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COLONY AND PROTECTORATE OF KENYA

LEGISLATIVE COUNCIL DEBATES

OFFICIAL REPORT

10th COUNCIL INAUGURATED
JUNE, 1952

VOLUME LVI

1953

SECOND SESSION—FIFTH SITTING
21st July, 1953, to 31st July, 1953

List of Members of the Legislative Council

President:

HIS EXCELLENCY THE GOVERNOR

Vice-President and Speaker:

HON. W. K. HORNE

Ex Officio Members:

CHIEF SECRETARY (HON. H. S. POTTER, C.M.G.).
ATTORNEY GENERAL AND MEMBER FOR LEGAL AFFAIRS (HON. J. WHYATT, Q.C.).
FINANCIAL SECRETARY AND MEMBER FOR FINANCE AND DEVELOPMENT (HON. E. A. VASEY, C.M.G.).
ACTING CHIEF NATIVE COMMISSIONER AND MEMBER FOR AFRICAN AFFAIRS (HON. E. H. WINDLEY, C.M.G.).
MEMBER FOR AGRICULTURE AND NATURAL RESOURCES (MAJOR THE HON. F. W. CAVENDISH-BENTINCK, C.M.G., M.C.).
ACTING DEPUTY CHIEF SECRETARY AND MEMBER FOR EDUCATION AND LABOUR (HON. R. G. TURNBULL, C.M.G.).
MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT (HON. SIR CHARLES MORTIMER, C.B.E.).
MEMBER FOR COMMERCE AND INDUSTRY (HON. A. HOPE-JONES).

Nominated Members:

DR. THE HON. T. F. ANDERSON, O.B.E. (Director of Medical Services).
HON. D. L. BLUNT, C.M.G.
HON. F. W. CARPENTER (Labour Commissioner).
HON. M. H. COWIE.
HON. E. N. GRIFFITH-JONES (Solicitor General).
DR. THE HON. S. D. KARVE, O.B.E.
HON. G. M. EDYE.
HON. H. L. ADAMS (Secretary for Commerce and Industry).
HON. J. E. HUNTER (Commissioner for Local Government).
HON. CHIEF U. MUKIMA.
HON. I. OKWIRRY, M.B.E.
HON. E. J. PETRIE (Secretary to the Treasury).
HON. SIR EDOO PIRBHAI, O.B.E.
HON. J. L. RIDDOCH, O.B.E.
HON. G. M. RODDAN (Director of Agriculture).
HON. SHEIKH MOHAMED ALI SAID.
HON. R. W. TAYLOR, C.M.G. (Director of Public Works).
HON. W. J. D. WADLEY (Director of Education).

European Elected Members:

HON. M. BLUNDELL, M.B.E., Rift Valley.
GROUP-CAPT. THE HON. L. R. BRIGGS, Mount Kenya.
HON. S. V. COOKE, Coast.
HON. W. E. CROSSKILL, Mau.
LT.-COL. THE HON. S. G. GHERSIE, O.B.E., Nairobi North.
COL. THE HON. E. S. GROGAN, D.S.O., Nairobi West.
HON. N. F. HARRIS, Nairobi South.
HON. W. B. HAVELOCK, Kiambu.
HON. L. R. MACDONOCHIE-WELWOOD, Uasin Gishu.
HON. LADY SHAW, Ukamba.
HON. MRS. A. R. SHAW, Nyanza.
HON. H. SLADE, Aberdara.
HON. C. G. USHER, M.C., Mombasa.

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

Asian Elected Members—

Non-Muslim: Muslim:

Central Area: East:

HON. CHANAN SINGH DR. THE HON. S. G. HASSAN, M.B.E.
HON. C. B. MADAN.

Eastern Area: West:

HON. A. B. PATEL C.M.G. *HON. ZAFRUD DEEN

Western Area:

HON. J. S. PATEL

Arab Elected Member

HON. SHEIKH MAHFOOD S. MAKRAWI

Representative Members

African Arab

HON. W. W. W. AWORT HON. SHEIKH ABDULLAH SALIM
HON. M. GIKONYO
HON. J. JEREMIAH
HON. F. W. MATHU
HON. B. A. OBIANGA
HON. J. M. O. TANDU

Clerk of the Council: CHIEF CLERK OF THE COUNCIL
A. W. PURVIS H. THOMAS

Reporter:

MRS. P. HUBBARD.

* Temporary Member



COLONY AND PROTECTORATE OF KENYA

LEGISLATIVE COUNCIL DEBATES

SECOND SESSION—FIFTH SITTING

Tuesday, 21st July, 1953

The Council met at ten o'clock.

[Mr. Speaker in the Chair]

PRAYERS

COMMUNICATION FROM THE CHAIR

THE SPEAKER: Hon. Members, in accordance with the Motion moved in this Council some time ago for a Loyal Address to be presented to Her Majesty the Queen on the occasion of Her Coronation, the Address was duly prepared and engrossed on vellum with the aid of the Government Printer to whom our thanks are due and on a day on which His Excellency the Governor had arranged for Loyal Addresses to be taken to Government House, in company with the Deputation of Members—Sir Charles Mortimer, Mr. Havelock, Mr. A. B. Patel and Mr. Mathu—I duly attended and read and presented that Address. I have now received from His Excellency the Governor a telegram which he had received on the 11th July from the Rt. Hon. the Secretary of State for the Colonies, which is as follows:—

"The Loyal Address from Legislative Council, forwarded under cover of your Saving 817, has been laid before the Queen who has commanded me to inform you that she had been deeply moved by this expression of loyalty and devotion and to request you to convey to the President an expression of Her sincere thanks." (Applause.)

I should like also to refer to another matter, a matter of procedure which is of some importance and which may not be fully understood by some Members and may appear to be something of a mystery to their constituents and that is the Standing Order relating to questions.

There is a general view outside of Council that *ex-officio* Members may be interrogated on anything that concerns the departments under their care. In the past century some necessary and possibly even restrictive rules have been developed in the practice of the House of Commons which this Council, by virtue of Standing Order No. 1, must follow. These rules are set out in May's *Parliamentary Practice* and in Lord Campion's *Introduction to the Procedure of the House of Commons* and in view of certain happenings in a recent trial of major public interest, several Members have sent in questions which have been ingeniously phrased with the expectation that the rule that questions which are likely to prejudice a case which is under trial or to reflect on the decision of a court of law, are considered to be out of order on the grounds that such questions infringe constitutional propriety. It is the duty of the Chair to return all such questions which the Chair believes likely to fall within the rule and while I personally appreciate the very strong desire of Members in all quarters of the Unofficial side of Council to seek information from, or urge action upon the Government in respect of the Kapenguria trial or matters arising out of it, I must nevertheless maintain this rule of constitutional propriety and not allow questions and Motions which directly or indirectly relate to that trial and matters arising out of it during such time as the matter is under consideration of the Courts of the Colony or the East African Court of Appeal or even a higher Court.

PAPERS LAID

The following papers were laid on the Table:—

East African Industrial Research Board Tenth Annual Report, 1952.

Lake Victoria Fisheries Service Annual Report, 1952.

East African Literature Bureau Annual Report, 1952.

Virus Research Institute Annual Report, 1952.

Report on the Administration of the East African Airways Corporation for the year ended 31st December, 1952.

East African Malaria Unit Annual Report, 1952.

Report on the Kenya, Uganda and Tanganyika Savings Banks for the year 1951.

Sessional Paper Decisions of the High Commission on the Recommendations Contained in the Report of the Committee of Inquiry into the Working of the Port of Mombasa.

The East African Hides, Tanning and Allied Industries Bureau Report for 1952.

Annual Report of the Inland Revenue Department for the year 1952.

(BY THE CHIEF SECRETARY)

Schedules of Additional Provision No 13 of 1951 and Nos 12 and 13 of 1952.

Development Supplementary Estimates of Expenditure No 3 of 1953.

Supplementary Estimates of Expenditure of the Colony and Protectorate of Kenya No. 5 of 1953.

Report by the Director of Audit on the accounts of the Colony and Protectorate of Kenya for the year ending 31st December, 1952.

Certificate by the Director of Audit on the accounts of the Colony and Protectorate of Kenya for the year ending 31st December, 1952.

Schedule for those reallocations for 1951, authorized by the Member for Finance, which had not been reported to the Standing Finance Committee and are not recorded in the printed Financial Statements for that year.

Development and Reconstruction Authority. Quarterly Report for the period 1st January to 31st March, 1953.

(BY THE MEMBER FOR FINANCE AND DEVELOPMENT)

Kenya Meat Commission, Third Annual Report and Accounts for the period 1st January to 31st December, 1952.

(BY THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES)

Report of the Royal Technical College of East Africa for the period 7th September, 1951, to 31st December, 1952.

The Immigration (Control) (Exemption) (Amendment) Regulations, 1953.

(BY THE MEMBER FOR EDUCATION AND LABOUR)

Command 8790 Treaty Series No. 19 (1953): Exchange of Notes between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the United States of America.

Gold Mines Development Loans Ordinance—Statement of Account for the year ending 31st March, 1953.

The Export Duty (Hides and Skins) (Variation of Duty) Order, 1953 (The Export Duty Ordinance, 1951 No. 71 of 1951).

The Oil Production (Amendment) Regulations, 1953 (The Oil Production Ordinance—Cap. 171).

Weights and Measures Department Annual Report, 1952.

(BY THE SECRETARY FOR COMMERCE AND INDUSTRY)

ORAL ANSWERS TO QUESTIONS

QUESTION No. 106

MRS. A. R. SHAW (Nyanza) asked the Member for Education and Labour to state if the policy as laid down by Government for the Labour Department is a two-way policy or a policy which is designed to safeguard the employee only?

THE MEMBER FOR EDUCATION AND LABOUR: The policy of the Labour Department is a two-way policy designed to promote the interests both of employers and employees.

MRS. SHAW: Arising out of that answer, Sir, would the hon. Member for Education and Labour please state if it is Government's policy to try and ensure a fair day's work for a fair day's pay?

THE MEMBER FOR EDUCATION AND LABOUR: Yes, Sir, that is the policy of the Labour Department. It has been stated on many occasions and various directives have been issued on that point. As far as I remember, the expression "A fair day's work for a fair day's pay" was first used in this connexion by Mr. Rennie, now Sir Gilbert Rennie, in 1944.

QUESTION No. 111

MR. S. V. COOKE (Coast) asked the Chief Secretary whether he will give full consideration in any scheme for the post-Emergency reconstruction and rehabilitation of the Kikuyu lands to the employment of those young Kenya Europeans and those members of the Kikuyu Resistance groups who have served in those lands during the Emergency on lines similar to those recommended regarding a Civil Labour Corps and matters relevant thereto contained in the Report of the Post-war Employment Committee published in 1943 and laid on the Table of this Council on 10th November, 1943?

THE CHIEF SECRETARY: Yes, Sir.

QUESTION No. 115

MR. A. B. PATEL (Eastern Electoral Area) asked the Member for Education and Labour if he will please state the facility available to the Indian children at Kisii for education and inform this Council as to the steps taken by the Education Department for having one proper Indian school there?

THE MEMBER FOR EDUCATION AND LABOUR: There are at present in Kisii two Indian primary schools each of which covers the full primary course. One is managed by H.H. Aga Khan Provincial Education Board, Kisumu, and the other by the local Hindu Community. The enrolments of these schools are 60 and 45 respectively.

The Education Department has, over a period of five years, endeavoured to persuade the managers of these two schools to combine in order that one comprehensive school could be established which would be open on equal terms to pupils of both communities.

Agreement has now been reached between the two communities and provision has been made in the 1954 Estimates for

a grant for capital development. Funds are available this year for the payment of a recurrent grant based on the salaries of the teachers of both schools; this grant will be paid as soon as the arrangements for the establishment of the combined school have been brought to finality and have received the approval of the Director of Education.

MR. BLUNDELL (Rift Valley): Has the Hon. Member any estimate of the number of Indian children in Kisii who have not been able to receive education, if any?

THE MEMBER FOR EDUCATION AND LABOUR: No, Sir.

BILLS

FIRST READING

The Adoption of Children (Amendment) Bill—(The Member for Education and Labour)—Order for First Reading read—Read the First Time.

The Wild Animals Protection (Amendment) Bill—(The Member for Agriculture and Natural Resources)—Order for First Reading read—Read the First Time.

The Firearms Bill—(The Chief Secretary)—Order for First Reading read—Read the First Time.

The Protected Areas (Amendment) Bill—(The Member for Legal Affairs)—Order for First Reading read—Read the First Time.

The Development Loan, 1950 (Amendment) Bill—(The Member for Finance and Development)—Order for First Reading read—Read the First Time.

The Development Loan, 1951 (Amendment) Bill—(The Member for Finance and Development)—Order for First Reading read—Read the First Time.

The Traffic Bill—(The Chief Secretary)—Order for First Reading read—Read the First Time.

THE SPEAKER: Mr. Potter, what day for the Second Reading of these Bills?

THE CHIEF SECRETARY: To-morrow, Sir.

ADJOURNMENT

THE SPEAKER: That concludes the business on the Order Paper. Council will stand adjourned until 9.30 to-morrow morning.

Council rose at twenty-five minutes past Ten o'clock a.m.

Wednesday, 22nd July, 1953

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

(Mr. Speaker in the Chair)

PRAYERS

NOTICES OF MOTIONS

REPORT OF THE DIRECTOR OF AUDIT

MR. BLUNDELL: Mr. Speaker, I beg to give notice of the following Motion

That the Report by the Director of Audit on the Accounts of the Colony and Protectorate of Kenya for the year ended 31st December, 1952, be referred to the Public Accounts Committee

GOVERNMENT POLICY: EMPLOYMENT OF KIKUYU

MR. COOKE: Mr. Speaker, I beg to give notice of the following Motion

That the Government be asked to formulate and disclose without delay its policy with regard to the admission and employment of Kikuyu in the Highlands

UNIVERSAL USE OF ENGLISH LANGUAGE

MR. USHER (Mombasa): Mr. Speaker, I beg to give notice of the following Motion

In the opinion of this Council instruction in, and the use of, the English language as a *lingua franca* should be actively promoted by all practicable means.

AFRICANS TO FORM A POLITICAL ORGANIZATION

MR. MAHID (African Representative): Mr. Speaker, I beg to give notice of the following Motion:—

That in the opinion of this Council the Government should leave the Africans to form and operate constitutionally a Colony-wide political organization.

HIDES AND SKINS (VARIATION OF DUTY) ORDER

THE MEMBER FOR FINANCE AND DEVELOPMENT: Mr. Speaker, I beg to give notice of the following Motion:—

WHEREAS—

(1) Sub-section (1) of section 4 of the Export Duty Ordinance empowers the Governor in Council by

order to increase or decrease the duty payable on any commodity specified in the Schedule to the Ordinance or to abolish the duty thereon:

(2) Sub-section (2) of the aforesaid section requires any such order to be laid on the table of the Legislative Council and provides that it shall cease to have effect unless approved by resolution of the said Council passed within seven days of its being so laid

(3) The Governor in Council by an Order entitled the Export Duty (Hides and Skins) (Variation of Duty) Order, 1953, varied the duty payable on hides in the manner shown in such Order

NOW THEREFORE BE IT RESOLVED that this Council approves the terms of the aforesaid Export Duty (Hides and Skins) (Variation of Duty) Order, 1953

CO-OPERATIVE SOCIETIES: EXEMPTION FROM INCOME TAX

THE MEMBER FOR AFRICAN AFFAIRS

MR. SPEAKER: I beg to give notice of the following Motion

This Council approves of an Order being issued by the Governor, under sub-section (2) of section 11 of the East African Income Tax Management Act, exempting from income tax for a period of five years beginning with the income tax year 1952, all co-operative societies registered under the Co-operative Societies Ordinance (Cap. 287) which are wholly owned and operated by Africans.

ORAL ANSWERS TO QUESTIONS

QUESTION No. 113

MR. COOKE asked the Chief Secretary if Government will appoint a competent officer to collate and compare the facts concerning the social, racial, and educational background of all those convicted of *Mau Mau* offences or shot as *Mau Mau* suspects in order to ascertain the common factors (if any) that have contributed or are contributing to the creation of the present Emergency.

THE CHIEF SECRETARY: Yes, Sir.

QUESTION No. 120

GROUP-CAPT. BRIGGS (Mount Kenya) asked the Chief Secretary to state what arrangements have been made for the proper maintenance of the many valuable weapons handed in, in accordance with the regulations, and stored at Gilgil. Also what arrangements have or will be made to enable the owners to inspect their fire-arms at reasonable intervals.

THE CHIEF SECRETARY: An officer of the Kenya Police Reserve is responsible for the proper maintenance of these weapons, and is receiving military assistance for the purpose.

New instructions are being issued under paragraph 5 (b) of Emergency Regulation 8D, in which is incorporated provision for allowing the owners of these fire-arms to inspect them at reasonable intervals.

THE STATE OF THE EMERGENCY

THE CHIEF SECRETARY: Mr. Speaker, Sir, with your permission I would like to make a statement to the Council regarding the situation in the Colony and the progress that is being made under the Emergency. It is now a little over two months since Council met and, in spite of setbacks that we have had serious and grievous as some of them have been, I think I can say with confidence that there has been a noticeable improvement in the general position during that time in the Colony and that we have made a real step forward during this time in the battle to eradicate the evil which has so sorely beset the Kikuyu people.

About the time of the last meeting of this Council, the Colony was visited by the Secretary of State, who had discussions with each of the groups here represented, and this made possible invaluable exchanges of ideas. We were also visited at about the same time by General Sir Cameron Nicholson, the Commander-in-Chief, Middle East Land Forces. Subsequent to these two visits, Her Majesty's Government effected a considerable strengthening of the higher command in the Colony, and, at the same time, some easing of the very heavy burden which His Excellency the Governor has borne since the day of his arrival. The appointment of a Commander-in-Chief for East Africa, directly responsible to the War Office and the

arrival of General Sir George Erskine to take up that post, has infused strength into the direction of operations, and makes it possible both for the Governor to devote time to important tasks which are less directly concerned with the control of operations, and also for General Cameron to divert his attention to other territories which fall within the East Africa Command (for which the Commander-in-Chief is responsible. The appointment of Sir Frederick Crawford, whom we welcome back here from the Seychelles as Deputy Governor is also of very great value and assistance. It enables the Governor to spend more time on the tours which do so much to sustain the morale of the Colony, and it facilitates planning for the development and progress of the Colony after the situation returns to normal.

Working on the foundation of co-operation between the Services and various sections of the community laid by Major-General Hinde, and based on his very able plans, the Security Forces under Brigadier Cornah and Tweedie, and the Commissioner of Police, have built up resistance to a point where the situation in the African areas has been sufficiently stabilized to permit the deployment of military forces for offensive action against the terrorist gangs, which is the urgent and proper task of the Army.

During the last six weeks the Security Forces have pursued an offensive policy against the terrorists. Three striking forces have been formed. First the 39th Infantry Brigade consisting of the British battalions and the Kenya Regiment, secondly a Mobile Column made up of the East African Armoured Car Squadron and the 156 Battery, East African Artillery, organized as torried infantry, and thirdly the Royal Air Force, which now have nine Harvard aircraft.

By a recent decision, the Kenya Police Reserve Air Wing has come under the operational command of the Royal Air Force, so that its operational use can be to a greater extent integrated, where desirable, with that of the aircraft of the Royal Air Force which, as I say, have been increased.

General Erskine is giving effect to a plan which is designed to put the Colony's normal forces of law and order in full

[The Chief Secretary]

control of the situation as soon as possible. He has already operated in the Fort Hall district, which is to-day healthier than it was a month ago, and now other places are getting their share of treatment.

Successful though these operations have been I do not want hon. Members to get the impression that the military campaign is nearly over (Hear, hear.) An enemy who hides deep in the forests and who will not stand and fight is not easy to eliminate, nor is the traitor who will go peacefully about his daily work and then without warning become for a few hours a robber and a murderer.

Between the 24th June and the 8th July the forces deployed in the Fort Hall area had the role of breaking the power of the armed gangs in the Aberdares to the west of the district and restoring full civil authority in the adjacent locations which were still the subject of terrorist raids. In this operation the 9th Brigade, the Kenya Regiment and the 4th King's African Rifles took part, together with Police and Kikuyu Guard air support was given by the Harwards of the Royal Air Force and by the Kenya Police Reserve. The terrorists suffered severe casualties in and near the forest fringes and their supply system was, to a considerable degree, disrupted. Many hideouts were destroyed, and much valuable information was gained on terrorist tactics and organization.

A further objective, the re-establishment of Government authority in the worst-affected areas in the Reserve, produced locally some very good results. The notorious Ruithia area, which has long been in a state of almost anarchy, with *Mau Mau* holding control, has been brought, temporarily at least and we hope permanently, under control. Here 95 terrorists were killed, all of them hardened thugs. Administration is now on the ground, communal labour is turning up for work and a Kikuyu Guard post has been established. Operations in other locations were also satisfactory. Action in the African areas concerned was followed up by *barazas* and also flag marches, which, together with the punishment meted out to terrorists, have had a marked effect on loyalist morale, an effect enhanced by the conduct of the

British troops, who demonstrated by their friendliness that only terrorists had any cause to fear the Security Forces. The co-operation between troops, administration, and police was excellent at all levels and augurs well for the succeeding phases.

Elsewhere in the Central Province there have been temporary local setbacks in certain areas, to which the attention of the Security Forces is being turned. In Embu and Meru the deterioration, caused by the large number of repatriates from Nairobi and the Rift Valley, has been checked, a mobile column operating in the area has brought renewed confidence to the people there and confessions have been numerous, providing much information which is such an important part of such confessions. Kiambu and Thika are relatively quiet, but there has been a recrudescence of activity in the African locations in Nairobi, in the north west part of South Nyeri district, and in the Mweiga-Ngobit area of Nanyuki district. All these areas are now receiving attention.

The struggle centres mainly on those parts of the Central Province which are adjacent to the Aberdares and Mount Kenya. In the Rift Valley Province, resistance to *Mau Mau* is steadily increasing, while Nyanza and the Coast Province are still virtually unaffected by subversive movement, and the Northern Province stands, as usual, respectably aloof from the troubles of the rest of Kenya.

The central organization of *Mau Mau* suffered a serious loss three months ago with the uncovering and arrest of most of the *Kiama Kia Wiyathu*, or Council of Freedom, which had taken over the control of the organization. Other steps have since been taken further to disrupt the *Mau Mau* organization, and the steps have been taken with success.

Casualties to terrorist gangs in the last two months have been 751 killed, 223 captured, and 179 known wounded; our casualties during this period, both to members of the Security Forces and to civilians, have been less than one-fifth of these figures. Out of 115,896 persons arrested between the beginning of the Emergency and the 15th July in connexion with the disturbances, 44,370 have been tried, 436 are on remand awaiting

[The Chief Secretary]

trial, and 71,080 were released either immediately on proving their identity, or after screening. During the two months' period ended on 15th July, of 9,540 persons tried for offences under the Emergency Regulations, 8,725 were convicted, which is 87 per cent of those tried. This reflects great credit, I suggest, Sir, on the investigating and prosecuting staff. It will be appreciated that this has thrown a heavy burden on the police and the Judiciary, and to meet this gigantic task special police investigating and prosecuting teams have been set up in most of the districts of the Central Province. Special legislation, as hon. Members are aware, has been introduced to enable speedy trials in capital cases by special Emergency Assizes. The Bench has been strengthened by the engagement of two additional Puisne Judges of the Supreme Court, who will be arriving shortly to take up their appointments. Members of the local Bar have also been of very great assistance in appearing for the Crown in *Mau Mau* cases, and a former member of this Council has been presiding over Emergency Assizes in Nairobi. Twenty-five cases, involving 139 accused, have already come before Emergency Assizes, and 64 persons are awaiting trial by the Supreme Court charged with capital offences. A number of offences under the Emergency Regulations carry the death-penalty, in addition to the normal capital offences under the Penal Code. These are acts likely to assist the operations of terrorists under Emergency Regulation 3a; the unlawful possession or manufacture of fire-arms, ammunition, and explosives under Emergency Regulation 8a; and the delivery of arms, ammunition, and explosives and other supplies to another person for purposes prejudicial to public safety under Emergency Regulations 8a and 8f. The penalty for various other offences under the Emergency Regulations relating to assistance to terrorists has also been increased. Detention Orders under the Emergency Regulations have been made in respect of 1,550 persons. These Orders have been executed in the case of 1,209 persons, and 1,194 of them are still in detention camps. The difference is not accounted for by escapes but by revocation of the Detention Orders, in consequence of conviction for offences or in

one or two cases by substitution of Restriction Orders. A Detainees' Advisory Committee has been set up, consisting of Sir Claud Seton and Sir Vincent Glenday, with a retired Provincial Commission as its Executive Officer; this Committee interviews all Emergency detainees who appeal to the Governor against their detention and advise upon their disposal. In addition Restriction Orders under the Emergency Regulations have been made against 145 prisoners released after serving sentences for *Mau Mau* offences.

In areas where the inhabitants are known to have been helping the terrorists or have failed to prevent the commission of a crime or the escape of the perpetrators, collective punishments have been inflicted under Emergency Regulations 4 (a) and 4 (b), and in this way 6,377 head of cattle, 29,451 sheep and goats have been forfeited to the Government, together with 104 bicycles and two motor vehicles. This action has had the indirect advantage of assisting in the denial of food to the terrorists, and in addition steps have been taken to compel stockowners in certain areas to take more active precautions to prevent the theft of their animals for the purpose of feeding the terrorists. With the same object the potato crops have been lifted in certain areas in, and on the borders of, the prohibited areas in the forests of the Aberdares.

Staff for the Security Forces still causes a problem. The results of the European manpower call-up have not, for various reasons, come up to expectations, even with the embargo on and curtailment of leave for Government servants. It is too early yet to see the results of the Asian manpower call-up, but we hope to see them shortly.

Tanganyika has been very helpful in assisting us with volunteers for service with the Kenya Police Reserve, as District Officers and in the Prison Service, both with unofficials and with Government servants.

In connexion with the guarding of schools, the Tanganyika, Uganda and Zanzibar Governments have been very helpful in sending us police for service at these various schools, and I have just received a renewed assurance from the Government of Uganda that they will

[The Chief Secretary] continue to pay the salaries of these police. (Applause.)

Most of our own Government departments too, have, of course, provided officers for extra-departmental duties and a number of those departments—their work is directly connected with the Emergency, of course. Thirty temporary district officers are now operating in the Central Province under Colonel Morecombe, in charge of the Kikuyu guard units and similar bodies in Embu and Meru and the total of these has now passed the 14,000 mark in the Rift Valley. Colonel Henfrey has recently taken over the training of home guards there.

Executive officers have been appointed for the Provincial and District Emergency Committees in the Rift Valley and Central Provinces to superintend the carrying out of the Emergency Committees' decisions and to take some of the burdens of the work off the shoulders of the provincial commissioners and district commissioners.

From time to time Sir, concern has been expressed over the closing of Kikuyu Independent Schools Association and supposed lack of education facilities for the children who were at these schools. In fact, out of the 161 schools closed, 57 have been declared redundant and 39 have re-opened, 27 of them under District Education Board management and the rest under various missions. Out of the 21,000 children at independent schools in 1952, 4,000 have been absorbed in existing schools and 2,000 in re-open schools, the remaining 15,000 together with 10,000 others, are not attending school owing to the unwillingness of their parents to co-operate, or to intimidation by terrorists. The total attendance in the affected areas during the second term of this year, is 92,000 as against 90,000 last term, and a total primary and intermediate African school enrolment for the whole of Kenya in 1952 of 230,000. Intimidation has taken the form of the murder of African teachers and their families, threats to murder parents and children and the sacking of certain schools. Some nine Mission Schools have been completely destroyed in Nyeri, Fort Hall and Embu. In Kiambu and Meru—I am glad to say—there has been less violence.

To sum up, the position in the Colony is still one of danger, but it is improving and an increasing number of the Kikuyu tribe are regaining confidence and coming over to the side of law and order, and the number of adherents of the cult of *Mau Mau* is rapidly decreasing. The length of the Emergency depends largely on the build-up of our police, which we are now expanding, and which, as hon. Members are aware, we have been expanding. Upon these we must rely for the maintenance of law and order in the future. The Emergency cannot be considered over until the police force can handle the situation on its own, with troops in support back to their normal pre-Emergency standards and numbers. We must, therefore, be prepared to maintain in normal times, a police force in excess of that which we had before. (Applause.)

MR. BLUNDELL: Mr. Speaker, I wish to make a short statement on behalf of Members in our group on the statement which the hon. Chief Secretary has just made. I rather suspect that other hon. Members on this side of the Council will support what I have to say.

In welcoming this statement, Sir, I would like to record that there are many aspects of the Emergency which the hon. Member has not dealt with, to which hon. Members on this side of the Council will wish to draw attention. That being so, Mr. Speaker, I would like to give notice that at some time, to be arranged between the two sides of the Council mutually, we shall wish to set aside a day to debate the statement.

Generally speaking, we think it advisable, despite the remarks the hon. Member has made, to warn the public that there is no cause for undue optimism at the present time. Our reasons for saying that are that not only is the trouble deep-seated and well-rooted, but also, despite the operations which have been launched over the last month or so, much of the hard core of the gangster leaders still remain at large.

In particular, Mr. Speaker, we would wish to draw attention, arising out of the hon. Member's statement, to matters such as these: hon. Members will wish to debate, from this side of the Council, whether the forces available to us are sufficient to carry out the plans which we

[Mr. Blundell] have envisaged. We shall also wish to discuss whether the Emergency Regulations, as drafted, are giving adequate support, which is necessary to those forces of law and order. We shall wish, at least, to touch upon, I hope with some discretion, the integration and development of the Intelligence Services, which still, in our view, leave much to be desired. We shall also wish to develop from the statement of the hon. Member, the question of how long this Colony can continue to support the Emergency with the use of its own manpower solely, without making a renewed effort to replace members of the community with manpower from outside. And lastly, I am certain, Sir, I shall be speaking for every Member on this side of the Council, when we shall wish to explore from the statement which the hon. Chief Secretary has made, whether the Government is now intending to take the necessary steps, and adequate steps to attempt a reconstruction of the minds of those criminals from the *Mau Mau* movement who have been placed in prison and who have been detained under the Emergency Regulations.

My reason, Mr. Speaker, for giving this warning, is that we wish to debate the matter, and I am certain that hon. Members on the other side of the Council will agree with me that public debate may well bring forth ideas which will be of value to all.

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: Mr. Speaker, could I raise a point of order?

It relates to a question of making statements from this side of the Council for the information of hon. Members, and I myself shall be making one in the course of this Session. I thought, Sir, that such statements could not give rise to any form of debate unless hon. Members opposite, at the appropriate time the next day, gave notice of a Motion, or spoke on the adjournment. It seems to me, Sir, if we are going to make statements, which are very useful, in my opinion, to give information to hon. Members from this side of the Council, it would clearly unduly impinge on the time of the Council if we allowed the procedure of answering statements to be perpetuated.

MR. BLUNDELL: May I speak to the point of order?

My object in speaking was first to show hon. Members opposite that we would wish time to be set aside for the Motion to which he referred. That is perfectly proper and in accordance with Parliamentary practice. In addition, Mr. Speaker, it is customary in the House of Commons, when the Leader of the Government makes a statement, for the groups on the Opposite side, if they so wish, through their Leader, to make a short answering statement. That I attempted to do, I think the hon. Member will agree that I introduced in my remarks no controversial or contentious matter whatsoever. I merely stated this, in order to give the hon. Member our views, on the lines upon which we should like the debate to proceed.

THE SPEAKER: In regard to the point of order, it is the House of Commons practice to permit the leaders of the other parties to speak when a ministerial statement of importance is made. It has been the practice in this Council in the past under the old Standing Order not to allow that particular House of Commons practice. The question is, of course, whether one should follow it or go back to the old system. Speaking for myself, I think the House of Commons practice is a much better one than the old one we used to follow, and the old one was covered, more or less, by a Standing Order which related only to personal statements. Personal statements could not give rise to debate, and a Ministerial statement raising important matters, such as has been made in this Council this morning, does not give rise to debate, but only to short statements made by leaders of groups, stating their own position in relation to the matter raised. (Applause.)

BILLS

SECOND READING

The Adoption of Children (Amendment) Bill

THE MEMBER FOR LEGAL AFFAIRS: Mr. Speaker, I beg to move that the Adoption of Children (Amendment) Bill be read a Second Time.

Sir, this is a very short one-clause Bill which I think the Council will find to be non-controversial since it seeks only to

[The Chief Secretary] continue to pay the salaries of these police. (Applause.)

Most of our own Government departments too, have, of course, provided officers for extra-departmental duties and a number of those departments—their work is directly connected with the Emergency, of course. Thirty temporary district officers are now operating in the Central Province under Colonel Morecombe, in charge of the Kikuyu guard units and similar bodies in Embu and Meru and the total of these has now passed the 14,000 mark. In the Rift Valley Colonel Henfrey has recently taken over the training of home guards there.

Executive officers have been appointed for the Provincial and District Emergency Committees in the Rift Valley and Central Provinces to superintend the carrying out of the Emergency Committee decisions and to take some of the burdens of the work off the shoulders of the provincial commissioners and district commissioners.

From time to time Sir concern has been expressed over the closing of Kikuyu Independent Schools Association and supposed lack of education facilities for the children who were at these schools. In fact, out of the 161 schools closed, 57 have been declared redundant and 39 have re-opened, 27 of them under District Education Board management and the rest under various missions. Out of the 21,000 children at independent schools in 1952, 4,000 have been absorbed in existing schools and 2,000 in re-opened schools, the remaining 15,000 together with 10,000 others, are not attending school owing to the unwillingness of their parents to co-operate or to intimidation by terrorists. The total attendance in the affected areas during the second term of this year, is 92,000 as against 90,000 last term, and a total primary and intermediate African school enrolment for the whole of Kenya in 1952 of 230,000. Intimidation has taken the form of the murder of African teachers and their families, threats to murder parents and children and the sacking of certain schools. Some nine Mission Schools have been completely destroyed in Nyeri, Fort Hall and Embu. In Kitambu and Meru—I am glad to say—there has been less violence.

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THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: Mr. Speaker, could I raise a point of order?

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THE SPEAKER: In regard to the point of order, it is the House of Commons practice to permit the leaders of the other parties to speak when a Ministerial statement of importance is made. It has been the practice in this Council in the past under the old Standing Order not to follow that particular House of Commons practice. The question is, of course, whether one should follow it or go back to the old system. Speaking for myself, I think the House of Commons practice is a much better one than the old one we used to follow, and the old one was covered, more or less, by a Standing Order which related only to personal statements. Personal statements could not give rise to debate, and a Ministerial statement raising important matters, such as has been made in this Council this morning, does not give rise to debate, but only to short statements made by leaders of groups, stating their own position in relation to the matter raised. (Applause.)

BILLS

SECOND READING

The Adoption of Children (Amendment) Bill

THE MEMBER FOR LEGAL AFFAIRS: Mr. Speaker, I beg to move that the Adoption of Children (Amendment) Bill be read a Second Time.

Sir, this is a very short one-clause Bill which I think the Council will find to be non-controversial since it seeks only to

[The Member for Legal Affairs] remove certain impediments under the existing law which prevent persons who seek Adoption Orders obtaining those orders, even though, taking a broad view, it might be in the interests of the welfare of the child concerned that an adoption order should be made. Although the Bill is short, Sir, it suffers, as one-clause Bills often do, from the fact that without some supplementary explanation it is not always obvious what the scope and purport of the Bill is, and I think perhaps I can briefly explain to the Council what the purport and scope of the Bill is by stating, shortly, what is the position under the existing law.

Under the existing law, Sir, no-one in Kenya can adopt a child unless he is able to establish to the satisfaction of the Court that he possesses two qualifications. Firstly, the qualification of residence, and secondly the qualification of domicile.

Now, Sir, the distinction between those two qualifications, although easily understood by lawyers is not perhaps widely comprehended by members of the public. Residence, of course, means, in common parlance, where a person ordinarily lives; domicile, on the other hand, means the place where the person has his permanent home, or again, if I may use the common parlance, where he intends to lay his bones.

Now, Sir, there are many people in Kenya who can fulfil the first qualification as to residence, but who do not fulfil the second qualification as to domicile. Quite recently a case was brought to my notice, which I think may be a typical case, by an eminent firm of advocates in the City of Nairobi, where their client, a bank official, was seeking an adoption order, but could not succeed in his application because he was unable to satisfy the second of those two qualifications, namely the qualification as to domicile. He had worked in this country for a number of years as a bank official, and as such, of course, was fully qualified as a resident, but he had come out to this country originally from England, or from Scotland—very likely it was from Scotland, since he was a bank official! Although he had been here a number of years he had not made up his mind as to where he should retire. Consequently, Sir, he was unable under the existing law

to obtain an adoption order, although he was a person eminently suitable in all other respects. Such cases, Sir, I am assured, are not isolated cases. There are a number of such cases in the Colony and, therefore, to meet their difficulties it is desired by this Bill to eliminate the second qualification of domicile and make it sufficient for the purposes of making an adoption order that the applicant has the residential qualification and that, as hon. Members will see if they are good enough to examine the text of the amending clause, is achieved by the simple expedient of omitting the words "and domiciled in" from the principal Ordinance in addition to that alteration in the existing law of adoption, the Amending Bill makes a second alteration: the second alteration concerns the child and not the adopter. Under the present law no child in this Colony⁷ can be the subject of an Adoption Order unless he has British nationality. That, of course, excludes children who have the status of British protected persons. Likewise it would exclude the illegitimate child of a mother of foreign nationality. In the latter case such a child could not have an Adoption Order made in this country nor indeed in the country of its nationality because it is not resident there, so that child could never have an Adoption Order in fact, made in its favour at any stage of its life.

Now, that difficulty is likewise overcome in this Bill by substituting for the test of nationality the test of residence. If I may say in parentheses, Sir, a similar alteration was made in the United Kingdom a couple of years ago, when the United Kingdom Adoption of Children Act, 1950, was enacted by the British Houses of Parliament.

That briefly summarizes the two changes that are effected by this Bill, namely, that it is no longer necessary for an adopter—a would-be adopter—to show his qualification of domicile, nor is it necessary to show more, in respect of the child, than that it is resident in this Colony.

I think this short Bill is probably the first instalment of what will eventually be a considerable amount of legislation necessary in order to bring the adoption law of this country up to date in the light of experience and, in particular, in the light of the recommendations which

[The Member for Legal Affairs] have been made by a committee which sat for six years studying this subject: a committee known as the Committee on Children and Young Persons Legislation. There is also another committee sitting in the United Kingdom at the present time under the chairmanship of Sir Gerald Hurst. It may be that out of their recommendations may come some useful and helpful ideas as to the policy and procedure—to be followed in this important subject of the adoption of children. In the meantime, this Bill is a short, self-contained Bill dealing with two matters of considerable importance to the people of this Colony. Therefore I recommend it to this Council for Second Reading.

THE CHIEF SECRETARY seconded.

Question proposed.

