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KENYA GOVERNMENT ARCHIVES
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SECTION 7

CONTINUED FROM
REEL No.

15

Friday, 15th December, 1950

Council assembled in the Memorial Hall, Nairobi, on Friday, 15th December, 1950.

Mr. Speaker took the Chair at 10.35 a.m.

The proceedings were opened with prayer.

MINUTES

The minutes of the meeting of 14th December, 1950, were confirmed.

ORAL ANSWERS TO QUESTIONS

QUESTION No. 85

Mr. E. W. MATHU:

Will Government extend the privilege of advancing money to purchase motor vehicles to African doctors and other African civil servants whose duties necessitate the use of motor vehicles?

THE FINANCIAL SECRETARY: The privilege of receiving advances to purchase motor vehicles, set out in Regulation 530 of the Code of Regulations, is available to European, Asian and African employees of the Government, except those on temporary terms of service. Subject to compliance with the requirements of Regulation 530 (i), (ii) and (vi), the submission of a valuation certificate in respect of second-hand cars, and the possession of a valid Certificate of Competency, the Accountant General will authorize advances equivalent to approximately two-thirds of the officers' salaries.

MOTIONS

Rate of African Poll Tax—(Contd.)

THE SPEAKER: There is a motion before this Council:

That this Council recommends for the consideration of His Excellency the Governor that the rate of African poll tax should not be altered in 1951.

We were still debating it at the adjournment.

MR. PRESTON: Mr. Speaker, Sir, in spite of the oration delivered yesterday by the hon. Member for African Affairs, Mr. Ohanga, I rise to support this motion. I do not do so, Sir, because I feel the African people are groaning under the weight of unbearable taxation,

nor, Sir, because I feel that the African community as a whole is poverty-stricken, but I do so, Sir, because I am of the opinion that the suggested increase of direct taxation is not altogether the best way of taxing this particular community. I feel that this measure will bear heavily on one section of the community, a section for whom I have the greatest respect, and amongst whom I number a great many friends. I refer, Sir, to the African agricultural labourer. It is this section of the community which has done so much to build up the economy of this Colony and it is these men who, as a body, have very little opportunity of tax evasion and, therefore, it is upon them that the burden of increased direct taxation will fall more heavily than any other section of the community. I do believe, Sir, this is the wrong time for any such increase, as I do feel that we have a committee sitting on the whole question of graduated wealth tax, and I consider that we would have been well advised to have waited for the findings of this committee before altering taxation.

Now, Sir, we have recently heard much from hon. Members representing African interests, which leads me to believe that they are in favour of making the rich pay for the poor and I would, therefore, welcome any measure which would alter the present taxation structure for the African community towards this end. I shall look forward, Sir, to the day when African-controlled companies are contributing to the revenue of this Colony, at the rate of Sh. 5 in the £1 in income tax. (Hear, hear.) This measure was strongly recommended by the hon. Member for African interests, Mr. Mathu on Wednesday.

I almost wish I had it in my heart to support his theory, "the more you tax a man, the harder he will have to work and the more efficient he will have to become in order to meet the increased burden", but if I really subscribed to this theory, I should find myself opposing the motion which is now before this Council, not supporting it. I have no doubt, Sir, that more able speakers than myself will deal adequately with some of the statements that have been made during this debate and I hope, Sir, in doing so, they will paint a more accurate picture than the rather highly coloured canvas which is now on view.

I beg to support, Sir,

MR. MACGONIGHE-WILWOOD: Mr. Speaker, I rise to oppose the motion before Council, not because I think that this rise in poll tax is an ideal position, but because I look upon it as an interim measure pending the introduction of a graduated poll tax.

THE FINANCIAL SECRETARY: Quite right.

MR. MACGONIGHE-WILWOOD: I do not see how Government can continue to finance the many services asked for by the African unless they raise the taxation in some way. Income tax paid by the Europeans has one advantage from the Government point of view, and that is, automatically with inflation, the yield of income tax must rise. The cost of Government services has risen enormously and with a poll tax which yields very much the same as it did ten years ago, something drastic has to be done. As regards the poorer African, a great concession has been given in the removal of the customs duties on certain of the articles which the African buys, notably, khaki drill and clothing of various sorts. In this way, a relief has been given which is very much greater than this slitting on the poll tax, because if you analyse the slitting on the poll tax it amounts to 15 or 20 cents a month. Wages of the agricultural labourer have risen and I think, myself, have got to rise further, as also the price of the products sold by the African. Under those circumstances, it seems to me, there is no choice before this Council except to support this as an interim measure until a graduated poll tax can be worked out and a wealth tax and possibly a cattle tax which will spare the poor and make the rich contribute rather more than they are contributing at the present moment.

Like the last speaker, I do not propose to try and reply to the speech of the hon. Mr. Obanga, except to say it was one of the most remarkable speeches I have ever listened to in this Council. It seems quite clear that the British, who have always been noted for desisting in paying taxes, have at last a rival in the African, who rushes through the bush for two or three years in order to find the tax collector in order to hand over the tax. I find it difficult to credit that any other race in the world would do this.

Mr. Speaker, I beg to oppose.

MR. NATHOO: Mr. Speaker, in rising to support the motion before the Council, I would like to associate myself with the remarks made by the hon. Member for Nyanza.

I have one or two comments, however, which I would like to make on the statements made by my friend, the hon. Member for African Interests, Mr. Obanga. I regret, Sir, that he has taken the view that, apart from the African community, the other two sections of the communities in Kenya do not do much for themselves in the way of social services independent of the Government.

I would draw his attention, Sir, to the fact that whether you would like to acknowledge it or not, we must admit that the European section of the community, by supporting a large number of private schools where they send their children and pay the heavy fees, do a great deal to remove the burden from the Central finances.

The Asian community, Sir, also, in a large number of schools on a grant-in-aid basis. The cost of which, to the Government, is about one-third of what it would cost them to educate children in Government schools. That, Sir, in itself is evidence, that what these other communities have been doing for themselves is what they feel that the Government cannot do.

I would also mention the fact, Sir, that a large number of Asian schools have been existing and have been carrying on without any assistance from the Government in the way of grants, and the same applies to the medical facilities, which for the Asian communities exists only in imagination as even in large centres the facilities provided for the Asian communities are the most primitive and meagre, but, Sir, these arguments on the part of the hon. Member for African Interests must not retard us in opposing the motion which is before the Council. We are supporting it.

The arguments of the African Members, Sir, I say, should not incline the other Members of the assembly to oppose the motion which is before the Council. (Laughter.)

I would say, Sir, that we must judge this motion on its merit and as such, Sir, I find that the present stage when the

Nathoo on the African taxes is that I do not see any justification for raising the poll tax on the African communities.

The time will come, Sir, after the report has been submitted and we find out more money is required either for social services or for development. I am sure that all sections of the community are prepared to pay their share towards it has been stated, Sir, by the Government Members early in the debate on the Company tax and even now, that the Asian Members come to the Government for more schools they must remember they were instrumental in not raising more money for the Government taxes.

So, I do not think that remark ought to apply to one community or to the other, it must apply to all and it does mean, Sir, that when we are proposing any measure of taxation, we are doing so with any unwillingness on the part to pay our share for the social services or for development. My only objection, Sir, is that during the coming year no necessity has been shown where more money is required to finance any social services or for development during the year, and that in future years when more money is required for either of these purposes, I am sure, Sir, the other communities, and I certainly shall speak in behalf of the Asians, that we shall be prepared to pay our share.

Mr. I beg to support.

MR. LESTER: Mr. Speaker, before I make the brief remarks which I was intending to make, I would like to congratulate my hon. friend who has just spoken, on the perfect figure of eight he has executed on such very thin

legs. Now, Sir, I am intervening because I stated earlier in the Budget debate that I was opposed to the imposition of an extra taxation. I must say that I was a little shaken when I heard my hon. friend Mr. Obanga speak on the Company tax, when he referred to the fact that the Company tax would, no doubt be for the benefit of the poor struggling Africans. There is no harm in saying more, Sir, though it would have been playing politics at that time. I thought to myself, I wonder whether

Mr. Obanga's conscience is not going to cost his poor struggling brethren 500,000, because there is no doubt my hon. friend felt that this, well thought out Budget presented a close association between the Company tax and the extra taxation of the additional poll tax.

Well, we got defeated on the Companies tax and we take that in good part, but I must say that I feel now that there has been an indication of a lack of responsibility by African Members, and if I was shaken by the hon. Mr. Obanga, I was completely converted by the hon. Mr. Mathu in his speech yesterday. I felt that he was trying to evade a responsibility which he must take now if he wishes his own community to advance.

For those reasons, Sir, I must change my mind and oppose this motion.

MR. PATEL: Mr. Speaker, I rise to support the motion before the Council.

Many irrelevant things have been said in support and against the motion during the debate. In particular, my hon. friend Mr. Obanga obscured the main and important issue advanced by the hon. Member for Nairobi North, namely whether an average African can bear the extra burden reasonably or not, and he said from his own experience that it was not fair to increase this burden. That was the main and important point which was advanced in favour of the motion which in my view was obscured in most irrelevant points in support and in some of them against the motion. In particular, Sir, the hon. Member for Nairobi advanced some remarkable reasons against the motion. He said that because the Africans were drinking beer, therefore, it showed that they were poor, therefore, an average African prosperity and, therefore, an average African can bear the burden.

Now, Sir, when this Council, or the Government, permitted the African to drink beer, it meant that we willingly agreed to the raising of the standard of living (laughter). That did not show of living increased. That did not show the burden could be borne, really the burden cannot be borne now because we agreed to the raising of the standard of living by adding one item to their expenditure.

[Mr. Patel]

There is another reason advanced by the hon. Member for the Coast: that the wages had increased but he conveniently overlooked that the cost of living has increased in this country and the wages and salaries of everyone concerned had to be increased on that account.

THE FINANCIAL SECRETARY: Not exactly.

MR. PATEL: Now, Sir, the only point which should be taken into consideration is whether an average African, not a rich, rich people, from whom you may get additional tax by any other method, can bear the extra burden.

No one has said, so far, from the other side that he has personal experience or has himself seen things that would show that the average African can pay this extra tax. But here we have the Member for Nairobi North, who had to go round the territories and had the opportunity to see things, and who says it will be just to levy this extra burden and, therefore, I personally must strongly support the motion before the Council.

THE CHIEF NATIVE COMMISSIONER: Mr. Speaker, in rising to oppose this motion, I should like in the first place to congratulate the hon. Member for the extremely lucid way in which he proposed this motion. I disagree with him, Sir, on nearly everything he said, but that does not detract in the least from my admiration for the way in which he said it.

I should like to deal, if I may, with one or two of the points raised by hon. Members who have supported this motion. Although the hon. Mr. Ohanga, told us that Africans go together singing and dancing and beating their drums to pay their taxes, carrying their sheaves with them, or possibly their goats, I do not really think that the African who goes to the tax instalment—an extremely happy individual, envious, paying his taxes any more than the rest of us do.

I would mention a point made by the hon. Mr. Mathu. He said that Africans were bewildered by the frequent changes in the rates of taxation. Now, dealing with this point, I think we must be quite clear that there are two kinds of tax: one is taxation raised by the

Central Government, and the other is payable to local authorities. The hon. Mr. Mathu, referred to Government Notices which gave power to local authorities to raise certain taxes and impose certain licences. These were purely local taxation purposes which were to go to local authorities. Similarly he referred to cesses upon produce. These again are levied by local bodies and go to local authorities. They have nothing whatever to do with the Central Government.

The Native Poll Tax (Municipalities Ordinance of 1948 also did not affect the standard amount of tax which was paid to the Central Government, but it contained, as everybody knows, an element which would be payable to the Local Authorities. There has been a suggestion, Sir, that this Council has raised the rate of taxation of the Africans year after year. In actual fact the standard rate of African poll tax remained unaltered from 1943 to 1948, when there was an increase of Sh. 1, and this next year it is proposed that there will be an increase in the standard rate of Sh. 2. We have been told, Sir, that the news of this increase came as a shock to the Africans. Now I cannot understand that. I myself made it perfectly clear in this Council in 1, I think, November or possibly December last last year that there would be an increase.

Now both the hon. Mr. Mathu and the hon. Member for Nairobi North refer to the need for closer collection. The former referred to the evasion by a number of African taxpayers, particularly in the settled areas, and here I would refer in passing to the speech I heard this morning from the hon. Member for Nyanza, and the latter thought that as we were budgeting for an increased number of Chiefs' messengers, we should be able to raise the additional moneys which were estimated for next year, without any rise in the rate of poll tax. Now I agree, Sir, that we need closer collection, and we mean to do all we can next year to get it. But I would point out that while we are budgeting for an additional £170,000 approximately next year from the African poll tax, £90,000 only of that represents the additional rate, and £80,000 represents what we hope to get from closer collection.

On the subject of evasion, Sir, I listened with some surprise to my hon.

Chief Native Commissioner] raised. Mr. Ohanga, who started by painting this happy picture of the happy African going along to pay their taxes, but the reverse of the picture was a sketch of those unhappy ones who were unable to pay their taxes because they were not able to do so, and therefore were unable to go to the happy throng because, he said, the tax authorities were unable to get hold of them. How right he was! They had very good care the tax authorities could not get hold of them.

I have the greatest sympathy for those Africans who genuinely cannot afford to pay their taxes, but I have no sympathy for the street corner boy, the petty, the deliberate evader, whom I am surprised, and I believe my hon. friend would agree, that these people form the greater bulk of the tax evaders and tax defaulters. I am perfectly certain that these people know there is an obligation to pay their tax, and it is their duty to go and pay it. I cannot agree that it is the duty of Government to go out and get hold of every single taxpayer and get him to pay his tax.

During the Budget debate I quoted some figures to show that in 1949, out of the 16,300 odd who defaulted in paying their tax, 11,800 paid their tax and the court costs and did not go to prison. That, Sir, is clear evidence of the nature of the bulk of the defaulters. The hon. Mr. Ohanga told us that we would not find tax evaders in the African areas. I would agree that in proportion the greater number of these tax evaders are people in the towns and in the settled areas, but at the same time figures for 1949 show that in two of the Nyanza districts, out of 2,500 tax defaulters, over 1,300 paid their tax and costs when they were taken to court, and in the Central Province, excluding Nairobi, out of about 1,300 defaulters, 6,300 paid their tax and costs and did not suffer imprisonment.

Now, Sir, there is one point my hon. friend, Mr. Patel, referred to to-day which of course is the crux of this matter and that is the point raised by my hon. friend, the Member for Nairobi North, who said that this increase was unjust. Now that, I presume, covers two points. First, that the African is already making a fair and sufficient contribution to the Central Revenue, and also, or

alternatively, that he cannot afford to pay any more in any case.

On the first of these two points, while I do not want to weary the Council with a lot of figures, I think I must try and show that there has been a very great increase in the services rendered to African areas by the Central Government since 1943, when the Sh. 14 tax first came in. In 1943 there were 12 officers under the Administration. In 1951 this figure is 205, and the comparative cost is up by some £94,000. In the Veterinary Department in 1943 the cost of field services in the African areas was about £24,000. Next year it will be almost four times as much. Where there were 25 officers in 1943, there will be 82 in 1951.

In agriculture the figures are 43 men in 1943 and 162 similar staff in 1951. The cost of the African agricultural staff in 1943 was about £1,000. Next year this figure is £37,000. The story is the same in the Medical Department—I will not weary the Council any further—and possibly even more so in the realm of education and in those of police.

I would emphasize, Sir, that against these figures we must remember that from 1934 to 1948, I would repeat, that the African standard rate of poll tax went up by only Sh. 1, and now we propose an increase of Sh. 2 in some areas and Sh. 1 in others. I submit, Sir, that there is a case for this small increase.

Now I come to the last point. Can the African afford to pay? Quite frankly, Sir, I am far more concerned with the question as it affects the urban African, than I am with his brother in the reserves. For as I showed in a previous debate on this subject the value of exports from both the Nyanza and the Central Provinces has almost doubled in the period from 1944-1949. I am in a doubt, whatever that we get the figures further increase when we refer to the 1950. Here, Sir, I cannot let the remark of my hon. friend, Mr. Ohanga, go unmentioned. That Government has done practically nothing to assist agricultural production in the African areas. That, Sir, is a fantastic suggestion. The hon. Mr. Patel, has already quoted an increase of nearly four times the amount of staff of eight years ago, the tremendous outlay of money that has gone into soil conservation, into new settlements,

[The Chief Native Commissioner] into the eradication of fly, into seed production—the whole organization of marketing; the inspiration, urge and endless effort that has been made to persuade the African of the value of manure, of grass, of crop rotation, of the use of good seed, and the excellent quality that must be produced, and which happily the Africans are beginning to produce—all this, and more, have been poured into the African areas in terms of men, money and ideas, inspiration and enthusiasm, and they have all gone to encourage and make possible positive valuable production.

Now, in those areas, Sir, the Sh. 1 or Sh. 2 increase in tax represents, perhaps, a dozen or 15 eggs—a bunch of flowers—a portion of two rice, or a few pounds of seed cotton. Now, Sir, I am much more concerned with the African in the urban areas, where the cost of living falls far more heavily, and where I was very anxious to see that the increase should not fall too heavily upon the African, and it is for that reason, because of the comparatively hard pressure of the cost of living, that the rise is Sh. 1 and not Sh. 2 in Nairobi and Mombasa. But can the African afford in the urban areas to pay this extra Sh. 1, I think, Sir, that there is no doubt that he can. My hon. friend, the Member for Finance, mentioned the heavy gambling which has taken place recently among Africans by means of chain letters. Now, I am going to quote some figures and I would repeat that not only Africans did this by any means, but I am assured that the great bulk of them who did were Africans. In a 15-day period in July at the Nairobi Post Office there were 100 postal orders sold at Sh. 2. In the same period for September there were 2,774. The Sh. 2/6d. postal orders were, in July, 62 and in September, 6,561. For the Sh. 3 postal orders there were 40 in July and 2,575 in September. I ought to say that these were not all African bought but the great bulk of them were.

Of course, the hon. Mr. Ohanga was right when he said that because the African gambles, it does not mean that he is necessarily rich, but the fact remains that if you are going to put a bob on a horse you have got to have a

bob first. I submit that these figures show that there are a large number of Africans in Nairobi who have at least Sh. 1 and who really would not feel it if they paid it to the State.

Now, take the other much more pleasant subject—the subject of beer. The hon. Mr. Ohanga said that the African is drinking European beer now because he was not allowed to do so before, and the hon. Mr. Patel referred to the same subject. It is perfectly true, but the amount he is drinking when he can buy cheaper and just as wholesome beer of his traditional kind, is a sign that he can afford it.

During October, Sir, one brewery in Nairobi sold 23,000 gallons of beer to 23 African holders of non-spirituous liquor licences. In addition, there are a number of Asian licence holders selling to Africans, while the sales in the municipal canteens are about 1,100 bottles a month.

But in two years the average consumption of cheaper African beer has fallen by 2,500 gallons a month. The African, in fact, likes European beer, he prefers European beer. He is buying European beer and he has to pay more for it. These are only signs, but I think they are significant.

I do not believe, Sir, that these increased rates for 1951 are in fact going to bear hardly upon the African. As we know if there is individual hardship there is the possibility of remission.

I believe the tax is just, in that the size and cost of the Central Government has increased enormously and to this I am convinced the African must contribute more than he has in the past.

Mr. Speaker, I beg to oppose.

Mr. HOPKINS: Before the hon. Member finishes, may I ask whether he can give the assurance I asked for, that careful inquiries would be made in the position of whether adequate control was being maintained over the increase in cess which has taken place year by year in the Native District Councils?

THE CHIEF NATIVE COMMISSIONER: These figures, Sir, are always the subject of resolutions which come before a Committee and finally have to go before the Governor in Council before they can go through. The greatest care is taken.

THE MEMBER FOR EDUCATION, HEALTH AND LOCAL GOVERNMENT: Mr. Speaker, I can really say I had not intended to intervene in this debate, Sir, but two points in particular or two angles have been raised which it is my duty, I think, to answer.

The hon. Member for Aberdare raised a constitutional question of the prevalence of central taxation and revenue raising over local Government or local taxation and revenue raising. There can, of course, be no doubt in this matter. The central revenue and the needs of Central Government must always have precedence over the needs of the local authority and the local people. That, Sir, is a constitutional position which has been recognized in every country in the world and it is a constitutional position which must be equally recognized here because, without it, there can be no satisfactory central development of services. That this was recognized in this country is shown by the fact that the Municipalities Ordinance a limit to which any local Government authority could go on rate raising without the consent of the Governor in Council and the Legislature was imposed. Unless this is recognized, Sir, people will take for matters of local benefit money greatly needed for matters of central benefit and the wealthy area can arrogate to itself a rate of progress which it should share with its less fortunate fellows. Indeed, it is perhaps from an objective point of view one of the most disturbing in a country of this kind that certain areas by fortuitous and natural benevolence of circumstances are able to progress at a rate far ahead of those of their less fortunate fellows because of their good fortune whereas, in fact, the endeavour should be, in my humble opinion, to spread the benefit as far as possible equally throughout the people of the Colony.

I trust, Sir, that that meets the argument and point raised by the hon. Member for Aberdare that there can be no question but that central revenue and central taxation and the needs of the country as a whole must have precedence over the needs of any part of the country.

Now, Sir, I must deal with one or two points which my hon. friend, Mr.

Ohanga mentioned yesterday. I think, Sir, he rather mistook vehemence and emphasis for fact and argument, and eloquence for reason. He said, for instance, Sir, that the local native council had provided a hospital in North Nyanza because Government would not build one. Now, Sir, the hon. Member knows even better than I do although I have only recently visited it that Government has built one of the largest native hospitals in the country in Kakamega. Government cannot, in the present state of finance and unless a great deal more finance is made available to it, recognize a responsibility to go on building subsidiary hospitals in the same district whilst the needs of other districts cannot even be met. He mentioned, Sir, Bungoma. I had the good fortune to be at Bungoma only a few weeks ago. The building at Bungoma consists of three parts: one, the health centre; two, the hospital maternity wing; three, the hospital proper which is not yet built. The hospital maternity wing is a local native council responsibility anyway, and the policy of Government in dealing with all local government authorities is that the maternity aspect of health services is something which is of peculiarly local benefit and must be provided primarily by the local people and the local government authority or by the community with whatever assistance Government can afford. The health centre, the hospital—and these, of course, have been built from local native council funds—will, however, be maintained at Government expense and the maintenance is a far heavier financial burden than is the capital cost, because it includes the provision of staffs of all races—doctors, dressings, equipment and the food for the patients.

Now, Sir, one of the most difficult tasks that I have had since I was placed in my present position has been the refusal of people who are quite prepared to subscribe £1,000 and £2,000 to a dispensary here or a clinic put up by Government to bear the there and leave Government which may financial recurrent burden which may well be three, four, or five thousand a year in perpetuity, and I have pounds a year in perpetuity, and I have had, Sir, because of the funds available, to say to all communities—I am sorry, but unless you can assure myself that there is some facility either through fees

[Mr. Jeremiah] increased, but it must not be forgotten that the cost of living as well has increased tremendously and any increase to the African salary goes to meet the increased cost of living and even then it does not meet the whole of it. African produce even now is not being paid fairly. We are glad to note recently that the price of maize has been increased to about Sh. 1/50 per bag, but when the hon. Member for Finance talked about a sense of responsibility amongst Africans, I should say that Africans had a sense of responsibility a long time ago and it is also true that someone else also had that sense of responsibility because I personally cannot understand what sense of responsibility there is when discrimination is applied with regard to wages. When I refer to that, Sir, I mean with regard to work, Africans are paid lower salaries although they do the same work. When they sell their produce, they are given lower prices for their produce. Now, I cannot say, Sir, whether that is actually a sense of responsibility. Someone will have to tell us better than that.

