact that he was contributing to the widows and orphans pension scheme at a higher rate would mean that he would be getting less paid into his banking account at the end of the month. So we propose that the assessment of this non-pensionable allowance should take into account widows and orphans pension contributions, in order that the officer may not get less paid into his banking account at the end of the month.

MR. ERSKINE: Mr. Chairman, I beg to propose an amendment as follows:—"That the second paragraph be deleted and the following inserted: 'This Council also suggests, for consideration by the Government, that if an officer elects for the new terms of service, and his new emoluments are less than his old emoluments plus two increments on the new scale immediately below the allowance (to be subsequently absorbed by annual increments) equal to that shortfall, and that for any retrospective payment, one such increment per annum shall be the minimum payable'".

The object of this amendment is to ensure that every officer will receive some sort of an increase as a result of the Salaries Commission's findings. This means that nobody will just have his salary made up by a non-pensionable allowance, which would mean that he would have to go for two or three years or more without any increments. Furthermore, I should like to say that I am aware that hidden in my amendment there is the same element of perpetuation of the family commitment of the cost of living allowance, in that the reason why an officer would benefit here is because he had rather a high rate of cost of living allowance by reason of his family commitments. I am in favour of abolishing the whole question of family commit-

ments, but that is a counsel of perfection. This abolishes it by degrees, and merely—

MR. COOKE: I take it that this is just an augmentation of Resolution No. 7 which the hon. Member for Aberdare applied to administrative officers?

MR. ERSKINE: Perhaps I ought to explain that. If the amendment to Resolution No. 7 is eventually accepted, then of course administrative officers would not benefit by my amendment because they had already received their benefit under the amendment to Resolution 7.

MR. TROUGHTON: Mr. Chairman, Government can accept this amendment in very large measure, but I do not think we can agree to the deletion of the second paragraph of Resolution 13. The amendment was in two parts—the deletion of the second paragraph of 13 and the addition of a new paragraph. The addition of the new paragraph is all right by us, but the omission of the second paragraph of 13, I think, would mean that we could not start paying any of these non-pensionable allowances until such time as examination of the new suggestions had been completed and agreement reached. That might take some time. I do not know whether the hon. member would be prepared to amend his amendment to allow the second paragraph of 13 to stand, and we in turn would be prepared to accept the new paragraph as a suggested addition?

MR. ERSKINE: Yes, sir, I accept that. That the following be added as a third paragraph. The wording otherwise works out all right.

LADY SHAW: Mr. Chairman, I beg to oppose the resolution as amended. To my mind every resolution that comes forward puts its hand deeper and deeper into the till, and as far as I can see the till before long will have nothing left in it at all. Therefore, in spite of the fact that I have the deepest sympathy with those people who suffer, if indeed they do suffer, from the position as it is at the moment, I cannot accept this amendment. Personally, I think that every proposal made for adding to this already overweening expenditure proposed in this report has to be opposed by anyone who

[Lady Shaw] has the best interests of the country at heart.

MR. WYN HARRIS: Mr. Chairman, I should like very strongly to support the amendment. As I said earlier this afternoon, I examined the administration very carefully and I think that what goes for the administrative officers on the lower salary groups who are married goes for practically everybody throughout the Civil Service, including Asians and Europeans. It does not affect to the same extent the African, because his cost of living allowance was based on an all-in cost of living and did not take into account families. The African, too, is gaining more by this report than other communities.

With regard to the Europeans, it is a fact that 50 per cent of the lower salaried groups in the Administration, all of whom are married, all of whom have families, gain nothing out of the report, and they are the very people who are in financial difficulties. I do feel that something of this sort, which does not actually perpetuate the cost of living allowance, but merely allows cost of living allowance to be paid at decreasing rate for the next two years and is therefore a falling commitment, should be supported by this Council. I beg to support.

MR. VASEY: Mr. Chairman, I find myself in very great difficulty over this one. I sympathize with quite a number of the lower and middle group of the civil servants who are going to be caught in this mill of static wages and rising costs, but I also find it extremely difficult to support an amendment which gives me no idea of the financial costs involved. If there is any hon. member either on that side of Council or on this who can tell me exactly what I am voting for in the way of money, I shall be very pleased to hear it. To my mind our attitude on this type of motion is that we must pay the civil servant as an individual the fullest amount that we can pay him as an individual carrying out a public service.

If there has been a burden, and I think there undoubtedly has been a burden upon him during the past few years, we must ease that burden and go as far as we possibly can to help him to reduce the burden of individual debt which I know

quite a number of civil servants have incurred. But the inevitable result of lifting the individual salary must be, at the time of the budget, a reconsideration of how many people we can afford to employ and how many services we can afford to keep going, and I think those two things have got to be rather delicately balanced. To accept a suggestion of this kind without full knowledge of the financial implications is one which I find it extremely difficult to do.

There is one other suggestion I would make to the hon. Member for Nairobi South who has moved this amendment, and that is I personally would feel more inclined to support it if there was a top salary limit, and that I think is something which quite a large proportion of the country would feel inclined to accept. But to suggest that this shall sweep right through the ranks from top to bottom, as it were, is I think going to antagonize quite a large proportion of the taxpayers of this country. Therefore I would respectfully suggest to the hon. Member for Nairobi South that he gives consideration to the introduction of some principle of that kind, and I would also respectfully suggest that he endeavours to inform us what the cost would be. I see the hon. Chief Native Commissioner waiting to spring to his feet, so I am perfectly sure he is about to correct me on some particular point!

MR. ERSKINE: Mr. Chairman, may I perhaps correct my hon. friend the Member for Nairobi North in regard to the top salaries? There may be some people in the top salaries who would benefit, but I have not been able to find any. My amendment only refers to those people who, without the non-pensionable allowance, would actually lose money by the introduction of salaries revision. As regards the question of the amount of money involved, I am not quite sure whether it is wise to put in a rough figure, even just for guidance, but I could not find many people who would be affected, as I said, in the top salary scales; nor have I been able to find any yet in the Asian scales or the African scales, although there may be some.

A very rough guess for the other scales which are affected by my amendment would be something in the nature of £15,000 in respect of the two increments per person, though some would only get

[Mr. Erskine] one. Then probably about £10,000 would be involved in the retroactivity, and in the second year probably something less than £10,000. Putting it at a very outside figure I should say £40,000. In working that out I took outside figures all the way, and I should not be surprised if it was 30 per cent less than that.

MR. WYN HARRIS: Mr. Chairman, I would point out to the hon. Member for Nairobi North that in point of fact the top limit would be somewhere about £720, because cost of living allowance crosses the line of the long scale at about £720. I think it is £720, but I could give him an exact figure if wanted.

MR. TROUGHTON: Mr. Chairman, I think I can help the hon. Member for Nairobi North. So far as I can make out the financial implications of this amendment it is approximately one payment of about £15. The resolution is "the Council suggests for consideration". The Government would have to consider this in Standing Finance Committee; it would have to have a meeting. There are five unofficial members of that committee and the total cost of that meeting would be about £15! (Laughter.) This proposal would not go further, unless it was specifically moved in this Council, and if the proposal was specifically moved in this Council after reference to the Standing Finance Committee we would be in a position to give a close estimate of the financial implications. At present we have no information at all.

MR. COOKE: Mr. Chairman, my difficulty is that, having voted for No. 7 I must in logic and equity vote for this resolution. I think it would cause no loss of a storm in the Civil Service as a whole if these emoluments were given only to the Administration and not to other officers in a like predicament. Actually I, with great reluctance, agreed with the suggestion of the hon. Member for Aberdare, and I only did it because I know it will all be reviewed, but it is cutting right across the recommendation of the Salaries Commission Report. The real way, as they point out, to deal with a matter like this is to pay allowances for children, and this should be paid for the children of all—not merely to people in the Civil Service, but people outside the Civil Service as well. That is the logical thing to do.

I would like to disabuse my hon. friend the Chief Native Commissioner in one respect. I do not really think these officers have suffered so much as some people make out. For many years they were drawing cost-of-living allowance, and they were drawing that cost-of-living allowance in respect very often of three or four children, and drawing it very often for children of one or two years of age, who do not really cost anything like that to keep. Consequently, they were having it both ways. They were drawing cost of living allowance in respect of these children and they were getting rebates of income tax in respect of the same children, so they have been really extremely well off in the last few years. So I do not feel any tears welling up in my eyes over this particular matter, because I think these people have had a pretty good deal. I am only supporting this motion because I am trying to be logical and because I supported No. 7, and because it will all be reviewed later on.

The question of the amendment was put and carried.

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

Resolution No. 14

MR. TROUGHTON: Mr. Chairman, I beg to move Resolution No. 14: This Council agrees that the Kenya European Civil Service, as a distinct entity with its own terms of service, should be abolished, and that the terms of that service and of the Overseas Service should be assimilated.

MR. BLUNDELL: Mr. Chairman, I wish to move the following amendment: "It further recommends that Government should evolve a scheme whereby locally enlisted officers may take their long leave in Kenya subject to the consent of the head of the department or equivalent senior officer concerned. Such officers should receive full pay and travelling warrants for themselves and families to the place in which it is intended to take their leave and return".

My sole object in moving this amendment is that as the Kenya European Civil Service is now going to be amalgamated, the officers then become liable—perhaps not liable, but eligible—for

(Mr. Blundell) overseas leave, and I would like Government seriously to consider whether they could not evolve this scheme, so that those officers who regard this country as their home could take their long leave here. I have specifically put in "head of the department—or equivalent—senior officer concerned" to cover the point raised in debate, one, of professional refresher courses, and two, mental health. That is my object in putting those words in. I hope hon. members opposite will accept my amendment.

MR. RANKINE: Government will accept the amendment.

MR. COLCHESTER: Mr. Chairman, may I suggest that the words "East Africa" be substituted for "Kenya"? It could happen that an officer was born in Tanganyika.

MR. BLUNDELL: I accept that.

MR. VASEY: Mr. Chairman, speaking to the amendment. I would like to say how pleased a number of us are that the disparity between certain members of the Civil Service and other members of the Civil Service largely disappears as a result of this decision. That is one point.

The other point is on the question of leave. It is a somewhat debatable point in the commercial world, this question of leave. One of the greatest difficulties, perhaps, that one finds both in local government service and in commercial work is that it leads to a certain amount of duplication of staff. It is, I think, correct to say that in the case of many junior officers of Government it is a somewhat unwelcome occurrence from time to time, in as much as the burden of leave at home has always been represented to me by certain members of the Civil Service as being somewhat of a hardship. I would suggest for Government's consideration—and I do not wish to move an amendment—that they should think over the possibility of offering to junior members of the Service the right to forego one overseas leave in every two, and that in return for foregoing that leave he should receive the full amount of salary due to him, and he should in return forfeit the passage money. I would not make a suggestion like that if I thought it would be compulsory, but I think that with certain of

the junior ranks of the Service it might well be accepted. There is only one qualification that I personally would make. That is, that such right should not apply to technical and professional men, because for the technical and professional man I think it is important that he should return, particularly in the case of a European, to the United Kingdom from time to time in order to receive that mental stimulus which our homeland gives.

MR. HAVELOCK: Mr. Chairman, I do not think I need to say that I support this amendment. I feel that it may be the beginning of the creation of an East African Service. I would only just like to add one word to those said by the hon. Member for Nairobi North. I think it might meet the case of some locally recruited men if it was not suggested that they should forego all one leave. They can if they so wish or the Medical Department will allow them, but it might help a lot if they could forego one, two or three months of their leave. I feel that quite a lot of strain is put on the lower grades of the Service by going on overseas leave when that leave is of such a long duration. I hope the acceptance of this amendment will be an end to an East African Service.

The question of the amendment was put and carried.

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

Resolution No. 15

MR. TROUGHTON: Mr. Chairman, I beg to move Resolution No. 15. This Council agrees that cost of living allowance should be abolished and the consolidated salaries incorporating the whole of the element of cost of living allowance should be introduced.

This is a corollary to Resolution No. 9, and does not require any explanation.

MR. BLUNDELL: Mr. Chairman, I rise to oppose this resolution. I did debate whether I should put an amendment, but came to the conclusion that it would be a waste of time. I merely want to state my reasons very shortly for opposing. I believe that to consolidate on a straight basis will prove utterly wrong, we should have attempted to have got some form

(Mr. Blundell) of partial consolidation with a buffer that rose or fell with the cost of living.

MR. PATEL: Mr. Chairman, I should like to know from the hon. Financial Secretary the grounds on which Government has taken steps to reduce the salary of 660 Asian Civil Servants from the one recommended by the Salaries Commission Report, whether it was due to the fact that the cost of living allowance did not permit the increase recommended by the Commission or whether it is merely an arbitrary method of reduction?

MR. TROUGHTON: Sir, the reductions referred to by the hon. member were explained in Sessional Paper No. 2, paragraph 2, which says: "The Government recognizes, however, that in a review covering so wide and complex a field there will necessarily be omissions and anomalies". The recommendations of the Salaries Commission were closely examined in detail, in amazing detail, by this Government in consultation with the other East African Governments. As a result, we came to the conclusion that certain proposals should be increased and certain reduced, and none of us who examined the matter counted the numbers on either side. I have to take the hon. member's word that there are 660 people getting less than the recommendations of the Commission, but the salary scales have already been accepted by Council under Resolution No. 9.

MR. PATEL: I would like to know whether in the case of these 660 people the cost of living allowances have been consolidated or not?

MR. TROUGHTON: It has been as far as we think it should be consolidated. If the amount was less than an officer was drawing, he would draw non-pensionable allowance in accordance with the second paragraph of Resolution No. 13.

MR. COOKE: In supporting the motion I would like to say that anybody who reads the daily newspapers would see that the President of the Associated Chambers of Commerce in his speech in Dar es Salaam on Monday said that in his opinion the present cost of living had come to stay, so we seem to have his authority for this consolidation.

MR. HOPE-JONES: He said that in his opinion it would continue to rise.

MR. BLUNDELL: We should view that statement with grave suspicion in view of the well-known views of the hon. Member for the Coast on distortion in the Press. (Laughter.)

MR. HOPE-JONES: I happened to be at that meeting and heard the speech, and can assure hon. members that there was no distortion whatever.

MR. MACONOCHE-WELWOOD: Mr. Chairman, I rise to oppose the motion because I for one am not prepared to pledge the future of this country on the authority of the President of any Chamber of Commerce in any way. For that reason I oppose the motion.

MR. EBYE: Mr. Chairman, I oppose the motion and associate myself with the views expressed by the hon. Member for Rift Valley. There is no need to waste time reintroducing these views that is the basic reason why I oppose the main motion.

MR. PATEL: In view of the unsatisfactory reply which the hon. Financial Secretary has given in regard to these unfortunate 660 Asian civil servants, I beg to move the following amendment: "That it be a recommendation to the Standing Finance Committee to investigate the case of those Civil Servants whose salaries have been reduced by Sessional Paper No. 2 as compared with the recommendations of the Salaries Commission Report, and to report to this Council".

MR. JEREMIAH: Mr. Chairman, I beg to move an amendment. Instead of Asian Civil Servants, delete the word "Asian" and read "civil servants", because it is not only Asians who are affected, Even Europeans and Africans are affected.

MR. PATEL: I accept that amendment. Mr. Chairman.

DR. RANA: There are certain members who wish to speak on this amendment, sir, if you will be good enough to adjourn.

The debate was adjourned.

ADJOURNMENT

Council rose at 6.05 p.m. and adjourned to 9.30 a.m. on Thursday, 2nd September, 1948.

Thursday, 2nd September, 1948
Council reassembled in the Memorial Hall, Nairobi, on Thursday, 2nd September, 1948.

His Honour the Speaker took the chair at 9.35 a.m.

The proceedings opened with prayer.

STANDING RULE AND ORDER No. 32

APPLICATION OF

On the Order of the day being called, Mr. COOKE: Mr. Speaker, before we resume in committee, I have a point of order on which to ask your advice.

You may say, why not have raised the point before? I tried twice to raise it, but was frightened and intimidated by the hon. Financial Secretary who has jumped to his feet on every possible occasion so that I was not able to get a word in edgeways! (Laughter.)

The point of order concerns Standing Rule and Order No. 32, that much discussed Standing Order. I contend that we are now not in Council but in committee of the whole Council in considering the Resolutions concerned with the Salaries Commission Report. If you will glance at Standing Rule and Order No. 29 (f), you will notice that a distinction is drawn between Council and in committee, and it is my contention that Rule 32 must be construed "Council" as against "in committee of the Council". I submit that we are perfectly in order in raising money matters and putting any additional charge on the Treasury when we are in committee, and the right and proper time for the hon. gentleman to invoke No. 32 is when this committee has reported back to Council; that is the correct time.

I submit that although you, sir, may sometimes dislike us referring to the procedure of the past, we have in the past on many occasions without being overruled by His Excellency, then chairman, raised money matters and increased the charge on the Treasury in committee. This was in the presence of no less an authority than His Excellency, who is admittedly the greatest parliamentary constitutionalist in this country. Therefore, I contend that we are perfectly in order in raising in committee of the Council points which may add to the charge on the revenues.

THE SPEAKER: First of all, with regard to the past. Hon. members must remember that in the past His Excellency the Governor was sitting in this chair. Up till just recently you were governed by the Royal Instructions passed under the Royal Sign Manual and Signet dated the 29th March, 1934. Clause XXVIII of those Instructions was in these words: "It shall be competent for any member of the Legislative Council to propose any question for debate therein; and such question, if seconded by any other member, shall be debated and disposed of according to the Standing Rules and Orders: Provided always"—"always" does not limit it to the Council or committee. "Provided always" means what it says—"Provided always, that no Ordinance, vote, resolution, or question, the object or effect of which may be to dispose of or charge any part of Our revenue arising within the Colony, or to revoke, alter, or vary such disposition or charge, shall be proposed, except by the Governor or with his consent".

Automatically, if the Governor was sitting here and permitted hon. members to do it, the Governor gave his consent. You will remember that yesterday afternoon I asked the hon. Financial Secretary whether the Governor's consent had been signified, and he said "Yes". Otherwise I should not have allowed him to move his motion.

The Royal Instructions have since been altered, when the present Legislative Council was reconstituted, and Clause XXVIII now reads not quite the same: "Subject to the provisions of these Instructions and of the Standing Rules and Orders of the Legislative Council, any member may introduce any Bill or propose any motion for debate in, or may present any petition to, the Legislative Council, and the same shall be debated and disposed of according to Standing Orders: Provided that, except with the recommendation or consent of the Governor signified thereto, the Council shall not proceed upon any Bill, motion or petition, which in the opinion of the Governor would (a) dispose of or charge any public revenue or public funds of Kenya or revoke or alter any disposition thereof or charge thereon, or impose, alter or repeal any rate, tax or duty; or (b) suspend the Standing Rules

[The Speaker]
and Orders of the Council or any of them."

There is an interpretation clause which says: "In these Instructions, unless the context otherwise requires: 'The Governor' means the Governor and Commander-in-Chief of the Colony, and includes the Officer for the time being administering the Government and, to the extent to which a Deputy for the Governor is authorized to act, that Deputy". Those are the important words, "the extent to which a Deputy for the Governor is authorized to act".

All I can do as Vice-President and Speaker of Council is to see that, before anything is brought in by way of amendment, Bill, motion or petition would not, in my opinion, because I sit as the Governor's Deputy to some extent, charge the public revenue, and unless it is brought in with the Governor's consent I cannot put it.

Mr. COOKE: On a point of order, I would respectfully say that what you have said really reinforces my position.

THE SPEAKER: I have not yet finished.

Now you are wanting to get over this by construing that in the Standing Rules and Orders the word "Council" does not mean "committee". Whether the word Council means committee or not, you have got the repetition of this proviso; it says "Provided always" that no vote or resolution the object or effect of which may be to increase or charge shall be brought in without the Governor's consent. When you have the Governor's consent I will certainly put the question for debate, but I cannot do so until there is the Governor's consent, because of the words "provided always", and there is no way of getting over that by a false construction of Council by saying that it does not include committee, when at the same time you have the fundamental document, the Royal Instructions, giving exactly the same words.

Mr. COOKE: Your ruling is that—

THE SPEAKER: You have raised a point of order, I have given my ruling on it. Indeed, not once but about three times, and it is time the subject was dropped and the Council proceeded with its business.

Mr. COOKE: I must respectfully say—
(MEMBERS: Order, order!)

THE SPEAKER: If you cannot accept a ruling I shall have to request you to withdraw from the chamber. It is a mere continuation of an argument which is closed.

We are about to resume in committee on the motions relating to the recommendations of the Salaries Commission Report.

SALARIES COMMISSION REPORT WITH SESSIONAL PAPER No. 2 of 1948

Resumption in Committee.

Council resumed in committee.

The debate on the adoption of Resolution No. 15, moved by Mr. Troughton, together with the amendment moved by Mr. Patel, was resumed.

Resolution No. 15

Dr. RANA: Mr. Chairman, I rise to support the amendment moved by my hon. friend Mr. Patel. The reasons are quite obvious and I submit that they are of quite a serious nature. On the floor of this Council very fair compliments have been paid to all sections of the Service in Kenya, including the Asian Civil Service, and I believe that they are quite sincere. Knowing the circumstances and the number of people affected which my hon. friend Mr. Patel mentioned yesterday, I feel that the Government should accept the amendment and see if there are any errors or omissions in connexion with those particular people. After all, this Council has already accepted Resolution 10, and this is a very similar proposal. I for one am not very much enamoured about the whole thing going to Standing Finance Committee, but as it has been accepted by Council that Standing Finance Committee will go into certain matters, I submit that this is a very reasonable amendment and I hope that, in order to get the Service satisfied, careful consideration as far as details are concerned should be given by the Standing Finance Committee. I support this amendment as it stands.

Mr. MADAN: Mr. Chairman, I also very strongly support the amendment proposed by my hon. leader. My first

[Mr. Madan] reason for doing that is that he really wanted to find out a good reason for the reduction in the scales proposed by the Salaries Commission Report. I think it will be agreed in all fairness that no satisfactory reply was forthcoming from the hon. Financial Secretary. The only answer that my hon. friend got was that the scales appearing in the Sessional Paper were the best that could be arranged. That, I submit, is neither a good answer nor does it disclose any logic of justification for the reductions in the Sessional Paper.

It must be borne in mind that when the Salaries Commission proposed their scales they had in mind the cost of living as it was then. That cost of living has not gone down in any way; on the contrary, it has increased. Keeping that in view it appears to be all the more unjust that the scales should be further reduced. There must be a reason for it. I find it difficult to believe that the hon. Financial Secretary has proposed these reductions out of sheer spite. To give you two examples only, if you will turn to page 35 of the Sessional Paper you will see—

MR. RANKINE: On a point of order, the hon. member says that my hon. friend introduced this out of sheer spite—

MR. MADAN: I did not say that.

THE CHAIRMAN: What did you say?

MR. MADAN: I said that I found it difficult to believe that the hon. Financial Secretary would do it out of sheer spite.

MR. RANKINE: In that case I withdraw. (Laughter.)

MR. MADAN: In fact, I do not want to believe that. (Laughter.)

As I was saying, if you look at page 35 of the Sessional Paper that will give you two examples of the 660 cases referred to by my hon. friend Mr. Patel. You will observe that the scale of £590 has been reduced to £350. You will also see that the scale £495 has been reduced to £450, but for what reason? All we ask is, for heaven's sake give us a good reason for doing that. Instead of giving something more to the Asian civil servants all you do is to reduce the scales still further, scales which are hardly enough for these people to maintain themselves.

The only reason that comes to my mind—and I do not want to believe it—is that perhaps Government is using its steamroller policy. If I am correct in that submission, then, realizing the weakness of our position and the strength of the opposite side, I suppose we will not get very far, but that again is a proposition which I would be very slow to accept. So we trust that when the hon. Financial Secretary speaks again he will at least give us a good, sound, logical reason for the action he has taken in the reductions which he has proposed in the case of Asian civil servants.

MR. HARTWELL: Mr. Chairman, the hon. Mr. Patel suggested that the people who compiled the Sessional Paper had, as I understood him, reduced the scales for the Asian Service merely because they are Asians. That is entirely untrue. Every salary which has been altered from the Salaries Commission's recommendations was carefully examined by myself and by an assistant in my office who has, perhaps, a better knowledge of the salary scales of both Europeans, Asians and Africans, than anybody in Kenya. Every alteration made received careful examination, and there was a good reason for every one. The hon. Financial Secretary referred to paragraph 2 of the Sessional Paper—

MR. RANKINE: On a point of order, an hon. member has just entered this Council without observing the usual courtesies, and that is bowing to the chair. I am sure it must have been an oversight on his part, but I ought to draw attention to it.

MR. COOKE: Mr. Chairman, it is not the custom when the Council is in committee to bow to the chair. It never has been the custom.

THE CHAIRMAN: That is a matter I shall leave to the discretion of hon. members. If members consider that the dignity of the Council is better observed when there is a committee of the Council, by making the usual bow to the chair on entering at the bar, I leave it entirely to them. I do not wish to alter anything which is the custom, I never understood it was the custom myself, but for the last few days while we have sat in committee I have observed that all members,

[The Chairman] without exception—and as far as I recollect even your good self—always bowed when entering at the bar.

MR. COOKE: Mr. Chairman, the custom of the House of Commons is the one that should prevail in this matter.

THE CHAIRMAN: I am only going by the custom here as far as I was able to observe it. Anyway, it is a matter that I leave entirely to the members themselves as to what should be or what is the practice. I do not wish to lay it down myself, but it is open to members to rise on this point of order and state it.

MR. MADAN: Mr. Chairman, I suggest that this committee should declare it to be an unwritten law that hon. members should bow to the chair on entering the hall when either in committee or in Council. (Applause.)

MR. COOKE: On a point of order, I think this should be raised in full Council, not in committee.

THE CHAIRMAN: You have the means of raising it in the whole Council as you do not wish to meet it now. But do I take it you were in any way intending a mark of disrespect to the chair?

MR. COOKE: Am I bound to answer this? Is this a court of law? (OFFICIALS: Answer!) No disrespect to the chair whatsoever. It is the custom of the House of Commons and of this Council, and I have the greatest respect for the custom.

THE CHAIRMAN: I think the matter had better drop now. (Hear, hear.)

MR. HARTWELL: I was trying to explain that all the amendments made, including those to Asian civil servants' salaries, were very carefully examined, and we had a perfectly good reason for each amendment. The hon. Financial Secretary referred to paragraph 2 of the Sessional Paper which says that errors and anomalies have been corrected; it is true that that explains some of the alterations to the Asian scales. We thought that, for one reason or another, the scale assigned by the Commission was wrong in relation to the scales they proposed for other groups, and therefore we altered them. But that was only in a small number of cases; the reasons for

the great majority of cases in which the scales proposed by the Commission for Asian members of the Service have been altered is contained in paragraphs 9 and 10 of the Sessional Paper, on pages 2 and 3—

The principle in paragraph 9 is that people who were on the pre-Kenya European Civil Service, or pre-Kenya Asian Local Civil Service terms, should on revision be placed on the terms which the Commission has provided for the Kenya European Civil Service and the Kenya Asian Civil Service respectively. We thought that we ought not to perpetuate an arrangement by which we have two sets of people of the same race doing the same work, on different salary scales. That is stated quite plainly in paragraph 9 of the Sessional Paper, but I do not believe that anybody has referred to it in the course of this debate, except myself, when I mentioned some of the grievances which the various Associations put forward. The second paragraph, paragraph 10, entitled "Asian Interim Relief Measures", says that the Government does not think it right to take into account, in converting people to the new salaries, the interim relief given in 1947. The Commission did take that into account, and in doing so they tacked additional increments on to the end of some of the Asian salary scales. We have cut these off, in accordance with the principle outlined in paragraph 10. Everybody appreciated that that was to the disadvantage of the Asian Service.

I personally still think that the principles in both those paragraphs are right. The Government approved them. Nobody so far has suggested that these principles are wrong, except the hon. Member for Nairobi North who, in the case of the Police, said that he thought that the interim revision which was given to them in 1947 should be taken into account in conversion. The Police are referred to in paragraph 10, second subparagraph. If the Standing Finance Committee is going to review that principle in the case of the Police, then in my opinion the same thing ought to be done in the case of the Asian Service; I shall be perfectly prepared to explain to the Standing Finance Committee in respect of each scale how the reduction was made and why. It certainly was not done

[Mr. Hartwell] merely because the people concerned are Asians. There are perfectly good reasons for it, as set out in the Sessional Paper.

MR. PATEL: Mr. Chairman, I have accepted the amendment moved by the hon. African Member, as I think that the ease of all civil servants' salaries in which a reduction has been made should be examined by the Standing Finance Committee, but it applies more to the Asian Civil Service on account of the large number of them who are affected.

There are two points which I must urge in support of my amendment in respect of the reply which I have received from the last speaker. There are two reasons. Firstly, as far as the Asian Civil Service is concerned, as I indicated when the motion was discussed in Legislative Council, they did not receive any examination, whereas the European Civil Service was examined three times during the last ten years by three committees, namely, the Harragin Committee, the Surridge Committee and, I think, the European Civil Service Advisory Board. In the matter of the Asian Civil Service, even the recommendations which were unanimously made by the Asian Civil Service Advisory Board were ignored and they were told that, as the Salaries Commission was coming to this country to examine the whole question, therefore these recommendations could not be examined. Secondly, right or wrong, a large number of Asian civil servants are affected by Sessional Paper No. 2, and I dare say that the reasons advanced in favour of the reductions are correct. Even so, I think that in order to remove suspicion from the minds of the Indian community, it would be advisable for the Standing Finance Committee, on which we have unofficial members, to approve the reductions by examining the cases. For that very reason, the most important reason, of removing suspicion from the minds of the Indian community, I wish the matter to be examined by the Standing Finance Committee.

MR. RANKINE: Mr. Chairman, as has already been explained by my hon. friend the Director of Establishments, there was a reason, and what appeared to the Government to be an adequate reason, for making these reductions, and

that was that certain sections of the Civil Service had received attention, or interim relief as it was called, while other sections had not, and it therefore seemed to the Government, taking the thing by and large and regarding the Civil Service as a whole, unfair that these sections should receive preferential treatment, whereas other sections, which might have equal claims but which for some reason or another had not been brought particularly to the public attention, had not. Therefore, as I have said, it was regarded as fair that these amendments should be made. Nevertheless, Government does recognize that there are two points of view in this case and would leave it to a free vote on this side of Council. (Applause.)

MR. VASEY: There is only one point that has entered into the debate that I should like to stress, and that is that the whole of the claim for Police revision, as far as I can see, was based upon the fact that a committee did sit and make certain firm and definite recommendations.

The question of the amendment was put and carried.

MR. HAVELOCK: Mr. Chairman, speaking to the amended resolution, I should like first of all to support the hon. Member for Rift Valley in the matter of his contention that there should have been retained what is called a buffer cost of living allowance, a small percentage of the cost of living as a buffer. Hon. members on both sides have put the point of view that full consolidation will lead to stability. I personally cannot agree with that. I feel that, if the recommendations are put into force, they will definitely tend to further inflation, but I should like to give protagonists of the theory that full consolidation will tend to stability the chance to prove their case. I should like, therefore, to move a further amendment: to delete the full stop at the end of the resolution and to add the words "and that no representations by civil servants for further cost of living allowances will be considered by the Government unless the cost of living index rises by at least 25 points above the present level".

Speaking to the amendment, I suspect that certain members of the Civil Service,

[Mr. Havelock] not all, are thinking that, when the recommendations of the Salaries Commission Report have been accepted, they will make representations for further cost-of-living allowances, because many of them are very dissatisfied with the present situation. I feel that in the interests of the taxpayer and the economy of the country, if the recommendations are accepted by this Council, it would be very unwise for us to commit ourselves any further, or rather to allow ourselves to consider any further representations for further expense in the future.

THE CHAIRMAN: Before we proceed with debating this I will ask the hon. Member for Kiambu whether his amendment is not covered by resolution 29, which is in these terms: "That the conclusions now arrived at by this committee of the whole Council shall, if accepted by the Council, be reviewed at the end of a four-year period or earlier should (a) the cost of living index figure vary by 25 points from that existing on 1st July, 1948, or (b) a financial emergency arise. It seems to me to be debating more or less the same matter twice. That is the only thing.

MR. HAVELOCK: I think resolution No. 29 refers to salaries.

THE CHAIRMAN: I am satisfied. I will propose it.

MR. TROUGHTON: Mr. Chairman, Government must oppose this amendment. I personally regard it as a highly irresponsible amendment—(MR. COOKE: Order, order!)—because to suggest that Government should not consider the representations of its servants is, I think, very wrong. If Government servants make representations they must be considered, but action cannot be taken on them if that action involves increased expenditure, without the approval of this Council. But it is absolutely fundamental that when Government servants make representations to Government their representations should be considered, just as if hon. members make representations to Government, as they often do, those representations are considered, and sometimes acted upon. Therefore Government must oppose this amendment to the utmost.

MR. HOPE-JONES: Mr. Chairman, I do not wish to detain this committee except for more than a moment, other than to say that I observe a certain discrepancy in the hon. member's attitude now and somewhat earlier. I do not wish to go back to past history, but I would point out that the hon. Member for Kiambu is now apparently in complete agreement with me when I say that I consider there is at least a very good chance that prices will continue to rise; Otherwise he would not be interested in moving this amendment.

MR. HAVELOCK: This is a saving clause. I do not hold myself as completely right in everything I say, as some members may on the other side. (Laughter.) I may be wrong in some cases! On this amendment, what I really am trying to get at, and I think hon. members on the other side can understand, is to make it quite clear to the hon. Chief Secretary that it is very little use and rather a waste of time for them to consider representations for further cost of living allowance unless it rises 25 points. If hon. members on the other side are prepared to convey that idea to civil servants I am prepared to withdraw my amendment.

MR. HOPE-JONES: I think the hon. member protests too much!

MR. RANKINE: Mr. Chairman, I share the views of my hon. friend on my right and oppose this amendment. At the same time, I should like to point out to the hon. Member for Kiambu that if he is going to be logical and fair he should propose that the 25 points he refers to should not be above the present level but the level at the time the Commission made its report and which is referred to in paragraph 155 of the Report.

MR. HAVELOCK: Mr. Chairman, that is a very moot point. The index figure has been thrashed out before, and I do not think many members think the Commission did take it. One hundred and sixty-five was the figure, and I am prepared to accept an amendment to that effect, although I cannot see how they get that figure.