MR. H. SLADE (Aberdare). Mr. Speaker, I support this Bill for the reasons stated very fully by the hon. Member for Legal Affairs. I am very glad to hear him mention that further legislation on the subject of adoption may be expected, because I would remind this Council that a Report of the Committee on the Young Persons and Children to which he referred was laid before this Council a few months ago and contained some very sweeping recommendations for the amendment of the adoption law, particularly with regard to the procedure of obtaining adoption orders, the effect of such orders and certain matters incidental to the registration of births and adoptions. I appreciate that at times it is necessary, for reasons of urgency, to take three or four bites at matters of this kind. I had hoped on this occasion there could be enough acceleration of consideration of the proposals made by the Committee to combine the two into one Bill. However, I rest content with an assurance by the hon. Member that the recommendations of the committee have not been forgotten and will be brought forward in a further Bill in the near future.

The question that the Bill be read a Second Time was put and carried.

Ordered to be read a Second Time and committed to a Committee of the whole Council tomorrow.

The Wild Animals Protection (Amendment) Bill

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: Mr. Speaker, I beg to move that the Wild Animals Protection (Amendment) Bill be read a Second Time.

The provisions of this amending Bill are fully set out in the Memorandum of Objects and Reasons. The first matter which this amending Ordinance seeks to put right is that under section 7 (3), of the principal Ordinance, provision is made whereby a Game Warden can, amongst other things, attach such conditions and restrictions to a permit if he desires to do so, but the existing Ordinance makes no provision for making it an offence if the conditions so laid down are disregarded. Therefore, we are trying to seek to put that right in the second paragraph of this amending Bill.

Clauses 3 and 7 of this amending Bill, under section 57 (1) of the Ordinance, the Member can add the name of any animal to Part J of the 4th Schedule and can insert the fees payable in respect of these permits. But in section 13 (2) of the principal Ordinance it provides that the special licences shall not be granted to any person in respect of more than—and there it proceeds to lay down—in the Ordinance (itself a list of various wild animals, and that section 13 (2) of the principal Ordinance to some extent limits the intention of the provisions under section 57, and therefore the amending Bill seeks to put that anomaly right.

Section 4 of the Bill deals with section 23 of the principal Ordinance where, owing to the omission of a comma, a meaning directly opposite to that intended is conveyed in the principal Ordinance, and the amending Bill seeks to put that matter right.

In clause 5 of the Amending Bill, sub-section 2 of section 32 of the principal Ordinance is referred to and there is a difficulty in that it renders unlawful the possession of game or trophy in respect of which, although, at the time possession may have been legally obtained, an offence has at some time been committed, but not so far as the then possessor is concerned. That was not the intention of the Ordinance. Therefore, the Amending Bill seeks to put that right.

[The Member for Agriculture and Natural Resources]

In addition, in clause 5 it is suggested that we add a new sub-section to section 32 of the Principal Ordinance, and this is perhaps the most important matter contained in this Amending Ordinance. The new sub-section lays the onus of proof of the legal possession on the person who has those things in his possession. It is an unusual provision but experience has shown that in dealing especially with illicitly obtained ivory and rhino horns, not to mention skins especially ivory and rhinoceros horn it is quite impossible to enforce the law without a provision of that kind. A similar provision, I may add, is already in existence in the neighbouring two territories in their corresponding legislation.

Lastly, Sir, clause 7 of this Amending Bill adds a new section to section 41 of the Principal Ordinance which enables the powers or officers of the Game Department to erect roads, barriers for inspection purposes if they considered it necessary to do so. The reason for that Sir is that there are, as Hon. Members are aware, many occasions on which persons go into the game reserves, shoot very large numbers of game animals in order to obtain meat and bilting which they run out at night in lorries. Unless there is some method of making road barriers it is very often difficult to apprehend these poachers.

These are the main provisions obtained in this Amending Ordinance and I beg to move.

Question proposed.

The question that the Bill be now read a Second Time was put and carried.

Ordered to be read a Second Time and committed to a Committee of the whole Council tomorrow.

The Protected Areas (Amendment) Bill

THE CHIEF SECRETARY: Mr. Speaker, I beg to move that a Bill entitled *The Protected Areas (Amendment) Bill* be read a Second Time.

This is a very short Bill. One of the amendments is designed to put right an oversight in the first instance. Another amendment is designed to provide what I suggest is a reasonable safeguard. As regards the first, the object of the Bill, the original Bill, as announced in the Objects

and Reasons was to provide for the protection of places where arms, ammunition and military stores were kept. Those words were in actual fact not mentioned in the Bill itself and it is therefore suggested in clause 3 of this Bill that the wording of the original Principal Ordinance which reads "As respects any area, place or premises" should be amended to read "As respects any area, place or premises where arms are stored or kept any arms, ammunition or military stores".

The further amendment proposed is to provide in section 8 of the Principal Ordinance for the compulsory fencing of any area which is declared to be a protected area. Since the action taken in any protected area may extend to the death of any person found illegally therein, it is suggested that in addition to putting up warning notices, provision should be made for the actual fencing of such areas. I may say that hitherto it has been the practice for such areas to be fenced, but it is thought better to make it clear in the Ordinance.

The remaining amendments are minor ones and provide merely that the Chief Secretary shall be the authority for the purpose of the Ordinance instead of "the Member of the Executive Council of the Colony for the time being responsible for law and order". This, Sir, is consequent on a certain rearrangement of duties between the Members of Government. I should add, Sir, on a point of explanation, that this in no wise affects any action taken under the Emergency Regulations for protected areas, which is quite a separate matter.

THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT seconded.

Question proposed.

MR. MATHU: Mr. Speaker, I would like the hon. Mover to explain one point which I find difficulty in comprehending. The requirements under section 3 of the amending Bill and section 5 Under section 3, no unauthorized person may enter a protected area where arms and ammunition and military stores are kept except on permit. Under section 5, after the fencing of such areas, no person should get there after the hours of darkness. If he does get there, then he gets no compensation or damages in respect of injury received or death caused by unauthorized entry to any such area. What

[Mr. Mathu] happens if the person gets into the area under section 3—it may be during the hours of darkness, it may be in day-time.

THE SPEAKER: No other Member wishing to speak, I will ask the hon. Mover to reply.

THE CHIEF SECRETARY: Mr. Speaker, Sir, I appreciate the point made by the hon. Member but I am afraid that at immediate notice I am unable to give him a satisfactory reply but I will go into it and it may well be, Sir, that at the Committee stage, if some action is required, appropriate action could then be taken.

The question that the Protected Areas (Amendment) Bill be now read a Second Time was put and carried.

THE SPEAKER: What day for Committee?

THE CHIEF SECRETARY: To-morrow, Sir.

The Development Loan, 1950 (Amendment) Bill

THE SECRETARY TO THE TREASURY: Mr. Speaker, I beg to move that a Bill entitled *An Ordinance to Amend the Development Loan Ordinance, 1950*, be read a Second Time.

Ordinance No. 17 of 1950 provided for the raising of a loan of £6,000,000 together with an additional sum that would be required to defray the expenses of issue. In the event a sum of £70,000 was raised, but only some £59,000 was spent on the expenses at issue. That left just over £11,000 which could not be used under the Ordinance. The Bill before the Council is to make it possible to use that £11,000 odd on the payment of stamp duties on transfers of Kenya Government stock. It is the practice with the Commonwealth and Colonial loans on the London markets to allow duty free transfer. That practice is also allowed by Her Majesty's Government in respect of some of its stocks. The money now available will be put into a Stamp Duty Fund which has existed for many years and has been supplied with funds by allocation from various loans. The last allocation was from the 1951 Loan.

Sir, I beg to move.

THE MEMBER FOR FINANCE AND DEVELOPMENT seconded.

Question proposed.

MR. HARRIS (Nairobi South): Seeking information, Sir, may I ask the hon. Secretary to the Treasury whether this in fact means that the proceeds of money raised in a Kenya loan will be used for paying additional profits to the High Commission Services Post Office?

THE SECRETARY TO THE TREASURY: Mr. Speaker, Sir, there is a comparatively small volume of transactions of Kenya loans on the local market and the Stamp Duty for which we have to seek funds is British Government Stamp Duty. If, however, there are any local transactions and if the condition of the loans do allow freedom from Stamp Duty, this Government would use the Stamp Duty Fund to pay that Stamp Duty. The hon. Member for Nairobi South is quite wrong in assuming that the proceeds of the sale of postage stamps used for revenue purposes accrues to the High Commission. The High Commission does collect the money but we have not been aware that the High Commission and the Kenya Government are different entities and we have for years adjusted as between the High Commission and the Kenya Government. (Laughter.)

The question that the Bill be read a Second Time was put and carried.

THE SPEAKER: What day for Committee?

THE CHIEF SECRETARY: To-morrow, Sir.

The Development Loan, 1951 (Amendment) Bill

THE SECRETARY TO THE TREASURY: Mr. Speaker, I beg to move that a Bill entitled *An Ordinance to Amend the Development Loan Ordinance, 1951*, be read a Second Time.

This Bill does for the 1951 Loan Ordinance exactly what the last Bill did for the 1950 Loan Ordinance. I do not propose to repeat my remarks on that Bill.

Sir, I beg to move.

THE MEMBER FOR FINANCE AND DEVELOPMENT seconded.

Question proposed.

The question that the Bill be now read a Second Time was put and carried.

THE SPEAKER: What day for Committee?

THE CHIEF SECRETARY: To-morrow, Sir.

The Traffic Bill, 1953

THE CHIEF SECRETARY: Mr. Speaker, I beg to move that the Bill entitled *The Traffic Ordinance, 1953*, be read a Second Time.

The existing Traffic Ordinance, Sir, became law in 1928, and since then a very considerable number of amendments have been made to it. Also circumstances relating to the traffic itself and the result of such traffic have changed. In 1943, Sir, there were some 13,000 vehicles on the roads of the Colony and in 1953 this number has increased to some 40,000, but there are other changes too. Not only has the number of vehicles increased, but the general road system has improved, and the result is that vehicles are able to travel much more freely than before.

The matter of the revision of the existing law has been under consideration for some considerable time, with a view to bringing it more into line with the United Kingdom legislation and the legislation in force in other fully developed countries. There has also been a move to get greater uniformity between the traffic laws of the East African territories. The present Bill, Sir, is based very largely on United Kingdom legislation, which was adopted in the main in Uganda some 18 months ago, so that we have had an opportunity of learning that the revised law has operated satisfactorily on the ground elsewhere.

The main thing with which the Bill is concerned is to obtain better standardization with regard to driving conduct, licensing, registration, construction and use of vehicles.

During the last three years or so, considerable consultation has taken place with various bodies and associations concerned, who are interested in this particular matter, such as the Road Authority, various Local Government Authorities and the various motor associations, and suggestions put forward by them have been incorporated in the Bill now before Council.

Originally, in 1951, action was taken to provide an amending Bill, but owing to the amount of legislation there was then on the stocks, and in the light of desirability of consolidation of legisla-

tion, it was decided to defer the introduction of an amending legislation.

In the light of consultation with the various bodies to whom I have referred, a Bill was published in October last year for criticism and comment. Very little criticism and comment was received, because in fact such general criticism and comment had been dealt with at an earlier stage, when the proposals for the legislation, some 200 copies of them, had been circulated to the various interested bodies, and also to the Press.

I may say that, apart from suggestions which have been made from these various bodies, who have been consulted, demands from the public have arisen from time to time for the bringing of the existing traffic legislation up to date.

To come to the provision of the Bill, Sir, there has of course been a re-orientation of the parts of the Bill in the light of the changes, which it is proposed to make.

Part I deals with interpretations, and it will be seen that various new definitions of classes of vehicles are introduced. In particular, amendments have been made in the definition of the various classes of public service vehicles. A new class of public service vehicle, "private hire vehicle" has been introduced. The difficulties, which previously existed, that any vehicle was in fact a public service vehicle, have been overcome in part by the specific definition of the term "plying for hire". It will no longer be necessary, if this definition is adopted, to prove that passengers are being carried for hire or reward, before any vehicle can be classified as a public service vehicle. The carrying of passengers for hire or reward has in the past been difficult to prove on many occasions.

Part II introduces registration books for all vehicles. These books will have to be produced to a police officer within five days of demand. Changes of registered particulars and registered owners are required to be notified to the registrar.

Part III deals with the matter of licensing of vehicles. Every vehicle is required to be licensed and, if it is not so licensed, then the owner will be guilty of an offence, unless he has notified the

[The Chief Secretary] registrar that he does not intend to use the vehicle for a specified period. Dealers' General licences or trade plates will no longer be issued in respect of a specified number of vehicles. Such licences will be issued individually and the actual plate supplied by the registrar.

Part IV, Sir, deals with driving licences and it is proposed that the issue of such licences shall be further restricted by prescribing conditions as to test, ages, and physical fitness, before the granting of such licences. Driving tests will no longer be free, and central records of drivers will be maintained. It is proposed, Sir, that driving licences should in future give full details of holders, together with a photograph, and these licences will be renewable annually on payment of a renewal fee. This will involve the withdrawal of the existing Certificate of Competency, some which were issued many years ago, including my own. An important proposed change is the provision to allow the registrar to cancel any driver's licence upon application by specified officers, if the holder is suffering from any disease or disability which is likely to cause him to be a danger to the public—a danger to the public in his driving, I mean.

Part V relates to driving and other offences relating to the use of vehicles on roads. Under this it is proposed that the highway authority, which is defined as the Road Authority, except where a road in any area or district has been vested in a local authority under any Ordinance, in which case the local authority is the highway authority for the purposes of this Ordinance in relation to such road—that the highway authority has been given the power to extend or restrict any speed limit within any municipality, township or trading centre. The amendment is designed to ensure that speed limits are imposed for reasons of safety and are not dictated purely and simply by physical boundaries of any area. The penalties for being drunk and in charge of a motor vehicle have been increased, and it is suggested that conviction for this class of offence should carry automatic disqualification for six months or a longer period, as the Court thinks fit. There is provision that no driver of a public vehicle shall drink intoxicating liquor during his period of

duty. Reckless and dangerous driving may now be proved having regard to traffic which may reasonably be expected to be on the road and conviction for this offence will entail automatic endorsement of a driving licence. In regard to excessive speed, reckless, dangerous or careless driving, it will now be necessary to prove that the alleged offender was notified that he was being charged with an offence at the time the offence was committed, or that within 14 days of the commission of the offence a summons for the offence was served on him; or within the said 14 days a notice of the intended prosecution specifying the nature of the alleged offence and the time and place where it is alleged to have been committed was served on or sent by registered post to him or to the person registered as the owner of the vehicle at the time of the commission of the offence. Provision has been made for dangerous obstruction, as well as the previously existing obstruction. Dangerous obstruction would apply in a case where a driver leaves a vehicle in a dangerous position on a road, as opposed to mere obstruction. Unserviceable vehicle offences have been more clearly specified, and it is proposed that the licence of any vehicle, which is proved to have been used on two occasions in an unroadworthy condition, should be cancelled. Tampering with a motor vehicle, or the taking of a motor vehicle without the owner's consent, have been provided for by penal sanction.

Part VI. This deals with the regulation of traffic. It is proposed that the Highway Code should become a statutory booklet, which can be quoted in support of any charge of careless driving or anything of that kind. The powers of the police have been more closely defined in the regulation of traffic in a wide sense, such as diversions, restriction of parking and denial of public access to roads or parts thereof, if the circumstances so dictate, traffic signs will be prescribed by regulation and authority given to the police to erect special signs for a period not exceeding seven days. This is part and parcel of a fairly worldwide movement to obtain uniformity in traffic signs, a matter which is of some convenience to persons who happen to be travelling through two or three countries in the course of the same journey.

[The Chief Secretary]

Part VII. Amends the law in relation to accidents.

Part VIII consolidates provisions regarding the cancellation and suspension and endorsements of licences—

THE SPEAKER: It is now Eleven o'clock, and I take it you will be some time yet. We had better take the interval now.

Council adjourned at Eleven o'clock and resumed at fifteen minutes past Eleven o'clock.

THE CHIEF SECRETARY: I was in the process, Sir, of dealing with Part VII of the Bill Part VII, as I said, amends the law in relation to accidents. Dogs are now included in the list of objects of accidents which require the reporting of such accidents and authority is given for the inspection of any vehicle involved in an accident and police may enter premises to carry out such inspection.

Part VIII consolidates the provision regarding the cancellation, suspension or endorsement of licences and enables a clean licence to be issued after three years free from conviction. There is also provision for a Magistrate to suspend a driving licence until the holder has passed a test.

Part IX of the Bill deals with offences in respect of vehicles other than motor vehicles and contains provision limiting to one the number of passengers who can be carried on a bicycle or a pedal-cycle and it also gives powers to control the manner in which that person is carried.

Part X contains miscellaneous provisions as to roads and relates primarily to the protection of roads. There are no major changes from the existing legislation in this respect.

Part XI deals with public service vehicles and this is entirely new. The provisions are new and enable the police to have fuller control of the issue of licences to vehicle drivers and conductors by requiring that no such licence shall be issued without the applicant being certified as a fit and proper person to hold such a licence. The issue of public service vehicle licences will be confined or restricted to the registered owners of such vehicles. The various classes of public service licences may be suspended or revoked upon conviction for any offences under this part of the Ordinance, or by the Registrar at any

time if he is satisfied that the holder is no longer a fit and proper person to hold such a licence, or that it would be contrary to the public interest for him to continue to hold such a licence. The seating capacity of the vehicle will be regulated by regulations.

There is also provision that where a vehicle is more than four hours late on its scheduled run, passengers may recover a proportion of the fare, if it is shown that delay or lateness is due to the negligence of the owner, his servants or agents.

The siting of bus stops has been transferred to the Highway Authority, who are required to consult the officer in charge of the police areas concerned. As I have already mentioned, the Highway Authority means the Road Authority or Local Government Authority, as the case may be.

Part XII which is headed "General" contains provision for inspection, detention and removal of vehicles, which are unsafe, abandoned or overloaded. It also gives power to the police to prohibit the use of vehicles until they are repaired, or the load adjusted in the case of vehicles, which are unsafe or overloaded. These offences often necessitate technical evidence and provision has been made in the Bill to make such evidence admissible by the production of a certificate of examination and to dispense with the actual personal presence of the examiner. Owners will be required to keep records of any driver employed by them and to maintain such records for a period of six months after the date any such driver ceases to be employed by them.

Fraudulent imitation of any document or licence required under the Ordinance is made a special offence and penal power is given to seize any such document or licence. Endorsements of driving licences will be *prima facie* evidence of previous conviction for such offences. In order to reduce the amount of paper work now necessary by way of charge sheets, summonses, etc., a notice to attend the Court has been introduced for all offences for which the penalty does not exceed six months' imprisonment. This notice may be served direct on any offender, requiring him to attend the Court on the stated day and will show briefly the offence alleged. Copy of such notice will be sent to the Court and no further action is

[The Chief Secretary]

required by the Magistrate or police to request the attention of the offender. The offender may, however, enter a written plea of guilty.

These, Sir, are the main provisions of the Bill. It is a lengthy Bill and it is unfortunate that with the progress of civilization in traffic matters, as with others, it involves more and more legislation. But, Sir, while this may be regarded as interference with the liberty of the subject, I would suggest that the liberty of the subject is part and parcel of the liberty of all subjects.

Now, Sir, I think probably the majority of hon. Members here are drivers themselves. It is not merely a question of the protection of those who do not own motor-cars, or pedestrians, or those who may not on a particular occasion be in charge of a motor-car or riding in a motor-car, but it is very necessary that drivers themselves should be protected against other drivers. I trust, therefore, that while a number of people will no doubt share my feelings at the various restrictions which are put on our activities, they will, also, share my views that such action is necessary for the protection of ourselves as well as others. It is the intention, Sir, that this Bill should go to a Select Committee, and there will, no doubt, be certain alterations made in that Select Committee. I already myself propose to suggest one alteration to the Select Committee and that is to do away with the application form in respect of the renewal of driving licences, but to provide that in the event of any change of circumstances which would render the applicant for the renewal of a driving licence ineligible, through clause 30, the applicant shall inform the Licensing Officer of any such change.

In view of the fact that this Bill will go to a Select Committee, I do not think that it is necessary to deal in further detail with the individual clauses.

Sir, I beg to move.

THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT seconded.

Question proposed.

MR. MAITLAND - EDYE (Nominated Member): Mr. Speaker, there are one or two points of principle I would like to raise in regard to this Bill. My first is

the definition of "roads" and the words "to which the public has access". I am informed that in the event of any motoring competition or anything of that nature taking place on private land and to which the public are admitted, it will be regarded as a road to which the public has access within the meaning of the act. Now, I should like to suggest that it requires examination because under this Bill, it will be necessary to apply for permission to the police and road authority to permit an event of that nature to take place on what is private property. I do not think it is the intention of the Mover of this Bill to introduce restrictions of this kind unless they are absolutely necessary.

My next point is clause 30 on page 13, clause 30 (2) (a) "produce a certificate from a medical practitioner, named by the Registrar". Now, Sir, I do feel that is an unnecessary restriction on public liberty, that it shall be within the power of the Registrar to demand that a medical certificate be obtained from a medical practitioner of his choice rather than a normal medical practitioner; to which a person applying for a certificate would normally go. I feel that wants amending to "a properly qualified practitioner" and not the choice of the Registrar. That would also apply to clause 39 (3) where the Registrar has the power to revoke licences once issued and again he has power to choose the medical practitioner.

Clause 47, on page 18, under the heading of "careless driving". There, Sir, the person convicted "shall be liable on conviction to a fine not exceeding shillings one thousand or to imprisonment for a period not exceeding three months". Now, Sir, imprisonment at the discretion of a magistrate for such a minor offence as careless driving at the option of the magistrate seems to be quite improper. I think I am correct in saying that under the English law careless driving is not subject to imprisonment at the option of a magistrate. In this country on a number of occasions a person convicted and fined for careless driving is not in a financial position to meet that fine, nor does he possess, in many cases, sufficient assets to have those assets distrained and in fact, therefore, he can commit offences with impunity. That I quite

[MR. MAITLAND-EDYE]

appreciate is not what we want and we must have some alternative to cover an offence of that kind. But I do suggest, Sir, the inclusion of the words "or in default of a payment of a fine" then the magistrate will have the right to imprison but if the fine is paid then the magistrate shall not have that right.

Again in clause 114 on page 37—clause 114 (2), "any person who is guilty of an offence against this Ordinance for which no penalty is specially provided shall be liable on conviction—(a) for a first offence to a fine not exceeding shillings five hundred or to imprisonment for a period not exceeding three months".

Again, Sir, I would suggest that it is far too wide a power and too wide a punishment for what are, in fact, minor offences. All offences in this Ordinance which are of a serious nature have already got their penalty attached to them and this clause is merely to cover the minor offences in this Ordinance which are not covered or not regarded as sufficiently serious to have their own penalty attached. There again, I feel that the words "or in default" should be placed between "not exceeding shillings five hundred and to imprisonment". The magistrate should only have the power to imprison if the fine is not paid.

On page 34, clause 102 (1): "It shall be lawful for any police officer or for any licensing officer or inspector to—(a) stop or enter any vehicle". I would suggest there, Sir, that the power of stopping a vehicle should not be left to a licensing officer or inspector because I imagine that neither the licensing officer nor the inspector will be in uniform and I suggest it quite improper to expect to be stopped by an individual dressed in ordinary clothes with no visible sign of authority. I suggest that that should be altered to read that "only a police officer would have the power to stop a vehicle and thereafter the licensing officer would have power to do the various jobs set out in this clause. In other words, he would be accompanied by a uniformed police officer if it is desired to stop vehicles on the road for the purpose of inspection.

Page 36, clause 113. I would like to make sure that when the Select Committee considers this Bill that clause 113

does not over-ride the very essential provision in clause 48 whereby a person prosecuted for an offence under any of the sections of this Ordinance relating respectively to the maximum speed at which motor vehicles may be driven, to reckless or dangerous driving, or to careless driving, he shall not be convicted unless he has proper warning of that offence within 14 days of that offence and being warned that he is to be charged. I am not a lawyer, Sir, and I may be wrong in my reading of 113, but to me it does seem that that clause overrides 48 which I think is most essential.

Those are the points I would like to raise.

LADY SHAW. Mr. Speaker, this Bill has been published for some length of time. It is fairly well known to a good number of people who have had occasion to take an interest in it. On the other hand, the Member, in speaking on this Bill, mentioned that fact that when published in October last year, that very little interest had been taken by the general public. I think he may realize that the date it was published may have something to do with the lack of interest shown in it by the general public as they had a number of other subjects and I do believe that is why it has probably passed unnoticed by the general public. I am not in any way criticising its having been published at that time, but I think it may explain the lack of interest taken. In view of the fact that this Bill is going to a Select Committee, I have very little to say about it, because I think most of the points which one would have to raise are merely matters of detail. However, a large number of details mount up if repeated many, many times, and become something more than details and one of those things which does snowball up in this manner is this matter of punishment.

I, as most people in the Council know, have spoken on the traffic offences which have not been, in my view, sufficiently dealt with in the past, but it does seem to me that throughout this Bill a very large number of punishments that are possible—not necessary, but possible—for some of the comparatively minor offences are very much too high. I think, for instance, that many of the municipalities at present any way, have

[Lady Shaw]

far too large an area included within their 30 mile limit areas at present which are perfectly safe for fast driving, and yet within those limits. There is no doubt that people, however unlawfully, will drive faster down Princess Elizabeth Way than they will drive down Delamere Avenue which has the same speed limit. There is no danger in fast driving in one, but every possible danger in the other. At the same time the same punishment is applicable for both. It does seem that unless the Municipalities are urged to review very carefully their 30 mile speed limits, a great number of these punishments are not only silly, but perfectly ridiculous. I hope the Select Committee will on examining the whole gamut of punishments, where one man is fined £200 given a term of six months' imprisonment that some reasonable proportion should be preserved between him and the next man who is fined £50 and given three months'. The punishment for a number of offences in this Bill strikes me as being quite disproportionate with the punishments handed out to people who have committed other crimes not included in this Bill who have lesser punishments for far more important misdemeanours. I feel that the whole thing has got to be examined in the light of reason and the light of the general scale of punishments for offences in this Colony.

Now, I have spoken of punishments but one of the things I am most interested in is not merely punishing people for doing the wrong thing, but preventing them doing it. It seems that this Bill has missed out two very important points I have mentioned in the past which might prevent accidents and prevent people from being punished for them. They both relate to something I have mentioned before—lighting. Now, some years ago, I cannot remember how many, I asked in this Council that a rule should be made or included in any future Traffic Ordinance that lorries, particularly, or any high vehicles, with unreflecting surfaces should be forced to carry reflectors at the back of them, because it is well known that rear lights are apt to fail, particularly in lorries, I believe. It is extremely difficult to maintain on these very rough roads, or some of them, one's rear light in safe condition. Now,

lorries do break down and they are pulled to the side of the road, they are left standing there, as I know to my cost. They may have no possible illumination and no possible means of being seen at the back. I would like to know whether it cannot be in any way added to this Bill, possibly in the Select Committee, that vehicles of the lorry type, or vehicles with unreflecting surfaces, should carry reflectors by law.

Again I know to my cost that some carry rear lights high up at the back of the cab, probably about ten feet away from the back of the lorry. That, now, should not be lawful. I would like to see that the position of the rear lights and, or, the reflector on long vehicles such as lorries should be specified—the owner of the vehicles should be forced to carry that light or reflector in a reasonably safe place for the safety of the public.

Those are not particularly important points possibly, but on a matter of principle they are points, I believe, which could not be dealt with in a Select Committee unless previously mentioned. I think they are important as a prevention rather than a cure.

One or two other small points—I cannot remember in which section—there was the question of age at which licences should be issued to drivers, for different classes of vehicles, 18 for a car and 21 for a commercial vehicle. It does seem ridiculous that a young man who can drive a car at 18 has to wait another two years to drive a lorry load of sacks to the station. I feel the Select Committee must have another look at that. It is reasonable to expect a man plying for hire, a man who is responsible for the safety of other people's lives, to be expected to conform to very drastic rules but if a man is fit to drive a car at 60 miles an hour at 18 he is fit to drive a lorry at 30 or 40 miles an hour at 18, or perhaps 19, not have to wait another two years. It really becomes quite fantastic. Another point is that only a certain section of the population have birth certificates. You can prove a young man of European extraction is not 21 but it will be extremely difficult to prove that some of the other young men are not 21. You have got to look at this in a sensible manner and regard a chap as either an adult or not. I would very much like to get that provision altered.

Mr. MACONOCHIE-WELWOOD (Uasin Gishu): Mr. Speaker, there is one major point of principle I would like to raise in this Bill. That is that in one or two of the provisions of penalties the words are inserted, "The magistrate shall . . ." On a matter of general principle I do not believe we should make laws saying "shall" to the magistrate. It should be—"the magistrate may" not "shall sentence". That I consider a matter of major principle, particularly in a Bill of this kind where you are considering penalties on the drivers of motor-cars, who are, for some reason, always looked upon as potential criminals by the police and are very unlikely to get fair treatment before they reach the magistrate.

In the definitions in the Bill there are two points I would like to draw attention to. One is it has been mentioned in a different connexion by the hon. Mr. Maitland-Edye—that is the access road position. In the definition of road here, where the roads are roads of access through a farm, under this definition of "public" road you will get a farmer unable to move his tractor unlicensed across a road which is used as an access road because the definition of public roads is any road to which the public has access. That would be very unfair to certain farmers who allow a neighbour or two neighbours to go through their farms as an access road.

Public service vehicles. I think we should have a closer definition than the one here. Cases can arise of persons putting up notices in hotels—as is often done in this country—when they offer a lift to two people going from one place to the next, sharing expenses. They then become a public vehicle. Another case might arise where somebody lends a car for a period to somebody else when they are leaving the country for a time for a nominal charge to cover depreciation. That would come under the definition of a public vehicle in this Bill.

There is a matter I have felt very strongly about for a long time which is mentioned in clause 30. That defines that a person may drive motor vehicles in this country if he has a driving licence in another dominion but it omits to say that the holder of an International Driving Permit may. I submit we ought to do that, particularly in the interests of tourist

traffic. We are in the peculiar position that whereas any country in Europe allows persons to drive on an international permit, we do not. In this Bill we have not tied the matter up, we have still left the driver from France or Belgium holding an international permit or Triplique unable to drive in Kenya but able to drive in most other countries.

Another point I consider a major principle occurs twice in the Bill, at 41 (1) and 55 (2) where the responsibility of the act of a servant is automatically placed on the shoulders of the owner. In other words, it is not necessary for the owner to be present in the vehicle for him to be fined for the behaviour of his servant. Whether that is a detail that can be fixed by the Select Committee I do not know. I think it is right to mention it here because it has quite a serious implication. In clause 41 (1), for instance, it says "No person shall drive, or, being the owner or person in charge of a vehicle, cause or permit any other person to drive a vehicle on a road at a speed greater than the speed specified in the Second Schedule to this Ordinance as the maximum speed for that class of vehicle." As I see it, that means that the owner who might not be in the vehicle, is responsible for the driving of his employees.

There is in clause 95 (3) (c), a complete right of refusal by the police, without grounds given, to grant a licence for driving a public service vehicle. I think it is improper that the police should have what amounts to final power without cause to refuse a licence to drive. This was specifically mentioned by the hon. Mover as a new clause; I think if it is to be put in there must be some definite right of appeal to a person other than a police officer—here I would state the very definite prejudice the police have for the drivers of motor vehicles.

Finally, Sir, at the end there are rule-making powers given to the Governor in Council and it is not clearly stated there that those rules must be laid on the Table of Legislative Council for debate or, if necessary, for amendment, and as the rule-making powers are extremely wide in this Bill, I think it of vital importance that they should be laid on the Table of this Council for debate and, if necessary, for modification. In the past it has often happened in this

[Mr. Maconochie-Welwood] Council on other matters that rules have been laid, very often with very little publicity, and purely by chance people have discovered that they have been laid and alterations have been made later. Therefore they must be notified to this Council in case they include things which are not acceptable to the Legislature.

DR. KARVE (Nominated Member): Mr. Speaker, Sir, I do not wish to take up the time of the Council in such a non-controversial Bill but there are a couple of points I would like to make in the definition clauses. "Driver" means any person who drives a vehicle, or guides draught, pack or saddle animals or herds or flocks on a road, or who is in actual physical control of same". That does not cover the drivers of *hamali* carts in a place like Mombasa who, I think, are the worst offenders against the traffic laws.

The second point I would like to make is the definition of "motor-car". This makes it a car not having a seating capacity of more than seven passengers. There are now to-day in this country "Volkswagens" which seat nine or ten which are quite widely used by some Indians, particularly, who have large families, as family cars. These cars will not come under the definition of "motor-car" and will not come under the definition of "motor omnibus", which is a public service vehicle. I think that particular item should be looked into.

There is one more clause I would like to bring to your attention, that is clause 99 (3). Here "the owner of every taxicab and private hire vehicle shall keep or cause to be kept, a record in the prescribed form of every journey made by such vehicle. . . ." It is rather impossible or rather impracticable for a private hire car, for a private vehicle owner who hires his vehicles out as self-drive vehicles to have such a record kept for each journey, because very often a car like that is hired to a person, who takes it away for a fortnight, three weeks or even a month, so that clause will cause hardship on persons of that kind, so that will have to be looked into. I agree with Mr. Maitland-Edye who suggested a change in the words "a medical practitioner stated by the registrar" to

"a qualified medical practitioner". I feel very strongly about that.

THE MEMBER FOR LEGAL AFFAIRS: There are one or two points raised by the hon. Member for Uasin Gishu which he described as being points of principle and I agree with him that they are points of importance, not points of detail, which would ordinarily be dealt with by the Select Committee and should therefore appropriately be discussed at the Second Reading of this Bill. If I may take them not necessarily in the order which he put them before the Council, I would refer to his suggestion that there should be a clause introduced into this Bill which would require regulations made by the Governor in Council to be laid on the Table of this Council for scrutiny, for discussion and, if necessary, for the Council to pass a resolution rejecting them.

If I may say so, Sir, that is a very common clause in Bills which give wide powers to the Executive to make subordinate legislation. I have, myself, normally been accustomed to insert such a clause in Bills of this nature and I agree to the proposal being put forward by the hon. Member for Uasin Gishu in that respect. I will suggest, Sir, that an appropriate clause-laying should be introduced in the Committee stage. That clause would say that a regulation made by the Governor in Council should be laid on the Table of this Council and would give the Council an opportunity to move a resolution rejecting these regulations if they did not approve of them. That, Sir, I hope deals with the one point and I agree it is a very important point raised by the hon. Member for Uasin Gishu.

He also raised two other points which I should like to deal with quite briefly. One was in regard to where he took exception to what he regards as an extension of criminal liability to an owner of a vehicle who might himself have no concern with the primary cause of the criminal liability, namely the misdemeanour of his servant. That clause reads: "No person shall drive, or, being the owner or person in charge of a vehicle, cause or permit any other person to drive, a vehicle on a road at a speed greater than the speed specified in the Second Schedule to this Ordinance as the maximum speed for that class of vehicle." Of course, if the

[The Member for Legal Affairs] owner were held to be vicariously liable for his servant's misdemeanour, that, of course, would be contrary to a basic principle of law. I would emphasize—and the hon. Member for Uasin Gishu did not emphasize this—"cause or permit". If the owner of a vehicle "causes or permits" his servant to commit a breach of the speed regulations, he, no less than his servant, should be prosecuted, for indeed, he is more guilty, morally, than his servant, since that "cause" means in effect ordering his servant to commit a breach of law. Likewise, if he is permitting his servant to commit a breach of the law and that can be brought home to him he is morally guilty and should be prosecuted.

Now the third point I want to deal with raised by the hon. Member for Uasin Gishu, was his complaint that throughout this Bill there are provisions which make it mandatory upon the magistrate to pass a certain sentence which is set out in the Bill. He said that again and again the word "shall"—"the magistrate shall" impose such and such a penalty appear in the Bill, but he did not specify a single clause where he said these words appear in point of fact, they do not appear at all.

LADY SHAW: They do!

THE MEMBER FOR LEGAL AFFAIRS: I will take the clauses; I will take them one by one. I do not know which offence, for instance, the hon. Member for Uasin Gishu is particularly interested in, but let us say the offence of committing a breach of law relating to excessive speed. Any person charged with that offence shall be liable, on conviction, to a fine not exceeding Sh. 1,000. It does not say that the magistrate must impose a penalty of Sh. 1,000—that the magistrate must impose the maximum penalty; what it says is that the person convicted of that offence shall be liable to a fine not exceeding Sh. 1,000 and, therefore, it is left to the discretion of the magistrate in such a case to impose a lesser fine.

Now let us look at clause 43—the clause dealing with driving under the influence of drink. After saying that a person convicted of this offence will be disqualified for a period of six months or for such longer period as the Court thinks fit to order, it then pre-

scribes that on conviction, he shall be liable to a fine again not exceeding Sh. 5,000 or to imprisonment not exceeding two years. There is nothing in either of those provisions requiring that the Magistrate should impose the maximum penalty. All the clause says is that there shall be a maximum penalty and that the Magistrate, in his discretion, may impose any penalty up to that maximum.

In Clause 45—the same phrasing again: "Any person who commits that offence shall be liable to a fine not exceeding so many thousand shillings". There is in every instance this discretion vested in a Magistrate.

MR. MACONOCHE-WELWOOD: I thank the hon. Member for giving way.

Clause 43 (2)—"A person convicted of an offence under this section shall be disqualified for a period of six months, or for such longer period of disqualification as the Court thinks fit to order, from the date of the conviction for holding or obtaining a driving licence of any description". I would ask the hon. Member to reply to what I was asking in another clause already mentioned—52—there again the responsibility of the owner is mentioned.

THE MEMBER FOR LEGAL AFFAIRS: I was dealing, as I said, Mr. Speaker, with the question of principle, and having dealt up to this point with the points made by the hon. Member for Uasin Gishu that the Magistrate had a duty imposed upon him by this Bill to impose the maximum fine and sentences of imprisonment, and having shown that there is no such provision in the Bill, now the hon. Member for Uasin Gishu, I understand, no longer pursues that point. He is silent, therefore I take it that I am correct.

MR. MACONOCHE-WELWOOD: I made the point that in this Bill the word "shall", "shall be disqualified"—"shall" is a mandatory word and I have just quoted to the hon. Member the clause that says "shall be disqualified".

THE MEMBER FOR LEGAL AFFAIRS: Now it is quite clear that the hon. Member for Uasin Gishu's criticism is confined merely to those sentences passed by the Magistrate relating not to fine or imprisonment, but to disqualification from holding licences—that is quite true and there is ample precedent for that in

[The Member for Legal Affairs] the United Kingdom legislation, and furthermore it will be observed that there is such a mandatory provision in 45 (2).

"On a second or subsequent conviction for reckless or dangerous driving the court shall exercise the power conferred by Part VIII of this Ordinance of ordering that the offender shall be disqualified for holding or obtaining a driving licence for such period as it thinks fit, unless the Court having regard to the lapse of time since the date of the previous or last previous conviction, or for any other special reason thinks fit to order otherwise . . .". So that even there discretion is still left to the Magistrate as to whether or not he orders an offender found guilty to be disqualified, and the general terms in which the hon. Member for Uasin Gishu criticizes the Bill on those grounds are not in any way substantiated when the text of the Bill is carefully examined.