Another point, Sir, which I would like to make to the Government is that many Africans are not able to pay their tax and they know that they should pay but they do not know how to find the way to pay. I was wondering whether Government would consider the possibility of advising every African who may come to them asking for assistance as to the ways and means of how to earn their tax, because the position at present is that when one sees that he cannot earn that tax, he tries to hide. We want that tax to be paid and I believe it is our intention that we should impress—and we have been impressing actually upon our people that they should pay that tax, but there are places where payment of it is impossible. In many places, people seek for employment and they do not get it and in such cases, I was wondering whether such people who would seek employment and approach Government, for Government to give them advice as to how they could earn employment and pay that tax.

Another point, Sir, which I think should be remembered is that we have been paying much tax, I should say, and what is forgotten is that the work we

perform is free work, communal free labour which is not recognized as something of a tax, because had all the progress or development which has been mentioned which has taken place in the African land units, had they all been paid for, I think the actual amount would have been found to be colossal, but because much of it was done free by the African, it is not counted or credited.

Now, we have heard, Sir, of subsidization of African housing by the Government. Now, Sir, I wonder whether actually it is the African who is subsidized or whether it is the employer, because if the African was not getting the house at a cheaper rate and as he has got to be housed anyway, I think the employer would have to pay him more for his house. Therefore, Sir, I think we should give credit to both sides, I quite agree, but it seems to me that here we are actually trying to be against one another, everyone trying to praise his own side.

The motion, Sir, is only to recommend to His Excellency the Governor that the rate of African poll tax should not be changed in 1951. I do not see, Sir, why we should try to oppose that. It is a reasonable request and besides that, looking at the figure of Africans sent to prison due to failure of paying poll tax in 1949, the figure has been increased and I think, Sir, that should have made us believe that the African is now understanding his responsibility. But if we are again going to increase the burden, do we really intend that more should come to prison, because if we want to let them out of the prison and develop the country, then we should let the tax remain at it is which in my experience we have seen that he is unable to pay.

Sir, it has been said that the African is spending much money in drinking European beer. Well, it has been said that European beer is more nourishing—(laughter)—and not only that, I hope the hon. Member will not deny that because they do that they are more strong and not only that, it is a thing, Sir, which has been denied to Africans for a long time. Besides that, I believe that by giving the African freedom to drink European beer has prevented them greatly from drinking the methylated spirits and Nubian gin, which is a great help. Another point which should not be forgotten is that by

[Mr. Jeremiah] performing European beer, the revenue making European beers has fallen down. It also shows, therefore, that the money is not very much more, but it is only spending on one side rather than spending on the other.

I would still urge the Council to think of the poor African masses who are going to suffer through the increase in the proposed taxation. Perhaps no one has stopped to consider the difficulty that the wife and children are going to have when their husbands are sent to prison. We are not opposing the tax itself, it is only because we think of the difficulty or hardship most of the Africans are going to be put into by this increase. Therefore I support the motion with the request that Council should consider it favourably.

THE ACTING LABOUR COMMISSIONER:

Mr. Speaker, I also did not mean to intervene but I think there are two points, and important points, raised by the Member for Eastern Area and the Member for African Interests, Mr. Jeremiah.

Mr. Patel suggested that nobody on this side had given him any reason that the African could—had convinced him that the African could, in fact, pay the extra sum demanded. Now, Sir, perhaps I am in a position better than most people on this side to judge that particular point, and I would like to assure him that from my experience and my knowledge of the African farmer, particularly in Nairobi and in the settled areas—the agricultural areas, that he is able to pay the extra sum demanded. I would like to transpose this sum in another way. I would like to suggest that the hon. Member for Eastern Area consider this Sh. 2 and break it down on a monthly basis: It is only eight cents per month in the towns and only 16 cents per month in the agricultural areas and that represents, Sir, about an hour's work a month extra in actual labour. It has often been said that the African does not, in fact, do his eight hours' work, and I particularly in agricultural areas, and I think that if he can find it within his capacity to do that extra hour, he can afford to pay the 16 cents which is required.

There are facilities for paying this tax. The method of putting on a stamp on a monthly basis is there for the employer and for the African to use. It is a fact that we find, in urban areas particularly, that the African does not seem to be able to set aside the money in a lump sum to pay his tax with and that is where the man finds himself in trouble. Towards the end of the year he has not paid his tax and then, of course, the proportion of his tax to his whole monthly salary is a fairly large one, but that does not mean that he should not pay.

Sir, I beg to oppose.

Mr. Havelock: Mr. Speaker, I am very sorry that my hon. colleague, the hon. Mr. Mathu, has had to intervene in this debate, because after listening to the hon. Mr. Mathu I was very happy to support the motion. I am not nearly so happy now because I believe that a number of red herrings, a lot of arguments which have got nothing to do with the subject at all have been brought in by the hon. Mr. Ohanga and the hon. Mr. Jeremiah and, indeed, opportunity has been taken to air imaginary grievances which we have heard before in this Council. However, the fact that the hon. Mr. Mathu did put forward some very strong points and they are, at least in my mind, I do believe that the Government have made a mistake in the matter of timing, which is the main point which I understand the hon. Member underlined, I will support the motion.

Now, Sir, I have heard stated on this side of the Council in this debate, that there are probably a number of the lower-paid Africans in this country who will find it a very heavy burden to pay the increased taxation. On the other hand, we have heard from the hon. Commissioner for Labour, that he thinks they could easily do it, but the hon. Commissioner for Labour said, I believe, just now that especially in Nairobi, he felt now that the Africans could pay, that their wages were sufficient so they could afford to pay. On the other hand the hon. Chief Native Commissioner said he was particularly doubtful about the Nairobi African whether he could afford to pay. So there does not seem to be complete unanimity on the Government benches.

THE CHIEF NATIVE COMMISSIONER:
On a point of explanation, Sir, I said

[The Chief Native Commissioner) that I regarded with great care that taxes should be imposed on the Africans in Nairobi and it was because the cost of living bore more harshly on the African in the town than in the country that the country man was going to be charged Sh. 2 and the town man only Sh. 1.

MR. HAVELOCK: I hardly think, Sir, that refutes my argument. There still seem to be certain doubts on the opposite benches that the tax is going to be a hardship on the cost of living.

I only mentioned this, Sir, because I feel that the whole matter should be further investigated. I understand, I seem to remember that the terms of reference of the committee, to which reference has been made already, that which is inquiring into the ability of the graduated tax for the African—I do not think the terms of reference included an investigation into the actual incidence of poll tax, but no doubt they would have to inquire into that matter in order to get the whole background on which to make their recommendations. Also, at the same time, I do not think that this committee was specifically asked to inquire into the relationship between local taxation or local rating and central taxation, but again, presumably, they will inquire into it.

Now, Sir, I believe that as far as the incidence of direct poll tax on the lower paid African is concerned, we should go into the matter more thoroughly. We have had conflicting reports from both sides of this Council and I am by no means happy as to whether they can or cannot afford this rising taxation. On the other hand, I also believe the time has arrived when we should very closely examine the relationship between local and direct taxation and although we have received assurances from the Chief Native Commissioner that the local rates are studied here, presumably in the Secretariat, and even by the Governor in Council, I wonder if there is still not scope for an inquiry into that as well.

I was very impressed, Sir, by the speech to-day by the hon. Member for Health and Local Government when he touched on this aspect and I felt that even he was not quite happy about the present situation and I feel we should go into it very much more thoroughly, and as I have mentioned the speech of the hon. Member, Sir, I would like to congratulate

him on giving an extremely clear explanation of the whole case as far as social services of the different communities are concerned which relieves me, at any rate, of answering any of the points at all raised by the hon. Member Mr. Ohanga.

The hon. Chief Native Commissioner has told us, Sir, that he did warn this Council last year that he thought the rates of poll tax would have to be raised in 1951. If I may quote from the speech made last year by the hon. Member he said this:—

“That means that while in 1950, next year, the African poll tax rates, with one or two exceptions, will be the same in 1949, in the 1951 budget, we must expect that the African direct taxation will rise. I am not going to say or attempt to prophesy how that increase will be effected, . . .”

Well now, I suggest, Sir, that that was an indication that he hoped, anyway, and later on in his speech has emphasized that the increase in direct taxation would take the form of a graduated tax not necessarily poll tax. He goes on from where I left off:—

“but if it is worked on a poll tax basis obviously some areas will be better off than others and some people will be better off than others, etc.”

Now if I may again quote, Sir:—

“It is this application, perhaps, of this taxation according to the ability of a man to pay that is difficult to put into practice, but I believe we have got to try and find out how it can be done. It is preferable that a man earning Sh. 25 as an agricultural labourer should pay the same rate as a man with two lorries and a shop and I do not think we should go on with it.”

Again later, I will not go on quoting, Sir, the hon. Member emphasized the necessity for a graduated poll tax. I entirely, absolutely agree with him. It is the only form, to my mind, of fair taxation and I believe that it is a mistake that this rate of poll tax should be raised this year when the committee which is inquiring into this much better way of raising direct taxation to the African has not yet reported but I believe is reporting in the very near future.

I was not going to quote any more, but the last paragraph of the hon. Member's speech last year was:—

MR. (Havelock)

“I have no doubt we will make mistakes in the process, but that should not hinder us from trying and I trust that we may make this effort with the invaluable help of the hon. Members for African interests.”

Well, Sir, Government have not gone the right way about it—they have not consulted with the Members for African interests.

These, Sir, are the reasons why I support this motion and I should like to make it quite clear, not because of any of the arguments advanced by the hon. Mr. Ohanga.

THE CHIEF SECRETARY: Mr. Speaker, I should like to reply to three of the criticisms that have been made of this increase in the rate of African poll tax. The first is—that there is no real need for it. That was also made during the debate on the Company tax and has been repeated by the hon. Mr. Nalho, amongst others. Now, Sir, I do not wish to weary the Council by saying again that I have already tried to say about the need both for more money for capital development and more money for recurrent expenditure. I would only suggest that the need is outstanding (hear, hear.) It is obvious for anyone to see that the demand for additional capital expenditure and recurrent expenditure is surging up in this Colony like a tidal wave, and if anyone says that he cannot see it, with all due respect to him, Sir, I would suggest that he must be blind. I know what the hon. Member would suggest and that is that had the Government put proposals in this year's budget for additional taxation, hon. Members would have been much better prepared to receive proposals for additional taxation. I suggest that would be putting the cart before the horse. I suggest that we have put in this year's Budget provision for an estimated surplus of £300,000 odd. Taken in relation to the revenue, that is about 2 per cent and I suggest that any prudent Financial Secretary could hardly have done less than that. Had we drawn a Budget with a large deficit in order to justify additional taxation that in my view would have been irresponsible.

MR. BRUNDELL: Truman has done it for years.

THE CHIEF SECRETARY: Now, Sir, it is suggested that the timing is wrong and that it would have been much better to wait until the committee which is examining the question of graduated poll tax had reported. Again, I suggest that that is rather a hollow argument. When will the Committee report? Do we even know that they will find graduated poll tax practicable? In the meantime, the demand is with us now. On to-day's order paper, there are several motions which, if accepted by this Council, will involve additional expenditure. One of them alone may well do more than swallow up the whole of the surplus. The hon. Member who is moving one of them is, I suggest, Sir, strange to say, for once is in good company because I myself appear just below him as the sponsor of another motion which is designed to increase expenditure. Hon. Members may have noticed that I am moving a motion this morning to increase the allowances to hon. Members opposite, which will increase the charge on the revenue. Everyone knows that we have many schemes which require additional expenditure now and I suggest, Sir, that it would be wrong to put this off until some day in the future, which may never eventuate.

The third criticism is that this matter has not been properly investigated. The hon. Member for Nairobi North has had the advantage of touring the country and the advantage of touring the country would seem to be, and which he views deny the sympathy with which he sees these matters, but he is not alone in that. Other Members, both on this side and the other side of the Council have done the same. No responsible Government brings forward proposals for additional taxation, particularly those which bear on the lower-paid sections of the community, without grave thought, without careful examination, and without the most careful investigation. My hon. friend, the Chief Native Commissioner, has a very special responsibility in this as a very special member of the Government. Other Members of the Government also have a responsibility. The Provincial Commissioner and District Commissioners have a very great sympathy responsibility and a very great sympathy with the people when this tax will affect (hear, hear.) That matter has been most carefully investigated. No one realizes better than we do that the

[The Chief Secretary]

money cannot be found without difficulty, but having regard to the need, having regard to the circumstances, the Government puts this forward after careful consideration because it thinks that it is right and proper.

The hon. Member for Kiambu was one of the strongest in his suggestion that this is ill-timed and unnecessary. He was at pains to quote from many speeches that had been made in this Council. Not very long ago, Sir, he himself made a speech which was reported in the *East African Standard* under the headlines—"M.L.C. thinks Africans too lightly taxed". According to the report, he went on to say—"What do we get out of the five million Africans in Kenya? It is practically negligible, and they have not done much in producing things for themselves, either. The only way we can get them to work is to put up the taxation until they find it hard to raise the money unless they work for it."

Mr. HAVLOCK: How long ago was that?

The CHIEF SECRETARY: Last year, I believe on the 23rd November.

One of the things which impressed us in this Council listening to the debate was the very moderate and logical manner in which the hon. Member put forward his motion. (Applause.) It did much to gain him the sympathy of the Council and I suggest that that is the manner in which to put such things forward. Unfortunately, later, some of the statements which he made did a certain amount to destroy the impression which he had created and we all hope that as we progress in this country, it will be learnt that exaggeration and over statement do not support or strengthen your argument; rather on the contrary, when you have a good case, they do much to destroy it.

Sir, I do suggest that this proposal to increase the African poll tax should be supported. It has been put forward after very careful investigation because we believe that it is needed, and to suggest that it is not needed, when I think everybody in their hearts knows that it is, does not help.

Sir, I beg to oppose.

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

LT.-COL. GHERSIE: I merely wish to speak on a point of explanation.

The hon. Member for Development and a number of other hon. Members on that side of the Council have suggested that it is the future development and social services that they are making provision for, in fact I think the expression used was—

THE SPEAKER: I cannot see how this is an explanation; this is a further argument, with great respect. What part of any speech in the course of this debate has been misunderstood by any Member opposite?

LT.-COL. GHERSIE: Sir, it was a question. I think directed at me that I did not appreciate the position in saying these funds were not required. In fact I did not even suggest it, I was replying to the subject, I merely want to explain.

THE SPEAKER: Go on.

LT.-COL. GHERSIE: I admit, Sir, that £20,000,000 could be spent on the future development and social services of this Colony, but Sir, we are dealing with this particular thing that has been proposed by the hon. Member for Finance and, Sir, it is our immediate requirements we are dealing with. I submit by simple calculation we have a surplus in our Budget; this £90,000 is not required.

MR. COOKE: On a point of order, Sir, I think it is unfortunate that Members do not rise at the particular moment. The main object of rising on a point of explanation is to prevent a person developing an argument based on wrong premise.

THE SPEAKER: You realize that, the hon. Member for the Coast will realize that it is not always possible to get the Member opposite to give way; I must say Members are very good about giving way, but it is not always possible and there must be the same rule that a Member may rise at the conclusion of the speech and speak to the point of explanation. It is unfortunate, of course, that when a Member concluded a speech that almost exactly at eleven o'clock that the Member who wants to raise a point of explanation at that particular time has to be fairly speedy about it, otherwise he is likely to be shut out, and I have no wish to shut out the Member for Nairobi

The Speaker]

from making his point of explanation, but when he began it just now it seemed to me it was a further argument and not exactly a point of explanation.

LT.-COL. GHERSIE: I purposely recognized from interrupting the hon. Member when he was speaking, I did attempt to stand up and you adjourned the Council at that particular moment.

THE SPEAKER: I did not see you. You did not catch my eye.

I will ask the hon. Member to reply.

MR. MATHU: Mr. Speaker, I should like first of all to say how pleased I was by the kind remarks that some hon. Members have made in the debate referring to the way I moved this motion.

Following on that one, Sir, I should like to say to hon. Members that that very way in which I moved the motion and on which they have been very kind to say a good word is the only way I am asking them to support this motion—not any other way or the terms spoken by any other hon. Member, either supporting or opposing this motion, and it is on that basis, Sir, I ask this Council to consider very seriously the importance of supporting this motion. It does not ask for very much except for the consideration of His Excellency the Governor that the African poll tax rate should not be increased in 1951. What the result of that consideration will be my motion has not attempted to decide, and if hon. Members on reflection find that it is fair, the way I am putting this question is the fair way for the country. I ask them to be great men and women and find themselves able to change their minds, some of them.

Now, Sir, I do not intend to reply to all the points that have been raised by hon. Members. I want to be as brief as possible.

It has been pointed out that Government did give an indication in the Budget last year that there will be a rise in the direct African taxation in 1951, and the direct African taxation for Kiambu my hon. friend the Member for Kiambu has dealt with that point very adequately, and I feel, Sir, that if the speech that was made by my hon. friend the Chief Native Commissioner on 1st December, 1949, was carried out to the letter, I

do not think that this increase would have come in the way that Government has proposed it. I do not want to quote the hon. Chief Native Commissioner again, but in the same debate my hon. friend Mr. Othanga in speaking, and he spoke independently after the hon. Chief Native Commissioner had spoken, made this statement. In column 136 of the Hansard of 1st December, 1949, he said:—

... but as the hon. Member Mr. Mathu said, my proposal to increase the African poll tax in its present form at the very high rate which goes up to Sh. 15 a head in some places will be opposed by all Africans everywhere."

Now surely, Sir, I can say that that was an indication on our part that we did not want the increase, and my hon. friend Mr. Othanga did qualify that inference by saying "in its present form".

Now if hon. Members on the other side of Council bothered sometimes to read some of our speeches, at any rate they ought to have given consideration to that point which we indicated last year, the line we were going to take.

THE CHIEF SECRETARY: Mr. Chairman, I am grateful for the hon. Member allowing me to interrupt him. His point was that they did not support the increase in this form. May I ask whether, while he is continuing, he would say whether he supports the graduated poll tax suggested by the Plewman Committee?

MR. COOKE: It is a matter of *sub judice* as far as the hon. Member is concerned, Mr. Mathu is concerned, in regard to graduated poll tax.

THE SPEAKER: The hon. Mr. Mathu is quite capable of answering anything for himself.

MR. COOKE: I am sure he is. Mr. Mathu: Well, Sir, I did not quote your ruling whether you say I should not reply, or should.

THE SPEAKER: There is no point of order at stake. It is simply a matter between yourself and the hon. Member who interrupted you.

MR. MATHU: The hon. Member for Development, if I may say so, the

[Mr. Mathu] speeches he is referring to were made in 1947 and the ones that I have referred to were made in 1949. Those two do not tally and I do not think the question arises and in any case, the graduated poll tax question is under consideration by a Government Committee and as my hon. friend, the Member for the Coast, has said, that position is *sub judice* and I do not think I can say very much more.

I was going to point out, Sir, that the African people and my hon. friend, the Member for Nairobi North, who has been good enough to second this motion, will support me, that they have been throughout the country, as we have gone around, indicating and definitely saying that this is a very bad thing to do at the present time. That it is the wrong time to increase the poll tax from Sh. 1 to Sh. 2. They have said that Sh. 2 in some places, Sh. 2 in other places, and what we said in December last year, we are saying this year, and all we are suggesting is that if Government took seriously some of the representations we make in this Council, this motion would not have come before this Council.

Now, the hon. Chief Native Commissioner said that because he was considering the difficult times that the Africans in European areas are having, he put up the increase by Sh. 1 and as the other people were quite happy, not finding it difficult to live, he put up the increase by Sh. 2. Now, may I suggest, Sir, that there is a danger here, if this comes about, I can see these towns being flooded with a large number of people from the country districts in order to pay a shilling less. Now, the question is, what will the hon. Member for Health and Local Government do regarding housing? What will the hon. Member for Law and Order do about more spivs, who will come as a result of trying to pay less tax here? There is a possible problem which will face us if this motion is lost this morning.

There have been suggestions that signs of wealth have compelled this Government to put the increase upon the African poll tax, because of the drinking of beer, sending postal orders to fulfil obligations of chain letters, an increase in wages, an increase in the price of African products, and the rise of local

rates in African areas. These have been the arguments put forward by most of the speakers who opposed this motion. I would like to say, Sir, that as far as the question of drinking goes, there is nothing that you can say there is a sign of wealth. I would like you to see those people who sit down in the streets of Nairobi drinking, because, of the bars or other places, and see how they look like in their dress. See how they look like. You would not say there was anything in the pockets of those fellows. Look in the evening and see where they sleep. Look at their beds. If you find a blanket on one of those beds, you would be lucky, Sir. In the African areas, the same things apply.

Now, what is the sign of wealth about drinking beer or buying postal orders for chain letters? I say, Sir, there is nothing. Why do we say that a man is rich? First of all, he must have a permanent, good house. How many of these Africans have? Good clothes, good food and a car to run about in. Now, how many of them have all these signs of wealth?

My hon. friend, the Member for Local Government, said correctly that the Africans in Nairobi do not pay direct rates at 21 per cent but it is not their fault they have not acquired property, not because they do not want property in Government Road but because they have not got the money to pay for that property and those are the very people from whom you want to remove that extra shilling, which at any rate, is giving them moral support that they have something, out of their pockets.

The question of responsibility has been raised and I would like to say, like my hon. friend Mr. Jeremiah said, that the African has a sense of responsibility to pay for public services. They have it. They are paying it and they are paying not a very colossal sum individually because they do not possess that colossal sum individually.

My hon. friend, the Member for Finance, said that the opposition that the Africans gave to the Beecher Committee Report was partly due to the fact that there was a recommendation that teachers coming into the service should receive a remuneration four increments lower and that if Government wanted to

[Mr. Mathu] the teachers at par with other Government servants, it would cost the country £50,000, initially, rising to £80,000 in years to come in recurrent expenditure. Now, could the hon. Member say to this Council now, that the £80,000 he wants from this increased rate, is specifically going to be earmarked to pay those teachers the salary that they badly want? In other words, take them from the same scale, the same bottom scale as all other teachers, because if you did, at any rate from our point of view, the African representation would be lessened on this matter, but that is not the case.

The question of graduated poll tax, as I have said, is *sub judice* and it is not possible for me to say what the view of the Africans will be, but I do notice, Sir, that if these two measures were not put together as they have been, the African co-operation would have been greater to introduce a new measure such as this, than it is likely to be.

Sir, the hon. Member for Aberdare, who I see, unfortunately, is not here, raised some points which I just want to refer to very briefly. Now, he, like other people said that because we must pay more increasing services, we must pay more tax. We never dispute that. We do not dispute that we get more services. We pay for them. We are not disputing that, Sir, all we are saying is that the timing of this increase is wrong because we can have the services we want in 1951 without the £90,000 that this tax intends to bring.

Now, he took me up on this question of good employment. He said that I had suggested that the Africans do not want any employment. I never said anything like that in the speech of the Company tax. I said that in addition to good employment, they want something else. He said, we do not want to give any sacrifice whatever in order to pay for these services. Surely that cannot be correct. Even the hon. Member for Health and Local Government and the hon. Chief Native Commissioner did say that we do contribute for local services as we do some central services and it is not correct to say that we do not sacrifice in matters of this kind.

Now the hon. Member for Nyanza, Sir, made a point which I think is a very

good one and I entirely agree with him. I think for the first time it has been stated in this Council that the African agricultural labourer has contributed a great deal to the economic life of this country. (Applause.) That I think was the Member for Nyanza and the credit goes to him because he has made a statement that is going to encourage the African people in helping the development of this country and to him, I say, the credit goes.