THE CHAIRMAN: The amendment will now read: "and that no representations by civil servants for further cost of

[The Chairman]

living allowances will be considered by Government unless the cost of living index rises by at least 25 points above 165".

The question of the amendment was put and negatived by 30 votes to 3, 3 not voting. Ayes: Messrs. Cooke, Havelock, Lady Shaw, 3. Noes: Messrs. Andrews, Chemallan, Colchester, Erskine, Harris, Hartwell, Hobson, Hope-Jones, Hopkins, Hyde-Clarke, Jeremiah, Jones, le Breton, Lowe, MacLennan, Mathu, Nicol, Ohanga, Patel, Pritam, Rana, Rankine, Robbins, Roddan, Seif bin Salim, Shatry, Thornley, Troughton, Vasey, Wadley, 30. Did not vote: Messrs. Blundell, Edyc, Maconochie-Welwood, 3.

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

Resolution No. 16

MR. TROUGHTON: Mr. Chairman, I beg to move Resolution No. 16: This Council agrees that the practice of providing free quarters should be abolished, approves the principles governing housing set out in paragraphs 21 and 22 of Sessional Paper No. 2 of 1948, and agrees that details arising out of this arrangement shall be settled by the Government.

I do not think there is anything I need add to what the Commission and the Sessional Paper say.

LADY SHAW: Mr. Chairman, I beg to oppose this motion. It seems to me that we are doing a very unfair thing in giving these people money for their housing on which income tax has to be paid. We should make them pay 10 per cent for their housing, whereas they will probably not be given a house worth that rent. At present a man is put in a house and pays no rent, and another time he gets a good house. I think it is the duty of Government to provide housing for its servants, and I oppose the resolution.

DR. RANA: Mr. Chairman, I rise to oppose the motion, and my object is that it might have struck the Commission, the position of these unfortunate Government servants who have given splendid service to the colony, that they were given a definite undertaking that they would be provided with free quarters. I think it is

a great injustice to them that they were not. Now they will be compelled to pay for them out of their salaries. I do not think it will make a tremendous difference to people about to retire or who will retire in a few years, but I submit this resolution is not fair morally, and I oppose it.

LADY SHAW: May I make myself clear? I recognize that an addition to salary has been made with respect to housing, but personally I would prefer to see that addition removed and free housing given. That is the point, that free housing should be given and a proper allowance made in the salary in order to wash that out.

MR. EDYCE: Mr. Chairman, I should like to ask members to tell me, in assessing rents for various Government houses I believe the value of the house itself and the state of the living quarters are taken into account, but how is that done, what reduction is made in regard to rent charged?

MR. HARTWELL: Mr. Chairman, the point made by the hon. member Dr. Rana has already been dealt with by the hon. Member for Ukamba: these new salary scales are based on the supposition that an officer will pay for quarters, and an allowance has been made in the scales for that. As the hon. member said, if free quarters are given we should reduce the scales correspondingly, and I think that will be a disadvantage to the officer. He will in future receive his full salary so to that extent it is an advantage to the officer. With regard to the other point about a man given quarters which are not equal in value to the 10 per cent of his salary, that is covered in paragraph 22 (ii) of the Sessional Paper—(Mr. Edyc: I have read it and do not understand it.)—you want to know precisely? Any individual who thinks his quarters are not worth the rent he is required to pay will make representations to that effect. The value will be assessed by the Public Works Department and a fair rent fixed for the quarters.

MR. ERSKINE: Mr. Chairman, in connexion with the remarks of the last speaker, I am in support of this motion as it stands. I understand that the deduction is for everybody who is provided with free quarters, but supposing the quarter is not adequate, that somebody

[Mr. Erskine] lives in a tent or has their own house, they would not have that deduction? I should just mention that, in connexion with Resolution No. 7, I had intended to point out that there are certain instances where a man is given a house, and I particularly refer to the provincial administration, and that house is more in the nature of a hotel and is hardly his own. He has to put people up, everybody stays with him, and it becomes almost an annexe to Government House in the sense that he represents the Governor in that district. I had intended to suggest that when dealing with No. 16 that for people in the provincial administration it might be for consideration that such officers should have the privilege of a rent-free house. I am mentioning it now so that if the suggested amendment to No. 7 is not acceptable to Government it may be necessary at a later stage to press this suggestion of mine.

MR. RANKINE: Mr. Chairman, I am very sorry that Government cannot accept this amendment, it appreciates the reasons which the hon. member put forward.

THE CHAIRMAN: I have not got an amendment.

MR. RANKINE: The charge for housing is an integral part of the Salaries Commission recommendations, and the salary scales are based on the fact that rent will be charged for quarters. If, therefore, quarters were supplied free, it would mean a complete revision of all salary scales.

THE CHAIRMAN: Before we proceed further, could I have a copy of this proposed amendment?

LADY SHAW: There is no amendment.

MR. RANKINE: I beg your pardon.

MR. COOKE: It is just a discussion on this resolution.

MR. ERSKINE: I got up to say that I was not moving an amendment.

THE CHAIRMAN: I take it that the hon. member was supporting No. 16 and that there is no amendment as yet.

MR. COOKE: May I suggest that Government take into consideration the present value of these houses, that many

of them are dilapidated and not worth much? Will they take the present and not the past value when settling the question of rent?

MR. HARTWELL: That is the intention.

MR. VASEY: And Government will take into consideration that the rent of no house will be more than that nominally allowed by the Rent Control Board? (Laughter.)

The question of the resolution was put and carried.

Resolution No. 17

MR. RANKINE: Mr. Chairman, I beg to move Resolution No. 17: This Council agrees that there should be certain adjustments in the present arrangements relating to leave, length of tour and passages, and approves the arrangements set out in paragraphs 23 to 25 of Sessional Paper No. 2 of 1948.

I think the reasons for that are explained in the Sessional Paper, and I have nothing to add.

MR. HOPKINS: Sir, several amendments in regard to leave were put up in connexion with Resolution No. 7, which deals mainly with the absorption of the Kenya European Civil Service, and some of the points I wished to make have already been adequately dealt with by the hon. Members for Nairobi North and Rift Valley. I, however, have got an amendment that I want to put now, as it seemed to me that No. 17 was the correct one under which to deal with leave terms.

I have changed my amendment so that it should be complementary rather than repetition of proposals already put forward, and I beg to move: That the following words be added: "and this Council also agrees that the regulations which apply to overseas leave shall be amended so as to permit of the following:—(1) That all officers entitled to overseas leave shall be allowed to opt whether they will proceed overseas or spend their leave in East Africa. (2) That should an officer entitled to overseas leave decide to forego his passage privileges and spend his leave in East Africa, he shall be entitled to the cost of his return fares for himself and his family to any destination in East Africa. (3) That Government shall nevertheless

(Mr. Hopkins) have the right to insist that an officer shall proceed on overseas leave for any of the following reasons: (a) for health reasons, (b) in order that he should take a refresher or some other course of instruction, (c) for other sufficient reason".

Firstly, I should like to say that from my own experience and from my own intimate knowledge of the views of a great many Government officials, and I am in fairly close touch with what they think, I can assure this Council that there are a very great many Government servants who would not always proceed on overseas leave unless they were compelled to, and if they were in return granted some reasonable compensation for giving up their trip to England for their wives and families and themselves. Speakers have stressed the fact quite a lot that Government servants complain that they are unable to go on leave as often as they are required. This is to a certain extent true, but I would like Council to understand that there are other financial considerations which rather mitigate in favour of an officer going on leave. I refer more particularly to a fact not generally appreciated outside the Service, that is, if an officer foregoes his leave he does not sacrifice only his free passage for himself and his family but he is sacrificing two amenities—free board and lodging for himself, his wife and family which they get on board ship in journeying to England and back again. It seems obvious, therefore, that if we really wish to encourage officers and their families to spend some of their leave in the colony, we must give them a reasonable cash compensation for sacrificing not only their passages but the amenities of free keep.

Again, I should like to say that in my opinion there is possibly nothing which tends to perpetuate the idea in the minds of a Government servant that he is merely a bird of passage in this country than the knowledge that when he gets his leave he is going to be hurried overseas. It is clear that this must do quite a lot to discourage him from trying to identify himself more with the life of the country or trying to set up a home here. It is indeed most encouraging that, in spite of this disability, so many Government officers make a determined effort to

spend the rest of their lives in this country. I need hardly stress the economic benefit to the colony by having a large number of Government servants spending their pay and savings inside instead of outside this colony. I think on this side, and I think on the other side, we should like to see more and more people make this country their home, and I can think of no better way of furthering this wish than by giving Government servants—who constitute the main section of the population—every encouragement to spend their lives and acquire interests in the colony.

The purpose of the last part of my amendment, which gives Government the final decision whether a man should go overseas or not, is most important. I should like to draw the attention of Council to the fact that we are now discussing No. 17 and this is the only amendment put forward which is expressly designed to save the country money. (Hear, hear.) I feel that it will not only result in an immediate saving but will be a progressively increasing saving as people begin to realize that Mathari is not the only alternative to a Government servant if he is not hurried on leave on frequent occasions. (Laughter.) What, however, is still more remarkable is in spite of the fact that the amendment provides for less money being paid to civil servants, I do honestly believe it is going to be welcomed by them. If only for those two reasons I hope members on both sides will support it, and I think my hon. friends the Members for Nyanza and Rift Valley will be able to say "Aye" with a clear conscience and complete consistency in this case.

MR. MADAN: Mr. Chairman, in so far as Resolution No. 17 is concerned, I notice from the Sessional Paper—and I ask it merely for information—that the period of leave has been reduced for a certain section, while for another section arrangements have been made for reduced tours of service for people serving in unhealthy stations. I believe the existing arrangements are that 31 days plus 20 days for the voyage period has been reduced to 3 days without the voyage period. I hope there is good reason for this, and I am merely seeking information.

MR. MATHU: Mr. Chairman, I would like to speak on No. 17 because the leave conditions as they affect African civil servants are not clear. The African Civil Service Association in commenting on this says that paragraph 189 of the report of the Commission is not clear. The Association considers it right, however, that leave arrangements for all grades should be given, and accumulative leave should be 20 days per year which may be accumulated up to four years, and local leave 10 days in any one year. That is one aspect to which I should like to draw attention so that it can be made clear whether Government would accept the recommendations of this Association. Paragraph 189 divides the servants into two sections, and some people get longer leave than others; the Association says that leave should be the same for all African civil servants.

The question of sick leave is left out, on account both of colour and of Sessional Paper No. 2. Paragraphs 23 to 25 deal with leave conditions for European and Asian officers, and there is no mention at all of African officers, and we do not know where we are on sick leave, and we want to know what arrangements there are about travelling. If people come from the Northern Frontier, should leave start when they leave the office for Kisumu or when they get to Kisumu? There is also the question of how many pounds they are allowed on the railway, and so on. All these details I think are important, and we would like to hear what the arrangements are for these people as far as leave is concerned.

MR. COOKE: Mr. Chairman, I should like strongly to support the amendment, but I would in one small matter join issue with my hon. friend. I do not think this amendment is really expressly designed to save money; it is designed because it is a commonsense measure. Whether it saves Government money or not, I think it should be adopted because it will certainly at any rate save the various officers a certain amount of money. I strongly support my hon. friend Mr. Mathu. I also have felt for a long time that it is most inequitable and unfair that askaris and other Government African servants travelling long distances have in the past had to count the days

spent on travelling as leave. I strongly support my hon. friend on that point.

MR. MADAN: I also support the hon. Member for African Interests. I think that if any facilities for leave are provided for the African Civil Service, they should be enabled to go further afield, and that would give them a wider outlook on life.

MR. JEREMIAH: Mr. Chairman, I understand that the present arrangements with regard to African travelling facilities when on leave are only confined to Kenya. Yesterday we were discussing the question of extending travelling facilities for Europeans who may prefer to take their leave in East Africa. Would the hon. mover please state when replying whether such facilities could be extended to Africans?

MR. BLUNDELL: Mr. Chairman, I wish to support the amendment, but one small anomaly will come out of it. In the amendment which we passed to Resolution 14 we suggested, or recommended, that Government should evolve a scheme whereby the travelling was covered by a free warrant to the person's destination and return, and not as in this case 50 per cent of the passage money home for Kenya European civil servants. I just rise to draw attention to that, and I assume that, if this amendment is passed (which I hope it will be), Government will of course remove the anomaly which would then arise under the amendment to No. 14. Perhaps I have not made it clear. Under 14 we gave free warrants to and from place of leave, and under this one we are giving 50 per cent of the passage money. So there will be a slight anomaly arising there. I am going to support this amendment, but I should not like, as a result, people employed in the Kenya European Civil Service to suffer. That is all.

MR. MACONOCHE-WELWOOD: Mr. Chairman, I rise briefly to support this amendment and to congratulate the hon. Member for Aberdare for moving it. I think it is particularly creditable, as it is the first motion I think in the whole of this debate which will save any money to the unfortunate taxpayer. At the same time I think it will be of enormous benefit to certain civil servants with large families who find it a great hardship to have to take leave.

MR. HAVELOCK: Mr. Chairman, in rising to support the amendment I should like to make my position clear. I cannot agree to the principal motion in that I still consider—and I am quite certain I represent the views of the majority of my constituents—that the leave conditions for Europeans and Asians as recommended by the Commission are too generous. I feel it is time we considered longer tours, for one thing for continuity of service and secondly for economy.

MR. ERSKINE: Mr. Chairman, I rise to support the amendment and also to support the motion as amended. I think this amendment is probably something in the nature of an interim measure which will serve for the next few years, and I hope that later it will be possible to change round the present rules in regard to leave, so that an officer would need to qualify for overseas leave instead of receiving it automatically. I feel that this is an interim step which I hope will be accepted by everybody, but I must say it is most difficult for it to be accepted that there should be cash compensation for anything which has always been regarded as a privilege. In this incidence, however, I hope it will be an exception and that Government will accept the amendment.

MR. THORNTON: Mr. Chairman, I am not quite clear what my hon. friend the Member for Nairobi South meant by expressing the hope that officers would have to qualify for leave and not receive it automatically. I do not follow. I am asking for information.

MR. ERSKINE: Mr. Chairman, I should like to explain that the first qualification, quite an important one, would be that an officer had been recruited from overseas. That, of course, would be essential. I disagree with the previous speaker in saying he wanted the tours to be longer. I think that while we employ officers from overseas we can never revise the privilege of overseas leave. That will have to stay, otherwise we shall not be able to recruit people from overseas. I was looking into the future when I hoped that this colony might recruit most of its officers locally.

MR. RANKINE: Mr. Chairman, the Government could accept the amendment proposed by the hon. Member for

Aberdare with one exception, and that is with regard to (b). If the hon. member would be prepared to alter his amendment to provide for free first class travel within East Africa, but no additional claim over and above that, I think that Government could accept that, but the payment for passages is for a specific purpose to enable an officer to get to his destination. It is not intended to add to his emoluments, and I do not think I can commit the hon. Financial Secretary in that way. Apart from that, and provided it is not to the detriment of the public service, Government would certainly accept the amendment. In fact, I should say it would welcome it. It is anxious to encourage officers to make their homes in East Africa. (Applause.)

MR. HOPKINS: Mr. Chairman, in reply I should like to say that I think Government has been given complete discretion under (3), so that they can send anybody on leave for practically any good reason. In regard to (b), I think that Government is making 50 per cent, the country is getting 50 per cent out of it, and I think some more encouragement is required than a free railway passage. After all, these people do not use the railway any more than we members do when we have our free passes, and I think it would be an empty concession. I think the least Government should agree to is 50 per cent of the money they are going to save out of a person foregoing overseas leave.

MR. EBYE: You have limited it to a free railway passage, would you accept it on the basis of free passage to the destination, by whatever method—rail, road or whatever it may be?

MR. RANKINE: Yes.

DR. RANA: On a point of explanation, may I ask the hon. mover if it applies to all Government servants, or only to Europeans?

MR. HOPKINS: Yes, everybody.

MR. VASEY: I must say I would find it much easier to support the amendment moved by the hon. Member for Aberdare if the suggested alteration made by the hon. Chief Secretary were included. Members may remember that earlier in this debate on another resolution I asked the Government to consider a scheme of that kind, and in that particular case I

[Mr. Vasey] suggested that the only inducement should be the payment of the six months' salary, because I believe that that in itself would in the case of many junior officers be sufficient inducement. I would, of course, welcome the suggestion that they should be paid the cost of their journey to anywhere in East Africa, and return, for the whole family, which I think would be an additional inducement.

MR. HOPKINS: Mr. Chairman, may I say I should like to accept the amendment of the hon. Member for Nyanza; that is, that as a set-off against foregoing overseas leave an officer should be allowed the cost of his transport for himself and family to any destination in East Africa and return.

MR. RANKINE: The Government would accept that. (Hear, hear.) I should perhaps explain that there would be one reservation which would be inherent in it, and I am sure hon. members appreciate it, that the cost should not exceed the cost to which the officer would be entitled by way of passages overseas. (UNOFFICIALS: Yes.)

THE CHAIRMAN: For the information of the hon. Member for Aberdare, I have substituted "East Africa" for "Colony". I will put the question.

MR. HOPKINS: I suggest that it should also be amended to read: "He should be entitled to the cost of transport" (instead of "passages") "for himself and his family to and from place of destination in East Africa".

The question of the amendment was put and carried.

MR. NICOL: Mr. Chairman, I want to move that Resolution No. 17 be amended by the insertion after the comma following the word "passages" of the words "but does not accept those words in paragraph 182 of the report commencing at the sentence 'we also' to the end of that sentence". For the benefit of any hon. member who has not read the report, I will read that particular sentence: "We also recommend that where, in the case of a married officer with children, the passage assistance for which he would be eligible under our recommendations is insufficient to meet the full cost of his and his family's passages, the arrangement referred to above under which, at

the discretion of Government, he and his family may travel in a lower grade than the approved grade and the savings applied to his passage costs, should be continued". The acceptance of those words in the report would involve a unilateral denunciation of a bi-lateral agreement—(Applause)—The position is that there was a confidential agreement as between either the Crown Agents or the Colonial Office with the shipping companies, and this is an extract from that particular agreement which was in operation pre-war.

MR. RANKINE: On a point of order, has the hon. member an interest in this matter?

MR. NICOL: I am not a shareholder of the B.I., the Union-Castle or the P. & O. Lines.

THE CHAIRMAN: Have you no interest in the shipping of these people at all?

MR. NICOL: No. I am a shareholder in a company of agents at the Coast.

THE CHAIRMAN: You would be interested, would you not?

MR. NICOL: We would be operating an agreement on behalf of the shipping companies as their agent. The rule is that a member cannot speak on any matter in which he has a direct pecuniary interest. I submit it is not a direct pecuniary interest. Might I move that we adjourn and that we discuss this in the adjournment to clear the matter up? I am a bit fogged on it.

MR. COOKE: If the hon. member declares his interest can he not speak?

MR. RANKINE: Yes.

THE CHAIRMAN: I think perhaps that is it.

MR. VASEY: On a point of order, surely the relevant Standing Order is No. 41 which says he shall not be allowed to vote?

MR. RANKINE: My only point was to give the member an opportunity of declaring his interest.

THE CHAIRMAN: As long as you have declared your interest that is all.

MR. NICOL: The actual agreement reads: "In those cases where application is made for one of the lower grades of

[Mr. Nicol] accommodation in steamers of the P. & O. and B.I.S.N. Companies, and berths in such grades are not available, these companies agree to allot available accommodation of a higher grade without additional charge, but reserve to themselves the right of transfer to the appropriate grade as opportunity offers. Government undertakes to requisition, in each case, the appropriate grade of accommodation to which the passenger is entitled".

I submit that the practice which developed pre-war was entirely contrary to that agreement because, so far as Kenya was concerned, what happened was that the Coast Agent was allotted so many berths in a ship, and the Crown Agents at home allotted so many berths on a ship, and they filled those berths. The agents were not in a position to know whether an officer was entitled to a particular grade of accommodation or not. I have known cases where, by a senior officer travelling in a grade lower than that to which he was entitled, it caused hardship to a junior officer who had not been able to get the accommodation in the lower grade and was forced to travel in a higher grade and had to pay the additional cost for his wife.

Though this actual agreement is not operative at the present moment, it is probable that a similar agreement will be come to in the near future, and indeed the shipping companies, in my view, would have to protect themselves in some form by a similar agreement to that. To accept the words in the report which I have read, and the principle is reiterated in paragraph 187, would be wrong, for it means that the Government admit that they have broken the agreement. I do not think the Government should be put in that position.

MR. RANKINE: You have just said it was not operative.

MR. NICOL: If you accept those words in the report, paragraph 182, you accept the fact that the Government have pre-war been breaking an agreement. I do not think it is right that they should be put in that position.

MR. HOPE-JONES: On a point of order, is the hon. member in order in saying that Government have broken an agree-

ment, when at no time has the matter been taken to the courts and decided on?

MR. RANKINE: And, sir, I believe the shipping companies have acquiesced in any breaking of the agreement, if there has been any breaking of an agreement.

THE CHAIRMAN: The hon. member said afterwards that the agreement was not in force during the war, so I think his own words state what the position is.

MR. BLUNDELL: Mr. Chairman, I am going to oppose the amendment as suggested by the hon. Member for Mombasa, because I believe that the recommendation in paragraph 182 is a very proper and right recommendation. (UNOFFICIALS: Hear, hear.) I have always felt that the civil servant with a family is very penalized when he goes home and his family has to travel together with him in the grade of accommodation to which he may have risen by reason of his integrity and ability. On the other hand, the hon. Member for Mombasa has raised a point, and I believe it would very well have been covered by his drawing the attention of Government to it and by hon. members opposite noting it, so that it could be covered in any future agreement, or indeed could be covered now in negotiations with the shipping companies. I am sure the shipping companies themselves do not wish to penalize unfairly Government servants going home, and I do feel this is a matter for adjustment which need not be covered here by an amendment.

MR. NICOL: Mr. Chairman, there was no intention on my part to try and penalize the individual, but the point is that this particular question was under discussion in 1939 and the discussions were dropped because the war came along; there was no question of it going to the courts or anything like that. The fact that there was a certain amount of acquiescence on the part of the shipping companies in certain instances does not mean that the thing has been put right. All I am saying is that there was an agreement, a definite clause; the fact that it was not followed literally by both parties does not matter. But if you accept the words in this report it means that Government have been put in the position virtually of having broken an agreement. That is all I am saying. I do not think Government should be put in that position.

MR. RANKINE: I am afraid the Government could not accept this amendment because we consider the recommendation made in paragraph 182 of the Salaries Commission Report to be correct, but if that does involve any breach of any agreement we should be glad to follow the suggestion made by my hon. friend the Member for Rift Valley and to take it up with the companies concerned with a view to amending the agreement.

MR. NICOL: In that case will my hon. friend the Member for Rift Valley re-word his amendment? (MEMBERS: He has not made one.) Will he make an amendment to cover the points he made, and I will withdraw mine and support his?

MR. BLUNDELL: My point is that I am prepared to support the recommendation in the report on this matter, and I think the whole matter would be covered by the undertaking given by my hon. friend opposite, the Chief Secretary, when he said that if there is any breaking of agreement the Government will immediately take steps to put the matter right. Surely it is unnecessary to have another amendment.

MR. NICOL: In that case I withdraw my amendment. (Hear, hear.)

MR. MATHU: I should like to hear what the Government have to say about the points I raised, because I have an amendment ready to place before the committee, but if they can give us some information we shall not move an amendment.

MR. HARTWELL: Mr. Chairman, with regard to African vacation and local leave, the view we have taken was that the recommendations of the Commission in paragraph 183 of the report were reasonable and satisfactory. If you look at appendix 7 on page 224 that gives the present leave conditions of African officers. It is rather complicated because it is divided into three lots: the African Civil Service pre-1943 terms; African Civil Service; and officers holding posts not scheduled in the African Civil Service, but if you compare vacation leave and local leave which is given there, the Commission's recommendations compare favourably with it. Government thinks that the proposal that African officers

should be divided into two groups for this purpose—that is the Commission's Grade II and upwards 28 days, and the other 22 days—seem to be reasonable. We also thought that the Commission's proposals regarding accumulation, which are in the second sentence of paragraph 189, were reasonable.

With regard to travelling time, the Commission left that out altogether. It said that travelling time is not allowed in the case of African civil servants and officers holding posts not scheduled in the African Civil Service at present. I think it would be reasonable to allow travelling time in future, to enable officers to get from their station to the place of their leave. We already have that in mind, as a matter of detail, for the circular to be issued if the report is approved. With regard to sick leave, the Commission left it out altogether. We did not overlook it, but did not think it was a matter which need be put in the Sessional Paper. The intention is to treat African officers in exactly the same way as Europeans and Asians for the purposes of sick leave.

MR. MATHU: What about the point raised by the hon. member Mr. Jeremiah in regard to travelling facilities for Africans to any part of East Africa in the case of overseas leave—that is, if they want to take leave in Dar es Salaam or Kampala? Why should that not be provided for as we have recommended in a previous amendment?

MR. HARTWELL: This is a point we had not considered, but we think it would be reasonable to allow that concession, provided that the cost of the journey does not exceed what it would cost if he was going to his own home.

MR. MATHU: That would not happen, because if an officer has to go to Kisumu, surely the cost of his transport to Dar es Salaam must be more than the cost of his transport from Nairobi to Kisumu?

MR. HARTWELL: The principle of paying passages is to enable an officer to go to his own home when he goes on leave. That is the fundamental principle of the thing. That is why we give a European officer a passage to England or a New Zealander to New Zealand to enable him to visit his own home. We have agreed in the case of people who

[Mr. Hartwell] prefer to take their leave in East Africa because the cost of travel is to be limited to what they would get by way of passages to their own home. It seems to me that it would be logical in the case of the African, if he chooses to go somewhere other than his own home, to limit the reimbursement—which a man may receive to what he would receive if he went to his own home.

MR. MATHU: I am not satisfied.

THE CHAIRMAN: Why not move your amendment? That would be a much better way of proceeding.

MR. MATHU: I should like to do that before you put the question. May we have an opportunity of considering our amendment in the adjournment? I move that the committee adjourn.

The Committee adjourned at 11.10 a.m. and resumed at 11.25 a.m.

MR. MATHU: Mr. Chairman, I beg to move: That the resolution be amended by adding: "and that leave conditions for African civil servants shall be (a) 30 days per year, of which 20 shall be accumulative up to 80 days, travelling facilities to be provided to any destination in East Africa should the officer opt to spend leave outside the colony; (b) sick leave as provided for in paragraph 176 of the Salaries Commission Report; (c) that leave starts on the date that the officer reaches his destination".

The first part of my amendment, 30 days' leave per year, differs very little from the recommendation of the Commission in paragraph 189: Instead of splitting the Service into two, the juniors getting 22 and the senior grades 28, we ask for 30 days for all. The other difference is that we are asking that an African civil servant if he opts so to do should be given travel facilities to any destination in East Africa to spend his holiday. I think it will be appreciated that the African civil servant requires to widen his outlook, and if he could get travel facilities for a longer distance than East Africa it would be to the benefit of the African civil servant and the Service itself.

The point raised in regard to the cost, that it should not be more than it would cost to send the officer to his own home, would negate this request, because the

principle which has been accepted in regard to non-African officers does not apply here. The cost of transport to the United Kingdom and India is definitely higher than the cost of transport to any part of East Africa. Therefore, the point which we have put in the amendment proposed by the hon. Member for Aberdare is in order that the cost will not be exceeded. But I do not think it is going to be the practice for all African civil servants who have these travel facilities to travel outside Kenya, because, as most hon. members know, most of them, if they accumulate their leave, spend it at their own houses in the native land units, and they will not require to go to Uganda or Tanganyika as they would not then have time to attend to their family affairs. Therefore I do not think it will be a very excessive cost to the revenue of the country if Government and this Committee agree to this particular request.

As to (b) of the amendment, I only put it down because Government has already agreed that sick leave will be the same for all officers, and I do not need to dwell on that.

Part (c) is only to put down formally that Government have already accepted that travel time will be considered and that leave starts when an officer arrives at his destination and that the time spent in travelling will not count as leave. I should like to suggest to hon. members that we shall be doing a very good service to the African and to the Service generally if we accept the two points of my reasons, leave for all servants irrespective of grade and travel facilities to any destination in East Africa if an officer and his family desire to spend a holiday outside the colony. I think this will be greatly appreciated by the African Civil Service, and will add to its efficiency.

MR. HAVELOCK: Mr. Chairman, I should like to take the opportunity of asking for some information on the subject of leave for Africans.

On what grounds do Government recommend that leave for African civil servants should be of longer duration than that of the indigenous people of Britain, for instance? I understand that there a civil servant gets 14 to 18 days a year, whereas in Kenya it is recommended that the indigenous people shall get 22 or

[Mr. Havelock] 28. On what grounds do Government make that recommendation for longer leave than the indigenous people in the Commonwealth? Is it that he may return to his family in the native land unit? If that is the case, is it not the responsibility of Government to provide married quarters for the African civil servant so that they can keep with them their families and so not have to go back every three or four years to see their families in the reserves? If they did supply such quarters, Government should consider reducing the leave, and should supply such quarters quickly so that a class of African could be brought into being who would not be a burden on the already congested African areas.

MR. COOKE: Mr. Chairman, I would like to support parts (1), (3) and (4), but I find myself in certain difficulties over No. (2), because I do not know whether the mover of the amendment means that an African born and bred in Kenya should have free travel to Tanganyika and Uganda. If they are inhabitants or nationals of Tanganyika or Uganda then I would support it, but I do not see why Kenya Africans should get free travel anywhere except to his own home. It would lead to another injustice for Ireland, because when I was in the Service I got free travel to England, but not to my own country of Ireland, for which I had to pay. Possibly I shall get retrospective payment if this amendment is passed! (Laughter.) I do not wish to be disrespectful to the Africans, there is a very large number involved, and there is a tremendous chance of abuse. When you are dealing with Indians and Europeans and Arabs, they are comparatively few in number, and it would be difficult for anyone to get away with it, but it must be difficult to check thousands of Africans going on leave whether they want to proceed to Tanganyika or Uganda or say to other places.

MR. THORNLEY: Mr. Chairman, we on this side of Council feel exactly the same about this amendment as the hon. Member for the Coast. We are prepared to go the whole way with the hon. member Mr. Mathu on his amendment except in so far as he suggests free transport should be provided for African servants going on leave in excess of what it would cost to arrange for them to go to their

own homes. That would raise a completely new principle. The yardstick that we have adopted in dealing with these matters—in so far as it affects the other Services has always been, what would it cost for a servant to go back to his home? I really do not see any reason why we should depart from that yardstick in the case of the African civil servant. But I would repeat that on all the other points the hon. member Mr. Mathu has made, we are on this side perfectly ready to accept them.

Regarding the point made by the hon. Member for Kiambu, it is the policy of Government to establish as we can married quarters for our staff in the African Civil Service. In some places we have already made provision for married quarters. We have not yet been able to make this provision in every station where African civil servants are posted. It may be some time before we have satisfactory housing for all of them. In the meantime, we do feel it is reasonable that once a year or, if he prefers at longer intervals, the African and his wife if they still have contacts and friends in the native land unit should be enabled to go back and renew those contacts.

MR. BLUNDELL: Mr. Chairman, might I ask the hon. member Mr. Mathu to withdraw from his amendment what I believe appears as (b), free travel all over East Africa, and put that as a subsequent amendment, as many members would vote for his amendment but for that? He can raise it as a separate issue later.

On the question raised by the hon. Member for Kiambu, I am in agreement that we should ultimately attempt to give the indigenous peoples here the same amount of leave as people from elsewhere. There is the point that, from my own experience, many Africans who go on leave are property owners, and the settling of disputes over that property will take much longer. I think the point of the hon. Member for Kiambu would be covered by an assurance that as and possible leave conditions would be equalized.

MR. MATHU: Sir, I would like to agree that in (a) the words appearing after the 80 days be deleted. That is where I am asking for free transport for African civil servants and their families to any place in East Africa; that matter can be dealt with

[Mr. Mathu] later. In regard to the point raised by the hon. Member for Kiambu, that leave for Africans should be reduced because they are indigenous people, I do not think we could accept that. The reasons have already been given by the hon. Deputy Chief Secretary, and the hon. Member for Rift Valley mentioned another. The third one is that the cost of living in the townships is extremely high, and when these servants are on leave they are definitely relieved of the conditions of living in townships, and consumption must be less, it does not matter by how small an amount, and it is important, I think, that they should do so. Another reason is that the family commitments of the African civil servant at the moment is such that they have not yet become detribalized. It has not come to having their relations in the townships and will not for a long time until conditions in the townships and other urban areas so improve as to enable the African to live decently in those towns. I think that is the only point to which I should like to reply, others have been covered. With regard to the hon. Member for the Coast, I should like him to get free transport to his own country. Why he did not get it I do not know, and if I had been here in those days I would have helped him to get it! (MR. COOKE: Thank you!)

THE CHAIRMAN: You accept the suggestion that the words "travel facilities outside the colony" should be dropped from (a)?

MR. MATHU: Yes.

MR. THORNLEY: Mr. Chairman, I am not sure that the hon. Mr. Mathu does not want to keep in that amendment the request that the travel expenses as far as the home of the African civil servant should be met by Government. As it reads now, there is no reference to those expenses.

THE CHAIRMAN: If there is no formal amendment to an amendment, you must appreciate that it is very difficult for me to follow. If you make suggestions across the floor they are apt to be lost in the air!

MR. COOKE: It is very easy to get them.

THE CHAIRMAN: I daresay it is, but if someone would move an amendment to the amendment we can get the words formally recorded.

MR. MATHU: Having withdrawn those words, it now means an officer going to his home, that is what destination implies, and I do not think Government would object to that.

By agreement, the amendment was worded: "and that leave conditions for African civil servants shall be (a) 30 days per year, of which 20 shall be accumulative up to 80 days, and that travel facilities be provided for an officer and his family to his home; (b) sick leave as provided for in paragraph 176 of the Salaries Commission Report; (c) that leave starts on the date that the officer reaches his destination".

The question of the amendment was put and carried.

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

Resolution No. 18

MR. COOKE: On a point of order, before we proceed to Resolution No. 18, do we understand that, in the unfortunate absence of the hon. Financial Secretary, the Government has agreed to my interpretation of Rule 32 that you can add to the charges of this country as we have just done in a previous resolution?