As regards the other points he raised under clause 55 (2), that does not raise any new general principle and can, be dealt with more appropriately in the Select Committee. On Second Readings the proper way is to deal with questions of principle. That I have done, first of all in conceding to the hon. Member for Uasin Gishu that there should be a laying clause in this Bill; and secondly, in showing that the responsibility of an owner if his servant drives at an excessive speed exists only if it is established that he caused or permitted his servant to drive at an excessive speed; and thirdly, that there is no warrant for the general proposition that there are mandatory provisions in this Bill, compelling a Magistrate to impose maximum penalties.

MR. USHER: Mr. Speaker, I wish to raise one matter which cannot be dealt with in the Select Committee. It relates to clause 65, which reads "The Member shall as soon as may be after the commencement of this Ordinance prepare a code (in this section referred to as the "highway code)". Sir, I am not quite sure but I assume "The Member" to be the hon. Member, but perhaps—thank you, Sir, I understand that is so. I find something slightly sinister in the words "as soon as may be", because, Sir, this highway code is almost of the character of

subsidiary legislation. Now either it is ready, or it is not ready. We understand that this Bill should be passed through all its stages at the present sitting, that there is urgency to have it law. I feel that there is almost the same urgency to have this highway code properly passed by this Council and that it is very desirable, in fact, that the two should come up together. I do not know if the highway code is already in being, but if so and it is at all possible, I do suggest that the highway code should be laid before the Council now and possibly that both should be considered together by the Select Committee.

MR. CHANAN SINGH (Central Area): Mr. Speaker, the provision in the Bill allowing the public to inspect the records of vehicles kept in the registry is a welcome innovation but I think the restriction which makes such inspection, subject to the discretion of the registrar should be removed. After all, there is nothing secret about the possession of a motor vehicle and if a man wants to inspect the records of vehicles he should, on payment of the usual fee, be free to do so.

The second matter to which I wish to refer, Sir, is the question of the ability of the driver to read and write. There are two or three sections which refer to this matter. In one place the registrar is given the discretion to refuse a licence if the driver cannot read from a distance of 25 yards. Of course, he should be able to read only the identification plate of a vehicle—I should think most of the drivers in this country can do that—but there are other sections which refer to his signing an application form for a licence. Signing also means fixing a thumb impression, too. Then there are other sections which say that the driver shall affix his signature or thumbprint. I think this matter should be made clear—that "signature" as in the Interpretation and General Clauses Ordinance does definitely include the thumbprint.

Section 98 (3) of the Bill introduces, I think, quite a new principle in that it makes the non-payment of fines a criminal offence. I think that is quite wrong. If a person fails to pay his fare he should be liable in a civil court and non-payment of fare should not be a criminal offence at all.

[Mr. Chanan Singh]:

Then there are several sections relating to the registration of conductors. The need to see that drivers have the necessary skill and the necessary ability to drive their vehicles is understood, but I do not think so much stringency is necessary in the case of conductors, who are just like clerks running about on vehicles, issuing tickets and keeping records. I think the regulations relating to conductors are not necessary unless the Government has some special reason which I cannot see.

MR. OHANGA (African Representative): Mr. Speaker, there are one or two points. First of all, the first one is on page 7, regarding speed limits in section 1. I think generally it is desirable that speed limits should be imposed in towns and trading centres but when there is more than one authority to limit speeds, it is obvious there will be differences in the limits imposed in different centres and townships. I said here that the highway authority could be either the Central Road Authority or local highway authorities which might be a district council or some other such authority. Now it is true that uniformity is maintained on many of the main roads of the Colony, where a general speed limit of 30 is to be found practically everywhere but I have come across certain places on main trunk roads where the local highway authority or what styles itself in that manner, imposes a very low limit on a main trunk road between 5 and 10, not just for a limited period as stated in section 41, but for all time and you can imagine that such low limitation on main trunk roads which go through to other territories may be the cause of some irritation to drivers journeying through. I think we ought to maintain some standard on the main trunk roads, although the local highway authority may have powers to impose a lower limit for a limited period or for a specific reason, but as soon as that reason is over, they should go back to the normal limit of 30 miles per hour, not maintain a limit of 5 or 10 for ever.

The second point is section 57 regarding pillion riding. Pillion riding is said not to be in any other way except the fellow being carried behind sitting astride where actually I do not see why that should be, so long as the fellow carried behind sits in any way which is safe

according to his own judgment as he is not the driver of the vehicle, so long as he is comfortable and sits in a way he considers safe. I do not see why the law should interfere with the particular way he sits. It might be useful if the Select Committee go into that.

There are two more small points in regard to definition, Sir. The definition of motor omnibus. "A public service vehicle having seating accommodation for more than seven passengers exclusive of the driver." The point is that only the driver is excluded but the motor omnibus carries a larger crew than just the driver. There is likely to be a conductor and a turn-boy. If only the driver is excluded—this definition, it would appear that even the turnboy and the conductor might be considered as passengers which might be oppressive to the people who maintain and run those vehicles for a profit.

The next one is rather small—"Member" is referred to many times and yet the definition of "Member" is not given, it might be useful to show there who the "Member" is.

THE SPEAKER: No other Member wishing to speak, I will ask the hon. Member to reply.

THE CHIEF SECRETARY: Mr. Speaker, Sir, as I suspected, we are all experts on traffic and there are undoubtedly a great many other experts outside this Council as well. A number of these points which have been mentioned can well be dealt with by the Select Committee and I personally am in agreement with several which have been mentioned. I would not wish to oppose them. If I may deal with the last point that was raised regarding the matter of the Member, I feel I am in a somewhat difficult position, Sir, because on the one hand it was suggested by the hon. Mr. Ohanga that it would be nice for people to know who was the Member concerned. On the other hand the hon. Member for Mombasa when he heard or gathered that I was the Member concerned, suspected, and expressed his suspicion, that there was something sinister in it.

MR. USHER: No, Sir, not in the least. (Laughter.)

THE CHIEF SECRETARY: However, Sir, on this point of the Member, the Interpretation and General Clauses Ordinance

[The Chief Secretary]

provides that the Member means the Member of the Executive Council of the Colony for the time being responsible for the matter in question. The Chief Secretary is at the moment the Member of the Executive Council of the Colony for the time being responsible for the matter in question, although at the earlier stages of this Bill he was not. So, Sir, I cannot give any guarantee that the Chief Secretary will forever remain the Member responsible.

On the matter of the highway code, Sir—and I would like to thank the hon. Member for Mombasa's suspicion was directed to that rather than to the Member responsible—I have not got it prepared although a certain amount of work has been done on it. I am therefore not in a position to lay it forthwith on the Table of this Council, but provided there is no constitutional objection, I would be perfectly willing for the Select Committee to have the information which is likely to be contained in the highway code. Although I had hoped that it might be possible for the Select Committee to complete its deliberations during the present meeting of this Council, I understand that it is the wish of several Members that this should not be done and that in view of the number of points which have been raised and the number to which the Select Committee will no doubt direct its attention—I am not pressing for this Bill to go through all its stages at the present meeting. (Applause.)

Several Members remarked on the desirability of differentiating between speed limits. I think that their wishes will be able to be met. As I say, one of the objects of the provisions is to provide speed limits that will be regulated by reasons of safety, rather than geographical boundaries drawn on a map or other piece of paper.

On the matter of the carrying of reflectors by lorries or other suitable vehicles, that can, Sir, be suitably dealt with under the rule-making part. I have much sympathy myself with the hon. Member who raised that point.

On the matter of ages, I quite agree that the point should be examined by the Select Committee with a view to some clarification and easing in cases where

public danger is not involved. There was some mention of birth certificates, I am not sure if there was objection to the production of birth certificates. I fully realize that a considerable number of people in this country do not possess birth certificates, but it is necessary to make some provision for determining the age of some persons. If the person possesses a birth certificate that is, I understand, in a court of law, the best possible proof of age.

On the matter of pillion riding, Sir, and the suggestion that the choice should be left to the rider to ride in whatever way he likes, I do not know whether the hon. Member himself is a rider of motor cycles or has had some of the experiences I have had with pillion riders. I have been a rider of motor cycles; I have been a pillion rider. I have come across on the roads on a number of occasions motor cycles carrying pillion riders in a way to cause menace to other traffic. While not wishing to put undue restrictions on individuals and to make them sit or stand in an uncomfortable way, I should point out that the manner in which a pillion rider sits has a very great effect on the balance of the motor cycle and therefore the manner in which the rider can operate it.

Mention was made of the desirability of the drivers reading and writing. The Select Committee will, no doubt, go into that in detail, but I suggest that it is very desirable that a driver should be able to read traffic notices and also should be able to take the number of another vehicle if he wishes to lodge a complaint against that vehicle.

The question of the restriction on conductors. When provision is made for operation in the interest of the public, that is in a case of public service vehicles, I suggest, Sir, that it is necessary that all persons concerned with the operation of the vehicle, which may be extended beyond the actual driving of it, there should be some measure of control in the interest of the public who are paying for the advantage of travelling in the vehicle.

In order to remove any feeling of discomfort on the part of my hon. friend, Dr. Karve, or any other Member of his honourable profession who may be in

[The Chief Secretary]

this Council, I may say that subject to the views of the Select Committee, I am perfectly willing to accept the view that it should be qualified and registered medical practitioners rather than a medical practitioner named by the registrar.

I think the other points may well be left to the Select Committee.

The question that the Traffic Bill be now read a Second Time was put and carried.

THE SPEAKER: Will you move that the Bill be sent to the Select Committee?

THE CHIEF SECRETARY: I beg to move that the Select Committee be appointed on the Traffic Bill consisting of the following persons: The Chief Secretary (Chairman), the Member for Legal Affairs, the Hon. D. I. Bluhl, the Hon. J. E. Hunter, the Hon. L. R. Macnochie-Welwood, the Hon. Lady Shaw, the Hon. Chanan Singh, the Hon. Sheikh Mahfood, the Hon. J. M. O. Tamenoi.

THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT seconded.

Question proposed

The question was put and carried.

THE SPEAKER: I do not think you can call another Order of the Day now, because if you want to go on after twelve-thirty then one would have to move a Motion.

The Council will then stand adjourned until 9.30 a.m. to-morrow morning.

ADJOURNMENT

The Council rose at thirty minutes past Twelve o'clock. p.m.

Thursday, 23rd July, 1953

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

[Mr. Speaker in the Chair.]

PRAYERS

ORAL NOTICES OF MOTIONS

THE MEMBER FOR FINANCE AND DEVELOPMENT: Mr. Speaker, in the absence of the hon. Member for Legal Affairs, I beg to give notice of the following Motion:—

ESTATE DUTY LEGISLATION

WHEREAS it is considered desirable that provision should be included in the Estate Duty legislation of the Colony to give effect to arrangements which may be made from time to time with the Government of any territory outside the Colony with a view to affording relief from double taxation in relation to estate duty payable under the laws of the Colony and any duty of a similar character imposed under the laws of such other territory, and, in particular, to permit of the extension to the Colony of the provisions of an agreement for the relief of double taxation on estate duties concluded between the Governments of the United Kingdom and the Union of South Africa in 1947,

BE IT THEREFORE RESOLVED that this Council approves the introduction of legislation to amend the Estate Duty Ordinance (Chapter 257) accordingly.

MR. BLUNDELL: Mr. Speaker, I beg to give notice of the following Motion:—

CONSIDERATION OF CHIEF SECRETARY'S STATEMENT

This Council takes note of the statement made by the hon. Chief Secretary on Wednesday, 22nd July, 1953, and while acknowledging progress has been made regrets the present state of the country and considers more attention should be paid to additional manpower, intelligence, the adequacy of emergency legislation, and rehabilitation measures for Mau Mau criminals.

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: Mr. Speaker, I beg to give notice of the following Motion:—

WAIVURE OF ROYALTIES ON FIREWOOD

BE IT RESOLVED that the collection of the revenue lost to the Government as a result of the charging by the Conservator of Forests of a Royalty on firewood at rates below the full legal rate of Sh. 6 per 100 cubic feet, from October, 1939 to March, 1952, be waived.

ORAL ANSWERS TO QUESTIONS

QUESTION No. 107

MR. USHER asked the Member for Agriculture and Natural Resources whether due consideration has been given to ensuring that any extra cost of the Mzima Water Supply on account of works designed solely to preserve the amenities of the place, whether agreed in the past or to be agreed in the future, shall not be reflected in the price of the water but shall be borne by the general revenue?

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: These matters are still under investigation. The point put by the hon. Member for Mombasa will be taken into consideration, but I am not yet in a position to make a statement.

MR. USHER: Would the hon. Member say whether the statement which he has foreshadowed will be made during this sitting of Council?

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: I think it is extremely unlikely that it will be made during this sitting of Council because certain investigations are likely to be put into train and I shall not know the result of those investigations before this particular Session ends, but I will make a statement as soon as possible.

MR. COOKE: Mr. Speaker, we all know that it is now under consideration, but could not my hon. friend accept the principle that has been put forward by my hon. friend for Mombasa that the whole country should share the initial cost—could you not accept that principle?

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: No, Sir, the Government cannot accept that principle until it has had the opportunity of going into the whole matter when we have got the full facts before us.

QUESTION No. 108

MR. USHER asked the Member for Finance and Development to state the approximate annual loss of revenue to Kenya by reason of fees being required to be paid in stamps to the benefit of the High Commission, as in the case of applications for liquor licences?

THE MEMBER FOR FINANCE AND DEVELOPMENT: There may be a loss or gain to Kenya revenue by reason of the use of postage stamps for revenue purposes such as the payment of duty on applications for liquor licences. Each year the Posts and Telecommunications Administration reimburses to Kenya Government an amount equal to the assessed value of postage stamps used for revenue purposes. Such assessments do not, of course, give the exact amount payable in respect of postage stamps used for revenue purposes.

The Government is considering the introduction of revenue stamps and its decision on that matter will be made in the light of the benefit to be gained, namely, exactness in the collection of Government revenue in relation to the increased cost of collecting that revenue and to the possible inconvenience to the public.

QUESTION No. 109

MR. USHER asked the Member for Agriculture and Natural Resources to make a full statement of the circumstances in which, according to a recent Press report "Seven hundred gallons of milk a day were poured down the drains in Nairobi for some weeks at the end of April and the beginning of May"?

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: The marketing of milk in Nairobi is generally based on six monthly contracts between wholesalers and retailers on the one hand and wholesalers and producers on the other hand, the retail distributors being the assessors of their own individual requirements. At the end of April and the beginning of May this year the usual seasonal increases occurred in milk production and certain retailers who had over-ordered during the period of shortage in the hope of getting by this means their full requirements, found themselves

[The Member for Agriculture and Natural Resources] with unexpected surpluses of which they could not dispose in the form of whole milk.

In this situation it would appear that certain retailers found it was profitable to manufacture ghee from the surplus milk, thus utilizing to the full the butter-fat content of the milk, but they could find no ready market for the resultant skim milk which, without reference to any of the authorities concerned, they apparently threw away.

QUESTION No. 112

MR. COOKE asked the Member for Agriculture and Natural Resources if Government is considering the application to Kenya of the Canadian policy of dividing the National Forests into clearly demarcated blocks with the following among other objects:—

- (a) More efficient administration?
- (b) Improved road and path communications?
- (c) Wider and more accessible fire-breaks?

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: The division of forests into clearly demarcated blocks is an ordinary part of sound forest management, not particularly Canadian in origin. This demarcation started in Kenya many years ago and is proceeding as fast as circumstances permit.

QUESTION No. 114

MR. A. B. PATEL asked the Member for Agriculture and Natural Resources if he will please state the present position regarding water supply to the citizens of Voi?

If no adequate steps have been taken to make satisfactory water supply available to the citizens of Voi, will the hon. Member please state when and how the situation will be met?

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: Voi Township is at present being supplied by the East African Railways and Harbours from the pipeline which was taken over from the Army. This pipeline is already utilized to its maximum capacity, and it appears

unlikely that any substantial improvement can be effected in the immediate future.

The intention is that Voi will eventually be supplied from the Mzima-Mombasa pipeline when this is ready for service, which will be approximately at the end of 1955. There is no proposal at present for any interim measures and it is not considered that it would be advisable to incur expenditure on temporary works at this stage.

MR. BLUNDELL: Will the hon. Member give the assurance that the same benefits will be given to the inhabitants of Voi as to those of Mombasa, if and when he decides on principle to charge the people of Mombasa with the extra money due to the hippos or not.

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: I am not quite clear what the hon. gentleman means. I take it that he means that any increased rates charged, if they are increased, will be equally applicable to Voi as to Mombasa then the answer is in the affirmative.

QUESTION No. 95

MR. OHANGA: Mr. Speaker, in the absence of my hon. colleague, Question No. 95:—

MR. TAMENO (African Representative) asked the Member for Agriculture and Natural Resources to state by what authority Government have a monopoly of the buying of African stock through the African Livestock Purchasing Organization?

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: The monopoly of purchase of slaughter stock is vested in the Kenya Meat Commission under the provisions of section 9 (1) of the Kenya Meat Commission Ordinance. Government, therefore, has no such monopoly. Under the provisions of section 9 (2) of the same Ordinance the monopoly of purchase of African-owned slaughter stock has with the approval of the Member for Agriculture and Natural Resources has been delegated to the African Stock Purchasing Organization. This monopoly does not apply to sale by an African to an African in the same district within any native area.

MOTIONS

REPORT OF THE DIRECTOR OF AUDIT

MR. BLUNDELL: Mr. Speaker, I beg to move the following Motion:—

That the Report by the Director of Audit on the Accounts of the Colony and Protectorate of Kenya for the year ended 31st December, 1952, be referred to the Public Accounts Committee.

This is purely a formal Motion, there is no need to debate it.

I beg to move.

THE MEMBER FOR FINANCE AND DEVELOPMENT seconded.

Question proposed.

The question was put and carried.

UNIVERSAL USE OF THE ENGLISH LANGUAGE

MR. USHER: Mr. Speaker, I beg to propose the following Motion:—

In the opinion of this Council instruction in, and the universal use of, the English language as a *lingua franca*—

Mr. Speaker, I must interrupt myself because this is not the Motion which I put in. There has been a mistake in the Order Paper, I have not got the exact text of it here.

THE SPEAKER: Will you read the Motion out as you wish it to be, then I will take it down.

MR. USHER: "In the opinion of this Council instruction in, and the universal use of, the English language as a *lingua franca* should be actively promoted by all practicable means." I should like to say that the wording is not my original wording, but I am willing to accept it, in spite of the fact that it contains matter that is not entirely English.

Sir, during the time which I have been in the Colony, this matter has been canvassed quite considerably and I must confess to a great measure of disappointment at the little which has been achieved in that time. Speech, Sir, is usually necessary to us, although a great deal can be done between man and man by a mutual demeanour. I would remind hon. Members of what Romeo said of Juliet on the balcony, "She speaks, yet she says

nothing. What of that? Her eye discourses". As I say, very important matters can be arranged without speech, but mortgages and the details of them cannot, and we do find perpetually a difficulty in understanding matters of business which arise between various races in this country, and not only that, but in understanding the point of view of the other man. Therefore, it is very important that we should approach as fast as we can to a universal speech and it remains to be determined what that speech should be.

I do not think there is any doubt that it must be the English language although we have had suggestions of another kind made fairly recently in this Council. My hon. friend the Member for Arab Interests, the hon. Sheriff Abdulla, recently invited us to consider the use of Swahili in this Council. Well, Sir, I do not think the Swahili language is suitable or should be perpetuated except as a dialect. There are, of course, quite a number of kinds of Swahili spoken in this country. There is the Swahili language of the people of the Coast; there is a confectioned language which is highly grammatical but not really a language which comes from the people themselves and which is spoken by the Missions and is used in the newspapers; there is the Bazaar language which is very difficult for anybody to understand who does not live in the Bazaar; and there is a language known as "Ki-settler" which gets nobody anywhere.

The chief trouble about Swahili, to my mind, is that it is not capable of expressing what we wish to express among ourselves. I invite my hon. friend to give a Swahili rendering of this: "Thou still unravished bride of quietness, Thou foster-child of silence and slow time". He may say that that is not the kind of thing we talk about. (Laughter.)

Nevertheless, Sir, in the schools they do talk about it. If he does not like that, let us get to something very much more practical. Let me ask him to give me a Swahili rendering of this: "The force acting on a particle is proportional to the rate of change of momentum produced by it, and has the same direction". That is an extremely practical matter, for in point of fact this happens to be Newton's Second Law of Motion which children will have to learn at school if they are to

[Mr. Usher]

get anywhere at mathematics. Sir, I think we must abandon that. The Asian languages are diverse. I do not think we can be reasonably expected to adopt any of them as a universal language. I do not wish in any way to suggest that people should turn away, anyway for the time being, from their mother tongue, let them learn it and let them learn it properly, but there seems to me to be little use of perpetuating the use of languages if you use vernaculars which have no literature.

That brings me to a point of criticism of the policy of the Education Department in this matter. I would say at once that is not very well-informed criticism. It is rather an impression I have formed, that too little is being done to stimulate the use of English, and perhaps a little bit too much to stimulate the use of the vernaculars and of Swahili.

It seems to me, Sir, that the Swahili language should—really noble language though it is—much as I and many other Members here may love it—should really be confined to the place where it is properly spoken, that is the Coast. It performed a very useful function before the establishment of English as a lingua franca, but its perpetuation now is of doubtful value.

I see, Sir, from the syllabus of African Primary Schools, that the use of English is not objected to. The teaching of English is not objected to in certain circumstances; those circumstances, no doubt, being that there should be adequate instruction. We should all agree that instruction must be adequate, heaven forbid that we should have anything here in the nature of the English spoken on the West Coast of Africa. I believe it is called Pidgin English, or even, with all due apologies to Sir Winston Churchill, basic English. Let us have English, but the approach of the Department, if I might be allowed to say so, in that respect seems rather negative. My suggestion is that they might possibly be able to provide adequate instruction in the English language by adjustment of the syllabus to give less attention, less time to the use of vernaculars and of Swahili. The same applies to the Intermediate education.

So I do not think I need detain the Council very much longer. There are, however, two matters on which the use of

English can be more actively promoted. First by seeing that those who take places in the public services are more adequately instructed in English than they are at present. I would like to give one example. I use the Post Office a great deal, most of us do, we receive telegrams and so on; those telegrams nearly always show, for instance, that there are repeats called for, where the language of the telegram is perfectly clear. The trouble is that those who receive these telegrams do not know sufficient English and consequently they waste time having to get elucidated something which should have been perfectly clear. I personally have had very great difficulty over phonograms. I find that the gentleman at the other end of the telephone does not, in fact, understand plain English. And so I would call upon the heads of departments to do as much as they can to see that those who they engage have an adequate knowledge of English and that that knowledge is improved as time goes on. It is just not quite good enough at present.

My second point is this. It would be most all do our part in private life. I think those of us who have been in the country a long time, as I have, will find it very difficult to speak English to Africans with whom we are associated, particularly to our domestic servants. Nevertheless, I am quite sure that we must do so and that we must not despise the efforts of those who are really trying to learn our tongue. One constantly hears of rebuffs to those Africans and others who are trying honestly to adopt the English language and who do not know it very well. Let us go beyond merely not rebuffing them, let us do all we can to help in instructing them, because they have not perhaps had the advantage of any school instruction in the matter. We can do it partly by giving them literature and partly by using English with them in our daily lives. By these means we shall approach to that universality of language which we all desire. We shall, in this little cosmos here in Kenya, be reproducing something that is intended throughout the world and beyond that, throughout the universe, perhaps even to the point when speech is no longer necessary. (Hear, hear.) (Laughter.) And perhaps, if I might be allowed, Sir, to quote, in concluding, a piece of very noble English, which is a translation of one of the Psalms of

[Mr. Usher]

David and it illustrates all that I intended in my last remark:—

"The heavens declare the glory of God; and the firmament sheweth His handiwork.

One day telleth another: and one night certifieth another.

There is neither speech nor language, but their voices are heard among them.

Their sound is gone out into all lands: and their words into the end of the world."

MR. HARRIS (Nairobi South) seconded.

Question proposed.

THE MEMBER FOR EDUCATION AND LABOUR: I hope you will pardon me for my ignorance of procedure; if I could request that the word "universal" be deleted and not loose my power of speaking again, I wish to do so.

THE SPEAKER: That is completely out of order. Somebody will have to move the amendment some time if you want to get the word out. There is no other way of doing it in this Council.

MR. USHER: That is the word that troubled me.

THE SPEAKER: Yes, but the Motion has already been proposed in the words on the Order Paper, words which the Mover accepted at the time. It is now in the hands of the Council, and until some amendment is made to it, it cannot be altered.

THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT: Mr. Speaker, as I have no intention of further intervention in this debate, may I move that, as an amendment, the word "universal" in the Motion be deleted.

THE CHIEF SECRETARY seconded.

Question proposed.

MR. BLUNDELL: Mr. Speaker, I, like the hon. Member for Health, Lands and Local Government, had no intention either of speaking, Sir, but I should like to move a further amendment that the word "universal" be deleted and the word "general" substituted.

THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT: In order to avoid two amendments, Sir, I have no objection

to accepting that as part of my Motion if that would be in order.

THE SPEAKER: No other person wishing to speak on the proposed amendment, I will put the necessary question.

The question that the word proposed to be left out stand part of the Motion was put and negatived.

The question that the word "general" be substituted in its place was put and carried.

MRS. SHAW: Mr. Speaker, I really want to support this Motion most strongly for one reason chiefly, which has not, I do not think, been underlined, and that is that it is not—the language Swahili, which is the universal lingua franca—is not the language of most of the tribes which we have to deal with, certainly up-country. You take the case of a magistrate in a local court who has the case conducted with the criminal possibly only understanding Kipsigis, it being translated into Swahili, and then, possibly, into English. It possibly means two translations, and during those translations I am perfectly certain some of the original sense gets lost. I should also like to add, and refute one statement that the Mover made, that you cannot get anywhere with Ki-settler. I have got a very long way with Ki-settler. The trouble here is we are limited in Ki-settler. I can get a long way in the kitchen and the garden with Ki-settler, and my husband on the farm, but when you do try and discuss and describe things to your Africans, even such as what England is like, you find you are terribly limited. If you do not speak proper Swahili, and the sooner everybody in this Colony can use English we shall be very much better off, because most Africans have to learn Swahili which is not their own language, except for those at the Coast. I would like to support the Motion most strongly.

MR. AWORI (African Representative): Mr. Speaker, I beg to oppose the Motion. I am not satisfied with the reasons that the Mover has given. First of all he has made us think that Swahili is not an important language, but as far as I know it is one of the ten important languages in the world. When you realize that there are millions of people, with thousands of languages, and Swahili comes among the ten, we cannot escape the point. At

[Mr. Awori] the same time Swahili is spoken throughout East Africa, and you can make yourself understood among the Africans, but you cannot make yourself understood among the Africans in such parts as the Congo where French is spoken. What I feel is that English should be encouraged, particularly in schools for students studying science, law and other subjects which cannot be fully covered by the use of Swahili. Of course, we understand that Swahili is not universal among all the Africans, but I should prefer it to English. English is a mixture of a number of languages, Latin, Greek, French, etc. and so is Swahili. Swahili is a mixture of Bantu, Arabic, Persian and English too. We cannot avoid Swahili for the time being. Millions of Africans in this country cannot express themselves in English and it will take us some time before we can make the African in daily life use English.

As the hon. Member mentioned, we do not want English to be spoken as it is done on the West Coast. If we learn English, we should learn it properly and speak it properly. You cannot do that unless you take the Africans to school. I would have supported the Motion, Sir, if the hon. Member had added that we should make education in this country compulsory, so that children go to school and have to learn English, but as it is, it is very difficult indeed. I might mention, Sir, that a number of Europeans in this country have made it impossible for Africans to learn English. I could give instances where an African who can speak English is confronted by Europeans who tell him "Sema Swahili".

Now, this fellow knows English, and yet the European do not like him to speak that language.

The other point is that I feel the hon. Member and the Europeans as a whole are a bit lazy in learning Swahili and they would rather avoid it by making Africans speak English.

However, those are my reasons, not that I am against the use of English at all, but I feel that it is still immature at the present time. All we can do is encourage English from the lower schools, primary and intermediate schools and as we get more Africans educated, it will

be easy to adopt English, but you cannot force it upon people, when millions of them cannot express themselves in any other language except Swahili.

THE CHIEF SECRETARY: Arising out of the remarks of the hon. Member who has just spoken, I would like to point out that there are a number of varieties of Ki-Swahili. The hon. Member talks about Ki-Swahili being spoken throughout East Africa. He did qualify that later by saying that there were a number of Africans who did not speak Ki-Swahili. But, Sir, I suggest that quite apart from the three different varieties of true Ki-Swahili as spoken in different places along the coast, none of those three varieties are, to any extent, spoken up-country. The Ki-Swahili which is spoken up-country by Africans is not a true picture of the language as spoken at the coast. If I may give an instance, I was, a long time ago, myself, stationed at the coast for two years. In order to make myself understood and to understand the people with whom I was concerned there, I managed to learn Ki-Swahili as spoken at the coast and pass my Higher Standard (Applause). I was then posted to Saratov, Sir, and I had to have an interpreter from my coast Ki-Swahili into Swahili which could be understood by Africans with whom I had to deal here.

I may say, Sir, that I would not, I fear, be able to pass my higher standard Ki-Swahili these days because I have not since then had the fortune to be stationed at the coast, but the point I wish to make is that the Ki-Swahili which is known as a lingua franca or described as such these days, is hardly a language in itself because it cannot cover the ideas which the true Ki-Swahili of the coast can cover, and from my own experience I can say that it would be extremely difficult to teach pure Ki-Swahili to Africans or, indeed, other people to any extent up-country.

There was no suggestion, Sir, as I understand it, in the Motion that we should wake up to-morrow morning and find that Ki-Swahili up-country or down-country was out of use and English was substituted. I think that the terms of the Motion make it clear that that was not the case, and I feel that the sudden change overnight appears to be envisaged wrongly by the hon. Member. (Applause.)

MR. MATHU: Mr. Speaker, I rise to support the Motion wholeheartedly, and I do so for a number of reasons. The first, Sir, is that I have been, for the last 15 years, I think, at the door of the Education Department urging them to make English one of the most important subjects in the African schools, and during that time, when the Director of Education—I think a Mr. Morris is the name—was in charge of that Department he got tired of me and said: "Now, I am going to see the Government and tell them that you are a nuisance and they should lay down on paper that English will be one of the most important subjects in African schools, and Swahili, as far as the normal Swahili-speaking areas in the country are concerned, will be given secondary place". Now, that, I think, has been since the policy of the Education Department. I do know now that the Education Department, apart from the practical difficulties of getting teachers who can teach English properly and the difficulty of getting the money from the Member for Finance—who is not here—to engage these teachers at the training centres, the Education Department's policy is that English should be taught from the lowest standard possible. If these difficulties were removed. Therefore, Sir, my remarks, which I am going to make, are not meant to be critical of the Education Department, in pursuing the intention which the hon. Member has indicated in the Motion before Council. All I can say is to support the Education Department. If the Education Department comes along and says they want money to train teachers who can teach English not only in the primary schools, but even in the kindergarten, then this Council should be sympathetic with that demand and grant a supply to enable the Education Department to bring their policy to an effective conclusion.

Now, the second point, Sir, I would like to make is that Swahili, or no Swahili, English is an international language and no person, even my colleague here who is putting Swahili down tenth in the list of all the languages of the world, can convince me that Swahili can carry us anywhere. It has a very limited vocabulary; it is useless from the

point of view of the Member for Commerce and Industry because one cannot use it to converse in the Weights and Measures Department. It is useless also from the point of view of the hon. Director of Medical Services—Swahili is useless from the point of the dissections they make in hospitals—absolutely useless. It is useless from the point of view of the Member for Health, Lands and Local Government, or the Survey Department—it is absolutely useless in trigonometry, and all cadastral surveys, I can go on—my hon. friend, the Solicitor General, his legal terms cannot be translated into the Swahili language. Islamic law, yes, but I am talking about English law, the law that I respect. If you went to Arabia, that is another matter.

I am seriously suggesting, Mr. Speaker, that Swahili has a very limited use and it is not a language that really we should make the lingua franca in these territories. It is not a language, and I say, as my hon. friend, the Chief Secretary said—I am not suggesting that to-morrow we will see Swahili not being used at the Coast, or in Zanzibar—it will continue to be used. I think the Motion says that English should be actively promoted by all practical means, it is the promotion I think the Motion suggests, and I am suggesting, Sir, that unless we have English, Swahili or any other vernacular in East Africa will not carry us anywhere.

I would like to say, Sir, that English as spoken in some parts of West Africa—so-called pidgin English—I would like to give my congratulations to the Education Department because the way that English is taught to Africans—the standard they have laid for the teaching of English to Africans to-day is so high that there is no opportunity for pidgin English growing up in East Africa, at least in Kenya, because the standard they have laid down is so high that there is no opportunity for that type of English spoken in Sierra Leone or like some of our West Indian people. There is no opportunity, for that, I do think, Sir, that the standard should be kept. As I said, the Education Department should be congratulated in the standard they have laid down for that matter.

[Mr. Mathu]

Before I sit down I should like to comment on one of the remarks made by my honourable colleague, Mr. Awori, in that some areas or some places, the European in this country does discourage the African from the language and what he says is absolutely correct that an African who can speak quite good English, if he speaks to a European, not only that European changes his face but he tells him flatly to his face to speak Swahili. The man who tells him to speak Swahili does not know Swahili himself, in fact, that African is better off as far as the English language is concerned than the man who tells him "sema kwa Kiswahili". I do think it will be the wish of the hon. Mover that the promotion of English by all practical means will not be in the business house, in the shop to encourage the Africans to use it. When he comes to the counter to speak English and encourage him; encourage him on the farm if he is a clerk and he comes to speak to the manager in English, encourage him, do not tell him to shut up because this is not the language he ought to speak. I do think the honourable Mover would be first to agree with me that we want that side of it to be taken up by the Information Office. My honourable friend, the Member for African Affairs, would agree with me that this is a matter for the Information Office; it should be directed to encourage Africans, to inform the farmers and the business people to encourage Africans to speak English. I think the honourable Mover would be pleased to see that one of the practical means to encourage Africans to do so—the Government departments in particular are very high in the list to encourage Africans to speak English, especially in the Medical Department. If the African goes to the Medical Department there he is spoken to by the surgeon in English. He may not know very much but they encourage him and we know that. I would like here, Sir, to give my own congratulations to the Medical Department in the way that they are helping the hon. Mover of this Motion to promote the knowledge and general use of English by the practical means in the hospitals and dispensaries. If you went to any hospital man he would come smartly up to you and speak English because he has been told by his master to speak to the people in English.

They have done more than any other Government department to encourage the learning and use of the English language.

Sir, I therefore unreservedly support this Motion because I do believe that it is the thing that we should want and I do not think there is even a better vehicle for bringing understanding between the major three communities in this country to understand one another than through the vehicle of the English language.

One Member did say that the Europeans are not very good at learning other people's languages. It does not matter. Why should they, why should they bother, their language is so flexible that anyone can learn it, in fact Africans can learn it. I am not afraid of that, he has that gift of learning the English language. I do not think my hon. friend, Mr. Patel, would force us to learn Hindustani because it is too difficult of any rate, and impossible. Let us come to learn the English language and we will understand each other and enhance the co-operation we all seek for all the racial groups in this Colony.

THE MEMBER FOR COMMERCE AND INDUSTRY: Mr. Speaker, as one who did not pass the lower Swahili examination—(Laughter)—I did not propose to intervene but there is one point I feel I should make. I cannot believe that my hon. friend, the Member for African Interests, Mr. Awori, was quite serious in what he said. As a valuable member of the Board of Commerce and Industry, he is very well aware that African advancement in commerce, in business and in industry and in those technical trades which are an essential first step towards that progress, is dependent on the knowledge of English. My hon. friend knows that just as well as I do. I hope that before pressing his opposition in this matter, which in my view is vital to the advancement of his own people, that he will think again.

THE MEMBER FOR EDUCATION AND LABOUR: Mr. Speaker, the Government welcomes this Motion and accepts it. (Applause.) The desirability of using English language as a lingua franca needs no emphasis. On utilitarian grounds alone it is clearly to everybody's advantage that the common language of the country should be one which is world-wide and suited to all sets of circumstances, rather

[The Member for Education and Labour] than a purely local one which at any rate as we speak it, cannot compass any complex ideas and which is certainly unsuited to the demands of economic development. When you are repairing a motor-car, the expression "points yake loose kidogo" may suffice for your purpose, but if my hon. friend, the Member for Commerce and Industry, is trying to synthesize Hydroxyanthraquinone he will find that Swahili is not adequate.

The Government firmly believes that on both educational and political grounds English should become the common language of East Africa. How is this to be brought about and how is it to be done in such a way that we do not end up with some dreadful variety of pidgin English: the answer is that it must be done through the African schools. The African is the man most concerned and it is clearly on the African primary and intermediate schools that we must concentrate. One of the most effective ways of encouraging the use of English and, at the same time, of improving the general educational standard of the African is to lower the age at which English is taught in the primary schools and to lower the age at which English becomes the medium of teaching in the intermediate schools. This is what we are trying to do. Our policy is that Swahili should eventually be replaced by English as the second language to be used in primary schools and as the medium of instruction in intermediate schools. This will take a good deal of time and there will have to be a gradual change-over but it is what we are aiming at. It is set out quite clearly in paragraph 104 of the Development Committee Report. I am sure the hon. Members know the Report well, so I will not take up the time of Council by reading it.

Now, Sir, what happens in the primary schools is that English is not now taught. The vernacular is used for the first two years; then, in the second two years, Swahili is taught. In the intermediate schools, that is to say in the second four years of education, Swahili is for the first two years used as the means of instruction—the medium through which the lessons are given—and English is taught as a subject. In the second two years, that is in the seventh and eighth year of education, English becomes the medium for

instruction. This system is gradually being changed and already in the third year in some primary schools English is being taught as the second language.

Although the hon. Mover was dissatisfied with the progress which has been made, we have in certain directions done not too badly. Generally the intermediate schoolboy has a fair knowledge of English and all over the Colony the vocabulary of invective and abuse in English is one of which Lars Persena himself would have no cause to feel ashamed.

Now, Sir, the question of vernacular. Clearly we must continue to use the vernacular in primary schools and it must remain the medium of instruction. Learning to read and write is a rather difficult business and it is quite clear that a child must be taught in a language he knows or in a language with which he is tolerably familiar. In addition, it is at present essential that the primary school child should learn a lot of facts—hygiene, arithmetic, history, and so on, and he must be taught those in a language understood by the class. Later on as we come to approach our aim of eight years' education for everybody, the primary school will rather change its character. We shall be less impelled to use it as a fact-cramming institution and shall be able to teach English earlier and thus enable a child, by the time he gets to the intermediate school, to have tools with which to dig for his own knowledge.