The hon. Member took me up on my suggestion in the Companies tax, that tax the man and he works harder and more efficiently. Well the difference between him and me on that was that I was not dealing with a man, I was dealing with a company and under the law, a company is not treated as a man, it is treated as something else—(laughter)—and incidentally, even if I did say that, I would be wrong, even if I did say what my hon. friend wanted me to say and what my hon. friend the Member for Kiambu was quoted by the Chief Secretary as having said, he would be acting contrary to international labour convention. I will quote, if I may, a speech which was quoted by a former Chief Native Commissioner in this Council in a debate in this Council on the 22nd October, 1947.

The International Labour Convention reads as follows:—

"Members should take into consideration the desirability of avoiding direct means of artificially increasing pressure upon populations to seek wage earning employment and particularly such means as improving such taxation upon populations as would have the effect of compelling them to seek wage earning employment with private undertakings."

Well that was done in Geneva, Sir, and as we have to have international co-operation, particularly because of the present international situation, I do not think we can go against that convention.

The hon. Member for Uasin Gishu this time, did raise a point which, if I knew it, was Government policy, that again it was Government policy, that again it was given our strong representation, that this increase should not be carried through. He suggested that this increase was an interim measure. Now it would be quite unusual for a Government to put on an extra shilling here and extra two shillings there in 1951 and

[Mr. Mathu] that that off in 1952. It is unbelievable, absolutely unbelievable, and how you can then call it an interim measure, I cannot see. I think it is a permanent measure and that is why we are suggesting that permanent measure may not be introduced at this moment. But there is nothing to prevent it being introduced at a later stage when circumstances change.

Now, the hon. Mr. Patel raised the question of whether the extra burden can be borne by the very poor Africans. Now the hon. speakers on the other side have all gone to prove that they can. The hon. Chief Native Commissioner went point by point: the hon. Labour Commissioner went on to count how many cents per month, 8 cents in one case, 16 cents in another case and then he said, "Oh, 16 cents, it is possible". But the hon. Member the Chief Native Commissioner did admit that there are Africans who generally are unable to pay and he had sympathy with them, but he had no sympathy with the corner boys, the spivs. I agree entirely with him, I have no sympathy with the corner boys, the spivs. They should be made to pay, but it is that genuine fellow who is unable to pay; he should get even 16 cents. What are you going to do with him? I know there are difficulties you tell me that there are exemptions but I know there is difficulty in getting those. So I say with the hon. Member for Nairobi North that we cannot be doing justice to the poor class of Africans by putting up this tax by a shilling and two shillings in various places. It is an injustice to the poor man. The burden is too heavy to carry, and I was glad to hear my hon. friend the Member for Nyanza giving his evidence, sincere evidence in support of this as far as the labouring class in the agricultural field is concerned.

The question of closer collection, Sir, the hon. Chief Native Commissioner did say that they are working hard so that all the taxes should be collected, and I would like to say, Sir, that even with that, I still feel that we can do more to collect taxes from Africans. I think we can, and I do not think we are doing, even with the proposal that he suggested. Incidentally may I say, there was a resolution to this very effect in the Nairobi Chamber of Commerce recently in the *Standard* of the 28th November. The resolution read:

"That this Chamber, whilst recognizing that the African community should contribute more towards the cost of increased services than has been done in recent years, is not in favour of the proposed increases in the rate of African poll tax until such time as the efficient collection of the existing poll tax has been effected".

Now, the Nairobi Chamber of Commerce is a very responsible organization. It is a European organization mind you, not African on it. If they can say that this thing should not come through with a very unprejudiced mind, how can the hon. Chief Native Commissioner tell me that we can go ahead? Now these men, in necessity, are very responsible men, and I put it to him to reconsider this question.

On the question of evaders, I am with him. I have already said that we cannot allow people to evade tax and I am not going to argue on that one.

I think, Sir, I have covered most of the points that have been raised by hon. Members. I still have, I think one point that was made by my hon. friend the Member for Development—two points, rather. One was when he quoted my hon. friend the Member for Kiambu. The Member for Kiambu, Sir, is a very busy man and some of these headlines in the newspapers he does not look at. Some of them, actually they are sensational business headlines and if he can see the truth now should you really take him up on that one, Sir. (Laughter.)

THE CHIEF SECRETARY: On a point of explanation, Sir, I admit that what the hon. Member for Kiambu says one day does not always coincide with what he says the next day.

MR. HAVELOCK: On a point of explanation, Sir, I would like to point out that the speech I have been quoted as—I do not really remember saying all that—(laughter)—but I would like to point out, Sir, that that speech, if it were made, was made before the excellent exposition by the hon. Chief Native Commissioner in favour of graduated poll tax.

MR. COOKE: On a point of order, did not Emerson say, "Petty consistency is the hobgoblin of little existences" (Laughter.)

THE SPEAKER: Now that Mr. Mathu gets his third wind—

MR. MATHU: My hon. friend the Member for Development said that the timing was wrong was no argument because they did not know whether the recommendations of the committee on the African graduated poll tax would be accepted. But, Sir, the onus which governs the prescription of poll tax rates still exists and there is nothing to prevent the Governor under section 3 of the Poll Tax Ordinance, 1942, to prescribe a different rate for 1952. It is only a year to wait and so I do not think, Sir, that there is any danger in not forcing this increase on the African community at the present moment.

Now before I sit down, Sir, I should like to say that the speech of the hon. Member for Health and Local Government was a very convincing one, but he seemed to think that the younger brother is ungrateful for what the older brother has done for him. May I dispel any doubts out of his mind over that question, because the introduction of this motion does not suggest in the least that the younger brother is not going to be supported by the older brother. In fact it suggests the plier's way, "because the older brother can afford to pay more, let the younger brother not pay the £50,000 next year". That suggestion shows there is no question of ingratitude. I would go further, Sir. Not only does the younger brother expect material support in the ways of money and services, not only that he knows he gets these services, but he knows he gets more. I think you call them *Imports de Rabatlas*. Those things are things that you cannot weigh on a scale. Your very presence here contributes greatly to African progress, even without contributing a shilling in the pound for it. Now that, Sir, is the credit to the immigrant communities who have come here. We are not questioning the paying for the maternity home in Nairobi or the subsidization of the houses in Nairobi and the rest of the clinics and so on. That is true, but there is more you people are contributing towards our development in this country and I want to place it on record now and that people may not have any doubts about it. But this motion does not suggest that the older brother is doing nothing, far from it.

I see my hon. friend the Member for Rift Valley with a bright face as if he is going to support this motion. (Laughter.)

MR. BUNDELL: Mr. Speaker, the hon. Member allows his optimism to run away with him. I am not going to support the motion.

MR. MATHU: I think it is the right time to say I move the motion.

The question was put and negatived on a division by 21 votes to 14.

Ayes: Messrs. Ghesrie, Havelock, Jeremiah, Mndani, Mathu, Nathoo, Ohanga, Patel, Preston, Pritam, Rana, Salim, Saller, Shary, 14. Noes: Messrs. Adams, Anderson, Blundell, Carpenter, Cavendish-Bentnick, Cooke, Davies, Gillett, Hartwell, Hobson, Keyser, Macnochie, Welwood, Matthews, Mortimer, O'Connor, Puddle, Rankine, Rhodes, Thornley, Usher, Vasey, 21. Did not vote: Lady Shaw, J. Absent: Messrs. Chemallan, Hopkins, 2.

Negotiations in respect of Nyali Bridge

MR. USHER: Mr. Speaker, may I say that I have received some excellent advice on the subject of this motion, and I wish to put it in an amended form. May I read it to you in the amended form?

THE SPEAKER: Read it.

MR. USHER: That this Council notes with regret that the negotiations with Messrs Nyali Estates for the purchase of Nyali Bridge have not been concluded and requests Government to consider the advisability of taking the following action should no agreement have been reached by the end of the year, 1950, viz.:

- To give one year's notice to the Company of intention to purchase in accordance with clause 18 of the agreement;
- To make the necessary supplementary provision for the interim relief of users of the bridge upon the basis accepted by this Council in the 1950 Budget.

May I have permission—

THE SPEAKER: You are entirely within your own control at this stage. You now move your motion in this form.

MR. USHER: Sir, I will try to be brief, and the written word, for the most part, is my advocate in this matter. I have a diary here of the progress of this matter. It starts really, so far as the Government is concerned, with a petition sent to His Excellency as a result of a public meeting on the 19th September. The petition actually was sent in October, 1948. The result of that petition was an investigation of a possible site of a new bridge between the island and the north mainland. This was made by the engineering staff of the Railways in November, 1948, and a report was submitted by the General Manager in December of that year. Five alternative sites were mentioned and an estimated cost of £400,000 to £500,000 for construction was given. There has been, however, no detailed survey. That, I think, has not yet taken place as far as I know.

On the 29th August, 1949, an interview was accorded by His Excellency to members of the Coast Development Committee—and I hope I am in order, Sir, if I read the Press report of that meeting. This comes from the *Mombasa Times* of the 3rd November, 1949:

"His Excellency the Governor of Kenya, Sir Philip Mitchell, has interviewed a delegation of three members of the Committee of the Mombasa and Coast Province European Association and discussed the subjects of Nyali Bridge and Likoni Ferry.

His Excellency said three projects are under consideration. They are:

Negotiations with Nyali Estate, Ltd., for a reduction of 50 per cent on toll charges.

To purchase the existing bridge and reduce tolls.

To purchase the existing bridge and build a new bridge on an adjacent site."

The next step of importance taken in the matter was the provision in the Estimates for 1950, that is the current year, of £6,000, Miscellaneous Services, to relieve the users of the bridge to a certain extent. That was passed without much comment in this Council and I do not therefore propose, Sir, to advance the arguments that were used in favour of that course. Subsequently the proposal was made and the negotiations in regard to the amount to be paid to the company

were unsatisfactory. There was a very large gap between what the company required and what this Council had voted, and it was therefore considered proper and reasonable to explore the possibility of acquiring the bridge. That brings me really, to the question, a very important question, asked by my hon. friend the Member for the Coast in this Council on 24th August, 1950, Pages 209 and 210 of the Hansard—I shall only read the third and fourth parts of the replies, because they only, I think, are relevant to this particular case. They read as follows:

"3. In view of the very considerable capital expenditure involved in the construction of the new bridge, Government, before making a final decision, decided to examine the prospects of purchasing the existing bridge from the Nyali Bridge and Development Company.

4. Various difficult financial and legal questions arise and are under careful consideration. No definite decision has yet been reached as to the course to be pursued."

If I may read a little bit further:

"Mr. COOKE: Arising out of that answer, it seems over two years have elapsed since His Excellency the Governor took a personal interest in this matter. Will the hon. Member give me a promise the matter will be expedited.

THE ACTING CHIEF SECRETARY: Yes, Sir, I certainly will undertake to the hon. Member that our consideration of this matter will proceed with the utmost speed."

Now, Sir, it is very far from my intention to try to lay the blame upon the Government for the fact that negotiations have not been concluded. I know otherwise, but there comes a time when we have to say, with a certain notability who is believed to be doing time in another place, "Our patience is exhausted". There is a real hardship upon the people of the Coast and particularly those who have to bring their produce to market, and those who, through force of circumstances, have to live on the mainland and who use that bridge. The tolls are very high.

I do not wish at the moment to say any more, Sir, except to read perhaps the

[Mr. Usher] clause of the Agreement between the Government and the Nyali Estate Company in regard to acquisition. I have quoted it in my motion.

Clause 18 reads as follows:

"In the event of the Government desiring to purchase the Bridge from the Company it may do so upon giving twelve months' notice in writing to the Company of such desire.

The price to be paid by the Government for the purchase of the Bridge shall be determined by agreement between the Government and the Company and failing agreement shall be determined by an Engineer to be appointed by the Government and the Company jointly, and failing joint approval of such an Engineer shall be determined by arbitration in accordance with the provisions of the Arbitration Ordinance.

The consideration on which the price to be paid for the Bridge under this clause shall be determined shall be the cost of construction of the Bridge, the depreciation which has taken place since its construction, the general suitability of the Bridge at the time of purchase for the purposes for which it was constructed and equitable compensation for compulsory expropriation."

Now, Sir, it may be argued that it is better to come to an agreement by negotiation than by the invocation of this clause. That may be so, and it may not be so. If I were the Company I feel I should be frightened to death at a threat to apply this clause. I know, however, that that is arguable. Nevertheless, Sir, let me say straight away that if it is going to be suggested that we have to conceal this matter in any way, I can only say that this clause is well-known to both sides, and both parties to the Agreement are equally advised in the matter, and it is not a secret clause known only to the Government.

Sir, I do most earnestly urge that this matter be expedited, and I do commend my motion to the attention of hon. Members.

Sir, I beg to move.

MR. BLUNDELL: Mr. Speaker, I rise to move an amendment to the motion. If

I can secure a seconder, I would like to add the word "or" between (a) and (b). I should like to move the addition of the word "or" between (a) and (b).

THE SPEAKER: After the word "agreement"?

MR. BLUNDELL: Yes, Sir. Do I speak, Sir, to my amendment or do I have to have a seconder first?

THE SPEAKER: You are speaking to the motion, that is quite clear.

MR. BLUNDELL: In moving this amendment, I do so because if the hon. Member could see his way to accepting the amendment then I would support his motion unconditionally. The difficulty in which I find myself, however, in supporting the motion without the addition of the word "or" is that it arbitrarily ties the hands of Government to invoke clause 18 of the agreement whether that is to the advantage of the general taxpayer of the Colony or not. As a member of the Planning Committee, and knowing the tremendous demands which are being made upon our capital resources—and I would like to mention in this one respect the tremendous sum of money required, for instance, for the Mombasa Water Supply—knowing these demands I feel that it might be to the advantage of the Colony to pay under (b) a slight sum yearly from the revenue to reduce the cost of the toll rather than to find the capital to negotiate purchase of the bridge or alternatively put up a second bridge. Therefore, if the word "or" is added to the motion it would still be a recommendation to the Government on the one or the other, but it does allow hon. Members on the other side the opportunity of putting in the Budget yearly supplementary interim relief for users of the bridge.

I hope I have made that clear. But I feel very doubtful myself about trying myself to a motion which is an outright recommendation to Government to engage in an arbitration which might for all we know involve some very large capital expenditure which in my view we have to husband very carefully.

DR. RANA: It is so difficult, it is because the hon. Member is so close a distance—I feel he is shaking his head— I really do not know what to do. If I will permit me, Sir, to go nearer

[Dr. Rana]

that side and ask the Mover, I believe, knowing the full facts of the case, that the Nyali Bridge question has been accepted by Government, the only question is whether to buy or put up a new one.

The hon. Member for Rift Valley's arguments are fairly reasonable, but unless I hear otherwise I have to stick to the hon. Mover, you see.

MR. BLUNDELL: If I might have your indulgence, Mr. Speaker, just to rise again on my amendment?

If it would help the hon. Mover might I add also, delete the word "interim", then I think he would accept it—it still achieves my objective.

THE SPEAKER: Is there any seconder for your amendment?

MR. PRIFAM seconded.

MR. USHER: I accept the amendment, Sir.

THE SPEAKER: You understand, Mr. Prifam, you have already spoken to the motion by seconding. If you want to say any more, now is the time to say it.

I will propose the amendment.

It is proposed that after the word "agreement" at the end of paragraph (a) of the motion to insert the word "or".

MR. USHER: Sir, there was the deletion of the word "interim" I think.

THE SPEAKER: And the deletion of the word "interim" in paragraph (b).

Do you wish to accept the amendment without any division? All right. Well, then, I will repropose the motion. The motion now before the Council is this:—

"That this Council notes with regret that the negotiations with Messrs. Nyali Estates for the purchase of Nyali Bridge have not been concluded and requests Government to consider the advisability of taking the following action should no agreement have been reached by the end of the year, 1950, viz.:—

(a) To give one year's notice to the Company of intention to purchase in accordance with clause 18 of the agreement; or

(b) to make the necessary supplementary provision for the relief of the bridge upon the basis accepted by this Council in the 1950 Budget."

MR. COOKE: I merely rise to support the motion and to underline one point which my hon. friend has made. That is the point which so nearly touches on the cost of living in this country so far as Mombasa is concerned. It costs two shillings and two shillings to return over the bridge; if that is done twice a day, if a man goes back, for instance, home for his lunch, it is a cost of eight shillings a day, which adds considerably to the cost of living. We heard yesterday how high the price of land is in Mombasa, but people are being forced to live on the Island and to purchase land on the Island on account of these invidious tolls. I know that the hon. gentlemen on the other side of the Council are absolutely genuine in their efforts to reduce the cost of living, and I do think they ought to give that aspect to the question very great consideration.

I support the motion.

THE MEMBER FOR EDUCATION, HEALTH AND LOCAL GOVERNMENT: On a point of order, Sir, just merely for the record, I think the hon. Member for the Coast referred to the car cost and not to an individual, Sir, and I think it might be mistaken.

MR. COOKE: I am sorry, I was referring to vehicular traffic, Sir, and of course, in that heat no European would do that part of the country cross by foot, so it mainly does affect car traffic.

THE FINANCIAL SECRETARY: I understand the form of the motion now is that the Council recommends that Government consider the advisability of certain courses of action. Now if that is so, Sir, I will make it quite clear that Government is quite prepared so to consider as it is with regard to any other matter which comes within its purview. But I also want to make it quite clear that when Government considers the advisability of any particular course of action it naturally does not commit itself to taking that particular course of action if, having considered it, it decides that some other course ought to be adopted. Provided that the Council and the hon. Mover, Sir, fully understand that, while Government is prepared to consider the advisability of what the motion suggests, it is not committed to taking that course, provided, as I say, the Council and the hon. Mover fully

[The Financial Secretary] understand that Government will not oppose the motion. I add that it may be for the Road Authority to consider the advisability of this course rather than the Government. I hope I have made myself clear, Sir, that if this is accepted Government will not oppose the motion.

DR. RANA RISES.

THE SPEAKER: You have already spoken on the motion, you reserved your right at first and then afterwards rose and addressed the Council. I am sorry.

MR. COOKE: I thought the hon. Member was only getting up on a point of explanation at that time, Sir.

THE SPEAKER: He could not rise to a point of explanation because he had not spoken in the debate at that time.

DR. RANA: If you will permit me, last time I did not give any reply because it was a question of accepting the amendment, or probably you did not catch my voice.

THE SPEAKER: I only want to point out what the strict rule is, and time is short. But if the hon. Member will address the Council very shortly, I will make an exception which, I hope, will never be taken as a precedent.

DR. RANA: Thank you, Sir. The point raised by the hon. Member for Finance; I only want to point out to him the object of this motion which the hon. Mover discussed with me was to bring out the urgent necessity and the dissatisfaction and the hardship which is being created over this Nyali Bridge question hanging on for the past two or three years. Alternatives have been given, but as he has said we support it with the view that to-morrow Government will again keep quiet for the next few years. Naturally, again the people of Mombasa and the Coast again will be asking this rather difficult question. I would request that either the two recommendations should be—as soon as possible some action should be taken by the Government, Sir, with these points. I have nothing else to add, Sir.

MR. USHER: Mr. Speaker, I am very much obliged to my hon. friend the Financial Secretary for what he has said. Of course we could not compel the matter. The object of this motion was

to get an expression of opinion from the Council that the delay, which I did not lay at the door of the Government, was a serious matter and that we should deal with it as early as possible. If we get that expression of opinion I feel confident that my hon. friend will pursue the matter in the manner which we desire and particularly that he will consider the relief for which we have asked under paragraph (b) of my resolution. I am very glad to—

THE FINANCIAL SECRETARY: Sir, on a point of explanation, I hope that the hon. Member and the Council do appreciate in a matter of negotiating an agreement it takes two to come to an agreement.

MR. USHER: I do quite appreciate that, Sir, and I think now that the dissatisfaction of the Council with the delay has been sufficiently aired.

The motion as amended was put and carried.

ADJOURNMENT OF MOTION

AVIATION SUBSIDY

MR. MACDONALD-WELMUND: Mr. Chairman, with the permission of the Council I should like to postpone this motion until Tuesday.

THE SPEAKER: All right, I think that is agreed. There is no objection.

MOTION

SALARIES AND ALLOWANCES

THE CHIEF SECRETARY: Mr. Speaker, I beg to move:

"Be it resolved that the recommendation of the Standing Finance Committee concerning rates of salaries and allowances payable to unofficial Members of Legislative Council, as recorded in the report, dated 12th December, 1949, and laid on the table of this Council on 14th December, 1950, be accepted."

Mr. Speaker, the rates of allowances and the salaries are set out in the report and I need not take up time by detailing them now. There are three main recommendations, the first is that the salary of £300 a year at present payable should remain unchanged. That salary is a figure which represents a reasonable contribution towards the indirect earning capacity which Members may be expected to lose

[The Chief Secretary]

by reason of their preoccupations in this Council with the public arising out of the Legislative Council.

The second is an allowance of Sh. 60 per day representing compensation for loss of time and the third is an additional allowance payable to Unofficial Members in respect of each night spent away from home in order to attend certain meetings which are detailed. In addition to that there are certain other expenses, mainly connected with travelling. They are all set out in the report. The result of these recommendations will be to increase the cost of unofficial representation in this Council by approximately £5,000 a year.

Sir, I beg to move.

THE FINANCIAL SECRETARY seconded.

MR. COOKE: Are we allowed to vote, Sir, without declaring our interest?

THE SPEAKER: I think the interest is obvious, there is no need specifically to declare it, because you are all affected. It is also a matter which I think we have ruled before; just the same as Members' salaries, these matters are public matters as well as matters affecting individuals and it does not preclude you from voting against it. (Laughter.)

The question was put and carried.

SELECT COMMITTEE REPORT*The Entertainments Tax Bill*

THE MEMBER FOR EDUCATION, HEALTH AND LOCAL GOVERNMENT: Mr. Speaker, I beg to move: That the report of the Select Committee on the Entertainments Tax Bill be adopted. Sir, happy is the Member on this side of the Council who can come before this Council with a motion giving all the concessions that the hon. Members opposite have asked for, and asking for nothing in return! By a fortuitous circumstance this happy event falls to my lot instead of to that of the man to whom the credit should really go, my hon. friend the Secretary to the Treasury. Your Select Committee, Sir, met and considered the representations from a number of amateur sporting associations. It also took into account those made by my hon. friend the Member for Nairobi North during the debate on the second reading, and your Committee is unanimous in recommending that the concessions asked for should be given.

Sir, I beg to move.

THE SECRETARY TO THE TREASURY seconded.

The question was put and carried.

BILL**SECOND READING—(Contd.)***The Sisal (Amendment) Bill*

THE DIRECTOR OF AGRICULTURE: Mr. Speaker, in winding up the adjourned debate on this amending Bill, I presume that no other Member wishes to speak. Sir, the second reading of this Bill was adjourned because the hon. Member for African Interests, Mr. Mathu, desired to have further discussions on the implications of the Bill in so far as African interests were concerned. Discussions have now taken place, and as a result, certain amendments have been prepared and will be moved by my hon. and learned friend, the Member for Law and Order, in the Committee stage, and I trust that these amendments meet the wishes of the hon. Member. The amendments proposed are twofold: the first, to sub-section (4) of section 10A, whereby the Board must give its reasons for refusing a licence, should it so desire to refuse a licence; the second amendment to sub-section (1) of section 10A is proposed because on closer examination it was found that the amending Bill did not in fact tie up satisfactorily with the African-grown sisal rules. The amendment proposed overcomes previous anomalies and now there is nothing to prevent an African, or a co-operative of Africans, from obtaining a licence to grow sisal under the Sisal Industry Ordinance.