MR. RANKINE: No.

THE CHAIRMAN: I do not think it is a point of order at all, but anyway you have not asked for a ruling on a point of order. You asked a question without notice! (Laughter.)

MR. COOKE: The principle has been adopted now, so I presume we can apply it to the rest of the resolutions.

MR. RANKINE: Mr. Chairman, I beg to move Resolution No. 18: This Council approves the general principle of free pensions for all permanent establishment posts irrespective of the race of the occupant, subject to the qualifications contained in paragraphs 26 to 37 of Sessional Paper No. 2 of 1948.

In view of the fact that there has already been considerable discussion on this question on the main motion, and the fact that the reasons for this recommendation are fully set out in paragraphs 222

[Mr. Rankine] to 233 of the Commission's report, I do not think I need take up further time of the Council:

MR. BLUNDELL: Mr. Chairman, I should like to ask a question of the hon. Director of Establishments. In Sessional Paper No. 2, paragraph 35, it suggests that Africans who were not on a provident fund basis but who now come on a free pension basis should count the whole of their service towards the pension. It is quite clear. In paragraph 36 it says that those Africans who were in the old Arab and African Clerical Service who declined the terms can only count half the period before they got on to the free pension, up to 1942. There seems to be an anomaly there. If Africans who were on provident fund terms can now get free pensionability right back from the date of entry, why cannot these African and Arab civil servants who declined the terms previously also be accepted? If one set of conditions is correct for the one, is it not correct for the other? I should like that point cleared up because it seems to me that, if you accept paragraph 35, then you are doing an injustice to the old Arab and African clerical service under paragraph 36, or am I wrong?

MR. HARTWELL: Mr. Chairman, we think that the hon. Member for Rift Valley is wrong and that the proposals in the Sessional Paper are right! The position is that when the African Civil Service came into existence in 1943 it was stated at that time that there would be a provident fund. In fact there was delay in introducing the provident fund and, through no fault of theirs, they could not start contributing to it. We therefore think it is reasonable that the previous service of these people should count fully for pensions from the beginning, although they were not in fact for the whole of their service contributing to a provident fund.

In the case of people on the Arab and African clerical service, they had an opportunity of transferring to the African Civil Service, if they wished to do so, when it was introduced. If they had entered the African Civil Service they would have had to contribute to a provident fund when it came into existence. They elected to stay out of it.

Therefore we think it reasonable that only half of their previous service—that is prior to the introduction of the African Civil Service—should count if ultimately they elect for the new terms and become pensionable.

MR. HAVELOCK: Mr. Chairman, the matter of free pensions perturbs me very greatly, especially from the economic point of view. It means a commitment for years ahead of a sum of which we know really nothing. No figures are possible, so we are told, and no idea can possibly be given of our real and ultimate commitment. Apart from that, I feel that a contributory pension scheme is very much more tidy. I may be wrong, but I personally consider that it makes for easier accounting. I also think that psychologically it is a very good system from everybody's point of view. I realize that there would be difficulty in transferring from one colony to another if certain officers who were on a free pension had to be transferred to a contributory scheme in Kenya. I think even that could be overcome by an addition to their salary in order to allow them to pay the contribution. I feel so strongly on this, especially on economic grounds—and on this particular point I think my views are held by many people in this country—that I regret I have to oppose this resolution.

DR. RANA: Mr. Chairman, first of all I support the resolution moved by the hon. Chief Secretary wholeheartedly, even taking into account all the disasters which the hon. Member for Kiambu mentioned. After all, we have heard enough during the past three weeks of the dissatisfaction prevailing among all ranks of the Government Service. A pension is one of their dues and I think it was due long ago, and they are entitled to it. If a pension is given, naturally their salaries may be lower.

With those few words I should like to move a small amendment which is in the form of an addition, and that is that a comma be substituted for the full stop at the end of Resolution No. 18 and the following words added thereto: "but recommends that all contributions so far made by officers to the provident fund be returned in full to such officers".

[Dr. Rana]

I know it is a very controversial question, and that I will be told by Government that these people are being given a free pension and that, therefore, whatever has been contributed to the provident fund is due to the Government. On the other hand, perhaps the reply may be that if they do not like it they are entitled to remain on the provident fund. My submission is that at the time when the question of a provident fund was raised there was unfortunately no free pension scheme, and the provident fund was brought in for those people who were not entitled to have anything. It particularly applies to the lower groups of the Service of various races, and they felt that whatever little they have contributed to the funds would be for their own good in the future. Now that small amount is being reserved by the Government. In the circumstances I should like to move that the Standing Finance Committee give consideration to their request. I do not know what the financial implications are, whether they are great or small or nothing.

MR. RANKINE: Mr. Chairman, with all due respect to the hon. member who moved it, Government regrets it cannot accept this amendment. Those officers who were on a provident fund basis and were contributing for a pension, if they opt to the new terms they will still get a pension. Whether or not their salaries were meagre is a matter of opinion, but all the same their salaries were based on the fact that they were contributing to their pension, and therefore it does not seem to be equitable to return the amount to them.

The question of the amendment was put and negatived.

MR. MATHU: Mr. Chairman, I rise to support the resolution and to say that the African Civil Service think that the best recommendation of the Salaries Commission, if accepted by Government, is this question of a free pension. They had one criticism, and that was that the members of the old Arab and African Civil Service who did not choose to enter the Civil Service in 1943 did not have their pension computed in full. On reflection I think we all agree that

Government has been generous on that score and I think it would be foolish to pursue the subject further. Another point that weighed heavily with us in accepting this motion is that Government went beyond the recommendation of the Commission, in that the Commission had excluded Grade III from the right to pensionability, and Government went further and included members of the Civil Service on Grade III in the free pension scheme. We think therefore that the Government has been very fair in this one, and we would like to support this resolution as it stands.

MR. HOPE-JONES: Mr. Chairman, I rise to support Resolution No. 18. In doing so I wish to state personally that I have a great deal of sympathy with the view expressed by the hon. Member for Kiambu. I personally would prefer to see contributory pensions throughout the colonial service because I think it is sound policy. However, I do see a very grave difficulty, which I think the hon. Member for Kiambu himself saw, and that is that there are transfers from one territory to another. I think the hon. Member for Kiambu shares my view, and the view of many other members of this Council, that we would like to see an East African service. Transfers between the three territories would obviously be very easy if it was an East African service. I do see a difficulty there.

But there is another way of dealing with the question. The question of contributory pensions as against free pensions is not primarily one as to whether it will cost more in regard to the employment of an individual officer, but I do suggest that, as the hon. Financial Secretary was, shall I say, somewhat appalled by the prospect of the rise in the pensions bill in the future, I personally would welcome some indication of the Government's views as to whether they are going to put free pensions on a fund basis, as opposed to the present basis. I know my hon. friend the Chief Secretary will not mind my raising this point. I do think it is relevant to the discussion in this Council, and if it was possible for a reply to be given as to whether we anticipate a funding basis for our free pension scheme then I think the perfectly

[Mr. Hope-Jones] legitimate doubt in the minds of certain hon. members opposite would at any rate be removed in part.

I beg to support.

MR. RANKINE: I think the answer to the last question is given in paragraph 48 of the Sessional Paper.

The question of Resolution No. 18 was put and carried.

Resolution No. 19

MR. RANKINE: Mr. Chairman, I beg to move Resolution No. 19: This Council agrees that an exception to the general rule referred to in the previous resolution shall be made in the case of certain of the lower grades of the African Service, and approve the proposal contained in paragraphs 30 and 31 of Sessional Paper No. 2 of 1948, that pensionability in the case of Africans shall cover the Commission's Grade III and above.

The reasons for that are, I believe, sufficiently explained in the paragraphs of the Sessional Paper referred to.

MR. MATHU: As I referred to that particular point when speaking on the previous resolution, I do not want to say anything more, except that we African members support this resolution.

The question of Resolution No. 19 was put and carried.

Resolution No. 20

MR. RANKINE: Mr. Chairman, I beg to move Resolution No. 20: This Council also agrees that the Public Service Commission (when it comes into existence) should examine the establishment of each department and advise Government whether any additional posts should be made pensionable.

I believe that that is self-explanatory.

MR. VASEY: Mr. Chairman, before any debate is started on this resolution, there is something I would like in the way of personal explanation from the Government side.

This resolution states: "This Council also agrees that the Public Service Commission (when it comes into existence)". It has struck me as being a somewhat strange resolution in that there is

nothing in the general resolution which says that this Council agrees to a Public Service Commission. This Public Service Commission is referred to in the last chapter, XIV, of the Report, under the summary of principal recommendations:

"(xxiii) Public Service Commissions should be set up for the purpose referred to in paragraph (xvi)". In paragraph (xvii) it says: "The task of advising governments which posts should be pensionable, which on provident fund terms and which, in the case of the very lowest grades, on gratuity, should be undertaken by the Public Service Commission", and refers to paragraphs 226 and 287. In those paragraphs the composition also of the Public Service Commission is laid down, and I would like to know whether this is the competent resolution on which to make suggestions and to discuss the composition of the Public Service Commission or, indeed, for the Council to decide whether a Commission is to be appointed. I feel that the words "(when it comes into existence)", are rather a laconic way of suggesting the appointment of a most important part of machinery of Government establishment, and I would suggest that some other form of enabling this Council to agree that a Public Service Commission should be found rather than just five words put into brackets.

MR. HARTWELL: Mr. Chairman, paragraph 39 of the Sessional Paper deals with the question of the Public Service with the question of the Public Service chief establishment officers. Government thought, before arriving at any conclusions about a Public Service Commission and appointment of boards, that it would be well to consult the Service Associations and Advisory Boards, and immediately the Report and the Sessional Paper were published those bodies were addressed and asked to state their views about the Public Service Commission. That was done because both these bodies will take the place of the Civil Service Advisory Boards if the new bodies come into existence. So far, neither Associations nor Advisory Boards have replied; at least, I think some have, but not all, have sent final replies. Therefore, so far, no final conclusion has been reached regarding this particular recommendation. Nevertheless, it was thought that

[Mr. Hartwell] when the Public Service Commission or whatever form it ultimately takes comes into existence, it is right that, as recommended by the Salaries Commission the Public Service Commission should consider questions of pensionable cadre. That is why Resolution No. 20 appears, although that resolution does not refer specifically to bringing the Commission into existence.

MR. VASEY: Mr. Chairman, while accepting in part the explanation given by the hon. Director of Establishments, I reiterate that this is a point on which the opinion of this Council should have had full play.

THE CHAIRMAN: May I point out that the final Resolution No. 30—which will be debated in Council if we ever get to it—[laughter]—will cover a considerable amount of discussion on a point of this nature? As you confess not to be speaking to the resolution exactly, would it not be better to leave it until that stage is reached?

MR. VASEY: I bow to your ruling, sir.

THE CHAIRMAN: I do not want to stifle discussion on anything. I suggest as another course that you should formally move an amendment adding a recommendation of what you require.

MR. VASEY: I bow to your ruling, sir, and I in common with most members do not want to see the whole of the matters on everything we have discussed in committee dealt with again in the main Council under Resolution No. 30. It is for that reason that I asked this question. In the hope that Government—as I suggest that as it means expenditure I am unable to move it from this side—should somewhere in these resolutions put in one to enable members of this Council to express their opinions on the wisdom or otherwise of a Public Service Commission. That is the position.

MR. COOKE: Mr. Chairman, as my hon. friend has said, this is a very important resolution, but I should like on behalf of the European Civil Service Advisory Board, of which I have been a member since its inauguration, and on behalf of the Civil Servants Association,

with which I was in touch yesterday, to say that they welcome the establishment of the Public Service Commission. But they definitely lay it down—I hope I am in order—that the personnel of the Commission is a matter of great importance, and they are rather worried by the fact that the Sessional Paper rather adumbrates that there may be a change in the personnel of the Commission. I want to make it perfectly clear on behalf of the civil servants that they would not be satisfied with the hon. Financial Secretary being a member of that Commission. In a job of that kind—and I am not saying the present holder of that post does not possess those qualities—it is absolutely essential it should be a man of broad human sympathies.

MR. HOPE-JONES: On a point of order, does the hon. member imply that the hon. Financial Secretary has not got those?

THE CHAIRMAN: I certainly think so.

MR. COOKE: And it is absolutely essential and is very much underlined and emphasized in the main report, and they make this a very strong point, that the chief establishment officer must not be subordinate in any way to the Financial Secretary but he must be subordinate to the Chief Secretary. May I read what they say? "While it is obviously right and proper that proposals involving additional expenditure should be discussed by the chief establishment officer with the Financial Secretary, it is neither right nor proper that the latter should be the chief adviser of Government on the merits of such proposals as distinct from their financial implications. There is high authority for saying that no man can serve two masters, and it is not right to require any officer to do so by entrusting him with the duties of custodian of the public purse and those of guardian of the interests of public servants." This is a vital point with civil servants, and strong as it is it is not as strong as individual members of the Commission said when I was personally giving evidence to this Commission. It is a vital point that if this body is to be set up the chief establishment officer must be a member, and it is also a vital point—and here I must join issue with the Sessional Paper where it says that

[Mr. Cooke] "Government accepts these recommendations", the ones I have referred to in paragraphs 300 and 306, "subject to the important qualification that the Financial Secretary must remain responsible for salaries and conditions of service". I have the strongest resolution on behalf of the Civil Servants Association taking direct exception to that, and strongly advocating that the chief establishment officer should be subordinate only to the Chief Secretary. I cannot too strongly emphasize this point. It is a matter upon which the whole of the recommendations of the report depends to a great extent.

The only way to secure harmony in the Civil Service, not the only way but the chief way, is by properly running the Public Service Commission, and it is essential in the views of the Salaries Commission itself and in the views of the civil servants of the country that the Chief Establishment Officer must be a member of that body. I am not in any way paying excessive compliments to the person concerned who is a member, but, leaving personalities entirely out of it, the man who holds that job must be a member of the Public Service Commission. I would like to emphasize that point, and I only support this resolution if I get the promise from the other side of Council that that indeed will be the case, that one of the members will be the chief establishment officer—definitely and that he shall not be subordinate to the Financial Secretary.

MR. RANKINE: Mr. Chairman, in reply to what the hon. Member for the Coast has said, Government will take note of the comments he has made on the question of the establishment and personnel of the Public Service Commission, and later in the debate, if hon. members opposite wish a further opportunity to be made for debating this particular question, Government will consider putting up an alternative resolution.

MR. BLUNDELL: Mr. Chairman, I beg to move: That the following words be added: "and recommends that a committee be appointed (1) to inquire into the possibility and advisability of taking immediate steps to establish a Public

Service Commission, and (2) to make recommendations on the personnel of that Commission".

I am putting up this amendment simply to cover the points raised. I think that many of us wish to see the Public Service Commission in being as soon as possible. I contend that the words in brackets "(when it comes into existence)" may be like Halley's comet, which appears once in 22 years, and so I put this up as a way out of the difficulty.

MR. RANKINE: Government has no objection to that amendment.

MR. COOKE: I support it.

THE CHAIRMAN: Then there is no need to put it.

MR. VASEY: On a point of order, the hon. Member for the Coast does not speak for all of us.

MR. HAVELOCK: Could we have an assurance from Government that there will be unofficial representation on that body?

MR. COOKE: They have very strong representation in the Civil Service Association.

MR. ANDREWS: And the Financial Secretary.

MR. EDYE: I am not quite clear from what the hon. Member for the Coast said, whether he was suggesting that the hon. Financial Secretary should not be a member? (MR. COOKE: Yes.) I do not like that at all. I would support the amendment so that we have a chance of discussing the position. It seems to me not quite proper that the Financial Secretary, who is responsible for the finances, should be divorced from the Commission which in fact will have to advise Government on expenditure, and I am not prepared at the moment to agree to such a step.

MR. VASEY: Mr. Chairman, perhaps at this stage I might give a little account of the experience of Southern Rhodesia. There the equivalent is a Public Service Board. It does not have any representative of the Minister for Finance on it. It has in fact not to advise Government on expenditure—it merely sets out the terms and conditions upon which officers

[Mr. Vasey] will be employed. It is the Parliament which decides how many of those officers it can afford to employ. It has been found there to be rather inimical to the general goodwill and interests of the Service to have on the board on that account the Minister for Finance, whose one constant watch must be to force expenditure and wages down.

MR. RANKINE: On a point of order, I do not want to interrupt the hon. Member for Nairobi North, but as the amendment suggests that a committee be appointed to go into this very question are we not wasting time by discussing the point now?

MR. VASEY: Mr. Chairman, with all due respect, when an opinion of the kind expressed by the hon. Member for Nyanza has been expressed, I think it only correct that other opinions from this side should be put on record. I myself, judging by the experience which we saw in Southern Rhodesia, would be against the Member for Finance being a member of a Public Service Commission of this kind, purely because I believe it would lead to bad relationship between the men responsible and the Civil Service, and because I believe it is important that the terms of service and conditions should be settled on the working question and on the post and that that is not the point where you get the expenditure. You get the expenditure in the number of posts, and there must not be, in my opinion, at the very introduction of a Public Service Commission, an atmosphere set up of the kind which could be well set up by the presence on that commission of the Financial Secretary, however great his kindness and goodwill towards the Service. I therefore trust that when this committee sits to consider the membership, it will bear in mind that particular point.

One other point, in order that there may be an expression of opinion, and I may not be here when this committee sits, and that is on the question of chairmanship. The Public Service Commission has to deal with promotions and appointments, it has many times the unpleasant task of saying to an individual "You are not fit to be promoted and we regret that such and

such a bar must apply", it has to deal with efficiency bars, and it is a matter of concern in this Council that with the introduction of the long scale the efficiency bar shall be rigidly applied. The experience gained in Southern Rhodesia proves that they could not in their opinion maintain the position of that board properly if they had a chairman who was a member of the existing Civil Service in any form or degree or who was, as it were, a part of the territory—

MR. RANKINE: On a point of order, is not the hon. member now referring to the promotions board and not the Public Service Commission, which is referred to in paragraphs 281, 282, 290 to 293?

MR. VASEY: I am referring to paragraph 39 of the Sessional Paper. I was hoping that the entire matter—and that is why I questioned the powers of this board—could be brought under the Public Service Commission.

THE CHAIRMAN: In paragraph 289 the Commission says: "Promotions within the service could not, in our opinion, be properly dealt with by a Public Service Commission", and they then go on to suggest promotions boards to assist the Governor in making recommendations for promotions to posts; so you are, if I may say so, rather confusing the two. This particular resolution only deals with the Public Service Commission.

MR. VASEY: I felt I was entitled to do this under paragraph 39 of Sessional Paper No. 2, which groups the two in one, and I was pointing out that the Public Services Board in Southern Rhodesia does deal with promotions, and they have failed—

MR. HOPE-JONES: On a point of order, I understood the hon. Member for Nairobi North was expressing his opinion, which was the opposite to that expressed, very briefly, by the hon. Member for Nyanza. As he expressed his opinion—

MR. VASEY: On a point of order, I suggest that is no point of order at all. As the hon. Secretary for Commerce and Industry has a habit of doing, he is attempting to express his opinion under the cloak of a point of order. If the hon.

[Mr. Vasey] member had been listening he would have heard me say I wanted to make one particular point, because it was unlikely that I should be in the colony when this committee sat. The hon. member must have been lulled to sleep by my golden voice!

The point I am trying to make is that in Southern Rhodesia they found that the Public Services Board, which dealt with promotions, could not be run efficiently with a chairman who was a member of the existing Civil Service. They tried a chairman who was not a member of the Civil Service but was resident in the territory. Neither of those experiments succeeded and they found it advisable—and I think, judging by the comment that I heard down there, it has been reasonably successful—to bring on secondment from England a distinguished officer from the British Civil Service to be chairman of that board. This places the chairman in a very independent position, both as regards the Government and as regards the Civil Service, and the taxpaying population of the country as a whole. When this committee sits to consider the institution and composition of the Public Services Commission I suggest that that experiment is taken into account.

The question of the amendment was put and carried.

The question of Resolution No. 20 as amended was put and carried.

Resolution No. 21

MR. RANKINE: Mr. Chairman, I beg to move Resolution No. 21: This Council agrees that for the purpose of calculation of pension the constant should be 1/600, subject to the qualifications set out in paragraphs 32 to 34 of Sessional Paper No. 2 of 1948.

The question was put and carried.

Resolution No. 22

MR. RANKINE: Mr. Chairman, I beg to move Resolution No. 22: This Council also agrees that in the case of those Asian officers who have previously enjoyed a pension constant of 1/720, the new constant 1/600 should be applied from the beginning of the officers' service.

DR. RANA: I rise to support the resolution, and I want to take the opportunity of congratulating the Government for fixing this amount (Applause.)

The question was put and carried.

Resolution No. 23

MR. RANKINE: Mr. Chairman, I beg to move Resolution No. 23: This Council agrees that where non-pensionable service is followed by pensionable service, the non-pensionable service should be taken into account for the ultimate computation of pension in the manner set out in paragraphs 35 and 36 of Sessional Paper No. 2 of 1948.

MR. JEREMIAH: Mr. Chairman, I beg to move an amendment, that subparagraph (ii) of paragraph 36 of the Sessional Paper be deleted. My reason for saying that is that these people have been asking for the introduction of a pension or provident fund since 1927. In fact, that was promised when the terms of service for those people were introduced in 1927, and nothing was considered until 1943. To say now that these people should be penalized by the fact that nothing was considered for them during all that time is not fair. For that reason I suggest that the whole service, even since 1943, should be taken count of.

MR. MADAN: On a point of order, have we not already approved of that under Resolution No. 18?

MR. MATHU: On a point of order, I think we have already covered the paragraph referred to by the hon. member in moving Resolution No. 18, and with all due respect to him I would say that he has missed the bus.

THE CHAIRMAN: Is there an amendment or not?

MR. JEREMIAH: I beg to withdraw. (Applause.)

The question of Resolution No. 23 was put and carried.

The debate was adjourned.

ADJOURNMENT

Council rose at 12.45 p.m. and adjourned till 9.30 a.m. on Friday, 3rd September, 1948.

Friday, 3rd September, 1948

Council reassembled in the Memorial Hall, Nairobi, on Friday, 3rd September, 1948.

His Honour took the chair at 9.35 a.m.

The proceedings were opened with prayer:

MINUTES

The minutes of the meetings of 1st and 2nd September, 1948, were confirmed.

STANDING RULE AND ORDER No. 32

APPLICATION OF

On the Order of the day being called.

MR. COOKE: Mr. Speaker, before the Council goes into committee, I have a matter which appears to me to be of considerable constitutional importance to raise.

If you will look at the Letters Patent which you read yesterday, passed under the Great Seal, you quoted from Clause XXVIII (which is contained on page 147 of the Supplement to the Official Gazette). My contention, and I am not disputing your ruling, is that if your ruling is correct the proceedings of the last three or four days are null and void. (Laughter.) I hope that I shall be found to be completely correct. This is really the serious point: "Provided that"—incidentally, the word "always" does not occur there—"Provided that, except with the recommendation or consent of the Governor signified thereto"—"thereto" is the operative word—"the Council shall not proceed upon any Bill, amendment, motion or petition, which in the opinion of the Governor would" and so on.

My point is that we have proceeded with, although hon. gentlemen may call them small recommendations, amendments in committee on the resolutions regarding the Salaries Commission recommendations without receiving the "consent of the Governor signified thereto", which is a very formal process. Therefore, as you ruled my amendment out of order the other day about the education officers, those amendments must according to your ruling, also be out of order; they are null and void.

THE SPEAKER: If I may say so, you entirely misunderstood my ruling, because if I considered that the amendments which I put from the chair were going to increase or reduce a charge definitely on the revenues, I should not have allowed them. Yours was found to be a charge, and it was not put.

MR. COOKE: May I say with respect that all the other amendments are in exactly the same category?

THE SPEAKER: I have decided otherwise, that they are not in the same category; that is why they were put to the vote.

MR. COOKE: I am bound to accept your ruling in this Council, but I must take it further.

THE SPEAKER: With all respect and allowance for everybody, you are, I think, the only member who continues, I say persistently continues, to try and refuse a ruling which has now been given as I have said, three times.

MR. COOKE: May I be allowed to say that this ruling has not been given. This is an entirely distinct point to that brought up yesterday, and a ruling was never given on that point.

THE SPEAKER: With all respect I must say that the matter has been dealt with and disposed. You are going to tell me that the amendments which I have put from the chair, which have been duly voted on, are out of order now—you are disputing a ruling which I have given.

MR. COOKE: May I respectfully say that I am not doing any such thing. I am bringing your attention to a constitutional point of great importance. I say I am accepting your ruling, but if that ruling is correct the proceedings of the last two or three days have been null and void.

THE SPEAKER: If the ruling is correct they cannot be out of order—they are in order.

MR. COOKE: All right, sir, I will not dispute any further in this Council.

THE SPEAKER: If there is to be a distinct charge on the revenue, the Governor's consent must be signified thereto. I quite agree. The practice in the House of Commons—I will quote you an

[The Speaker] amendment, or rather a motion: "To move the following in committee of the whole House under Standing Order No. 69": Then follows the words in brackets "(King's Recommendation to be signified)". This is in the name of the Financial Secretary of the Treasury, Mr. Glenvil Hall. Then comes the name of a Bill, I do not know its full title, which is referred to shortly as "Lord High Commissioner (Church of Scotland)", and the word "money" in brackets. The motion goes on "That, for the purposes of any Act of the present session to make further provision regarding the allowance payable to His Majesty's High Commr to the General Assembly of the Church of Scotland, it is expedient to authorise the charging on the Consolidated Fund of the United Kingdom or the growing produce thereof of any amount by which the sum so charged under the Act 2 and 3 William 4 cap. 116 in respect of the said allowance is increased under the said Act of the present session so however that the total sum so charged shall not exceed in any year four thousand pounds".

There was a motion, and I applied the rule that the Governor's recommendation has to be signified. When the hon. Financial Secretary moved to increase the amount required in respect of the Chief Native Commissioner's salary, I asked whether the Governor's recommendation had been signified. If that recommendation had not been signified sufficiently formally, if that is your point, no doubt there is some recognized form, but we have accepted throughout this debate on this main motion that the Governor's consent to bring it into this Council had been signified.

MR. COOKE: That is exactly my point, the Governor cannot delegate any authority in this at all.

THE SPEAKER: As I am informed, this was discussed in Executive Council, of which you are a member, and you should know.

MR. COOKE: I am trying to tell you. I do not want to delay the proceedings of Council. I am content now that I have brought this constitutional point to your notice so that there can be no controversy afterwards as to whether these proceedings are null and void or

not. My contention still is on the constitutional point, but you have given your ruling, sir, and I am content, but I must as an Executive Councillor raise the point elsewhere.

MR. RANKINE: Sir, perhaps I could set the hon. gentleman's mind at rest, because it seems to me—

MR. COOKE: On a point of order, the ruling has already been given.

THE SPEAKER: On a point of order, Mr. COOKE, if a member rises he is entitled to be heard.

MR. COOKE: On a point of order, Mr. Speaker, you have referred to me as "Mr. Cooke" and not as "the hon. Member for the Coast"!

THE SPEAKER: I beg your pardon, it is quite wrong to refer to a member by name.

MR. RANKINE: On this point of order, perhaps I could set the hon. gentleman's mind at rest, because it seems to me that this case falls into two categories. In the first place, it places a charge on the revenue, which Government is not in a position to accept, and in those cases we have suggested that the proper formula would be words to this effect—"It is recommended for consideration that". In other cases in which from this side of Council we have informed Council that the Government can accept the amendments, in that case it seems it is quite in order for them to go in, and if it is necessary to obtain the Governor's formal consent before the measure is finally passed I can take the necessary steps to obtain that consent.

MR. COOKE: I am quite content.

THE SPEAKER: That again is not quite the ruling which I gave some time ago. That is, that any member can move a motion in general terms of recommending something, recommending the Government to consider, or words to that effect, and so forth. He can do that, but it is only when it comes that the motion which the member desires to move does clearly involve money, then a money motion must come from the proper quarter; that is, the Crown always demands and the legislature may refuse or grant supplies.

**SALARIES COMMISSION REPORT
WITH SESSIONAL PAPER No. 2
—OF 1948**

RESUMPTION IN COMMITTEE
Council resumed in committee.

Resolution No. 24

MR. RANKINE: Mr. Chairman, I beg to move Resolution No. 24: "This Council agrees that the present rule whereby an officer who desires to commute part of his pension must commute one-quarter of it should be modified in that he should be allowed to commute a lesser proportion".

The question was put and carried.

Resolution No. 25

MR. RANKINE: Mr. Chairman, I beg to move Resolution No. 25: "This Council agrees to the proposal in paragraph 260 of the Report that for an experimental period of three years an officer should be permitted to retire, or be called upon to retire without reason given, on or after attaining the age of 45".

MR. COOKE: Mr. Chairman, I should like an assurance from the other side of Council, because we are trying to get this assurance whenever we can, that this particular recommendation will be ruthlessly acted upon. It is not the object, I hope, to get rid of any officer of 45 if he is efficient and if Government thinks his services should be retained, but if an officer is merely waiting for his pension as it were, as I am afraid in the past some have, and are sitting down and doing very little work, will Government give an assurance that that officer will be retired? Actually, you are going to save the revenue of the Colony quite a bit that way, because instead of those officers remaining to 55 and drawing a proportionate pension based on very long service, they would be retired on a much smaller pension at the age of 45.

MR. RANKINE: I certainly could not give the assurance for which the hon. Member for the Coast has asked, that this particular recommendation will be "ruthlessly acted upon"—in his own words, "ruthlessly"—because I do not think for a moment that it would be right for the Government to act in that manner. But I can give him the assur-

ance that it is the intention of Government to take all reasonable steps to get rid of officers who are not worth their weight.

MR. NICOL: Mr. Chairman, dealing with what the hon. Chief Secretary has just said, may I take it that it is the Government's intention to apply the axe (if that is a suitable word) before an officer reaches the age of 45, and that they will not hang on until he is 45 before they say "You are not pulling your weight and we think you had better go".

MR. RANKINE: The particular resolution that we are discussing at the moment only provides for retirement on or after attaining the age of 45.

MR. HAVELOCK: Mr. Chairman, may I ask for some information on this? Is it true that, in proportion to the services rendered by an officer, he will draw a proportionately higher pension at the age of 45, if he retired, than at the age of 55?

MR. COOKE: Before the hon. gentleman replies I would submit that the hon. Member for Mombasa's question is a point which arises from this and on which we should have an assurance.

MR. THORNLEY: Mr. Chairman, perhaps, on the point raised by the hon. Member for Mombasa, I might explain that there would be no question whatever, if this resolution is passed, of this Government not applying, in suitable cases, the provisions of the Colonial Regulation under which officers at any stage of their careers can have their services dispensed with. If any case should arise where it was necessary that an officer of 40, 41 or 42, as a result of something he had done or omitted to do, should have his services dispensed with under the Colonial Regulation, then this resolution would not in any way debar the Government from taking that step.

MR. HARTWELL: Mr. Chairman, with regard to the point raised by the hon. Member for Kiambu, it is difficult to answer that in precise terms, because upon an officer's retirement he receives a pension based on length of service and the salary he was drawing at the time he retired. It would depend on those two factors in each individual case whether the pension were proportionately greater or not. I do not think you can give a general ruling on that.

The question was put and carried.

Resolution No. 26

MR. RANKINE: Mr. Chairman, I beg to move Resolution No. 26: "This Council requests the Government to give urgent consideration to the question of the cost of official entertainment to individual officers".

I think there is little that I can add that is not already within the knowledge of most members of this Council.

MR. NICOL: Mr. Chairman, I am supporting this resolution, but at the time of the consideration of the budget last year the Standing Finance Committee, if my memory serves me correctly, recommended the appointment of a committee to go into this matter. I should like to know whether anything happened about that and why we are waiting until September to pass this resolution. I should have thought that the examination which we asked for should have taken place by now.

MR. COOKE: While not opposing the resolution, I would draw attention to the fact (I do not want to harp back to the old days) that in the old days this entertainment was also done, but there was no entertainment allowance paid. To-day the situation is materially altered because there are hotels in even the smaller towns where people can stop, and there is not the same necessity for officers to put up visitors. I should like a reply to that when the hon. gentleman replies.

MR. THORNLEY: I should like to say that this matter is at present under consideration by a committee under the chairmanship of the Administrative Secretary. I cannot say at this particular moment on what date that committee will submit its recommendations.

MR. EDVE: Mr. Chairman, I apologize being absent when this was moved by the hon. Chief Secretary, if I ask something which has already been covered, but I should like to know whether this is referring to those officers who, by virtue of being stationed at the ports, either air or sea ports, are put to extraordinary entertainment expense, or is it intended to cover all sections?

MR. HARTWELL: Mr. Chairman, the Commission's recommendation on this is in paragraphs 267, 268 and 269 of the report. I do not think it is intended by

the Commission, or by the committee which is examining the matter, to confine the thing merely to people who are at sea or air ports. I think it is intended to cover anybody who, for one reason or another, is forced to do a good deal of entertaining which he would not do but for his official position.

MR. HOPKINS: Mr. Chairman, I do not think I like this suggestion at all. I think it is likely to make matters even more embarrassing than at present for quite a lot of officers. There is already quite a large section of the public which is convinced that officers do get entertainment allowances, and that is one of the reasons why they—to use an unparliamentary word—go and scrounge on Government officials. I think it is a great pity to pass a resolution which makes it quite clear to everybody that all Government servants do get entertainment allowance. I think I am right in saying that at present Government has issued a circular—I think it is Secretariat Circular No. 33—which makes provision for an officer to reclaim if he is put to any particular expense. If he puts up a senior officer touring round, or is put to any particular expense through entertaining some important person he can put in his claim. I think it is far better to leave it at that than to let the country know that Government officials have some sort of entertainment allowance. It is not going to help them.

MR. BLUNDELL: Mr. Chairman, I am prepared to support the resolution, but I do not want any implication that I support all the facets of official entertainment allowances. If the resolution is simply meant to cover what it says—merely consideration—it will have my support.