Next, Sir, a very important point. Having arranged for the widespread instruction in English, we must consider carefully to what use initiates into this magic circle put their knowledge. It is not enough to say that the whole realm of English literature and philosophy will be open to them. The study of Locke's *Human Understanding* and of the later poems of Robert Browning will not be of much use to the ex-intermediate schoolboy Opondo Odongo; we must do something more for him and it is at this stage that the East African Literature Bureau comes into the picture. We rely on this Bureau to produce literature written in a simple way, which will enable the ex-schoolboy to widen his knowledge of English and to employ it against a background with which he is familiar; and later on, to extend his knowledge

[The Member for Education and Labour] of the outside world. We are fortunate in having at the head of this Bureau a very experienced and imaginative officer who has already produced many extremely useful books—*The Journeys of Sir Charles New, Johnston on Kilimanjaro, Through Masailand* and so on—have all been abridged and translated into a very simple form of English which provides an excellent means for the young man to consolidate what he has learnt. What we hope to do is to introduce a magazine written in simple English, which will serve the purpose of helping ex-schoolboys to increase their knowledge in a steady and profitable way.

The ex-primary boy, especially at present, must also be looked after. He leaves school after four years of education with a smattering of English and unless provision is made for him to increase this knowledge it will soon be forgotten again.

If a young schoolboy goes to a home where his parents and elders have no knowledge of the language, he will become conceited and generally rather a nuisance in the household. What we propose to do—and provision has been made for this in the Education Department plans for 1954 to 1956 is to provide for adult education classes, which will also be suitable for the ex-primary boys; we hope in this way to consolidate and extend the knowledge that the primary boy has obtained.

I should like to summarize what we propose should be done in the education world. First of all that English should be taught as a second language in the primary schools. Secondly, that English should be used as the medium of teaching in the intermediate schools; and thirdly that facilities should be provided to encourage those leaving primary schools to continue their study of English and those who leave intermediate schools to have facilities to extend the knowledge that they already have.

I now come to the question of Swahili. This beautiful and flexible language has its roots far too deep in East Africa ever to dry up and wither away; but I do feel that as Swahili comes to be less and less a taught language, that is to say a language in which instruction is given

in schools, so it will lose some of the rather sickly academic cast, which in the past few years has made it so abominably complicated. I here refer to a third category of Swahili; not coast Swahili nor Ki-settler Swahili, but Education Department Swahili, a language which is only understood by the Department. (Laughter.) I hope, Sir, that as English comes into more common use we shall see the last of these deplorable spellings in *Baraza*, where His Excellency is referred to by a word, which I can best render *Gavna*, and half-backs on the football field as *hef beki*!

Finally, Sir, may I express my very sincere sympathy with the two hon. Members representing African Interests, when they refer to the rather harsh treatment often meted out to the beginner in English. I must appeal to all those who think an African speaking English is "putting on the dog"; my words are directed at townspeople, not to country people and not to the coast; they are especially applicable in Nairobi. We must remember that what is one man's mother tongue is often another man's *pons asinorum*. English is a very tricky instrument. Even those brought up with it can very seldom use it to its very best advantage, and a man who graduates from the world of Swahili where the subjunctive mood is almost non-existent, can scarcely be aware that the English of "Kwenda" is "would you be so obliging as to beat it". Those who are not masters of the language frequently appear impertinent or affected. This is usually quite unintentional, and to snub them is really a most shameful thing to do. I do not appeal for the exercise of a complicated thing like charity; but a little more courtesy is what this Colony needs now more than anything else.

MR. OHANGA: Just a few remarks after my two hon. colleagues have spoken. I agree with most of the points that have been raised by both of them although I would not go to the extent of opposing the whole Motion like Mr. Awori has done, but I do realize that some of the points he raised were indeed correct, particularly where he, and my hon. colleague Mr. Mathu, brought up this very important aspect of the matter, and said that if English seems not to be catching on as fast as Swahili, the Europeans themselves are responsible for

[Mr. Ohanga] the discouragement. That I will endorse. I do not think there is anybody in this Council who will not agree that that has been.

Now, speaking about English as a general language, I would not like to let this Council feel that we have only Swahili and English as languages in this country. So far, reference has only been made to English and Swahili, but I do not look upon Swahili personally except as a vernacular. Swahili as a vernacular is first-rate—under the circumstances it is first-rate as a vernacular. I should like it to go on being developed but not just alone. There are also other vernaculars in the country. The Kikuyu as a vernacular is spoken by a very large number of people. I should like to see as much encouragement given to Kikuyu as is given to Swahili. At least up to that standard where children will be unable to express themselves in the new language which can only come second in their lives. I should like, therefore, to emphasize the importance of vernacular, including Swahili. Mention has already been made of the valuable work that is being done in the East African Literature Bureau. I attach much importance to the work of that department. For a long time Swahili has established itself as a form and I emphasize a form of language in East Africa, not because anybody made it, but it was easily found to be the ready-made vehicle by which anybody could do anything at all. Anyway I do not think it was by design of the Government or anybody to make Swahili a lingua franca. It seems to me that although our desire may be to make English the future lingua franca of East Africa, it will not, as has been pointed out, be done overnight. The fact is that more than 60 per cent of the East African population are Bantu people. Swahili being a Bantu language, easily gets understood anywhere in East Africa. It is true that my own section of the community find some difficulty in learning Swahili but, for that reason alone, I would say that Swahili has its own value. Vernacular, Mr. Speaker, it seems to me, should be emphasized as the original language for education in the country and should be given every encouragement. I should not like the feeling left to grow that English should be

the only language of education, I cannot imagine the beginners in Standard I starting right off learning the letters and figures in English straightaway—I think it would be a serious mistake, I should like to assert the place that vernacular has, and rightly has, and should be encouraged to have as long as possible in our educational system, but it is true that English and not Swahili should be the general second language in our education system.

In those areas where Swahili is the vernacular, it should go on right from the beginning, but when the time comes for the beginning of a second language, English should come naturally. In those areas where Kikuyu or Luo has been the vernacular, I should like to see the whole of the education start in that and the second language to be not Swahili but English. In that way we shall be putting English at its right place and as my hon. colleague, Mr. Mathu, has pointed out, and I am quite sure the hon. Member knows this to be an implication of this Motion, it means that we must as a Council here have greater sympathies with the expenditure on African education. It would mean better teachers being posted much further down. Usually the present system does not allow an English teacher to start as low down as that, but if it is our wish, generally, it will be necessary to be more generous with the African system of education and to allow much more highly qualified types of teachers to start much lower down than the present circumstances would allow. I hope that we as a Council will be able to do that.

Now, lingua franca, if I may go on to that point again. Swahili has established itself as a second language in East Africa not because anybody really taught it or forced it to be such but because of its own flexibility. If somebody happened to belong to the Bantu group of any type such as Kikuyu or Buganda, Swahili comes to him quite naturally. He finds so many of his own words being used as vernacular words from Swahili and the effort to learn is not great, so it must come, and in that way Swahili has caught on quite fast. It may not be easy at the moment to root out Swahili straightaway in order to put in anything else. If English is going to take the place of

[Mr. Ohanga]

Swahili it will require a long time before it really does that.

Now, I come to the different forms of Swahili. There has been a lot of talk about the Ki-settler Swahili or Zanzibar Swahili or other forms of the coast Swahili which is spoken, is that the kind of Swahili which people will understand generally? The Swahili which is taught in schools is left in the school. I can remember very well some 20 years ago my passing an examination in Swahili, but very soon after I had left the school I could hardly express myself in Swahili. If I were given the paper again I do not know if I would be able to answer the same questions. But I do know some Swahili which I recognize is quite different from what I learnt. It is practical—I could be understood anywhere and if I have something to say, people will understand. It is the practical Swahili that we want and that possibly no school can teach. You learn it in Nairobi's or Mombasa's streets or anywhere else—on the farms.

Now, for the purity of English. Already my hon. colleague has given much phrase to the high standard set in Kenya in African English. I agree with him, but I am not altogether happy about it. It seems to me that the standard is unduly too high. We cannot all be purists. When I was in England some years back I noticed the way the people from the Continent spoke English. They had all possibly learnt English during their school days, but their general standard was not as high, but they were understood—it was practical—people managed to know what they wanted. If you are going to allow English to spread and catch on as quickly as you would like it to do, it might be good to relax a little and relax on your purity in order that it might catch on. This time I am talking about the English that we learn in the Nairobi streets. It is not what you go to school to learn because the number of people who can go to school in the African community at this time and for ten years to come is quite limited; if you are going to rely on the schools alone, perhaps our wishes will take some time to come.

Nevertheless, the principle is correct that we should do everything to encourage the general use of English and

that we should as soon as possible see that it replaces Swahili or any other language as lingua franca.

Mr. Speaker, I am conscious of the fact that my hon. colleague, Mr. Awori, did oppose this Motion generally. It is not a Motion we should oppose, but what he means is the value of Swahili as a vernacular language, with that I have sympathy. We realize the place English should have—perhaps I might ask him if he will consider withdrawing his opposition.

THE SPEAKER: It is one minute to eleven o'clock.

Mr. HARRIS: I will take less than that I beg to move that the question be now put.

THE SPEAKER: I do not think I ought to accept the closure at this stage. There may be some other views, I do not know. I think there is the possibility of at least one more person speaking. I think we will now suspend business until 11.15.

Council adjourned at Eleven o'clock and resumed at fifteen minutes past Eleven o'clock

THE DIRECTOR OF EDUCATION: I rise, to support this Motion and I should like to say at the outset that I associate myself with all those other speakers who have spoken in praise of the English language and its use as a lingua franca. I think it is important, however, to remember that it is not merely that English is useful for everyday conversation and for the purposes of trade and business, but it will, I am sure, open the door to a fuller life and to the finest literature in the world.

There is one respect, however, Sir, in which I differ from the hon. Member. I am quite unable to agree with him that practically nothing has been done to recent years to promote the teaching and use of the English language. In fact a very great deal has been done and I would like to say a few words about this.

First of all, in African education. Seven years ago when the Development Committee Report was published, the language of examination in the Kenya African Preliminary Examination, which is the examination taken after eight years of school life, was Swahili and English was rarely the medium of instruction under Form II. To-day English is the language

[The Director of Education]

for the Kenya African Preliminary Examination and English is the medium for instruction usually in Forms I and II, sometimes in Standard VI, and it is taught as a subject throughout the intermediate course. In other words, a very great step forward has been taken in pushing down the class in which English becomes the medium of instruction and further we have made a point, in spite of what may appear in the printed syllabus, which should not be regarded as absolutely rigid, in spite of what appears there, we have pursued a policy of experimentation. I have encouraged education officers to do all they can to experiment in the teaching of English and, as a result, in some of the more advanced areas English is taught not as the medium of instruction, but as a language of instruction as low as Standard III: in one school in Nairobi, where there is a particularly well-qualified staff, it is taught in Standard I.

Now, the answer to any rapid progress, of course, is an increase in the number of teachers who are competent to teach English and here again very great strides have been made in the last seven years. All the teachers, except the very lowest grade of teacher, the T.4, have for many years been able to teach English. But it is the T.4 teacher who teaches, by and large, in the primary schools and until a few years ago it was obviously impossible for a man, who himself had had only six years of education and one year's further training, to attempt to teach English. During the past seven years the qualifications demanded of a T.4 teacher before he can go into training have been raised so that he must now have completed eight years of education—in other words the full intermediate course. He then gets two years' further training, so that the T.4 teacher of the future will be able to teach English. No, Sir, I feel that so far from nothing having been done, we have now reached the stage when we have laid a very good foundation on which rapid strides forward can be made. But we must not confine our considerations solely to Africans. There is also Asian education. No one could pretend that the standard of English in Asian schools is even now what it should be, but again it is far better than it was seven years ago. Seven years ago English was not taught

generally until a boy or girl reached Standard IV. Now it is generally taught in Standard I and, in many schools as much as ten periods a week are devoted to the subject. Again we have been experimenting and quite a large number of our Government schools use English as the medium of instruction from Standard I. This has been possible very largely because we have, during these seven years, established in the country three teacher-training colleges for Asian men and women. They train local boys and girls, who have passed the School Certificate examination and they are producing teachers who are very well able to teach in English, who are good all-round teachers and who are vastly superior to any African primary school teachers we can import from overseas.

Again we have increased the percentage of European staff in Asian schools and this too has had a good effect on the teaching of English, particularly in the secondary classes. Over and above that, we have appointed three men, who have between them and in co-operation with the Asian teacher-training colleges, covered the whole of Kenya, whose sole responsibility is the teaching of English. They go around visiting the schools, they hold special classes and refresher courses for teachers and, as I say, make it their sole responsibility to improve the teaching of English.

I am quite unable to agree with the hon. Mr. Ohanga that we should not always insist on quality in the teaching of English, that we should be prepared to relax our standards a little. It would be very dangerous. Provided we can get suitably qualified teachers, it is just as easy to teach good English as it is to teach bad English and, indeed, bad English or pidgin English can be most misleading. It would be wrong to assume that any knowledge of English, however bad, will serve the purpose we have in mind, because pidgin English, as I can assure hon. Members, if not understood—and it is indeed almost a separate language of study—can convey completely the wrong meaning. I would like to give an example of this if I may, Sir. On my first arrival on the Gold Coast many years ago, which was then known as "the white man's grave", I was taken around by a senior officer to pay official

(The Director of Education)

calls and, on arrival at one house, my companion rang the bell and the boy came to the door. When he was asked whether his master was in, with a very gloomy expression he said: "He no live". Well, Sir, I thought that the Gold Coast must be living up to its reputation as "the white man's grave" and that the owner of the house had suddenly died! I turned in some consternation to my companion to express this view, but he smiled and said: "He only means that his master is not in". That is only one example, but I could quote many more. We must insist on quality.

Sir, I do not wish to keep this Council any longer on matters of detail, but I would like to say, over and above what we have done in the past, what we intend to do in the future. There are three matters that are needed.

First of all, we need to produce in large numbers African teachers who can teach English in primary schools. As I have said already, so far as future teachers are concerned, we can deal with the situation, but there are vast numbers, many hundreds of teachers now in the schools who would be only too willing to teach English and to teach English, if they had the means whereby to do it. The solution is to establish special courses at the teacher-training centres, whereby these men can spend a year of concentrated instruction in English and then go back to their primary schools qualified to teach that language.

So far as Asian education is concerned, we must, I think, pursue the policy of making ourselves self-supporting in the direction of Asian teachers. This will mean an extension to our existing Teacher Training Centre so that we may, as soon as possible, provide from Kenya all the teachers we need in Asian primary schools. Members will remember that last year we started a scholarship scheme for Asian teachers to enable them to go to universities in the United Kingdom for higher qualifications. In 1953 that scheme has been extended, and now this year 10 teachers are being sent home for that purpose. These men, and those who follow them, when they come back, will prove of inestimable value, especially where English is concerned in Asian secondary schools and as heads of Asian primary schools.

Last, but not least, I would like to refer to the point made by the hon. Member, the Member for Education and Labour, namely, if we are to pursue the policy which is advocated by this Motion really, really seriously, we must offer above the instruction, the formal instruction, given in schools, also informal instruction by means of adult literacy campaigns. That means we must have Adult Education Officers. I would not suggest a large number to begin with. We must start by experimenting for little or nothing which has been done in the part.

A beginning must be made in regard to all three requirements I have mentioned. A request for the necessary capital provision has been made in my development plans for the years 1954 to 1956. Indeed so far as adult education is concerned, I hope that a request I am about to make may mean that we shall be able to make a small start in 1954. All I would say in conclusion, is that I hope the hon. Member, if and when the recurrent expenditure which is involved in the proposals I have referred to, come before the Council, will support it.

I beg to support.

MR. CHANAN SINGH: I am a great believer in the usefulness of English. I think every effort should be made to make English more popular with the population of the Colony. It is very gratifying to learn that the Education Department has done all it can to teach better English and teach it at earlier stages.

So far as the use of the English language for official purposes is concerned, there can be no dispute that English is the language that should be used. Now, if the intention is that everybody in Kenya should at some time in the future, however distant that may be, talk no language but English, I think the Mover is being very ambitious. I personally think that the aim should be that for all public purposes English should be used: all schools should make English not only a compulsory subject, but make it the medium of instruction. It will be some time before English can be the medium of instruction from the beginning, but I think that should be our aim.

Now, Sir, some confusion appears to have arisen in the mind of one or two hon. Members: they think a particular

[Mr. Chanan Singh]

language is going to be suppressed, and English is going to take its place. I am sure that is not the aim and that is not possible.

I think the use of the phrase "lingua franca" in the Motion is responsible too for that confusion to some extent. The term "lingua franca" is thus defined in the Oxford Concise Dictionary: "Mixture of Italian, French, Greek and Spanish used in Levant; any mixed jargon serving as medium between different people". That is the only definition given in that well-known dictionary, but I am sure that is not the intention of the Motion and the hon. Director of Education has done well to emphasize that quality in the teaching of English is their aim.

MR. HARRIS: At the risk of being, like the debate, repetitive, I beg to move that the question be now put.

The question was put and carried.

MOTION

EMPLOYMENT OF KIKUYU IN THE HIGHLANDS

MR. COOKE: Mr. Speaker, I beg to move that the Government be asked to formulate and disclose without delay its policy with regard to the admission and employment of Kikuyu in the Highlands.

Sir, it is about two or three months since I moved in this Council a rather similar Motion and it was hinted by one or two gentlemen on the other side of the Council—it was insinuated that I had brought this Motion with some kind of ulterior motive. Well, I can assure hon. gentlemen that I did not bring that Motion with any ulterior motive, nor do I bring the Motion to-day with any ulterior motive. My only motive is—and I am sure it is the motive that inspires every other Member of this Council—to speak in this Council, when we speak seriously, on something that will contribute to the peace, prosperity and welfare of this country. It is because I feel that the present policy—lack of policy—which is being pursued with regard to the return or arrival of Kikuyu into the Highlands is not leading to that peace and prosperity that I am bringing this Motion to-day. There is not very much for me to say. I am going to take a few minutes in being entirely factual and entirely objective.

It will be remembered that following the panic, if I may call it a panic, probably justifiable panic, that followed the State of Emergency, many thousands of Kikuyu, who had been contributing—I think everyone will admit this—very largely to the economy, not only to this Colony, but to the economy of the Highlands in particular, probably from frustration and from fright and fear, left the Highlands, others I think were compelled to go on account of the policy which I have already described as a short-sighted one in this Council. However, the position to-day, Sir, is this, that I suppose 50,000 Kikuyu have left the Highlands, and, at any rate so far as the Rift Valley is concerned, where I happen to have a small farm—I have interests—therefore I think I can justify my speaking in this Council on this particular matter. The settlers there have been deprived of a very efficient labour force and they are not permitted, so far as the Rift Valley Province is concerned, no settler—no farmer—is permitted to re-engage an African who has left the Rift Valley Province, and who has not remained behind, except under very exceptional circumstances. One can say, in effect, that the Kikuyu can go back from outside the Rift Valley Province and try to get work; no matter how willing the farmer may be to engage him, he is not permitted to do so.

Now, the consequence of this, Sir, is that there are literally thousands of Kikuyu—and I am not going to surrender this point of view, which I have held ever since the Emergency, that the majority of Kikuyu are decent people, and they are prepared, in spite of the fact that they have been driven, so many of them, into taking the *Mau Mau* oath, more by fear and by circumstances than by anything else, and it is our duty, as Europeans and other leaders of this country, to see that this valuable asset to the country is not allowed now to be dissipated and wasted.

Now, what has been happening is this. Government have forbidden, by the Emergency Regulations, Kikuyu to be employed in the Highlands. There are, as I have just said, hundreds, if not thousands, willing to be employed and there are a number of European settlers who are willing to re-employ them. Now, these people are just like Ishmael to-day

[Mr. Cooke] wandering on the face of Kenya, and they cannot get employment where they are most urgently needed. They cannot very often get employment in Nairobi because they are unable to obtain what is called a History of Employment Card, and they are forced willy nilly back into the overcrowded reserves where, it must be admitted by my hon. friend the Chief Native Commissioner, and others, they are a source of great embarrassment to the provincial administration. That does not seem to make sense. On the one side you have the administrative officer, and I know I am telling the truth in this matter, urging Government to do what they can to prevent these incursions of Kikuyu into the reserves, and on the other hand you find labour seeking employment, and that is to me the complete negation of any statesmanship or any administration that such a state of affairs should be allowed to prevail. However, that is for Government to make up its mind on, and we expect, or at any rate I expect, a Government to govern, but are they governing? they are not because the fact of the matter is I do not think everyone will approve but most will admit that a great many Kikuyu are percolating back into the Highlands. They are, in effect, being employed by certain farmers in those Highlands. Now, if Government has made a rule that that should not be allowed to happen, then they must enforce it—if they are going to have a policy, they must have a policy of enforcement, because any Kikuyu who goes back under such circumstances, the farmer—I make no implication against my brother farmers—will not report the arrival of those Kikuyus into the area because, of course, if he did, they would be at once turned out again; as a matter of fact they would probably drift back in another week. However, that is what is happening to-day, and that, I think, Sir, is very wrong, that Government should, if they are indeed doing so, wink their eyes at that state of affairs.

Now, there is another aspect. In March last, whether rightly or wrongly—it is not for me to say—Government decided to photograph the Kikuyu then working in the Highlands. Now, a number of Kikuyu, very wrongly, but they had been intimidated, no doubt,

by terrorists, refused to be photographed. The Government descended without warning on a good many farms and took off a good many Kikuyu before the farmers had any opportunity of trying to remonstrate or persuade the boys to take the sensible course of being photographed and they were arrested and taken to Naivasha or Nakuru and given four months in prison. Four months in prison—it may not be very long, but it seems rather a long imprisonment for a statutory offence and or course a large majority of these people did not know they were committing any offence. Anyway, they were brought down to Naivasha and given four months imprisonment, which for the majority of, which for hundreds of people, expired a week or so ago. Now what has happened? who has the responsibility? I am not aware whether it is the District Commissioner or the Labour Department, or the Prison Department, but there seems to have been a great deal of chaos in the arrangements, but these men were given railway warrants back to the reserves, many of whom, it may be quite safely hazarded, had never lived in those reserves in their lives.

Now, I am informed from one or two of these people who were sent back, that they did not even receive any food or money for food for that journey, which must necessarily take perhaps one or two days. They were just put in the train and shipped back to the reserves, many of these people have no reserve to go back to. Now, if the Council will be patient for a moment—what do these people do? A good many of them leave the train at Nairobi and Mombasa and cause utter confusion in Nairobi, where the authorities had been doing their level best to keep unemployed Kikuyu from coming to Nairobi and when they came into Nairobi, no matter how willing those boys may be, they cannot get employment because they have no got History of Employment Cards. When they went—and I am imputing no fault on the authorities for this because they are desperately overworked—when they went down to the authorities at the District Commissioner's office they were told two things—one, that they were not residents in Nairobi, and, therefore, not eligible at that time, at any rate, to come and apply for a pass and two, that

[Mr. Cooke] Government officers were grossly overworked and it would be weeks or days before they could get those cards. Now, that was immensely—

THE SPEAKER: Will the hon. Member be good enough to show how the matter he is discussing at the moment relates to the Motion?

MR. COOKE: Yes, Sir. I submit that it is very relevant to the Motion because the fact that Government have not laid down and carried out a policy, which I am now asking them to lay down and to carry out—I am telling what the effects of that omission of Government are. I am trying to strengthen my arguments by saying that unless, in future, they do lay down a policy and carry it out, that these events, which I have been recounting, will continue to happen, to the great detriment of the country. You said in your prayer this morning that we are here to promote the peace, prosperity and welfare of the country and unless Government, as my Motion says, has a clear-cut policy, we shall not be able to get any further in the matter. If you will bear with me for one minute, I want to make this point of fact—the effect which it is having of Government not having carried out its policy. Government may say that it is having no bad effect, but it is my duty to show that it is having a bad effect. Now, these boys having to wait for days in Nairobi waiting for employment cards—the consequence is, you really cannot blame them if they get into mischief and start stealing and getting into worse mischief and, therefore, I am urgently asking Government to make such arrangements as these—I have asked a question about it and I think my hon. friend, the Chief Native Commissioner, is sympathetic—that as soon as any boy is discharged from Naivasha or Nakuru, from prison, that he is given an opportunity there and then of getting his green card and that every effort is made there and then to get them employment. As I said before, there are a great many farmers willing to take people back, if they are not, then it is the bounden duty of Government to find employment for these people. It is not only a moral duty, but it is expedient for them to do so. Surely it is better—if you can pass these Emergency Regulations, compelling people to do this, that and the other thing,

compelling him to be photographed, surely we can have an Emergency Regulation compelling people to accept employment offered by the Government. That employment should, I think, be urgent public works, road making, prison making, if you like, planting crops or planting forests, those people should be employed in that particular employment, rather than literally hundreds of thousands of people wandering all over Kenya, getting into mischief and immensely complicating the position in towns like Nairobi, even Mombasa, where they drift to. We know that in North Kenya a very wise thing has been done by Brigadier Hendrick, who has encouraged the Kikuyu to come back to the farms there after a severe screening. So far as I know, that is working very well, but I do ask Government, in consultation naturally with the authorities, to do their best to see that men who are properly screened can come back to work on these farms, where the farmer is prepared to accept them and look after them. There is no appeasement whatsoever about my Motion. I have expressed, both inside and outside the Council, stronger views than any one else about the imperative necessity of liquidating these murderers and thugs at the earliest possible moment. I do feel—and General Erskine has more than once emphasised this point—that we are making the extermination of these thugs, of these terrorists far more difficult by allowing these people to drift from the farms elsewhere into areas where these terrorist gangs are. What we exempt from Government is something really drastic and something really strong to give a lead to the people of this country. We expect a lead from Government, we do not expect it from the Rift Valley farmers, Subukia farmers or anybody else. This is a matter which concerns not the farmers alone, it concerns commerce, agriculture in every other province, it is a matter of vital concern to the peace and prosperity of this country.

I beg to move.

MR. MACONOCHE-WELWOOD: When I first saw the terms of this Motion it was my intention to support it, but, Sir, certain remarks which the hon. Member for the Coast has made cannot pass unchallenged, at any rate, by me. He suggested in his opening remarks that there was no real reason why these people

[Mr. Maconochie-Welwood] should not without delay be returned to the Highlands, and in support of that he made a statement that the majority of these people who have gone back to the reserve are decent Kikuyu. Earlier in this Emergency in this Council I was of the same opinion—I have had cause to change it. At that time I believed that this movement was confined to a minority of the Kikuyu tribe. There can be no doubt now by anybody in this Council that this movement of *Mau Mau* is not confined to a minority of the Kikuyu tribe. It is very obviously an enormous movement, amounting in fact to a mass rebellion.

The hon. Member has suggested that whatever the risk to the Emergency, or whatever the risk to the lives of Europeans in the Highlands, a policy of immediate return should be formulated by Government. When he said that a policy should be formulated, I was in agreement with him that a policy should be formulated without delay. Again I was in agreement with him but when he says without a moment's delay immediately that is another matter. He has furthermore put the policy of the non-return of Kikuyu to the Highlands squarely on the shoulders of Government. That is no doubt, his opinion, but it would be most unfair if I remained silent in view of that allegation. I know that in this matter the Government has acted in co-operation with the overwhelming majority of the Europeans of the Rift Valley, and I say, unhesitatingly, that the overwhelming majority of Europeans in the Rift Valley to-day do not wish that return to come about without the deepest consideration and without very special terms being laid down for the return of the Kikuyu. At the moment, the Emergency is in far too serious a state to risk any undigested or rapidly formed policy for the return of these people. There is no right of re-employment by the individual farmer, because if you allowed that, an individual farmer for reasons of his own, for reasons of finance, or for the furthering of his farming development, would be in a position to risk the lives of the farmers next door and I submit that at this time that would be entirely wrong.

Government has enforced the policy now by placing the responsibility for their illegal re-employment, both on the

Kikuyus and also on the shoulders of the employers and if there is one thing of advantage in this debate, it is that it can be widely publicized that there are now very heavy penalties for the illegal re-employment of Kikuyus on farms, pending the decision of Government on what terms they shall return to the Highlands, and when, and this as my hon. friend has said, must be guided by the wishes of the Europeans whose lives will be jeopardized by any immediate return. They have that right because after all in the main, apart from the Kikuyu tribe—who have brought this upon themselves—it is the Europeans in the Highlands, who are suffering most both financially and in every other way from this rebellion, and surely, they have the major right to say when they are prepared to have the Kikuyus back. It is unfortunate that this illegal drift back is taking place, I know it is taking place, and it is taking place for certain reasons which I am quite prepared to put before this Council, although they are very unfortunate. There is a drift back due to the fact that some settlers are prepared, at any cost, to get labour and they are not prepared to ask questions and I hope those people will be prosecuted with the utmost rigour of the law. But there is also another reason for the drift back. It is this; that neither do those responsible in the settled areas wish for the drift, nor do those responsible in the reserve wish for the drift back to the reserve and while I have supported the underlying idea of this Motion, that a policy be formulated, my main reason is this; that unless a policy be formulated—this backwards and forwards, and to and fro, movement of Kikuyus will continue, because it is to the interest of the police and of the administrative officers in the reserves that as many Kikuyus should get out of the reserve as possible and it is to the interest of the police and District Commissioners in the settled areas that the Kikuyu should not drift back to their areas, and I have always considered that the position to-day is very unfair to the Kikuyu. I have already given my views of the Kikuyu. I think they are in rebellion and I do not greatly care how much they suffer for it, but, nevertheless, the law itself should be observed and we should endeavour to be just and that at the present moment the law is not being observed by tacit breaches on both sides.

[Mr. Maconochie-Welwood] The Kikuyu is put in the impossible position of getting passes in his reserve to move back to the provinces and then, when he gets there, he is moved back again with other passes and for that reason also I support the Motion. Although I by no means support everything that my hon. friend has said.

Mr. CROSSKILL (Mau): Mr. Speaker, I beg to move the following amendment: "That Government be asked to formulate and disclose without delay its policy with regard to the admission and employment of Kikuyu, Meru and Embu to the Highlands after the fullest consultation with the local government bodies concerned".

Mr. Speaker, my reason for bringing forward this amendment, whilst agreeing with the underlying principle of the Motion put forward by my hon. friend the Member for the Coast, is that I cannot agree with him in regard to his suggested timing of the implementation of this plan. A plan we certainly must have, as has been recommended by the hon. Member for Uasin Gishu, but the question of the timing of the implementation is of great importance. Furthermore, I do believe that this Council should recognize the very heavy administrative responsibilities which would devolve on the local government bodies for the successful execution of any such plan. I do believe that we must now recognize that the district and county councils must claim their responsibility as a right. The type of responsibility which they have been asked to shoulder would deal primarily with the reabsorption and employment of the returning people of those tribes. It would require great care on their part and very careful selection of the returning individuals for such employment as would concern itself with bus companies, keeping of hotels, beer houses, shops and other matters of that kind as well as the general employment in industry and agriculture generally. Therefore, I felt for that reason we must recognize that this would perhaps mainly be a responsibility for local rather than central government.

They would also be responsible for housing, medical services and, therefore, should claim to have a great say in the formulation of any such plan.

Furthermore, the plan must quite obviously conform to varying conditions and various requirements in different parts of the country, these would vary considerably in accordance with the geographical position of the district, also the needs of each particular district for agriculture, industry and commerce in that particular locality. Whilst I have no doubt whatsoever that Government would consult the local government with regard to this plan, I do feel that we should not only recognize that local government bodies would have the responsibility but that they now quite rightly claim—or rather should have the right to claim—that responsibility.

I think that is the main part of the Motion of my amendment which is similar to the Motion put forward by the hon. Member for Coast. It requires no further advocacy but I must emphasize that whilst we must have a plan and a plan now which may possibly be amended before the time is suitable for the implementation of it, I cannot agree that now is the time for such a plan to be put into operation, I think that it would be most untimely and quite wrong and premature. Therefore, Sir, with the reserve that it would be premature to put it into operation at the present time, I beg to move this amendment.

GROUP-CAPT. BRIGGS seconded.

Question proposed.

THE SPEAKER: It is proposed to leave out all words after "Kikuyu" and add the following words—"Meru and Embu to the Highlands after the fullest consultation with the local government bodies concerned".

Mr. COOKE: My seconder and I are quite prepared to accept the amendment.

THE SPEAKER: Well, I do not know if that is what the opinion of the Council is—it is nothing to do with you. I proposed the amendment as an amendment, it is open to debate.

THE MEMBER FOR COMMERCE AND INDUSTRY: Mr. Speaker, I only want to raise two points in connexion with what the hon. Member for Mau said in moving this amendment. I would ask him two questions and either ask him to reply or to invite one of his friends to reply to them later in the debate. The point

[The Member for Commerce and Industry]

I wish to refer to his remarks concerning commerce and industry in relation to local government. First: is he aware that industry is organized not only through the local Chambers of Commerce but through an association? Secondly, is he in any respect expressing the views of organized commerce and industry in his proposals? I will agree that what he has said is valuable, I am not disputing that, but perhaps the hon. Member would be good enough to answer, either himself or through one of his colleagues, the two questions I have raised.

THE SPEAKER: No other Member wishing to speak on the amendment, I will put the question.

Question proposed.

The question was put and carried.

MR. STADI: Mr. Speaker, I support this Motion though I do not agree with the hon. Mover's views on the policy that he hopes Government will formulate. I doubt whether many Members of this Council will appreciate how deeply rooted *Mau Mau* is in the settled areas. As the hon. Member for Uasin Gishu said, a few months ago very few of us realized the high percentage of the Kikuyu tribe involved, but during the last month or two by developing the progress of screening, we have come to learn a great deal more, and every day we learn—we find in the settled areas that the roots go deeper and deeper than we ever thought, to the extent now that it is very doubtful whether there are any farms in the settled areas in which there is not established a strong cell of *Mau Mau* which control the activities of almost all Kikuyus on these farms.

Now, that being the position, our task of clearing the settled areas and bringing them back to a healthy state is far greater than we imagined a few months ago. It is, of course, essential that we should clear the settled areas. I know certain Members object to the word "purge", but that is the word to use; if you like, in a medical sense. In fact, if one regards it as a medical operation, I think that puts it not far wrong. We have got to develop the resistance of the African element in the settled areas to such a pitch that they expel the disease that is among them and

can resist the intrusion of that disease again. Now to do that, we have a long road in front of us of gradually getting rid of those infected. We have made a start by the method of screening, a very definite start, but it is going to a long and continuous process and it cannot be done in a day. It is vital to press ahead as quickly as we can, not only for the protection of the Europeans, as the hon. Member for Uasin Gishu mentioned, but also for the protection of those Africans whom we want to hold, and we think we might hold, free from the disease, or may be able to bring over to our side in spite of their original infection. They are quite as important and at present they are living in greater fear than the Europeans.

Now, that being the objective, it is quite essential that we do not allow any fresh infection while that process is going on and, therefore, in my submission, the policy of Government must be that no Kikuyu are allowed back into the settled areas, whether from the reserve or from prison, until we are satisfied that our resistance, the resistance of the African to *Mau Mau* has been built up to sufficient strength to prevent re-infection. Meanwhile we must develop the strength of the resistance elsewhere which is beside the point of this Motion; but I would point out, Mr. Speaker, when it is sometimes suggested, as was suggested by the hon. Mover, that there are quite a lot of decent Kikuyus who would like to come back and work for those who would be equally glad to have them in the Highlands, in the first place, it is very difficult, as we have learnt to our cost to be sure who is decent and who is not. No system of screening by itself will make that sure. If there is any certain sign of a Kikuyu being for you rather than against you, it is in the Reserve that they should remain. There are Kikuyus in the Reserve who are willing openly to act in support of Government and against the *Mau Mau*, it is in the Reserve that they should remain. That is where they are needed even more than in the settled areas.

For these reasons, Mr. Speaker, I do earnestly beg Government to propose a firm policy as I think they intend to do, to the effect that the return of Kikuyus to the settled areas will not be allowed until the situation there is very much more healthy than it is to-day.

MR. GIKONYO (African Representative Member): Mr. Speaker, I want to congratulate the hon. Member for the Coast for bringing this Motion up because I think it is high time that we knew from Government what its policy is with regard to the Kikuyus from the Highlands and other places going back into the Kikuyu reserves. It is true that many thousands of Kikuyu returned to the reserves. To many of them the Kikuyu reserve is a strange place. They went back there where they had no homes, no food, no land; in fact, they went into a strange place. Many of them had been living in the Highlands working for European farmers for many years, many of them were born there and they regarded the Highlands as their home. They never thought there was any possibility of their going back into the Kikuyu reserves to which they did not belong. Now, when they go back into the reserves, I wonder—and many other people wonder, as I do—what do they do? Where, how do they live? If they come back into the towns and other places they would not get employment. It is no wonder, with all this bitterness they may have for all the suffering they may be experiencing, simply because they are Kikuyu, it is no wonder that they most likely join the gangsters. When we talk about bringing the Emergency to an end I think you have to consider seriously the question of rehabilitating these fellows because by leaving them in the Kikuyu reserves you give them a very good chance to join the gangs. I think it is the duty of Government to consider this question. If they do not, then we do not know what the end of this will be because they will go on joining these gangs and the trouble will be prolonged.

I think, Mr. Speaker, that it is high time Government considered this problem because to me it is of very vital importance if we are going to do something with the present Emergency.

Many European farmers do not want the Kikuyu back, some do. Now Government is trying to even refuse those who do want to take the Kikuyu employees back to their farms—and many farmers do not know that there is anything specifically wrong with their employees—but the law does not allow them to re-

employ them. But I think the duty is for the Government to find them an alternative place if the farmers there do not want them back. We cannot force them but I think it is a wrong policy to dump them into the Kikuyu reserves and think the Kikuyu reserves will serve as reformatories (homes?) because it is not going to be that way; it will be to the contrary.

I beg to support.

MR. HARRIS: Mr. Speaker, Sir, I think that everything that has been said so far in this debate has underlined the necessity for a Motion of this nature, because I think the last three or four speakers have all produced a separate theory of their own as to how this problem is to be solved. As I understand it, the purpose of the Motion is to get Government's mind to work on this problem and not to give them at this stage the amateur's suggestions for a solution.

I feel, Sir, that I must point out to the hon. Member for Aberdare that theoretically it is very nice to keep the Highlands clean of Kikuyu but in practice we have had the experience in Nairobi in the last few weeks of what happens when pressure is applied elsewhere in the country. There are also all those farms contiguous with the reserves and if the position in the reserves is made such that they begin to boil over, there is going to be considerable risk to European lives and economy in those areas and particularly in the town areas of Nairobi and Nakuru. I merely mention that not as another amateur solution to this problem but as a word of warning to those who perhaps only look at this matter from their own point of view.

The only other thing I wish to say, Sir, is that the hon. Member for Commerce and Industry tried to take my hon. friend, the Member for Mau, to task for bringing in his—

THE MEMBER FOR COMMERCE AND INDUSTRY: On a point of order, Mr. Speaker, I did not take him to task, I asked him two questions.