Sir, there are two other points—questions that were raised during the debate. One from the hon. Member for Central Area who, I see, is not here now, expressed concern that in the event of an appeal the decision of the Member should be final, and he suggested that the final arbiter should actually be—or he would prefer—the Governor in Council. I gather, Sir, that the position of a Member *vis-à-vis* the Governor in Council has been fully explained to the hon. Member, and he is now quite satisfied.

The hon. and gracious Member for Ukamba asked for an assurance that the Board would not discourage the small grower. The hon. and gracious lady will appreciate that the personnel of a Board

[The Director of Agriculture]

changes, but as one of the present Members of that Board I am completely satisfied that the existing Board will not discourage the growing of sisal by the small grower, provided the crop is satisfactorily graded and the fibre properly prepared and marketed under the conditions laid down in the principal Ordinance and the rules promulgated thereunder.

Mr. Speaker, I beg to move.

THE SOLICITOR GENERAL seconded.

THE SPEAKER: I thought—I am not quite sure whether this has not been prepared before from the Chair. Has it not?

THE DIRECTOR OF AGRICULTURE: It has.

THE SPEAKER: It was simply an adjourned debate.

The question was put and carried.

SECOND READING ADJOURNED*The Accountants (Designations) Bill*

THE SECRETARY FOR COMMERCE AND INDUSTRY: Mr. Speaker, there are certain matters under consideration on this Bill and with your permission I should like to defer taking the second reading until Tuesday.

THE SPEAKER: No objections? (None.)

BILL**SECOND READING***The Liquor (Amendment) Bill*

THE DEPUTY CHIEF SECRETARY: Mr. Speaker, I beg to move that the Liquor (Amendment) Bill be read a second time. As hon. Members will see, it is not possible under the law as it now stands for a Temporary Extension Licence to be granted by a District Commissioner to the holder of a general retail liquor licence, or of a restaurant or café liquor licence authorizing the sale of liquor after 11 o'clock on a Sunday. This year, Sir, New Year's Eve falls on a Sunday and it is thought that it should be made and it is thought that it should be made under the law for a District Commissioner to grant a Temporary Extension Licence until 2 o'clock on the morning of the following day on that particular occasion. The opportunity has also been taken of including provision in the Bill that the same should be possible in the opinion of the Government, any other very special occasion should happen to fall on a Sunday.

I think, Sir, that I ought perhaps to take this opportunity of making it clear that although Christmas Eve this year also falls on a Sunday, it is not the intention of the Government that Christmas Eve should be declared such a very special occasion as would enable this new provision to be applied.

I beg to move.

THE SOLICITOR GENERAL seconded.

The question was put and carried.

The Road Authority Bill

THE CHIEF SECRETARY: Mr. Speaker, there is very little time this morning, and in any case I understand that it is the wish of hon. Members to defer the second reading of this Bill until Tuesday.

THE ATTORNEY GENERAL moved: That the Council resolve itself into a Committee of the whole Council to consider the Sisal Industry (Amendment) Bill and the Liquor (Amendment) Bill clause by clause.

THE SOLICITOR GENERAL seconded.

The question was put and carried.

COUNCIL IN COMMITTEE

The Bills were considered clause by clause.

The Sisal Industry (Amendment) Bill

THE ATTORNEY GENERAL moved: That clause 2 be amended in the following respects—

(a) that sub-section (1) of section 10A be amended by substituting a colon for the full stop at the end of the sub-section and by adding the following proviso—

Provided that nothing in this sub-section shall apply to the growing of sisal by an African in the native areas for any of the following purposes—

(a) demarcating units of land;
(b) the prevention of soil erosion;
(c) the preservation of water resources;

(d) good husbandry;

(b) that sub-section (4) of section 10A be amended by inserting after the words "notify the applicant in writing of such refusal" the words "and of the grounds therefor";

(c) that there be substituted for sub-section (7) of section 10A the following sub-section:—

[The Attorney General]

(7) For the purposes of this section "native areas" means the native lands, native reserves, the temporary native reserves and the native leasehold areas as defined in section 2 of the Native Lands Trust Ordinance.

THE ATTORNEY GENERAL: The necessity for those amendments has been explained by the hon. Mover.

The question was put and carried.

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

THE ATTORNEY GENERAL moved: That the Sisal Industry (Amendment) Bill be reported back to Council with amendment, and the Liquor (Amendment) Bill be reported back without amendment.

Council resumed and the Member reported accordingly.

BILLS**THIRD READINGS**

THE ATTORNEY GENERAL moved: That the Sisal Industry (Amendment) Bill be read a third time and passed.

THE SOLICITOR GENERAL seconded.

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

THE ATTORNEY GENERAL moved: That the Liquor (Amendment) Bill be read a third time and passed.

THE SOLICITOR GENERAL seconded.

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

THE ATTORNEY GENERAL moved: That the Entertainments Tax Bill be read a third time and passed.

THE SOLICITOR GENERAL seconded.

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

ADJOURNMENT

Council rose at 12.45 p.m. and adjourned until 10 a.m. on Tuesday, the 19th December, 1950.

Tuesday, 19th December, 1950

Council assembled in the Memorial Hall, Nairobi, on Tuesday, 19th December, 1950.

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

The proceedings were opened with prayer.

MINUTES

The minutes of the meeting of 15th December, 1950, were confirmed.

PAPERS LAID

The following papers were laid on the table:—

By THE CHIEF SECRETARY:

Memorandum on Proceedings of the General Assembly of the United Nations, 20th September—10th December, 1949, relating to Non-Self Governing and Trust Territories.

By MR. W. B. HAVELOCK:

The Report of the Select Committee on the East African Power and Lighting Co., Ltd. (Validation and Licensing) Bill.

NOTICE OF MOTION

THE MEMBER FOR EDUCATION, HEALTH AND LOCAL GOVERNMENT gave notice of the following motion:

"That this Council agrees that its acceptance in principle of the Report of the Committee on African Education in Kenya, as modified by Sessional Paper No. 1 of 1950, be further modified by—

(a) the rejection of Recommendation 121 of the Report proposing the establishment of zones in which differential rates of allowances for teachers would apply;

(b) the rejection of the basic salaries contained in Recommendation 122 of the Report and their replacement with effect from 1st January, 1952, by these scales:—

T.1 (Makerere Teacher)—

£190 by £10 to £240 (E.B.) by £120 to £300.

K.T.1 Teacher—

£154 by £6 to £178 by £9 to £187 (E.B.) by £9 to £223.

The Member for Health, Education and Local Government]

Instructor, Grade I—

£100 by £6 to £136 (E.B.) by £6 to £172.

Instructor, Grade II—

£72 by £3 to £87 (E.B.) by £3 to £105.

Instructor, Grade III—

£48 by £3 to £60 (E.B.) by £3 to £72.

T.2 Teacher—

£100 by £6 to £136 (E.B.) by £6 to £172.

T.3 Teacher—

£66 by £3 to £72 (E.B.) by £3 to £105.

T.4 Teacher—

£51 by £3 to £63 (E.B.) by £3 to £72.

Unqualified Teacher—

£1 4s. by £1 4s. to £42; £43 4s. by £1 16s. to £54.

That this Council further agrees that following new posts should be created in the Establishment of the Education Department:—

(a) Three additional Assistant Education Officers in the scale: £300; £300; £315 by £15 to £420 (E.B.); £440 by £20 to £600.

(b) One Education Officer (African), £630 by £27 to £684."

ORAL ANSWERS TO QUESTIONS**QUESTION No. 89**

MR. MACONOCHE-WELWOOD:

Will Government state the amount of revenue collected in 1949 from petrol consumption tax on aviation spirit?

THE SECRETARY FOR COMMERCE AND INDUSTRY: This tax is subject to a number of refunds and interterritorial adjustments but it is estimated that the net realizations from this tax in 1949 are £10,250.

MOTIONS

MR. MACONOCHE-WELWOOD: Mr. Speaker, before moving this motion, I wish to amend it slightly in order to conform to Standing Rules and Orders. It therefore now reads:—

"This Council recommends that Government consider the advisability of removing the customs duty and consumption tax on aviation spirit in view of the destructive effect of these taxes on the flying industry in the Colony, and the comparatively small revenue derived therefrom."

Mr. Speaker, I am bringing this motion because there was no opportunity in the debate on the Budget to discuss the matter of taxes which were already in existence and in which no change was made. The reason for bringing it is that I believe the private flying and small companies' flying industry is one of the most vital importance to the Colony at this time—in fact, particularly at this time when flying should be encouraged as much as possible in view of the danger of war. The hon. Financial Secretary, in an earlier debate, said quite correctly in my view—that the proper use of rebates and drawbacks was to assist industries when those industries found themselves in difficulties, and I shall seek to show that those industries are at the present moment in very grave difficulties. The only companies which pay these taxes are a few small private companies, and the private operators. At the present time the East African Airways Corporation, which pay no consumption tax and no customs duty themselves, find it very difficult to maintain a position where the country does not have to subsidize them. I submit that that is one very good argument in proving my case. The argument that interterritorial uniformity is necessary could hardly apply here as Tanganyika and Uganda have customs only and no consumption tax. Zanzibar gives a full rebate on both taxes and the Rhodesias have neither.

The argument may be advanced that if these taxes were removed, people might buy high octane spirit and use it in motor-cars on the grounds that it is cheaper. That is not the case. 72 in Octane spirit is Sh. 3/60 a gallon in Octane spirit is Sh. 3/69 and 100 bulk, 91 Octane is Sh. 3/82. The total Octane and over is Sh. 3/82—50 of these taxes amounts to 82 cents—50 Customs and 32 Consumption. Therefore the only aviation spirit that would come slightly below would be the lowest octane which would come five cents below the price of ordinary spirit in bulk, but I do not think that could be used as an

[Mr. Maconochie-Welwood] argument that the removal of these taxes is dangerous as, in point of fact, it would be nearly impossible for the ordinary person to get hold of aviation spirit which would only be supplied in aerodromes and direct to aircraft.

Now, from the point of view of loss to the revenue we have to keep up, landing grounds in this country. We have to keep up a measure of radio communication. It does not matter whether two aeroplanes use a landing ground, or 50, and I submit that it is greatly to our advantage to foster this industry; to increase the number of aircraft landing and I believe in that way you will increase the revenue to some extent, and gradually increase it, possibly up to the extent of the tax we are losing. I would quote the figures of 1948 which are the only ones available to me of revenue from customs and the rebates granted. In 1948 the revenue was £88,178, and the rebate granted thereon was £74,851—that is, customs duty, £88,000 is a very large sum to collect, and then to refund £74,850 of it. It seems to me that there is a very poor case for the collection of this sum and giving it back—in fact, it must have cost a good deal to do so. It may be argued that the East African Airways Corporation would be insufficiently protected if private companies had the advantage at present granted to them in rebates and customs rebates, rebates on consumption tax and customs receipts.

Well, I do not think that would apply. For one thing the small companies are flying a small type of aircraft which is invaluable in this country both for emergency movement of businessmen and officials, and still more for emergency bringing in of people who are sick in out-stations. These aircraft are not of a type used by the East African Airways Corporation. It is true that in certain types there may be slight competition, but it would never be serious, and would only involve aircraft which are now rapidly becoming obsolescent as far as East African Corporation aircraft are concerned; in any case, were that so, I for one do not believe it is right to subsidize in this way a public enterprise, in order to prevent competition with private enterprise. The correct

way of preventing that competition, and to safeguard the taxpayer is to see to it that charter companies do not fly scheduled routes, and are, in fact, charter companies and not lines flying regularly on set routes.

We are already—or later on this morning going to discuss the question of hypothecated taxation from petrol for roads in which, as far as I am aware, both customs duty and consumption tax in aviation spirit will come in. Well, obviously it is unfair that taxes levied on the flying industry should go to the roads.

If you are going to continue these taxes, then surely they should be used for the advancement of flying. I do not know whether arrangements have been made to do that, but no doubt hon. Members on the other side can tell me what is going to happen in that connexion. The aviation industry is one in which, for some reason or other, very little interest is taken by anybody other than those people who are either professional pilots or have some special interest in it. I do commend to this Council that it is an industry of the greatest importance in a country like Africa, in a country where all communications are bad and difficult, and it is an industry which should be fostered and should be encouraged, particularly at this time, and will lead to the training of more and more young pilots who may be necessary in the near future to take on jobs other than civilian flying in the interests of the country.

Mr. Speaker, I beg to move.

MAJOR KEYSER: Mr. Speaker, I beg to second, reserving my right to speak later in the debate.

THE FINANCIAL SECRETARY: Mr. Speaker, I am glad that the hon. Member found it possible to amend the motion from the wording in which it originally stood because, quite apart from any constitutional position *vis-à-vis* our Standing Rules and Orders, as it was originally worded it would not have been possible for the Government to have done anything but oppose it.

Now, Sir, provided the hon. Member who moved this motion will accept a further small amendment, the Government will not oppose this motion. The

the Financial Secretary] amendment which I would like to move to insert between the words "the" and "destructive" the word "possible". The reason I move that amendment, Sir, is that, even as worded now, the aspect of assuming the local flying industries—a question seems to be prejudged by the wording—and if Government was prepared to vote for this motion as it stood, it would appear to express the opinion of Government that, in fact, this is destroying the industry. It might or might not. We do not know. It needs to be examined and if hon. Members hereafter will remove that prejudging aspect of this motion by the insertion of the word "possible", the Government will oppose the motion.

Sir, may I make it "possibly" instead of "possible"?

And if that is accepted, Sir, the motion will read as follows:—

"This Council recommends that Government considers the advisability of removing the customs duty and consumption tax on aviation spirit in view of the possibly destructive effect of these taxes on the flying industry in the Colony, and the comparatively small revenue derived therefrom."

Sir, I pass this to you.

In moving that small amendment, I will take the opportunity of making a few remarks on this matter in general. Now, as the hon. Member himself appreciated, this matter appears superficially simple, but in fact it is far from simple. It is true that the consumption tax is purely a Kenya matter, but the customs duty aspect is inter-territorial. I may mention that when Uganda recently removed the duty on motor spirit, that country very carefully refrained from removing the duty on aviation spirit, for the reason that that matter had not been made the subject of inter-territorial discussions, and I think the Council will agree that in these circumstances it would be very unchristian of Kenya to take unilateral action in this matter without inter-territorial discussion. (Hear, hear.)

MR. HAVELOCK: Companies tax!

THE FINANCIAL SECRETARY: I am glad to see, Sir, that the right spirit is abroad in Kenya!

Now, Sir, I will reiterate, and strongly reiterate, that it is the Government's policy to assist by feasible adjustments those secondary industries which are desirable and which are in need of that assistance—which, in fact, cannot continue to exist financially without that financial assistance. But in the case of the customs duty on aviation spirit, as I said, the matter goes beyond Kenya and, quite apart from the question of integrating our fiscal policies, it would be suggested that, if Kenya took unilateral action in this matter and removed the customs duty from aviation spirit, these aircraft would have to refuel in the other territories and, unless we get the agreement of the other territories, the concession would not go very far.

Furthermore, Sir, I think it will be agreed that it will be necessary for the Government, in considering the whole matter, to consider in particular the financial position of these companies. It has been asserted across the floor of Council that they are in a desperate position financially, but I would suggest that they should be put in a position of other industries who are applying for assistance—for rebates on raw materials. There is a Committee in existence which receive applications from industries seeking this kind of assistance, and one of the functions of that Committee is to examine the existing financial position of the applicant—of the applying industries—and to assess what the effect would be on that financial position of a rebate, and I suggest, Sir, it would be appropriate that these industries should proceed along precisely the same lines.

There is also the other aspect that needs examination: whether, if we are going to give this concession, whether it should be via a fee off the spirit—that is should be via the port—or whether it would be better to give the relief in the form of a rebate later. That, Sir, is a matter for the experts, and also the hon. Member has dealt with that to some extent. I can assure him that he has not really completed the picture, and I think we should leave it to the Commissioner of Customs to advise in a matter of that kind.

Well, Sir, those are the points which it was necessary to make from the Govern-

[The Financial Secretary] the side, and I have made them in moving the amendment that the word "possibly" be inserted between the words "the" and "destructive". Sir, I again repeat that if the hon. Member is able to accept that small amendment, the Government will not oppose the motion.

THE SPEAKER: Is there a seconder to this amendment?

MR. MACONOCHE-WELWOOD: Mr. Speaker, with the permission of my seconder, I would accept that amendment.

MAJOR KEYSER: Yes, Sir.

THE SPEAKER: The motion stands in its amended form. Is there no other Member wishing to speak? I will ask the hon. Member to reply.

MR. MACONOCHE-WELWOOD: I have not much to reply to, I have accepted the word "possibly" in the amendment because I have both faith in the justice of the motion itself and in the Government looking into the matter.

There is just one point. I would like to reply to us to the causes of the plight of the industry. I am quite prepared to admit that the high price of spirit is not the only cause, by any means, of the cost of flying, and for various technical reasons of maintenance and the cost of aircraft the industry is in a very difficult position. I only suggested the removal of these duties as the one thing Government can do to assist it in its difficult position. As regards the facts of that position, I would mention that in the last three or four years four or five companies have packed up and left this country. In fact to my personal knowledge European staff with salaries aggregating £20,000 between them have left the country and returned to the United Kingdom due to aircraft companies having given up. I could mention two companies that have given up.

THE SPEAKER: That is rather an introduction of a new matter.

MR. MACONOCHE-WELWOOD: Sir, I was trying to reply to what the hon. Financial Secretary has said. However, there are no other facts which I wish to mention and that is all I have to say on the motion at the present time. I leave it to the hon. Financial Secretary to look into the matter, as he has agreed to do.

The question was put and carried.

BILLS

SECOND READING

The Road Authority Bill

THE CHIEF SECRETARY: Mr. Speaker, I beg to move that the Bill entitled an Ordinance to make provision for the establishment of a Road Authority and a Road Fund, and matters incidental thereto, and connected therewith, be read a second time.

Sir, there is no need for me to endeavour to impress on this Council the need for an adequate system of communications. I believe that is fundamental and is recognized by everyone in this Colony. It is also common ground that our system of roads needs improvement and expansion. Up to now the development of our roads has been retarded by two main handicaps, one is technical and the other is financial. Kenya presents particularly difficult conditions for the construction of roads and it can be said that we have not yet solved the problem of building cheap roads which will stand up to the increasing demands of modern transport. As regards the second, our wealth is spread thinly on the ground in relation to distances.

It has already been agreed in this Council, on a motion moved by my hon. friend, the Deputy Chief Secretary, that a Road Authority should be established, that a Road Fund should be set up within the available finance and that certain revenues should be segregated from the ordinary revenue of the Colony and paid into the Road Fund. Those three propositions have been accepted in principle and are not in dispute this morning. The Road Authority Committee which finished under the Chairmanship of my hon. friend, Sir Charles Mortimer—and I would like to take this opportunity of paying once more a tribute to the Chairman and Members of that Committee for the good work which they have done—(Applause)—made a final report in which they recommended that there should be established a Road Authority with the duties of promoting the development and construction of public roads within the Colony and Protectorate of Kenya. They also recommended that certain revenues be paid into a Road Fund which should be established to

[The Chief Secretary] the Authority and laid on the table of this Council and for an Annual Report, together with an audited balance sheet and statements of reserves, to be laid on the table of the Council as soon as possible after the year to which it refers. Finally, Sir, it is proposed to repeal the Central Roads and Traffic Ordinance.

The function of the Road Authority, as I have said, is to promote the development and construction of roads. Although the Authority will have powers of overall planning, and in order to ensure that the money at its disposal is used to the best advantage, it will also have powers of supervision and direction where works are financed by money provided for it, generally speaking, it is the intention that road works should be carried out by the agencies which are now responsible for them. I say that, Sir, because some anxiety has been expressed by the European District Councils as to whether they will receive a reasonable share of the funds available. It is, of course, for the Authority to decide priorities and the amounts to be granted to each local authority; nevertheless, I would invite attention to Clause 1 in the Schedule, which is designed to amend the Local Government District Councils Ordinance, where it is specifically provided that "There shall be paid to the Council out of the Road Fund such annual sum for the maintenance and improvement of district roads as the Road Authority may determine, but in determining the amount of the sum to be paid to the Council under this subsection, the Road Authority shall have regard to the mileage of district roads within the district under the jurisdiction of the Council and to the weight, volume and the nature of the traffic upon such roads."

The hon. Member for Trans Nzoia, in a discussion with me yesterday, expressed some doubt as to whether it would not be within the discretion of the Authority to override that particular section in the Local Government District Ordinance. To make the position quite clear my hon. friend the Attorney General, will move an amendment to clause 12 (f) to provide that funds paid out under that particular clause should be "subject to any statutory requirement".

Now, Sir, as I have said it is intended to set up an Authority and to set up a Road Fund. Provision is also to be made for annual estimates to be prepared by

the Authority and laid on the table of this Council and for an Annual Report, together with an audited balance sheet and statements of reserves, to be laid on the table of the Council as soon as possible after the year to which it refers. Finally, Sir, it is proposed to repeal the Central Roads and Traffic Ordinance.

Before I proceed to deal with the Bill in detail, I would like to sound just one note of warning. The establishment of the Road Authority and the Road Fund will not in itself provide additional money for roads. As I have endeavoured on several occasions to make clear in this Council, our main problem is financial. If we want better roads, we have got to find more money. There has been a good deal of misleading propaganda about this Road Authority. Some people seem to believe that the establishment of the Authority and the creation of the Fund will automatically provide more money. Like most other things, if we want more and better roads, we have got to pay for them and I think the Council and the public must face up to the fact that if we are really to set out to provide better roads, we must face additional taxation for the purpose. (Hear, hear.)

Turning now to the Bill itself, Sir, I will not take up much time of the Council because I think that it is straightforward and self-explanatory. Anything which requires explanation is explained in the Memorandum of Objects and Reasons. Clause 3 provides for the establishment of the Authority and for its composition. It will consist of a Chairman and eight members. I would invite attention to clause 3 (3) which provides that the four members to be appointed under subsection (e) should retire in rotation. Clauses 4 and 5 relate to the incorporation of the Authority and regulate its proceedings.

Clause 7, which provides that the Road Engineer should act as the Chief Technical Adviser of the Authority, is a very important provision and is perhaps the most controversial clause in the Bill. This most controversial clause has been examined at great length and with great care by not only the Road Authority Committee but by the Public Works Department Committee and both those Authorities, after very careful examination, came down very heavily in favour of the appointment of the Road Engineer as the Chief Tech-

[The Chief Secretary]

Technical Adviser to the Authority. The object of this Bill, Sir, is to provide better roads. We have, at a special salary, engaged a very highly qualified officer as the Road Engineer, certainly by far the best qualified engineer on that particular subject in this Colony. If we are to get the best of possible roads, it is essential that the Authority should have the best possible advice. It was suggested at one time that the Authority should appoint its own Road Engineer, but no engineer can give proper advice without a staff behind him. There are many functions and investigations which are required in order to enable him to do them. He will require survey, research, accounting, stores and many other facilities, which the Public Works Department can provide, in order to give his advice to the Authority, and to provide it with the proper estimates which it will require to discharge its functions.

Now, Sir, this is a very important matter, and if I may be allowed to take up a little time I would like to repeat what the Road Authority Committee had to say on the subject. They referred to the suggestion that the Authority should engage its own engineer, but went on to say: "We are now satisfied that both for economic and administrative reasons this proposal would be impracticable and that only by using the agency of the Public Works Department organization can the best results be obtained."

The Public Works Department Commission of Inquiry said, in paragraph 73: "We recommend therefore that the Road Engineer should be charged with the double function of being the Chief Technical Adviser to the Road Authority and also the Executive Officer responsible under the general authority of the Director for the actual operation of works."