MR. HAVELOCK: Mr. Chairman, although the hon. Chief Secretary when proposing the resolution said he did not think there was much to inform us about, I would ask him to give us a little more detail of the reason why there should be further allowances for such officers, especially in view of what the hon. Member for Aberdeen said to the effect that there is an entertainment allowance at the moment, and I should like to know exactly what officers this resolution covers and what type of entertainment.

MR. ERSKINE: Mr. Chairman, it has occurred to me that the words "official entertainment" are equivalent to the phrase "non-reciprocal" which was used, I remember, in the Army. I take it to mean that the ordinary kind of what one might call reciprocal entertainment, where officers of equal rank might stay with each other at odd times, would not probably come under this heading; but that where a certain officer, by reason of his position, is required to entertain perhaps visitors from overseas, where there is no question of reciprocity, then it would come under the heading of official entertainment and he would be entitled to whatever allowance is permitted.

MR. EDYE: Mr. Chairman, I have considerable sympathy with the intention behind this resolution, and particularly in regard to the ports of the country which were mentioned a few minutes ago. There is no doubt that senior officers, such as the Provincial Commissioners, Mombasa, Kisumu and so on, are put to quite a lot of expense in entertaining V.I.P.s passing through the country and staying a couple of nights, and so on. I think they ought to be taken care of. But I should like to move an amendment to this and ask if Government would accept it, by adding at the end of clause 26 "and report back their findings to this Council". That would give Council an idea of really seeing what was entailed by this, what it would cost and so on.

MR. RANKINE: Mr. Chairman, the Government would certainly accept that amendment because, in any case, it would have to come back to this Council, for any entertainment allowances that might be granted would have to be included in the estimates, and the Council would then have every opportunity of considering it. But, as I have already informed the Council, there is a committee sitting at present as a result of the recommendation of the select committee on the estimates, and that report would have to come back to this Council.

As regards some of the other points that have been made, while it is true that there are arrangements whereby an officer who puts up an official guest can claim back a certain amount of the cost of entertaining, that certainly does not cover all the cases by any manner of

means. A number of Government officers are put to expense on official entertainment, particularly the Provincial Commissioner at the Coast, the Provincial Commissioner, Kisumu, and other officers, such as the District Commissioner Fort Hall, who have to put up a large number of official guests, in places often where there are no hotels. Many officers are put to other expense. District Commissioners, for instance, on the King's Birthday and occasions like that have to give entertainment which can only be regarded as official entertainment and which is in no way reciprocal, but for which they get no reimbursement whatever. As I have said, these officers are put to expense and the Government considers it right that they should be reimbursed. In any case a committee is going into that now carefully. It will report, and its report will be considered by the Council.

As regards the point made by the hon. Member for Aberdare that it would become the accepted custom that Government officers were in receipt of entertainment allowance, and that therefore they must provide entertainment, all I would say is that that appears to be common knowledge at the moment. A very distinguished visitor came through here the other day, and he asked me what entertainment allowance was drawn by the Provincial Commissioner, Kisumu. When I told him that the Provincial Commissioner, Kisumu, drew no entertainment allowance he found it difficult to believe. He said he was informed by a prominent unofficial in Kisumu that in fact the Provincial Commissioner, Kisumu, did get an entertainment allowance, as he knew by his own knowledge, but he never spent it—*he merrily put it in his pocket*—(MEMBERS: Shame!)—so I think it is important that this should be ventilated and that it should be known that the Provincial Commissioner does not, in fact, receive entertainment allowance.

All this resolution does at the moment is to urge that consideration should be given to this matter and, as I have informed Council, a committee is considering it, and when that committee reports its recommendations will be placed before the Council, which will have full opportunity of considering any expense that might result.

MR. HOPKINS: Mr. Chairman, I should like to ask the hon. Chief Secretary if I am mistaken. My information was very definitely that provision does exist under some circular whereby an officer can claim for official entertainment—not entertaining officials, but official entertainment, if he is put to particular expense.

MR. RANKINE: What he can claim is, if he puts an official guest up for the night—

MR. HOPKINS: No, sir, not that. What I meant was I thought that some circular in which provision was made enabling him to put up a claim for entertaining some very important person, if he had been put to a certain amount of expense.

MR. HARTWELL: The circular covers cases in which a Government official puts up for the night, or gives a meal, either to another Government official or to some important visitor to the place. He can claim so much for a night, so much for breakfast, and so much for dinner, and so on, but it does not cover any other expenses.

MR. WYN HARRIS: Mr. Chairman, there has been an isolated case recently where Government officials have been put to extraordinary expense and where they have been paid, but that was an isolated case.

MR. HOPE-JONES: Mr. Chairman, I should like to draw the attention of the hon. Member for Aberdare to a few instances of the sort of thing we have in mind. As the hon. member may know, there have been a number of trade delegations, some of them consisting of as many as 12 people, coming from places such as South Africa, Southern Rhodesia, Australia, the Belgian Congo and other places.

I do not wish to specify the delegation or the officer concerned, but one of those delegations was on tour and the officer responsible for the particular area felt that at very short notice, without reference to anybody, he should give some entertainment so that the local people could meet this delegation. He did so, and it ran him to considerable expense. When the delegation came back they happened to mention to me how grateful they were for the hospitality which this officer had given. They said "We suppose

this officer gets entertainment", and when I said that he did not they were so shocked that they wished to make a contribution towards that entertainment. They did not do that because, as was pointed out, it would have been humiliating to the man concerned.

I suggest first of all that you would not like Government representatives to be inhospitable in these circumstances; and secondly, I think we would all consider it was very humiliating if those who were entertained felt they had to pass the hat round to help a man, whom they knew was not very wealthy, to meet the entertainment he felt it his duty to give. That is the sort of situation I think every one of us wants to remedy as soon as possible.

MR. EDYE: My point in putting this amendment was that I fully appreciate that in the normal course of events a report will be made to this Council, but I am very anxious to see that in that report the full implications, and details of the needs of all officers concerned, will be fully set out. I will withdraw the amendment if I can have an assurance that the report asked for in the select committee last year will contain a full statement of facts, setting the thing forth fairly from all aspects. I am personally in sympathy with this and, as I have not been noticeable for my support so far in the way of "ayes", it may be looked upon as a good sign!

MR. RANKINE: I can give the hon. member the assurance he seeks, or accept the amendment—whichever the Council wishes.

MR. EDYE: It is immaterial. I will leave the matter as it is if it is accepted.

The question of the amendment was put and carried.

Resolution No. 27

MR. RANKINE: Mr. Chairman, I beg to move Resolution No. 27: "This Council agrees that the date of operation of the revised scales should be 1st January, 1946".

In moving this resolution I do not wish to take up the time of Council further, because the reasons for it are set out in the report and have been added to by my hon. friend the mover of the main resolution, and by many other speakers

[Mr. Rankine] both on this side of Council and on the other. It is perhaps the most controversial resolution of all, and I believe that all the opinions with respect to it on either side have already been expressed.

MR. LE BRETON: Mr. Chairman, I should like to move an amendment to this resolution: "That the figures 1946 be deleted and that the figures 1947 be substituted therefor".

THE CHAIRMAN: I cannot accept this amendment in this form. You will have to alter the word "agree". If you move to omit "agrees" and substitute recommends, then I can accept the rest of it.

MR. LE BRETON: Yes, I will do that.

MR. COOKE: Is not that a direct negative of Resolution 26? If you substitute "recommends" for "agrees" it appears to me to be a direct negative of the proposition.

THE CHAIRMAN: We will put "recommends to Government the advisability of" or some such vague expression.

MR. VASSY: Might I suggest that probably it could be accepted in the following form: that the word "agrees" be deleted and that "expresses its opinion" be substituted?

THE CHAIRMAN: I was going to say "recommends the advisability of".

MR. LE BRETON: I will accept that.

MR. COOKE: That, I submit, is a distinction without a difference, but if it pleases the committee.

THE CHAIRMAN: I am only wanting to get something I can accept, and I would allow the amendment in that form. If Council agrees it is a different sort of thing altogether from Council expressing its opinion that the date of operation should be so-and-so. That is somewhat vaguer.

MR. LE BRETON: Mr. Chairman, by the acceptance of the Commission's report expenditure has been pushed up already during our deliberations by many resolutions, some of which I must agree have come from this side, but I maintain that some economies must be made.

(UNOFFICIAL MEMBERS: Hear, hear.) During 1946 and 1947 the rise in prices no doubt may have caused a certain hardship to members of the Civil Service, but those hardships must be ascribed to the

war, or the aftermath of war, and I think that during those times of difficulty the civil servants should have cut their coats to match their cloth. If they have not done so, I submit in common truth that they should have done so as the non-officials had to do during the very long and difficult period that followed the 1930 slump. During those years, for almost 10 years, farmers who grew the produce of this country on which the financial status of this country is founded, had to do so in many cases at a financial loss, and they had to reduce their standard of living to a very much greater degree than the present difficult years after the war have called for civil servants to do. But when world prices were re-established farmers, quite rightly, were not given any retroactive benefits from them but, far from that, to the contrary the prices of produce were controlled, so that farmers only received a proportion of the world prices.

Sir, those slump years and 1946 are now past, and I think we should call it a day. No power on earth can possibly put back the clock and give us back the bridge parties and the sundowners and the other luxuries which, presumably, we all had to give up during those difficult years, and if we did not give them up I submit that we should have done so. It is essential that individuals just as much as countries should so budget that their expenditure falls within their income and if they do so then no debts should be incurred. It has been suggested from the other side of Council that some officials have been running into debt and they really need these retroactive payments to clear them. Surely it can only be in exceptional cases that such debts should have been incurred by imprudent members of the Civil Service. That being so, these retroactive payments will come very largely in the nature of a windfall, possibly an expected one, but still a windfall, and the result of this sudden creation of new credit will increase the purchasing power of a large proportion of the community and will act, as I said before, as a factor towards inflation.

It may be said that my arguments should lead me to oppose any demand for any retroactive payments at all, but we do not want to be too drastic or to deal too drastically with the Civil Service, and I therefore confine myself to

[Mr. le Breton] the amendment. The date of 1st January, 1947, is the date on which the Commission on the Civil Service was appointed, and therefore it seems to me a very suitable date to which retroactive payments should be made.

ACTING SOLICITOR GENERAL (Mr. Lowe): Mr. Chairman, I cannot let this opportunity pass because it seems to me that the amendment moved by the hon. member is going to lead to trials and tribulations and, junior though I am in the crew, I think I may perhaps be forgiven if I take a hand in the navigation. It seems to me that the amendment as proposed amounts to the proverbial taking of a worm from a blind hen. (Laughter.) The suggestion of my hon. friend that farmers have had to do this and therefore civil servants will have to do it, to my mind gets us nowhere. It overlooks the vital fact that farmers have had time to get ready for slumps. I myself for many years farmed in New Zealand, and struck a slump called the "Daddy of all slumps", but if a farmer is any sort of a farmer he prepares for a rainy day, which civil servants never can do on the rates of salary in existence at present. It is a great pity, to my mind, that this word "retroactivity" ever came into it. It is in fact a boggy, a very dangerous boggy, and it is a great shame it was not called "back pay", because that is all it is.

I can speak, because I came to this country recently. I have met civil servants, and am proud to be one; they have given long and loyal service and through very difficult times on very meagre salaries, and in my mind the morale has remained as high as it is because they felt that this Council would deal with them fairly. To my mind, also, if I were not within these four walls I would have considered that some of the arguments I have heard amounted to piffle. I know that I am putting myself in a dangerous position in saying that, because I shall probably be attacked from all sides when I get out, but if my life in this Council is a short and merry one—(laughter)—I want to say what I think in my conscience is the reasonable thing. When I first came in what I heard was instructive, then it became amusing, and then amazing. I have read the reports in the *East African Standard*, which I am

sure were not distorted, and it is only from that information that I can speak.

The boggy of inflation has been dragged across the floor of this Council, the usual boggy that is always raised. There can be no doubt in the minds of all members that the people who suffer most from inflation are civil servants, because when the index figure for the cost of living was worked out in the first place civil servants had already suffered, and, inevitably as the index was worked out periodically, the cost of living had outstripped it, and again the civil servant suffered. That is the inevitable position. What I would like to tell you if I may is of two experiences I know of, one very similar to this state of affairs and one exactly similar in New Zealand.

During the war, the War Cabinet in its wisdom decided, I think in March, 1940, that not one member of His Majesty's Forces would be asked to pay income tax. That was made retroactive to the previous year, from September, 1939. There were no screams from the opposition, it was accepted by a vote of 84 to nil. I worked with the men and women who got that small benefit, it did not amount to much. I heard on many occasions many of them say, "We do not think we are paid enough but we are being treated fairly". That little factor kept their morale up. One of the senior Ministers of the Cabinet said to me in the early stages, to use his own words, "This is going to cost the country a packet, but the country will be pleased to bear it". I spoke to the same Minister before I left New Zealand in 1945 and told him that many of those men and women had appreciated that one little effect and that it had kept their morale up. He said to me, "Do you know? We were astounded at the amount of money we saved by giving that small concession. Whereas we anticipated that it would cost us possibly £2-million, we built up our savings through high morale and the tremendously high output because of that morale, and we not only saved that £2-million but we probably made every year three or four times as much".

May I tell hon. members what the other experience was, and it was exactly similar. In 1933 the Government then in power decided to increase the salaries of the civil servants, a cost to the country—and here I am not sure of my figures—and here I am not sure of my figures—I think £2½-million. There were then

[Mr. Lowe] screams from people—meaning no disrespect—whom we called the Irish, only because although their nationality or country of origin was not Ireland, they were always agin the Government. (Laughter.) They were the ones who screamed, but those salaries were put up despite those screams. They were put up quite considerably. I had occasion in 1936 to be speaking to the equivalent of your Chief Registrar of Titles here, a very efficient gentleman who had a very big establishment, and I mentioned to him that in 1933 he had said he thought he would have to increase his establishment because things were getting better. I asked him what in fact did happen. He said, "Do you know? Our output increased tremendously, men were not slacking. They had been worried financially, but when the increase came they worked like Trojans, and to-day in 1936 I am one less in the establishment than I was in 1933, even though the work has increased tremendously". That is the effect, an inevitable effect, of keeping up morale.

Your civil servants have in my opinion been extremely loyal and efficient, and I believe it does this colony harm, as the hon. Chief Secretary said, to monkey about with this. I believe civil servants have got very nearly to the end of their patience, and I believe their output will unconsciously improve tremendously and the services you will get in this country will also improve if this amendment, which I oppose, is overwhelmingly defeated. I believe also that this dead wood that has been spoken of will cut itself out, because the worker will stand out in a better light than he did before, and I believe that the retirement age of 45 will also more or less cut itself out for the same reason. To my mind, coming as I do a stranger to this delightful colony with a terrific future in front of it, I would have the temerity to advise hon. members on the other side that when they vote they should make their vote mean "Well done, thou good and faithful Kenya civil servants". (Applause.)

MR. COOKE: Mr. Chairman, I would like to support the hon. member who has just spoken with that delightful and pungent maiden speech. Not for the first time has the breath of a cold and refreshing air come from the Antipodes.

The hon. gentleman made a point that I should like to make, but there is one point I have first. When the farmers were undergoing the very severe trials they did undergo about 1930, with which everyone had the deepest sympathy, it must be remembered that officials were at the same time very severely mulcted in a levy on their salaries, which amounted to a considerable sum of money. I agree with the hon. Acting Solicitor General that these payments should be regarded as back pay. I have been intimately concerned as a member of the Civil Service Advisory Board and of the Standing Finance Committee with the history of all this pay controversy, and it was as far back as 1943 or 1944, when the civil servants first started to ask for increased emoluments. We then had the Hill report and various others, which did not get us very much further. I submit that to make it retroactive to any later date than 1946 would really be cashing in on the loyalty of these people, because they most definitely understood, rightly or wrongly, and led to understand it by officials and unofficials that their salary revision would take place. I would just correct my hon. friend in one respect: The Irish are never agin the Government; they are only agin bad government. (Laughter.)

MR. MADAN: Mr. Chairman, I should also like to extend my congratulations to the hon. Acting Solicitor General on a very interesting maiden speech. I am not surprised at it because, knowing he is a lawyer, that is what we expect of him anyway. I rise to support the original motion as it stands, and to me it seems that this resolution is a small gesture of the country's appreciation of the loyalty and efficiency and interest with which the Civil Service so far has served us and, I have no doubt, they will continue to. The farmer, if he has had lean years, has also had fat years. The civil servant, I believe, has always had lean years so far, and to accept the amendment would, I submit, amount to breaking faith with the people who have worked like slaves to keep the country going.

MR. MACONOCHE-WELWOOD: Mr. Chairman, I should like to take up one point made by the hon. Solicitor General when he said that the farmer can always put by for a rainy day and can work out his plans accordingly. I would like to point out—and I think the whole of the

[Mr. Maconochie-Welwood] agricultural interests of this country will agree with me—that agriculture only has good times for a very brief period in the middle of a war and just after it. Unfortunately, there are rather longer periods of peace than war. In the interim period between the two wars agriculture suffered an appalling slump, a slump far greater than civil servants' salaries, and I would point out in that connexion that when we consider the figures given by the hon. Financial Secretary of 21 per cent, 51 per cent and 67 per cent, it should be borne in mind that the civil servants' salaries in 1939 were at least 10 per cent to 15 per cent higher than similar pay in commercial and agricultural employment. (MR. RANKINE: No!) (MR. TROUGHTON: Question!) 1939 I said. (OFFICIALS: Question!)

There is one other point—the inflationary effect. I think it will be most serious in the case of African civil servants, who are getting the largest measure of pay, and if you give to the average African what amounts, as far as I can work it out, to something like a year and a quarter's back pay, you will find that a large number of them will spend that at once and retire from the Service. That, of course, would achieve success from one point of view. (AFRICAN MEMBERS: No!) But it is possible that it might to some extent embarrass Government.

For these reasons I should like very strongly indeed to support this amendment. I cannot see why the Commission, appointed in 1947, should turn round suddenly and increase salaries from 1946. It was not really within their terms of reference.

MR. HOPKINS: Mr. Chairman, I have already said in the debate that I supported the fixing of the retrospective date to the 1st January, 1947, and I did not intend to speak, but I think the eloquence of the hon. Solicitor General has rather made us lose our perspective. I think we are all losing sight of a fact which has been stressed several times before, and that is that the people who need the money most are getting practically nothing out of retrospection. What is going to help them is the motion put up by the hon. Member for Nairobi South.

The other reason I am against it is that, as I pointed out, there are quite a lot of

Africans, who will be paid a large percentage of this retrospective pay, who were engaged and paid at their full market value. Nobody wants to argue that the Africans should not get good pay, and I am not attacking the new salaries in the least, but this idea of paying out these large sums of retrospective pay to people who were engaged and paid at their full market value is quite fantastic.

Again, there is no strong feeling, I can assure you, so far as I have been able to find out, on the part of officials that this date should be the 1st January, 1946. Nearly everyone to whom I spoke said they thought it was unnecessarily generous and what a pity it was it was not helping the people who really wanted the help. As I say, this is the man who has helped them [pointing to Mr. Erskine].

From this side of Council I think there have been quite a lot of generous gestures and amendments put up—(OFFICIALS: Hear, hear.)—but we do at the same time realize our obligation to the country, and we must not let the country in for more than is absolutely necessary. We have supported what we have believed necessary, and here is a chance of achieving a reasonable set-off. I do think it would be a very nice gesture if Government would accept it, and it would not be doing harm to any particular person.

MR. MATHU: Mr. Chairman, I did not propose to intervene in this debate because I thought that this Council had agreed in general that it was fair and proper that civil servants should be paid retroactive pay to the 1st January, 1946. Personally, I cannot see anything fairer, and I would like therefore to oppose the amendment, because I think it will be unfair to the Civil Service and will perhaps increase the bitterness that has existed for some years in that service. I do not see any reason for retracting from the gesture which the Salaries Commission extended to the Civil Service and which our Government has accepted.

The points that have been made by the hon. Members for Uasin Gishu and Aberdare singling out the African in this case, I think require comment from me, to say the least of it. The knowledge that is being displayed by the hon. Member for Uasin Gishu in African affairs, is

[Mr. Mathu]

questionable, and to suggest that when the Africans get their back pay—a very small amount—they will spend it all or retire from the Service is fantastic. I do not know whether the hon. member has taken the trouble to tour the country in the African areas to see what development is taking place. I cannot imagine any of these things happening to people who live in a sort of hand-to-mouth existence. He has no grounds for making the assertions he has made, and actually there are people who think that the African is not going to receive a very large sum of money from these retroactive payments.

The point raised by the hon. Member for Aberdare surprises me, because I thought he was quite experienced in African affairs and knew that all this time the African has not received what he called market prices in regard to wages. Coming from him, although it surprises me, it strengthens me in my belief that, although we move about and meet in the streets, there is really very little contact, because if a man of his calibre, who has worked in the African areas for so long, has not yet learned that the African is underpaid, then I do not know who else does.

I do not want to take the matter further, except to say that I support the motion as it stands and I shall vote against the amendment, because I do not think it will be fair to the Civil Service generally and it will not be a credit to this Council, or to any other people who have taken part in ameliorating the position of the Civil Service. I beg to oppose the amendment.

DR. RAMA: Mr. Chairman, I rise to oppose the amendment moved by the hon. Member for Trans Nzoia and to support the main resolution. I should like to associate my name with the compliments paid to the Acting Solicitor General for his very good speech.

It is perfectly clear that there is a case for increases of salaries for Government servants. The two main recommendations in this report which will cause satisfaction to all sections of the lower-paid people are, one, the question of free pension, and two, the question of this little bit of extra salary for the past 2½ years. I am surprised that the controversy is now between the agricultural or farming com-

munity and the Government servants. I have the honour to belong to a farming community in my part of the world and I have the highest respect for the farming classes, but I must say that a farmer in our part of the world is always looked upon as a fair and good judge. In Kenya perhaps things are different! I am not saying they are not good, but the way they have criticized this report reminds me of trading in the merchant class. When you go to a merchant to buy something, he starts off with Sh. 1 when he means 50 cents!

I think personally this is a good resolution, it may cost a fair amount, but after all the amendments and suggestions which have been made regarding retrenchment and so on, let us be careful on the last day to let them have what is their due. I hope that Government servants will take note of the sentiments expressed by the hon. Solicitor General regarding efficiency and output and so on to make up for the extra cost. With those few words I support the original resolution and oppose the amendment.

MR. HOPKINS: I would just like to keep Council a moment while I try and convince the hon. Member for African Affairs, Mr. Mathu, or at any rate convince Council, that I am not talking about something of which I know nothing. The position is that not only in 1946 but long previous to that the funds provided by Government for the payment of African salaries were totally inadequate. The result was that we were not able to engage the best men. Instead of clerks we very often engaged headmen, lorry drivers and people like that. We were not able to get the best men because we had not sufficient money. We got the best we could with the money. I submit that that is paying a man his market price. Had we had more money available we would have got better men. That is the point I was trying to make.

MR. LOWE: Mr. Chairman, if I might correct a misapprehension of the hon. Member for Aberdare, as I am one who was purchased at a market price—but at the market price that was quoted to me in New Zealand, not in this country—I should like just to assure the hon. gentleman that it was shattering to me to find what it cost to live in this country with the money that was offered to me in New Zealand.

MR. COOKE: I should like to oppose the amendment. I think my hon. friend the Member for Aberdare is under two misconceptions as far as I can see it. This question of market prices has long ago been abandoned in the economic world. It is the old question of *laissez-faire* which rules to-day. The market price may be the market price because wages are unduly depressed. There is one other really serious misconception he has made—and I tried myself to explain the position before, but very inadequately—and that is regarding people of the married grades. The reason they are receiving very little or no benefits now is because they have received it already. They have been receiving on account of children special allowances; they have received these retroactively, they have not been in any way unjustified by this particular measure. They have received that money and probably some of them have invested it and drawn interest on it.

The principle of retroactivity has already been accepted. All we are differing on now is what the date should be. That, of course, must be a matter of opinion. Even those who support this amendment have accepted retroactivity and all the ills which they tell us will arise from that retroactivity. It may be only a year or 18 months, instead of 30 months, but nevertheless many of those evils they have mentioned will still accrue from their accepting that principle, just as much or nearly as much as by accepting 1946. Therefore I have no hesitation in voting against the amendment.

MR. TROUGHTON: Mr. Chairman, there is one aspect of this matter which has not been mentioned in the debate on this amendment which perhaps I should stress, and it is this.

In the last couple of days I have been trying to give some time to another institution which has been meeting in Nairobi and considering very much the same matters as here, and in that institution the decision was reached that in respect of joint service departments whose officers were stationed in the various territories it was absolutely essential that the officers concerned should be treated in the same way as other civil servants in those territories. That is, for example, that a Post Office official stationed in Kampala should be treated in the same way as a Survey official posted

in Kampala. The other territories have, admittedly, got off the mark quicker in this matter than we have, but nevertheless by perfectly constitutional means: these Legislative Councils, without a dissenting voice—or without any loud dissenting voice—(UNOFFICIALS: Ah!)—have approved the proposal that the revision should be effective as from the 1st January, 1946.

If Kenya did not approve it—and I think there is a case on its merits, but leaving the merits on one side—we would have a position of chaos the like of which has never been seen in East Africa. You would have Mr. A, a postal official, stationed let us say in Nairobi in 1946, but transferred in the ordinary course of business to Kampala at the beginning of 1947. That chap would not get anything at all by way of revised salary for 1946, but the revision would become effective the day he fetched up in Kampala. Then you might have Mr. B, who entered the Post Office on exactly the same date as Mr. A. Mr. B was fortunate and was posted to Kampala at the beginning of 1946, and he would have been paid his arrears of salary from 1946. He might have thought Kenya was a good place to come to, possibly for the education of his children, and got posted to Kenya at the beginning of 1947. That man would benefit merely because, by accident as it were, he happened to have been posted to Kampala in 1946, whereas unfortunately Mr. A, through no particular fault of his own, was posted to Nairobi.

If you exercise a little imagination you can see how chaotic it would be. I have given a simple example, but you might have a case of a man who went to Kampala for six months in 1946 to relieve someone going on leave, and then came back to Nairobi. That man would immediately gain in respect of six months. The chaos would be absolutely unbelievable, and I would suggest that no responsible Government, or no responsible body of legislators, could possibly in present circumstances vote for any other date than the 1st January, 1946. (OFFICIALS: Applause.)

* MR. RANKINE: Mr. Chairman, I think the hon. Financial Secretary has already dealt very effectively with one side of the question. There are one or two others on which I should like to say a few words.

[Mr. Rankine]

The first is with regard to inflation. The hon. mover of the amendment suggested that one of the factors would be to add to inflation and to let loose additional purchasing power. Well, sir, I will not enter into an argument as to whether that would result in inflation or not; but what I would say is that, even for the sake of argument it should, why should the civil servant be penalized on those grounds? If we are to take measures of this kind to combat inflation, those measures, as I have already tried to suggest, should be taken on a countrywide basis. We have heard a good deal from members who have suggested, or it is alleged have suggested, additional taxation. I am not taking my stand with them at this moment, but if the mover of this amendment is suggesting there should be additional taxation in order to absorb the surplus purchasing power, let me put forward a suggestion for a revival of excess profits tax or additional income tax, or whatever other measure may be necessary. But I suggest that it would be wrong to take those measures in respect of the civil servants only.

The other aspect of the matter which seems to me unfortunate is this drawing of comparison between civil servants and the farmers, or between civil servants and any other section of the community. Civil servants are here in this country for their own good, for the good of the country, for the good of the farmers, and for the good of everybody else, and I am afraid there has been a tendency in some quarters to try and drive a wedge between civil servants and the other members of the community. In the past we are aware that there was a most unfortunate rift in some cases between what were called officials and what were called non-officials—I consider that it would be disastrous to revive anything of that kind—(Hear, hear.)—in that anybody who starts it is dealing a most disastrous blow at this country. The sooner we realize that we are all, whether we are civil servants, farmers, bank managers, or shop assistants, or anybody else, here together as partners in a joint enterprise for the good of the whole of this colony, the better, and I think therefore to draw a distinction of this particular type between farmers or anyone else would be most unfortunate.

I would appeal to hon. members to consider this question of salaries and the date on which those salaries should be introduced, on its merits; whether these salaries are right and proper or whether they are not, and again I would suggest that the only way to look at the date is whether in our view we consider that is the right date or whether it is not the right date, not whether civil servants happen to get an advantage that somebody else has got or did not get. I suggest that what we have to consider is whether this is the right date.

MR. BLUNDELL: I rise to support the amendment. I want to make it quite clear, arising out of the remarks of the mover, that in my own mind it is not a question of what we can afford or whether we can afford retroactivity. If it is right we should pay, we can afford it. That should be clear to everybody. If it is right we should pay, we can afford it; but I cannot accept the principle. I am supporting 1947, not because it is a measure of retroactivity at all as suggested by the hon. Member for the Coast, I am supporting it because I think it is the right date. This Commission began its operations or at least was called on 1st January, 1947, and I would be the very first to deny the civil service should have to wait because the Commission took 20 months before its final report was debated here. That is not the fault of the civil service, and I have always made it clear from the start that personally I should support 1st January, 1947. It is not the fault of the service that the Commission made such an exhaustive inquiry and caused a long delay.

I fail to understand the position which the hon. Financial Secretary has put before us, but I find it extremely difficult to vote back to 1946 when I believe it wrong, because I have been placed in the position where I have to put wrong before right, in my own view, because Tanganyika and Uganda made decisions before I have had the opportunity. I hope I have made clear my reasons. I am not delaying Council by a long dissertation on economics or inflation. I want to pay the civil servant back to 1st January, 1947, because I believe that as the Commission began on that date it is

[Mr. Blundell]

a fair case for that date, but I have not seen anything which convinces me as far as 1946 is concerned.

MR. PRITAM: Mr. Chairman, I rise to oppose the amendment, and I want to draw attention to some points not already made. So far as the Asian civil servants are concerned, it has already been brought to the attention of this Council that right from 1935 our people have been crying for an increase. The hon. mover of the amendment said that civil servants should have cut their coat according to their cloth. I wonder what cloth, because it was absolutely beyond the power of civil servants to do it. It is true that farmers did suffer severely in the 1930 slump, but it is equally true that they were helped by Government, and if anyone cared to see the 1946 report he will find that something like £150,000 is still outstanding against farmers, which has not yet been paid. If we compare the living standards of farmers and traders with that of civil servants, we would see the difference. I come from a farming area and know something about farmers. In 1939 most of the farmers, I should say, were very nearly broke. What is the position today? Not only have they discharged their mortgages, but most of them hide in first class Dodges. I wonder why one particular section of the community should suffer for the others.

Is it fair that our civil servants, for whom we have so much praise for their loyalty and sacrifice, should not be paid according to their work? I notice in one of the circulars issued by the Labour Department that it said that if any business was unable to pay its labour properly it had better go out of existence. I really wonder why any Government which cannot pay its servants properly has any right to exist, and if we establish that principle to Africans it should also apply to Asians and Europeans. In my respectful submission it is not a question of 1946. In fact, the trouble began in 1942 and 1943, since when civil servants have been crying for increases of salaries. Somehow they were not heard. In my respectful submission 1946 is the right date, and they should be paid from that date, and I oppose the amendment.

MR. EDYE: Mr. Chairman, I rise to support the amendment, and I had intended to give a certain number of reasons why, but we have been talking for hours, and we look like talking for more hours to no useful purpose. I will therefore, save time by associating myself most gladly with the remarks made by the hon. Member for the Rift Valley. They are views I would have expressed on similar lines had I been speaking. I support the amendment and associate myself with his remarks.

MR. COOKE: Mr. Chairman, may I ask one question? How can those supporting the amendment as practical men deal with the situation envisaged by the hon. Financial Secretary? That is the point. How can they deal with it when it arises if we accept the amendment? If they can convince me they can deal with the situation, I will change my mind and vote for the amendment.

MR. EDYE: I thought the hon. Member for the Rift Valley made it clear that he was not prepared to accept something which he did not believe was right because he was not given a chance of considering and voting on it before Tanganyika and Uganda, and no one could say that is an improper attitude to take. Because we are placed in a stupid position is not the fault of Council.

MR. TROUGHTON: I must say on that point that it was in deference to the views of hon. members on the other side that the debate was postponed until August. There was a suggestion that it should take place in July, but Government, in deference to the views of the opposite side, postponed the debate till August. While the responsibility for the debate taking place now is joint, it was agreed to by Government solely in order to meet the convenience of hon. members opposite.

MR. HOPE-JONES: I rise to oppose the amendment, and would commend to hon. members opposite to think before voting for the amendment, whether generosity in this case is not good business.

MR. SHATRY: I rise to support the original motion and to oppose the amendment. I would be failing in my duty if I did not express the views of

[Mr. Shatry] my community. Civil servants have undergone severe hardships since 1940, and the date mentioned, 1946, is a reasonable date. Since 1944 prices have gone so high that business men and farmers have made a lot of profit, and the civil servants have undergone hardships. To date the pay back to 1946 is reasonable, and I support the original motion.

MR. MACONOCHE-WELWOOD: Mr. Chairman, I only want to say this. I hope when these financial measures in future happen, the hon. Financial Secretary will do his best to see that this Council, which alone of the three territories has elected members, will deal with the situation first. It is fantastic that two bodies sitting in Tanganyika and Uganda composed entirely of nominated and official members should blackmail this Council into measures it may not approve. (Hear, hear.)

MR. RANKINE: I beg to move that we now adjourn for ten minutes.

Council adjourned at 11.15 a.m. and resumed at 11.30 a.m.

MR. NICOL: Mr. Chairman, there is just one point and that is the hon. Financial Secretary is quite correct when he says that the debate on this report was postponed at the request from this side, but I think I am correct in saying that the Government of Uganda, and also the Government of Tanganyika, but I am not quite certain of that, announced the acceptance of the 1st January, 1946, before the report was published. I personally consider that the 1st January, 1946, is the right date. For that reason I am going to oppose the amendment, but at the same time I do want to associate myself with the remarks made by my hon. friend the Member for Usin Gishu when he requested my hon. friend the Financial Secretary to see, in his capacity as member of the Central Legislative Assembly, that we are not placed in this unfortunate position of having a pistol put at our heads, as has happened over this report. (Mr. TROUGHTON: Hear, hear.)

MR. VASEY: Mr. Chairman, while I cannot support the amendment, I do feel that I should put on record, in the

absence of the leader of the European Elected Members Organization, the hon. Member for Trans Nzoia, Major Keyser, this statement.