MR. HARRIS: The hon. Member will now receive his reply, Sir. The hon. Member for Mau, Sir, intended, if it was not quite clear to my hon. friend, to make it clear that local government could probably keep in touch with the local

[Mr. Harris] industry and the local chambers of commerce very much more easily than central government. I think that replies to both the questions from the hon. Member.

THE MEMBER FOR AFRICAN AFFAIRS: Mr. Speaker, the Government will certainly accept this Motion and the amendment proposed by the hon. Member for Mau.

Also, I think it should be stressed, and I should have thought it would have been obvious to all Members opposite, that Government has recently stated its policy, a policy dictated by security reasons at the moment.

That policy, Mr. Speaker, is not designed—and obviously not designed—to encourage what the hon. Member for the Coast described as the percolation of Kikuyu back into the Rift Valley. Government and its officers are not winking an eye at this percolation. The obvious physical difficulties of controlling movement of people are not easy to overcome, in view of the difficulties of terrain and geography and the pre-occupation of police and security forces in offensive measures against the *Mau Mau*. Nevertheless, we are doing our best and have been doing our best to try and control this movement.

I heard the hon. Member for Uasin Gishu criticize the issue of passes by subordinate officers. Well, I must admit there have been lapses. I am well aware that these things have happened, that there have been slip-ups, but stringent instructions have gone out on this point, as he is aware. In fact, I must assure the Council that every effort is being made that the Government's policy, as recently outlined and recently re-enforced by Emergency Regulations, is to be carried out. The recent Emergency Regulations, as hon. Members are aware, put the onus on the employer in the effort to try and control what has been admitted as an unscrupulous employer who may take on to the danger of his neighbour, Kikuyu returning from the reserves. It is, in fact, our policy to try and stop this percolation, to try and control what the hon. Member for Aberdare described as "re-infection".

The operations of the screening teams, to which he also wisely referred, have indeed unmasked a state of affairs of

which we were but dimly aware; the extent to which *Mau Mau* had organized cells and organized the intimidation of otherwise law-abiding farm labour. It has been very marked that where, as a result of these screening teams, the air of fear and the heavy hand of intimidation on the rest of the farm labour has been removed, where we have been able to get at these cells, where these organizers of *Mau Mau* on farms have been removed, there has been an immediate lightening and cheerfulness among the labour.

Where we have cleaned up we have no intention of allowing re-infection if we can possibly avoid it. Our policy is designed simply and solely to that end, so that we do not have to go back and start the process all over again. (Applause.) It will certainly be our policy in the future to consult with the local farmers' associations and local government bodies when we get beyond the present stage and I would certainly hesitate to prophesy when that will be, nor do I think anyone here would expect me to. Members opposite are well aware that consultations on the future policy concerning the employment of Kikuyu are now going on with the local associations. They are also aware that there is a considerable divergency of opinion between districts in this matter and in the ultimate resort it will be Government's part to take a lead in this and find the solution to these divergencies.

The hon. Member for Uasin Gishu made a special point which I seem to have heard from him before about mass rebellion. Well, rebellion possibly, Mr. Speaker—I am inclined to qualify "mass", particularly when I look back and see the violent intimidation that has been used on a large number of what he would describe as "mass"—

MR. MALINOCHIE-WELWOOD: I think the hon. Member for giving way. Surely there would be no intimidation if it was not a mass rebellion. Intimidation is such that if, itself, argues a mass rebellion. If the vast majority of Kikuyu people were on the side of Government, those on the side of Government would have little to fear.

THE MEMBER FOR AFRICAN AFFAIRS: Mr. Speaker, I would merely argue that

[The Member for African Affairs] we should remember and feel some sympathy for the conditions of violence and intimidation under which a large number of Kikuyu have found themselves and also I think we should, in considering this mass rebellion, not forget the loyal efforts of the large and increasingly large number, who are taking an active part in helping us to drive out these *Mau Mau* thugs. (Hear, hear.)

The hon. Member for the Coast made one remark I would like to qualify. He said that many of the people leaving Rift Valley, many of the people leaving Rift Valley had no reserve to go back to. This is not true, Mr. Speaker. There are Kikuyu land units, the three Kikuyu districts, the Meru and Embu districts. There is surplus land there still available for their occupation. Some of it may not be good land, some of it will require considerable attention from the Agricultural Department in its proper development. We are aware of all this. It will require the hard work of those returning to it to make it agriculturally productive. Nevertheless, land does exist, let us be under no illusion that these people were not going back to their own land.

At the same time I have every sympathy with the point of view expressed by the hon. Mr. Gikonyo. The difficulty in Kikuyu country, the difficulty of sorting out the enormous and hurried exodus of people, a large part of those went voluntarily—they brought this on themselves, their problem is partly their own fault, let us not forget that—nevertheless, the problem there is, I know, acute. It is a burden that the Kikuyu are bearing but they are also bearing it because of this thing *Mau Mau*, which started and which is being carried on by the Kikuyu themselves.

Mr. Speaker, I can only say that our policy, I think, should be abundantly clear. I can only restate that we do not propose to agree to the return of the Kikuyu at this present time, a return of those who have already gone back to the reserves, except under the most exceptional and stringent circumstances. Where this is allowed, it can only be allowed on the personal responsibility of the District Commissioner, who will consult his District Emergency Committee. This is

for security reasons and the future policy, which will obviously be dictated on a broader front in relation to questions concerning labour and economics and the whole set-up of the future structure of labour on farms, will come later and will only be after considerable and prolonged consultation.

MRS. SHAW: Mr. Speaker, Sir, I wish to support this amendment very strongly because as my hon. friend, the Member for Uasin Gishu, said in his most able speech, the people who are most affected by the movement of the Kikuyu back to the settled areas must be the Europeans. Therefore, it is, in my opinion, the settlers who should have a say as to when the Kikuyu come back and on what terms. Also, I wish to underline what my hon. friend, the Member for Mau, said about conditions being different in different districts of the Colony, owing to the geographical position. For instance, when I first knew Nyanza, there were no Kikuyu in that province. It is only within the last 20 years that Kikuyu have infiltrated into Nyanza. Many of the older settlers, therefore, feel that we did very nicely without Kikuyu in the past, and that we can do even better without Kikuyu in the future. That is the large majority of opinion of the people I have the honour to represent. This infiltration was allowed and encouraged by one of the local tribes and was approved by Government, by tacit consent. This being so, I feel that we, in Nyanza, should cause injustice to many Kikuyu, were we to say that we will have no Kikuyu within our province, for many of those within the last 20 years coming from the Kikuyu land units have lived with their families there, many of the children born in Nyanza Province have never seen the Kikuyu Reserve, they have no place or home within that reserve. But I do feel equally strongly, Mr. Speaker, that we should be failing in our duty towards those Kikuyu who have now made their homes in Nyanza, who have shown complete loyalty, if we were not to protect them and safeguard them from an introduction of members of this tribe suffering from this infectious disease, this *Mau Mau*. Therefore, I feel most strongly that before any concerted plan to open Nyanza's boundaries to the Kikuyu to resettle them either in the settled area or in the Kisii Reserve, where

(Mr. Harris) industry and the local chambers of commerce very much more easily than central government. I think that replies to both the questions from the hon. Member.

THE MEMBER FOR AFRICAN AFFAIRS: Mr. Speaker, the Government will certainly accept this Motion and the amendment proposed by the hon. Member for Mau.

Also, I think it should be stressed, and I should have thought it would have been obvious to all Members opposite, that Government has recently stated its policy, a policy dictated by security reasons at the moment.

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[Mrs. Shaw]

there is a colony of Kikuyu, the local government body should be consulted and their opinion taken in this matter and that, Sir, I feel more for the protection of the Kikuyu themselves, who have lived for many years in the province and for the most part have shown complete loyalty.

MR. MATHU: Mr. Speaker, I should like to comment on some of the points raised by hon. Members in support of the Motion as amended, which is before the Council. The Government's policy has been restated by my hon. friend the Member for African Affairs in the terms that no Kikuyu will be allowed to go back to the Highlands, except under stringent and special circumstances.

Now, I would like to suggest, Sir, that that policy is, I think, by and large, a very negative policy, and what I would like to suggest, Sir, is that Government should widen the basis of that policy of stringency, and allow employers I want to emphasize employers to take back the Kikuyu they think are going to serve them on their farms.

MR. STADI: What about their neighbours?

MR. MATHU: My hon. friend, the Member for Aberdare asks me "what about their neighbours"? I was coming to that because actually the main point of the amendments to the original Motion was to answer that very question which my hon. friend the Member for Aberdare is asking me, that is the local people, either farmers' associations or Local Government bodies would have to be consulted. I am supporting that view and, therefore, even before the employers in the Highlands actually decide to take on the Kikuyu, their neighbours—either themselves or representative associations, or the Local Government body—will have been consulted. Therefore, the question my hon. friend is asking does not arise. It is covered by the amendment to the Motion and I am supporting that. All I am suggesting is this complete negation in using the word "stringent"—in a very stringent manner, is one I do not think Government should make it so stringent, so that people who feel they can be served by Kikuyu on their own farms should be given an opportunity to do so.

Now, it has been mentioned, I think by previous speakers that we have not only bad Kikuyu, but we have good and loyal Kikuyu. My hon. and gracious Member for Nyanza has just said in her own constituency that she recognizes that there are staunch and loyal Kikuyu who are solving their own problems. There may be others who can say exactly the same. Even in the Rift Valley Province there are many who can say that as far as their Kikuyu districts are concerned, and, in fact, my hon. friend the Member for African Affairs did say that we have, and I can testify that we have, an increasingly large number of Kikuyu in the land units on the Government's side, and to use "the mass rebellion" does not make sense. You have some people who are intimidating the mass of Kikuyu, those mass are loyal to Government and to this country, they are nothing but humble and simple individuals who want to be left alone at peace and to contribute to the welfare and economic health of the Colony. I do think that there is a point we ought to recognize.

I would like to mention, Sir, if it is not known that there are many Kikuyu who have died—who have been killed by these thugs and gangs. The Kikuyu themselves have died by thousands. They would not have died if they were supporters of the *Mau Mau* movement. They have died because they have refused to follow this violent approach to the problems of the country. I do not think it will help us in the least to relieve their problems. It is only recently when a whole Kikuyu guard unit in the Rwachia Location 12 in Fort Hall was wiped out. I understand that General Erskine is getting inquiries into that. That is only an example to show what these loyal people are doing because they are supporting the Government.

I have one point to make, Sir, before I sit down, it is this: my hon. friend, the Member for African Affairs said that there is surplus land to which these thousands of Kikuyu who have come into the Highlands will go to. I want to disagree with him. There is no surplus land. They are congested, in fact these districts are rural slums. Then my hon. friend says there is surplus land; that the officers of his Department have produced reports to show this; that is what he says;

[Mr. Mathu]

it is not correct. Now, to talk about surplus land, it is impossible to believe and I should like to ask the hon. gentleman to reconsider that view because it is not correct. He has only introduced a rural slum in the Kikuyu land unit by mass evacuation of the Kikuyu from the Highlands and nothing more.

I would like to suggest, Sir, that when Government is pursuing this policy of stringency of returning the Kikuyu to the Highlands, I would like, Sir, to suggest to them that they should, in addition, do two things. It must be a sort of two- or three-way policy. If you have not to return the Kikuyu to the Highlands, please give them a place to settle; to give them employment elsewhere other than the Highlands.

My hon. friend the Mover talked about the Public Works. How much manpower of those fellows who have left the Highlands are we using? On public works in the Kikuyu district or elsewhere? My hon. friend, the Member for Nairobi South or North—I forget which—gives views for Nairobi and Nakuru. The local authority in Nairobi and Nakuru are being given headaches because we have not given these people constructive work to do. Either we do that or put the whole lot in detention camps, that would be better than to leave them as they are, high and dry, to let the gangs on the slopes of the Aberdare. If that is ending the Emergency quickly, I do not think I can support it. It is not ending quickly, it is increasing and prolonging the time when we should yet finish this *Mau Mau* business. Now we are dealing with gangs and they have the opportunity of recruiting from the people who have been removed from the Highlands, who have no employment, no place to live in.

Mr. Speaker, I support the Motion. (Applause.)

MR. HAVELOCK: Mr. Speaker, I was not going to speak, Sir, but I am afraid I have to answer one or two points of Mr. Mathu's. I think it has been made clear by the hon. Member for Uasin Gishu and indeed by the hon. Member for African Affairs that Government and the hon. Members on this side of Council cannot accept Mr. Mathu's suggestion that those people who wish to take on Kikuyu in the settled areas may do so.

There was a little altercation here on this side of Council about the local government and so on, but that is not the question we have asked. The amendment has been passed and the local government will be consulted but the point is that our advice from this Council and from hon. Members on these benches to the local government is that they should not relax, they should be very, very careful before they give advice to Government. Before Government accepts it, that Kikuyu should be let back into the settled areas. It is so easy, Sir, for a man to say, "I know Jerogo wa Kamau, he was on my farm for 15 years, he was a good worker and I want him back", and it is happening all over the place. The whole history of this Emergency has proved how little we really know the inside workings of the minds of our own servants. I think it is really rather a disgrace and we have to try and rectify this in the future.

There is another point the hon. Member brought up; the matter of mass rebellion and so on, which I feel I must touch, on behalf of the Member for Uasin Gishu, I do, feel, Sir, that it is really a matter of degree. But there must be a very great number of Kikuyu who follow and wish to follow the *Mau Mau* practices, otherwise they could not intimidate such great numbers as they have up to now. I would hate to give a guess, but I would put it more fifty-fifty than what figures have been quoted up to now.

The surplus land and other points Mr. Mathu spoke about—challenging the hon. Member for African Affairs to substantiate his remark. No reply came from the hon. Member, but I suggest it should be put this way, there is no surplus land in the Kikuyu Reserve for the present population, if that land is used as it is to-day. There is a good living for everybody, including the people put back there—

MR. COOKE: Nonsense!

MR. HAVELOCK: If the land is used properly, I personally believe that is a fact. Sir, I have spoken very often, especially representing Kiambu, on the great difficulties that face the administration in the Kikuyu Reserve with the ingress of the people of the Rift Valley. This discussion started months and

[Mr. Havelock]

months and months ago, I do still feel as I said then—a suggestion made again by the hon. Member for the Coast, by the hon. Mr. Mathu—that we should try, we must try to find work for these people who are being sent back or even volunteer to go back. I know Government have taken this matter seriously. I know they have tried in the reserves themselves, and I know they are still trying to find ways and means of employment for them elsewhere, but I would suggest, Sir, that a bit more urgency might be put into that inquiry and into finding work. I am sure and absolutely certain that is the answer—give these people employment and they will not have time to think about the inciting things of *Mau Mau*.

THE SPEAKER: It is now a quarter to one. The debate, of course, is interrupted and will be resumed, I suppose, next Thursday—Private Members' Day. Council will stand adjourned until 9.30 a.m. to-morrow.

ADJOURNMENT

Council rose at thirty minutes past Twelve o'clock p.m.

Friday, 24th July, 1953

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

[Mr. Speaker in the Chair]

PRAYERS

NOTICE OF MOTION

THE CHIEF SECRETARY: Mr. Speaker, I beg to give notice of the following Motion:—

APPOINTMENT

"BE IT RESOLVED that the Hon. B. A. Ohanga be appointed to the Select Committee on the Estimates in place of Mr. F. W. Odede."

ORAL ANSWERS TO QUESTIONS

QUESTION No. 123

MR. W. W. W. AWORI (Member Representing African Interests) asked the Hon. Member for Legal Affairs if he would state if any detainees have appealed—before the Advisory Committee of detainees?

(a) If the reply is in the affirmative, how many had appealed?

(b) How many had been released after appealing to this Committee?

THE CHIEF SECRETARY: Yes, Sir. (a) 297. (b) One.

INQUIRY RESPONSIBILITY

TRANSFER TO ESTIMATES COMMITTEE

THE SPEAKER: Before proceeding with Order No. 4, I want to call on Mr. Vasey.

THE MEMBER FOR FINANCE AND DEVELOPMENT: With your permission, I would like to make the following statement to Council:—

In February, 1952, Legislative Council charged the Public Accounts Committee with the task of inquiring into the efficiency and economic working of Government departments and to make recommendations thereon.

That inquiry is being carried out. It is, however, considered by the Public Accounts Committee and by the Estimates Committee which was appointed in January, 1953, that this inquiry could more appropriately be undertaken by the latter Committee. Arrangements have therefore been made for the transfer of responsibility for the inquiry to the Estimates Committee.

I felt it proper that the Council should be informed of the change.

BILLS

FIRST READINGS

The Ex-Officio Members of Executive Council (Transfer of Functions) Bill (Bill No. 45)—(The Chief Secretary)—Order for First Reading read—Read the First Time.

The Local Government (County Councils) (Amendment No. 2) Bill (Bill No. 47)—(The Commissioner for Local Government)—Order for First Reading read—Read the First Time.

The Land and Agricultural Bank (Amendment) Bill (Bill No. 46)—(The Member for Finance and Development)—Order for First Reading read—Read the First Time.

MOTION

CONSIDERATION OF CHIEF SECRETARY'S STATEMENT

MR. BLUNDELL: Mr. Speaker, I beg to move: "This Council takes note of the statement made by the Hon. Chief Secretary on Wednesday, 22nd July, 1953, and while acknowledging progress has been made regrets the present state of the country and considers more attention should be paid to additional manpower, intelligence, the adequacy of Emergency legislation and rehabilitation measures for *Mau Mau* criminals."

Mr. Speaker, my reason for moving this Motion is that we have had recently a recrudescence of the *Mau Mau* movement and in particular a tragedy at Nyeri, considerable unrest and a number of murders in Nairobi and a general wave of renewed activity in many parts of the country. It would be possible for me to raise many of the points I wish to raise in the Emergency Committee—I should like to make that point right away at the beginning. I am not doing so because it is necessary that other hon. Members in this Council should be able to voice suggestions and put forward ideas—Members who are not able to do so at the Emergency Committee, and also, it is necessary for public reasons—in order to convince the public—that this Council is keeping a definite watch upon events. It is necessary to raise matters publicly in order that the public themselves may be aware of what is being done.

I should like at this point to thank the hon. Members opposite for agreeing to set aside to-day for this debate so early.

Now, Sir, turning to the statement. This is the first occasion that Council has met since the arrival of the Commander-in-Chief, Sir George Erskine, and I would like on behalf of hon. Members on this side of Council to wish him all success in the prosecution of the difficult task which he has ahead of him. (Applause.)

I would also, Sir, like to take this opportunity of recording our thanks from, I believe, all Members on this side of Council for the sustained work and energy which His Excellency the Governor has put into the affairs of this Colony since his arrival. (Applause.) I hesitate to refresh the memory of Members, but since the Emergency began on the 21st October, I do not think any public expression of our appreciation of his work—great breadth of outlook and, if I may use the word, intelligence in handling our problems, has been made from hon. Members on this side and I think the least we can do to-day is to record as we are noting and acknowledging the progress that has been made, that we might have been in a very worse state if we had not had the guidance of the Governor throughout this period.

It seems to me that we should issue to the country a note of warning of the general situation. There is ground for a certain amount of optimism in that the effort of our measures against terrorists appear to have improved, but I cannot see myself any easy or short end to this problem. I think the country should be warned that the end of the Emergency itself may be a long way ahead; indeed, may be many months ahead. We have on our hands a problem to which I wish to refer briefly. It is the problem of the Kikuyu and I detect in many Members a vagueness in their minds on that problem. Some of us call it a rebellion; some say there is on one side a small element of activists who are terrorists, on the other side a small group of loyalists and in between a vast mass—I use the word myself—of indeterminate people. Nevertheless, we must see facts and the problem we have on our hands is a problem we have had since 1916. In other words,

[Mr. Blundell] since we brought to this country British Administration. For more than 50 per cent of the time we have been here, we have had among the Kikuyu people a reluctance to accept the benefits of law and order, and the prosperity that can stem therefrom, except on their own terms. In effect, what we are meeting to-day is a challenge by the Kikuyu, whether actively sustained or passively sustained does not matter, it is a challenge to impose their rule on all the other people of this country. That is the problem we have to meet and I do not believe it is any good to try to whittle away in our minds that basic intention of the Kikuyu people.

That being so, Sir, my reason for giving this analysis is this, that even when we have brought to book or reduced considerably the actual terrorist leaders, we must undoubtedly expect right through all the areas where there are Kikuyu sporadic outbursts which will mean long, sustained and concentrated campaign of police containment and troop reinforcements behind those police forces, for that must inevitably go on as a result of this Emergency, whether the actual Emergency itself can be reduced or not does not matter, it must go on for a long period ahead of us.

I wish to refer to the military plan which has been announced and make some comments on it. I do not do so in the belief that after six years of military experience in the last war my capacity to analyse a campaign is equal to that of the Commander-in-Chief. But in effect, the intention, as outlined is one of aggression by striking forces of military, followed by containment by smaller military forces and police and I wish to record that I am doubtful whether we have enough troops to carry that programme forward. I would urge hon. Members opposite to consider both aspects, the provision of more troops which will have to be discussed with the Commander-in-Chief and the further building up of police forces. One can prove that because already after the striking forces have departed and the role of containment falls on these police forces left in each area one can prove that these police posts are either not in being, although planned, or not adequately armed. I have in mind two

instances I would like to give. There is a police post in the Kinangop with an establishment of 20 which has only in effect 13 bodies in it. Posts which are envisaged in the plan as static holding posts behind the forces of aggression in the Nyeri area have not been able to be established in full. I would say that unless we can have more forces, unless we can build up police strength to such a point that the plan can be carried out in its whole conception, in its entirety, there is danger in the situation. The illustration I would like to give is this. As I see it, it is rather like a skin half-full of water, when one grabs the skin the water is forced out into the corners of the bag and the hands merely meet on the skin itself. As we enter each of the areas, Fort Hall, South Nyeri and eventually North Nyeri, we shall find that the pressure of the striking force will force the terrorists out into the areas around. It is our intention to deal with the situation by planting in each area a battalion *in situ* and also by police forces. That is the particular point on which I am doubtful. I am doubtful if we have the necessary forces to mop up after the striking force has passed and to maintain order ahead of the striking force before it enters the new district. I am, also, doubtful whether we have built up the police sufficiently yet to deal with that problem. There is one other danger that is already beginning to manifest itself. I believe that as the striking forces enter areas it will tend to cause the terrorists to go underground and we shall get probably an increased amount of individual assassination by the terrorists rather than the gangs which have been building up in the past.

From that, Sir, I want to go to the manpower situation. I believe we have to plan our immediate requirements at least on a basis of two years ahead. We shall, of course, have to have a stronger police force for many years, but I believe we must, at least we ought, to consider for two years the abnormal demands on our police forces. The point I want to make is this, how long can people—how long can we go on asking the ordinary citizen of this country of all races, unless he so wishes, to abandon his business, his farm, his home and his family in order to carry out what are fundamentally police duties. I am referring in particular to the constant daily patrols in Nairobi at night,

[Mr. Blundell] which must be inevitably a drain on the energies of the population, the Kenya Police Reserve in the settled areas and all those calls on the whole community for additional police support. It seems to me, Sir, that we ought to have had in the statement some indication of the Government's intention in this matter. Already some boys—young men—in the Kenya Regiment have been away a year, many of them have already served their national service, many have had years in the 1939-1945 war and here we are calling again on them for a period the end of which we cannot yet see. It seems to me that we have got to pay very much more attention to the replacement of what we assume to be a temporary call upon our people.

Members on this side of the Council made some suggestions several months ago that we should try and recruit overseas and not necessarily use the services of the Crown Agents but send to suitable countries personalities from this country who might be able to do the recruiting for us. We should like to have known what were the Government's intentions the Government's ideas in this matter. There are also signs, Mr. Speaker, that our manpower directive is causing a cessation of the flow of young men to this country for the simple reason that no one is going to come here, to immigrate into a country where after six months he will be taken away from his training or his business, his family and home and be turned out possibly for months on end on police activities. I therefore think that although direction of manpower was urged by Members on this side of the Council and accepted by us at the time—and I believe it was necessary—we have to consider whether we should not now far more energetically pursue all measures designed to put the manpower for the forces of law and order on a permanent basis rather than the voluntary dip into the bag of public goodwill.

Next, Sir, I wish to refer to the matter that is causing all of us much concern. I will not deal with it in detail, but I do hope the hon. Member for Legal Affairs will be able to reply.

Hon. Members on this side of the Council are worried at the support which

it appears possible for us to give the forces of law and order—to law itself. We are doubtful whether much of the Emergency legislation which we have provided is as effective as it ought to be on paper. In particular I would like to know how effective, for instance, the death penalty for the oath administration has been.

Now, that was moved from this side of the Council by myself—I gave the reason for it—and I am still firmly of the opinion that had we made oath administration a death penalty as early as November last year, the violent and very dangerous spread of this evil, disgusting and bestial movement would have been arrested.

Now, as I understand it, I have not seen any signs that that Emergency legislation has had any effect at all or been used—if it has not been used, then what, hon. Members on this side of the Council would like to know is why has no amending, or further development of that legislation taken place.

Again, Sir, we have additional regulations to-day for the carrying of arms, and such matters as accouring of terrorists and consorting with terrorists. I believe I am right in saying that those regulations were enacted something like two months ago, and we would like to know what results have come from them. We are still also unduly anxious about the situation in Nairobi, and again I do not think the situation in Nairobi will easily be dealt with except by the use of these regulations, and in particular I would like hon. Members opposite, when answering this Motion, to give us a more detailed analysis of the position in Nairobi, and the attempts which Government consider necessary to control the situation.

The third point, Sir, of which no mention appears in the statement, which I think should have appeared is the whole question of intelligence and information. We are doubtful whether we are getting the results we should from our intelligence system. I suspect it is, possibly, in much of its direction, too circumscribed in its outlook and it is obviously a matter which cannot be debated in great detail in Council because intelligence is useless if everyone knows from whence it comes, but it appears to me that it is too circumscribed in its outlook, that we want very

[Mr. Blundell] much more liaison between the sources of information, members of the Special Branch and their ramifications, also the forces of law and order. I am extremely doubtful whether we are getting an immediate and quick flow from what one might call the fronts, against the terrorists, back immediately to headquarters where the plans of operations are made. I would like to see a greater integration between the two specific branches of intelligence. One is the intelligence which falls into our lap as a result of operations and patrols, raids, etc. The other is the long and more difficult unearthing of intelligence often from political motives or political objectives.

Again, Sir, I would like to record that, despite the large sums of money which we have voted in Supplementary Estimates for the information services, I do not think that we are getting the results we should from them (Hear, hear.)

I would like to say this to the hon. Member for Finance, I know he was unduly concerned because at a period in the past, certain posts in his Budget were struck out, and I personally gave him an assurance that if he voted money for the information services, I would do my best to see that stability in those services was maintained. I do not wish anything I may say now to cause any concern to him, that we would in any way wish to cut those services. We are anxious to spend the money because it is necessary to do so. What we are anxious about is whether the money is being adequately and properly spent. I am going to record I do not think it is. I have good information which leads me to suspect that probably only two of the African information outfits are really making an impact on the African people, and there are such matters as the time available to us for broadcasting from the Cable and Wireless transmission station. I should like an examination made to see whether the younger men in the African Information Services are satisfied that they are getting adequate time to put over their intentions through the transmitting stations, because I believe we could have more time and we have not explored it. In other words, Sir, I believe—I think I speak for everybody on this side of Council—that we need much more imagination, much more knowledge of people's minds in the information ser-

vices. I am afraid, Sir, hon. Members may have heard this before, but it was put to me in London, that we had created a cathedral in our information services, but not yet found the prayer which we should use in the cathedral. In other words, Sir, in dealing with the whole of this *Mau Mau* issue, we have got to be resolute in one thing, that is our effort on the mind and body of the *Mau Mau*. It is useless, useless, to attack merely the physical side of the problem unless at the same time we attempt to destroy in their minds the mental trouble.

That takes me, Sir, to the whole question of the rehabilitation of the *Mau Mau* criminals and detainees who have been placed under restraint or in prison during the Emergency. I should like to re-echo what the hon. Member for the Coast said the other day. The people whom we have detained, the criminals we have placed in prison willy nilly, whether we like it or not, are our people, the people of this country, and the mere fact that we have taken these measures against them shows, at any rate, that they have within themselves the capacity of leadership and the problem is to turn that leadership to our own benefit, the benefit of this country, rather than to undermine it.

The other day when the hon. Member for the Coast asked a question about the collating and examination of the background of the Africans who had been detained, whether Government was doing that, he got the answer "Yes". This is a vital matter, Sir.

THE CHIEF SECRETARY: On a point of explanation, Sir, may I point out that the question asked was "would Government appoint an officer to do that".

MR. BLUNDELL: I accept the explanation and will continue to develop my argument.

First of all we might have had in this statement, I think, a further development of this whole issue of trying to find out what is in the minds of these men who have been detained. Many of us in this country who have lived here for many years; 28, 30, and in the case of the hon. Member for Nairobi West, more than 50 years, I think, would say that at one time or other they had friends amongst the Kikuyu people. Now, what has happened? As far as one can see, the whole basis of our relationship with them

[Mr. Blundell] has been destroyed, and I would like to examine, as far as I can, from these men what it is that has caused that destruction. I do not believe myself that it is as easy a problem as people say in England or in this country. They fall into two halves, I would reiterate, both in England and in this country; they either say the *Mau Mau* movement is entirely due to economic, social and political troubles, or they say it is due to barbarism, primitivism and the rear Africa poking itself out from the veneer of civilization we have placed on it. I do not believe it. It is a much more fundamental issue, whether we have been able to produce a system that has convinced the African that the Western way of life, which has of necessity been forced upon them, is worth having, and I would like to take the opportunity to examine and see what is the trouble, because unless we do so we shall have *Mau Mau* problems in varying forms for the next half-century.

Lastly, Sir, may I just add that I believe there are some measures being taken, but I have no idea what they are, and I think hon. Members on this side would like to hear about them. I would like to interpolate here that in moving this Motion, even if I have occasionally appeared slightly aggressive, it has not been moved in any way as a censure or lack of confidence in Members opposite. I have moved it because it is necessary for Government to show the leadership to this country which is required at the present time. From that I would like to say this, we are at a moment of crisis in the history of our country. The Government itself is on trial and it is inevitable, in my view, that some members of the Government will not necessarily be provided able to carry the weight for the additional tasks which have fallen upon them.

I think, Sir, it would be well to record that certain Departments in the Government do not to-day carry fully the confidence of the Government—of the public, not Government. I would stress not Government because Government in this matter very often has a pachydermatous hide. Certain departments have lost the confidence of the public, and I want to record this in ending my remarks on this Motion. We look, Sir, to the hon. Members opposite, the Chief

Secretary, as the leader of this Council, to see that where changes are necessary they are made. I am, confident, Sir, I repeat, that I am confident he will act in this matter. I think, Sir, it might be unnecessary for me to stress that we work in this country under a peculiar constitution which makes hon. Members opposite irremovable by the voice of the people. That may, or may not, be a good thing; I am not going to argue that situation. In other words, Sir, the actual act by which officers can be removed—ministers can fall from office or not—is without our power, but it is essential in a heterogeneous society such as ours, that the Government should provide the rallying point for all members of the public. That cannot be done if, in the eyes of the public, certain members of the Government or officers in the field have lost the confidence of the public, and I want to stress, Sir, that not only do we look to the hon. Member opposite to be truly a leader of the Government and take this action, but I think it my duty to say, under the constitution which we have, if that confidence is not restored in the Government, then the only recourse open to this side of the Council is to voice it publicly in open debate.

MR. SPEAKER, I beg to move my Motion.

MR. HAVLOCK seconded. I reserve my right to speak.

Question proposed.

GROUP CAPTAIN BRIGGS: Mr. Speaker, Sir, I would first like to refer to the hon. Member for Rift Valley's remarks in regard to leaving General Erskine to get on with the job. In other words, that the direction of the campaign against the *Mau Mau* must obviously be left in his hands. I think there is a common conceit in mankind that there are two things that every individual can do extremely well. One is to run a hotel and the other is to run a war. At the same time I do hope that full advantage will be taken of the advice which can be given by those in this country who have had a long experience in dealing with *Mau Mau*. I refer particularly to those members of the Kenya Regiment and Kenya Police Reserve, and also other security forces, who have been long in this country and have, I believe, gained extremely valuable experience, and I do hope that they will be made the very fullest use of.

[Group-Captain Briggs]

Now, Sir, I fully appreciate the difficulty of the hon. Chief Secretary in introducing a balanced statement in regard to the Emergency in general. It is an extremely difficult thing to do. My personal opinion is that the statement erred on the side of optimism, too much so to be regarded as entirely realistic. The hon. Members opposite may well think that my views are somewhat coloured by the fact that my constituency has now been under strain for a period of something like nine months and that at the present day, the conditions there are worse than they have been at any time since the beginning of the Emergency.

I feel bound to say that the reference of the hon. Chief Secretary in his statement to the recrudescence of activity in the Mweiga and Ngobit area has been one of those masterly understatements for which the British have long been famous. During the past six weeks in my constituency a Seychellian family has been wiped out in the most brutal circumstances. A European—crippled European—settler, who has been many years in this country was brutally slashed to death a couple of nights ago. There have been raids on labour lines, both with a view to intimidating labour, driving labour away from the farms, and for the purpose of forced recruitment to the ranks of *Mau Mau*. During the same period, that is approximately since the 1st of June, there have been between 350 and 400 head of cattle stolen in the Mweiga and Ngobit area. If the number of cattle stolen is translated into terms of meat, I think, unless my mathematics are at fault, that it represents something like 150,000 to 200,000 pounds of meat. That is a great deal of meat and it must be feeding a great number of mouths.

I believe, Sir, that there is a plain lesson to be learned from all this, and that is that there is urgent need for more manpower. Had sufficient forces been available here six weeks ago, I personally am entirely confident that the deplorable incidents to which I have referred would not have occurred. It is, to my mind clear proof of the need to have sufficient forces available not only to conduct offensives against the hard core gangs, as well as the outer fringe, but to maintain law and order in the reserves and settled areas. I believe that considerable credit is

due to all those settlers in my constituency who have remained so steadfast during the past period of six to eight weeks. (Hear, hear.) They have been under considerable strain, they have been carrying on their farming operations under the greatest difficulties, they have carried on, and, of course, as a result, it has been possible for the security forces to mount an offensive in the reserve, but, of course, that has been done, as we all know, at their expense.

According to the Press a distinguished Air Marshal quite recently visited this country, and according to the reports I have read it appears that when questioned on the possibility of heavy bombers being sent here to assist the Harwards which have done such excellent work he is reported to have said that "You do not want a sledge hammer to crack a nut". Well, I do hope, Sir, that that opinion was a casual opinion expressed by himself, and that it does not represent the views of hon. Members opposite, and that it was not made after consultation with them, because I believe that it is precisely that attitude of mind which has led to the Emergency being as long as it has done, and I believe that a continuance of that attitude of mind will lead to this going on for a very long time. (Hear, hear.)

We have seen in Malaya the result of underestimating the situation. We have seen their campaign drag on for years because there were not sufficient forces available at the beginning. I hope that such a situation will not be allowed to arise in this country. I believe that we must have more manpower and if the commitments of Her Majesty's Government are such that forces cannot be easily made available without interfering with other undertakings to other nations, then we should look elsewhere. The Prime Minister of Southern Rhodesia, when addressing our national servicemen in Southern Rhodesia, quite recently, said, if I read the report correctly, that he was prepared to extend not only sympathy but other help to this Colony if required.

Not so very long ago I read in the Press that Australia had presented a very large quantity of military equipment to Indonesia to help against the Communists there. If we cannot get forces

[Group-Captain Briggs]

ditional men coming into the force as an increase in the establishment.

There was, Sir, one notable omission from the hon. Chief Secretary's statement which I feel I would like to comment on, and perhaps when he replies it might be possible for him to clear the air a little bit. There was no reference in that statement as to the number of arms recovered from the *Mau Mau* gangs and there was no reference to the total number of arms lost by the security forces and the general public. Now, I believe that figure is a very important one because I believe that the number of arms recovered would be an excellent barometer to indicate the measure of success being achieved.

I would not like, Sir, anything I have said to be regarded as a destructive criticism, either in regard to the administration in the field, or of the security forces. I think they are doing a magnificent job of work under extremely difficult conditions, and I think they earned our warm thanks for all they have done. (Applause.)

That, Sir, is all I wish to say. I beg to support the Motion.

THE MEMBER FOR EDUCATION AND LABOUR: Mr. Speaker, I fear that I can only comment on the manpower issue, and I would like to explain what has been done up to now and what we hope will take place in the future.

First of all, the hon. Member mentioned the question of the length of employment of any additional men who might be recruited from the United Kingdom, and we have agreed that the period should be one of two years.

MR. BLUNDELL: Would the hon. Member make it quite clear—I am rather confused by his answer. There are two points raised. One was, when a newcomer comes to this country, is the hon. Member implying that they will be exempt from manpower for two years or is he implying that new personnel recruited into the police will be on a two-year contract?

THE MEMBER FOR EDUCATION AND LABOUR: New personnel recruited into the police will be on a two-year contract. I refer to the temporary recruitments which are being made specifically for this aspect of the Emergency, apart from ad-

ditional men coming into the force as an increase in the establishment.

A further point that the Emergency is causing a drying-up in recruitment owing to the fact that new arrivals in the country are called up, is very true. It is having a particular effect on the technical departments of Government as well as on the unofficial community. It is a point we shall clearly have to examine when we go further into the question of how our manpower can best be used.

Now, the bottomless well of public goodwill, Sir, I feel that as long as the Emergency lasts we shall be dependent to a large extent on this citizens' support. The reason is first of all that the men are here, they have the necessary local knowledge and at least some can spare their services. Since the manpower regulations were introduced in February, we have called up something like 400 men—or rather we have put into uniform some 400 men—and that has entailed the calling up of rather more than 900. Every case had to be carefully examined to see that there was the minimum disorganization of the business and of the farming world. But there is no doubt that there has been disorganization and I fear the time has come now when we must accept an inevitable reduction in the number of men who can be called up and kept in the security forces. Even in a total war, cows have got to be milked and crops have got to be harvested. The land will wait for nobody. And in this country too development must proceed. There are some things which can be left for a year; many cannot.

As soon as the results of the Asian manpower call-up, which is now taking place, are known we shall be able to examine the whole position again and see to what extent European manpower can be replaced by Asian manpower. Further we shall have to give our attention, although this is not strictly within the ground for which I am responsible, to a more efficient use of the existing manpower. As far as recruitment from outside the Colony goes, we are already very much indebted for the sympathy and encouragement we have had from Tanganyika and Southern Rhodesia, and we have had something like 30 men from that quarter, and we hope to have more. The question of recruitment in Southern

[The Member for Education and Labour] Rhodesia—and here I refer not to the matter which was mentioned by Sir Godfrey Huggins, but to individual recruitment of men anxious to come here—is now being taken up at a very high level. Those, Sir, are the only points which I can properly cover in my capacity as Member for Defence.

MR. MATHU: Mr. Speaker, I should like to support the Motion moved by my hon. friend, the Member for the Rift Valley, and in doing so I should like to make some comments on the present organization of the police posts in the Kikuyu, Embu and Meru areas and the Kikuyu guard units.