Sir, this Authority will be spending large sums of public money, and it seems therefore obvious that it is in the public interest not only that it should have the best qualified officer to advise it, but that it should have what the Government's chief technical adviser on the subject has to say. Finally, it would appear entirely wrong to split responsibility for advising and responsibility for the execution of the works which the Authority itself proposes to carry out.

The main opposition to the appointment of the Road Engineer as the Technical Adviser comes from the European District Councils, because I believe they think that their interests may be prejudiced. In other words, that the amount of work which may be assigned to them may be reduced. I do not think that there is really any danger of that, because first of all, the Road Engineer is not a Member of the Authority and will have no vote of the Authority, he is merely there in an advisory capacity to inquire and to give it advice. Secondly, because in any case there will be an unofficial majority on the Authority.

Now, Sir, as I have said, the authorities which are best qualified to give us advice on this subject have examined it exhaustively and have come down cogently in the favour of the provision coherent or reasonable, and I do believe that the arguments again are cogent or reasonable, and I do not suggest that it would be a very great pity when we are inaugurating this new Authority if because of some political objection we set it off on the wrong foot. I would therefore urge most strongly that this clause 7 should be approved by the Council.

That is all I have to say in moving the second reading of the Bill, because I believe that the provisions are self-explanatory and that I need not take up further time of Council in explaining them. I would merely add that the question of the Road Authority and the details of its establishment have been under examination for a very long time. The Road Authority Committee which was appointed in 1947, made an Interim Report putting forward certain preliminary conclusions, and opportunity was then given for the general public and all interested bodies and parties to make any representations. All the representations made have been very carefully considered, and the final recommendations which were made last year have again been carefully considered by all the appropriate authorities. The provisions of this Bill are now put forward by the Government believing that they represent what is required in the best interests of the country.

Sir, I commend them to this Council.

THE SOLICITOR GENERAL seconded.

MR. HAVELOCK: In principle, Sir, may I welcome this Bill. It has been a long road to get the Authority but it looks as if this one had a turning and has aimed the right way.

I believe, Sir, in fact, of course, as the hon. Chief Secretary stated, the principle has been accepted by this Council, but as he said, Sir, even since this principle was accepted by this Council there has been a certain amount of propaganda and I think misconception of the Road Authority and the Road Fund and there does seem, in some people's minds, a may even be in the minds of hon. Members in this Council, that the Road Fund would lead to extra taxation.

It has been suggested that the Road Authority may lead to extra spending, especially in passages and leave pay, &c. Well, I believe that this is a completely false picture of the position. If his Bill is passed, it would merely mean, as I see it, that the same level of taxation would be borne by all communities and the same expenditure would be made, unless the Authority recommended further rates of taxation on pressure from the public for improved types of roads.

But, Sir, I believe that the Authority, if it works properly, may be able to achieve better roads to some extent even though it may even be a slight extent, in that for the first time they will have at their command a full picture, I hope, of the requirements of the country and the finance available and there I think will be the greatest advantage to the country of the setting up of this Authority.

It is difficult, Sir, to deal with this Bill without actually going into certain details as regards the expenditure and the management of the fund and, again, there has been a suggestion that the Central Government will be asked to contribute to the fund more than they have in the past contributed to roads, and it is a fact, I understand, that the contribution of the Central Government will be in the form of the loan charges on capital expenditure on roads, and apart from that the Central Government will give no more than to pass over the hypothecated revenue which is suggested.

Now, Sir, I touch on these particular aspects because it is very obvious that the Road Authority, when set up, is going to have an onerous task. There are many, many problems ahead of it. There is, Sir, the problem of the expenditure, or rather the use of the roads by the Military, and the Road Authority Committee did mention that matter and hoped that revenue from the Military to the tune of some £75,000 might be paid. That I do not think, as I understand it, that that will take effect. So the Road Authority will have to, I think, consider this aspect, Sir, that through allowing military transport to use their roads the actual road user who is paying into the Road Fund the consumption tax, vehicle licences, will be providing a hidden subsidy to the Military over and above the direct contribution that general revenue makes.

There are also, Sir, going to be problems such as the differing rates of vehicle licensing in every territory which, of course, will be a very difficult one to decide, and it is our duty here, and the duty of the Road Authority, of course, to have very close consultation with the different territories on this matter. We cannot possibly have any irritation between territories on anything of this sort. (Laughter.)

There will, of course, be the priorities to be laid down of construction, the allocations of money to the different agencies as the hon. Member for Development put it and the special problems which are ahead of us at the moment, what to do with Mackinnon Road-Mombasa road, how to align the East African Highway, etc., and all that, Sir, brings me to the fact that I believe the chairman of this Authority and the Authority itself are going to have a difficult task. It is going to be no sinecure.

There are one or two points in this Bill which I think Unofficial Members are not very happy. The first one will only, I think, affect it technically in that under clause 3 (3), clause 3 (b) of the Unofficial Members describes how the Unofficial Members of the Authority shall retire in rotation, but under sub-clause (1) of clause 3, but under sub-clause (c), it is merely stated four paragraphs (4) that the Governor is to be appointed by the Governor in Council and in order to tie those two together, I wish to move an amendment

[Mr. Havelock] at the committee stage, that "Unofficial Members" should be inserted after the word "four".

I understand, Sir, Government have no objection and will accept that amendment.

Now, Sir, the next amendment which I would like to suggest would improve this Bill would be that the Chairman of the Authority should be appointed by the Governor but after consultation with the Members of the Authority. (Hear, hear.) Now, I have outlined, Sir, some of the problems that the Authority is going to face and I believe that we have got to be very careful of who we put in the Chair of this Authority, whose responsibilities will be very great and whose spending powers will be considerable and I do hope that Government will see their way to accepting an amendment to the effect, that is to add on to the end of sub-clause (2) the words "after consultation with the Members of the Authority". At least it will put the responsibility on the Authority themselves to find the right man with whom they think they can work, and that man I suggest, Sir, must have wide vision. He must be a man who is prepared to work hard for the first years anyway till the whole planning is settled, and also may I suggest that that man must have a considerable amount of tact because he will have quite a number of criticisms to face from quite a number of different types of organizations.

Now, Sir, we come to the matter of the Technical Adviser, which the hon. Member for Development has said that he considers is, possibly, the most controversial point of this Bill. But, I believe the hon. Member for Development said that he hoped and thought he must allow the Authority to start off on the right foot. Certainly we must, and I believe, Sir, that it will be putting a great burden on the Authority and making the Authority's task much more difficult if clause 7 remains as it is. Now, the reasons for my suggesting that clause 7 should either be altered or—maybe it might be acceptable to hon. Members opposite—should be deleted, are these: I do not think that the objections are political as suggested by the hon. Member for Development. It is not a matter of one or two authorities or organizations with which the

Road Authority will have to deal. They will have to deal with European District Councils, African District Councils, Municipalities, Local Governments. It is not only one, and it seems to me, Sir, that if there should arise any argument between a Local Government body on the one hand and the Public Works Department on the other, which is quite possible under the present conditions, that the technical adviser himself would find himself in an extremely difficult position if he were by the Ordinance appointed as Chief Technical Adviser for the Authority, and at the same time was the Engineer to the Public Works Department. If, for instance, the Public Works Department had stated and estimated that it would cost them some, shall we say, £500 a mile to construct a certain road, and a Local Authority—it might be a Municipality, it might be a European or African District Council—stated that they considered that they could construct that particular section of the road for £300 a mile, or £200 a mile, it would be extremely difficult to my mind for the Road Engineer of the Public Works Department then to switch his mind—switch his whole attitude, and act suddenly as the Technical Adviser to the Road Authority and help them to make a decision between these two differing views, and I believe, therefore, Sir, that the whole matter should be allowed to stand without any definite direction in the Ordinance. I think that it would be best, in fact, to delete clause 7 and then it provides for elasticity. It provides for the Authority to act as it finds best according to experience.

Now, Sir, we are launching out on a completely new departure in this Colony by the establishment of this Authority, and surely although we are all extremely clever men in this Council, and we all examine these suggestions very deeply, and we all produce legislation which is completely watertight to our minds, unfortunately we are very often disillusioned later in the light of experience, and we find that we have to amend the legislation which we thought was perfect. I am quite sure, Sir, that this legislation is trial legislation; that in the light of experience, in one or two years, there will be a number of points which the Authority themselves will ask this Council to

[Mr. Havelock]

amend, in order to allow them to work more smoothly. Therefore, if in that time it is found that the Road Engineer is the only possible man that can possibly be designated and only properly designated the Chief Technical Adviser, then it may be we can insert a clause of this sort. Meantime, I would ask hon. Members in this Council to accept an amendment which I will put at a later stage, for the deletion of this clause, so that the Authority may have a clear run to start with and not be irritated by clashes through, I believe—the express provision that this clause actually asks for.

I am very pleased to hear, Sir, that the hon. Member for Law and Order—the hon. Attorney General—will suggest an amendment to clause 12, which will cover certain doubts which have arisen, especially in the mind of the hon. Member for Trans Nzoia. I may not have been listening, but did I hear the hon. Member for Development give any indication that there would be an amendment to clause 9 (1) (a)? I do not know if he mentioned it in his speech. I do hope he will. As it feeds at the moment, clause 9 (1) starts "Subject to the general or special directions of the Member, the Authority is hereby empowered and required . . . Then if you read (a) "to delegate any of the executive powers vested in the Authority to any person, committee or authority". Surely, the committee cannot be required to delegate its powers? It can be empowered but not required.

THE ATTORNEY GENERAL: I just wish to say, Sir, that that point has been noted, and I propose to move an amendment to cover it in the committee stage.

MR. HAVELOCK: Thank you, Sir, I am very glad to hear that. I have nothing more to say, except that I have suggested, in the amendments that I have suggested, I think that I am speaking for all Unofficial Members when I say that this Bill has the full blessing of this side of the Council.

Council adjourned at 11.05 a.m. and resumed at 11.24 a.m.

MR. PATEL: Mr. Speaker, I rise to support the Bill and to say that as far as the Indian Members are concerned, they

are in agreement with the general observations made by the hon. Member for Kiambu.

I support him particularly with regard to the amendments suggested by him in section 3, clause (c) and sub-section 2.

In regard to section 7, I realize that it is now a very highly controversial question. There is very strong force in what the hon. Member, the Member for Development has said, but at the same time I feel, Sir, that the Road Authority can take advice of the Road Engineer even without having a provision in the Bill. And, in view of the very keen difference of opinion between the Government and the Unofficial side on this issue, I think the provision can be left out without doing any harm to the general provisions of the Bill. It will be very easy for the Road Authority to take expert advice without being bound by the provision in the Bill—making the Road Engineer the Chief Technical Adviser.

With these observations, Sir, I support the Bill.

MR. JEREMIAH: Mr. Speaker, I rise to support the motion and in doing so, I wish to express the hope, Sir, that the African will be directly represented and adequately in the Authority.

Sir, I beg to support.

MR. OIANGA: Mr. Speaker, I have only one remark, and that is to say that in supporting the second reading of this measure I should like to associate myself with the hon. Member for Kiambu for his notes on clause 7. I think it might have some deterrent effect unnecessarily on the Road Authority in having it rigidly laid down that the Road Engineer of the Public Works Department must be the adviser to the Authority. We should leave it a little more easy.

I beg to support.

MR. SALIM: Mr. Speaker, the Member for Kiambu when he spoke, Sir, said he was speaking on behalf of Unofficial Members on this side of the Council and I associate myself completely with what he said, and I support the motion before the Council.

THE SPECIAL COMMISSIONER FOR WORKS: Mr. Speaker, may I, Sir, address this hon. Council this morning in my special position as Special Commissioner

[The Special Commissioner for Works] for Works and give you my views on one or two matters that have been mentioned more as a technical adviser to this Government, Sir, than as a politician. I am rather lost when I wander from my own particular sphere.

Now, Sir, there were two points that interested me particularly. One was the mention of finance, and the explanation that was made by my hon. friend, the Member for Development, that the constitution of a Road Authority did not automatically produce more money for road building and for road maintenance. Well, Sir, that is correct. Unless further means are found for providing additional money, all the Road Authority can do is to try and make the present allotment of finance go further and be more widely expended than it has been possible to do in the past (Hear, hear). We hope to do that, Sir, by better planning and the use of a better technique, and by a more consistent road policy throughout the Colony. In other words, Sir, it is hoped that with the full knowledge of the facts which govern these matters, to be able to make wise decisions that can be carried on from year to year and so bring about better results.

The question of whether more money should be spent for road maintenance or undoubtedly be considered by the Road Authority when it is constituted and it will, in due course, put up its case to Government if it has one suggesting how additional funds should be provided. The only point I would like to mention at this stage, Sir, with regard to that matter is this. It is a very difficult matter to apportion the proper share of expenditure to the different people who use the roads. It seems to be quite unfair—I think it will be recognized by everyone—quite unfair to make owners of motor vehicles the only ones who contribute to road maintenance or road construction, therefore, further money is to be allotted. That, Sir, is a matter that the Road Authority will have to consider with all the information at its disposal and then it will have to persuade Government and this Legislative Council that its recommendations are sound.

Now, Sir, the only other point which I feel I ought to say something about is in connexion with this Clause 7 in the Bill and the suggestion on the opposite side that it should either be amended or deleted. Now, as regards the amendment of the Bill, I presume the suggestion would be that a separate technical adviser to the body should be appointed.

Mr. HAVELOCK: Mr. Speaker, I have suggested it shall be deleted, Sir, not amended.

THE SPECIAL COMMISSIONER FOR WORKS: In that case, Sir, I need not go any further into that point. Now, with regard to the question of deletion, may I refer hon. Members to the way that the Road Branch has been built up over the past two years. Until two years ago you had no road organization whatsoever in this country except one Inspecting Officer who did his best to see that certain moneys were spent in the way they were intended. But when I took over my present post, Sir, one of the first things that Government agreed to was that we should create a Road Branch and, as I have reported in my speech on the Public Works Department Estimates, I now consider you have as good a team working in this Colony as exists anywhere in Africa. (Hear, hear.)

Now, Sir, you create a Road Authority and you then suggest that that team should not be at the full disposal of the Road Authority, which is in fact what is meant if you delete this clause. What would be the position of the Road Engineer if this clause is deleted? As a Public Works Department officer his duty will be to carry out the tasks that the Road Authority allot to the Public Works Department, and he will no doubt do that to the best of his ability. Can you imagine the Road Authority at its first meeting trying to set out its views on policy without asking the Road Engineer to come in and tell it what the present position is. I suggest that if he is only a member of the Public Works Department his position is an extremely weak one. He must regard himself as a Public Works Department officer only, but if he is appointed, as the Bill suggests, as chief technical adviser—mark the word "chief", he is not necessarily the only adviser, the Board can call in any other advice they like, but he would be

[The Special Commissioner for Works] regarded as the chief technical adviser and would, therefore, as a result be responsible to the Road Authority and the Colony, as such, in addition to his own duties as Road Engineer to carry out the Public Works Department work. I feel that is a very important point. The Road Authority would be in great difficulty if they found at one of their meetings that the Road Engineer was away on some Public Works Department duty which he might have to carry out. If, however, he is appointed as the technical adviser to the Authority his first duty would be to attend the meetings of the Authority.

Now, Sir, I think there must be a great deal of misconception about his position as technical adviser. As such, as my hon. friend the Member for Development has explained, he cannot in any way sway the votes of members of the Authority. He is not a member himself, as he has no vote himself, all he can do is to place at the disposal of the Authority the best advice that he is able to give them with the whole resources of his department behind him. Now, Sir, this is a system that has worked extremely well in this Colony. I myself was the chief technical adviser of the Railway Advisory Council for many years, and my advice to the council was given freely and, in some cases, not accepted. Well, there it was, I could not sway the votes of the members of the Railway Council, they made their decision, they made their recommendations to the High Commissioner according to their best judgment. That is the position your Road Authority will be in if it retains the Road Engineer as its chief technical adviser. The technical adviser would not be able to decide policy in any way, that is a matter for the members of the Authority to decide, but I do suggest, Sir, that his position would be very much weakened *vis-à-vis* the Road Authority if he is not constituted as the chief technical adviser of the Authority.

Now, Sir, what is the opposition to this appointment? I suggest it comes from the districts largely through a misunderstanding of the position or fear of some probable position that may arise if the Road Engineer of the Public Works De-

partment is appointed as technical adviser. I suggest that those fears are groundless and I suggest that within six months of this becoming law that that fact would be recognized. I therefore feel that to weaken the Bill at this stage by deleting what I consider from the technical point of view a very vital clause would be a very great mistake. I cannot see how district councils can fear their position if their position is sound and economic, and if they are carrying out their duties correctly they need have no fear of the technical advice of the Road Engineer. He is not interested in the slightest in the political set-up in this country provided the work of the Roads can be carried out efficiently in the interest of the Colony as a whole. Even supposing it was considered that his advice was biased in favour of, shall we say, the Public Works Department, or in favour of some other authority, surely the members of the Authority under their chairman would be able to deal with that advice and put it in its proper place.

There is another aspect of this, Sir, all the money at present voted to roads, or nearly all of it, is voted from Central Funds. Therefore, the Central Government has a very particular responsibility with regard to the way that money is administered and spent. It proposes to exercise that control through a Road Authority but with a properly constituted technical adviser. Now, if you leave out the technical adviser, how can the Central Government be sure that the Road Authority has the proper advice that it ought to have in making its decisions on policy? This gives rise to another curious position. So long as district councils are given money on a mileage basis by the Central Government, they will, of course, be anxious to take over as many roads as they can, quite naturally. But, Sir, as the moment a different policy is introduced, the moment, for example, rating is introduced in any area and that rating is intended to be devoted to the upkeep of roads, it is found from experience in other countries that those district councils take quite a different view with regard to those roads.

They then frequently come to the central organization and ask them to take over their responsibilities because they find it difficult to make the money that they

[The Special Commissioner for Works] have available go as far as they would like to see it go. Now, Sir, that is the experience which I have come across in the last few weeks in my journeys through Africa. I have discussed this question fully with people in the Union and in the Rhodesias and so on and that is the policy that is developing. Where local rating provides money for roads, then the local council does its best to get rid of its difficult roads to the central authority—just exactly the reverse of the present position here. I think district councils need have no fear that whatever is the right policy will not be followed by the Road Authority.

Now, Sir, I do not want to labour this question too much, but I cannot get away from the fact that at the very first meeting of the Road Authority, they must have the Road Engineer there to tell them what the problem is. It is he who produces the maps, it is he who produces the traffic statistics and prepares the arguments as regards priorities for the different roads, why this road should have a priority over that and so on, it is he who also provides technical information regarding the way in which the road should be built or maintained to meet a particular traffic demand. The Road Authority has no one else to do it, they must turn to him. Therefore, Sir, I think it will weaken this Bill enormously if that clause is left out.

I think, Sir, that is all I can say in support of what my hon. friend the Member for Development has already said. There is a very strong case, Sir, in my view, on technical grounds alone and also on other grounds to keep this clause in and I do sincerely trust that in the light of what I have said, hon. Members when it comes to the committee stage of this Bill, will not press this amendment.

MR. MACONOCHE-WELWOOD: Mr. Speaker, I rise to support this Bill with the amendments proposed by my hon. friend.

THE SPEAKER: No amendment has yet been proposed. We are not in committee. We were just discussing principles, but we seem to have got well into suggested amendments.

MR. MACONOCHE-WELWOOD: The chief advantage, as I see it, of the Road Authority is the fact that at long last we

will have an authority with money to spend; that will know what it has got to spend. For years past, on the Central Roads and Traffic Board, we have sat round the table and considered what should be done for a road without the faintest idea of the funds to be made available to us. Now at least, the Road Authority, whether it has no more money, at least knows what it has got and is therefore in a position to allocate priorities.

There are many objections to hypothecated taxation of this kind, but I think at this stage in the country, it is necessary for the development of roads to have a fund and to raise taxation for one definite purpose. It is true that in the United Kingdom this form of hypothecated taxation has been more or less abolished, but in the early days of motor traffic when the roads were better, it is true, than ours but not good, a road fund was started and gradually a system of roads was built up of the highest standard possibly in Europe, possibly in the world. Therefore it is possible to do away with, or rather not to do away with the road fund but raid the fund and that hypothecation of taxation is gradually dying out as I, for one, believe it may eventually do here but not for many years to come.

As to the clause which appears to be exercising both sides of this Council, clause 7, I do not quite understand why on the Government side, there is such insistence on it. The hon. Member for Works himself has said that supposing we do have this clause, in six months the district councils who were suspicious of it, will have ceased to object to it. I say in that case, let us try for six months without the clause, work it backwards, so to speak, and see what happens. I am perfectly certain, by his own arguments, that the Road Authority will have no choice but to consult the Chief Engineer of the Public Works Department. There is, as he has said, nobody else for them to consult. I cannot imagine them engaging another engineer for consultation. The hon. Member for Works has suggested that the Road Engineer might be away on some other business than Public Works Department when the Road Authority was sitting, if it is not specifically inserted that he should be the technical adviser to the Road Authority, but how can that be, in view of the fact

MR. MACONOCHE-WELWOOD:—that the Road Authority will control, under this Bill, the Roads Department of the Public Works Department. There will be no roads, as I see it, which will come under the Public Works Department and not under the Road Authority, therefore obviously he would be there at each and every meeting of the Road Authority. The hon. Member for Kiambu particularly stressed the omission of this clause on the grounds of flexibility and I would support that. We do have a tendency nowadays to put everything into the law and then have to alter it, as he said. Let us try for once in leaving the maximum out with the full knowledge that if it is necessary we can put it in later on. I am quite convinced the thing can only work in one way and that is through the Public Works Department and the Road Authority, but there is this suspicion in the country, it has been mentioned in this Council, and one has got to accept it. The Road Authority, to my mind, is so important that in any event we must give it the fairest run possible. If there is prejudice against a clause in the Bill which is not strictly necessary for its working, then let us delete that clause in order that the public should support a Bill which is contentious in any way, the whole principle, as I said before, of hypothecating taxation is contentious. Let us give it the fairest possible wind by cutting out the one clause on which there is a great deal of public suspicion in the country. We must have confidence in this Bill and for that reason and that reason alone, if for no other, I do suggest we should omit this clause.

MR. SPEAKER: I beg to support.

MR. SALTER: Mr. Speaker; I also would support this Bill with one reservation concerning this particular clause 7.

I feel it is wrong in principle, Sir, that the choice of advice in matters technical, the choice of the Road Authority should be fettered and fettered by statutory enactment. The present officer who fills this appointment no doubt is highly qualified and would be of the greatest assistance. He may be so highly qualified that he may be translated to even higher spheres and he certainly is not immortal, and I feel we should look upon this matter as one of establishment and not of personality. Therefore we should not

make it the subject of statutory enactment that a person who holds a particular appointment must in all circumstances as a hard and fast rule and in every case be the technical adviser to the Road Authority.

For that reason and with that reservation, I support the Bill.

SIR CHARLES MORTIMER: Mr. Speaker, I rise to support the motion.

First of all, I would like to say as Chairman of the Committee to consider the establishment of a Road Authority, it is gratifying to the members to find that practically the whole of their recommendations have been accepted and embodied in the Bill now before us. It is true, with reference to Clause 7, that the Committee, of which I was a member and to whose interim report I signed my name, did recommend that the Authority should employ its own engineering staff. The reason for that is that the Committee was faced with a situation which caused grave perturbation. In the Public Works Department, there was at that time no adequate road branch, there was a grave shortage of qualified technical staff, there was on the establishment of the Development and Reconstruction Authority a consulting engineer, and there was evidence that the machinery as then established was creating very badly. There was much ineffectiveness and difficulty in working in almost every section of road work. The Committee felt that the right solution was for the Authority to have its own staff and cut the knot which was tying up the effective operation of road services. I personally, and I think other members of the Committee, on reflection and after the great change in the situation that took place after the appointment of my hon. friend, the Special Commissioner for Works, and the establishment of the Roads Branch; felt that the only right solution was the one now embodied in this Bill, as recommended in the final report of the Road Authority Committee.