While no one can attribute any blame to any particular party, the fact does remain that Sessional Paper No. 2 could not be prepared and presented to the elected members until early in July. Whatever the other territories may do, the great majority of us on this side of Council have to answer directly to our constituents in this matter, and we did contend—and I feel sure hon. members opposite would agree that we were quite fair in contending—that fourteen days or three weeks was not sufficient to study and form an opinion upon a most intricate document like the Salaries Commission Report. I think therefore that, if the other territories found it possible to act more quickly, they showed either, shall we say, a greater power of understanding in those territories (which of course may be possible), or they acted with a certain amount of haste which we were not prepared to do.

I would make it clear that I am making no reflection upon the Government in the matter, because Government did co-operate with the elected members in giving us time to study it, but I wish to remove any suggestion that it is the fault of the Kenya Legislative Council that the situation has arisen. Because we have demanded fair and adequate time for study and debate we are not responsible, and I would not like the members to think for one moment that any member of this Council is responsible for the chaotic situation which has arisen and which has left any member, who was in doubt about the retroactive date in the very difficult position of knowing that, should he vote against the resolution, he would cause chaos.

Having said that, in order to clear my own personal position before I sit down, I would say that I support the original resolution and the date of the 1st January, 1946, not because the other territories have forced us into that position; not because the adoption of any other date would cause chaos, but because, after long and close study of the arguments on both sides, I have felt that any other date would be doing an injustice to the Civil Service. (Applause.)

MR. ERSKINE: Mr. Chairman, I rise to support very emphatically the findings of the Salaries Commission Report that the date should be the 1st January, 1946. From the first page of the report I note that the Commission was appointed by the Right Honourable the Secretary of State for the Colonies in January, 1947, but I am given to understand that there was probably some delay before the actual appointment of the Commission, and in Chapter I—the introductory chapter—it may be noted that the terms of reference of the Commission specifically state that they are asked to recommend the date from which any such adjustments or revision should take effect. From my own personal knowledge and conversations, living as I do here in Nairobi, I am quite satisfied in my own mind, through correspondence also that I have seen, that quite early in 1946 the question of salaries revision was being discussed, and even prior to that date it was understood by civil servants that as soon as the war ended, within a reasonable time, attention would be given to the question of some permanent salaries revision.

In view of all this I made up my mind some time ago that the 1st January, 1946, would be the right date and I feel—although I would not use strong words about it myself—that the civil servants might regard themselves as having been bilked if any other date were chosen.

MR. RANKINE: Mr. Chairman, I do not wish to prolong this debate unnecessarily, but there are two remarks made within the last few minutes which I cannot allow to go unchallenged.

The hon. Member for Mombasa suggested that the other Governments in this matter had held a pistol at our heads, and the hon. Member for Usin Gishu said that the other Governments had blackmailed us in this respect. I suggest that both those statements are quite untrue, and in that respect just let us look at the facts for a moment. The other Governments took a decision which they considered right. We have full power to take the same decision, or not, as we consider right, and when anyone else takes any action that may have an effect on what we have to take. But to say that either of the other Governments has held a pistol at our heads or

has blackmailed us I suggest is quite untrue. It does not fit the facts at all. They have not held a pistol at our heads or blackmailed us.

Again, if we look at the facts, what other suggestion can you make? The only way we can get over it is to have a legislature for the whole of East Africa. Unless we move exactly in step over every matter and simultaneously, there is no other way of getting over it. Because someone may take action which may be perfectly justified that has a relation to what we do, we would not suggest for a moment that that person had either held a pistol at our heads or blackmailed us. I suggest those terms are gross exaggerations, and I would appeal to the hon. members to withdraw them because I do not think that they should pass unchallenged.

MR. MACONOCHE-WELWOOD: Mr. Chairman, I do not think I can withdraw those words in view of what the hon. Financial Secretary said. He said deliberately that, should we alter this date—the 1st January, 1946—the situation would be utterly impossible. I think those were his words, and if that is so we did have a pistol put at our heads. It cannot have been the intention of the Tanganyika or Uganda Governments to do so. I do not think the intention was there, but the fact was there, and if it is with facts that we are concerned in this Council, deliberations on this Council become utterly useless if the hon. Financial Secretary can get up and say it is useless our debating this as, if our deliberations go one way, it will create an impossible situation.

MR. TROUGHTON: Mr. Chairman, I would appeal to hon. members to withdraw these expressions, despite the explanation of my hon. friend the Member for Usin Gishu, because the very use of the word "blackmail" and the very use of the term "hold a pistol at" implies intent; it implies evil intent, and although the hon. Member for Usin Gishu swore he would never withdraw it he has, I think, in fact very largely withdrawn it by saying he did not believe there was any intent.

I hope that the presence of representatives of this Council on the Central

(Mr. Troughton) Assembly will help to reduce the possibility of this sort of thing happening in the future, but it will never be entirely eliminated until the situation mentioned by my hon. friend the Chief Secretary comes about, namely, one legislature for the whole of East Africa. As an example of the difficulties even under the present set-up, I might mention that the question of the Salaries Commission Report and retroactive action was down for consideration—I had asked that it should be debated—in Dar es Salaam by the Finance Committee of the Assembly consisting of all the unofficial members. Unfortunately, I was not able to be present, but two of the representatives of this legislature felt it would not be discussed inter-territorially until they had had a mandate from the Kenya Legislative Council.

So that the thing bristles with difficulties. The assembly cannot debate until it has a mandate from Kenya; and Kenya cannot debate it until there has been ample time for consideration. It is really a frightfully difficult and soul-destroying task trying to get any measure of co-operation, but I can assure hon. members that their representatives on the Assembly are doing their best to carry out a difficult task.

MR. NICOL: Mr. Chairman, first of all, surely it must have been patently clear to the other territories that by making the announcement they did they would automatically embarrass us? If they had their own self-contained Post Office and Railway and what-have-we, then they could do what they liked; but of course it is fantastic to think that, because an officer was serving in Uganda his counterpart in Kenya would be worse off than the Uganda man. So I will go this far to meet my hon. friend the Chief Secretary and my hon. friend the Financial Secretary, and say that the action taken by the other Governments had the effect of giving the impression that a pistol was being held at our heads. (Laughter.)

MR. COOKE: Mr. Chairman, I happen to be in the unhappy position of saying "I told you so", because if hon. members will consult Hansard they will find that not once or twice, but on several occasions, I have warned members of

this Council that such a situation would arise, and it should have been patently obvious, to use the expression of my hon. friend the Member for Mombasa, that there was a likelihood of this situation arising. At any rate they cannot say they have not been warned on many occasions in the past.

MR. HOPE-JONES: Mr. Chairman, having expressed my personal opinion—

THE CHAIRMAN: You are very indistinct to-day. I do not know what is the matter with the trumpeting tones?

MR. HOPE-JONES: I have a cold, sir. (THE CHAIRMAN: I commiserate with you.) I will do my best. Having expressed my personal disquiet at the situation in which we find ourselves, I would ask the hon. Member for Usin Gishu to think again, to think carefully and consider whether in fact his viewpoint is not very similar to mine. What he is quarrelling with is merely the unfortunate situation we are in, and I appeal to him to withdraw the very unfortunate word "blackmail". I am sure he will do so.

THE CHAIRMAN: Before any member rises to address the Council I would like to call your attention to paragraph 369 of the report. It states that, as a result of certain interchanges of dispatches, with the concurrence of the Commission, the other territories had made their announcement. We are getting a long way away from the question before Council in indulging in this sort of mutual recrimination.

MR. MACONOCHE-WELWOOD: Mr. Chairman, I am prepared to withdraw the expression—(applause)—that there was any intention to blackmail, but I am not prepared to withdraw my remarks that the effect was as if we had been blackmailed. From what the Chairman has just said it appears that it is not that the Government which was to blame, but that the hand of this legislature was deliberately forced by the Commission when it printed the report. They say: "A similar announcement has not yet been made in Kenya, but we are aware of no reasons for any differentiation in this matter as between that territory and the others". In other words, they are the people who have completely forced our hand in advance.

(Mr. Maconochie-Welwood)

The question that the words proposed to be omitted stand part of the resolution was put and carried by 30 votes to 6. Ayes: Messrs. Andrews, Chemallan, Colchester, Cooke, Erskine, Harris, Hartwell, Hobson, Hope-Jones, Hyde-Clarke, Jeremiah, Jones, Lowe, MacLennan, Madan, Mathu, Nicol, Ohanga, Patel, Pritam, Rana, Rankine, Robbins, Roddan, Seif bin Salim, Shatry, Thornley, Troughton, Vasey, Wadley. Noes: Messrs. Blundell, Edey, Havelock, Hopkins, le Breton, Maconochie-Welwood, 6.

The question of the resolution was put and carried.

Resolution No. 28

MR. VASEY: Mr. Chairman, in moving Resolution No. 28 I would ask your leave and the leave of Council to amend it slightly.

The resolution as committed to this Committee read: "This Council agrees that a committee be appointed with executive powers to investigate the question of superfluous personnel in any branch of the Civil Service, the retirement of officers holding such posts, and the abolition of those posts from the establishment list". In discussions with members on the other side of Council it has been found that certain constitutional difficulties exist; that in actual fact His Excellency the Governor is, I believe, the only person who has executive power to dismiss personnel at a high level. Under those circumstances I would ask leave to withdraw the phrase "with executive powers" and to insert the phrase "advisory to His Excellency the Governor". If that leave is granted and it is accepted by members on the other side—

MR. RANKINE: The Government would accept it.

MR. VASEY: There is one particular point I should like to make in moving this resolution. It is, I am sure, not the wish of any member of this Council that there should be any thought that this committee is a committee of widespread retrenchment. I should like to make that perfectly clear. The intention in moving that this committee be appointed is, I think, a recognition of the fact that, having agreed that salaries on, shall I

say, an adequate level should be paid to members of the Civil Service as individuals; it is important to arrive at two things: one, that no superfluous posts shall exist and become, as it were, a wasteful charge upon the revenue of the country; and two, what number of servants the country can afford. The number of services that the country can afford will, of course, be dealt with when the draft estimates are before us, but prior to that time it is essential, I think, that this Council should have knowledge and confidence that a complete tightening up of the number of servants employed in any particular service has been undertaken. I would emphasize that that is the intention, and the sole intention, of the resolution now before Council.

MR. MACONOCHE-WELWOOD: Mr. Chairman, I rise to support this resolution most strongly, and the only thing in which I disagree a little with the hon. Member for Nairobi North is when he said it did not mean widespread retrenchment. In my own view, it may not mean widespread but it must mean a very considerable retrenchment, because the situation has grown up in this country where a great many jobs are performed by technical officers with the highest qualifications on a high salary scale which could well be done by men with less qualifications and on a lower salary under a directive. I also think that many of the jobs done in this country both in the Education Department and Public Works Department and elsewhere could be performed by technicians on contract. Admittedly their pay would be higher, but I for one do not care when we have the money where we spend it. It is less harmful to the country ultimately than to place a mortgage on the country in the future which every pension must inevitably mean.

For those reasons I think it is possible that a most useful committee can be set up, and if it is set up I should like to see strong unofficial representation on it, because I think it is a good thing that officials should be represented, as very often from this side of the Council comes a demand for some service without any appreciation of the cost to the country that such a service will entail. If we are to retrench and are to make the necessary cuts in the Civil Service it

[Mr. Maconochie-Welwood] should be done with unofficial connivance and support. Also, if we are to do it at all, now is the moment, when the unfortunate civil servant who is retrenched is in a position to get another job, for we have been told repeatedly in this debate that there are very few men for all the jobs in the world. Now is the moment to get rid of them in fairness to them.

MR. COOKE: Mr. Chairman, I welcome the suggestion as well. Actually, I think I had more or less made the same point in my principal speech on the report. I should like personally to see an executive committee with power to co-opt a head of a department. I am afraid that I do not agree quite with the last speaker. Specialist officers we do not want to get rid of, they are absolutely essential, and it is not possible to obtain these men on contract simply because they will not come here unless they know their position is assured. When I first spoke in the debate on the report, I had envisaged a directly unproductive service though nobody is really unproductive indirectly, and I envisaged more the cutting down of the clerical staff possibly, and not only apply it to Europeans but to the Asians and the Africans, because I think the Asian and African clerical staff is much over-stuffed, and I think there should be less but more efficient and well-paid men.

I support the resolution.

The question was put and carried.

Resolution No. 29

MR. VASEY: Mr. Chairman, I beg to move that Resolution No. 29 be adopted: "That the conclusions now arrived at by the committee of the whole Council shall, if adopted by the Council, be reviewed at the end of a four-year period or earlier should (a) the cost of living index figure vary by 25 points from that existing on 1st July, 1948, or (b) a financial emergency arise".

All I would say in support of this resolution is that a great number of members on this side of Council who have felt it their duty to oppose a great deal of this report, have largely done so from the fear whether the country would be able to stand the amount to

which this report commits them. (Hear, hear.) Therefore, in order that some relief should be given to that fear, it is suggested that the conclusions arrived at be reviewed at any rate at the end of a four-year period or should the cost of living vary. Here I think one must be perfectly clear. The date fixed in this resolution is 1st July, 1948, and the Civil Service on that date will already have lost some fair number of points in the cost of living index as against the figure on which the Salaries Commission Report was based. I think that that is an important point to remember when this date is fixed. Should the cost of living drop by 25 points from 1st July, 1948, it is obvious that something in the nature of a recession may have set in, and it would be fair and wise at that stage to review the position. These 25 points will be arrived at far quicker than if one had taken the level of 165 on which I believe the Commission's Report is based, so that one is not being over-generous to the Civil Service in this particular motion. On the other hand, the cost of living has already risen some five to seven points, I understand, over the 165, so that the margin allowed either way is in fact not 25 but probably nearer 32 over the Salaries Commission level.

But should that point arise, then I believe that in order to prevent ourselves facing a discontented and hard-hit Civil Service again over a long period, in order to avoid that need to apply for a review of their case, I believe it should automatically come before this Council at that point. Otherwise I can foresee, should the cost of living figure rise by another 25 points, that the Civil Service will again be caught in that position they have been since January, 1946, on static wages with rising costs, but this time without any buffer of a cost of living figure to keep the wheels turning at all. Because of those points, I beg to move Resolution No. 29.

MR. HYDE-CLARKE: May I ask one question for clarity? Is the four-year period dated from 1st January, 1946, or 1st July, 1948?

MR. VASEY: I would respectfully say that the four-year period can only be from the time the conclusions are accepted by this Council.

MR. HOPE-JONES: May I have a clarification on one point? This is because, as a public institution, we are aware that the terms shall be reviewed at four years from the date of the first or last of the cost of living index. Has somebody already not proposed the terms being reviewed before the Government, so that is that correct?

MR. VASEY: The answer to that is that all this means is an automatic review at the end of a certain period or should certain things happen. I think it must always be open to either side of the Council to move a motion that these figures be reviewed should the national situation prove it necessary. (Hear, hear.)

The question was put and carried.

Resolution No. 30

MR. RANKINE: Mr. Chairman, I should like to give advice on one matter of procedure, that is, which would be the proper time to move the last Resolution, No. 30—when Council has reported back on its committee?

THE CHAIRMAN: Would it not be advisable to have the whole of the resolutions typed with the amendments and put them before Council so that the Chairman has them when he reports them as amended? You can—

MR. COOKE: May I make this point—

THE CHAIRMAN: May I be allowed to do something, please? There is the phrase "Council resumes", meaning resumes immediately, but as you have asked my advice I suggest some delay until we get before us all the revisions so that I, as chairman, can report to Council that they are amended, and then file the final resolution, which is now No. 30 to be moved in Council.

MR. COOKE: May I at this stage respectfully submit that when the committee goes back into Council will be the time to invoke Rule 32 and refer to His Excellency both severally and jointly and collectively the resolutions passed by this committee? I should like to make that point before we get into any further constitutional muddle.

MR. VASEY: Having, sir, accepted your ruling, as I think we must at this

stage, on the constitutional position, I suggest on the subject of amendments to be made at the conclusion of the long debate, that most members of the Council have the resolutions they have voted for in support of the committee, and I would suggest should resume now that you should report progress on the resolutions and the use of amended resolutions and so on, as accepted, on this occasion, please, indeed.

THE CHAIRMAN: You was just now, to report the resolutions as amended, and then proceed right away to vote on it.

MR. VASEY: That is my intention, submission, in order that we may get this matter out of the hands of Council.

MR. RANKINE: In that case, I propose that the resolutions be reported back to Council with amendments.

Council resumed, and the Speaker reported accordingly.

MR. HOPE-JONES: Mr. Speaker, may I respectfully refer to the procedure of the hon. Member for the Coast, and that we are in Council again? I do not wish, of course, to enter into any of the points raised by the hon. Member, but I think correct, and I have no reason to doubt whether he is or not, as far as an important constitutional point, I would respectfully mention this, but I am in a position to give an opinion on it—naturally I am not—but he is, that I, as a member of this Council, feel there is a great deal of importance in the point he raised.

THE SPEAKER: Shall we have consideration of the resolution in the Order Paper, No. 30, and proceed with the other matters on the Order Paper?

MR. VASEY: Mr. Speaker, there is one point I wish to make. To whom are we going for a ruling on this point when you have approved and how long are we going to take before we bring a motion, because as I understand it, that matter is dealt with we are in the position where we cannot implement the financial findings of the Salaries Commission Report, and that I think it is a most difficult position to be in.

THE SPEAKER: As far as I understand it, all that is required is for one of the members under the Member system to

[Mr. Maconochie-Welwood] should be done with unofficial connivance and support. Also, if we are to do it at all, now is the moment, when the unfortunate civil servant who is entrenched in a position to get another job, for we have been told repeatedly in this debate that there are very few men for all the jobs in the world. Now is the moment to get rid of them in fairness to them.

MR. COOKE: Mr. Chairman, I welcome the suggestion as well. Actually, I think I had more or less made the same point in my principal speech on the report. I should like personally to see an executive committee with power to co-opt a head of a department. I am afraid that I do not agree quite with the last speaker. Specialist officers we do not want to get rid of, they are absolutely essential, and it is not possible to obtain these men on contract simply because they will not come here unless they know their position is assured. When I first spoke in the debate on the report, I had envisaged a directly unproductive service though nobody is really unproductive indirectly, and I envisaged more the cutting down of the clerical staff possibly, and not only apply it to Europeans but to the Asians and the Africans, because I think the Asian and African clerical staff is much over-stuffed, and I think there should be less but more efficient and well-paid men.

I support the resolution.

The question was put and carried.

Resolution No. 29

MR. VASEY: Mr. Chairman, I beg to move that Resolution No. 29 be adopted: "That the conclusions now arrived at by the committee of the whole Council shall, if adopted by the Council, be reviewed at the end of a four-year period or earlier should (a) the cost of living index figure vary by 25 points from that existing on 1st July, 1948, or (b) a financial emergency arise".

All I would say in support of this resolution is that a great number of members on this side of Council who have felt it their duty to oppose a great deal of this report, have largely done so from the fear whether the country would be able to stand the amount to

which this report commits them. (Hear, hear.) Therefore, in order that some relief should be given to that fear, it is suggested that the conclusions arrived at be reviewed at any rate at the end of a four-year period or should the cost of living vary. Here I think one must be perfectly clear. The date fixed in this resolution is 1st July, 1948, and the Civil Service on that date will already have lost some fair number of points in the cost of living index as against the figure on which the Salaries Commission Report was based. I think that that is an important point to remember when this date is fixed. Should the cost of living drop by 25 points from 1st July, 1948, it is obvious that something in the nature of a recession may have set in, and it would be fair and wise at that stage to review the position. These 25 points will be arrived at far quicker than if one had taken the level of 165 on which I believe the Commission's Report is based, so that one is not being over-generous to the Civil Service in this particular motion. On the other hand, the cost of living has already risen some five to seven points. I understand, over the 165, so that the margin allowed either way is in fact not 25 but probably nearer 32 over the Salaries Commission level.

But should that point arise, then I believe that in order to prevent ourselves facing a discontented and hard-hit Civil Service again over a long period, in order to avoid that need to apply for a review of their case, I believe it should automatically come before this Council at that point. Otherwise I can foresee, should the cost of living figure rise by another 25 points, that the Civil Service will again be caught in that position they have been since January, 1946, on static wages with rising costs, but this time without any buffer of a cost of living figure to keep the wheels turning at all. Because of those points, I beg to move Resolution No. 29.

MR. HYDE-CLARKE: May I ask one question for clarity? Is the four-year period dated from 1st January, 1946, or 1st July, 1948?

MR. VASEY: I would respectfully say that the four-year period can only be from the time the conclusions are accepted by this Council.

MR. HAVELOCK: May I have a clarification on one point? This, I believe, is a positive resolution to the effect that the terms shall be reviewed in four years from the date of the rise or fall in the cost of living index, but presumably it does not prevent the terms being reviewed before if Government so wishes—is that correct?

MR. VASEY: The answer to that is that all this ensures is an automatic review at the end of a certain period or should certain things happen. I think it must always be open to either side of the Council to move a motion that these figures be reviewed should the national situation prove it necessary. (Hear, hear.)

The question was put and carried.

Resolution No. 30

MR. RANKINE: Mr. Chairman, I should like your advice on one matter of procedure; that is, when would be the proper time to move the last Resolution, No. 30—when Council has reported back or in committee?

THE CHAIRMAN: Would it not be advisable to have the whole of the resolutions typed with the amendments and put them before Council so that the Chairman has them when he reports them as amended? You can—

MR. COOKE: May I make this point—

THE CHAIRMAN: May I be allowed to do something, please? There is the phrase "Council resumes", meaning resumes immediately, but as you have asked my advice I suggest some delay until we get before us all the revisions so that I, as chairman, can report to Council that they are amended, and then have the final resolution, which is now No. 30 to be moved in Council.

MR. COOKE: May I at this stage respectfully submit that when the committee goes back into Council will be the time to invoke Rule 32 and refer to His Excellency both severally and jointly and collectively the resolutions passed by this committee? I should like to make that point before we get into any further constitutional muddle.

MR. VASEY: Having, sir, accepted your ruling, as I think we must at this

stage, on the constitutional position, may I suggest in the interests of speed and to arrive at the conclusion of this rather long debate, that most members, or all members, of this Council know the resolutions they have voted for or against in committee, and I would suggest we should resume now and you should report progress on our behalf, and the list of amended resolutions can be taken as accepted on this occasion. (Hear, hear.)

THE CHAIRMAN: You wish me now to report the resolutions as amended and then proceed right away to No. 30?

MR. VASEY: That is my humble submission, in order that we may get this matter out of the minds of Council.

MR. RANKINE: In that case, I move that the resolutions be reported back to Council with amendments.

Council resumed, and the Speaker reported accordingly.

MR. HOPE-JONES: Mr. Speaker, may I respectfully refer to the point raised by the hon. Member for the Coast now that we are in Council again? I do not wish, of course, to enter into any of the points raised by the hon. member but, if he is correct, and I have no reason to know whether he is or not, he has raised an important constitutional point. I only respectfully mention this, not because I am in a position to give an opinion on it—naturally I am not—but to say that I, as a member of this Council, feel there is a great deal of importance in the point he raised.

THE SPEAKER: Shall we leave consideration of the resolution on the Order Paper, No. 30, and proceed with the other matters on the Order Paper?

MR. VASEY: Mr. Speaker, there is one point I wish to make. To whom are we going for a ruling on this point which you have approved and how long is it going to take before we have a decision, because as I understand it, until that matter is dealt with we are in the position where we cannot implement the financial findings of the Salaries Commission Report, and that I think is a most difficult position to be in.

THE SPEAKER: As far as I understand it, all that is required is for one of the members under the Member system to

[The Speaker] rise and inform this Council that the Governor has signified his consent to Resolution No. 30 being out, before Council.

MR. RANKINE: Mr. Chairman, I move: That Council do adjourn in order to enable me to obtain His Excellency's formal consent to Resolution No. 30.

MR. HOBSON seconded.

The question was put and carried.

Council adjourned at 12.15 p.m. and resumed at 12.25 p.m.

MR. RANKINE: I have pleasure in informing the Council that during the interval I communicated with His Excellency the Governor and he was good enough to signify his consent to the amendments which the Government has already accepted. (Applause.)

I beg to move Resolution No. 30: "Subject to the views expressed in the resolutions already passed in committee, this Council endorses the proposals in the report as modified by Sessional Paper No. 2 of 1948, and agrees to the provision of the funds required to give effect to them".

MR. TROUGHTON seconded.

MR. VASEY: Mr. Speaker, in rising to support this resolution, I do so for one purpose only, and I shall not keep Council for more than a few minutes.

The views expressed in the resolutions of the Committee have met with fairly consistent opposition from a number of members on this side of Council. Now, sir, I should like to pay my personal tribute to those members who have maintained their opposition consistently. Although I disagree with them on almost every point they have put forward, they have fulfilled, sincerely and honestly, a public duty, and I feel sure that there is no member on the other side of Council who has resented their fulfilling what is after all the first duty of a body on this side of Council, and that is to maintain, where necessary in his opinion, an active opposition. (Hear, hear.) They have faced defeat after defeat on their amendments, but I think that we all recognize their courage, their honesty and sincerity, and I have

pleasure in paying this personal tribute to the qualities they have shown. (Applause.)

MR. EDYE: Mr. Speaker, I should just like to say on behalf of those who have maintained this opposition how much we appreciate the remarks made by the hon. member for Nairobi North and the "hear, hears", we heard from the other side of Council. (Applause.) (MR. COOKE: Bloodied but unbowed!)

MR. RANKINE: Mr. Speaker, I have already paid a tribute to the level on which this debate has been conducted, and to the fact that we on this side of Council realize that, whatever has been said from the other side, was said with honesty and integrity, in what the speakers considered to be the best interests of the colony. The Civil Service as a whole is very grateful for the manner in which its case has been considered. Some of them may not feel that the salaries are really adequate, but those salaries are accepted on the grounds that they are what the Commission considered to be reasonable and what the Council thinks are the right salaries for the job. I am sure the Civil Service as a whole accepts them in that spirit.

Again, as my hon. friends on this side of Council have stressed on many occasions, the Civil Service is out to make itself as efficient as can be, it is out to do its job for the Colony, and I believe that the fact that the salaries have now been revised will make it easier to eliminate dead wood and to make the Civil Service 100 per cent efficient. In the past it has not always been easy to get rid of people who have not been considered 100 per cent efficient, for this simple reason, that when departments are trying to carry out difficult jobs with, as members have indicated, staffs that have been far from sufficient it has not always been easy to get rid of someone even if he has not been 100 per cent efficient, because it was known that, if that man was got rid of, it would be difficult, if not impossible, to replace him.

As I have said, the criticisms made have been made in a constructive spirit and I feel sure they will be taken in that spirit, and I hope that now it will be possible to put into effect the feeling

[Mr. Rankine] that the Civil Service, and the farmers, and everybody else for that matter, are equal partners in a joint enterprise, which is the welfare and prosperity of this colony. (Applause.)

The question was put and carried by 28 votes to 4, 2 not voting. Ayes: Messrs. Andrews, Chemallan, Colchester, Cooke, Erskine, Harris, Hartwell, Hobson, Hopkins, Hyde-Clarke, Jeremiah, Jones, Lowe, MacLennan, Mathu, Nicol, Ohanga, Pritam, Rana, Rankine, Robbins, Roddan, Seif bin Salim, Shatry, Thornley, Troughton, Vasey, Wadley, 28. Noes: Messrs. Edye, Havelock, le Breton, Maconochie-Welwood, 4. Did not vote: Messrs. Hope-Jones, Patel, 2.

INCOME TAX (AMENDMENT) BILL SECOND READING

MR. ANDREWS: Mr. Speaker, I beg to move: That the Income Tax (Amendment) Bill be read a second time.

I may not be able to do justice to this subject before the time usually appointed for the rising of Council, and no doubt you, sir, will interrupt me when that time comes.

The object of this Bill is to give effect to two undertakings which Government has given in the past. Taking the points in order of importance will involve my going backwards through the Bill, not in order to put any kind of "black magic" over the Council, but for the purpose of convenience; and perhaps some hon. members would agree with me that some income tax legislation reads very much the same backwards as it does forwards!

The first undertaking was that the rates of income tax payable in the colony should be ironed out on a more logical basis, as regards the tax payable in 1948 (that is to say, the tax on incomes in 1947), to produce generally speaking a more equitable "curve" of payments; and at the same time, for most taxpayers, a reduction in the tax payable by them. In fact, all taxpayers with incomes less than £12,000 will benefit under the new arrangement.

As hon. members may wish to have a more detailed interpretation of the effect of this measure, I would beg leave to read from the speech of my hon. friend

the Financial Secretary in moving the budget in 1948, where the comparative changes are explained. He said:

"For the tax payable in 1948 and 1949 on 1947 incomes, the Government considers that there should be a measure of relief on really broad lines, which will affect the whole range of taxpayers, except the very rich, but which will at the same time remove some of the anomalies in the existing law. The proposals have been communicated to the other East African Governments and have not yet reached finality. It is possible that they may be amended in the light of inter-territorial discussions, and that must be borne in mind. Nevertheless, this Government proposes to give relief of the following order. At present income tax is charged at Sh. 2 in the £ on the first £250 of chargeable income.

It is proposed that for the next year the rate should be Sh. 1/50 in the £ on the first £400 of chargeable income. Therefore the taxpayer whose chargeable income to-day is £400 and who now pays at the rate of about Sh. 2/20 in the £, will receive relief at about 70 cents in the £. It is proposed that, broadly speaking, this measure of relief shall be reflected right through the income tax and surtax range, except for £10,000 incomes, in the following manner, and I am afraid I shall be technical for a moment or two. At present the rate of income tax increases by one-eighth of a cent up to a maximum of Sh. 5 in the £ on the whole of the chargeable income. It is proposed that the new rate should progress to Sh. 3 in the £ at a chargeable income of £1,600, and that the excess over £1,600 only should be charged at Sh. 5 in the £. That will have the effect of ironing out the income tax curve.

Regarding supertax, a further modification is proposed. I will not go into details of the lower stages for reasons I will explain in a moment, but this surtax will progress up to Sh. 7 in the £ at an income of £9,500. Our present surtax has got another flaw in that it does not make proper provision or special provision for ensuring a proper contribution to revenue by those people whose incomes are over £10,000 a year. That flaw arises for the reason that when the existing rates were fixed, there was no evidence that anyone in East Africa had

[Mr. Andrews] an income of that order. Now the position is reversed and, as a matter of fact, there are a few people in that extraordinary happy position. In order to ensure that those people make a proper contribution to revenue, it is proposed that incomes between £9,500 and £20,000 should pay at the rate of Sh. 10 in the £ surtax on the excess over £9,500. That would cover up to £20,000. But there are some incomes higher even than that, and it is proposed that the next £30,000 of income should bear tax up to Sh. 10/50 in the £, and anything over £50,000 pay Sh. 11 surtax."

Then he gave two examples of the effect. "A married man with four children on a total income of £1,500 a year, would get a reduction of £25 15s., or 26 per cent. of the total tax paid. A married man with two tiny children not old enough to go to school and getting £700 a year, would get relief of 25 per cent. of the total tax: that is, it would come down from Sh. 460 to Sh. 345, a relief of Sh. 115."

Clause 5 of the Bill is intended to put these changes into effect. It provides for a new Third Schedule to the principal Ordinance, and that is intended to be read with a number of tables, and the object of those tables is to provide a kind of ready-reckoner, so that any taxpayer may refer to them and see more or in advance, when he has worked out his chargeable income, and in the case of the super-taxpayer his total income, how much he will have to pay. I should mention that it is proposed at the committee stage to amend a printer's error at the end of clause 5.

THE SPEAKER: I think the time has now arrived to interrupt the business.

ADJOURNMENT

Council rose at 12.45 p.m. and adjourned till 10 a.m. on Tuesday, 7th September, 1948.

Tuesday, 7th September, 1948

Council reassembled in the Memorial Hall, Nairobi, on Tuesday, 7th September, 1948.

His Honour the Speaker took the chair at 10.10 a.m.

The proceedings were opened with prayer.

SELECT COMMITTEE ON ACCOMMODATION

THE SPEAKER informed the Council that he had appointed the following members as a committee to inquire into the matter of accommodation, etc., for the Council in the Memorial Hall:—Hon. Deputy Chief Secretary, chairman; Hon. Acting Director of Public Works, Hon. Members for Nairobi North, Ukamba, and Central Area (Mr. Nathoo), with the Clerk as Secretary.

MINUTES

The minutes of the meeting of 3rd September, 1948, were confirmed.

PAPERS LAID

The following papers were laid on the table:—

By MR. HOBSON:

Judicial Department annual report for 1947.

By MR. THORNLEY:

Select Committee report on the Employment of Women, Young Persons and Children Bill, Printing and Stationery Department annual report for 1947.

MR. LOWE: Mr. Speaker, I beg to move: That Standing Rule and Order No. 61 be suspended to enable me to lay on the table the select committee report on the Native Poll Tax (Amendment) Bill. The rule says that a report shall be signed by the Chairman and all members. The hon. Commissioner for Local Government agrees with the amendments proposed in this report and undertook to sign the report at our last sitting, but unfortunately he went away and the report is prepared without his signature.

MR. HOBSON seconded.

The question was put and carried. The rule was suspended, and Mr. Lowe laid the report on the table.

ORAL ANSWERS TO QUESTIONS

NO. 75—NAIROBI MUNICIPAL COUNCIL LOANS

MR. VASEY:

Will Government please state when the legislation will be presented whereby Nairobi Municipal Council may be authorized to raise its own loans?

MR. HOBSON: Legislation is now in course of preparation. Two or more Ordinances will be affected and the drafting requires extreme care. I hope that drafting will be completed during the present week. All further steps necessary to introduce this legislation will be taken as expeditiously as possible.

MR. VASEY: Arising out of that answer, sir, in view of the fact that the Chairman of Nairobi Municipal Council Finance Committee is going to London on other matters soon, would it be possible for Government to assure this Council that that legislation will be taken prior to his departure?

MR. HOBSON: Man proposes, God disposes! We shall do our best.

STANDING RULE AND ORDER NO. 32

MR. COOKE: Mr. Speaker, before Council proceeds to the business of the day, I would ask for guidance on a particular point. Two or three select committees are now sitting. Is it competent for private members under Standing Rule and Order No. 32 to bring in a money motion in select committee?