I think I agree with the hon. Members who have emphasized the need for more manpower, and one very important aspect of our work in fighting against *Mau Mau* is the organization—proper organization—of the Kikuyu guards, and I do think, Sir, that you want men to train them how to handle the firearms which they have, and how actually to carry out the operations. At the moment you have, I think, European officers in these areas to train the home guard in the Kikuyu, Meru and Embu areas, but I do not think that that is sufficient. I think in order that we may get these men properly trained in such a way that they can execute their duties properly and well, you want men who will be able to train them thoroughly in their work.

Further, you do want, Sir, to get these Kikuyu guards at posts very properly protected. (Hear, hear.) Recently, Sir, there was, I think, a very pathetic case of a Kikuyu guard post in Location 12 of Fort-Hall, at a place called Rwachia where the whole unit was wiped out. I suggest, Sir, that that would not have happened if there were not only proper protection but proper liaison between the Kikuyu guard unit and the police post, because I do not see how—in that particular area the police post was not very far away—that they could not have heard that these people were being butchered to the last man. I understand that this matter is in hand and the Commander-in-Chief is ordering an inquiry to find out what happened. What I am suggesting, Sir, what I would like to see, is that every police post should be given a number of Kikuyu home guard units to be responsible for, so that they can keep

their ears open in that particular direction only. At the moment I do not think that is being done and the police post is ready to get reports from any guard unit. That is not the proper way. The proper way is to tie every police post to a particular number of Kikuyu guard units so that they are definitely responsible. I think that also those who know will have to work out a proper way of making alarms, because unless there are adequate alarms which can be heard by people about the place where danger is imminent, I think we shall continue to have these wholesale murders by these gangsters from the forests.

I would also like to suggest—as I have suggested before—that I do still think that the Kikuyu Guard units are improperly armed. I do not think we have sufficient arms for these people and I would like to suggest to the Government that they should hasten the availability of fire-arms to these men so that they can protect themselves and be able to protect those people who are on the side of law and order. On the question of fire-arms, Sir, I would like to support what the hon. Mover said, that he should like to see an indication that the Emergency Regulation, which gives the death penalty to those who illegally possess fire-arms, is used whenever there are shootings. Particularly in Nairobi, we have not been able as far as I know to recover any of these fire-arms which are used in Nairobi and I think we should endeavour to get hold of them. There was in the Press recently a report that the Police have arrested a Kikuyu who had fire-arms in a posho bag away in Mathari and that he said he had bought that—

THE SPEAKER: The hon. Member must be careful not to refer to matters which are under consideration in the courts. I believe that the case you are quoting is under trial.

MR. MATHU: I shall refrain from referring to that particular case, but will say in general, Sir, that we should like to see that these people are brought to book and see that these people are punished for the use of fire-arms in the way they are doing.

I would like finally, Sir, to comment on the question of information. I do think, Sir, that what my hon. friend, the Mover, has said is quite correct. I personally have not been satisfied that

[Mr. Mathu] our Information Services have been as effective as they should be. I do not want to say any more except that the Member responsible should see that our broadcasting, our press hand-outs and our *barazas* through the Information Services should become more concentrated, more effectively used than they are at the present moment.

I would like also to support the view expressed by the hon. Mover in regard to the *Mau Mau* criminals whom we have detained, and to see whether we cannot divert their energies to better use instead of the present state where their energies are subverted and are used for criminal purposes. I do think, Sir, that as he asked, the Government should indicate what is being done and what is going to be done in this connexion.

Mr. Speaker, I beg to support.

THE MEMBER FOR LEGAL AFFAIRS: Mr. Speaker I think I should be expressing the view of all Members of the Government and indeed of all Members on this side of the Council, including the Nominated Members, if I say that we welcome this Motion as providing an opportunity to discuss the problems of the Emergency in public and enabling those who wish to put forward constructive and helpful suggestions for the consideration of Government to do so. It is plain from the wording of the Motion which has been moved by the hon. Member for the Rift Valley that his intention in moving this Motion was in no way to attack the Government, being conscious, as I am sure he is and as I am sure all responsible Members of this Council are, of the necessity of unity of purpose and endeavour at the present time, but rather it is plain, not only from the wording of the Motion but also from his speech, that his desire is to assist the Government by putting forward for their consideration certain aspects relating to the conduct of the Emergency, which in the opinion of those who see the Emergency from a different angle from those in Government need further and closer attention. It is inevitable, Sir, that in a course of a debate on lines such as this, things may be said which would bear hardly upon certain sections of the Government or individuals. So be it, that matters not, if, as a result, there emerges from the debate concrete suggestions

which will help to increase the efficiency of the operations of the Security Forces and to expedite the conduct of the Emergency so as to bring its termination nearer in the interests of every member of the community. But, Sir, neither must the hon. Members oppose take exception if, in dealing with their arguments, hon. Members on this side traverse their opinion and challenge their views in certain instances. Nor must they take exception if we seek to show that the achievements of Government are greater than is always recognized by the hon. Members—

MR. BLUNDELL: That is the object.

THE MEMBER FOR LEGAL AFFAIRS: Nor must they take exception if we are able to show that Government has taken action in the conduct of the Emergency, both in the field and in the Administration and indeed all departments of Government have been more efficient, more far reaching, more effective than is always generally recognized by the public.

The hon. Mover of the Motion very considerably and very conveniently divided the topics on which he wished to concentrate the debate into four heads. In so doing, it enables us on this side of the Council to allocate our responsibilities for dealing with those topics more conveniently than would otherwise be the case and thus achieve a certain economy of manpower and I hope also an economy of words.

MR. BLUNDELL: We will see!

THE MEMBER FOR LEGAL AFFAIRS: At least I hope there will be no repetition of matters falling under those four heads. The particular matter allocated to me, as I rather suspect the hon. Mover already surmises, is the question of the adequacy of the Emergency Regulations. Before I turn to that topic, Sir, may I add a tail-piece to the speech which was made by the hon. Member for Defence in connexion with manpower. He dealt with many aspects of manpower with which, of course, I have no special knowledge and no particular concern, but I am concerned with the manpower required for the administration of criminal justice in the Colony at the present time. I doubt if the hon. Members opposite or the members of the public realize what a torrent of criminal work has poured through the

[The Member for Legal Affairs] courts during the last few months. Figures were given yesterday in the statement by the hon. Member, the Chief Secretary, and if I may state them again in a round figure because statistics in detail lose their interest, that during the last two months no less than 10,000 cases have been brought before the courts in connexion with the Emergency Regulations alone. There are, in addition, to all the ordinary criminal work that is handled in the courts by the Legal Department and prosecutors in this Colony. Now, Sir, a little mathematics will enable people to see that that is at the rate of almost one case being disposed of in every two minutes of the working day. I agree that many of them are small and unimportant cases, but others are very important cases and require an immense amount of work, interrogating, taking and collating statements before they can even be brought to the courts and all that, Sir, is in addition to the ordinary criminal work which is carried on by the courts of this Colony. Now, on the last occasion when this question of manpower in connexion with the administration of justice was raised in this Council, it will be in the recollection of hon. Members what the hon. Member for Central Area suggested to Government—that Government should take advantage of the Asian manpower that was available to assist in this work. Hon. Members will remember that I promised on behalf of Government that that proposal should be given careful consideration and implemented as far and as quickly as possible. I hope that hon. Members in Council will agree that Government has honoured their promise. Several Asian advocates have been recruited at short notice and have done excellent work in assisting Government to dispose of the enormous backlog of cases. In Embu there were scores, hundreds of cases that could not be disposed of until an adequate team of prosecutors to deal with them was available. They could not be obtained from the Legal Department or the Police Department and as a result of the intervention of the hon. Member for Central Area, Asian advocates were obtained in order to assist in the work. I am glad to say that as a

result only, the arrears are practically eliminated and I would like to add—this is not only my personal opinion but the general opinion of the profession—of those who have knowledge of their work—that they have acquitted themselves very well indeed.

If I may give one other instance, Sir. When an Emergency assize court was brought to a standstill owing to the sickness of one of the prosecutors, an Asian advocate stepped into the breach and helped us to carry on; without his assistances those proceedings would have been held up for at least a week or more.

Having paid that tribute to the assistance which the Government has obtained from the Asian community in this sphere, let us not forget the assistance that Government has received from the European community. They have received a great deal of assistance not only in the prosecution of cases but also in the providing of Judges for Emergency assize courts. That assistance has been given, I know, in some cases at great personal inconvenience and in others at some financial sacrifice. Nevertheless, it has been given readily and freely with great efficiency. I hope the Council will agree that the ready response which Government has received in this particular field is some evidence that there is a unity of purpose in all communities who wish, whatever their race may be, to help in the suppression of violence in the Colony at the present time. I take pride that the legal profession has set a very good example in that direction.

Now I turn to the adequacy of the Emergency Regulations. So that there will be no misunderstanding, let me distinguish between the adequacy of the Emergency Regulations as such and the adequacy of the enforcement of the regulations, which are two quite different things. As for the adequacy of the regulations, one may well ask what test should be applied to determining whether a particular Emergency Regulation is adequate. I suggest, Sir, that the test should be whether or not the regulation is best calculated to further the object of the Security Forces in their efforts to suppress the *Mau Mau* movement. If the Emergency Regulation passes that test, and it can be shown that such an Emergency Regulation will expedite and assist

[The Member for Legal Affairs] the work of the Security Forces, then, Sir, in my submission, it is an adequate Emergency Regulation in regard to that particular matter.

Now I would ask further who are the best judges as to whether an Emergency Regulation passes that test. I am not suggesting for a moment that hon. Members opposite are not competent to express views on that. Still less would I suggest that they had no right to express views as to whether a particular Emergency Regulation passes such a test, but what I do say is that the best judges to apply that test are those in charge of the Security Forces themselves.

MR. COOKE: Not necessarily.

THE MEMBER FOR LEGAL AFFAIRS: It is only my suggestion. I do not expect Mr. Cooke to agree with that, but I do suggest that the best judges as to whether an Emergency Regulation passes a test, as to whether it is calculated to assist Security Forces in their task are those who are in charge of the Security Forces, best of all the Commander-in-Chief himself. He authorizes me to say, Sir, that he is completely satisfied with the Emergency Regulations, which at present are at his disposal for the purpose of combating the *Mau Mau*.

The Commander-in-Chief, Sir, has been good enough to say that whatever Emergency Regulation he has asked for in the past has been readily agreed to and drafted immediately and published forthwith. The Commander-in-Chief further authorizes me to say, Sir, that he is confident that if he should require any further Emergency Regulations to enable him to complete his task of suppressing *Mau Mau*—if I may borrow his graphic phrase "his task of making *Mau Mau* unfashionable . . ."—he is confident that these will be provided in the same competent and satisfactory manner as Emergency Regulations have been provided in the past. Nevertheless, I am far from saying that no useful suggestions can be forthcoming from other quarters, as regards the new regulations, amendment of the existing regulations. It very often happens that people who are on the ground, in the field, persons who are living on isolated farms, isolated mission

stations, in the depths of the reserve, or in African locations in Nairobi, see problems from different angles than those at the top in command of the Security Forces. They look through the telescope, so to speak, from the other end. Although they see the same picture, they see it in different proportions and in different relative importance. Therefore, I am not saying for a moment that suggestions coming from those quarters are not worthy of consideration or may not indeed be helpful and lead to improvement in the existing code of Emergency Regulations. I can tell the Council that note will be taken of any suggestions put forward by hon. Members opposite, or indeed by the hon. Nominated Members and will be carefully considered by Government, in consultation with the Commander-in-Chief.

Now let me come to other aspects of the Emergency Regulations, namely the adequacy of enforcement of the Emergency Regulations. The Mover referred to three particular aspects of the Emergency Regulations and indeed the hon. Mr. Mathu did refer to one of those aspects,

The particular offences to which reference was made was oath administration where the oath is to commit a capital offence; secondly, unlawful possession of fire-arms, which the hon. Mr. Mathu referred to, and thirdly, the offence of consorting with terrorists. I suppose he had in mind the doing of acts which were likely to assist in the operations of terrorists and he asked why more prosecutions had not been brought and why more convictions had not been obtained in respect of those offences. I will try, Sir, to deal with the complaints in respect of each of these offences.

Let us take first the question of the oath administrator who has administered oaths to commit a capital offence. He asked for figures, or he made a general inquiry as to whether any proceedings have been instituted in respect of an offence of that kind. The figures I have got as regards investigation are that there are at present five such cases under police investigation. The hon. Member will appreciate that until the police investigation is finished there can be no question of instituting proceedings in the court. That is the first stage of police investigation on the ground, perhaps later by the

[The Member for Legal Affairs] Criminal Investigation Department and then subsequently the cases are passed to the Legal Department for filing for information, for instituting proceedings in the court. Of these five cases, two have now got to the stage where information has been filed in the court. Now hon. Members may feel—I can understand well why they should feel that those figures are disappointing, knowing the extent of the *Mau Mau* movement and the manner in which leaders themselves, the leaders of the cells, have conducted the operations. One might well be justified in assuming that there are many hundreds of such cases, which have not been detected and in respect of which proceedings could have been brought. I would ask the hon. Member to have regard to this difficulty. A person who takes the *Mau Mau* oath to commit a capital offence is probably a hardened adherent of *Mau Mau*, of second or third degree. He is not the sort of person who is likely to turn police informer and unless, and until, he does turn police informer, there is no evidence whatsoever to enable the police even to institute an investigation.

The hon. Member for Rift Valley talked about amending the regulations when the Crown has difficulty in bringing cases, but I would suggest that you may make all the regulations in the world, but they will not create evidence. That will not enable the police to bring a case, if the individual who knows the facts will not tell the story. Even in these cases, where you do get a person taking the oath and turning police informer, even in those cases we are up against the difficulty that he is an accomplice, in the majority of cases, in the crime. Consequently, Sir, in practice, no conviction can be obtained merely on the evidence of an accomplice, unless there is some corroboration to be found elsewhere. So that the difficulties of bringing a successful prosecution against a person who has taken a *Mau Mau* oath to commit a capital offence are, to say the least of it, formidable.

First, the sort of person taking such an oath is unlikely to turn police informer; secondly, if he does, he is a police accomplice and thirdly, a prosecution is unlikely to be successful, unless the police are fortunate enough to find

some corroboration of his story from outside. That is the explanation, Sir, why it is extremely difficult to bring successful cases of this kind. There is another more general explanation of a different kind, which Council should know of.

It has been found latterly that the form the oath has taken has changed. Instead of being an oath specifically to commit a capital offence, it is in more general terms to do whatever the person taking the oath is told to do. In that respect there is a reversion to the form of oath which was used a long time ago, last year, before it developed, as it did subsequently, into an oath to commit specific offences—specific crimes, some of them involving capital offences, and that also makes it more difficult to bring cases under this particular regulation. The defect is not in the regulations. It is due to the difficulty in getting evidence and proof that such an offence has been committed.

Now, Sir, let me turn to the second offence which the hon. Member for Rift Valley referred to, namely fire-arms and the unlawful possession of fire-arms. In that respect and as regards that offence. I have figures which show that at the present time the police have under investigation 119 cases of that kind. That, Sir, certainly is not an inconsiderable number, considering the amount of work involved in interrogating potential witnesses, checking stories, collecting evidence and so forth. It is estimated that for one particular case of that kind it may be necessary for police, on an average, to interrogate at least ten or a dozen people. That takes a considerable amount of time. Nevertheless, I agree that one might, in all the circumstances, expect higher figures than 119. Of these, 119 informations have been filed and proceedings are pending in respect of 58. The balance are to be dealt with when investigation is complete.

There was yet another offence to which an oblique reference was made, namely, this consorting or assisting the operation of terrorists. There are 26 cases under investigation, but in no case as yet is the investigation sufficiently completed to enable information to be filed. I admit that in that case also one would have expected far higher figures by now of the number of cases with which the

[The Member for Legal Affairs] police are investigating and I say to the Council quite frankly that the Government is far from satisfied that the machinery for collecting evidence and for instituting the inquiries which will lead to prosecution in these cases is sufficiently adequate and efficient for its purpose at the present time and in saying that I am casting no reflection on any of those who have been engaged on this task in the field. In the past two months I have already indicated the enormous additional burden anyone connected with the administration of criminal law is carrying at the present time, but it is, I feel, plain that some additional improvements in the machinery are required in order to ensure that the law is adequately enforced in respect of these particular crimes. The machinery to which I refer particularly is the machinery of interrogation in the field, of taking statements from potential witnesses, collating the evidence, then handing it to the Legal Department to file the information and prosecute and bring cases before the magistrate of the Assize Court, or whatever is the most convenient court at the time.

THE SPEAKER: It is now Eleven o'clock. Business will suspend for fifteen minutes.

Council adjourned at Eleven o'clock and resumed at fifteen minutes past Eleven o'clock.

THE MEMBER FOR LEGAL AFFAIRS: Mr. Speaker, if I may resume my speech on this Motion by saying that I have very little further to add to what I have said already, except perhaps to state in a little more detail what Government considers is necessary in order to improve the investigations and prosecutions of those who commit offences against Emergency Regulations. What is lacking or has been lacking during the past two months has been complete integration between the forces in the field, police on the ground, the Criminal Investigation Department, filing for information for prosecution in the Legal Department and proceedings in the Courts. As I say, I am not blaming any particular section of the Government in that regard, because there are extenuating circumstances and in view of the enormous burden they have been carrying, I am sure the Council would not wish to be too critical. In this

regard, I can tell Council that the whole question is under consideration at the highest level. If in future an operation is planned, such as Operation Buttercup, then the operation will not be planned merely as a military or security forces operation but it will be planned right through from the operation of the forces in the field or fringes of the forest, further back to police investigation, then to the Criminal Investigation Department, then to the prosecuting counsel and to the Registrar of the Supreme Court who organizes the Emergency Assizes, so that we shall have from beginning to end an integrated scheme. That is something novel. In operations of this kind if the military take prisoners they send them back behind the lines to somebody else and do not pay much more attention to them. But in an operation of this sort, it is necessary to have the evidence of the military personnel present when the capture is made, so it is not sufficient just to leave them to carry on with the military operations and hand over behind the lines those they may have captured. If it is left like that, there is no proper integration in the evidence and consequently difficulties arise in the prosecution of such cases. Therefore what is needed is a more integrated system which will carry out the operation right through from beginning to end so that any of these members of *Mau Mau* gangs who escape death in the forest will receive their deserts at the hands of the law when they are captured and taken back to military or police headquarters. That policy is one that will present considerable practical difficulties but those, I am sure, Government, if given a little time, will succeed in overcoming. For these people are undoubtedly the enemies of society and of civilized government and it is the determined policy of Government that they should therefore be destroyed. To that end the efforts of the Government will be directed unceasingly, untiringly and with increasing force until that object is achieved. (Applause.)

MR. SLADE (Aberdare): Mr. Speaker, in support of this Motion I would like first to emphasize the point made by the hon. Member concerning the importance of the intelligence and more effective use of intelligence. It is almost too obvious to state again that intelligence is the very key to the end of this Emergency, both in

[Mr. Slade]

helping us to find the individuals who are responsible for the trouble and in helping us to know in advance what mischief we have to meet and in what direction we ought to use our security forces.

Mr. Speaker, it is becoming apparent now that the system of screening which has been introduced recently is one of our best weapons to that end. I do urge very strongly that Government develop that system as fast and as far as possible, not only in the areas now troubled, but everywhere throughout the Colony. Along with that I would also suggest that the Special Branch should be more ready to accept assistance from what might be termed amateurs. People in the country, especially people who know this country, do derive from their experience and local knowledge a great deal of important information on which the Special Branch could act if they would—but I am afraid there have been examples from time to time of what appears to be almost jealousy over that, or at least a lack of interest on the part of the Special Branch in evidence that comes from these sources. I do urge the Special Branch not to brush evidence aside, but use it to the full and encourage those who want to help them in that way.

Lastly, with reference to intelligence. It is essential, of course, that all intelligence be followed by action on that intelligence at the very earliest date. That applies not only to intelligence pointing to individuals, but also to intelligence in respect of which operations are required—and it is my view that such action is not always taken quickly enough and sometimes when taken quickly enough, it is not taken firmly enough.

Mr. Speaker, as the hon. Member for Legal Affairs has already said, it rather falls to us, in view of the form of this Motion, each to speak on a particular compartment. The compartment on which I would like to say most is that on which he has also spoken—of Emergency legislation. The Member for Legal Affairs made rather a curious proposition there to the effect that the adequacy of the Emergency legislation can only be judged by the Security Forces, in fact, in this case, by the Commander-in-Chief. If he is satisfied—

THE MEMBER FOR LEGAL AFFAIRS: I was careful not to say "Could only be

judged by"—What I said was, "Would probably be best judged".

MR. BLUNDELL: "Best judge".

MR. SLADE: I beg the hon. Member's pardon—best judge as to the adequacy of the Emergency legislation was the Commander-in-Chief. Now, Mr. Speaker, that, in my submission, is a peculiar proposition, because although the Commander-in-Chief is very much concerned, of course, with the Emergency Regulations, with legislation as affecting his operations, and needs them for support, a very large part of the Emergency legislation is not his concern at all. As I see it, the task of tackling *Mau Mau* is a two-fold task, a dual activity—operation by the security forces on one side and the enforcement of law by judges, magistrates and the hon. Member's branch on the other side and there are certainly other judges in the field. Whether or not they are as competent as the Commander-in-Chief, they are very important judges, that is the members of the public.

I say this again, Mr. Speaker, on behalf of the great majority of members of the public and, I think, also my colleagues that we are by no means satisfied with the adequacy of the Emergency legislation as it stands. I do not intend to range over the large field of different laws affecting this Emergency, but I wish to touch those which, from my point of view, are most important because they loom largest in the mind of the public and have been given the greatest publicity. The first I would mention is the Ordinance passed just on the eve of the State of Emergency, that was the Evidence (Temporary Provisions) Ordinance. Members will remember that that Ordinance was passed with a view to enabling informers to give evidence without risking too great dangers—evidence by affidavit. In introducing that Ordinance in September last year the Member for Legal Affairs said this, "I am convinced it is the only practicable means whereby those who seek by intimidation to defeat the course of justice can themselves be brought to justice and as such, Mr. Speaker, I trust it will receive the unanimous approval of this Council".

Mr. Speaker, that brought us into a state of hope, that by the help of that Ordinance introduced by the hon. Member, we were going to get a great deal

[Mr. Slade]

further forward. A few days ago I put a written question to the hon. Member as to how many prosecutions by use of that Ordinance there had been, and how many convictions resulting from those prosecutions. I have not yet had his answer, but certainly the numbers have not been conspicuous to the public, and that is some 10 months ago that that Ordinance was made law.

The next to which I wish to refer is that which has been mentioned already, that is the Emergency Regulation whereby a new section was put into the Penal Code—section 61A passed in January of this year, six months ago, whereby the administration of oaths to commit capital offences was itself made a capital offence.

Now, the hon. Member has given us figures this morning as to the effect of that Regulation, and we find that there has not yet been a single conviction in six months, that there have been two prosecutions instituted and that there are three other cases which are under investigation.

Now, with the knowledge of how widespread the administration of this kind of oath is, how can we or those whom we represent be satisfied. (Hear, hear.)

The hon. Member says, and rightly, of course, you may have an adequate regulation and the trouble may lie in the enforcement of that regulation. Well, these matters are, of course, within his own knowledge—it is his department, but whether it is the inadequate regulation or whether it is that inefficiency of enforcement, or whether it is legal or practical difficulties which have arisen, which he has failed to bring to our notice, it is his responsibility. He says that in this case indeed it is a case of practical and legal difficulties. Practical difficulties in that so few people who have received this oath are prepared to say so. Legal difficulties in that if they do say so, they are accomplices.

Mr. Speaker, if that is so, I should have thought he could have informed this Council that there was that difficulty before now, before he is pressed to explain why this regulation of six months ago, that was the subject of a special Resolution in this Council, has failed to produce any result whatsoever so far.

Now, there are other similar cases. Again reference has been made to them already. In the beginning of May there was introduced the death penalty for possession of arms and sale of arms in Emergency Regulations 8A and 8AA, and there again we now this morning have the figures. Figures which actually I asked for by a written question several days ago. Now, I understand 119 cases are under investigation and 58 prosecutions now launched, but as I understand it, there has been not yet one conviction in spite of the fact that that was introduced nearly three months ago, and in spite of all the accelerated procedure of justice of which we have been assured by subsequent discussions in this Council.

In parallel with that is the most important regulation, Regulation 3A, to which express reference was made in this Council by the hon. Member when we last met in May. I would remind the Council of what the hon. Member said then:—

"But in addition to those measures I have enumerated, the Government have now spread the legal net so wide that all those who collaborate with terrorists, whether directly or indirectly, and in whatever way, will, like the terrorists themselves, if they are captured and convicted, suffer the death penalty."

If I understand the position—the hon. Member will correct me if I am wrong—there has not yet even been any information laid under that Regulation though it was introduced, and I may say, introduced with a flourish of trumpets two months ago.

Now, if there are difficulties in the way, it is, I submit, the duty of the Member for Legal Affairs to come quickly and tell us so and to initiate or at least suggest, or invite discussion on legislation to get rid of the difficulties with which he is confronted.

Take the example of accomplices. It is perfectly true, of course, that a man who has taken an oath to commit a capital offence is an accomplice, but the rule of law concerning accomplices is a rule of law concerning accomplices is a rule of practice and it is open to this Council, if it thinks that it is interfering unreasonably with the enforcement of law in the Emergency, to consider whether there

[Mr. Slade.] should be some temporary modification of that law for some temporary purpose. I do not say the Council would agree to it, but it is not enough if the hon. Member sits back and waits for us and the public to find out that the law is not working. It is his duty, surely, to come and tell us how it might be made to work.

Perhaps members of the public may be excused if they feel, as they do feel, that in some of this legislation they have, in common parlance, been led up the garden path. Led to expect things, things that seem to them of great importance, things which would help to restore their confidence, when those things were so wrapped up with difficulties or faulty wording or lack of machinery to enforce, whatever it may be, that they were not going to come to pass, and indeed that matter of confidence on which the hon. Member touched, is of extreme importance particularly at this time. (Hear, hear.) And it rests not only on the efficiency of the particular laws, it rests also on the general conduct and approach towards the Emergency on the part of Government as a whole—on the part of particular Members of Government. There has been, in my view, and again I say with confidence, in the view of those whom I represent, too little determination, too much apology, too little readiness or ability to face facts. I think you will find among yourselves many examples of that failure or refusal to face facts. I will only mention two. One nearly a year ago, forgive me if I remind you again, when Members opposite flatly refused, in the face of direct representation, to acknowledge that there was a State of Emergency in the Colony. The other is recent. In the last debate in this Council when the hon. Member for Legal Affairs treated us to a display of sophistry such as I have not heard since I left the university, on the subject of rebellion. I do not want to compete with him, in that I do not think it is necessary, but you will remember that among his other ingenuities he said: "Oh, yes, there have been acts of rebellion, but how many acts of rebellion make a rebellion, just as how many stones make a heap". Most ingenious, but ingenuity does not inspire confidence, and it must be obvious to all of us who are not trained in these arts, that every act of rebellion carries with it

that much rebellion. It is a matter of degree only, and when there are ten acts of rebellion, there is all the more rebellion. If there is one act of rebellion, there is rebellion. And these are only examples, Mr. Speaker, of what is troubling us so much at the present time. Therefore, before I sit down, Mr. Speaker, with these examples, I most earnestly endorse the remarks with which the hon. Member concluded his speech. The importance of Government, on whom we have to rely, in our present constitutional state, to take responsibility and sort out from among its responsible officers those on whom we can rely and those on whom we cannot rely.

THE SOLICITOR GENERAL: Mr. Speaker, Sir, I feel that there are certain aspects of the remarks made by my learned and hon. friend from the Aberdares, on which I should touch. He started in his enumeration of the legislation which he stated was either inadequate or being inadequately applied, by referring to the Evidence (Temporary Provisions) Ordinance which was passed by this Council, as he reminded us, on the eve of the procedure under that Ordinance, and in asked why that measure had not been applied more widely in practice.

Now, the answer lies very largely in his own words, that it was enacted on the eve of the Emergency. It was enacted to combat a state of affairs, a state of intimidation, to combat which, there was at the time, no other means. Very shortly after that Ordinance was enacted the Emergency was proclaimed, the Emergency Regulations were made and powers of detention, which were, and are by far the most effective immediate means of combating that form of evil, were presented to the Government and were utilized for that purpose. Now, in addition to that consideration, there is the fact that, as was recognized when this Ordinance was prepared and introduced, that the procedure under that Ordinance, being quite exceptional, being a departure from a number of fundamental principles, had to be hedged in by a number of alternative or substitute safeguards. There was, if you remember, Mr. Speaker, the provision for an elaborate form of substitute cross-examination. The whole procedure was necessarily most cumbersome. It was, moreover, a procedure which impaired

[The Solicitor General.] the integrity of the general system of administration of justice and accordingly, there being an alternative weapon to combat the same evil, it appeared to be preferable that that alternative, and much more effective, weapon should be employed.

MR. SLADE: Does the hon. Member suggest that the protection of informers in giving evidence is no longer necessary?

THE SOLICITOR GENERAL: I do not suggest that, but the anonymity of informers is in no way compromised or jeopardized by the exercise of the powers of detention, and as I said it was the power of detention which afforded an alternative, and more effective weapon, without in any way compromising the identity of informers which, incidentally, was not by any means guaranteed by the procedure under that Ordinance, and in one or two cases that have arisen under that Ordinance, very often in those cases it has been apparent that the identity of the informer has not, in fact, escaped the accused person.

The second measure to which the learned and hon. Member referred was section 61A of the Penal Code making capital the administration of oaths to commit capital offences. Well, now, admittedly in the months that have elapsed since that section was introduced into the Penal Code, only very few cases have arisen. My learned and hon. friend states that he knows that this kind of oath is widespread. Well, that may be so, but so far as my own information goes, the ordinary *Mau Mau* oath which comes to light nowadays in the last few months, at any rate, does not specifically include the commission of a capital offence, and there is, moreover, the difficulty of detection to overcome and, as my learned and hon. friend, the Member for Legal Affairs has explained, there are difficulties of proof and evidence. Now, the hon. gentleman from the Aberdares has suggested that there is a responsibility on the Member for Legal Affairs to reveal to this Council difficulties of enforcement. I suggest to him that that is not really a fair criticism or a fair statement. Certainly the law officers have the function of controlling and directing prosecutions, but they do not have the func-

tion of detecting crime. They do not come into the picture, in fact, until the crime is detected by a body, the police, the Criminal Investigation Department, which is quite separate from their organization, and it is only by experience in the courts and in the cases which come to the courts, and in the cases which are presented after investigation and cannot be taken to the courts for some practical difficulty, that they come to realize the difficulties and do what they can in the form of preparation of amending legislation to overcome that. But practical difficulties of enforcement, practical difficulties of detection are, I suggest to my learned and hon. friend, not really the responsibility of either the Member for Legal Affairs or of the law officers.

I do not wish to appear to traverse and attempt to refute every statement that my learned friend has made. That is not my intention at all. Neither do I wish to put up any sort of specious defence in regard to prosecutions, but I do think it is important to realize that, as my learned and hon. friend, the Member for Legal Affairs, has already explained, the volume of crime, the volume of criminal cases in this country at the moment is quite phenomenal, that individual investigating officers are having to deal with up to 50 cases a month, whereas the figure in the Criminal Investigation Department in the United Kingdom is round about seven or eight. That should, I feel, give some indication of the extent of the problem with which we are faced; the extent of the problem of detection and investigation and bringing to trial and it is also important to realize, in my submission, that the processes of justice, the administration of justice, the institution of proceedings, the trial of cases, the punishment of offenders, that process does not start, that machinery is not fired, does not begin to turn over until the investigation is completed and that the real limiting factor here in this problem is the factor of investigation and preparation of cases.

Now, I said that not in criticism of the Criminal Investigation Department; it is doing its best, working extremely hard to cope with what really is a flood of these cases and, as has already been explained to the Council, steps are going to be taken—are being taken, so far as they can be taken—to reinforce that very

[The Solicitor General] essential part of the Government anti-Emergency machinery and I think, therefore, that it is necessary that we keep the picture on the side of investigation and prosecution in proper perspective, and realize that we are faced with a problem which, in its magnitude, is almost overwhelming.

Mr. Speaker, Sir, I feel that I have dealt with the various remarks made by the learned and hon. gentleman from the Aberdares to such an extent as I consider necessary. As I say, I would not wish to appear to refute him word for word, but merely to try and present to him another angle, from which to view the situation and a more balanced perspective of the picture which confronts us. (Hear, hear.)

MR. HARRIS: Mr. Speaker, far be it from me to interfere in this argument between hon. and learned Members, except to put a layman's point of view that both the hon. Member for Legal Affairs and the hon. Solicitor General have told us that for several months the oath to commit a capital offence has not been included in the *Mau Mau* oath. It does seem to me, Sir, that the law officers of the Crown might have devised some amendment to get over that, because, not peculiar to this Council, it does seem that the *Mau Mau* have legal advisers who, as soon as this Council passes legislation, promptly advise *Mau Mau* in the manner in which to take the sting out of that legislation.

Having said that, Sir, I would like to turn to the question of manpower which is part of this Motion. All modern warfare, Sir, is economic as well as physical and in this particular war the forces of decency are at a great disadvantage because they are vulnerable, whereas the forces of indecency are, in fact, not vulnerable because they have no settled economic state which we can attack.

I should preface my remarks by saying that I think organized commerce and industry in this country has been extraordinarily loyal and forthcoming with the demands made upon it during the Emergency. (Hear, hear.) But to a certain extent, lulled by some of the soporifics that came to us from the Government spokesman from time to time, it was never envisaged 12 months

ago that people would be mentioning in this Council to-day that we must prepare for many, or several months to come. The position has now arisen, Sir, and I would like the hon. Member for Defence to make a particular note of this, the position has now arisen where the stream of recruitment from overseas has become a mere trickle in so far as commerce is concerned. The fact that there is the knowledge that young men will be called up after six months in this country is acting as a deterrent, and the kind of publicity which we have received overseas during the last few months is not such, in any case, as will encourage men with families to come out to Kenya at the present time.

So, Sir, the result is there is a scramble for those left in employment in Kenya, and in a scramble it is always the man with the big money-bags that wins, and they are winning—I must include amongst the men with the big money-bags Government itself.

The hon. Member for Defence mentioned that technical departments of Government were suffering from the lack of manpower. They are, Sir, but they are not suffering nearly as much as some of the businesses from whom the technical departments of Government are recruiting their present staff during this Emergency and during the shortage of manpower. I could give an example, Sir, of one professional firm in this town, which is very necessary to the well-being and the order of this town, which to-day should have 19 Europeans on its staff but, in fact, has 11. The senior partner tells me that after the next call-up, it is likely that he will have four.

Now, that is not all due, Sir, to the members of his staff being called up for Emergency duty. A recently imported expert man has been offered by one of the larger international companies operating in Nairobi an increase from his existing £1,100 a year to £1,600 a year in order to entice this man away. The same firm, Sir, has lost a highly qualified man to the Public Works Department in Nairobi on a special contract. These things, Sir, are having a very serious effect on the economy of this country, and we must remember that it is the young men who should be getting their experience to-day—their experience

[Mr. Harris] of business and commerce, rather than the experience of the Aberdares, who we shall be relying on in a few years to be the heads of our businesses in Kenya.

That brings me, Sir, to my last point. I believe that arrangements have been made whereby young men on returning from Rhodesia training, if they are already entered for a university course overseas, have been permitted to go, but that does not apply, Sir, to many young men who leave our local schools, do their national service, and have made arrangements to be articled pupils in local firms, or apprentices.

Now that, Sir, is the poor man's university, and I believe that similar concessions should be made there, if it can be shown that previous arrangements have been made for a proper articled apprenticeship.

These men, who know Kenya and know its problems, in the great majority of cases far better than recruits in the police, and in the regular army from overseas, will be very necessary parts of the national life when this Emergency is over. They must be, or they should be, as the coming generation, the driving force behind the rehabilitation of the Kikuyu people, because a vast number of them have been born in this country and they know the Kikuyu, and I would suggest, Sir, that the less interruption there is in their lives during or on account of the Emergency the better for the ultimate good of this country and, therefore, I would appeal to the hon. Member for Defence to consider the whole question of the utilization of Kenya manpower in the realization that this is an economic war as well as a physical one.

MR. OHANOA: I have a very short comment to make on this rather prolonged debate this morning. I realize that it is a very important debate because on it so much depends. The position is that there are really two things which, in my mind, really matter. First there is the suppression of *Mau Mau* terrorism. Secondly, there is the eradication of *Mau Mau*, its roots and stump upon which *Mau Mau* has grown. The latter is possible but will take a long time. But first this suppression of *Mau Mau* could be done and should be done quickly.

That goes directly to the one point made in this resolution of manpower. I think the only person who most of the people in the country would like to listen to now is the Director of Operations. What are his needs? What does he want in order to rid this country of *Mau Mau* terrorism? It is his needs that the country would like to know. We are tired of terrorism; we have been with it long enough, what are the obstacles? Mr. Speaker, those practical problems are in the field and are some of the ones I feel are really important. Legislation is a thing without which we cannot do, but I do not think it can be put before the actual operation of the suppression of terrorism.

Manpower—It has been said that there is a shortage of manpower in the country. It has even been mentioned that if necessary recruits be sent from overseas and from elsewhere. Does the Colony lack manpower? We have in this country about 6,000,000 Africans, are they all terrorists? Are they unwilling to help us out of this difficulty? Are we suspecting each and every one of them?

Ask those questions because there is a feeling abroad that perhaps in recruiting for, and arming for the war against terrorism, the authorities are employing the principle of the long spoon. "He who sups with the devil should employ a long spoon." Are we here recognizing the principle of a long spoon in regard to Africans? Have we really tapped fully the manpower section of the Africans? So far home guards is the only answer. But home guards means that those few villages in the Kikuyu land units and in the Rift Valley Province which are actually involved in the mess, a few of them who happen to be loyalists and who have for their support quite a lot of people who are neutral or who do not have much voice on either side, are forming home guards. So far they are the only African force that is actually fighting against terrorism. But even with the home guards, what have we done? Already it is known that these home guards, in order to strengthen their own position have grouped together into posts or guards, and how many times have they been overrun—swept out completely—by whom? People from the bush, from the forest, with more organization.

[Mr. Ohanga]

They have no proper supply of arms, so what it means is that the home guards in their position have never been fully or adequately armed to resist anything.

It must be observed, Mr. Speaker, that when we have home guards against an enemy we cannot see whose strength we cannot specifically estimate, to have these men waiting there, not knowing when they will come upon them, then, nothing really much happens. It is time we tried to find a way for making it very certain we have the African home guard so fully armed that nothing can touch it and then it will be a home guard: otherwise not. How long shall we employ that principle of the long spoon? Are we going to get the loyal sections of the whole population except one tribe, get all the Africans in Kenya to join in—then see how long it will take. It will take men, women and children this operation against terrorism. It will be necessary to call upon them *tanjoro*. Unless we do, we shall have terrorism wherever we are. It has been disrupting for far too long on our resources for every kind of development and we cannot afford to toy with it for very much longer. We must do something and do it at once. I mean the physical suppression of *Mau Mau*—that should be easy. The hard thing is the eradication of the principle that give rise to *Mau Mau* tendencies. If we realize that we must live in peace, that should not be impossible. It ought to be possible to eradicate all these tendencies completely and we can live in peace.