The only objection that has been raised against clause 7 is the fear of European District Councils. That fear, I suggest, is unworthy and I am convinced arises; (Hear, hear) For the entirely groundless. (Hear, hear) For the Authority to employ its own staff would be uneconomic and inefficient, and I am

[Sir Charles Mortimer]

quite sure it would prove impracticable. Altogether, apart from any political considerations, the machine would not work and it is because I want to see a competent authority established with adequate powers and executive authority that I strongly support the inclusion of clause 7 as it stands. Some play has been made with the suggestion that unless the road engineer is officially appointed as the adviser to the Authority, he might be away on some Public Works Department business when the Authority is meeting. It has been suggested that it would be incumbent upon him to be there because it is his job to carry out the road work under the Public Works Department. Well, so it is the job of every district engineer who would be employed by the department but they cannot all be expected to attend the Authority meetings. Quite obviously, it must be the senior Road Engineer. It has also been suggested that he may be translated either to some other terrestrial sphere, or to a celestial one. If that does happen we shall have to appoint an equally competent and fully qualified engineer in his place and that engineer, whoever he may be, must be the adviser to the Authority. That has already been expressed by the hon. Members opposite. Now, hon. Members, I am quite sure, are all convinced in their own minds that the only possible adviser to the Road Authority is the Road Engineer.

MR. HAVELOCK: One of them.

SIR CHARLES MORTIMER: If that is so, then why not say so in the Bill and make it clear and unequivocal for all time or until such time as the Authority itself feels that a change should be made. I am quite sure that that time will never come. The only other course to be followed would be to divorce the Roads Branch of the Public Works Department entirely from the Department and attach it to the Authority as a separate Department. That would mean the setting up of a separate stores and accounting branch and all the endless complications involved in the setting up of a new department. It would be so expensive and uneconomical as to be unthinkable in the present stage of our affairs.

I, therefore, strongly urge that the Bill be accepted as it stands with a few minor

amendments that have already been adumbrated, because I am convinced that whether clause 7 remains in the Bill or not, the Road Engineer must be the adviser to the Authority.

MAJOR KEYSER: Mr. Speaker, all the non-political speeches from the other side have stressed the importance of maintaining clause 7 and the argument now, Sir, round which the debate is now centring is the question of clause 7; so I shall refer to clause 7 only.

Sir, the arguments put up on the other side are that, if clause 7 is deleted, it is going to be to the disadvantage of the Authority in that they will not have the full services of the Road Engineer or of the Road Branch. But, Sir, the Director of Public Works is an *ex officio* member—or will be—an *ex officio* member of the Road Authority, and surely he has sufficient touch with his own Road Engineer to be able to act as a liaison between the Road Branch, the Road Engineer and the Road Authority. Surely he also has the authority to order the Road Engineer to be in attendance on him when he attends the meetings of the Road Authority, so that you will have a full 100 per cent liaison through the Director of Public Works.

Now, it has been mentioned that part of the reason for the objection to the clause 7 is suspicion, and I am afraid that it is a suspicion that has been built up in the past by the Public Works Department, a suspicion which has been allayed to a very great extent by the direction of my friend the hon. Special Commissioner for Works, but nevertheless, Sir, that suspicion is still there and it is the connection between the Road Engineer and the Public Works Department that has really created the trouble over clause 7.

Now, Sir, the hon. Special Commissioner for Works mentioned that in six months' time, if clause 7 was deleted, he thought the Authority would be wanting the Road Engineer to be their technical adviser. I think that might be so, but I think that in about six months' time the Road Authority will be wanting the Road Branch of the Public Works Department to be part and parcel of the Road Authority and I am not certain, Sir, that that will not be the best solution to the whole problem.

[Major Keyser]

Let us, Sir, delete clause 7, we will then be happy and at the end of six months the Road Authority could decide what they want to do. Surely, Sir, after six months, or a year, if you like, of working under these conditions, the Report of the Road Authority would have very great influence on hon. Members on this side of the Council and on the public generally. So I would like to suggest that clause 7 be deleted and we do give the Road Authority an opportunity of working without clause 7 in the Bill.

THE CHIEF SECRETARY: Mr. Speaker, I am naturally gratified to find the support which this Bill has received. There are very few points left with which I need to deal.

The hon. Member for Uasin Gishu alluded to the question of hypothecating certain revenue, but I do not think that is any need for me to reply to that because, as I pointed out, that question was decided by this Council in May of 1951 and is not an issue now before us.

The hon. Mr. Jeremiah referred to the notion of African representation and said that he hoped there would be an African representative. It is not intended in any particular race or community to be directly represented on the Authority. Obviously, if you are going to have direct representatives of that sort, you would have to increase the Authority vastly, and that in our view would make it completely unworkable. A order that it should work properly it is desirable to have it as small as possible. Clause 3 (1) (c) provides for our members to be appointed by the Governor and when those members are appointed naturally the claims of Africans will be clearly borne in mind, as I hope, and indeed I will recommend, that members should be appointed because of their ability to do this particular job and not on any other grounds.

Now, Sir, most of the criticism was focused on clause 7. In the first place the hon. Member for Kiambu asked why it was necessary to make this provision in the Bill at the present time and why it could not be made later by way of amendment if it was found to be necessary. I agree that, after two or three years, it may be necessary to consider the amendment of the Bill in the light of

experience, but there are very strong and cogent reasons for putting this provision in at the present time. I believe the hon. Member Mr. Patel and the hon. Member for Nairobi South also referred to the question as to why it was necessary to make this provision in the Bill now. Sir, I would suggest that the necessity is crystal clear. The construction of roads is an extremely technical business. Well, all know that; it is becoming more and more technical every day. As traffic density increases, as the speed and weight of vehicles increase, the question of the construction of roads becomes more complicated and more technical. We all know that we have not solved the problem yet. Even the experts are puzzled, and I should have thought that when you come to set up a road authority which is to promote the development and construction of roads in this Colony, and when it is more important than ever before to make the most efficient and economical use of the funds at our disposal, it was fundamental to provide for proper technical advice to the authority which is entrusted with that task. I would go still further, Sir, and say that, in my view, it would be extremely remiss if we omitted to make such provision, and I am quite unable to understand the arguments that it is not necessary. I would suggest further that it would be putting the cart before the horse to leave the provision out and to insert it later. If as the hon. Member for Kiambu has suggested it will be necessary to review the Bill in the light of experience, then surely the proper way of going about it is to put the provision in now and, if it does not work, later to cut it out and not the reverse.

MAJOR KEYSER: There are other reasons.

MR. HAVELOCK: No, you are trying your hands.

THE CHIEF SECRETARY: The hon. Member for Kiambu has suggested that we are trying our hands. A little earlier he said that none of us were omniscient and infallible, that none of us did not make mistakes at some time or other. We do not all claim to be experts, but this matter has been examined by experts, two extremely well-qualified committees have examined the question and their advice, given with great emphasis,

[The Chief Secretary] is that we should make this provision. Well, Sir, in that event why do we neglect it? We are given this advice, our responsibility is to take the best advantage of that advice. We have a responsibility to the whole country. Why are we neglecting this advice? Why are we flying in the face of it? The only argument so far produced as to why, Sir, is suspicion. What an astoundingly weak argument. Because of suspicion we cast aside the advice we are given by the persons best qualified to give it, we neglect our responsibility and, as I have said, Sir, instead of setting this authority off on the right foot with the best chances of success, we deliberately, because someone has raised the ugly head of suspicion—

MAJOR KEYSER: Well founded!

THE CHIEF SECRETARY: Well founded; what a hollow argument! (Laughter.) Founded, as far as we know, on nothing at all.

MAJOR KEYSER: Inefficiency in the past.

THE CHIEF SECRETARY: All these people have had their opportunity of making their case before these committees and none of them have succeeded in convincing the committees of the validity of their argument. As I say, Sir, instead of setting this off on the best foot, because of the ugly head of suspicion we deliberately set it off on the wrong.

MR. HAVELOCK: No, we leave it open.

THE CHIEF SECRETARY: Sir, I do not think I have anything else to say. If the Council is willing to be convinced by suspicion as against the reasoned arguments of the committees best qualified to investigate the matter and advise us, I can do nothing more. We have put our case. We hope that in this Council logical and reasoned arguments will have their sway—(hear, hear)—and will be listened to in spite of any preconceived ideas with which Members may come to the Council. I put the case forward, Sir, to the best of my ability and I recommend it to the Council.

The question was put and carried.

THE ATTORNEY GENERAL moved: That Council do resolve itself into Committee

of the whole Council to consider the Road Authority Bill, clause by clause.

THE SOLICITOR GENERAL seconded.

COUNCIL IN COMMITTEE

The Road Authority Bill

Clause 3.

MR. HAVELOCK moved: That in clause 3 (1) (e) the words "unofficial members" be inserted between the word "four" and the word "shall".

THE CHIEF SECRETARY: Government will accept that amendment.

THE ATTORNEY GENERAL: There is another amendment to clause 3, sub-clause (2).

MR. HAVELOCK moved: That the full stop at the end of sub-clause (2) of clause 3 be deleted, and the following words added "after consultation with the members of the Authority."

THE CHIEF SECRETARY: Government will also accept that amendment.

THE ATTORNEY GENERAL: It will be unnecessary, Sir, to delete the full stop. It will still be needed after the words that are inserted. (Laughter.)

The question was put and carried.

The question that clause 3 as amended stand part of the Bill was put and carried.

Clause 7.

MR. HAVELOCK: Mr. Chairman, I beg to move that clause 7 be deleted.

THE CHAIRMAN: Are you speaking again to that?

MR. HAVELOCK: I think the arguments have been bandied back and forth on both sides of the Council. I see no reason why I should speak. Everyone knows the arguments.

THE CHIEF SECRETARY: Mr. Chairman, the other side of the Council have made it quite clear in spite of the arguments that have been put forward that they intend to press this amendment. As I have already pointed out, the Government feels that it is entirely wrong. Nevertheless it recognizes that it is in a minority and that if pressed to a division it would be defeated. Therefore, although it will not vote for the amendment, it will not oppose it.

The question was put and carried. Government Members not voting.

Road Authority Bill

Clause 8.

THE ATTORNEY GENERAL: Sir, as Chief Technical Adviser to Government on the construction of Bills, it will now be my duty to propose a consequential amendment, that is to renumber clauses 8, 9, 10, 11, 12, 13, 14, 15, 16, 17 and 18, as clauses 7, 8, 9, 10, 11, 12, 13, 14, 15, 16 and 17 respectively.

THE CHAIRMAN: That means renumbering all the other amendments too. Would it not be convenient to go through the clauses under the present numbers and to take the renumbering subsequently?

THE ATTORNEY GENERAL: I am in your hands, Sir, if you prefer that course. I did propose to move the amendments to the clauses as renumbered, but whichever you prefer.

THE CHAIRMAN: I think we will go through the clauses as they stand and number afterwards. It is purely consequential.

The question that clause 8 stand part of the Bill was put and carried.

Clause 9.

THE ATTORNEY GENERAL: Sir, I beg to move: That sub-clause (1) of clause 9 be amended by inserting at the beginning of paragraph (g) thereof, the words "if it thinks fit". The reason for that amendment has already been indicated. It is that the Authority ought not to be required to delegate any of its powers unless it thinks fit.

The question was put and carried.

The question that clause 9 as amended stand part of the Bill was put and carried.

Clause 12.

THE ATTORNEY GENERAL: Sir, I beg to move: That paragraph (f) of clause 12 be amended by inserting at the beginning thereof the words "subject to any statutory requirement".

The question was put and carried.

The question that clause 12 as amended stand part of the Bill was put and carried.

THE ATTORNEY GENERAL: Sir, I beg to move the amendment that I moved before, that clauses 8 to 18 be respectively renumbered 7 to 17.

The question was put and carried.

THE ATTORNEY GENERAL: Sir, there is a further consequential amendment which has just been noticed. In clause 17 there is a reference to section 10 of the Ordinance, which should now be section 9. I therefore beg to move the substitution of the figure 9 for the figure 10 in clause 17. (renumbered 16).

The question was put and carried.

The question that clause 17 as amended stand part of the Bill was put and carried.

THE ATTORNEY GENERAL moved: That the Road Authority Bill be reported back to Council with amendment.

The question was put and carried.

Council resumed and the Member reported accordingly.

The question that the Report be adopted was put from the Chair and carried.

BILLS

THIRD READING

The Road Authority Bill

THE ATTORNEY GENERAL moved: That the Road Authority Bill be read a third time and passed.

THE CHIEF SECRETARY seconded.

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

ADJOURNMENT

Council rose at 12.30 p.m. and adjourned till 9.30 a.m. on Wednesday, the 20th December, 1950.

Wednesday, 20th December, 1950

Council assembled in the Memorial Hall, Nairobi, on Wednesday, 20th December, 1950.

Mr. Speaker took the Chair at 9.35 a.m.

The proceedings were opened with prayer.

MINUTES

The minutes of the meeting of 19th December, 1950, were confirmed.

PAPERS LAID

The following paper was laid on the table:—

By THE DEPUTY CHIEF SECRETARY:

The Report of the Select Committee on the Wages and General Conditions of Employment Bill.

MOTIONS

Mr. HAVLOCK: Mr. Speaker, I beg to move: That the Report of the Select Committee on the East African Power and Lighting Co., Ltd. (Validation and Licensing) Bill be adopted.

Sir, according to Standing Rules and Orders your Committee examined the preamble to the Bill and have made amendments to that preamble, but it is the opinion of the Committee that amendments which have been made do not materially vary the nature of the Bill as the amendments are really consequential to an amendment to clause 4, which I will deal with later.

Sir, we received evidence from representatives of the East African Power and Lighting Company and written evidence from the public. We went into the doubts expressed by the public and we have recommended that in order to meet these doubts that clause 4 should be altered to make it quite clear that the Company—that there is no question of the Company wishing to have any more indemnity under the provisions of the Bill than the indemnity of the consequences of the Company's failure to comply with section 48 and section 132 of the Electric Power Ordinance in the instances covered by the provisions of this Bill. There were doubts expressed, Sir, that clause 4 of the Bill might give exemption, rather more widely than the actual intention of the Bill. To emphasize that it is only the intention of

the Bill—it was only the intention of the Company that indemnity should be given to the particular items mentioned in the Schedule, that is to the particular omissions in obtaining licences for the particular machinery mentioned. That, Sir, we suggest, is made absolutely clear by first of all an alteration to clause 4—an amendment to clause 4—and an additional clause which would then be numbered 5. Both the amendment and the additional clause appear on the Select Committee Report. Also the matter, Sir, of retrospective operation was raised by a member of the public and we went into this closely and your Committee's recommendation is that retrospective operation will have to be included in this Bill as it was made clear that, according to the Ordinance, no licence could be issued after the installation of the machinery and, therefore, in order to regularize the position, retrospective operation was essential.

There were also certain doubts in the minds of witnesses as to the conditions which led to the Company not obtaining the requisite licences, especially as regards the Ruiru Power Station and the Parklands Power Station, which are mentioned in the Schedule. We went into this matter and your Committee is satisfied that there were certain circumstances which would allow for a reasonable excuse for the Company not having obtained such licences.

On page 5 of the Report we do mention a matter which may not be entirely connected with this Bill, but there is no doubt that there was doubt in the minds of the public as to whether the public would have sufficient opportunity to make objections against the erection of a power station or the licensing of plant, and we recorded our opinion on that matter as it seemed to be in the public interest to explain the present position with which we, in the Committee, are satisfied.

Sir, it is a short Report and there is only one matter of real importance, that is making it quite clear, as I said before, the Company is not indemnified except for the particular items mentioned in the Schedule and I think there are shown in the Report all the arguments for and against.

Therefore, Sir, I beg to move.

THE SOLICITOR GENERAL: I beg to second, reserving my right to speak later in a debate, if necessary, on the motion.

THE SECRETARY FOR COMMERCE AND INDUSTRY: Mr. Speaker, in rising to support this motion, I wish to say that the Government is satisfied that the East African Power and Lighting Company, Limited, have acted in completely good faith in connexion with the omissions which this legislation is designed to rectify. Those omissions, Sir—we are satisfied were caused by inadvertence and for the reasons set out in the petition and dealt with in the speech made by the hon. Member for Kiambu when moving the second reading of the Bill. There is no doubt that had the Company, in fact, applied for the necessary authorizations of the Government at the relevant times, they would almost certainly have been granted and, Sir, be fact is that the general public has benefited by increased supplies of electricity in times when they were urgently needed. The amendments proposed by the Select Committee, of which I was a Member, clarify the intention of the legislation, and I beg to support.

THE ATTORNEY GENERAL: Mr. Speaker, this Report did not reach me in time to enable me to give it a great deal of study, but I do not feel quite happy about the wording of the suggested new clause 5 and I want to suggest some words for the consideration of the Mover.

As clause 5 now reads in the Report, the wording is "The provisions of this Ordinance shall not be in derogation of the provisions of the Electric Power Ordinance as amended" and so on. But when we turn to the Bill, we find that clause 2 starts off with the words "Notwithstanding anything to the contrary in the Electric Power Ordinance, the East African Power and Lighting Company, Limited, shall be deemed to have been granted a Generating Station licence in respect of each of the first generating stations described in the first column of the schedule", and so on. Similarly, clause 3 commences with the words, "Notwithstanding anything to the contrary in the Electric Power Ordinance, the plant and works described . . . We are, therefore, I think, in clauses 2 and 3 of the Bill derogating

from the Electric Power Ordinance and then we go on in clause 5 to say that nothing in this Ordinance shall be in derogation, which seems to me to be a contradiction. I speak subject to correction as, as I say, I have not had time to study the Report very fully, but I would suggest for the consideration of the hon. Mover that the words "except as hereinbefore expressed" might be inserted after the word "not" in clause 5. The suggested clause 5 would then read "The provisions of this Ordinance shall not, except as hereinbefore expressed, be in derogation of the provisions of the Electric Power Ordinance" and so on. I do not know whether the hon. Mover would accept that or whether I should formally move an amendment to the Report.

THE SPEAKER: I think you should move it and then we shall have it seconded I suppose, then I can propose it and then we know where we are.

THE ATTORNEY GENERAL: Then, Sir, I move an amendment to the Select Committee Report to insert in the new clause 5 suggested in paragraph 5 after the words "shall not" the words "except as hereinbefore expressed". There will have to be a comma after "not" and after "expressed" but that can be done without mentioning it expressly.

MR. SALTER seconded.

Mr. HAVLOCK: Mr. Speaker, may I state that I am very grateful to the hon. and learned Member for pointing out what is an obvious omission that we certainly did not see and naturally we accept it.

THE SPEAKER: I will not formally put the question. I take it that the amendment is agreed.

The question that the Report of the Select Committee appointed to report upon the provisions of the East African Power and Lighting Company, Limited (Validation and Licensing) Bill, be adopted, was put and carried.

BILLS

THIRD READING

THE SPEAKER: In consequence, or in accordance with the Standing Rule and Order No. 106, I now put the question that the East African Power and

[The Speaker]

Lighting Company, Limited (Validation and Licensing) Bill, be read a third time and passed.

The question that the East African Power and Lighting Company, Limited (Validation and Licensing) Bill, be read a third time was put from the Chair and carried.

The Bill was read a third time accordingly and passed.

MOTIONS

THE MEMBER FOR EDUCATION, HEALTH AND LOCAL GOVERNMENT: Mr. Speaker, in this motion involves expenditure, may I state that I have His Excellency's permission to introduce this into Council.

Sir, I beg to move that the motion standing on the Order Paper be adopted.

During the debate, Sir, on what is known as the Beecher Report on African Education and on the Sessional Paper No. 1, of 1950, which was laid dealing with that matter, the hon. African Members put forward certain views which they held very strongly in so far as the treatment of teachers was concerned. They had expressed those views also in discussions with my friend, the hon. Deputy Chief Secretary, and myself and since that debate, Sir, I have had the pleasure of going round the country—Nyanza, the Coast and Central Provinces, and listening to the expressions of opinion of African teachers. I must reiterate, Sir, that the recommendation of the Beecher Committee on salary scales would, in the opinion of this Government, and it is still *its* opinion, have benefited African teachers generally, but there is no question, Sir, that there has arisen a very difficult and deep feeling in the African teaching profession in this matter. I think, Sir, I might give a short résumé of the history, which will, perhaps, explain how that feeling has come to be so deep.

Under the 1945 Grant-in-Aid Rules, all teachers in aided posts were paid at Government salary scales whether the schools were aided by the Central Government or by African District Councils. On the introduction of the new terms of service under the Report of the Salaries Commission the African District Councils could not bear the cost of the new salaries and it was agreed that they should be allowed to introduce their own. Some Councils, Sir, have introduced scales very

close to those of Government but others are considerably lower. This has meant that there has been differentiation in teachers' salaries on the one hand in any Government school and any schools aided by Central Government and on the other hand in schools aided by African District Councils. There has been also differentiation in salaries paid to teachers in different districts and this has undoubtedly caused a great deal of discontent amongst the African teaching profession.

Recommendation 120 of the Beecher Report recommends that common terms and conditions of service be applied to all African teachers in grant-aided and publicly financed schools. So far, so good. And then the Report went on, Sir, to recommend a basic salary scale which is lower than that now paid to teachers in Government Service. There can be little doubt, Sir, that this has caused an additional amount of discontent, and whatever the real and logical position may be, there has arisen this deep feeling of discontent amongst the African teachers of this Colony.

I think it is correct to say, Sir, that a lot of the dissatisfaction about the "four-increment" drop—if I may so call it—has arisen from this misunderstanding but, however, Government, Sir, having listened to all points of view in this matter, is now convinced and prepared to put forward an alteration in its previous recommendations. It means that we should now reject the proposition of zonal salaries. It means that we should reject the "four-incremental" drop and introduce the salaries which are shown in (b) of this resolution, with effect from the 1st January, 1952. I think the scales there, Sir, need very little comment from me, except to point out that there is a new salary scale in the K.T.I Teacher Group of £154 to £223.

We hope, Sir, that this will have a psychological effect on the entire teaching service. We have recognized, as Government stated in the Report of the Beecher Committee Sessional Paper, the need for attracting the best possible quality of students into the teaching profession, and we hope that the proposition we are now putting forward will enable the stream of good quality students to begin flowing again. There is already evidence that in some areas the possibility of reduced salaries has

[The Member for Education, Health and Local Government]

affected the recruitment at teacher-training centres, and that secondary school pupils have begun to look for other forms of employment and training. Though this may help other training centres for the time being, in the long run it will mean a general lowering of education standards unless we get good people taking up teaching for, as I said in this Council some time ago, Sir, you can have pupils, you can have buildings, but if you have not got good teachers the educational standard will continue to be low.

This, Sir, will mean—if we follow out the recommendation of the Beecher Report—that African District Councils' expenditure on education should be based on their present expenditure, with a gradual increase through the improvement of tax collection, and an increase in the number of taxpayers: that means, the difference between African District Council expenditure and the total expenditure on intermediate and primary education is to be met by a subvention from Central Government. This will mean an increased subvention from the Central Government of some £40,000 in 1952—a figure which will gradually increase to some £80,000 over the next ten years.