THE SPEAKER: Rule 32, as I understand it and have tried to express many times, is in substance the rule that only the Crown can initiate or originate any Bill, motion or resolution for expenditure, and I take it it will apply everywhere.

MR. COOKE: In select committee?

THE SPEAKER: In select committee, because a committee can do no more than Council can; it cannot have greater powers. It must therefore be bound by that rule.

MR. COOKE: Are you aware that in the House of Commons in committee money amendments are put with the permission of the House?

THE SPEAKER: You can move to reduce the amount the Crown has asked for, you can move to omit the amount altogether, but you cannot originate a motion. When you come to an amendment in what is known as the Committee of Ways and Means in the House of Commons or Committee of Supply, there is already the presentation of an estimate by command, so to speak. It means that the executive have put it forward, and thereafter the Commons may grant or refuse or reduce. That, I think, is the position.

If I may read from May's Parliamentary Practice. This is the passage, at the bottom of page 696, which is headed "No increase of sums specific by the estimates": "The constitutional principle which vests in the Crown the sole responsibility for initiating national expenditure, and which forbids the Commons to increase the sums demanded by the Crown for the service of the State, is strictly enforced in the Committee of Supply. For instance, it was held, 9th March, 1863, that a member could not move an addition to the number of men stated upon the Army Estimates, although apparently the grant for pay upon the Estimates provided for a number of soldiers larger than the number herein specified; and analogous motions have been ruled out of order, although the proposed increase in the number of men was nominal, designed only for the correction of an alleged error in the Estimates. No amendment can, therefore, be proposed, whether by a Minister of the Crown, or by any other member, to increase the amount of a grant beyond the sum specified in the estimate. If such increase be necessary, a supplementary estimate must be presented or the original estimate must be withdrawn, and a revised estimate presented, though, according to modern practice, it is not customary to present a revised estimate for an increased amount."

Surely a passage like that expresses the matter clearly, that you may not amend once the executive have initiated something in this Council, that is a financial measure, and it is then open to the members throughout the Council to either refuse to grant it or reduce it but they cannot increase it.

MR. COOKE: I am not talking for a moment about increasing. I am referring

[Mr. Cooke] to your reference to the Royal Instructions which you say obtain in committee. Those Instructions quite clearly say "which in the opinion of the Governor would dispose of or charge any public revenue or public funds of Kenya or revoke or alter any disposition thereof or charge thereon, or impose, alter or repeal any rate, tax or duty". In the Hansard of the House of Commons which I have here there is not only one example but at least 20 resolutions moved by private members, very few of which were carried but some were. So that obviously is the position in the House of Commons to-day. I am not disputing your ruling, but if that is the ruling then a lot of the work in select committees is null and void. That is the point I wanted to make.

THE SPEAKER: I must confess that I am at a loss to understand what you are really wanting me to decide. I can only decide according to the Royal Instructions, that a member cannot initiate financial matters, and that is my view, that whether in Council or in committee or anywhere else he cannot initiate it. I think that all that Clause in the Royal Instructions is intended to do is to preserve that position.

MR. COOKE: Then the amendments of the select committee on the Native Poll Tax Bill, as far as I can make out, must be out of order. However, that will come up to-morrow.

THE SPEAKER: That will come up when we get to the appropriate time—are you seeking guidance or something?

MR. HOBSON: Mr. Speaker, I was about to speak on this point of order and draw attention to one or two matters that may assist the Council but I do not want to prolong the debate. Have I your permission, sir, to point these matters out?

The first point I would make is that in nearly every select committee report (I have before me the Native Poll Tax one) we recommend "that this Bill be amended in the following respects". In my submission it is when the bill comes back to Council that His Excellency's assent must be signified.

THE SPEAKER: Assuming that the Bill does revoke or alter the charge upon the

existing revenue, or increase it, or otherwise, none the less that Bill originates with the consent of the Governor, because I think it is true to say that whenever a Bill, whether it is a money Bill or not, is published in the Gazette it says that it originates with the consent of the Governor.

MR. HOBSON: That is so.

THE SPEAKER: As I say, when it comes to amending, then the powers of the Council are either to grant the amount necessary, or to pass the legislation to implement the grant, or reduce it, or alter it; but not to increase it. The plain fact is that a private member cannot initiate, except with the Governor's consent, a financial resolution or Bill involving expenditure.

MR. VASEY: If I might ask for guidance and, with your permission, perhaps get one part of the situation cleared up as it affects this side of Council. During the debate on the Salaries Commission I understood, I think it was the hon. Financial Secretary or the hon. Chief Secretary, to say that the Government recognized the right from this side of Council to reduce or reject expenditure, and if we could have that assurance repeated, and your ruling made that the statement by the hon. Chief Secretary did in fact mean the consent of the Governor, then I think that particular portion would be cleared up as far as this side of Council is concerned. I am not, of course, challenging the question of the increase in expenditure at this stage.

MR. RANKINE: So far as I am concerned, this Council has the complete right to revoke or reject any charge or dispensation. It then becomes a matter for the Governor to decide whether he should certify under the powers of certification.

THE SPEAKER: I did not quite hear you, and we do not want to get involved in a discussion which will take us beyond the scope of the present matter. Would you mind repeating what you said?

MR. RANKINE: As I understand it, the hon. Member for Nairobi North was asking for confirmation that this Council had the right to revoke or reject any charge or estimate, and that the Governor's consent to that would be

[Mr. Rankine] forthcoming. I feel sure that, on behalf of His Excellency, I can give the Council that assurance. I should add that if, of course, any estimate is revoked or rejected, it would then become a matter for His Excellency to decide whether to use his powers of certification.

MR. COOKE: Mr. Speaker, I am glad the hon. member has conceded what I have been contesting. The whole point is His Excellency cannot signify his consent thereto until he has seen what the amendment is, which is perfectly correct, as I tried to say before. What happens is that in committee there is the usual discussion, and then when it comes before this Council, His Excellency, having seen the amendments, then signifies his consent. That, I submit, is perfectly regular and in order, but you cannot expect His Excellency to delegate the power to the Chief Secretary or anybody else on a matter of such supreme importance as a money matter. But when it comes back to Council, he has then seen the amendments and the tidying up which has been done in committee, and gives his formal consent. I think that is the constitutional position and I am glad my hon. friend has acknowledged it.

MR. RANKINE: Sir, I have no desire to prolong this argument any further. I have already suggested that this is a matter which can best be brought up when the Standing Rules and Orders of this Council are under discussion, and that at the present time any further argument is merely wasting the time of the Council. I have also suggested the manner in which it seems to me that all the difficulties can be overcome, and that is when the Council wishes to increase any charge or estimate, they should make a recommendation to the Government to consider it. It seems to me that that covers all cases that the Council has a perfect right to discuss the matter as far as it wishes, and it can make the recommendation and that recommendation will receive due consideration.

THE SPEAKER: So long as no one takes my silence to mean consent to anything they say—(laughter)—I will call upon the Clerk to read the order of the day.

INCOME TAX (AMENDMENT) BILL

SECOND READING

The debate was continued.

MR. ANDREWS (continuing): Mr. Speaker, when Council rose on Friday I was addressing some rather weary benches—I will not, as Dr. Spooner once said, call them beery benches!—on the subject of clause 5 of the Income Tax (Amendment) Bill. There was only one point left to mention in connexion with clause 5, and that was that there is a misprint at the end of the third schedule which amounts, perhaps, to a point of principle. The figure £40,000 appearing in the fiftieth line on page 3 of the Bill should be £50,000, and I give notice that an amendment to that figure will be moved in committee.

Now I come to clause 3 (a) of the Bill where there is provided special relief for unmarried people. That relief reduces the amount by which their rebate of £200 is cut down, when the total income exceeds that figure, from a half to a quarter of the excess over £200. Under the law as it is at present, an unmarried taxpayer received no relief on an income of £600 or more, but if this Bill is passed he will get rebates on his income up to a total income of £1,000. This amendment, is also, the amendments in clause 5, is designed to iron out the curve of income tax and make its incidence more logical.

Clause 4 follows upon those changes and is necessary, although it is extremely complicated, because the other East African territories have not adopted the changes which this Bill proposes to make. It has therefore been necessary to ensure that, where a taxpayer pays tax on incomes drawn from another East African territory as well as from Kenya, the taxpayer shall receive the full amount of relief due to him on his income from this colony, but at the same time Tanganyika and Uganda should not be deprived of the tax due to them, on their share of the income, at the higher rates in force in those territories. The purpose of this clause is to ensure that justice is done to all concerned.

In case the absence of a comma after the word "individual" in the new clause 27 (2) should give the impression that it is intended to charge individuals resident outside the colony at the company rate of income tax, I would assure hon.

[Mr. Andrews] members that that is not the case, and that action will be taken in committee to insert the missing comma.

I now come to the other promise that I mentioned on Friday, which was to consider the granting of relief on the earned income of old people. Clause 3 (b) of this Bill is designed to grant that relief to old people who are compelled by force of circumstances to maintain themselves from their earnings in their old age. It is a proposal that has been brought before the Council more than once by, in particular, the hon. Member for Kiambu. The minimum age for old age relief in the United Kingdom is 65, but it has been thought appropriate to fix lower ages in Kenya, to fix the age of 60 for men and 55 for women. I hope that this provision will be welcomed by men and women over those ages who find it necessary to go on working after the normal retiring age in order to provide for the time when they will no longer be able to work. The maximum relief granted under this clause will be £200, while the figure in individual cases will depend upon the relations between the total income, and the investment or pension income, and the personal allowances to the individual taxpayer.

If I may give some examples. In the first place, single people will under this clause receive relief up to a maximum figure of £1,200 chargeable income. Married people will receive relief up to a maximum of £1,550. In the case of an unmarried woman of over 55, earning £360 per annum, she would pay under the present law Sh. 480 in income tax. Under the law as it is at present proposed to amend it, without this particular sub-clause she would pay Sh. 300; but under this sub-clause she would be exempt entirely from payment. If, however, she had an independent income of, say, £150—that is investment income or pension or something of that sort—as part of her income of £360, she would pay Sh. 225 in income tax.

The cost of this measure cannot accurately be estimated, but it is believed that it will not exceed £50,000 in 1948. The net effect upon the revenue will, of course, be concealed to some extent by the higher rate of collection from rising incomes, and the finances of the Colony will be slightly affected, as

stated in the objects and reasons to this Bill, by the increased labour involved in making assessments and adjustments with the other territories.

MR. HOBSON: Seconded.

MR. HAVELOCK: Mr. Speaker, I rise to support this Bill and wish to deal with only one aspect, and that is the allowances for older people. Naturally, I welcome the general allowances, the general relief, though I doubt whether we shall be able to afford them much longer. I do feel that relief for older people should be a permanent, and not very costly, part of the Income Tax Ordinance. I have taken special interest in this particular relief, and I have been very gratified at the number of letters I have received from the older people, which show that there is a definite interest in such relief and that many people will benefit—perhaps more than one considers when going into the matter.

We have listened lately to impassioned pleas from certain parts of this Council for payment for services rendered. I do suggest to you that there are few people in this country whose services have been of such value to this country as the older types, the older pioneers. (Applause.) There are a surprisingly large number of them of over 70 still working because they have not been able to save enough money for their old age, and they do not want to become a burden on their families or their relations, and of course in this country we cannot possibly afford old age pensions. All they can do is to carry on working in certain jobs, some of which are very trying indeed, even for younger people. Many of these older men and women have served their country in three wars, and they have put up with very great trials and tribulations, and a lot of hard work and discomfort in starting to develop this beautiful country of ours. They have had no opportunity for saving, and especially lately I know a few of them have been existing on capital, or rather have been drawing on their capital, in order to help out the meagre incomes they are making in the certain jobs they can do. There is no doubt that hon. members opposite know how trying it is to have to draw on capital because the cost of living is so high.

[Mr. Havelock]

I am working up in this speech to ask whether Government would not consider being a little more generous to the older people. I understand they will get the relief described to us by the hon. Deputy Financial Secretary on their 1947 income. Well, sir, the last few years have been especially burdensome, especially expensive, and would it be asking too much to ask Government to make this particular measure retroactive to the 1st January, 1946. (Laughter.) I understand that old people in this country who are paying United Kingdom income tax on investments in the United Kingdom are receiving allowances, or credits, back to 1943, and although I would not ask for that, because I do not like to ask for a blank cheque which might let us in for more than we could afford. I do consider that Government might perhaps meet us to the 1st January, 1946. It would, I know, make a lot of difference to the older people.

I understand that pensions are not considered earned income in this particular Bill. I do not know whether there is any wider significance in that, but since I have been making inquiries about this matter and asking for relief I, personally, have always thought that pensions would be considered as earned income. I very well understand the difficulty. If a man has saved money and bought shares and invested that money it has then become capital, and the income on that capital is unearned income, but the capital which he invested was earned, especially earned, for his old age. The same thing, of course, applies to pensions, or should. I know that certain pensioners, because I have been approached by a great number of them, are going to find it very difficult, and have found it very difficult in the last few years, to come out on their pensions with the present cost of living. That is, of course, the pensioners who were pensioned off before the 1st January, 1946.

So may I ask Government to consider a basic allowance on both earned and unearned income, or shall we say on earned income and pension and investment income, of, say, £350 per annum for a single person? I do feel that is not asking too much. By giving the figure of £350 I am not by any means committing myself to saying that I think £350 is the

necessary minimum for a bachelor or a spinster to live on, but the older people have very much heavier expenses than the younger. Their medical bills are inclined to be higher, and their wages bills are inclined to be higher. They cannot grow the odd vegetable in the garden, and so on, and I would ask Government to consider a £350 tax-free income for the older people, and I would not mind in that particular instance seeing the age raised to 60 for women and 65 for men, so that they can live reasonably comfortably in the evening of their days.

With these words I support the Bill.

MR. ANDREWS: Mr. Speaker, although having considerable sympathy with the points made by the hon. Member for Kiambu on behalf of elderly taxpayers, I am afraid that there are considerable practical difficulties in the way of both of them.

In the first place, he asked that the concessions now given should be made retroactive to 1946, for which, of course, he had excellent precedent! On the other hand, that would mean reopening assessments which have already been made, readjusting taxes already paid, and it is entirely contrary to the principles always adopted in regard to taxation not only here but elsewhere. On the other point, the non-inclusion of pensions in earned income, that had been seriously considered, but it is so impossible to draw the line between pension income and invested income, to draw a line between a person who has earned a pension by long and faithful service and the person who has won say the Irish Sweepstake and invested the proceeds, that it would be quite impossible to allow pension income to qualify for this purpose.

MR. HAVELOCK: On a point of explanation, Mr. Speaker, may I make it clear that I was not asking for relief on pensions but for a basic £350 to include both earned and unearned income tax free for people over that age?

MR. ANDREWS: Sir, that proposal is also contrary to the basis of the Bill which is before the Council, which was specially designed to meet the demand which it was understood existed for the case of old people who had to work in order to maintain themselves. If the hon.

[Mr. Andrews] member wishes to press the point, I should be very willing to move that a select committee should consider this Bill and report back to Council in due course.

The question was put and carried.

MR. HAVELOCK: Mr. Speaker, I move that the Bill be sent to a select committee as suggested by the hon. Deputy Financial Secretary.

MR. HOBSON: On a point of order, the question for the second reading of the Bill has been put and carried.

THE SPEAKER: That is true, but a select committee can be moved, and it is usual to name the members.

MR. VASEY: Mr. Speaker, if I may make a suggestion in order that this Bill should not be held up and relief delayed to a number of people who will gain an advantage from it—perhaps Government would consider appointing a committee of the Council to go into the question raised by the hon. Member for Kiambu on the lines suggested by the hon. Deputy Financial Secretary?

MR. RANKINE: Government would take no objection to that.

WAGES AND GENERAL CONDITIONS OF LABOUR BILL

WITHDRAWN

MR. HOBSON: Mr. Speaker, I ask your leave and that of Council to withdraw the Wages and General Conditions of Labour Bill. It was deferred last week, and now I request that it be withdrawn altogether. It has been read a first time.

THE SPEAKER: You will withdraw it and reintroduce it afresh?

MR. HOBSON: That is so.

The Bill was by leave withdrawn.

PROVISIONAL INTERIM PENSION

DIWAN CHAND

MR. HARTWELL: Mr. Speaker, I beg to move: That this Council approves the payment until further notice of a provisional interim pension at the rate of £51/10/1 a year with effect from 12th November, 1947, inclusive, to Mr. Diwan Chand, formerly Clerk,

Grade III, Public Works Department, in respect of his service from 1st August, 1935, to 11th November, 1947, both days inclusive, in lieu of his own and Government contributions to the Provident Fund plus the interest thereon amounting in all to £201/16/10 which reverts to the general revenue of the colony.

In 1943 an arrangement was instituted by which, pending the introduction of contributory pension legislation for the Kenya Asian Civil Service, a member of that Service might elect to receive a provisional interim pension instead of provident fund benefits, and such pension requires the approval of this Council. The man referred to in this motion has elected to receive a provisional interim pension, and it has been calculated in the usual way by the Accountant General.

THE SPEAKER: I take it that you have had the Governor's recommendation?

MR. HARTWELL: I think we can take it the Governor's approval has not been specifically obtained for this resolution, but it is a routine thing and many have been passed previously. I think it can be taken that the Governor delegates his authority in a case like this to the Financial Secretary or myself to move such resolutions. If necessary, we can obtain His Excellency's specific approval in each case before moving such a resolution. It has not been done before. (Laughter.)

MR. THORNLEY: On a point of order, can it not be assumed when a motion comes forward sponsored by Government that the Governor approves of it?

THE SPEAKER: I regard the *ex officio* members of the Council who are members under the member system as being empowered in respect of their departments, to say whether or not this is really a Government measure, that is all.

MR. THORNLEY: There is no doubt that this is a Government measure.

THE SPEAKER: It has not been objected to before, but this will certainly mean money.

MR. COOKE: On a point of order, may I ask whether the Governor's assent has been signified thereto?

THE SPEAKER: That is what we want. I think Clause XXVIII of the Royal Instructions also uses the word "recommendation".

MR. VASEY: Mr. Speaker, I think I am correct in saying it is not only a question of the Government's consent thereto, but the real thing that matters is that, except with the "recommendation or consent of the Governor signified thereto, the Council shall not proceed with any Bill, amendment, motion or petition, which in the opinion of the Governor would do any of the following things". Surely the thing on which we should have a definite ruling and understanding is what is meant by the words "in the opinion of the Governor". Does it mean that the fact that the Government introduces a measure signifies that in the opinion of the Governor this has been complied with? Or, as would be the more commonsense reading, would it mean that you, as Vice-President and Speaker of this Council, can stand in relation to the Governor in this case? I think if that were cleared up a lot of the misunderstanding would disappear.

MR. COOKE: I would submit that the hon. member has misread it. There is nothing delegating powers to anybody. The Governor has the power, and nobody else, except the Governor's Deputy when he is acting. That is why I was very careful not to raise it while the Governor's Deputy was here. "Signify to" is very formal and "Governor's consent signified thereto" is a formal procedure.

MR. VASEY: On a point of order, surely the thing is that the Council shall not proceed with any Bill, amendment, motion or petition which, in the opinion of the Governor, would dispose of or charge? The question now is not whether such a thing should be implemented, but whether, without the recommendation or consent of the Governor signified thereto, we are entitled to proceed with an amendment, motion or petition in this place, if in the opinion of the Governor such amendment, motion or petition would do X. I suggest that

the clarification that is needed is "which in the opinion of the Governor would", whose opinion has to be obtained as to whether an amendment or petition is allowable in the circumstances. That, I think, is the first point to be cleared up.

THE SPEAKER: I have spoken so much on this that I am a little weary of it. Speaking as Speaker and being here to see that the rules are complied with, I think that the motion is one which initiates expenditure, and no member may propose it; nor shall it be debated except with the recommendation or consent of the Governor signified thereto. All I am waiting for is to know if either the recommendation or consent has been given.

MR. RANKINE: It seems to me that this question is covered by section 17 of the Interpretation and General Clauses Ordinance which reads as follows: "Where any Ordinance confers upon the Governor power to make any subsidiary legislation or appointment, give any directions, issue any order, authorize any thing or matter to be done, grant any exemption, remit any fee or penalty or exercise any other power, it shall be sufficient if the exercise of such power by the Governor be signified under the hand of a Member". However, if it is contended that that particular section does not cover the question at issue, I propose to move that the Council adjourn for five minutes in order to obtain the signification of the Governor's consent.

THE SPEAKER: If one of the *ex officio* members of Council, who are Members under the Membership system, intimates here that the Governor's consent or recommendation has been given, the matter then proceeds.

MR. COOKE: Replying to my hon. friend, if he will look at the Additional Instructions he will see that the Governor means the Governor and Commander-in-Chief of the Colony, and includes the officer for the time being administering the Government. The hon. member was Deputy about a fortnight ago, so this would not have arisen then.

MR. RANKINE: I move that Council adjourn for five minutes in order to enable signification of His Excellency's consent.

THE SPEAKER: I rule that that is unnecessary. I take it this has gone formally through all the machinery, and that a member, such as the Member for Finance, or the Member for Development, or the Member for Law and Order, can say that the Governor has consented. If you do not feel inclined to take that course, then you will have to adjourn or drop this and go on with something else.

MR. COOKE: The hon. member is bound to accept your ruling, sir. (Laughter.)

MR. HARTWELL: In that case, may I ask that the resolution be deferred so that the Governor's specific approval can be obtained before it is debated?

The motion was by leave deferred.

LAND AND AGRICULTURAL BANK (AMENDMENT) ORDINANCE, 1940

MR. MATHU: Mr. Speaker, I have been asked to defer this motion until to-morrow morning because the hon. Financial Secretary is ill, and if we debate it this morning there will not be anybody to reply. I have agreed to the suggestion that this motion be deferred until to-morrow morning.

MR. RANKINE: Mr. Speaker, if I may, with your permission, make a statement. I very much regret to inform the Council that my hon. friend the Member for Finance is indisposed. He was taken seriously ill in the night, and I should be grateful if Council would agree to defer this particular motion until another member can be briefed to reply.

THE SPEAKER: I am sure the Council will wish that our sympathy should be conveyed to the hon. Member for Finance in his illness. Definitely we cannot proceed in that case. There remains another motion on the order paper in the name of the Deputy Financial Secretary.

AMALGAMATION OF KENYA AND UGANDA CUSTOMS DEPARTMENT WITH TANGANYIKA TERRITORY CUSTOMS DEPARTMENT

MR. RANKINE: Mr. Speaker, once again, with your leave and with the leave of the Council, I would ask that this

measure be deferred until a later date, as I understand that certain hon. members wish to give further consideration to this question.

The motion was by leave withdrawn.

EMPLOYMENT OF WOMEN, YOUNG PERSONS AND CHILDREN BILL

SELECT COMMITTEE REPORT

With the leave of the Speaker, Mr. Hobson moved: That Standing Rules and Orders be suspended to enable the select committee report on the Employment of Women, Young Persons and Children Bill to be dealt with.

MR. RANKINE seconded.

The question was put and carried.

MR. THORNLEY: Mr. Speaker, I beg to move: That the select committee report on the Employment of Women, Young Persons and Children Bill be adopted.

The purpose of paragraph 1 of the report is so to amend the definition of "industrial undertaking" in clause 2 of the Bill so as to make sure that these words should not be interpreted as including a number of perfectly harmless undertakings which can be given to children in and around certain factories. The effect of paragraph 1 of the report is to remove agricultural undertakings completely from that definition, but to retain in the Bill the power vested in the Governor, after consultation with Executive Council, of declaring that some specific agricultural undertaking is harmful and unsuitable for the employment of children. The sort of undertaking which immediately comes to mind would be certain types of work in a sisal factory. All of us on this select committee were unanimous in holding the view that there were quite a number of undertakings in a sisal factory, for instance, which would be entirely unsuitable for children.

The next clause which it is proposed to amend is clause 6, and the amendment simply is to give the power which clause 6 sought to give to the Member, to the Governor in Council.

The next clause which we seek to have amended is clause 14, and here I must express regret that one small amendment

[Mr. Thornley] which we agreed should be included has not been included in the report of the committee. It concerns line 1 in clause 14; and when I have moved the adoption of this report the hon. Labour Commissioner will move an amendment to the report seeking to insert the word "knowingly" between the words "person" and "employs" in line 1. We were all agreed that it was not the intention in this Bill to penalize the employer who, in perfectly good faith, misunderstood the age of a child. It is extremely difficult to know with any degree of accuracy whether a child is 14, 15, 16 or 17, and we did not consider that an employer who in good faith made a mistake should be penalized under this clause.

The remaining sub-paragraphs (a), (b) and (c) in paragraph 3 of the report seek to increase the maximum amount of the fines which may be imposed in the circumstances set out in the clause. Hon. members will remember that a point was made by my hon. friend the Member for African Interests that Sh. 40 as a maximum fine was ridiculously small, and members of the select committee unanimously agreed with him and were unanimous in recommending the substitution of Sh. 500 as a maximum for a first offence and Sh. 1,000 as a maximum fine for a second or subsequent offence.

The next clause which this report seeks to amend is clause 18 of the Bill, and I must again express regret at a small inaccuracy in the report before Council which, again, my hon. friend the Labour Commissioner will seek to correct by amendment when I have finished. It is that in paragraph 4 of the report, instead of the word "thereof" in the third line the words "of clause 18" should be substituted. We felt that, having regard to the extreme difficulty very often of assessing accurately the age of children and young persons, it was a little hard to place the burden of proof on the parent or employer, as clause 18 does, and we feel that the proposed amendment is infinitely fairer, having regard to these difficulties. The proposed amendment follows very closely a similar clause in the legislation of a neighbouring territory.

A small amendment is proposed to clause 19 to make quite sure that the Member should consult the Labour Advisory Board before making rules under this Bill. I might say that so long as I myself have the honour to be the Member responsible, I would not dream of bringing rules of the kind for which provision is made in this clause into force without consulting the Labour advisory Board.

We also seek to include a new clause 20 under which the Member will be required to bring to this Council any rules which are passed under this Bill, to enable this Council, should it see fit, to resolve that any or all of them be revoked. We believed when we were considering the Bill in committee that it would be the general wish of Council that this provision should be included, and that is why we suggest the insertion of this new clause. The renumbering of clauses 20 and 21 are consequential on the insertion of the new clause 20.

MR. LOWE seconded.

MR. HYDE-CLARKE moved: That paragraph 3 of the report be amended (a) by inserting therein new sub-paragraph (a): "(a) by inserting immediately after the word 'person' which appears in the first line thereof the word 'knowingly' and renumbering sub-paragraphs (a), (b) and (c) as (b), (c) and (d); and that paragraph 4 be amended by deleting the word "thereof" on the third line and substituting therefor the words "of clause 18".

MR. HOBSON seconded.

The question of the amendment was put and carried.

MR. MATHU: Mr. Speaker, there is just one question over the amendment to clause 14 by the insertion of the word "knowingly". Would the hon. mover explain what happens when an employer says that he did not know that a child or young person was that particular age, what proof would a court or the Labour Department have to the contrary? And if they had to prove that a person did not know then the word "knowingly" negatives the whole of clause 14. This is a point of information only, as I am not opposing.

[Mr. Rankine]

The question does not state which type of sleepers is referred to. I, therefore, give three separate answers, one for each type:—

1. Turn-out Sleepers.

- (a) 7,400.
 (b) 14,050.
 (c) Uganda, 12,360. (The balance was obtained within the Colony.)
 (d) From Sh. 12/76 each to Sh. 20/05 each, according to size.

(e) In accordance with the procedure laid down by the Timber Controller no public tenders were called for, but firms in Kenya selected by the Timber Controller were asked to quote.

- (f) Two tenders were received.
 (g) The tender from Uganda was at a lower price.

2. Bridge Sleepers.

- (a) Nil.
 (b) 810.
 (c) None was imported.
 (d) In view of the answer to (c), this question does not arise.
 (e) Orders were placed direct with firms or on the Timber Controller.

(f) and (g) In view of the answer to (c), these questions do not arise.

3. Track Sleepers.

- (a) 148,776.
 (b) 182,697.
 (c) England, 163,321 (steel); Canada, 118,152 (creosoted fir); Malaya, 40,000 (creosoted keruing); Uganda, 10,000 (muhimbi).

(d) From Sh. 14/10 to Sh. 30/04 each, according to type and size.

(e) In accordance with the procedure laid down by the Timber Controller, no public tenders were called for, but those firms whom the Timber Controller indicated were in a position to supply were approached.

(f) Only one offer was received for a very small quantity.

(g) The type of sleeper required was unobtainable in Kenya in adequate quantity.

MR. VASEY: Mr. Speaker, arising out of that answer regarding track sleepers (e), (f) and (g), I would ask the hon. Chief Secretary to ask the General Manager, East African Railways and Harbours, what is meant by the term "adequate quantity", and I would ask whether, even if they were only few in number, it would not have been better to have taken this number available in Kenya and so reduce the number imported from the dollar countries? (Hear, hear.)

MR. RANKINE: Sir, I will naturally endeavour to obtain the information the hon. member has asked for, but in the meantime I would say that I understand that in regard to 3 (f) a reply was received from Timsales that the monthly output of sleepers was totally inadequate for the Railway's immediate requirements.

TRADE DISPUTES (ARBITRATION AND INQUIRY) BILL

SELECT COMMITTEE REPORT

MR. HOBSON moved, with the permission of the Speaker: That Standing Rules and Orders be suspended to enable the hon. Deputy Chief Secretary to move the adoption of the select committee report on the Trade Disputes (Arbitration and Inquiry) Bill.

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

TRADE DISPUTES (ARBITRATION AND INQUIRY) BILL

REPORT OF SELECT COMMITTEE

MR. THORNLEY: Mr. Speaker, I beg to move: That the select committee report on the Trade Disputes (Arbitration and Inquiry) Bill be adopted.

Going through our report paragraph by paragraph. The insertion of the word "reasonable" in line 4 of clause 4 (2) was thought by all of us to be a necessary addition, and I need only say that we do not consider that it would be any part of the functions of my hon. friend the Labour Commissioner to resort to coercion in his efforts to conciliate parties, and we felt that was necessary in order to save him possible embarrassment.

[Mr. Thornley]

Paragraph 2 contains simply a drafting amendment. The amendment suggested to sub-clause (2) of clause 5 arose from a suggestion made to us in evidence by a representative of the Labour Trade Union of East Africa. A panel of persons would provide the Labour Commissioner with a choice of persons for appointment to the tribunal, and we thought it was an entirely reasonable suggestion.

Referring to the next amendment, which is an addition to paragraph (c) of clause 5, we consider it necessary to make quite clear that, in addition to the parties to a dispute agreeing that the matter should be referred to arbitration, it is also necessary, and is now part of the present law, that the parties should also have the right to decide which of the three alternative arrangements set out in clause 5 (2) they wished to have adopted. The addition of these words, we submit, makes it perfectly clear.

In paragraph 5 of the report, dealing with clause 9 we submit that the additional words at the end of the first line of the proviso are necessary so as to ensure that under this clause it will be possible to take cognizance of existing awards made by the Mombasa Tribunal.

Paragraph 6 of our report. The words in clause 13 (1) "appointed by him for the purpose of such reference" clearly refer back to the Labour Commissioner, mentioned earlier in the section, and, as hon. members will see from sub-clause (3), are inconsistent with the provisions of the Bill under which the Board is appointed by the Member. It is proposed that those words be omitted as being inconsistent with the provisions of sub-clause (3) of clause 13.

Paragraph 6 (2) of our report. As we are not proceeding in this session with the Wages and General Conditions of Employment Bill, which would repeal the Minimum Awards Ordinance, 1946, it is obviously necessary that we should substitute for the Wages and General Conditions of Employment Ordinance the Minimum Wages Ordinance, 1946. If the Wages and General Conditions of Employment Bill is passed later on in the year then automatically, under the Interpretation and General Clauses Ordinance, that Ordinance will in fact

be substituted for the Minimum Wages Ordinance, which would be repealed under its provisions.

The amendment which we suggest in paragraph 7 of our report we believe to be necessary in order to ensure that persons who are required to furnish information under clause 15 shall not be allowed to sit back and just refuse to comply with the requirements. We submit that if that clause is to be effective there must be a penalty attached to non-compliance with its terms.

So much for the recommendations which we unanimously submit in the report, but I would also like to mention that we did receive certain other representations made on behalf of the Labour Trade Union of East Africa, and we were not able to accept them. One point to which they attached some considerable importance refers to the words in clause 4 (2) of the Bill, in line 2, "if he deems fit". It was represented to us that in order that the Labour Commissioner, or his advisers, should be required to endeavour to conciliate in all matters referred to them, those words should be omitted. I should like to say here that we gave considerable thought to this suggestion, but in the end we were all agreed—I think my hon. friend Mr. Mathu with some reluctance—that these words should stay in the Bill.

Our principle reason for this decision was that, if we were to make the Labour Commissioner endeavour to conciliate in every single complaint which is brought to him, he is going to have far more work to do than his present staff could possibly undertake. If we omitted those words the Labour Commissioner would be under a statutory obligation to go very thoroughly into every single complaint brought to him or his officers, notwithstanding the fact that the complainant might be in receipt of quite a considerable wage. A complainant always has recourse to the courts for any breach of contract which may be troubling him, and if he is a member of a registered trade union then naturally that union will always be prepared to go to his aid and give him assistance in presenting a case to the court. Another reason for this decision that the words should stay was the knowledge that, in respect of any employee who is not in

[Mr. Thornley]

receipt of a wage amounting to Sh. 100 a month, the Labour Commissioner must, under the Employment of Servants Ordinance, take up the case for him. So that the case of the lower-paid employee is perfectly fully safeguarded under the terms of the other Ordinance. For these reasons, after very full consideration, we deemed it expedient to leave the words in the Bill as drafted.

Another point which the same representative of the union made to us referred to sub-clause (3) of clause 13, which he would like to have seen amended to require the Member to include in the membership of the Board a representative of the Labour Trade Union of East Africa. We gave very full consideration to the suggestion, but were unanimous in agreeing that it should be turned down, as we did not feel that the Member should be fettered in any way in his selection of the most suitable personnel to put on the Board. The purpose of such a Board is that it shall be in effect a fact-finding committee to inquire into all the facts concerning the dispute which is before it. I think that that being so, there is a great deal to be said for a Board of that kind having completely independent personnel who could not possibly have any axe to grind directly or indirectly in the dispute which was before it. For these reasons we unanimously felt that the Member should have unfettered discretion in this particular matter.