We want to see more police—more African, Indian and English police. Is it not a sin, is it not shameful that in Nairobi in an important place like this where we are carrying out important things like this Legislative Council debate that these things should be going on? It is terrible. It means that we are not really concentrating on essential things against the danger and, Mr. Speaker, I should like to hear what are the needs of the Director of Operations and it should be the duty of this Council to supply those needs without reservation. (Applause.)

Ms. Cooke: Mr. Speaker, I should like to endorse everything said by the previous speaker. I think it was one of the most realistic speeches I have heard since I have been a Member of this

Council, and I think he is entirely right in the arguments he used. Perhaps I am saying that he is right because I happen to agree with him but there are some of us in the country who have advocated much the same thing for many months past.

I think that whilst agreeing with him we want to increase the manpower of this country and not only to increase the manpower of this country but to increase the hard-hittingness of the manpower of this country. I do not think we have yet—with all the confidence I have in General Erskine and how strongly I endorse the appointment of a Commander-in-Chief. I think we have got to go after the terrorists and blast them out of the mountains and the forests. We hear a lot about new laws and new regulations and so on, but laws and regulations are not going to finish this matter, you are not going to finish a man-eating tiger or a man-eating lion by reasoning with him or putting him in prison, he should be dealt with on the spot.

I would deprecate very much, I would express my disagreement with what my hon. friend the Member for Mount Kenya, said. We have brought this trouble largely on ourselves and we have to finish it ourselves, with our own manpower. I am not prepared to ask, especially at this moment, for assistance from Rhodesia or any other part of the world, nor am I prepared to associate myself with those people who have gone in a rather whining way asking Great Britain to supply more financial aid, more manpower backing. It is up to us to use the manpower we have got in the country to finish this matter with all speed so that it will never occur again, anyway in the history of the lives of all of us.

I think it is a bit specious for Members to argue that we should bring in manpower from outside. The Indians, the Asians, I know, have been asking to help for many months past and it is only of very recent weeks we have accepted that aid. We have heard from my hon. friend, the Member for Legal Affairs, that already that aid is functioning and is being very useful. Now the Arabs only the other day made an offer of manpower aid to Government and it was more or less turned down. What Government has said, I understand, is

[Mr. Cooke]

that if the Arabs want to help, let them volunteer, but volunteering is no good in cases such as this. We want to get everybody helping, not only the people who are willing to help. That is an instance. There we have the manpower of the Arabs. They could certainly do, I think, not only the mechanical side of warfare, but the fighting side of warfare. They could do lots to help us in the Emergency. Until we have made use of such manpower, it is wrong to ask other people from outside to come to our help and assistance.

I agree immensely with my friend, Mr. Ohanga, about the proper use of African manpower. There are fighting tribes in the country who, under European leadership, should long ago have been following these terrorists, these murderers, these gangs of toughs, into the forests and dealt with them in the only way to deal with them—that is to exterminate them—then we can start to rehabilitate the many thousands of decent Kikuyu in the country.

Although my hon. friend, the Member for Nairobi and other Members on this side of the Council who were Members of Executive Council—that it was right and proper that this matter should be aired in this Council—I wonder whether my hon. friend was the right person to bring a Motion such as this. My hon. friend and his colleague, the hon. Member for Kiambu, have themselves been Members of the Executive Government of this country for the past year. For any sins of commission or omission on the part of the Government, I think they are severally and separately responsible—(Applause)—and while I personally join with them in the attacks they have made on Government, I do feel that they are rather assuming a sense of power without responsibility and I think that for any omission that Government have made they must accept a large share of responsibility.

Now there is the question, Sir, of the oath administrators. My hon. friend, our Leader, said that the penalty for oath administering should have been brought in last November. I could not agree with him more but my criticism of my hon. friend is that he ought to have taken drastic steps to see that those measures

were taken, were brought in. It is no use saying Government are to blame—we are all to blame that we did not realize sooner what should be done. Now, Sir, I heartily support this Motion but I would like to make it clear that I do not share the pessimism that exists to-day. I think the step of bringing General Erskine here was one that should have been taken months ago. I think, having made a tour of every police post in the troubled areas during the last month, I was very much inspired by the progress that has been made. If my hon. friend, the Member for Mount Kenya, is very depressed at the moment that his part of the country is getting some very hard knocks, I think that is inevitable. When you take the campaign as a whole it was bound to happen. If this is rebellion we have got to be prepared to lose a great many lives before we can exterminate the *Mau Mau* and the sooner we get on with it the better because we are going to lose more lives by not being resolute, by not having a sense of urgency. I remember having taken part in the German East and the South-West German campaign—the reason so many lives were lost in this campaign was because that great man Smuts on account of political considerations was afraid of losing lives, he was afraid of making frontal attacks. In the end he lost far more lives in the very prolonged campaign than he would otherwise have lost. I advocate as Mr. Ohanga has said that we bring all power to bear to put an end—all our manpower—to put an end quickly and thoroughly to the present Emergency. I would support the most drastic measures taken by my hon. friends on the other side of the Council; and I think in the past two or three months these measures have been very much more realistic than at the beginning of the Emergency.

THE MEMBER FOR FINANCE AND DEVELOPMENT: Mr. Speaker, I had not intended to speak in this debate at all, but I think there was one phrase used by the last speaker, the hon. Member for the Coast, with which I must disagree, which I must correct. He referred to people having sought financial assistance from Great Britain in a whining sense. Let me make it perfectly clear that this country has sought no financial assistance in a whining sense. I am too proud of my country to go as a beggar at a time when

[The Member for Finance and Development]

there is no need for this country to beg. It was my proud pleasure and privilege when I was in the United Kingdom recently to tell Her Majesty's Government that as yet there was no need for this country to seek financial assistance. It might interest hon. Members to know—I do realize that hon. Members sometimes, in their anxiety to underline their arguments, try to paint a black and dark picture because that adds weight to the argument—it might interest hon. Members to know—

MR. COOKE: Will the hon. Member give way?

THE MEMBER FOR FINANCE AND DEVELOPMENT: Not until I have finished the argument then I will give way.

MR. COOKE: You might not have to finish it if you give way now?

THE MEMBER FOR FINANCE AND DEVELOPMENT: It might interest hon. Members to know the position of the Colony at the end of the operations of the first quarter, on March the 31st. Revenue had reached the sum of £5,219,851. Our expenditure had reached £4,981,622, so that even allowing for the first three months the sum of £750,000 of expenditure on the Emergency, we still emerge with a surplus of £238,129. (Applause.)

MR. COOKE: The hon. gentleman might have cut short his argument if he had understood that I am not referring to Government when I refer to whining appeals. It is perfectly right that Government should ask for loans. What I am referring to, Sir, is certain speeches from certain platforms in this country where their authors give us this reiteration, this asking for assistance—saying, as this local trouble may be an English war, they, the Home Government should provide the money free of interest to carry it on. I was not referring to any legitimate efforts of my hon. friend, the Member for Finance, which are much appreciated.

MR. BLUNDELL: Would the hon. Member for the Coast be good enough to say what hon. Member on what platform?

MR. COOKE: I shall have pleasure in doing so.

THE MEMBER FOR FINANCE AND DEVELOPMENT: My giving way seems to have developed into an interminable war among hon. Members on the opposite

side of Council. I accept the hon. Member's explanation, but I am sure he will agree that the way he phrased his speech that without my intervention, it could well have been read in the way I had to take it at the time. However, what I have tried to point out in these figures is that although there is a strain on our economy and although that strain on our economy will eventually be felt in shortness of development finance unless some channel of assistance, perhaps by additional loan, is open to us. Nevertheless, the country is showing an amazing resilience in the economic sense in dealing with the present crisis. There is no cause at all for despondency or despair over the economic future of this country. (Applause.)

MR. MACONOCHE-WELWOOD: Mr. Speaker, the hon. Member for the Coast has made certain remarks which have made it impossible for me to keep silent. His reference to those Members on this side of the Council who are on Executive Council. He prides himself on his logic but in the early part of his speech he said it was the duty of everybody to contribute to this Emergency. He then went on to say that the Members of Executive Council on this side of the Council had power without responsibility. I think in those words there was a confusion of thought. What hon. Members of Executive Council on this side of the Council, in fact, have is the responsibility to the people of this country without executive power—that is a very different thing. It is, of course, open to hon. Members on this side of the Council to secede from Executive Council and to secede from Emergency Committees but I submit that if they did that they would be doing the very thing the hon. Member for the Coast deplores—not pulling their weight in this Emergency.

It is a very much easier thing to refuse to take any part in assisting the Government and to criticize them to one's heart's content and watch from a ring-side seat, which is no doubt what the hon. Member for the Coast feels we ought to do. I, however, do not take that view and I think I am speaking for every hon. Member of the Europeans on this side of the Council when I say that the last thing we would wish to do would be to withdraw from that onerous post, held chiefly by the Leader of the European

[Mr. Maconochie-Welwood]

Elected Members, of giving counsel to Government and accepting responsibility for the acts or perhaps the lack of acts which of necessity cannot be his final responsibility.

MR. COOKE: You cannot have it both ways.

MR. MACONOCHE-WELWOOD: The hon. Member for the Coast says he cannot have it both ways. No, he cannot. He can either co-operate to finish this Emergency or he can sit back in a ring-side seat, as I have suggested, and criticize both sides of the Council like my hon. friend the Member for the Coast.

There is one other matter I shall raise since I am on my feet. I believe it to be one of the greatest importance. I believe Government is not taking the necessary steps which are going to be necessary in the future for the re-education of the Kikuyu and to take stock of the whole of the education that is being given to Africans in this country to-day for I believe that the ultimate cause of this Emergency is not, as my hon. friend the Member for Rift Valley said, not any of the three reasons he gave and denied that they were the right reasons—I agree with him—the real reason is that the Kikuyu in particular and the African in general has lost his way between his own tribal sanctions and the Western way of life. For the Kikuyu who have joined this movement and led it and supported it mainly comes from those who have lost their tribal sanctions and not taken on any ethical belief or any religion, if you like, from the West. In fact, they dwell as it were in a twilight world between the darkness of the past of Africa and the bright hard light of a Western material civilization which is all we have sought to give them.

Then the hon. Chief Secretary mentioned the Kikuyu Independent Schools and those that had been put back. He specifically stated a number which I forget but the vast majority were going back to being Government-run and a few to being mission-run. Now I, like many others in the country, have been very doubtful as to the value of certain missions but I would like to say here and now that unless we can introduce some form of ethical or religious and disciplinary training into

the schools, we are beating the air, we will do nothing with the African—(Applause)—because the Kikuyu have demonstrated this as no other tribe could, because it is a curious factor in their make-up that they are a people with a sense of the abstract and a sense in a way of the spiritual, which has made them fall by the wayside when their only beliefs were removed. Indeed, in the nature of *Mau Mau* oaths themselves, certainly in the more bestial and vile forms of them, there is a deliberate attempt to see that those people are beyond redemption, either in tribal law, British law, or the law of any ethics known to mankind. I feel we are to blame for this because we have instituted a completely secular education without any spiritual or ethical basis and without those things the people of any country are lost and must perish.

THE MEMBER FOR COMMERCE AND INDUSTRY: Mr. Speaker, I want to mention two points. First, I want to congratulate the hon. Member for Nairobi South for drawing the attention of the Council to the sacrifices being made by industry and commerce. I do not think it is always realized in the country at large quite what sacrifices have been made, not only since the compulsory call-up but since the very early days of the Emergency. This particularly applies to professional men, where possibly one or two partners carry on a business together, it applies to the smaller business houses and, indeed, to the larger ones who have seen many of their junior staff go. I congratulate the hon. Member for having drawn the attention of the country to it. I endorse what he says.

My second point is this. My hon. friend the Chief Secretary has assured me that in considering the points raised by the hon. Member, the question of the economic value of these individuals which is particularly marked, owing to the eflux of the time since the Emergency started, will be taken into account in considering manpower policy. I think one must say that the value to the country as a whole, rather than, I am afraid, the personal inconvenience of the individual, must be the principal criterion. I think my hon. friend is well aware that it is by the nurturing of the economy of this country, making possible the continuation of that state of affairs in terms of

[The Member for Commerce and Industry] the economic position which my hon. friend the Member for Finance referred to, that we can continue to pay for this Emergency as far as it is in our power to do so and so hold up our heads in the world.

THE CHIEF SECRETARY: Mr. Speaker, Sir, in the first place I would like to say that Government accepts this Motion. (Applause.) That does not mean that I agree with everything that has been said to-day. But if one reads the terms of the Motion: "While acknowledging progress has been made regrets the present state of the country." We all, on both sides of the Council, belong to this country and we must all regret the state of this country until the Emergency is cleared up. Moreover, Sir, it would be quite wrong for Government to refuse to consider any suggestions whatsoever which are made in connexion with the hastening of the end of the Emergency and, therefore, I am perfectly willing to accept the last part of the Motion I may say that all these suggestions that have been made, whether or not I agree with them, will be brought to the notice of the highest authorities in connexion with the Motion and the Mover of the Motion. I would like to express my hearty disagreement with the hon. Member for the Coast, for I can think of no better person to move this particular Motion—(Hear, hear)—and in this connexion I would like to pay a tribute to all of those who have assisted Government during this Emergency in their various ways.

Now, Sir, the first of these specific matters mentioned in the Motion was the matter of additional manpower. This has already been dealt with to some extent, but I should wish to endorse a qualification, if I may call it that, which was mentioned by the hon. Mover to the position of the Commander-in-Chief. In regard to this, the matter of additional manpower for the Security Forces is, of course, a matter for the Commander-in-Chief, who is responsible direct to the War Office. I should mention that the Commander-in-Chief has retained a battalion of the King's African Rifles, which was due to go to Malaya. That is the 5th King's African Rifles. He has, moreover, warned the Government, as I warned this Council

in my statement, that the police force should be increased and in this connexion, Sir, the size of the police force and the rate of the build-up are at present being re-examined in conjunction with the Commander-in-Chief.

In regard to the recruitment from overseas for the police force, hon. Members will recall that provision was made for 126 supernumerary posts of inspectors and assistant inspectors. Though it was impossible to translate that position to bodies on the spot forthwith and immediately, some progress has been made and it may be of interest to the Council to hear the figures. Thirty-three have been appointed—have arrived in the country—and eight more are on their way here. A further 26 offers have been made and a further 28 men have been provisionally selected. Those figures, Sir, relate to the recruitment from the United Kingdom, but against the vacancies one local engagement has been made. Another selection has been made, an appointment from Mauritius has been made and seven have been selected from Southern Rhodesia, in consequence of a visit of a police officer to that country. Three also have been engaged from the Union of South Africa. Apart from that, six recent appointments to the inspectorate of the regular force have also been fulfilled. Furthermore, transfers have been arranged of six gazetted officers from various other territories in the Colonial Empire.

On the matter of intelligence, Sir, hon. Members are aware that the build-up of the Special Branch of the police has been taking place since early this year. This is, of course, a subject which can be discussed only in the broadest terms here. Generally speaking, development has been directed on three main lines: The reorganization, extension and training of the Special Branch of the Kenya Police, to enable it to perform its proper role, the pooling and assessing of intelligence at the provincial and Colony level by means of the Intelligence Committees, the organization, in areas requiring it, of a system to deal with operational intelligence and in that it is particularly linked with the other Security Forces.

I may say that there is now a properly staffed Headquarters of the Special Branch, five provincial officers and some 18 district officers. As one hon. Member

[The Chief Secretary] pointed out, there are two aspects of intelligence, the long term and the immediate operational aspect. The liaison between the Special Branch and other Security Forces has been in the process of being built up for this latter purpose. In that connexion, Sir, I was somewhat upset to hear a suggestion that the Special Branch were not particularly interested in intelligence which was brought to them, or information which was brought to them by people of the country. I think, Sir, I prefer to think that there must be some misunderstanding in that, because I know only too well that the Special Branch are only too anxious to get information of all kinds. It may require sifting, information is not always correct, but, in the same way as censorship in war time, a considerable amount of material has to be examined in order to arrive at material which is of use. However, Sir, although I am perfectly well aware that the Special Branch fully appreciate the importance of the local knowledge and information which can be obtained from people who know the country and who know the people, I will ensure that the point is brought to their notice once again.

Reference was made to intelligence "falling into the lap". This may occasionally occur, Sir, but I can give this Council a complete and full assurance that the Special Branch does not expect all their information to fall into their lap. They do go out and look for it.

In this connexion, I would like to mention that the Commander-in-Chief has remarked that the Special Branch work here and its intelligence work is "first class" that is the term which he used, and more particularly since the organization had started practically from scratch. I may add, and have been authorized to do this, that on the military intelligence side, whilst fully appreciating the good work done, there are en route to this country 11 trained military intelligence officers, some of whom have had experience in Malaya. (Applause.)

There are two small points which were raised by hon. Members, with which perhaps I might deal now. The question was asked about the number of arms lost and arms recovered. I can give information of the period of approximately three months up to the 20th July, during which time 49 firearms were lost and 61 firearms

were recovered. Another point was the question of arming the home guard or the Kikuyu guard. Since the beginning of the year there have been issued to the Kikuyu guard 970 rifles—some of these went to the tribal police who operate to a great extent with the Kikuyu guard—339 shotguns, 80 Greener guns, 20 Sten guns and 15 Patchet guns. Two thousand shotguns for Kikuyu guards are on their way from Malaya and are expected to arrive before the end of this month.

On the matter of rehabilitation of Mau Mau convicts and persons detained under the Emergency Regulations, that has not been left neglected. It is not an easy thing to put into effect and it is connected also with the classification of the types of the persons concerned.

Reference was made to my reply to a question by the hon. Member for the Coast, when I replied quite briefly that the Government would appoint an officer to take charge of the collation of material of these people. My reply was "Yes, Sir" and arrangements have been made for an administrative officer to undertake that work, but a certain amount of material has already been collected and arrangements have been made for the collection of that material from different places. Now, one of those places where the collection of material has been going on, where collection has taken place to some extent and is becoming intensified, is in the camps of those persons detained under the Emergency Regulations, and in the light of the collection of information about persons detained, personal information, rehabilitation will be undertaken on the lines of that which has been followed in Malaya and it has been followed there with extreme success.

THE SPEAKER: Order, order. I take it the hon. Member will need some more time.

THE CHIEF SECRETARY: I would finish in about ten minutes.

THE SPEAKER: Is it the wish of the Council?

MR. BLUNDELL: Would you mind adjourning?

THE SPEAKER: Debate is now interrupted and Council will stand adjourned till Tuesday 10.00 a.m.

ADJOURNMENT

Council rose at forty-five minutes past Twelve o'clock.

Tuesday, 28th July, 1953

The Council met at ten o'clock.

[Mr. Speaker in the Chair.]

PRAYERS

PAPERS LAID

The following Papers were laid on the Table:—

Digest of the Annual Report, 1952, of the Medical Research Organizations.

(BY THE CHIEF SECRETARY)

Schedule of those re-allocations for 1952, authorized by the Member for Finance, which had not been reported to the Standing Finance Committee, and are not recorded in the printed Financial Statements for that year.

(BY THE MEMBER FOR FINANCE AND DEVELOPMENT)

The Water (Undertakers) Rules, 1953.

The Water (General) Rules, 1953.

(BY THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES)

ORAL NOTICE OF MOTION

THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT: Mr. Speaker, I beg to give notice of the following Motion:—

BE IT RESOLVED that, in accordance with the principles already accepted by this Council, the proposed hospital project to be built in the High Ridge area of Nairobi by the Social Service League shall qualify for a £ for £ contribution not exceeding £100,000 from the general resources of the Colony in respect of approved capital expenditure.

ORAL ANSWERS TO QUESTIONS

QUESTION No. 117

MR. A. B. PATEL asked the Member for Legal Affairs if he will please state the procedure for entry into the Colony of a qualified teacher with a University qualification found necessary by a local educational institution in a case in which such teacher is not locally available.

Is it true that the Immigration Department has been instructed by the Member for Legal Affairs to allow

entry of a limited number of teachers only irrespective of the unavailability of such qualified teachers locally?

THE MEMBER FOR LEGAL AFFAIRS: It is presumed that the question refers to Asian teachers.

The procedure for entry into the Colony of qualified teachers is as follows. The managers of schools apply to the Director of Education for support in obtaining Temporary Employment Passes for qualified teachers wishing to take up appointments in the Colony. The Director of Education informs the Principal Immigration Officer of the applications, and, if the appointments are approved in principle, relevant details of the applicants are obtained and forwarded to the Principal Immigration Officer with the Director of Education's recommendation. If the applicants fall within the number of teachers considered by the Director of Education to be necessary in order to supplement locally trained personnel, the Principal Immigration Officer issues the Temporary Employment Passes and informs the school managers accordingly. The managers are responsible for arranging for an immigration bond; and the applicant pays a fee of Sh. 20 for the Temporary Employment Pass.

The answer to the second part of the question is in the negative. The requirements of educational institutions and the availability of suitably trained personnel were carefully examined by the Education Department before the Director of Education assessed the number of teachers who would be required in order to supplement locally available teachers.

MR. MADAN (Central Electoral Area): Mr. Speaker, arising out of that answer, will the hon. Member state, dating from the 1st January, 1953, until the 30th June, 1953, how many applications were recommended by the Director of Education to the Principal Immigration Officer? How many of these were issued with the necessary permits?

THE MEMBER FOR LEGAL AFFAIRS: I shall require notice of the question as I would need to provide statistics, which I obviously do not carry in my head. If the hon. Member will put down the questions, I will certainly get the information for him.

QUESTION No. 121

GROUP-CAPTAIN L. R. BRIGGS asked the Hon. Chief Secretary—

(a) if he will advise the Rt. Hon. the Secretary of State for the Colonies that there is evidence that *Mau Mau* terrorists have adopted the practice of killing their wounded and hiding their bodies;

(b) if he will instruct the Government's Publicity Officer in the United Kingdom to acquaint the members of both parties in the House of Commons with the nature of the country in which our Security Forces are operating and of the consequent difficulty of taking prisoners and recovering wounded terrorists who have run away;

(c) if he will instruct Government's Publicity Officer to inform Members of the House of Commons of the latest form of *Mau Mau* oath including the bestial and unnatural practices forming part of the ceremony.

THE CHIEF SECRETARY: (a) No. Sir. No evidence is available to Government that it is the practice for *Mau Mau* terrorists to kill their wounded and hide their bodies. One or two isolated incidents have been reported which suggest that this may have happened occasionally, and there is certainly evidence of their killing members of their own gangs, suspected of betraying information or of other indiscipline. The evidence tends rather to show that there is a rough and ready system of medical treatment for wounded terrorists.

(b) The Kenya Government Public Relations Officer is not the proper channel for conveying information to Members of Parliament, but the Secretary of State, who himself has to answer the sometimes ill-informed questions asked in Parliament about Kenya, is familiar with the nature of the country in which the Security Forces are operating. With respect, Sir, I consider that the Secretary of State has shown himself well able to deal with questions bearing on the difficulty in such country of taking prisoners and recovering wounded terrorists who have evaded capture. This question, and the reply thereto will, how-

ever, be brought to his attention, so that he may be able to emphasize further to the House of Commons, if he sees fit on a subsequent occasion, the difficulties in which the Security Forces are placed in this connexion. The notice of the Public Relations Officer also will be drawn to the point for use as and when appropriate.

(c) The Secretary of State has been furnished with detailed reports of the various *Mau Mau* oath ceremonies, and some of these have been placed in the Library of the House of Commons. It is not proposed to use the Government Public Relations Officer in the United Kingdom as a source of information on bestiality and unnatural practices.

MR. BLUNDELL: Mr. Speaker, arising out of that question, is it not a fact that the disparity in numbers between those who have been killed and those who have been captured is largely due to the fact that there is no record of the captured; as such they are handed over to the Police and disappear as normal police cases?

THE CHIEF SECRETARY: I am not able to answer as to the facts, Sir, but I think there is a considerable amount, a great deal in what the hon. Member suggests. It is true that captures are handed over to the Police; that is a fact.

MR. BLUNDELL: Arising out of that answer, if it is a fact, as I suspect, that persons who are apprehended and would normally be prisoners of war are handed over to the Police and no record is kept, if that is the fact, would the hon. Member see publicity is given to it?

THE CHIEF SECRETARY: There are, Sir, no such things as prisoners of war here, but I will certainly see that the hon. Member's point is made.

MR. BLUNDELL: Do you suggest prisoners of peace?

QUESTION No. 119

MR. CHANAN SINGH asked the hon. Chief Secretary to state—

(i) the numbers of European officers and Asian officers on permanent establishment;

(ii) the numbers of European officers and Asian officers on permanent establishment who are not provided with Government quarters;

(Mr. Chanan Singh)

(iii) what amounts out of the £2,790,000 allocated for staff houses by the Planning Committee have been spent on European houses and Asian houses respectively.

THE MEMBER FOR EDUCATION AND LABOUR:

(i) The numbers of European and Asian officers on the permanent staff, including officers on agreement who are entitled to Government quarters, are:—

Europeans	2,998
Asians	1,714

(ii) According to the last Colony-wide survey of staff housing requirements which was made towards the end of 1952, the numbers of European and Asian officers who were not provided with Government quarters, excluding those who for various reasons did not require them, were:—

Europeans	220
Asians	522

Owing to appointments necessitated by the Emergency the figure for Europeans has now increased considerably.

(iii) The following amounts have been authorized to be spent to date:—

European houses	£1,151,700
Asian houses	£398,700

At average present-day costs these amounts represent 288 European quarters and 227 Asian quarters.

MR. A. B. PATEL: Arising out of that answer, may I know from the hon. Member why the provision is made for only 50 per cent of the Asians without quarters, whilst in the case of Europeans, it appears from the figures given, he has made provision for more than was required.

THE MEMBER FOR EDUCATION AND LABOUR: I do not think the figure can be regarded as 50 per cent, the ratio of Europeans to Asians is 33 to 20 whereas the ratio of the houses represented by the figures in the third part of the question is 25 to 20; but I agree, however, that there is a disparity.

MR. MADAN: Arising out of the original answer, Sir, is not one of the difficulties in not having provided houses for Asians that the Public Works Department has not been able to build them? If so, would the hon. Member consider placing contracts with private firms to accelerate the rate of building of houses for Asians which are badly needed?

THE MEMBER FOR EDUCATION AND LABOUR: I am afraid I shall require notice of that question, Sir.

QUESTION No. 126

MR. S. V. COOKE asked the hon. Member for Education and Labour to state what arrangements are being made by Government—

(1) to ensure that persons who have served a prison sentence for refusing to be photographed are given facilities of obtaining History of Employment cards at the place of discharge from prison to enable them to obtain employment immediately; and

(2) to arrange for re-employment of these persons.

THE MEMBER FOR EDUCATION AND LABOUR: Facilities of the kind mentioned in the question are available for released offenders who have been screened, and who propose to take up employment with an employer who has been specially authorized by the local District Commissioner, after consultation with the District Emergency Committee, to offer such employment.

Where employment has not been offered by an authorized employer no arrangements of the kind contemplated in the question are made.

In reply to the second part of the question, no arrangements are being made other than those referred to in the answer to the first half of the question.

MR. COOKE: Arising out of that answer, will the hon. Gentleman take steps to see that these men are employed in public works such as road making and so on, if for no other reason than to keep them out of mischief.

THE MEMBER FOR EDUCATION AND LABOUR: I cannot guarantee to see that these particular people will be engaged but the question will be examined.

MR. MATRU: Will the hon. Member say what steps Government will take to see that these fellows who do not get employment do not reinforce the gangs in the forest?

THE MEMBER FOR EDUCATION AND LABOUR: There is always the likelihood of evilly disposed persons joining a gang but we are doing our utmost to see that legislation relating to the control of the Kikuyu is properly enforced.

MRS. SHAW: Arising out of the first part of the Question, could the hon. Member tell me if those who have served a prison sentence for refusing to be photographed and are not considered to be completely free from blame or from suspicion of Mau Mau activities after being screened are then being returned to their reserves?

THE MEMBER FOR EDUCATION AND LABOUR: Yes, Sir.

STATEMENT: CONDEMNED PRISONERS ESCAPE

THE CHIEF SECRETARY: With your permission, Mr. Speaker, I should like to make a statement to the Council regarding the recent escape of four prisoners from the condemned cell in Nairobi Prison.

The four condemned prisoners, who have since been executed, escaped shortly after 11 p.m. on the night of the 13th July, and had all been recaptured by the prison staff within 50 yards of the-prison wall by 11.50 p.m.

The escape route was through their cell window, two of the steel bars of which were severed with a hacksaw blade and pulled inwards and upwards and the expanded metal shutter and wire mesh being pushed outwards. This was done under cover of chanting and clapping from the other condemned cells. From the cell window they gained access to the roof, and from there to the outside wall, from which they jumped to the ground outside. Once outside the wall, they made their way through the prison garden towards Enterprise Road.

The sentry on the watch-tower saw a prisoner emerging from the cell window at 11.05 p.m., shouted to the Corporal of the Guard to sound the alarm, and then fired a shot at the prisoners as they leapt from the wall. A female wardress took up the alarm on her whistle and saw the direction in which the prisoners

ran from the prison wall. She then gave information to the Chief Warden and a party of warders, who went in pursuit and arrested the first prisoner at 11.15 p.m., endeavouring to conceal himself in the long grass close by the sandbagged searchlight post of the Kenya Police Headquarters. Three minutes after the first alarm was given there was a telephone call from the 999 service, and a police patrol car arrived as the first prisoner was recaptured.

Fifteen minutes after this, at 11.30 p.m., the second and third prisoners were caught in the large drain which runs through the prison garden parallel to Enterprise Road. Three police armoured cars arrived about this time, together with police and Kenya Police Reserve. At 11.50 the fourth prisoner was found in the grass close to the Coca-Cola factory, armed with a steel spike. The Chief Warden, who had taken prompt and effective measures to turn out search parties on the sounding of the alarm, attacked and disarmed this man at the risk of his own life, and in spite of the prisoner's very threatening attitude.

It has not yet been established how the hacksaw came into the possession of the condemned persons. A check of the prison workshops has shown that there was no deficiency of hacksaw blades.

With the vast increase in the number of convicts since the Emergency began, there has had to be a considerable expansion of the Prison Service, and it is inevitable therefore that many of the staff are inexperienced, while Nairobi Prison has to be used for training new staff. The warden on duty outside this cell at the time of the escape had only been in the service for one month and nine days. He took over duty at 10 p.m., and appears to have been inalert and to have failed to notice what was going on, for which dereliction of duty he was suspended.

The need for greater security at Nairobi Prison had already been considered before this escape occurred, and plans for a double perimeter fence were already in train, the materials had been ordered, and the barbed wire had arrived. Work on this started next day and has practically finished. In addition further steps are being taken to strengthen and isolate the condemned wing. With materials supplied at once by the military authorities, a danner wire apron

[The Chief Secretary]

has been put round the top of the building. A second set of bars has been put on all the windows in the condemned block. A separate courtyard is being walled off for the exercising of condemned prisoners, covered with wire mesh to prevent articles being passed or thrown in from outside. Two extra guard towers are being erected. Along the perimeter wall adjoining the condemned cell wing, a high fence is being constructed of spiked bars.

I examined the escape route myself and I am satisfied with the new security precautions that are being installed. I am also satisfied with the working of the alarm scheme, which, in fact, reflects considerable credit on the staff on duty that night. Finally, I do not consider that any of the superior prison staff was guilty of any dereliction of duty or negligence, and I consider that the escape was due to the nature of the buildings and to the unavoidable necessity of employing a high proportion of inexperienced staff. The latter, a state of affairs that is improving. (Applause)

MOTIONS**APPOINTMENT OF MR. OHANGA TO SELECT COMMITTEE ON THE ESTIMATES**

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

BE IT RESOLVED that the Hon. D. A. Ohanga be appointed to the Select Committee on the Estimates in place of Mr. F. W. Odede.

I do not think, Sir, that my Motion requires any further explanation. I beg to move.

THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT seconded.

Question proposed.

The question was put and carried.

CONSIDERATION OF CHIEF SECRETARY'S STATEMENT

Debate resumed.

THE SPEAKER The Chief Secretary was speaking when we adjourned.

THE CHIEF SECRETARY Mr. Speaker, Sir, when the Council adjourned on Friday, I was dealing with the question of the rehabilitation of persons detained under the Emergency Regulations in connexion with *Mau Mau* and *Mau Mau* criminals.

I had already made mention of the matter of classification and segregation and the steps which are being taken to that end. I had said in general terms that we were proposing to follow the system which had been tried with success in Malaya. The objects, as explained to us by the Malayan authorities, of that particular system and the practice followed were the inculcation of personal example in communal living with the development of self-respect and public spirit, education as the best counter to facile propaganda and the introduction of vocational training as a means of honest livelihood and the renewal of family ties. I should explain that there are three stages and the persons concerned, if they prove themselves fit, progress from one stage to another where they have slightly better treatment. As regards the local arrangements, Sir, the large camp at Athi River is being used for the purpose, apart from the really hard core in respect of whom other arrangements have been made at a greater distance. A special staff is being engaged for the purpose of this rehabilitation under the general supervision of the Commissioner of Prisons and it will consist of a Chaplain and educational instructors and ministers of different denominations. They will be assisted by people who are particularly personally suitable for the work and in that connexion I may say that considerable care has been taken in the selection of the persons who will form the disciplinary side of the organization. Besides the psychological approach to persons detained, it is proposed, as I say, to teach them a useful trade and this is based on the practice in Malaya. I think all hon. Members will agree that apart from the necessity of clearing the minds of these people of the disgusting contents at the moment, we must replace that with something else and at the same time find work for their hands to do.

An approach was made to the Malayan Government to see if they could second to us for a short period an officer with knowledge which he could impart to us, which knowledge would, of course, have to be fitted to local conditions. That has not proved practicable but I have under consideration a proposal to send an officer from here on a short visit during which in

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the light of his knowledge of our local conditions he will be able to obtain from Malaya any additional information of use.

This work is starting amongst those persons detained under the Emergency Regulations. At a later stage we hope to apply some of the particular specialized mental training, if I may describe it as such, to convicted prisoners. The convicted prisoners have at least work available for their hands to do.

The hon. Mover, Sir, referred to the Information Services, although I fail to see that particular item in the term of the Motion.

MR. BLUNDELL Mr. Speaker, I perhaps went a bit wide of the Motion and popped it into intelligence.

THE CHIEF SECRETARY I have often found Mr. Speaker, there are considerable differences between intelligence and information, but I do agree that in certain respects the one goes out and the other comes in.

Now on this matter of Information Services, I think the point really was that there was no certainty that the results were being obtained from the money which had been made available. Well, Sir, it is unfortunately not practicable to produce results the moment the money is available and I should explain that there has been some delay in obtaining experienced staff to fill some of the posts and in obtaining equipment which is not available locally. I hope that that will very shortly be remedied, but I would draw attention to the fact that provincial information organizations are operating in Nyanza and at the Coast as well as in the Central Province and the Rift Valley Province. Four information vans have been equipped and staffed. I believe the hon. Mover or another Member has referred to two African Information Units. I am not sure whether he referred to the provincial organization, but I took it that he was referring to these vans. Equipment is on order for another four vans—this equipment having been ordered from the United Kingdom. It has not yet been possible, as I said, to recruit some of the staff for which provision has been made, but despite this the output of the African Information Services has been increased

and I hope it has improved in content. I may say that all suggestions for further improvement will be very heartily welcomed. Since the beginning of the year some 8,500,000 copies of 319 issues of the different locally-produced Information Service publications have been distributed, in addition to a considerable amount of material obtained from the United Kingdom. On the matter of broadcasting time, Sir, this has been increased to 35 hours a week from the Nairobi transmitters, and 6 hours a week from the Mombasa transmitters. It may be said that this is quite insufficient but, Sir, apart from the mechanical difficulties of increasing the time, it is questionable whether any materially increased number of listeners would be obtained by an increase in the existing time; as I say, that is 35 hours a week. As regards listening facilities, Sir, the Government has now distributed some 900 wireless sets throughout the Colony. In addition there are Rediffusion Services in the King George VI Hospital in Nairobi, in the Nairobi Jail and in certain detention and transit camps, these places being the sort which lend themselves readily to Rediffusion Services. Eleven amplifying loudspeaker installations have been provided in Nairobi, two in Nakuru and four in other Rift Valley Province townships. Similar installations are being put in at Kisumu and Mombasa.

It may be true, Sir, as was suggested that we have created a cathedral in our Information Services, but I should make it clear that it is not the function of the African Information Services to lay down the material for the prayers. It is their function to interpret that material within the broad framework that is laid down. I should say, Sir, that in considering the direct part that propaganda plays in the fight against the *Mau Mau* terrorists—the less spectacular but possibly no less important work of building up the morale of those Kikuyus who are loyal and preventing other tribes from falling under the evil influence of *Mau Mau* or similar unpleasant organizations, must not be forgotten.

A considerable amount has been said, Sir, about the matter of the enforcement of the Emergency Regulations. I should make it clear, Sir, in fairness to my colleague, the Member for Legal Affairs and to the Crown Law Office, that that

[The Chief Secretary] organization does not come into the picture of prosecutions until the necessary files of information are sent to them from the Police, and, Sir, I must take responsibility for the Police and therefore any delays which occur before the Crown Law Office comes into action. I would like to endorse what my hon. and learned friend, the Member for Legal Affairs, said to the effect that every endeavour is being made to hasten the supply of the necessary papers to the Crown Law Office.

The hon. Mover, Sir, referred to the position in Nairobi. It is very true that we have had an increase in assassinations and during the last two weekends and the intervening days special action was taken to endeavour to cope with this. It is true, Sir, that we did not pull in a large number of the gunmen whom we would like to have got our hands on, but four arms were recovered. In connection with large-scale exercises, if I may call them that, a new technique was adopted in the nature of "snatch and grab raids." This was done by mobile teams of a small number of men assisted by screeners and female searchers and their targets were usually a short stretch of busy thoroughfares. These measures, Sir, have been of assistance and as hon. Members may be aware certain further information has been forthcoming from the work carried out by the Government Chemist in connexion with the identification of arms and bullets from them.

I trust, Sir, that the hon. Members will excuse me from going into further details here as to the particular techniques which are being adopted.

If I may refer briefly, Sir, to the matter of manpower and more particularly to what I regarded as the excellent speech of the hon. Member, Mr. Ohanga—(Hear, hear)—I mentioned before, Sir, that the matter of an increase in Police was under re-examination in conjunction with the Commander-in-Chief and, also, the whole question of additional manpower, whether from inside or outside the country is also under examination. I may assure the hon. Mr. Ohanga that there will be every opportunity for Africans to play their full part. (Applause.)