Now, Sir, I think we should know exactly where we stand in this particular matter. If and when available finance restricts the amount to be spent in the expansion of African education, the additional expenditure now proposed may mean additional restriction in that expansion, for more money will be being spent on fewer teachers. When the limit of finance available for education is reached, that position will also have been reached.

I would like, Sir, here to refer to another aspect of our attempt to attract good students into our teaching profession, and that is the question of recommendation 105 of the Beecher Report which said that Government should consider the introduction of fees at teacher-training centres. Well, Sir, I would like to state now that Government has considered this recommendation, and does not propose to introduce fees at teacher-training centres for a period of three

years. At the end of that time the question will be considered again in the light of the number of teachers coming forward for training. One of the factors that has led Government to come to this decision is the fact that no fees are charged in other similar departmental training centres, and that the introduction of fees in teacher-training centres alone would, obviously, adversely affect the recruitment of the best type of student at a time when it is essential that we should have plenty of candidates of the proper qualifications and character for training.

The last part of this motion, Sir, deals with the creation of new posts in the Education Department. Now, Sir, it is unlikely that any additional expenditure will be involved in 1951 in these promotion posts but Government stated, in the debate on Sessional Paper No. 1 of 1950, that with merit, ability, experience and integrity of purpose no post in the educational framework is closed to an African. Government wishes to show that it intends to carry out that undertaking, and with that in view, it is now placing before the Council the new posts listed at (a) and (b) in the latter part of the motion. It is unlikely that money will be spent in 1951, Sir, as the teachers concerned in this, particularly the non-graduate teachers, will be put on probation to be given a chance of proving their ability to do the work and be placed in the additional Assistant Education Officers' group. If satisfactory, they will be brought into that scale. That scale, Sir, fits in with paragraph 12 of Sessional Paper No. 2 of 1948, which gave a special scale for people of outstanding ability who could not be regarded as qualified to enter the unified service.

(b) gives a position of one Education Officer (African) on a scale £630 by £27 to £684. Now, it is quite possible again, Sir, that this post will not be filled for some years. The man concerned—or the men concerned—will have to prove themselves through at any rate some portion of service in the Assistant Education Officers' posts. These will be promotion posts and members will not—I say "these" because in the course of time there will obviously be others, to be there will obviously be others, to be filled by people of outstanding ability and proved integrity. The Education

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Officers' posts salary scale as shown here, is at three-fifths the rate—which was recommended by the Salaries Commission. Now, Sir, African teachers will be tried out in responsible posts both in the schools and in the field of inspectorial duties. It is the opinion of Government that there must be an equal attraction for a man whose bent lies in the field of teaching through contact with his pupils, as in the field of inspectorial work. If these men show by the way they carry out these duties that they are able in all respects to do and can do the work of an Education Officer, then in due course they will be recommended to the Secretary of State for appointment to these new salary scales of the Education Officer posts as members of the unified service.

I am so certain, Sir, that there will be general agreement on the proposition that Government is now putting forward, that I feel it unnecessary to delay the Council longer in argument as to why this should be done. I will merely say that I believe that if the Council accepts this proposition, it has taken another step in the way to building up the African teaching profession to the standard of tradition and quality of teachers so important in our educational structure, for only through the production of finer teachers can we impart to our people that knowledge which is essential, and make certain that our education progresses in the right direction.

Sir, I beg to move.

THE SOLICITOR GENERAL seconded.

LADY SHAW: Mr. Speaker, I am not going to oppose this motion because I approve of a great deal of it, but I regard a good deal of it at the same time with a very deep regret. I feel that as a signatory of the Beecher Report I could hardly regard it in any other way. So much of the objection to the revised salary scales for teachers has, I think, been worked up. There was no question but that under those revised scales, about 95 per cent of the teachers would have been better off. The teachers who at the present time hold the old terms, would have been unaffected by them, and only the new incoming Government teachers would have been affected by them. At

the same time, other teachers not in Government service would have been greatly benefited. I cannot quite understand why there should have been such an uproar on the question of this revised scale of teachers' salaries.

Also the zoning. I deeply regret that this zoning has been removed. I understand that it has been practised in England. During our investigations at the time of the Beecher Report we realized that there was hardship to certain teachers who lived in the more expensive parts of the country and who lived far from their homes. We believed, and I think we believed with justice, that a certain amount should be paid to those men who have to live in towns such as Nairobi, where the cost of living was a good deal higher than in the reserves and country places, and where they received at the present time the same salary as others. We believe that those salaries should be increased by an allowance made for their high cost of living. I still believe that that was the proper way to deal with that problem. I do, of course, understand that this question of the four-incremental reduction had its disadvantage. I think more particularly for women teachers. In the case of the women teachers they come into the service much the same age, or, perhaps, a little older, than some of the men, and their teaching life is extremely short, because they usually marry and cease to be teachers and, therefore, they probably never rise to the higher realms of their possible salaries. I do sympathize considerably with that point of view in the case of women teachers, but I feel at the same time, as I say, great regret that this motion has been brought forward, or this part of the motion which deals with the revision of the salaries and also of the doing away with the zonal treatment of these salaries. I do regret that very greatly because I think that it is putting a very heavy burden on the educational vote without, in my view, full reason.

I am not going to oppose this motion, Sir, but I should like to record that I very strongly disapprove of it.

MR. OIANGA: Mr. Speaker, I rise to welcome wholeheartedly the motion before the Council. When the Beecher Report was being debated here, the African Members in this Council were

[Mr. Oiangang]

opposed to the adoption of the White Sessional Paper as well as the Report, and this move this morning, the resolution this morning before the Council, goes away with at least two of the most objectionable points which made the Africans feel they would be absolutely unable to support that Paper.

In welcoming this motion, Sir, I should like to say that the African teacher, who for some time has been a little disheartened because of these particular points here, will be very much relieved and will again feel alive to his duties to the country and to the people. Actually, the motion which is put before the Council this morning, quite apart from (a) and (b) at the last point, does not do very much more than just put the African teacher where he had been put by the Salary Commission recommendations, and I hope that people who might feel that perhaps this is going a little too far would realize that it does not in the least do that. It just puts them where they were put by that particular Commission.

With regard to the three additional Assistant Educational Officers, Sir, we feel it is welcome news. The difficulty with Africans here in this country has always been the non-existence of posts of that kind, not only in the teaching profession, but also in other Government Departments, and there have been views voiced here again and again for the creation of posts of this kind, and I can only again say that we welcome the move very much.

With regard to (b), Sir, I am a little sad to hear that although welcome as we feel the move has been, it is not, according to the words of the hon. Member, intended to do anything about it for some years to come. I think that that should be left to the circumstances. It might be useful to leave the post open as early as possible for those who feel they are able to satisfy the demands to come forward and then their application might be considered, but it might not be really helpful to bar the door completely so that people who can apply cannot apply because it is not available.

I agree that for some time it would be difficult to find people with the qualifications to take it, but at the same time I feel that it should be left open so that

applications could be considered and turned down on their merits or demerits as they come forward.

On the whole, I feel satisfied, and I beg to support.

MR. MATIUKU: I would like to make just one small comment, Sir, in support of this motion. The hon. Member told us that Government has decided not to accept the recommendation of the Beecher Committee regarding the charging of fees in teacher-training centres. I think it is wrong not to charge fees in teacher-training centres. I have always thought it is a bad principle not to charge fees in teacher-training centres. The hon. Member said that one of the points which have influenced Government not to accept that recommendation is that other professional training centres do not charge fees. I would like to put it the other way, that other training centres should be influenced to charge fees in training these men. I know I am in a minority in this matter. Quite a number of people think that after pupils have been paying fees from the Primary School to the Intermediate School to the Secondary School and up to Makerere, they should now discontinue that principle of charging fees in the teacher-training centres. I disagree with them. It may be said, Sir, that one of the very important reasons for not doing so is, as the hon. Member said, to attract men of ability and integrity to come to the teaching profession, but I do not think the charging of fees should influence men who want to come forward to become teachers, particularly when now I feel happier that the four-increment business has been removed. In other words, that teachers now will start at par with trained men or women who go to other Government departments. However, I just want to say that, perhaps, the Government may go into this matter in future with a view to influencing other training departments like the Post Office or the medical training schools. They do not charge fees, they pay these men pocket money instead of charging them fees. (MR. HAVELOCK: Shame.) Influence them to come forward, to my way of thinking, that these men should be charged fees when they are in training.

Well, some Africans who read what I have said today would say that I am not acting in their interests, but if their

[Mr. Mathu] interests are to be spoon fed, I say no; charge them fees in the teacher-training centres, charge them fees in the Railway, the Post Office, in the medical training schools, everywhere. I think I have the support of quite a lot of Members—who are charged with me with the responsibility—that we do not want any money out of the African pocket to go somewhere else. This time I am with him but as it is not a part of the motion, Sir, I do not think that I need take this matter further. But I would just like to put that on record, and at the same time, Sir, congratulate the hon. Member for Education in creating what I consider high posts now in, at any rate, one Government department and the time for filling the post under the latter part of this resolution (b), for some years to come—I would like to suggest to the hon. Member that if he wanted to fill that post next year, not 1952, and he looked around in the country, he could get a man to fill that post—an African to fill that post—Sir, I hope some years does not mean 20 years, or 30 years, it may, perhaps, be two or three years perhaps, but apart from that comment, this motion, as my hon. friend, Mr. Ohanga, has said, was very warmly welcomed by the African representatives in this Council.

Sir, I beg to support.

MR. JEREMIAH: Mr. Speaker, in joining whole-heartedly in the welcome extended to this motion, I have only got a few remarks to make, Sir, with regard to what my hon. friend Mr. Mathu has just said in connexion with charging fees to teacher-training centres. Sir, the reason why Africans object to that is not because they do not want to pay fees, but most of the African teachers who do the training—some of them have been teaching first and they have been paid for the services they have been rendering, in teaching services. When they are on a lower teaching grade for some years, they go back to school for further training. Now, Sir, in such cases, it will not be possible or advisable that they should be charged fees when, in actual fact, they have been receiving salaries.

Another point, the Africans as a whole are not wealthy, I should say, and the fees they have been paying at school—

they have been doing that through a very hard struggle.

MR. MATHU: They can struggle for another year.

MR. JEREMIAH: The hon. Member says they can struggle for another year but the proposal at the moment says that they should continue in their teaching-training centre for two or three years. That makes the burden heavier. The principle, Sir, if it is as good a one as it is said, well it would be a good one for all departments which take their students, for training before they become qualified to serve in their departments. But I think most of the departments have realized the financial position of Africans and that is why they do not charge fees. In actual fact, they assist them by pocket money which is very necessary, otherwise it would not be possible for most of their students to earn or live at all. (Mr. MATHU: Question.)

I am very glad, Sir, to see that the question of zoning is to be dropped. That takes away one of the greatest objections we had. We believe that teachers should be made, wherever they are, to start at the bottom of the scale, I suggest in any place. We welcome most whole-heartedly, Sir, the proposal that some Africans shall be appointed to the post of Assistant Education Officers. I believe, Sir, as my hon. friend Mr. Mathu has said that such people can be obtained very shortly, and it is not necessary that it should take a longer time to get them. The teaching services, Sir, are now being placed where they were in 1943 and I believe, Sir, that pupils now will be very much attracted to the service and will come forward in great numbers, and then we shall also be able to get the qualified and very good teachers.

Sir, I beg to support.

MR. PRESTON: Mr. Speaker, Sir, I would like to congratulate the hon. Member for African Affairs, Mr. Mathu, on his most realistic attitude to this. He has said much about the question of payment for instruction received but there was one small point which he did not touch upon, to my mind sufficiently, and I would like Government to consider this: that is the question in those cases where a man goes on for further training in teaching or any other profession, they should have due regard for the man who

[Mr. Preston]

is a first-class man—but who is unable to meet any education commitment in the form of a fee. I would ask, Sir, if Government intends at any time to charge for instruction, that they should make quite certain that there are an adequate number of bursaries or scholarships to look after the really first class man who is, for some reason or another, unable to provide the fees required.

THE MEMBER FOR EDUCATION, HEALTH AND LOCAL GOVERNMENT: Mr. Speaker, if I may deal with the question of fees first, Government will, of course, take full note of the comment of the hon. Member for Nyanza and also, Sir, of the comments of the hon. Member for African Affairs, Mr. Mathu. I thought, Sir, that I gave the reasons why, at this particular stage, it was impracticable for the Education Department alone to charge fees. The belief of Government too is that the charging of fees would have a bad effect upon recruiting, but we have given ourselves a three-year period in which to see what happens. At the end of that three-year period I am sure that my hon. friend, the Secretary of the Treasury, will bear fully in mind what Mr. Mathu has said when he is discussing the question of whether fees should be charged or not. Sir, this motion does not put the African teaching profession back where it was in 1943. It puts it further ahead, Sir, because it carries with it an acceptance of a recommendation by the Beecher Committee, recommendation 120, that common terms and conditions of service should be applied to all African teachers at grant-aided and publicly financed schools and ensures that the whole of the teaching profession will gradually move on to these terms of service. The African teaching profession is in cold figures some £40,000 better off than it was.

The hon. Member for African Interests, Mr. Ohanga, and, I think, Mr. Mathu, had misunderstood something that I said. I think the hon. Mr. Jeremiah had grasped it. In so far as the Assistant Education Officers are concerned, we propose to try them out immediately and we hope that in 1952, we shall be able to say that one, two or three of these posts have been filled. It was, Sir, in so far as the Education

Officer that I said—and I repeat my words—it is quite possible that it will not be filled for some years. I did not say it was Government's intention, I said it is quite possible, because it is obvious, Sir, that a man to have reached that standard in the Education Department must at least have passed through some portion of the Assistant Education Officer's post, in order to have gained the necessary experience. That is why I say, Sir, it is quite possible that it will be some years before it is filled.

Now, Sir, I quoted paragraph 12 of the Sessional Paper No. 2 of 1948 in my opening speech, and in view of the remarks that have been made about the Education Department being 'the only one in which this is shown, I would like to quote paragraph 12 from that report—

"AFRICANS POSSESSING A DEGREE OF A BRITISH UNIVERSITY OR AN EQUIVALENT QUALIFICATION.

12. The Commission has provided no scale for Africans who, though not up to the standard required for the Unified Services and so not eligible for the benefit of the three-fifths rule (see paragraph 7 of this Paper), possess an English or comparable degree or qualification and so merit a somewhat higher level of remuneration than the Makerere officer. For this group (which will be very small in numbers) the scale £300; £300; £315 by £15 to £420 (promotion bar); £440 by £20 to £600 is suggested. Appointment to this scale will be made by the Governor on the advice of the appropriate Appointments Board."

—so that as far back as 1948, Sir, the Government expressed its intention and its willingness to do this and it is open to any African officer, I think, of merit and possessing those qualifications.

I think, Sir, that covers all the points with the exception of the hon. and gracious lady, the Member for Ukamba. All I can say in reply to the gracious lady is, Sir, that we appreciate all that she feels and I can assure her that this decision has not been taken without considerable heart searching and not been taken until we were convinced that it is the best step we can take in the interests of African education. It is an earnest of

[The Member for Education, Health and Local Government]

the fact that Government does listen to the arguments of hon. Members opposite and is prepared, if necessary, to retrace its steps, and, Sir, we have done it in the firm belief that in doing it we are carrying out something which will benefit African education to a great extent. And, having done it, Sir, I must say that I hope the hon. African Members opposite will take this in no grudging spirit, that they will carry home to the African peoples the need for co-operation and endeavour, now that these concessions have been made, that they will say to their people that here is the earnest, that we are willing to do all we can to help it forward and that from this time on the co-operation of the African people is essential if progress in this sphere is to be made.

Sir, I beg to move.

The question was put and carried.

BILLS

SECOND READING

The Accountants (Designations) Bill

THE SECRETARY FOR COMMERCE AND INDUSTRY: Mr. Speaker, I beg to move that the Accountants (Designations) Bill be read a second time.

The reasons for this legislation, Sir, are set out in the memorandum of objects and reasons. I wish, however, to remove a possible misapprehension. The Bill is not in any way designed to stop any person practising as an accountant. It is designed to protect the general public as a whole and the holders of certain recognized professional qualifications against abuse. In the United Kingdom, Sir, it is universally accepted that a chartered accountant is a person who has had a very thorough grounding in his profession and who has passed very strict examinations in order to qualify in it. In fact, when members of the public consult such a man they know that they are entitled to expect a very high standard of professional experience and knowledge.

The same remarks apply to many organized bodies of accountants recognized and respected in other parts of the world.

This Bill will prevent the indiscriminate use of such designations as

chartered accountant in Kenya and restrict its use and that of other professional designations to the members of the appropriate recognized societies and institutes who are qualified to use them. It will ensure that the public will know, when consulting an accountant, what his qualifications are and where he obtained them.

Sir, I wish to give notice that it is the intention to move the following amendments at the committee stage. These are redesignated to place the institutes, societies or bodies mentioned in the Schedule to the Bill in the correct order of seniority and to give statutory recognition to the Institute of Chartered Accountants of India.

The amendments, Sir, to the Schedule are (i) by altering the order of the first three items so that the Society of Accountants in Edinburgh comes first, the Institute of Accountants and Actuaries in Glasgow comes second and the Society of Accountants in Aberdeen comes third—(laughter)—and (ii) by adding after the last item a new item as follows:—

In column 1.—The Institute of Chartered Accountants of India.

In column 2.—Chartered Accountant (India).

In column 3.—A.C.A. (India) or F.C.A. (India).

Sir, I beg to move.

LT.-COL. GHERSIE: Mr. Speaker, I beg to second, reserving my right to speak later, if necessary.

IN COMMITTEE

THE ATTORNEY GENERAL moved: That the Council resolve itself into Committee of the whole Council to consider the Accountants (Designations) Bill clause by clause.

THE SOLICITOR GENERAL seconded.

The question was put and carried. Council in Committee.

The Accountants (Designations) Bill
The Schedule.

THE ATTORNEY GENERAL moved: That the Schedule be amended—

(i) by altering the order of the first three items so that the Society of Accountants in Edinburgh comes first, the Institute of Accountants

[The Attorney General]

and Actuaries in Glasgow comes second and the Society of Accountants in Aberdeen comes third;

(ii) by adding after the last item a new item as follows:—

The Institute of Chartered Accountants of India.	Chartered Accountant (India).	A.C.A. (India) or F.C.A. (India).
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The question was put and carried.

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

THE ATTORNEY GENERAL moved: That the Accountants (Designations) Bill be reported back to Council with amendment.

The question was put and carried.

Council resumed and the hon. Member reported accordingly.

THE ATTORNEY GENERAL moved: That the Report of the Committee of the whole Council on the Accountants (Designations) Bill be adopted.

THE SOLICITOR GENERAL seconded.

The question was put and carried.

BILL

THIRD READING

THE ATTORNEY GENERAL moved: That the Accountants (Designations) Bill be read a third time and passed.

THE SOLICITOR GENERAL seconded.

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

SEASONAL GREETINGS

THE SPEAKER: That, as far as I am aware, concludes the business of today and, hon. Members, concludes the business of this session. (Applause.)

May I offer my congratulations to hon. Members for getting through the Budget Session so expeditiously and let us hope that good work will continue and may I, in conclusion, tender to hon. Members my best wishes for the Christmas and for a happy New Year. (Applause.)

THE CHIEF SECRETARY: Mr. Speaker, speaking on behalf of all Members on the Government benches, may I offer you, Sir, and Members opposite, and also the clerks and reporters, the compliments of the season, a very happy Christmas and a prosperous New Year.

MAJOR KEYSER: May I, Sir, on behalf of Members on this side of the Council offer you, Sir, and all Members on the other side also the compliments of the season and may I also, Sir, congratulate all Members on having got to the end of a difficult session in a most friendly manner. I think, Sir, that it is an example we can set for future Legislative Council discussion on Budgets. (Applause.)

ADJOURNMENT

THE SPEAKER: Well, I think I had better have the last word—(Laughter)—and say that Council will now stand adjourned until the second Tuesday in February of next year.

Council rose at 10.50 a.m. and adjourned till Tuesday, 13th February, 1951, at 10 a.m.

WRITTEN ANSWERS TO QUESTIONS

No. 31 of 1950

MR. MATHU:

Is Government aware of the irritation experienced by Africans wishing to pay lawful visits to the Coast Province as a result of the application of the Defence Regulations (Limitation of African Travel to the Coast Province)? If the answer is in the affirmative, will Government please revoke these discriminatory regulations forthwith?

Reply:

The answer to the first part of the question is in the affirmative. The Government, however, considers that the irritation caused to the African community in Mombasa by the influx of unwanted visitors to the already overcrowded Island, at a time when housing is inadequate to the local demands, must likewise be considered.

The Unemployed Persons (Direction to Labour) Bill will not become effective in Mombasa until 1st July, 1950, and will not be fully operative until about October of this year.

In order not to embarrass the administration of Mombasa, already working under great stress owing to overcrowding, it is proposed to leave the Defence (Limitation of African Travel to the Coast Province) Regulations in being until 31st October, 1950, when they will be revoked.

No. 32 of 1950

MR. MATHU:

As Makerere College is not intending to start university degree courses in Medicine in the near future, and as the need for fully qualified African doctors is very great, will the Kenya Government state whether they are soon going to send Africans to the United Kingdom to be trained as doctors under some Government overseas education scheme?

Reply:

The Government is prepared to consider on their merits applications for bursaries or scholarships from Africans desirous of proceeding to England to qualify as doctors.

Normally, however, such an application would only be entertained if the applicant has passed through the full Makerere course and qualified as an African Medical Officer.

No. 33 of 1950

MR. A. PRITAM:

Is it a fact that the Maize Marketing Officer, Kericho, has also been appointed Secretary and Executive Officer to the Kipsigis Traders' Co-operative Society, Ltd., Kericho, and if so will Government please make a full statement:—

(a) In regard to the business and commercial knowledge and experience of the Maize Marketing Officer concerned?

(b) In regard to the stock of the firm if it was properly counted and proper statement of assets and liabilities prepared and carefully scrutinized before the appointment became effective?

(c) In regard to Government's liability to make good losses if the enterprise failed for one reason or another, since Africans now regard the concern as Government directed if not sponsored?

(d) In regard to Government's future policy under which Government officers will be instructed to assume full charge of private undertakings instead of giving helpful advice and direction to Africans who seek them or stand in need of them as was the case hitherto?

(e) If the Nyanza Produce Marketing Committee, Kisumu, was consulted before making appointment?

Reply:

It is not a fact that the Marketing Officer, Kericho, has been appointed Secretary and Executive Officer to the Kipsigis Traders' Co-operative Society, Ltd., Kericho, and therefore the further questions put by the hon. Member do not arise.

2. For the information of the hon. Member a brief history of this matter is given below:—

On the instructions of the local authorities of Kericho the Marketing Officer

undertook to give advice and to assist the Kipsigis Traders' Co-operative Society, Ltd., in carrying on their business. In addition, in order to safeguard the members and to overcome the objections of the Society's bank to the operation of a current account by Africans unknown to them, who had no experience in commercial matters, the following clause was included in the by-laws of the Society:—

"Except with the sanction of the General Meeting all documents, contracts and cheques shall be signed for the Society by the Marketing Officer and one of the following officers:—

Chairman.

Vice-Chairman.

Secretary."

The Marketing Officer also assisted the Society in obtaining trade goods.

3. Marketing Officers for administrative purposes are controlled by the Agricultural Department. Their duties are primarily concerned with the marketing of native produce up to the time when it is placed on rail, and it is not the policy of the Government that they should take any part in trade. No Government Officer has been instructed to assume charge of private African undertakings and the policy is that the activities of Marketing Officers in regard to such undertakings are confined to giving advice if requested to do so. No liability would be accepted by the Government in the event of the financial failure of any African Trading Society.