With those words I beg to move.

MR. HOBSON seconded.

The question was put and carried.

WORKMEN'S COMPENSATION BILL SELECT COMMITTEE REPORT

MR. HOBSON moved, with the permission of the Speaker: That Standing Rules and Orders be suspended to enable him to move the adoption of the select committee report on the Workmen's Compensation Bill.

MR. RANKINE seconded.

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

MR. HOBSON: Mr. Speaker, I beg to move. That the select committee report on the Workmen's Compensation Bill be adopted.

The first amendment mentioned in the report is that sub-clause (1) of clause 2 be amended by deleting the word "and" which appears in the eighth line thereof and inserting the words and commas "and whether by the day, week, month or any longer period" between the word "done" and the colon in the ninth line thereof. The reason for that amendment is that fears were raised by one of the witnesses who appeared before us with regard to the interpretation of the words in paragraph (b) of the proviso to that clause: "a person whose employment is of a casual nature". Fears were expressed that those words would remove from the scope of the Ordinance persons like dock-labourers who were employed perhaps for a day or two days in the dock, and then went on somewhere else to work in another place. So far as case law goes in England such a person is covered, so that those words have really been inserted to allay the fears which were expressed. It does not in my view—but I say so subject to any interpretation which may be placed upon it by the courts—alter the existing law; it merely makes the Ordinance easier of interpretation by the layman.

The next amendment was really made for a similar purpose. The effect of it is that sub-clause (2) of clause 5 has been placed before the proviso to sub-clause (1). Sub-clause (2), of course, is merely explanatory of the words "arising out of and in the course of his employment", but some anxiety was felt as to whether that interpreting sub-clause should be considered together with proviso (b) which contains the words "serious and wilful misconduct". It is felt that the change in the position of sub-clause (2), or rather the provisions of sub-clause (2), will make the matter more easily understandable by the layman.

With regard to the next amendment suggested by the Committee, that is that sub-clause (2) of clause 9 be amended by inserting immediately after the word "benefit" which appears in the second line thereof the following "including the value of any food, fuel or quarters".

[Mr. Hobson]

I think that a word of explanation is necessary. In computing the payment of compensation, either of a lump sum or in periodical payments, either under the present legislation or as it is intended to be made under this Bill, one should take into account the value of any food, fuel or quarters supplied to the workman. But under the present Ordinance one cannot include the value of such food, fuel or quarters unless the workman has been deprived of these things as a result of the accident; so that, if the employer retains the workman in his employment, which is, of course, very desirable if possible, the workman is therefore deprived of a substantial part of his compensation. The reason is that compensation is based upon the workman's wages at the time of the accident.

It is felt that it is only fair that compensation should include those elements of a workman's remuneration. That is why in the present Bill now before Council those words which appear in the definition of earnings are not present. The words to which I refer are these: "if as a result of an accident the workman is deprived of such food, fuel or quarters". These words have been deliberately omitted from the present Bill. The only reason for the amendment which the select committee has suggested to sub-clause (2) of clause 9 is to make it perfectly plain that, where an injured workman has been retained in the employment of his master, and therefore has the benefit of the food, fuel and quarters during the time of his incapacity, the employer may, so far as the periodical payments are concerned, have a deduction of the value of food, fuel and quarters during the incapacity. I may say that this amendment was suggested by Tanganyika and we have accepted it, but it is really there for abundant caution. The words "shall have regard to any payment, allowance or benefit" are already in the sub-clause, but we feel this amendment puts the matter beyond any possible dispute.

With regard to the amendment to paragraph (b) of the proviso to clause 16 (1), clause 16 is the one which deals with agreements in writing as to compensation, and paragraph (b) of the proviso provides that "where the workman

is unable to read and understand writing in the language in which the agreement is expressed, the agreement shall not be binding against him unless it is endorsed by a certificate of a district commissioner". This suggested amendment merely seeks to enlarge the number of officers who can so endorse agreements by inserting "a labour officer, or a person appointed by the Labour Commissioner, in writing, in that behalf". I may say that the sort of person the Labour Commissioner intends to appoint is a person like the Railway Welfare Officer where Railway matters are concerned, or possibly in a farming district a justice of the peace.

With regard to the last amendment suggested, that is merely a matter of drafting and is probably a printer's error.

MR. RANKINE seconded.

MR. THORNLEY: Mr. Speaker, I would like to say how very much obliged I am to the hon. Labour Commissioner, the hon. Member for African Interests, and the members of the select committee for enabling these matters to be expedited. In a short time there was a considerable amount of work to do, at possibly an inconvenience to them, and I am very much obliged for their co-operation.

The question was put and carried.

LAND AND AGRICULTURAL BANK (AMENDMENT) ORDINANCE, 1940

FINANCING OF AFRICAN FARMERS

On the next Order being called from the chair:—

THE SPEAKER: Does the hon. member Mr. Mathu want to proceed with the motion standing in his name?

MR. MATHU: I do.

MR. COOKE: Is it the point that Government is not prepared to proceed with it?

MR. RANKINE: I think Government could now.

MR. MATHU: Mr. Speaker, I beg to move: This Council resolves that the Land and Agricultural Bank (Amendment) Ordinance, No. 14 of 1940, be re-enacted to expire on 31st December, 1950, unless extended by this Council at

[Mr. Mathu] that time, and that meantime a Committee appointed by this Council to go into the question of how best to finance African farmers through Land Bank advances.

In view of the problem that has been put forward in the last few days of Standing Rule and Order No. 32, I thought I would like to make some amendment to my motion, if I may, and if my seconder agrees, to safeguard myself against the danger of Government raising a point of order and saying that Rule 32 does not allow such a thing as this. I beg, therefore, to make the following amendment: That the word "resolves" in the first line be deleted and the words "is of the opinion" be substituted therefor—(laughter)—and that the word "should" be inserted after "1940".

My seconder agrees, and if Government has nothing against that slight amendment I will proceed.

THE SPEAKER: Until a motion is seconded it is the property of the member moving it and the alterations may be made by the mover himself.

MR. MATHU: Thank you, sir. I think I will carry on.

I shall be very short, because my main reason for moving this motion is the very reason which I think is shared by this Council, namely, that this country depends upon agriculture. That agricultural development should not be one-sided, and all people who engage in agriculture should be given equal facilities to develop the agricultural resources of this country. As it appears to me that the African agriculturist does not get the same financial assistance—and I go further, and say assistance and advice in modern agriculture as the European farmer does—I felt it to be my duty to draw the attention of this Council and the Government and the people of this country that there is indeed a deficiency in our policy in that regard.

The first part of my motion asks that the Land and Agricultural Bank (Amendment) Ordinance, No. 14 of 1940, should be re-enacted. My reason for doing so is that this special Ordinance was passed, to quote the Land

and Agricultural Bank of Kenya annual report for 1947, "as a special measure in the early days of the war to give the bank power to make advances on the security of chattels". As I know that there is difficulty in regard to the individual land-tenure of the African people of this country, the only way the African can get loans from public funds is by a scheme of chattels mortgage. That is really the main reason why I have requested Council to re-enact that Ordinance, so that by the time we go into the question of individual land tenure of the African with a view to granting or refusing to grant a freehold title to African land-holders, the African agriculturist will be given facilities to develop one of the most important assets of this country, the soil.

In section 2 of the 1940 Ordinance is set out the purposes for which this Ordinance was enacted. They are three. With your permission, sir, I will read out the purposes of this Ordinance: (a) meeting current expenses normally incurred in the production of annual crops, (b) meeting current expenses in cultivating, fertilizing, bringing to maturity, and harvesting perennial crops, and, lastly, capital expenditure not exceeding £100, in the case of any one farmer, for the purpose of purchasing live stock or for any other purpose approved by the bank.

Those purposes assumed that part of the principle of maintaining fertility of the soil is safeguarded, and if I may briefly refer to an investigation carried out by Sir Daniel Hall in this country in 1926, the first chapter of his report gives the very important factors which are necessary in agricultural development: firstly, the natural resources which enable the soil to maintain its fertility and, secondly, artificial means by which any decline in the fertility of the soil can be replaced. He naturally referred to the composition of the soil, that is the elements which go to make the soil rich, and argued that sometimes some of them could become exhausted or were deficient, and that to replace them one went to the second factor, extraneous sources such as artificial fertilizers.

The second purpose of the Ordinance was to enable the bank to advance

[Mr. Mathu] money for expenditure on purchasing such items in order to maintain the fertility of the soil, so that the first and second purposes were that the farmer should be encouraged to grow crops, annual as well as perennial, and that those crops could not be grown unless the soil had sufficient nutritive elements, and a farmer was accordingly allowed to purchase artificial fertilizers. I think the African farmer is in exactly the same position, and while we are complaining against Africans ill-using their soil and ruining their soil it cannot be helped unless we make sure that they have the necessary capital and, if they have not the necessary capital, the necessary credit in the form I am suggesting of a loan from public funds so that they can purchase artificial fertilizers and natural manures. At this point I should like to refer to the danger of the present situation. We have all agreed, and I think the British Government has also agreed, that we have to exploit the natural resources of the Colonial Empire as much as we can, not only to feed the local people but also a starving world, and that is why these corporations such as the groundnut scheme in East Africa have come into existence.

In a recent speech made by the Government Secretary for Native Affairs in Northern Rhodesia, as published in the *East African Standard* on the third of this month, Mr. Hudson said to the African Representative Council that the Secretary of State had seen the difference between the European-developed Kenya Highlands and the backward eroded native areas. He had seen that, but the comparison is extremely dangerous. He had failed to realize the main difference depends upon this one very important factor, namely, that the European-developed Highlands are nursed by Government, given money for capital and for other uses, given all advice and benefits of scientific research, and officers of high calibre are posted to the European Highlands, while the Africans in the backward areas are left to steer their own canoe of ignorance and lack of scientific knowledge. That is the position that Mr. Hudson and propaganda officers in Northern Rhodesia have not realized, and that is what I want to say, that although there are certain areas

in the African land units which are described in the terms of Mr. Hudson's reference to the Secretary of State's knowledge of affairs in this country, it is true that there are large tracts of African land which are very, very well developed on the African initiative with very meagre resources and the very meagre scientific knowledge of the African farmer.

On this question, theoretically, Government has done its duty. The Development Committee report did admit in paragraph 47 that "the most important domestic question affecting the future development of this Colony is the rehabilitation of the native areas and the reform of the native agricultural practice". The Committee allocated £3-million for this, also £14-million for soil conservation and general agricultural development in both African and European areas on a scheme approved under the Colonial Development and Welfare Vote. In paragraph 51 they say exactly what I am trying to impress upon this Council: "The committee is of the opinion that efforts to induce better methods of animal husbandry and agriculture should be directed to the alienated areas as well as native areas". The order in which the areas are placed is alienated first and native reserves last. "The objective (of terracing services) must be to conserve and improve the soil resources of the Colony; this increasing crop yields and, in the final analysis, to raise the national agricultural income of the Colony as speedily as possible."

I submit that the African people will never come to the target set by the Development Committee because they lack two very important factors, namely, capital and the system of credit that is given the European farmers through the Land Bank as well as other systems of services. Theoretically I have no quarrel with Government at all, because after the publication of the Development Committee report Government produced a summary of the report, and in Appendix C on page 7 appeared the following sentence: "It must be recognized that in regard to priority (1) (proper utilization of the soil, including minerals, water and forests) the committee has recommended that a high proportion of

[Mr. Mathu] the funds available should be spent on ensuring that the Colony's greatest asset, namely, the soil, is saved from ruination, and that the country and its inhabitants are thus saved from misery and disaster. A necessary concomitant is the proper utilization of the land and the adoption of sound agricultural practices". I submit that Government has hit the nail on the head when it says that unless the soil is saved the country would be led to misery and disaster, and that is where we are heading unless we help the African farmer to exploit the natural resources of this country on the basis of sound agricultural practice.

The Agricultural Department annual report for 1946 has the following small passage: "The time has arrived when the African must realize that unless he is prepared to look after his land better and to put his back into his work there can be no advance in the prosperity of the agricultural community and the country generally, and that the many social services which he now desires will be quite impossible of attainment unless he arrests the present fall in the fertility of his land". I entirely agree, but the point is this, I do not think that the Agricultural Department or Government can expect the African people to make bricks without the straw, and that is where they fall. I suggest that we have come down to hard facts and realize that unless the African has the financial assistance from public funds as other farmers and, secondly, unless the African has first-class scientific advice from departments that are responsible as other farmers have, what the Agricultural Department says in its 1946 report and what the Development Committee said will all come to nothing.

When we realized that was the position I personally, on behalf of the African community in this land, long before I had the great assistance of my three African colleagues in this Council, raised this matter more than once. I suggested in the budget session that we have to assist the African farmer financially and otherwise as we do all other farmers in this land. This was when we were discussing a Bill entitled the European Agricultural Settlement Bill on the second reading

on the 15th March this year. I said this (it appears in column 74 of Hansard): "I should like to suggest that in clause 7 (3), where the Bill provides for a tenant farmer—a European farmer, note please—"giving chattels as security for a loan, is a principle which I should like to see accepted in the case of Africans, particularly those who make application to the Land Bank of the Colony". The hon. Financial Secretary, Mr. Troughton, in his reply, in column 77 of Hansard, said: "You and I, sir, hon. members will be interested to know, have been discussing with our hon. friend the Chief Native Commissioner recently ways and means of making more funds available for African agriculture than are already provided, and goodness knows a lot is provided in the light of the amount available, and we have also been considering ways and means of helping".

That was in March this year, and in July this year my hon. friend Mr. Ohanga asked a similar question in this Council about advancing money from public funds to African farmers, and the *Baraza* paper, run by the *East African Standard*, I think, had this editorial. I will quote only one sentence. It is dated 24th July, 1948. The first sentence was: "Africans all over Kenya will have welcomed the assurance given last week in Legislative Council to Mr. Ohanga by the Member for Finance that Government is considering the introduction of some form of financial assistance for African farmers". That assurance was later negated when, during this session, I put a question to Government about re-enacting this Ordinance and the answer I got negated that assurance we had previously got, because it said that Government was not going to re-enact this law, because due consideration had been given to it when it expired on the 31st December, 1947. Actually we were prompted to thrash this question out in the form of the motion I have moved.

For me to say that Government have not been considering this matter and I have done nothing—(MR. RANKINE: No!)—in regard to helping the African farmer to produce more and to better his soil would be hypocrisy, because I do know that certain things have been done. I do know that consideration is going on, and if it is consideration I might

[Mr. Mathu] be happier, but if it is active consideration the file might have been lost! (Laughter.) It is for that reason that we feel most earnestly that Government should give not active but practical consideration in regard to this matter and assist the African farmer to produce what is required and to raise the national income of this country, not to the £50-million mentioned by the hon. Secretary for Commerce and Industry recently, because if the African farmer puts his agricultural practices on a sound basis and if land is put on a sound basis, I should like to assure the hon. Secretary for Commerce and Industry that in five years' time his national income would not be £50-million; it may be three times more. As the majority of the African people are not able to contribute more to the national income we now have to prune the African Civil Service in order to carry on.

Recently at a meeting which my hon. friend the Secretary for Commerce and Industry attended in Dar es Salaam, the President of the Association of Chambers of Commerce said that the economic future of this country depends upon the African, and the African cannot raise the economic status of Africa unless those who have had the privilege and the opportunity to know more give advice to the African farmer, and at the same time help him financially to put his soil in good condition and to grow the crops that are required for feeding not only the local population but the world, which is at the moment starving.

In conclusion, I should like to say that my whole purpose in moving this motion is not that I should have an opportunity to say bad words against our Government. That is far from my intention. The whole intention of this motion is to draw the attention of this Council, of Government, and of the whole country to the fact that we are missing a very big economic opportunity; that is to help the majority of the population of this country, namely, the African, to use the most important asset of this country, namely, the land and the soil, to such an extent that the national income of this country will be raised and consequently the standard of living of the population of this country.

There is one point I should like to emphasize before I sit down. That is, I realize that loans from public funds must be secured, and I should be the last person to suggest that the Land Bank advances should be done in such a way that they will be written off every time because the people did not pay their instalments. But if you studied the annual report for 1947 of the Land and Agricultural Bank of Kenya as I have done—and I do not want to weary Council by quoting figures—large sums of public money have been written off, and it is not money that has been lent to Africans. Therefore, if we take the bold step of lending money to help African farmers I do not say that funds may not have to be written off. They are already being written off, but on the whole this country will benefit if African farmers put their soil in proper condition and produce in the best way possible. This Ordinance did say in section 5 (1) that "the advances shall be a charge upon the crops growing, or to be grown, by the farmer, when reaped or gathered therefrom, and upon all farm live stock ordinarily kept by the farmer, including the natural increase thereof, and the produce therefrom". I have no quarrel with that at all. The African must realize if he does not pay back the instalments, that the crops which he was enabled to grow by the financial assistance from Government must be sold in order to clear the debt, and similarly live stock.

I know there are other ways by which Government can assist the African farmer. The African Land Utilization and Settlement Board, I understand, has certain schemes, but I could not base my motion on vague arrangements that have no legal sanction. I had to put it on a public institution like the Land Bank, which has legal backing and which has helped a great many European farmers to be what they are and to contribute to this country to the extent they have. I move this in order to arouse interest in this country in the very important fact that the African farmer, when taking agriculture as a basis of the economy, can contribute greatly to the national income of this land and to raising the standard of living of this country. I beg to move. (Applause.)

MR. COOKE: Mr. Speaker, I beg to second.

I think the position in which this Government has landed this country was very well exemplified by the hon. member when he had to amend his motion just now. I think that perhaps some gentlemen on the other side of Council may be mindful of that little rhyme, "Oh, what a tangled web we weave when first we practise to deceive". (MR. RANKINE: Who is weaving the web?) Ask the poet!

I beg to support the motion, and I give it very hearty support because I think it will develop in the African that sense of responsibility which is so well exemplified, if I may say so, in the hon. African members of this Council—(applause)—but there is one point I would dispute. The hon. member Mr. Mathu, I think, tended to put all the blame for the dreadful conditions of the native areas on the fact that the Government had not supplied sufficient money in order to give credit to the African communities. I think that that is only one of the causes. But the real cause is the over-population of the land, and if you had all the phosphates and all the sulphates of the world and dumped them into the native areas I do not think it would rectify matters a great deal. The best way of overcoming the over-population of the land is by the establishment of secondary industries, which I know is receiving very careful consideration by my hon. friend the Secretary for Commerce and Industry.

There was just one small point. While the hon. member was speaking I rather reminded me of his very humorous remark about the hon. Member for Rift Valley, when he said that it was obvious that all the volcanoes of the Rift Valley were not yet extinct. It is obvious that a good many other volcanoes are not yet extinct, and I would, as an old member of this Council, just enter this very small caveat on what is becoming the custom of this Council. I think we must try to avoid, if we can, any kind of a platform manner here. I hope my hon. friend will accept that very mild, not rebuke, but suggestion. I think it is very necessary that we should in all our proceedings here—I know I am an offender

myself very often—try to use a debating voice and not to declaim too much. With that little homily on my part, I beg to heartily support the motion.

MR. OHANGA: Mr. Speaker, I shall not be long, but there are one or two points that I should like to put on record in support of the motion moved by my hon. friend:

One might say that this country depends entirely on agriculture, or nearly so, and I think this sentiment refers to Africans more than anybody else. It is the African who depends almost entirely on the land. Members of other communities have other ways of making a living, but not so the African, and although they are people solely dependent on the land many of the assurances that have been given by Government on the question of support in finance through the Land Bank have been verbal and nothing beyond that. Recently I was given an assurance in this Council that the question of advancing funds through the Land Bank would be considered in favour of the African, but only a few days after that the hon. mover of this motion put a question on exactly the same point, and the answer amounted to a negation of the whole position. I am not suspicious, and I do not think my friends are, but we are a bit worried because we know that for the African the question of agriculture is a matter which means more than any other thing to him, and if assurances are given which are not fulfilled immediately, if promises are given only to be negated the following weeks, we naturally become restless. There was no need whatever to bring a motion of this nature before Council if assurances given were carried out. If the answer to the first question was that consideration would be given, and to the second that further consideration would be given, we would have been quite satisfied, but to make quite sure about it we took this opportunity to air the whole matter and to hear the other side.

Government is not trying to assist African agriculturists, and farmers are not anxious to see them given any form of assistance whatever and, with respect to all, I should like to say that any form of assistance which the African farmer has been given has been in a form which

[Mr. Ohanga] was not direct. Many expensive officers are scattered all over the country giving the African advice on how best to save the land, but the main problem of production as such to my mind has never been tackled, and the result is that African productivity has remained where it was 20 years ago. And when the Africans improve their land one very important point is forgotten, and that is the question of labour. The African farmer and his wife have plenty to do in their homes and also in the production of food which is very inadequate, and for them to improve their land by means of soil conservation measures and so on requires extra labour which they are unable to provide themselves because of the lack of cash assistance.

When measures like the one we have in mind, Land Bank advances, are put forward for the assistance of farmers generally, the African claims are not recognized immediately and attempts made to meet them. For example, in the editorial which my hon. friend quoted, there is a further sentence, which says: "Indiscriminatory borrowing because one is temporarily short of cash". There is the fear that many of the African farmers referred to as indiscriminate farmers would have no intention of using the money or returning it. Failures you might have, and they do occur, but I should like Africans to be given a fair chance to borrow. If they fail, there is machinery for writing it off, and it could be used for Africans as well as other people.

MR. MACONOCHE-WELWOOD: Mr. Speaker, I rise to support this motion, but I should like to say, like the hon. Member for the Coast, that it does not mean I agree with a lot the hon. member Mr. Mathu has said.

To begin with, I do not believe for one moment that failing to provide loans to African farmers has been the cause of the decline in African agriculture. The decline in African agriculture is due to quite a different thing, and that is lack of responsibility for the land. It has been proved in many countries that until you get that responsibility for the land, the land will not be cared for. There are several ways in which it can be done. It was done in Europe largely

in the old days by the landlord and tenant system, where the landlord saw that the tenant cared for his land. It is done in Russia by a system whereby force is used on the occupiers of the land to see that they care for it. There is a third system, individual personal ownership, and such ownership does eventually lead to love of the land for its own sake, and that love of the land is a thing that gradually grows on people when they realize that the land is their own unique, personal possession for themselves and their children. The Africans have not that advantage. I believe that in a few cases certain Africans in the Kikuyu country do own land, but those cases are very few, and until there are many more such cases I do not see any way in which the Africans can be made to care for their land except by compulsion.

The hon. member Mr. Mathu says that money is essential for the development of the land, and with that I agree. But I would like to add a caveat to that, that the borrowing of money for the development of the land has probably ruined more farmers than it has ever made, and that actual development of the land is by sheer hard work and effort—(hear, hear)—and that hard work and effort so far is a thing the African does not understand as regards the land. Nevertheless, let him have his chance. If by some means we can advance the Africans money on the strength of their chattels it may, as the hon. Member for the Coast has said, give them some idea of responsibility of land ownership, and let us hope that in the end they will come to realize their privileges and responsibilities, that the responsibilities must be accepted before the privileges are granted.

I beg to support.

MR. CHEMALLAN: Mr. Speaker, in rising to support the motion I have one point I should like to bring forward.

It is quite obvious that the African farmer must be helped and encouraged in as many ways as possible to try and stand on his own feet in order that he may take his position in contributing to the prosperity and development of Kenya as a whole. In doing this, I think the best way to do it would be through

[Mr. Chemallan] a good farming example, not merely a good farming example from a European farmer, because an example of that sort I should say would not really attract the African because the African would say a European farmer is naturally rich and is capable of doing anything easily, whereas if such a good farming example can come entirely from an African farmer who has tried and succeeded by hard work to put up something which is impressive, that example could have more effect on the African community. If the request now put before Council is accepted, we would appreciate that in the meantime a committee is appointed by the Council to go into the whole question and make recommendations. With those remarks I beg to support.

MR. RANKINE; Mr. Speaker, I am sure that this Council regrets as much as I do the absence of my hon. friend the Financial Secretary, who was going to reply to this motion, more especially because this question is one which is within his particular knowledge and in which he has taken a very special interest. But I am sure the Council will be glad to know that he is making good progress. (Hear, hear.)

With a great deal of what the hon. member has said I would be the first to agree, that this country depends on farming, and that farmers should be given the greatest assistance that we can afford. He went on to say that the African farmers needed two things, financial assistance and expert advice. I would say that they need at least one more than that, that with financial assistance and expert advice they must show a desire to co-operate (hear, hear) and to take advantage of the advice, and I am sorry to say that in some cases and in some respects the African has been found lacking in that respect. We all know of certain cases in which the degree of co-operation which has been shown towards the advice and the assistance that have been given them has not been all that could be desired.

Again, the hon. mover has suggested that the African has not received the same assistance as the European farmer. I do not wish to take issue with him on that score, because the hon. Director of

Agriculture can answer him on some of the points that he has made, but I would point out to him that Government has given very great assistance in certain respects, and that in the Development Committee report a very great measure of assistance is provided for the Africans in their agriculture.

As regards the particular suggestions he has made, I do not think there is any argument that assistance should be provided. It seems to me more a question of what direction that assistance should take, and I will suggest to him that this particular Ordinance to which he has referred may not be the best instrument for that.

Again, the hon. mover has suggested that very great assistance has been given to Europeans and very little to Africans. He went on to say or suggest that large amounts in the way of loans to European farmers had been written off. Well, now, as regards that remark, I would like to take issue with him, because so far as this particular Ordinance to which he refers is concerned I am informed that no amounts, not one single penny, have so far been written off as a bad debt by way of loan to a European farmer. (Hear, hear.)

When I suggest that this particular Ordinance is not the best instrument for providing the assistance which he requires, I would like to take the Council back a little way to explain something about the nature of that Ordinance and the reason why it was enacted. It will be within the knowledge of those members of this Council who were here in 1940 that this particular Ordinance was enacted as a very special measure to meet a special emergency and as a wartime measure, so much so that when it was enacted it was not assented to immediately by the Governor but was deferred for the signification of His Majesty's pleasure, and the Secretary of State then directed that a certain amendment should be made to the Ordinance before it was assented to and given effect to. The amendment was that the Ordinance should only continue in force during the war and should then expire. The reason for that, as I have said, it was a wartime measure to meet a special emergency, and there were certain factors in it which were unusual, which

[Mr. Rankine] were an innovation, and they were provisions which affected the interests of prior encumbrances. For that reason the Ordinance was enacted in such a way that it expired at a certain date.

The hon. mover and the hon. member Mr. Ohanga went on to suggest that Government gave an undertaking that special assistance would be provided for African farmers and that that promise was not implemented. He went on to suggest that Government was giving consideration to the matter, it was giving active consideration to the matter, but that in fact it did not do anything about it. Well, I take exception to that, because it is very far from the truth. It is true Government was giving active consideration to the matter. The question was considered, and considered very carefully, by the hon. Financial Secretary, the Member for Agriculture, and the hon. Chief Native Commissioner, and they decided that while they could recommend that assistance should be given to African farmers they could not recommend any plan which involved a chattels mortgage or a security on land which could not be proved to belong quite definitely to a particular individual. They reached that conclusion for a very good reason. They felt that to do otherwise would be a disservice to the Africans themselves, that it would lead them into debt which they could not afford, and that they could not repay, and finally, that it involved a grave risk of financial loss to Government. These, I suggest, are very adequate reasons.

But what they did was, they went further, and recommended to me as chairman of Development and Reconstruction Authority that I should make available certain sums for advancement to African farmers. That was done, and I agreed to make available money for advances to African farmers. I agreed that those loans should be by way of experiment in the first place; that they should be limited in amount to £50 to any one individual; that they should be free of interest; and that they should be repaid from the yield of the crops or crop which this provision was to assist the farmer to grow; that the farmer to whom a loan was made should be required to enter into an undertaking

that he will use the loan for no other purpose than those described in his application; and that the application should be vetted by the district commissioner and by the agricultural officer concerned. I released £3,000 and created a special Head-in-Development and Reconstruction Authority "Assistance to African Farmers". As I say, these loans were to be by way of experiment in the first place, and money was sent to the District Commissioners, Kiambu and Fort Hall—£500 each. It was later extended to North Nyanza, Nyeri, and a further £1,000 provided for assistance to African farmers on the recommendation of the Chief Native Commissioner.

As I have said, the hon. member Mr. Ohanga suggested that, although the promise was made, it was immediately revoked. His question was, I believe, answered on the 14th July. I released that money on the 16th July. He has suggested that the Government did nothing about it; in fact, that it immediately went back on it. Well, sir, I would take issue with him and suggest that, far from that, the Government has done something about it, and done it pretty quickly. (Applause.)

I have already tried to explain the reasons why I suggest this particular Ordinance is not the best instrument for the purpose, but there is another very important factor of course, and that is the question of land tenure, which is very closely bound up with the question of loans to farmers and a proper security for it. It will be within the special knowledge of the mover of this motion that the African Affairs Committee, of which he is a member, has this particular matter down for consideration at its next meeting. It is a question of whether the Native Lands Trust Ordinance should be amended to enable better titles to be given to selected African farmers by way of long leases, which might enable them to raise loans with the land as security.

Therefore I suggest that, far from doing nothing in the matter, the Government is moving in the matter; that we are endeavouring to assist African farmers; that the question of land tenure is under consideration—whether it is merely consideration, or active consideration, or how active, I think largely rests

(Mr. Rankine) with the mover of the motion himself, and if he feels that the consideration is not active enough perhaps he could give it a more positive movement.

MR. COOKE: Before the hon. gentleman sits down, will he tell us whether these conditions were very onerous? Possibly they were so onerous that the Africans could not make use of this advance of £500, or whatever it was.

MR. RANKINE: The conditions were as I have read out, and it was left to the chairman of the African Land Settlement and Utilization Board and the district commissioner and the agricultural officer in each case to decide what other conditions should be required. I do not know at the moment what actual conditions were imposed, but if hon. members have doubts or misgivings on that, perhaps they would take them up with the district commissioners concerned, or if they would let me know I could obtain further information for them.

As I was saying, I think the Government is moving in this matter, and I would suggest to the hon. member, with all due respect, that the best course of action now would be to see how this experiment proves in action. I would suggest that he might consider withdrawing his motion at the moment, because I am afraid that the Government could not accept it as it stands. I therefore suggest that he should withdraw it, await the results of the experiment, and the results of the consideration of the land tenure question by the African Affairs Committee, and then if he feels that the assistance which is being provided is not adequate he could bring it forward again.

Finally, before I sit down, I should like to stress once again that very largely this matter lies with the African himself. He is getting assistance; he will continue to get assistance; but in some cases much greater co-operation and much greater readiness to accept the advice given to him will be needed if full value from the advice and assistance given is to be obtained. (Hear, hear.)

MR. JEREMIAH: Mr. Speaker, I support the motion and in doing so I should like to mention that there are several Africans now who understand the value of preserving their land, but they

have not found it possible to do so because they have not sufficient funds. If the motion is accepted it may open the way for the Land Bank to provide loans to Africans who want to improve their land. At present only a few Africans really know how their land should be developed, but in many places the African only knows primitive methods of developing his land, and any assistance or instructions given by agricultural instructors is not properly appreciated because there is no concrete example; it is only instruction. Besides that, we should try to give the African loans, because the African as a whole is good at redeeming his pledge. The African who goes to the bank for a loan is a man who has a large area of land and other property, so I do not think that the bank should have any fear that the money will not be refunded. Besides that, if the Africans are given loans to improve their land, that will also encourage or create confidence among the mass of the Africans that the method is for their benefit. At present it is only theoretical instruction, but in practice they see nothing.

I strongly urge this Council to support the motion, as we believe it will help the African to get the money to improve their land by which the co-operation which is regarded as not forthcoming from the African will perhaps be obtained; that is by the Africans knowing the full value of improving their land. For that reason I support the motion and hope that Government will still reconsider this motion and accept it. I do not think the assistance we have been told is given in the same way as the assistance given to European farmers, and anything short of that I do not think will actually be sufficiently appreciated by the African, because they always ask, why do we not get the same facilities as other people?

MR. RANKINE: On a point of explanation, the hon. member said that the Africans were not getting the same assistance as was given to European farmers. I would remind him that this particular Ordinance has lapsed, and therefore it is not possible for European farmers to get advances by way of chattels loan on crops.

MR. BLUNDELL: Mr. Speaker, I rise to support the motion. I do so because I think that, if the African has reached a stage in his farming operations where advances under chattels mortgage can be of benefit to him, we should attempt to meet him.

I did not intend to speak on this motion. I would have been happy to have signified my assent in the usual way, but I do want to take up one point raised by my hon. friend the member for African Interests, Mr. Mathu. The Highlands have not been developed by being nursed: the Highlands have been developed largely by the energy and enterprise of the Europeans in them. (Applause.) I think I can prove that the Highlands have not been nursed, because I have been looking at the figures of agricultural officers employed in certain areas, and I find that in the Central Province—the Province with which my hon. friend the mover is very closely associated—13 Europeans and 547 Africans are engaged, apart from the Local Native Council employees, in agricultural activities; whereas in my own poor Cinderella-like area, only one half of that number of Europeans for the year 1946 was employed. Further, if we add Uasin Gishu and Trans Nzoia, we find that the total number of Europeans only reaches a figure of 55. That does not take into consideration 14 Europeans, 22 Asians and 55 Africans merely engaged in the dried vegetable project at Karatina. I think those figures largely dispose of the argument that the farmers in my own area are suffering from a great deal of nursing.

Finally, I just want to say that scientific research, wherever it is developed, is of benefit to any farmer, whatever his colour, and it is quite false to suggest that, because any scientific research takes place in the Highlands, it does not benefit everyone farming in East Africa. Witness the decision to bring close to Nairobi the East African Research Institute, which is also largely financed by funds from Tanganyika and Uganda. It is not lack of science that has ruined Ukambani: it is indolence and ignorance.

Having said that I should like to assure my hon. friend the mover that I welcome his motion.