4. It is considered that the Marketing Officer, Kericho, should not have been required to sign cheques on behalf of the Kipsigis Traders' Co-operative Society, Ltd., and that he should not have been involved in any way with the purchase of trade goods on behalf of the Society and instructions have now been issued which will restrict the activities of this Officer, and of Marketing Officers generally to their normal functions.

No. 34 of 1950

MR. HAVELOCK:

(a) Is it a fact that Mr. Tom Driberg, M.P., asked the Colonial Secretary recently for information regarding the resolution passed by farmers and other

employers at Limuru on 20th May concerning Africans who took part in the recent strike.

(b) If the answer to (a) is in the affirmative, will Government publish the full text of the Colonial Secretary's reply as soon as it is made in the House of Commons in the local Press.

(c) Further, will Government give an assurance that all the relevant information has been conveyed to the Secretary of State, especially the fact that the strike was illegal.

Reply:

(a) Yes, Sir.

(b) This is a matter for the Secretary of State for the Colonies, who has indicated that he has no objection to the publication in the local Press of the full text of his reply, and this will be arranged.

(c) Yes, Sir. Full information regarding the recent strike has been supplied to the Secretary of State for the Colonies, including the fact that many of the strikers were acting illegally.

No. 50 of 1950

MR. SHAYR:

Is the Government aware that there is an ever increasing waiting list for admission to the Arab Primary School in Mombasa? If so, what is the Government doing to remedy the situation in the way of providing good teachers and extra accommodation?

Is it true that Arab teachers have been applied to teach Arabic in Arab schools and the Government has not replied to these applicants? The Government should by now be aware of the anxiety of Arab parents who have made constant representations in this connection and if the above be true, what reasons can the Government advance to explain its attitude?

Reply:

Government is aware that there are now 108 pupils on the waiting list of the Arab Boys Primary School in Mombasa. This is not due to shortage of accommodation. When the Arab Secondary School was opened sufficient accommodation became available in the Primary School for 15 classes but there are still only 10 classes

owing to the shortage of teachers. This is being remedied by the training of Arab teachers at Dolé, Zanzibar. Three new teachers will complete their training there at the end of this year and their employment will enable all the 108 pupils on the waiting list to be admitted to the school in January, 1951. Government has made arrangements with Zanzibar for the admission of four Arab students to the Training School each year and so there should be no further shortage of staff in the Arab Primary Schools.

It is not true that qualified Arab teachers have applied to teach Arabic. Government has attempted to recruit teachers of Arabic from Aden, Zanzibar and even as far afield as Egypt and Palestine, but so far without success.

No. 51 of 1950

MR. SHAIKH:

What steps has the Government taken regarding the petition sent by Mombasa Muslims in connexion with Wakf Property and Wakf Commissioners about six months ago? Is the Government aware of the disturbance that this matter is causing to Mombasa Muslims and in view of this will Government take steps immediately to implement the decisions arrived at in the petition referred to above?

Reply:

The Government has no knowledge of any petition in connexion with Wakf properties from Muslims in Mombasa since that dated 21st October, 1948.

2. The Wakf Commissioners have forwarded to the Government the draft of a Wakf Commissioners Bill which is intended to replace the Wakf's Ordinance, 1900.

3. The Government has not as yet been able to consider the introduction of this Bill owing to the great pressure of other urgent legislation.

4. The matter is now being fully investigated with a view to introducing legislation to amend the law of the Colony relating to Wakfs as early as possible. It should be borne in mind, however, that the matter is a complicated one and that it will require the most careful consideration and consultation with the Wakf Commissioners and with other authorities on Muslim law and custom.

No. 52 of 1950

LT.-COL. GIBBS:

Will Government please state with regard to Kenya income tax:—

- (1) Total tax assessed to date in respect of year of assessment, 1948?
- (2) The allocation of the amount so assessed between persons other than individuals and between individuals according to race?
- (3) In the light of present knowledge and estimate of the figure of tax not assessed at 31st December, 1949, in respect of all years of assessment up to and including 1949?
- (4) In respect of tax collected in 1949, the amount so collected in respect of each separate year of assessment?
- (5) The estimated number of assessments to be raised in respect of 1950 year of assessment and the amount to be collected in respect thereof from each of the following:—
 - (i) Individuals with incomes of £500 p.a. or less?
 - (ii) Individuals with incomes of more than £500 p.a.?
 - (iii) Persons other than individuals?
- (6) When it is expected that collections will be brought up to date to the extent that not more than the equivalent of one year's assessment will remain uncollected at the end of a year of assessment?
- (7) If delay in bringing assessments and collections up to date is due to difficulties in obtaining and retaining suitable staff, what these difficulties are and what steps are being taken to remedy them?
- (8) If delay in bringing assessments and collections up to date is due to complicated legislation, giving rise to difficulty in correct assessments, whether any simplification of legislation is being considered?
- (9) Whether expenses incurred by professional persons proceeding overseas for refresher courses may be considered a legitimate expense for income tax purposes, as is provided for in respect to persons proceeding overseas on business?

(10) Whether it is prepared to grant a reasonable period of extended payments of income tax arrears, after due date, where the amount involved covers a period of more than one year and where an immediate payment would constitute a financial embarrassment to the person concerned?

(11) Will Government grant income tax allowances on contributions by Kenya residents to the British National Health Insurance scheme?

Reply:

It is regretted that it is not possible to reply fully to the question asked by the hon. Member owing to the lack of up-to-date statistics, and in view of the substantial arrears of assessment work it would not be in the public interest to divert the energies of the staff to this work at the present time. The Department is taking steps to bring the statistical work up to date and the full information now asked for will be made available in due course. Subject to this, the reply is as follows:—

- (1) Approximately £7,675,000.
- (2) It is regretted that this information is not yet available.
- (3) Without examining all returns to ascertain the level of income returned it is not possible to make a reliable estimate. It is considered that the following figures give a broad indication of the approximate amounts involved:—

Assessment year 1947 and prior years	700,000
Assessment year 1948	1,000,000
Assessment year 1949	1,800,000
Total	£3,500,000

(4) The figures for each separate year of assessment are not available, but the total collection for the year was approximately £1,800,000 divided:—

Years of assessment up to 1948	1,600,000
Year of assessment 1949	200,000

- (5) It is regretted that this information is not available.
- (6) The collections cannot be brought up to date until the establishment of the Department is filled. The present number of assessors in the Department is approxi-

mately 50 per cent of the approved establishment. If all posts could be filled by the end of this year the position envisaged in the question might be achieved during 1953.

(7) The delay in bringing assessments and collections up to date is entirely due to the difficulties of obtaining and retaining trained staff. Since it is essential that officers should undergo an extended and complex course of instruction to qualify them fully for their duties and that this course cannot be given in East Africa, the normal source of recruitment is from officers trained in the United Kingdom Inland Revenue Department. Owing to staff difficulties in that Department the Board of Inland Revenue has so far been unable to release any officers, although it has been agreed in principle for some years that this will be done when circumstances permit. Recruitment has, therefore, been confined mainly to qualified accountants who normally have suitable qualifications. Owing to the existing demand for these accountants the terms and conditions of service in the Department have not proved adequate to attract and retain sufficient candidates. Steps have been taken continuously to secure candidates from the United Kingdom, South Africa and as far afield as New Zealand. The Colonial Office and the Crown Agents repeatedly insert advertisements in suitable newspapers and periodicals. The Commissioner is at present in the United Kingdom for this special purpose and upon his return early in September, decisions will be reached on the course of action which must be taken in the light of his report.

(8) The answer is in the negative.

(9) The question—whether such expenses are allowable as a deduction in computing taxable income depends on the facts of each case, and whether it can be established that the expenditure concerned has been incurred in the production of the income. There is no differentiation in the treatment of professional and business individuals for this purpose.

(10) Taxpayers have already been assured both by statements in this Council and in the Press that reasonable time for payment will be allowed.

(11) The answer is in the negative. Contributions to funds, schemes, etc.,

which have been approved under the Income Tax (Pension and Provident Fund) Rules, 1940, only allowed.

No. 53 of 1950.

MAJOR KEYSER:

Is Government aware of the very dangerous condition of Hoey's Bridge?

If the answer is in the affirmative will an assurance be given that immediate steps will be taken to remedy this unsatisfactory condition?

Reply:

The answer to the first part of the question is in the negative, and the second part of the question does not therefore arise.

No. 54 of 1950.

MAJOR KEYSER:

Will Government please state why it has not been possible for some years to obtain a licence to prospect for diamonds and will steps be taken to remedy this position immediately?

Reply:

Previous to the bringing into force of the Diamond Industry Protection Ordinance, during 1948, a Prospecting Licence for diamonds required special endorsement by the Commissioner (Mines and Geology) after the approval of the Secretary of State. The bringing into force of the Ordinance mentioned above was designed to simplify prospecting for diamonds under adequate safeguards, but to complete the procedure it was necessary to publish somewhat complicated regulations which required the agreement of the Tanganyika Government and the Secretary of State on certain matters. These Regulations were published as the Diamond Industry Protection Regulations, 1950, in Government Notice No. 1020 of the 7th September, 1950.

2. The position has now, therefore, been clarified and six Prospecting Rights have been given the necessary endorsement by the Commissioner to enable prospecting for diamonds to take place with effect from the 14th of October, 1950.

No. 56 of 1950.

MR. USHER:

1. Will Government confirm that it has recently granted a Temporary Occupation Licence over a portion of Crown Land, a little less than half an acre in extent, included in Plot No. 277 of Section XXI, Mombasa Island, to a firm of builders to enable them to stack coral, etc. while they are erecting a building on a neighbouring plot?

2. Will Government confirm the following facts in this regard:—

(a) That, apart from this area having been allocated to the Army, it is not in occupation, that it has not been surveyed into plots and that it is not the subject of any approved layout.

(b) That instead of the normal duration of a Temporary Occupation Licence, the licensee enjoys only a monthly right of occupation.

(c) That the rent reserved is Sh. 740 a month, that is at the rate of Sh. 8,880 a year.

3. Is Government aware that the Municipal Assessment Rates demanded from the licensee amount to Sh. 3/60 a year, which, since the unimproved site value is 1/2 cent, puts the valuation of this interest at about Sh. 206 a year?

4. Having regard to the provisions of the Crown Lands Ordinance that rent and conditions in such cases are to be regulated by rules or determined by the Governor, will Government state by what authority these matters were decided in this case?

5. Does Government consider such a rent fair and reasonable?

6. If not, will Government reduce the rent to a nominal figure?

Reply:

1. A Temporary Occupation Licence was issued to Messrs. Taylor Woodrow (E.A.) Ltd. as from the 1st April, 1950, over an area of 438 of an acre of Crown Land, being a portion of Plot 262 of Section XXI, Mombasa Island, with a frontage on Salim Road South, for the purposes of site offices, stores, working sheds for carpenters and masons, and for

the storage of building materials whilst engaged in the erection of a building on a neighbouring plot.

2. (a) It is confirmed that, except for a portion in question, which has been requisitioned by the Military Authorities and is now in the occupation of the licensee, the area is not in occupation. It has not been surveyed into plots and is not the subject of an approved layout.

(b) It is confirmed that the licensee enjoys only a monthly right of occupation. This is not, however, contrary to normal practice when valuable land in municipalities or Townships is put at the disposal of the licensee for a special purpose as in the present case.

(c) The rent now reserved is Sh. 740 per month which at a yearly rate would amount to Sh. 8,880. The adjoining plot was transferred at a value of Sh. 400,000 per acre, and in consequence the value of the plot which is the subject of the licence, is Sh. 175,200. In accordance with the usual formula for the grant of a Temporary Occupation Licence, the monthly rental was assessed at one-ninth part of 5 per cent of the value of the land calculated, to the nearest 1/2 shilling, the liability on the licensee to pay the proportionate amount due to the Municipal Board as contribution in lieu of rates.

3. The Government is aware that the Municipal Assessment rates demanded from the licensee amount to Sh. 3/60. In the Municipal Valuation Roll, the Crown has been assessed on the whole area of 35,5094 acres at Sh. 12,000 for rating purposes only, because before the occupation of the land by the Military it was used for playing fields only. On this used for playing fields only. On this basis, therefore, the proportionate amount payable to the Municipal Board as contribution in lieu of rates, is Sh. 7/90 per acre. The Government is not, however, prepared to accept the Municipal rating valuation as a basis for disposing of the land, either on a temporary or permanent basis.

4. The licence was granted by the Commissioner under the authority of Section 48 (1) of the Crown Lands Ordinance Cap. 155.

5. Owing to an arithmetical error the monthly rent was reserved at Sh. 740 which should have been Sh. 730 and will be corrected. For the reasons given in

paragraph 3 above the Government considers the monthly rent of Sh. 730 fair and reasonable.

6. The Government is not, therefore, prepared to reduce the rent to a nominal figure.

No. 57 of 1950.

MR. PEMBRIDGE:

Will Government say:—

(a) Whether they consider the present subvention of £200 for the Kenya Rifle Association covers the demands from all rifle clubs throughout the country;

(b) Having regard to the international situation and the recognized importance of marksmanship would Government consider making available to approved rifle clubs—

(i) rifles at cost purchasable by members over an extended period.

(ii) a free or subsidized grant of ammunition per effective member.

Reply:

The subvention of £200 was granted in 1949 on the recommendation of the Standing Finance Committee, and in response to a request made by the Kenya Rifle Association. As a result of further representations by the Association, the Standing Finance Committee has recommended recently that for 1951 the subvention should be increased to £1,500 and the necessary provision will be made in the 1951 draft Estimates of Expenditure. This subvention contains an item of £150 to meet the cost of 100 rounds of ammunition for each shooting member.

2. Government is not in a position to make rifles available to members of Rifle Clubs for purchase over an extended period. Service rifles are usually obtainable from the military authorities at a cost of about £8 10s. and rifles, imported by a recognized rifle association under a Governor's permit and an import licence for the use of members in connection with the association's activities, would be allowed customs clearance free of duty under customs tariff item 162 of the Customs Tariff Ordinance.

No. 65 of 1950.

Mr. USHJER:

1. Will the Government state whether it is a fact that it has agreed to the use of the Afrikaans language as a medium of instruction in any of the primary schools, whether existing or projected, in Kenya?

2. If so, will Government state how many and whether any of them are, or will be, state-aided?

3. Will Government undertake that in both state-aided and in private European schools the English language only shall be used as a medium of instruction?

4. If this guarantee cannot be given immediately, will Government undertake to ensure, by all possible means, that, wherever any language other than English may be used as a medium of instruction in a European school, the practice shall be regarded as purely temporary and that the use of the English language alone for this purpose shall be introduced as soon as possible?

Reply:

1 and 2. It is the case that at one Government European School Afrikaans is used during the first year as an aid to the teaching of English to Afrikaans-speaking children. Thereafter English is the medium of instruction. At one European private school, Afrikaans is taught as a subject throughout the school. It is, however, also used at that school as a medium of instruction for Afrikaans-speaking children for the first two years. Thereafter English is the medium of instruction for most subjects.

3 and 4. It is the policy of Government to ensure that in all schools the English language shall become the medium of instruction from the first year onwards, and Government will apply this policy on an increasing scale as circumstances permit, and practical measures can be taken to that end.

No. 66 of 1950.

Mr. HAYLOCK:

Will Government give details of how the £6,286,000 shown in No. 7 East African Economic and Statistical Bulletin as total deposits from

Kenya in the East African Post Office Savings Bank, is invested?

Reply:

The actual amount standing to the credit of depositors in the Kenya Savings Bank at 31st December, 1949, was £6,431,651 of which £141,220 was invested and held by the Accountant General. Details showing how the remainder of this sum was invested are given in the schedule as submitted.

No. 68 of 1950.

Mr. PRITAM:

Will Government please announce its considered policy in relation to the taking over of Indian Schools at Nyeri, Kericho and Kakamega which are indeed too big to be efficiently maintained by small Indian communities at these centres?

Reply:

It is not Government's intention to take over any schools which are now on the grant-in-aid list.

Government's financial proposals for Asian education are indicated in the revised Development Plan, which is at present being considered by the Planning Committee. They include large estimated increases during the next few years in both capital and recurrent expenditure. The finance available is not likely to be sufficient, however, in view of the large increase in the number of Asian school children to allow grant-aided schools to be taken over.

The schools at Nyeri, Kericho and Kakamega now receive grants amounting to two-thirds of the cost of the teachers' salaries, and contributions were made by the Government towards the capital cost of the buildings at Kericho and Kakamega. The accommodation situation is better in these townships than in the larger centres, particularly Nairobi.

No. 69 of 1950.

Mr. PRITAM:

Is Government aware that many up-country Indian youths have to go without secondary school education because of the fact that neither hostel facilities exist nor places are

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No. 70 of 1950.

Mr. PRITAM:

Having regard to the fact that Indian parents are strongly opposed to co-education, will Government therefore please state when will it be possible for the Education Department to build a Girls' Secondary School at Kisumu?

Reply:

It is the intention of Government to make a start at once with the proposed new Junior Mixed School at Kisumu which forms a part of the Government school-building programme in Kisumu. This will have the effect of eliminating the present overcrowding in the Government Indian High School and though it will not immediately deal with the point which has been raised in the hon. Member's question with regard to co-education, it will ensure that full opportunities for secondary education, both for boys and for girls, can be made available for the time being in Kisumu while maintaining full time tuition in the primary classes.

A site for the Girls' Secondary School at Kisumu had already been secured and it was the intention to make a start with the buildings in 1951. Unfortunately, the limit which has had to be placed upon capital expenditure on buildings, including educational buildings, over the period 1951-55 will not permit a firm undertaking to be given now as to the date at which this particular project can be undertaken.

No. 71 of 1950.

Mr. PRITAM:

Having regard to the fact that general public views with disapproval the continuation of dual sessions introduced in various Government Indian schools, will Government state the steps it proposes to take with a view to meet the public demand without sacrificing or impairing the efficiency of education?

Reply:

Government is aware of the objections to the dual session system. The only alternative to it, however, in view of the great increase in the number of Indian children on the roll, would be to refuse admission to many children. The number on the roll

available at Nairobi and Kisumu for boys seeking admission in secondary classes and if so, will Government please consider the desirability of starting secondary classes at an early date at Nakuru and Eldoret making it possible for the up-country boys to continue their study up to School Certificate?

Reply:

Government can give an assurance that places will be found in the secondary schools for Indian children from up-country who secure a pass in the Kenya Indian Preliminary Examination at the dose of their primary course. There is the difficulty that at present there is no boarding accommodation attached to any of the secondary schools. This difficulty has hitherto been met by parents finding accommodation for the children concerned either with relatives or friends or through the good offices of the local organization of their particular community. The places particularly concerned are Nakuru, Eldoret and Kitale and the numbers who passed the Kenya Indian Preliminary Examination in these three townships in 1949 were as follows:—

Nakuru	14
Eldoret	39
Kitale	18

It will be seen that the numbers in each case are still small. The Hartwell Committee recommended that, in consideration of the fact that the minimum number for which an efficient secondary course can be run with reasonable economy is 240, the existing secondary schools at Nairobi, Mombasa and Kisumu would have to meet the needs of the Indian community for some years to come. As the hon. Member is aware, the Hartwell Committee Report has not yet been debated or accepted by Council.

A Form I is now in existence at Eldoret and the question is being considered whether it will be practicable to expand secondary education at this school. Certain proposals for the establishment of a hostel in connexion with the Eldoret School are also now being considered by the Eldoret Parents' Association.

has risen from 16,670 in 1946 to 26,750 in 1950, and the additional accommodation provided has been insufficient to keep pace with this increase.

Government's proposals for the increase of school accommodation have been placed before the Planning Committee.

Meanwhile, the efficiency of a school system should not be considered merely as a matter of bricks and mortar. A new Teacher Training Centre has been opened in Mombasa this year; excellent short courses covering five months have been instituted at the Training Centres to help teachers who are already in the service of Government or Assisted schools; a new primary school syllabus has been drafted, and an additional three officers are engaged in the inspection of Indian schools.

No. 72 of 1950

DR. RANA:

Is the Government aware of Likoni Ferry (Mombasa) very sad accident on 3rd October when, unfortunately, 17 lives were lost and of previous similar accidents on various Coast ferries?

If the reply is in the affirmative will Government please appoint a Commission to inquire into its causes and to suggest the remedy to safeguard the human lives?

Reply:

The Government is in sympathy with the motives which have actuated the hon. Member in asking his question and naturally wishes to see that all necessary steps are taken to prevent a recurrence of the tragedy. It will consider whether any further inquiry is required in the light of the findings at the inquest.

No. 74 of 1950

MR. HOPKINS:

Is Government aware that the following figures by the Acting Governor in his recent Mombasa speech (as published in the K.I.O. *Fortnightly* of 2nd October) relating to the provision by Government of cheap finance for assisting farmers, has given the impression to the non-farming section of the com-

munity that the farmer in Kenya is very heavily subsidized at the expense of the community generally?

	£
1. Increased Provision of Crops Ordinance	1,700,000
2. Guaranteed Minimum Returns (Contingent Liability)	1,800,000
3. Coffee Industry Financial Assistance	10,000
4. Land Bank Advances	1,165,000
5. European Settlement	1,600,000
6. Rebate on Kerosene	40,000
7. Fertilizer Subsidy	24,000

Concerning the above items will Government state as regards:—

1. Is it not true to say that most of this money is used to finance the purchase of crops grown by farmers. Also that the figures mentioned are peak ones and that such a large amount is only outstanding for a short period during the year.

2. What proportion of the £1,800,000 does Government expect to be called upon to pay out this year and what losses have actually been incurred in this respect yearly for the past three years.

4. Can funds advanced by the Land Bank be rightly regarded as Government money. Is it not raised from loans, obtained at rates of interest which are less than those charged to farmers by the Land Bank, which is consequently making a profit.

5. Is it not considered that the settlement of new people on the land should be regarded as part of the Colony's settlement policy rather than as assistance to the farming community in particular.

6 & 7. Should not the £40,000 rebate on kerosene and the fertilizer subsidy be looked upon as subsidies to the consumer and not to the farmer, in that regard is had to these factors in the price structure of agricultural products.

Reply:

No, Sir; nor, as will be clear from reading the text of the speech, was the intention to give such an impression.

The replies to the specific points raised regarding certain of the figures are as follows:—

(1) The answer to both parts of the question is in the affirmative.

(2) During 1950, a sum of £11,190 has been paid out in respect of the guaranteed minimum returns, and it is not expected that any substantial payments will be required during the last two months of the year. Losses incurred during the past three years have been as follows—

1947	£2,457
1948	£14,108
1949	£2,629

These amounts are small in relation to the total contingent liability, but it must be borne in mind that in the event of any disaster, such as a widespread harvest failure or heavy locust infestation, the Government may be called upon to meet a very large proportion of its liability, and, therefore, funds for this purpose must be assured.

(4) The capital of the Land Bank has very largely been provided by

advances from Government funds. These have been supplemented by Bank advances guaranteed by the Government. The difference between borrowing interest rate and lending interest rate exists to cover administration charges:—

(5) The financial assistance provided through the operations of the European Agricultural Settlement Board is an integral part of Government's policy for the development of the agricultural resources of the Colony, but it is the farming community which stands to benefit in the first instance.

(6) & (7) Although both the rebate on kerosene and the subsidy on fertilizers benefit the farmer in the first instance, their effect on production costs is taken into account in so far as the main crops are concerned in the calculation of the producer prices guaranteed by the Government, and it is thus reflected in the prices paid by consumers. In this respect, therefore, the rebate and subsidy benefit the consumer.

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