MR. RODDAN: Mr. Speaker, I should like to say first of all how delighted I am to hear from the hon. Member for African Interests that the African is now going to turn over a new leaf and not merely listen to advice, but to act on it. I should also like to congratulate him on his grasp of the technical side of agriculture. I am not at all prepared to agree with him on the question of staff, when he says the European areas have had considerably more than their share. I have not got the figures here now, but I know, and I am sure he knows, that the African areas have had many times the number of agricultural staff employed than in the European areas. Admittedly they are not enough, and on that point it is a crumb of comfort to me to know that when the estimates come forward for this department I can count on support from him for the increased number of staff we will be asking for! (Laughter.)

One point on the question of technical advice to African areas which will be of interest to him is this: that the Member for Agriculture is at the moment in London going into the question of obtaining a very considerable loan from Colonial Development and Welfare funds, principally for the setting up of large experimental stations in the Nyanza, Central and Coast Provinces, where the many problems of African agriculture will be fully examined and where they will get what has been asked for—practical demonstrations of what to do. It needs a bit more than that, as many people here have emphasized. It needs the will of the African to do what he has been shown and to accept hard work that it will entail, because there is no royal and easy road to successful farming.

I agree with the hon. Member for the Coast that the answer does not lie completely in the use of fertilizers. What is required is a complete revolution in farming practices. I think it was the hon. member Mr. Ohanga who made the point that the African farmer and his wife, even if they had the will, had not got the capital to enable them to improve their lot. We are trying out in the Nyanza Province and other places the system of group farming, which I think members opposite have heard of, where-

[Mr. Roddan]—combining themselves together in groups, should be able with their joint capital possibly to afford mechanization to some extent. That is in its experimental stage, but it is a method which I think has great possibilities and which might go a long way to meet the points which have been made, and would be a much better way than borrowing money.

The hon. Member for Uasin Gishu said that the real need was hard work on the part of the African. I agree, but I also support the hon. member Mr. Mathu in that hard work must be directed. We must have more staff. I agree, too, that facilities for the development of the agricultural resources of this country should be available to suitable persons of all races. I agree that the African should have credit facilities, but in view of the information given to Council by the hon. Chief Secretary, I think that his suggestions are a better alternative than the Land Bank, and I therefore oppose the motion.

MR. HOPE-JONES: Mr. Speaker, I rise to oppose the motion. In doing so I would say that I, too, have a great deal of sympathy with most of the points raised by the hon. Member for African Interests. I have a great deal of sympathy for him because I readily appreciate the very important point made by the hon. member, that it is only through a great increase in that portion of the national income which is treated by the efforts of the African that there may be that rather optimistic estimate of the national income increase in the next ten years. In agreeing with him on that theoretical point of view, I would be failing in my duty if I did not say that the only way even one-quarter of that income which he has envisaged can be achieved is by a very great increase in the effort of those African farmers for whom he has been pleading so effectively.

I oppose this motion, while having great sympathy with the hon. member, for this reason. I have had some time during the course of the debate to consider what are the implications of adopting this particular motion as drafted now, and that is what we are

concerned with at the present time. If I may, I should like just to read out the last few words of his motion: "In the meantime"—I know the hon. member will excuse me if I get his slight amendment wrong, but it does not alter the spirit of it—"in the meantime a committee be appointed by this Council to go into the question of how best to finance African farmers through Land Bank advances". If I were advising the hon. member in the capacity in which I have earned my living in the past, I would say that from his point of view it was a very dangerous motion, for this reason: it is confining the method of giving assistance to the African to one particular channel, namely, the Land Bank.

Now, sir, although that old university of which my hon. friend the member for African Interests is a distinguished member, did not on the whole appreciate the finer points of business and finance, they do appreciate the finer points of language. What does this mean—Land Bank advances? As far as I know, and I am open to contradiction, in other countries in the world where there are land banks—that is permanent land banks, not wartime emergency measures—loans advanced by land banks are secured not against moveable goods and chattels, but against the land itself, and as far as I know there is no land bank in the world again referring to permanent institutions and not special institutions covering only a wartime emergency period or the effects of depression—where interest rates are not charged. My hon. friend the Chief Secretary described a very interesting experiment of very great potential benefit to Africans which is already in train, namely loans—admittedly of small amounts—which are lent against crops, interest free. If this motion is adopted in its present form and a committee is appointed, my hon. friend the Member for African Interests would rule out of the terms of reference of that committee any examination of something which is already in train, something which I would say, has the possibilities of development, and would in fact confine the whole matter to loans through land bank advances. I do not want to labour this point, but I do suggest for the con-

[Mr. Hope-Jones] sideration of my hon. friend that when the Chief Secretary advises him to withdraw this motion in its present form, he is giving him the advice in his own best interests and the best interests of the people he represents.

I have only one further point to make, and then I will sit down, and it is this. When the hon. Member for Uasin Gishu, when the hon. Member for Rift Valley, when the hon. Member for the Coast, made points in connexion with this motion with which I find myself in substantial agreement—that is, that they are completely sympathetic towards the objects behind this motion, the motives behind this motion, and then went on to give reasons far more pertinent, far more, shall I say, eloquent than we have done on this side of Council—(Mr. COOKE: That is impossible.)—I deny that anybody could be more eloquent than my hon. friend—I must assume that their support of this motion is the support of the principle behind the motion, rather than as the motion is drafted. I see my hon. friend for the Rift Valley nod his head! Then I would say to my hon. friend and to my other hon. friends opposite, that if that is their view I do not see how in honesty—and I know they are all honourable men as well as honourable members—they can possibly vote for this motion as drafted.

I beg to oppose the motion.

MR. COOKE: Mr. Speaker, on a point of explanation, I should like to make it very clear that I do not accept it as free loans. I think that would be very bad.

MR. HOPE-JONES: I merely said for existing development with interesting possibilities.

MR. COOKE: Very interesting possibilities.

MR. MATHU: Mr. Speaker, I shall endeavour to reply to the points raised as briefly as possible, and to say that I agree with the hon. Member for the Coast and other hon. members who spoke after me in the fact that lack of money is not the only factor that comes into the present agricultural situation in the African units. The question of population I agree with the hon. Member for the Coast comes into it very very closely,

and I think we have more than once in this Council agreed that we should go ahead with secondary industries to relieve the pressure on the land. There is no issue on that, but the point is that we have not yet done so, and we would like the situation existing at the moment in regard to African agriculture to be remedied.

The hon. Member for Uasin Gishu supported the motion, and raised a very important point, which was also raised by the hon. Chief Secretary, the question of land tenure. The hon. Chief Secretary is correct in saying that the African Affairs Committee are going into this very point of land tenure, and he says that the principle that that committee will have to work on is on long lease and amending the Native Lands Trust Ordinance. That, if I may say so in advance, in perusing a memorandum prepared for the committee by the hon. Chief Native Commissioner, raised a very important point from the African point of view, namely, that when you lease land to a person he does not possess it. The experiment is directed towards the Kikuyu, mainly in the Kiambu District, who have for centuries been owning land, on individual tenure, and to suggest that the land does not belong to them the whole policy of Government in regard to the holding of land by Africans is brought to a halt, and the African community says "Government is leasing us land which does not belong to us; therefore all the stories we hear of land being set aside in perpetuity for the Africans is not true". This question, when it comes before the African Affairs Committee, I am definitely sure, will not be accepted by the Africans, and I have already referred the matter to the Kikuyu concerned on the instructions of the hon. Chief Native Commissioner, and read the memorandum to them, and they are absolutely furious, because they are absolutely scared of insecurity. They ask, "Where is the land for us?" I tell you, the situation is not going to be an easy one.

Therefore, as far as the present policy is concerned, I do not see a means of getting the African to borrow money from the land bank or any institution on the security of his land to which he does not own freehold title. That in advance is the position, and although I knew

[Mr. Mathu] this was coming up I knew it was not going through unless Government was ill-advised enough to use force, which I do not think they will, and it was to encourage African farmers that I suggested a chattels mortgage was the only other solution left for them.

The hon. Member for Uasin Gishu did make the point that the African lacks stability over the question of land, and he also lacks the best quality of hard work and effort. I do not agree at all. I agree that some Africans lack the qualities the hon. member suggested, but I deny that all Africans lack the qualities that I have outlined. I am entirely with him that every person, not only the African but every person who moves on his or her two feet must work hard, and put his back into the job. I should be the last person to suggest otherwise; without that, I do not think they would exist.

The other point I should like to reply is the important point made by the hon. Chief Secretary and other speakers and the hon. Member for Rift Valley, that the European farmer has not received more assistance, financial and otherwise, than the African farmer. I entirely disagree. On the financial side only, the Land and Agricultural Bank of Kenya is a Government agency for four very important bodies. I refer to the Central Advances Board—

MR. RANKINE: On a point of explanation, I did not suggest for a moment that Africans did not get as much assistance as Europeans. I particularly said that I did not wish to take issue on that score. What I did suggest was that Africans were also getting considerable assistance.

MR. MATHU: I accept the explanation, but I should like to make the point that I hold that the European farmer in this country—and I am not grudging him, I am only stating a fact—has had considerable financial assistance from public funds. I was going to mention four statutory bodies which have been set up for that very purpose, and I was quoting, before the interruption, the Central Agricultural Advances Board which at any rate for the year 1947 dealt with not less than £36,000. The next body is the Farmers Conciliation Board, which is

again an institute to help the European farmer through the Land Bank, and this previous year it handled not less than £25,000. The next one is the Board of Agriculture, where you have a tremendous number of subsidiaries which get public funds to support the European farmer—the machinery pool, the schemes for guaranteed minimum returns, grants for breaking new land, over £200,000; maize grants, Sh. 7/50 per acre. Finally I should like to refer to the Coffee Industry Financial Assistance Board, which again deals only with financial assistance to European farmers, and during the last three or four years handled not less than £13,000. My submission is that all these set-ups go to support my contention that the African has not had a square deal as far as State assistance in the farming set-up generally is concerned.

The hon. Chief Secretary took me up on my statement that losses have not been written off as far as the Ordinance on which I have based my motion is concerned. When I say that some losses have been written off, I was not specifically referring to monies advanced under this particular Ordinance. I was referring to the whole Land Bank institution, and as far as the whole Land Bank institution is concerned, I quoted from page 3 of the report on the Land Bank for 1947. In paragraph 12 you have an account showing the losses written off of over £22,000 through the Land Bank. I was not saying that these things will not happen. The point I was making was that you could not make it an excuse that if we give Africans loans Government will lose the money. I said that because the Africans are human beings, exactly like any other person, losses will occur. I was making the point that it is already so and that over £22,000 has been written off last year in the whole organization of the Land Bank.

The position that has been put before the Council by the hon. Chief Secretary is a plausible one, and as a matter of fact I had anticipated that in my earlier remarks, because I did say that Ordinance No. 14 of 1940 is not the only way, and that other ways are already being considered, but I did say that the other ways have no legal basis. I had to base

[Mr. Mathu] my motion on something that I could lay my hand on. The other things have been called experiments, and I could not lay my hand on something which is not fixed, but on something that has been tried and found to function. I have not suggested that Government was doing nothing and that there were no other ways.

With regard to the proposal made by the hon. Chief Secretary that £3,000 has been released to help African farmers and that the maximum that any African farmer can get is £50, I should like to put it to him that I have farmed in a small way and I suggest that £50 would not even manage to manure 20 acres, using cow dung only. It is a very small amount, and I do not think it would change my mind that we ought to go further. I agree it is an experiment, but an experiment in a very very small way.

The hon. member has suggested that I should withdraw my motion. I want to deal with that point when I come to the end of my reply. I agree with quite a lot of the remarks made by my hon. friend the Member for Rift Valley, and suggest that the Highlands have been developed definitely by the initiative of the European farmer, but let me make this point which he forgot, that the African labour has done more in that direction than perhaps the white.

The hon. Member for Rift Valley and the hon. Director of Agriculture have dealt with the question of staff. They say the African areas are staffed with a larger number of agricultural instructors than the European areas, and the hon. Member for Rift Valley suggested that there are only one or two officers in his district. I understand that at present it is not one or two, but that there are 25 in that particular area. It is not incomprehensible that there should be more staff in the African areas. It is necessary that there should be because the European farmer, as has already been pointed out, has all the advantages. He has been trained, he has studied agricultural principles in schools and colleges, and he can read from books. Let us educate the African. If we had more African farmers educated to read the

agricultural publications, as I wish to do them (excuse my using non-parliamentary language)—handed out, I think that is more polite—by the Agricultural Department we would have less staff, but now ignorance is the rule. My hon. friend the Member for Rift Valley did make that point. I entirely agree with him. Ignorance is a thing that is hindering agricultural progress in the African areas, and I hope that my hon. friend the Director of Education will push forward his educational schemes in conjunction with the hon. Director of Agriculture so that these people may know what is happening.

The hon. Member for Rift Valley said that scientific research is for the benefit of all. I agree, but is it? I will give one example which I discussed more than once with the predecessor of the present Director of Agriculture—the potato blight. The potato blight is very violent in a large number of African areas, but in other areas it seems to have no effect, because the other farmers have the benefit of resistant varieties; they know what the resistant qualities are and they know what sprays to use. In the African areas I have not seen one. I have 30 acres and the whole lot of my potato crop went off like that in one season. I have not seen an agricultural officer or instructor in my own area to show us how to deal with potato blight. We are not getting the assistance we should like to get.

I think I have covered most of the points, except that the hon. Director of Agriculture made a very important point that we want a revolution in farming practice in the African areas. I agree with him entirely, but at the moment we have the panga and hoe economy, and I do not see how we can progress with the panga and hoe economy, except by having the agricultural knowledge and the money to buy tools and implements to replace the panga and hoe. That I think is a point worth taking note of. Before I leave the points made by my hon. friend the Director of Agriculture, we are aware of the group farming experiments which are being made in Nyanza and are very interested. We hope it will be one way of improving the agricultural practice of the African people.

[Mr. Mathu]

I entirely agree with the point raised by the hon. Secretary for Commerce and Industry and I do not think one could very well resist the speech of my hon. friend, because he spoke so convincingly, though it may not be true! (Laughter.) I would suggest that, although £50 is money interest free, that is not really a point that would weigh heavily with me, because I should like them to be taught their obligations. They should borrow and pay interest, because once you give them free money like that you lead them on the path I have tried to dispute in this Council during the last five years—the allegation of African irresponsibility, which, as you know, generally is untrue.

I have been asked to withdraw this motion. Now I should not like to withdraw this motion, even if nothing is going to be done. I should like Government to refuse to accept it, as they have done, and to vote against it. I should like other members on this side of Council who choose to vote for the motion to do so, and those who choose to vote against it to do so. My reason for doing so is just to show that the introduction of my motion is not to force any issue, but to show that we really mean business. In regard to the question of agricultural improvement in the African areas, and no words, no arm-chair theories, will suffice in this matter. Even if we get this motion through, as I hope we shall—I knew the Government would not accept it—but the last part of it, the point which interested my hon. friend the Secretary for Commerce and Industry, is the appointment of a committee. I put that in advisedly. I knew Government would not accept the first part, but in order to get this through and to give them time to redraft the Ordinance, if necessary, or to shelve it, also if necessary, a committee would be sitting and studying the whole situation and reporting and giving a legal basis to the whole thing. I mean no bad business. I only mean that we and the Government and all the races in this country should co-operate to raise our national income, and raise the standard of living of everybody in the happiest atmosphere possible. I beg to move that this motion be adopted. (Applause.)

MR. VASEY: Mr. Speaker, at the request of some members on this side, I would ask that, in view of some of the arguments that have been used, this Council be adjourned for five minutes previous to the question being put.

MR. NICOL seconded.

The question was put and carried.

Council adjourned from 12.40 p.m. to 12.50 p.m.

The debate was resumed.

The question was put and carried by 20 votes to 12. Ayes: Messrs. Blundell, Chemallan, Cooke, Erskine, Havelock, Hopkins, Jeremiah, le Breton, Maconochie-Welwood, Madan, Mathu, Nathoo, Nicol, Ohanga, Patel, Pritam, Rana, Seif bin Salim, Shatry, Vasey, 20. Noes: Messrs. Andrews, Hartwell, Hobson, Hope-Jones, Hyde-Clarke, Lowe, MacLennan, Rankine, Robbins, Roddan, Thornley, Wadley, 12.

BILLS WITHDRAWN

With the leave of Council, Mr. Hobson withdrew the Native Poll Tax (Amendment) Bill with a view to its introduction at a later date, and the hon. Chief Secretary withdrew the Forest (Amendment) Bill, with a view to the introduction of a new Bill at a later date.

BILLS

THIRD READINGS

MR. HOBSON moved: That the Trades Disputes (Arbitration and Inquiry) Bill and the Workmen's Compensation Bill be each read the third time and passed.

MR. LOWE seconded.

The question was put and carried, and the Bills read accordingly.

ADJOURNMENT

Council rose at 12.55 p.m. and adjourned *sine die*.

WRITTEN ANSWERS TO QUESTIONS.

NO. 29—CRUELTY TO ANIMALS LEGISLATION

MR. NICOL (Mombasa):

Will Government state what steps they have taken to implement the recommendations of the Select Committee Report on Cruelty to Animals dated March, 1947. If no steps have been taken, will Government give an assurance that legislation will be brought before Council at a very early date?

Reply:

Owing to the very heavy pressure of urgent legislative matters the Select Committee's report on Cruelty to Animals was not put down for discussion during the life of the last Legislative Council.

Steps are now being taken to have the report reprinted for presentation to this Council and thereafter Government would welcome a debate thereon.

NO. 30—CONSCRIPTION

MR. NICOL:

In view of the fact that Press reports indicate that conscription will be brought into force in the United Kingdom in January next, will Government inform Council if it is intended to bring conscription into force in Kenya? If the answer is in the affirmative, will Government inform Council of their proposals in this regard?

Reply:

As announced in the Press about a year ago proposals for the reintroduction of compulsory military service have been under active consideration by the Government in consultation with the military authorities for a considerable time. A decision has, however, been deferred until agreement has been reached with His Majesty's Government in the United Kingdom regarding the whole subject of East African peace time defence requirements which is at present under consideration at a high level in London.

NO. 33—DRIVING LICENCES

MR. HAVELOCK:

Does Government consider that the revenue collected from the annual driving licences is sufficient to warrant

the expenses of collection? If the answer is in the affirmative, will Government give the estimated cost of collection for 1947 which can be compared with the estimated revenue of £4,000 as shown in the draft estimates for 1948?

Reply:

The answer to the first part of the question is in the affirmative. As regards the second part, the total cost of collection for 1947 was approximately £3, namely, the cost of the paper involved and of the actual printing of the licences.

NO. 40—MALAKISI RIOT

MR. OHANGA:

1. With regard to the incident of shooting by police which took place at Malakisi in the North Kavirondo district during February of this year, will Government please state:—

- The nature of the dangerous weapons with which the Africans who were subjected to police fire were armed;
- the names of the Africans killed (or later died of wounds) and of those injured by bullet wounds;
- the names of the police killed (or later died of wounds) and of those wounded by the weapons with which the Africans were armed;
- the number of women and children killed or wounded;
- the number of men and women who have since been committed to court for trial and punishment;
- the names of those tried (or who are to be tried) under the Deportation Ordinance, and deported (or are to be deported)?

2. Will Government please state clearly the conditions and circumstances, in matters of law and order, under which the police may resort to fire:—

- in order to disable an individual temporarily; or
- to disperse a crowd?

In the light of the answers to (a) and (b), does Government consider that the shooting at Malakisi was absolutely justified?

Reply:

1. (a) The Africans in the crowd were armed with clubs and one individual also used the butt of a rifle snatched from a police constable and a bayonet.

(b) The names of those killed by the police fire are—Maina s/o Wurubi, Mwanikwa s/o Nambefu, Nikonori s/o Busori, Salifu w/o Okuwiti, Anyiti d/o Kayo, Marina s/o Nasimunya, Bomba s/o Maketi, Nokidem s/o Jambo, Wachye s/o Nakhikha, Acholo s/o Situma, Masinde s/o Weyusia. Four women and six men were admitted to hospital suffering from bullet wounds and all of them recovered. There were also reports of a few other people having been wounded who made off immediately after the riot and did not report to hospital.

(c) No police officer was killed in the riot. The following received injuries:—Mr. J. H. Walker, Assistant Superintendent of Police, No. 766 Sgt. Kamitu Waitu.

(d) Two women were killed by the police fire but no children. As stated in (b) four women are known to have been wounded. As far as is known, no children received injuries.

(e) Sixteen persons were convicted for rioting (section 78 of the Penal Code). Of these three were women. Forty-two persons were convicted for being members of an unlawful society (section 71 (a) of the Penal Code). Of these, twelve were women. Twenty-five of the cases of the total of forty-two were declared a nullity as the sanction of His Excellency the Governor had not been obtained. These cases are to be re-heard. Sixty-three males were convicted for taking part in an unlawful assembly *contra* section 34 of the Police Ordinance. One male was acquitted of the charge of rioting and one acquitted of the charge of being a member of an unlawful society.

(f) The following four persons were the subject of proceedings under the Deportation Ordinance:—Pascall Nabwana, Elijah Masinde, Wekukhe Sitawa and Joash Walumoli. Pascall Nabwana was released by order of the judge on the 10th June and the other three persons have been ordered by the Governor in Council to be deported within the Colony.

2. (a) The principles concerning the use of armed force to quell a riot demand

that once a decision has been made that armed force is necessary, fire must be directed at the rioters and not over their heads. The orders are that difficult shots, for example at the limbs with a view to minimizing the nature of any injuries should not be attempted. These principles are of wide application.

(b) Section 80 of the Penal Code authorizes the police to order the dispersal of a riotous assembly. Should the assembly refuse to disperse the police are empowered to take such steps as are reasonably necessary in order to overcome resistance to the order.

The answer to the last part of paragraph 2 is in the affirmative. Government will not, under any circumstances, tolerate the terrorization of peaceable people or active threats against those responsible for ensuring that law and order is maintained.

NO. 43—AFRICAN LAND UNITS

MR. OHANGA:

In view of the rapid decline in quality and acreage per head in the African Land Units of the Colony (a) is Government aware that the standard of life of the majority of the inhabitants of this country cannot be raised within a reasonable time by relying wholly on the agricultural resources of the land? (b) If the answer to (a) is in the affirmative, will Government please state what supplementary measures it is adopting or proposes to adopt in order to raise the standard of life in the African Land Units?

Reply:

While the Government considers that the standard of life of the majority of the inhabitants of this country can be raised, and indeed has been raised, by the adoption of improved farming practices and by arresting the deterioration of the soil, it is generally accepted that the rate of improvement in the standard of living cannot be intensified if reliance is placed solely on the improvement of the agricultural resources of the land.

Statements have been made on many occasions in this Council, and notably in the Governor's speech at the opening of the present session, that the Government is taking active steps to encourage the development of industry, thereby

providing new sources of employment of labour on an economic basis.

Government is also pressing forward with every other feasible proposal to raise the standard of living of the indigenous population and the hon. member's attention is invited in particular to the Report of the Development Committee, in which many of those plans are outlined. Moreover, Government is always prepared to examine any reasonable proposal which can be put forward.

But the Government would reiterate that no great improvement in the African standard of living will be possible until Africans generally, show not only a fuller realization that far greater efforts and co-operation are required on their part, but that improved standards must be largely the fruits of their own hard work.

NO. 45—DANGEROUS SOCIETIES

MR. MATHU:

Will Government please state in detail the actions of the Kipsigis Central Association and the Somali Youth League, Garissa Branch, which have led Government to proscribe these societies as "dangerous to the good government of the Colony"?

Reply:

(a) Government proscribed the Kipsigis Central Association because it had ample evidence that it was subversive to peace and good order. The Government has in its possession the oath of secrecy which the organizers of this society required of its members. It should be stated that the Kipsigis Local Native Council requested its suppression, and there is strong evidence indicating that the Kipsigis themselves regard the proscription with relief. Furthermore the delegates of all the Local Native Councils of the Nyanza Province, of their own motion, on the 16th June, 1948, endorsed Government's action in regard to the Mbojo religion, which is indistinguishable from the Kipsigis Central Association, and which was proscribed at the same time.

(b) The Government was satisfied that an organized attempt was being made by the Somali Youth League, and particularly by the Garissa Branch, to subvert the authority of the Government as exercised over tribesmen through the recognized chiefs and headmen. It had been

substantiated that the activities of the League included the setting up of unlawful courts and also unlawful drilling. The Garissa Branch was, accordingly declared by His Excellency the Governor on 4th June, 1948, to be an unlawful society. Subsequent to that date it became clear that the League in other parts of the Colony had not accepted this warning and was continuing to undermine authority. The Somali Youth League throughout the Colony was, therefore, proscribed on 13th July.

NO. 63—TECHNICAL EDUCATION FOR AFRICANS

MR. MATHU:

In view of the great need for artisans in the Colony, will Government please state why they have not produced a ten-year development plan for technical education for Africans?

Reply:

It is not correct to say that Government has not produced a ten-year development plan for technical education for Africans. The proposals will be found set out at length on pages 193 to 204 of Volume II and on page 76 of Volume I of the report of the Development Committee. The Development Committee very properly refused to consider the case of technical education for Africans in isolation; they stressed that opportunities for technical education must be made available at more than one level for all races.

Provision is made for a capital expenditure of £50,000 and an annual expenditure of £5,000. A special committee has been set up by Government to produce a detailed scheme for implementing the proposals as regards the provision of a Technical Institute. This committee, which is under the chairmanship of the Chief Engineer, Posts and Telegraphs Department, hopes to submit its report in the early part of 1949. A site for the proposed Technical Institute has been reserved in the Nairobi lay-out plan.

NO. 68—INDIAN SCHOOLS

MR. PATEL:

Will the Government please state:—

(1) The number of Indian primary and secondary schools it is

- necessary to build in Mombasa, Nairobi, Nakuru, Eldoret and Kisumu within (a) the next two years and a half; (b) the next five years; and (c) the next ten years in order to provide adequate accommodation for Indian children of school going age.
- (2) The number of such Indian schools for which necessary finance is provided in Development and Reconstruction Authority or otherwise and, if necessary finance is not provided so far, what steps the Government proposes to take to provide the necessary finance.
- (3) The number of sites already reserved for such school buildings in Mombasa, Nairobi, Nakuru, Eldoret and Kisumu.
- (4) If the necessary number of sites have not been reserved so far, the reasons for failure in reserving such sites, and the steps the Government proposes to take to reserve such sites in the near future?

Reply:

It is not possible to estimate accurately what number of Indian schools would be needed, over the various periods mentioned, to accommodate all Indian children of school age in the five towns mentioned. On the basis of the information available, and assuming an annual increase of 15 per cent in the number of children of school age, it is considered that the schools provided for in the recommendations of the Development Committee, viz.: Mombasa, 5 Primary and 1 Secondary (Modern); Nairobi, 4 Primary and 1 Girls' School; Nakuru, 1 Primary; Eldoret, 1 Primary, and Kisumu, 1 Girls' School, which will accommodate some 9,000 children, will rather more than suffice to meet the needs down to the end of 1950.

On the basis of the figures presently available, it is estimated that a further 25 schools, each for 700-800 pupils, would be required to take all Indian children of school age in the five towns referred to by the end of 1955.

It is not yet possible to say whether the funds recommended in the Development Committee's Report will suffice to cover the cost of the schools in the programme recommended by the Development Committee, but it seems likely that owing to the unforeseen necessity to purchase land for some of the schools and the increased building costs, it will be necessary to provide additional funds. This aspect will be considered by the Planning Committee.

No funds are at present available for the extension of the five-year programme, which was all that the Development Committee was prepared to recommend as a charge to the Development and Reconstruction Fund. The Government views with alarm the extremely heavy capital, and recurrent expenditure which the provision of schools for Indian children on the scale envisaged above would entail; and proposes, in the first instance, to discuss with the Advisory Council on Indian Education how best to tackle the problem.

Sites have been earmarked for the schools in the approved programme except for one in Nairobi. Attention is also being given to sites for additional schools, and sites have been provisionally selected to meet most requirements. It will, however, be appreciated that the provision of a large number of sites for schools and playing grounds both in Nairobi and Mombasa present difficulties which may take some time to resolve.

No. 74—EAST AFRICA HIGH COMMISSION**MR. PATEL:**

Will Government please state if the Unofficial Members' Organizations of this Council were consulted or taken into confidence while suggesting or nominating Kenya Unofficial Members for appointment as members of the Posts and Telegraphs Advisory Board and the Transport Advisory Board in respect of the High Commission services? If the reply is in the negative, will Government please give an assurance to this Council that in future the Unofficial Members' Organizations of this Council will be taken into confidence while nominating or suggesting Kenya Unofficial Members for boards, committees or Councils concerning High Commission services?

Reply:

(a) The answer to the first part of the question is in the negative.

(b) Having in mind the composition of the Legislative Council, Government sees a difficulty in giving the assurance which is requested. All important appointments are referred to the Executive Council and in Government's view that is the best course in the public interest.

No. 76—PRICE EQUALIZATION OF PETROL AND OILS**MR. EDYE:**

In view of the fact that variations in the price of petrol, fuel products and lubricants between various points in the Colony is a factor in the cost of living which bears unfairly on various localities, will Government examine the position and endeavour to arrange for an equalized price throughout the Colony?

Reply:

No, sir. The Government does not admit that variations in price bear unfairly on various localities and sees no reason for arranging an equalized price as suggested.

No. 77—AFRICANS IN SETTLED AREAS**MR. CHEMALLAN:**

(a) Is Government aware that lack of adequate educational and health facilities and the backwardness of the Africans in the settled areas of the Colony is a matter of drawback to African progress? (b) If the answer is in the affirmative, will Government please state whose responsibility is the education and health facilities for Africans in the settled areas, and what steps are being taken to remedy this state of affairs?

Reply:

(a) Lack of educational and health services must hamper African progress anywhere. The Government does not, however, consider that health and medical facilities in the settled areas are below the general standard for the Colony; on the contrary, in some parts of the settled areas the standard is higher. The Government does agree that

the level of educational services for Africans in the settled area is lower than the general level in native areas.

(b) The ultimate responsibility for such services in any part of the Colony must rest on the Government but in the same way as in the African areas, it is Government's policy that local authorities in the settled areas should also carry certain responsibilities. Concerning health services, the Government provides in the settled areas native hospitals and certain preventive services. In fact, the number of beds per thousand African inhabitants of the settled area is higher than the corresponding figure for the native land units. In some areas Government also provides dispensaries but since many Africans in the settled areas are employees, there is only a limited need to provide this service by reason of the fact that the employer is, by law, required to provide certain medical attention for his employees and there is not the same need or justification for dispensaries.

Concerning educational facilities, it is the policy of the Government laid down in the report of the Development Committee that its responsibility extends to providing the educational services for Africans other than primary education.

Primary education, however, in the settled area is at present a Government responsibility but with the great demands in African areas for African secondary education, and in view of the limited funds available for education, consideration is being given to ways and means of finding the necessary finance. It will also probably be necessary to consider setting up special education authorities closely associated with the local authorities.

The phrase "settled area" in the hon. member's question has been interpreted as excluding municipalities but the answers given above, in general, apply to municipalities.

No. 78—AFRICAN SCHOOLS. RIIT VALLEY PROVINCE.**MR. CHEMALLAN:**

(a) According to the schedule appearing in Appendix 8 of the ten-year plan for the development of African education, which came into force at

the beginning of this year, the Rift Valley Province gets only two new junior secondary schools, forms one to two, in the next ten years—will Government please state how they arrived at the figure of this figure, and how they rightly intend to further educational development in the province with such very inadequate allocation of schools in the vast and long neglected area of the Rift Valley Province?

(b) As primary education has now become a local native council responsibility, will Government please state what other ways besides the present interim grant of Sh. 2 per ratepayer paid to the Local Native Councils they have in hand for assisting and developing primary education in parts of the Colony where the Local Native Councils are unable to meet their educational commitments?

Reply:

(a) When the development plan was drawn up only two new Junior Secondary Schools were allocated to the Native Land Units of the Rift Valley Province, because it was considered advisable that the greater part of the necessary development should be carried out through the existing schools at Kapenguria, Tambach, Kabarnet and Kapsabet. Extensions are already being carried out at Tambach, Kabarnet and Kapsabet, while a building programme for Kapenguria has recently been approved. At present there are only 53 pupils in Form 2 in the Rift Valley schools; when the extensions to these schools have been finished, there will be accommodation for 150, while the two new schools will bring this total up to 210 pupils—an increase of 400 per cent, much greater than is planned for any other Province.

(b) The grant by Government to Local Native Councils of Sh. 2 for each rate paid was only introduced this year and was designed and has proved to be of greater advantage to the less wealthy Councils such as those in the Rift Valley Province than to the larger and wealthier Councils elsewhere. Furthermore, it must be pointed out that in the last few years Government has been involved in greatly increased expenditure from central funds on social services for Africans, in particular in connexion with

health services and secondary education, and despite this increased expenditure the basic rate of poll tax has not been appreciably increased. It is considered, moreover, that the African community in the Rift Valley Province and elsewhere must realize that the development of such services as primary education must be financed by their own contributions to their local government funds, and that requests for increased services cannot be made unless such contributions are forthcoming.

No. 79—LOITOKITOK SCHOOL, MASAI DISTRICT

MR. CHEMALLAN:

Will Government please state why the Loitokitok School in Masai District which had a roll of 140 children was closed down and then they intend to reopen it?

Reply:

It is not correct to say that the Loitokitok School, with a roll of 140 pupils, has been closed down. During the war economy in expenditure and in the use of staff was essential and, as neither of the schools at Narok or Loitokitok was full to capacity, the secondary sections of the two schools were combined. Out of 90 pupils attending school at Loitokitok, 50, including all the secondary pupils, were transferred in 1940 to Narok and the primary section was continued at Loitokitok under the management of the Local Native Council. The new pupils were absorbed at Narok by the transfer of classes below Standard VI to the village schools in accordance with practice elsewhere.

Government is satisfied that the Narok School, where extensions both for boys' and girls' education are now under construction, will provide the Masai with all the facilities they require for secondary education for the time being. When the Narok School is unable to meet these requirements, the secondary section of the Loitokitok School will be reopened.

There are only five primary schools in the Kajiado District, and the total number of children in Standard V is only 29. This small number clearly does not warrant at present the opening of a secondary school in the Kajiado District.

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VOLUME XXX

8th June to 8th September, 1948

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