If I may revert, Sir, to the statement I made on Wednesday last, there was one passage which I was advised might lead to misunderstanding. That was in connexion with the Kikuyu, Embu and Meru Guard. I said, Sir, "Thirty temporary District Officers are now operating in the Central Provinces under Col. Morecombe in charge of Kikuyu Guard units and similar bodies in Embu and Meru." I should make it clear, Sir, that Col. Morecombe's function is Director of the Kikuyu Guard and his duties are to direct, supervise and co-ordinate within the policy laid down, to build up the organization, equipment, discipline and training of the Kikuyu, Embu and Meru Guard. The matter of operational employment is directed by the District Emergency body. The organization and the administrative responsibility is that of the Provincial Administration.

Now, Sir, I come to the final subject mentioned by the hon. Mover. The proposal to elevate me to the peerage, to assume the mantle of the duchess in "Alice in Wonderland" so that I may say, "Off with his head, off with her head, off with all their heads." It is a mantle which I have on occasions regarded with envy, but by no means always in the direction suggested by the hon. Member. (Hear, hear.) In order to avoid misunderstanding, let me say at once that on no occasion did I have the feeling when there was a matter of constructive criticism. My reply to this point, Sir, was no doubt expected to be "Yes, Sir, yes. Sir, three bags full" and my own head in the first bag, but this would have made it somewhat difficult for me to report to the appropriate quarter that all the heads were audited and found correct.

Apart from that difficulty, Sir, there are certain points raised by the hon. Mover on which I feel that, perhaps, he needs some guidance. This somewhat surprises me, Sir, because I always thought his knowledge of matters such as this were considerable and very statesman-like in one so young. The theme of the hon. Mover was that certain Government departments do not to-day carry fully the confidence of the public. He referred in this connexion—I need not go into details as to how it arose, they might embarrass him—but he referred to the pachydermatous hide of Government. Whether he meant this in the collective

[The Chief Secretary] sense or whether he meant it in the individual sense of Government servants, I am not quite sure. He probably meant it in both senses, but from experience, Sir, I fear I can assure him of this, that a civil servant in Kenya must have or develop a pachydermatous hide if he is to do his duty by all the people of Kenya. (Applause.) What the civil servants must avoid, Sir, is a chameleon-like attitude to life, a factor which I am advised by the zoologists is fairly common throughout East Africa.

Having said that, Sir, may I add that I have never believed since my return to Kenya that there is any material divergence of basic views as between the hon. Mover of this Motion and myself. I must, Sir, however, refer to the hon. Mover's reflections on Government and its executive instruments. In the first place the hon. Mover ascribes to me powers which I do not possess, nor would I concede, incidentally, the necessity of using them if I did possess them. As that I am afraid, is a hypothetical remark as regards these powers, I would like to invite his attention to the constitutional instruments governing this country and the Colonial Regulations. If the hon. Mover has not access to the last-named publication, I will gladly arrange for a copy to be placed at his disposal. It is not good bed-time reading and I would not propose to quote it *in extenso* here, Sir, I like the hon. Mover, do not propose to argue a hypothetical situation, at least, Sir, not here. I should be very happy to discuss it with him sometime elsewhere.

The hon. Mover, Sir, referred to the public. What is the public, Sir? I say that in no rude sense. Even poor Government servants pay taxes on the same basis as others, no less or more, unfortunate and they are members of the public. But the public for the present purpose, as in other spheres, does not see the whole of the game. That is why it is customary to have a referee or umpire, a referee or umpire who is not swayed by popular clamour whatever the extent or apparent extent of that popular clamour may be.

In conclusion, Sir, I deny the allegations of the hon. Mover that certain departments of Government are not pulling their weight. The hon. Mover, his

public, our public; both the hon. Mover and myself are members of the public, all of us have been suffering from strain for quite a long time and so have the departments of Government and their officers. In spite of this strain the ordinary normal work of the country has to be carried on in addition to all the work arising from the Emergency. (Hear, hear.) In this, Sir, I do not for one moment discount the enormous help which has been given by others than Government servants. But, Sir, Government servants have done their job and they have played their part and it does not help them to play their part when there is marking criticism about the place. (Hear, hear.) It has an effect, Sir, throughout the Service and I would ask the hon. Member and his colleagues to remember that we, Sir, on this side of the Council just as those on the other side of the Council are here to do our best for the country. I declare, Sir, in all sincerity that any charge against the Government department of failing to do its job to the best of its ability is false, Sir, and without foundation. As I said earlier, Sir, the Government accepts this Motion in the spirit in which it was moved and I trust, Sir, that out of this debate will come added strength to the forces of law and order and our fight—the fight of all of us—against *Mau Mau*. (Applause.)

MR. CHAMAN SINGH: Mr. Speaker, there have been suggestions made during the course of the debate that we should ask some of the outside countries for help in manpower. I do not think any help in manpower should be necessary. We have a population here which includes more than one million adult males. I think that population should be sufficient to meet all possible contingencies, but it is quite apparent that full use has not been made in the past of local manpower resources.

What has prevented that full use is the history behind policy in Kenya and we are all slaves of history. The Government is trying to move away from the old policy, but the movement is somewhat slow. So far as the views on this matter of the Asian community are concerned, we have expressed them in this Council more than once. We have conveyed them over and over again to the Government.

[Mr. Chanan Singh]

There is one direction in which use of manpower has been made and that is of manpower in the legal profession. That has been due, Sir, to the imagination and sympathy which the Legal Department and the Judicial Department have shown in this matter and I am sure if other departments had and showed that type of imagination, the problem of manpower would be very soon solved.

Now, Sir, the use of manpower has two aspects. Manpower can be used to deal with *Mau Mau* in the field. So far as I am concerned, I am prepared to trust the Government to do that. I have had no military experience myself and I am not prepared to meddle in matters which I do not understand, but manpower is also necessary to protect the civilian population. It is here, Sir, that we, as representatives of the public do know a little and it is here that we think our views should be listened to and supported by the Government. Now, Sir, the civilian population, even in Nairobi, is not properly protected. There is a small trading area inside the limits of the city—I mean the Kariokor area. It is not very far away from the centre of the city but nevertheless all the Asian shops in that area have had to close down because of a lack of protection. Sir, the police stations are too far away and I should think something should be done to enable these people to protect themselves. We have suggested to Government before that a system of compulsory Home Guards should be instituted so that the civilian population may defend itself against attacks from gangs. Incidents of theft, of assault and even killing have increased in that area. I do not know what the Government is doing but certainly some more definite steps are needed. Our suggestion again is compulsory Home Guards. That will not cost Government anything but will give added confidence to the civilian population.

There is one other matter on which I wish to comment. Suggestions have been made inside and outside the Council with regard to tampering with the established principles of British law. I think that is a matter which needs great caution. I am inclined to support the views of the Legal Department in that matter. That is a very fundamental matter and I do not think we should lightly depart from the

established principles of law and justice. Whether it is the law of accomplices or any other law. I think we should be prepared to be led by the experience of the Legal Department. (Hear, hear.) After all, there is nothing—even in the law of accomplices—which compels a judge to reject the evidence of an accomplice. It is not a rule of law, it is a rule of prudence. Admittedly it has been followed almost invariably but if the judge is so inclined, there is nothing to prevent him from accepting the evidence of an accomplice. I would again advise caution in a matter like this.

Now, Sir, comments have also been made with regard to the fact that the members of Government are irremovable. In the existing circumstances of the Colony, we have confidence in the existing officers of Government and in the existing system of Government. We do not think the time has come to make the officers removable. When the time comes, we will certainly ask that the officers be, as in other self-governing countries, made removable, but that time is not yet (Applause.)

THE SPEAKER: It is now eleven o'clock business will be suspended for fifteen minutes.

Council adjourned at Eleven o'clock and resumed at twenty minutes past Eleven o'clock.

MR. MADAN: Mr. Speaker, I am glad to be able to say that for a change this morning the hon. Chief Secretary was not apologetic on behalf of the Government as we have seen happen in this Council so often, their deference to certain Members on this side of the Council. I consider, Sir, that in a matter of this kind the Government has not given itself a fair chance. I do not think that any reasonable and sensible person will say that Government has not done what should have been done and under the circumstances what would have been done. But what has happened is that they have been following a policy of having a closed shop and not given themselves enough publicity. Had they taken the public into their confidence there would have been no need for most of the criticisms levelled against the Government in this Council and even in the House of Commons.

Now, Sir, it is important to remember what exactly we mean by the expression

[Mr. Madan]

"Public of this Colony". Mostly when the word "public" is used, it appears to us, and not without strong reason, that it is confined to one particular section of the population of this Colony. I do not wish to raise any controversial subjects in this debate but we feel perturbed that this particular section of the population is again restricted to the Rift Valley Province and certain parts of the Central Province. Speaking for myself, I feel disappointed when I see that attitude being expressed from the Rift Valley direction because I think, and I am convinced, there are some quite enlightened people in that area if not in other parts of the Colony and this matters. In my opinion the Government is quite right when they say that the public consists of the entire population of this Colony. It is not only one section of the people whose opinion counts, and that whenever they clamour for anything, their views should be accepted unhesitatingly, that could never be the test of guiding factor of a good Government in this Colony.

In this country, Sir, arising out of this Motion, we are looking for manpower. We have, in my opinion, all the manpower we need here, but I do think it was simply disgraceful that for the purposes of Asian manpower, to register them, the hon. Dr. Hassan as Director of Asian Manpower, could not even be provided with offices for three weeks and the Public Works Department were looking here and there and everywhere except where offices were available. If necessary, the Government should have requisitioned premises for the purpose. Much valuable time has been lost and we talk about importing manpower from elsewhere.

Another comment that I wish to make was that it is very gratifying to hear from the Member for Legal Affairs that the Asian advocates have done a good job of work at Embu. I think it is right to say that they are still continuing to do a good job of work. (Applause.) There are two Asian advocates acting as Public Prosecutors in the Supreme Court here and there is another who is acting for the defence of the accused in the Courts here. There is the appointment of Mr. J. M. Nazareth to the Bench of this Colony. I think Asian advocates are

making glorious history and rendering, in time of need, the kind of service that can be expected from people who belong to this noble profession.

It is this matter we want to consider, what is the attitude that we should adopt towards each other and to the various sections of the community. I consider, Sir, it is most essential when non-Africans speak about the Africans they need not to indulge in abuse and in passing derogatory remarks. It does not cost anybody anything to be polite and it does not help the country or the people when our attitude towards the Africans is expressed in language which is not civil and polite, especially when that language is used by people who claim to be the leaders in this country. It is important, in my submission, that we have to win a war against the *Mau Mau* and if we are to win this war against *Mau Mau*, it is essential not only to look to the physical side of it, not only to consider their forces, but also to consider their minds and souls, so that after these said events have passed away, those who were foolish enough to work against the interests of the country, I hope we will provide means to enable them to realize that violence never pays and I should have thought that out of a struggle of this kind, there would have arisen and taken place in this Colony a new spirit of co-operation and a greater feeling of unity between the different sections of the community instead of the most regrettable state of affairs which exists now. We seem to be drifting away from each other, co-operation seems to be becoming less and less and we are acting contrary to what usually happens in other parts of the world when people are in difficulty or at war or in a state of Emergency; they forget their differences and get together. That, unfortunately, does not seem to be happening here. One of the things that we could do to prove that we do trust each other is to put into practical shape the, what I call, second phase of judicial work in this Colony, and that is, appoint Asians as magistrates as the hon. Attorney General more or less promised us on another occasion about two months ago. Perhaps "promised" is too strong a word to use about a Government servant. Nevertheless, I feel he was most sympathetic and I have no doubt he is even now.

[Mr. Madan]

The same applies to the police force of the Colony. I would be failing in my duty if I did not bring to the notice of this Council the circumstances under which two tragic murders have taken place recently in the Race Course area. There was the Muslim wrestler who was there on a temporary visit and who was murdered, and also the other one about two weeks ago in broad daylight and it is most galling to know that so far no arrests have been made. Compare that to the murder at Nyeri the other day, most tragic also, but even the Deputy Commissioner of Police thought it necessary to fly to Nyeri and take a personal interest in the matter. Why in the case of Asians, and life is dear to all, even now after nearly six weeks no arrests have been made, while at Nyeri on the following day I believe, six people were arrested for the murder of a European. Now, Sir, I have a lot of time for the Police force of this Colony. I realize from personal contacts purely professional—that they are working under a great strain, but when you compare the two situations and the action taken in each case, it is not conducive to the creation of confidence, and I do submit, Sir, that all should be treated equally and, if necessary, as in the case of justice, the security measures must not only be exercised, but seem to be exercised, so that the public knows that the forces of law and order are always behind them and able to support and protect them.

Mr. Speaker, in my humble submission, and it is my humble advice, with all respect, it is my humble advice to the hon. Member that it will not help the Colony to criticize Government at this state, or a department of Government. What is needed at the moment is the best possible measure of co-operation and when we have passed through the state of Emergency, by all means let us again start going for each other as we used to do in the past. But I hope we will feel more enlightened at the end of the struggle and act like statesmen and not as in the olden days.

MR. GIKONDO: Mr. Speaker, during the course of this debate a mention has been made to the screening operation which has taken place in Nairobi. It has also been suggested that similar operations might be extended to other areas.

There is, however, one point to which I wish to draw the attention of the Government, with a view that something might be done about that. It is that during the operations women and children, in addition to men, are taken out of their houses during the night and are kept outside in the open and it has been a complaint by a large number of women that they are exposed to the cold, with their children and they also complain that in some cases they are taken away from Nairobi to the Reserves, leaving their husbands behind, and I do suggest that something might be done to cause as little inconvenience as possible to women and children. At the moment women are encountering quite a great hardship, particularly when a woman has more than one child to look after during these operations. I do hope Government will take this matter up and see that such inconveniences might be reduced.

MR. BLUNDELL: Mr. Speaker, there are one or two points to which I should like to reply. I propose the simplest way will be to take matters *seriatim*.

Arising out of remarks that the hon. Member for Legal Affairs made, I would like to record one thing which I would advise (Council we should accept very strongly. In replying to the Motion he introduced certain factors, which he had been authorized to bring to the notice of Council from the Commander-in-Chief and the hon. Chief Secretary, again in his speech, also brought in the name of the Commander-in-Chief.

Now, Mr. Speaker, whether I wish to reply to comments which the hon. Member for Legal Affairs made in regard to this matter or not, I will not do so, because I believe it is wise for this Council to accept that the Commander-in-Chief and the Military in general, should be outside the criticism of this and I say that for two reasons. First of all, they have no opportunity of reply and, secondly, I believe we want to be terribly careful not to allow political influences to influence military operations. That being so, Mr. Speaker, I do not intend to answer those particular points which the hon. Member raised. In regard to his speech, I would like to make two points and they are, I think, the matters which are worrying Members on this side of Council. We listened

[Mr. Blundell] to the remarks which he made about the Regulations and, I think, Sir, what is worrying the public and what it will be of benefit to give publicity to, is this. We passed a regulation which was designed to give the death sentence to those who administered the oath for the purposes of murder. Now it has not been possible to work it according to the hon. Member, because of the evidence, the difficulty of obtaining evidence. I would like to submit, Mr. Speaker, in effect, that if there were no oath administrators, the movement would have great difficulty in spreading in the form it is, especially in the form that takes the man, who has accepted the oath, outside the bounds of civilization.

The point I would wish to get over is this: we would like to have heard the hon. Member, who told us that, the original form of the Emergency Regulation in that matter had failed, say he would give consideration to whether he could in effect, re-draft the regulation so that the oath administrator, himself, should be faced with the death penalty.

THE MEMBER FOR LEGAL AFFAIRS: I am obliged to the hon. Member for giving way. I gladly give him assurance that Government will consider the aspect of the matter, in view of the developments which have taken place recently, to try to amend the regulations in their existing form.

MR. BLUNDELL: Mr. Speaker, I should like to thank the hon. Member for that remark. We all know by now the difficulties that he will have in giving it consideration. It is precisely that angle which I wish to develop in this debate and get the hon. Member to accept that, where an Emergency Regulation is not working, we ought to look at it to see if we could simplify it.

There is another matter and, Mr. Speaker, you might rule me out of order, as it is getting close to a "new" matter in this debate. Similar difficulties may arise which will cause us to alter many of the Emergency Regulations which we have brought forward. It is difficult to operate them because we cannot get evidence, because soldiers, who capture men in the gangs, are required on operations. It is a matter we should consider whether we should not accept that

evidence for those Emergency Regulations can possibly be taken on affidavit. It is this sort of thing which needs consideration, arising out of the Emergency legislation, considering whether they are adequate to support the forces of law and order.

The next points I wish to refer to are those made by the hon. Member for the Coast. I would like to take a moment or two on them, because he raised one or two big issues. I do not think that any hon. Member at a public meeting has whined for more troops or manpower, and I do think that the hon. Member in, his anxiety to savage both friend and foe around him was perhaps a little bit guilty of over-statement.

MR. COOKE: Will the hon. Member give way to—

MR. BLUNDELL: No, I am not going to give way. I hope the hon. Member will stick to his seat like glue, and if it gets a bit warm, there will be no one more happy than I will be. (Laughter.)

To go on, Mr. Speaker, arising out of that, I would like perhaps to expand a little on my intention on the manpower, especially as many Members have taken it up. It is this, Mr. Speaker. We have now got five battalions locked up largely in static duties, and they could be part of an aggressive force if we could expand the police and replace those battalions with police. Now that is being done and that was a useful feature of the debate, some information came out about that. I do not believe that we will be able to get rid of much of the work which the Kenya Police Reserve are doing; for instance, for a very long time, and I wish to suggest that we should make a real effort to get from overseas the police officers which will be necessary, apart altogether from the help which we can get from the local people, to strengthen the force, but I do not think we can recruit through the Crown Agents. I would like to see a recruiting office opened in a real attempt to bring in something like 500 men on a three-year contract. Recruiting offices could be opened in suitable places and, I think, personnel manning the offices, to attract the men to come here, could be found from the people in this country who know the conditions. That, Sir, is quite

[Mr. Blundell] a different issue to some issue which an hon. Asian Member raised. I have been a supporter of the bringing-in of the Asian community to help us in this manpower, and I think it would not be betraying secrets if I say that, because the matter came up elsewhere, but the issues are just the same for them as they are for us. They are citizens of this country, who have to carry on farms and businesses and sustain the economy of the country. They have families and homes, and, if the Emergency, in as far as the Police are concerned, is going to go on for several years, the necessity is for more police and we must make a real drive to take the pressure off the local people as soon as possible. I do not think we have done that, nor do I think that we have had the imagination how to do it.

The second point, Sir, arising out of the hon. Member for the Coast's speech is this. It is inevitable, I think, that anybody in Executive Council is in an awkward position in this country when he disagrees strongly with Government, but when I have they have never been in any doubt about my intention to do so. Reading the speech of the hon. Member for the Coast, the implication is that, because the hon. Member for Kiambu and myself were on the Executive Council for several years, we must accept the responsibility for any sins of omissions or commission by Government.

Well, Mr. Speaker, I would merely like to record that I had only been a member of the Executive Council two months when the Emergency broke upon us and much of the preliminary disturbances and worry of the signs and symptoms took place at a time when the hon. Member for the Coast, himself, sat constantly and, I imagine, critically upon the Executive Council, so I think that is a matter we might possibly dismiss without too much relevance to myself. Secondly, Sir, I do recollect several occasions when the hon. Member was also a member of the Executive Council and led Motions especially on the cost of living, and was an ardent critic of hon. Members opposite.

It seems to me that it is the usual case of what is "saUCE for the goose is

not saUCE for "Cooke"—I thought I would like to record that.

The last thing, Sir, on the whole of this—which I think the hon. Chief Secretary understood is this. In the circumstances of this country a great deal of the support and confidence in the Government, curiously enough, is transmitted through the hon. Members on this side of the Council to the public, and if the hon. Members on this side of the Council always appear to be dumb or appear always to accept everything Government has done, much of the value of that link is removed. Now, Sir, it is not an easy matter for hon. Members on this side—who are placed in the sort of position that some of us are—it is not easy for us to carry out the proper function, either we are appearing to be too gladly following in the trail of the hon. Members opposite or at another time too energetically criticizing them. One must attribute to the constitution some of the difficulties which arise. (Applause.)

I also wish to comment on one or two points which the hon. Member for Indian Interests, Mr. Chaban Singh, made. I would like to assure him, Sir, that at no time did any Member in my group wish to destroy or remove what we call the basic principles of British justice and at a time when we were under considerable pressure at public meetings in Nairobi I laid that down quite clearly. I wish to record it so as to remove any suspicion from his mind—I would like also to take from his mind a second suspicion which I thought was lurking there. It is this, when I referred to the fact that hon. Members opposite are irremovable, I did not do so with any intention of trying to winkle in myself and become irremovable myself. It is because of their irremovability that many of the frustrations take place between the two sides of the Council which would not take place under a normal system. I would like to ask him to accept my assurance that I was not leading an attack on the irremovability of the Government, I was putting forward certain reasons why I thought the Chief Secretary should take certain action. Now, Sir, the hon. Member for Central Area, Mr. Madan, referred to the public and I would like again to deal with that. When I was speaking—

[Mr. Blundell] if he would look at what I said—I said the "public of all races"—and I cannot pretend that I represent the public of all races any more than he can—I am quite certain from the things the public of all sorts have stated to me, that in that particular instance I was entitled to say that the public of all races in certain cases in an Emergency such as this tended to lose confidence and on this, Sir, I do feel it is peculiar to find him criticizing the Police at one moment for the way in which they dealt with murders in River Road and Nyeri and the next moment taking me to task for criticizing Government. He cannot have it both ways, we all have to be angels or none of us. I do not think that we can be half angels and half the other. The last point is this—a question to which he refers—and I would like to congratulate him on it. One of the most serious things in the Emergency, and I am certain he must feel it as much as anybody is, is this drift which has taken place in relation between hon. Members on this side of Council as a result of the Emergency. Suspicion, mistrust and fear have arisen and there tends to be a gulf between us. I will endorse everything he says in this regard, that is one of the prices we shall have to pay for the tension we are under and it requires a considerable strength of mind on the part of all to avoid that gulf widening. It was, Sir, for that reason that I spoke about the question of confidence, and I would like in winding up to put a little time into this. I would like to ask the hon. Members opposite to accept again my assurances that I am not one who believes that a happy and contented public service can be run where promotions and dismissals are dictated by public resolution. I believe, what is more, that if any hon. Member opposite had done the job which I personally have had to do over the last nine months he would find there is hardly one prominent member of the Government service against whom severe criticism, attacks or demands of "off with his head" have not been launched and he will not find one instance where at a public meeting I have accepted those demands. In every case I have either attempted to defend the officer or where that appeared to me difficult I have

pointed out that a contented Civil Service cannot be run on the basis of promotion by public clamour. Now, Sir, I did not say that masses of heads must fall, nor did I say, Sir, that many Government Departments were not pulling their weight; that is not true, Sir. What I wish to convey to the hon. Chief Secretary is this; I would like to emphasize it because judging from the approbation with which his remarks were greeted it may well be that the hon. Members on the other side misunderstood me. First, Sir, I accept completely that anybody who undertakes a job, especially a job in the public eye, in Kenya must have a good thick skin and a proper sense of humour. I would like to add to that, however, this Sir, that those who succeed are likely to succeed anywhere and it is a first class testing ground for a man's ability. The issue I want to deal with is this, it is the very intangible and difficult issue of confidence—it is not something one can say—it is not an actual factor, it is something in man's mind and that brings me back to what the hon. Member, Mr. Madan, said. Today on our side of the Council inevitably the tendency—the stresses—of the Emergency make a gulf between us and a rallying point for this country must therefore of necessity be Government. In order to retain confidence in Government of people of all races, it is essential that the people should see that, where men through no fault of their own whatsoever fail to deal with the added burden of the Emergency, Government puts its house in order by seeking other men. Now that is no criticism of any individual hon. Member; what in effect it is is this. To-day we have problems and worries for public servants which were not normally in their training and not all produce the flexibility to meet them. When that happens it is important that Government should be seen to make the best use possible of its material and remove material which has failed. Now, Sir, I did not wish to direct my remarks to any particular department or any particular officer and I therefore took what I think was the proper course, of placing my remarks before the Chief Secretary on whom ultimately the lead in this Council falls. It was for those reasons I

[Mr. Blundell] developed my argument. That is all I want to say and I support the Motion.

The question was put and carried.

COMMITTEE OF WAYS AND MEANS

Committee of Ways and Means—
Order for Committee read. Mr. Speaker left the Chair.

IN THE COMMITTEE

[Sir Charles Mortimer, C.B.E., in the Chair]

MOTION

EXPORT DUTY (HIDES AND SKINS)
(VARIATION OF DUTY) ORDER, 1953

THE MEMBER FOR FINANCE AND DEVELOPMENT: Mr. Speaker, I beg to move a Motion on the Order Paper which deals with the necessity for this Council to approve by resolution within seven days of it being so laid the Order made by the Governor in Council entitled Export Duty (Hides and Skins) (Variation of Duty) Order, 1953.

I think, Sir, the Committee is aware that when the duty on hides and skins the export duty on hides and skins was introduced, the Member for Finance was called upon to calculate from time to time the average f.o.b. values of hides and skins. The Government did not increase the total impost previously levied as cess but merely separated this impost into two elements, duty and cess. The cess element being calculable on amounts necessary to cover the expenditure on hides and skins services during the year. Since the last alterations in rates of export duties there have been variations in prices and it became necessary to make further calculations of f.o.b. values in accordance with the Ordinance. These calculations show that, on the basis of the average of the prices obtaining over a period of three months ending one month prior to the date on which such values shall become effective, the overall impost should be fixed as from 1st July, 1953, as follows:—

A cess element which remains steady is—

	per 100 lb.
	Sh. cts.
Hides (air dried) ..	9 47
Goat Skins ..	6 00
Sheep Skins ..	4 73

The duty had to be revised and now will be as follows:—

	per 100 lb.
	Sh. cts.
Hides (air dried) ..	5 53
Goat Skins ..	29 00
Sheep Skins ..	5 27

These rates were approved by the Governor in Council according to the Order which has been laid before the Council. I do not think there is anything more to say, Sir, except to point out that we know well enough that the cess on hides and skins is bringing more money than the services are using, but there is a Committee sitting which is trying to find some way of assisting and developing the tanning and leather industry of the Colony and it was thought desirable that the cess should be kept at the present level pending recommendations and reports of that Committee. I will try to anticipate just one point which I think may be raised in the debate by pointing out that wet salted hides pay no export duty and that the cess paid on wet salted hide is at the rate of Sh. 4/73 per 100 lb.

Question proposed.

The question was put and carried.

MR. USHER: Mr. Chairman, I have been asked one question and I would like to put it to the hon. Member. Would he confirm my supposition that export duty is paid by the Meat Commission on its exports.

THE MEMBER FOR FINANCE AND DEVELOPMENT: I think it is correct to suggest, Sir, but I would like to make perfectly certain before giving a definite assurance that they do—the hon. Member for Agriculture and Natural Resources points out that these hides for the Meat Commission are nearly all wet salted, in which case they do not pay export duty.

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: The Meat Com-

[The Member for Agriculture and Natural Resources] mission is treated exactly the same as anybody else in this Colony.

THE CHAIRMAN: No other Member wishing to speak, I will put the question.

The question was put and carried.

THE MEMBER FOR FINANCE AND DEVELOPMENT: I beg to move that the Commission do report the consideration of the resolution to the Council.

Question proposed.

The question was put and carried.
Council resumed.

[Mr. Speaker in the Chair]

REPORT

SIR CHARLES MORTIMER: Mr. Speaker, I beg to report that the Committee of Ways and Means has considered Motion I under Order No. 16 and has approved of the said Resolution and recommended it for the approval of the Council.

THE MEMBER FOR FINANCE AND DEVELOPMENT: I beg to move that the Council do agree with the Committee in the said Resolution.

Question proposed.

The question was put and carried.

BILLS

SECOND READING

The Firearms Bill

THE SOLICITOR GENERAL: Mr. Speaker, I beg to move that the Firearms Bill be now read a Second Time.

This Bill, Sir, seeks to replace the existing Arms and Ammunition Ordinance which was enacted in the nineteen twenties as a result of, and following on, a Convention for the Control of Trade in Arms and Ammunition in Kenya, amongst other territories, which was concluded at St. Germain en Laye in 1919. That Convention was signed after the First World War and it related to the then post-war conditions. The existing Arms and Ammunition Ordinance was based on that Convention, parts of the text of which it reproduced extensively. It was, however, a statute primarily of principle rather than of detail and whereas the main principles of the con-

trol and regulation of arms and ammunition remain more or less constant through the years, the passage of time and changing conditions have demonstrated in a number of ways the need for more comprehensive and detailed provision for the control and regulation of arms and ammunition.

Accordingly this Bill, while it maintains the essential principles of the Convention, which are still binding on us, and discharges our obligation thereunder, provides, we believe, for stricter and more effective control than the old Ordinance which it repeals and replaces.

The Bill is drafted on the precedent of the United Kingdom Firearms Act of 1937 with modifications and supplements dictated by our local requirements. It does, however, adopt the main structure of the system of control provided for by that Act, a system which has stood the test of time in practical operation. The main feature of this Bill, as compared with the existing Ordinance, is that it places the responsibility for the licensing and control of firearms fairly and squarely on the shoulders which, in modern conditions, are the only shoulders which should bear it—that is the shoulders of the police. In a modern civilized State it is the police who are principally concerned with the firearms held by the public; it is the police who are concerned that firearms are held only by those whose discretion and competency in their use can be relied on; it is the police who are concerned with the enforcement of the law against those who use firearms to the danger or detriment of society. I do not think that the principle of police responsibility for this regulation and control of firearms is likely to be contested, particularly in the prevailing circumstances.

Now the intention is to propose to this Council after the Second Reading that the Bill be committed to a Select Committee but there are a number of matters of principle with which I feel I should deal in moving the Second Reading.

In the Bill the word "firearms" is defined in clause 2. It is a definition which is fairly common in this sort of legislation and the only point in it which is perhaps worthy of comment is that that definition includes not only firearms but the component parts of firearms.

[The Solicitor General]

That may seem strange at first sight but it is designed to cover cases of dismantled firearms and the like. There can be no distinction, under this definition, between dismantled firearms, and firearms which are entirely complete; it remains, for the purpose of the Bill, a firearm.

Part I of the Bill, which includes clauses 4 to 25, is the principal part of the Bill and deals with the purchase, sale, possession and dealings in firearms and ammunition. The underlying principle, as proclaimed in clause 4 (1), is that subject to the provisions of the Ordinance no person shall purchase, acquire or have in his possession any firearms or ammunition unless he holds a firearms certificate in force at the time. Now a firearms certificate is the form of licence or permit which the Bill contemplates.

In clause 5 the Bill sets out the conditions regarding the application for and the grant or refusal of firearms. I would like to call attention to the proviso to the second sub-clause of clause 5, which provides that "A firearms certificate shall not be granted to persons whom the licensing officer has reason to believe to be prohibited by this Ordinance from the possession of a firearm or to be of intemperate habits or unsound mind, or to be for any reason unfitted to be entrusted with such a firearm". It is, therefore, discretionary, the grant of a licence, and it is a discretion to be exercised on the lines statutorily prescribed in the Bill. It is, I think, sometimes not realized that even under the present law and certainly under the new Bill that the purpose of a licence is to license an individual personally, it is not to license a firearm which any person can then have for his possession, use, or to carry. It is "personal" in the sense that a driving licence is personal, necessarily, because there is a wide difference in the capacity and the reliability of an individual to use lethal weapons and to have them in their custody.

A firearm certificate remains in force for a year and will be renewable and it will be revocable under sub-clause (7) of clause 5 on the similar grounds to those I have quoted regarding grants of firearm certificates—namely if the holder is shown to be intemperate or of unsound

mind, or is otherwise unfitted to be entrusted with such a firearm.

Fees for firearm certificates will be prescribed by rule as provided in clause 6. There are certain exemptions from fees which are fairly obvious and call for no comment.

Clause 7 of the Bill contains exemptions from holding firearm certificates, the majority of them are very obvious exemptions and the only ones I need call particular attention to are those, first in sub-clause (7) of Clause 7 which reads—

"A person carrying a firearm or ammunition belonging to another person holding a firearm certificate relating thereto may, without himself holding a firearm certificate, have in his possession that firearm or ammunition under instructions from and for the use of that other person for sporting purposes only." The second category to which I would draw attention is that provided for in sub-clause (11) which makes provision for temporary permits in lieu of firearm certificates—temporary permits which can be issued for up to three months, and are designed to apply to the tourist trade in particular. People coming here on big game safaris and the like can obtain a permit to cover comparatively short stays without having to obtain the more permanent form of permit or certificate.

I would like also to invite attention to Clause 8 of the Bill which requires that when granting or renewing a firearm certificate, a licensing officer can require production of the firearms. That is related to a later clause, Clause 22, which makes it an offence not to report to the police the loss or destruction of firearms. Obviously unless a firearm can be produced when a firearm certificate expires, the efficacy of the clause requiring report of the loss would be very greatly reduced. That Clause also provides, of course, for the marking or identification of firearms for the purpose of checking, controlling and maintaining records.

Now dealings in firearms are very closely controlled under this Bill. Dealings can only be legitimate if carried on by registered firearms dealers and in Clause 13 (1) of the Bill, the proviso shows that here again a licensing officer may refuse to register an applicant if he is satisfied that the applicant cannot be

[The Solicitor General]

permitted to carry on business as a firearms dealer without danger to the public safety or to the peace. On registration, a firearms dealer is issued with a certificate of registration; in certain circumstances that certificate can be cancelled or rather, recalled, and if it is, then the firearms dealer can only carry on under certain limitations for the purpose of disposing of stock in hand. Not only are firearms dealers registered but their places of business are also required to be registered and they have to maintain registers of transactions under Clause 17, which, of course, are to be open to inspection and check, as is stock in hand, and the two, therefore, can be compared. Under Clause 18 a restriction is placed on the sale, repair, transfer and the like of firearms and ammunition, the basis of which is that no person is entitled to put another person in possession of firearms and ammunition unless that other person shows that he is authorized to have it, or similarly, no person is to be permitted to repair a firearm for a person who is not authorized to have it. In the registers of transactions the entries must be made within 24 hours and must include particulars of identity of purchasers of firearms.

Provision is made requiring care and safe storage and custody of firearms, both on the part of firearms dealers and on the part of the individual holder of firearms. In the latter respect provisions of the Bill have already been anticipated in the form of Emergency (Amendment of Laws) Regulations which have incorporated similar sections in the existing Ordinance.

Appeals against decisions of licensing officers can be made under Clause 23 to the Governor in Council. They have to be lodged within fourteen days after the date on which the decision appealed against is communicated to the appellant.

By Clause 24 air guns and air pistols are removed from the scope of control unless they are of a particularly dangerous type, in which case they can be so decided by the Chief Secretary.

Part II of the Bill deals with a number of matters, prohibited weapons, importation and the exportation and the like. Clause 26 requires a special authority for a person to sell or transfer or purchase or have in possession either an automatic weapon or a weapon discharging noxious

liquid, gas and the like and ammunition therefor. Clause 27 governs the importation or exportation of firearms and ammunition and import and export permits are required but, here again, an attempt has been made to reduce to a minimum delays and irritations which visitors and tourists might encounter and which might be thought to affect adversely our tourist trade. Procedure will be somewhat more convenient under this new Bill but there is a limit beyond which the convenience of these people cannot be given preference over the need for maintaining safety and security in regard to firearms in the country. Arms of war and ammunition of war can only be imported or exported by special licence of the Governor in Council. Import of firearms and ammunition will only be permitted at special points of entry to be gazetted. There are other clauses in this part dealing with the transportation of firearms, removing firearms from Customs control and the like, which are a matter of detail or which I do not need to comment I would call attention to Clause 32 which provides in effect a limit of 21 years on the age of a person entitled to have or to be given possession of firearms, though by certain reservations they are entitled to fire at a shooting gallery or the like.

Clause 33 introduces a new principle to our firearms law. It provides that a person who has been sentenced to a term of imprisonment or detention of any description in an approved school or other place of detention for a term of three months or upwards for any offence shall not at any time during a period of five years from the date of his release, have a firearm or ammunition in his possession. He can, however, make special application to the Governor in Council for exemption from that restriction.

There is in Clause 34 provision, which again has been anticipated in our Emergency Regulations and included by way of an amendment of the Laws Regulation in the existing Ordinance, which makes it an offence for anybody to be drunk or disorderly whilst carrying firearms.

In Part III of this Bill provision is made in Clause 37 for the circumstances in which firearms or firearm certificates can be cancelled or forfeited by order of the Courts convicting a person for an

[The Solicitor General] offence under the Ordinance. The remaining provisions of that part are, for the most part, fairly formal and do not call for any substantial comment, except Clause 46, sub-clause 3, which relates to the application of the Bill to Crown servants and the extent to which Crown servants are removed from the normal Crown immunity from the statute. In effect, it renders them liable to what I might term the individual requirements and restrictions of the Bill.

Mr. Speaker, the Bill will require, once it is passed, a considerable amount of subsidiary legislation in the form of forms and rules and for its operation, of course, it will require a new organization to be set up within the present organization of the police since this function for administering this law is moving from the administration to the police. It is probable therefore and it is hoped that the Bill will come into force at the commencement of the new licensing period on the 1st January. In general, Mr. Speaker, the Bill provides for a modern and strict and we feel an effective form of control and regulation particularly in the circumstances and conditions which prevail in this country at the moment. I commend it to this Council.

THE CHIEF SECRETARY seconded.

Question proposed.

MR. COWIE (Nominated Member): Mr. Speaker, I only have a few questions I would like the hon. Solicitor General to answer in the course of his reply. They relate to the definition of firearms in the beginning. I would like to know if it is the intention of this Bill to make the application of it as wide as seems to be implied in this definition. One could read it under the second part of the firearms definition, that a weapon of whatever description, design, etc., does that include a cross-bow or a bow and arrow?

MR. HAVELOCK (Kisumu): Water pistols?

MR. COWIE: The last part of the definition where it refers to any component parts of such a weapon, I have to refer you to the very last remark of the hon. Mover, when he said that this Bill was partly designed to meet present conditions. I would like to ask for his assurance that the Bill is not being de-

signed mainly to meet the present needs of the Emergency. The inclusion of component parts in the definition of firearms does strike me as being designed to meet with certain conditions that prevail now. I think it would be unlikely that possession of component parts of firearms should in the course of time be as grave an offence as it is made out to be here. Therefore, I would like some kind of assurance as to whether or not certain portions of this Bill could not be better met with Emergency Regulations which may eventually be removed leaving the Bill itself to stand the test of time and to suit the conditions of peace which we hope to achieve.

I beg to support

LADY SHAW: Mr. Speaker, there are one or two points I want to raise which I think can be dealt with in Select Committee, which, strike me as perhaps a little too large to send to the Select Committee, if a Select Committee is appointed, without first mentioning them here. They are both really hanging to some extent on the last remark of the last speaker. That is to say they seem to be matters to be dealt with under the Emergency Regulations and should not be a part of form a part of the permanent Bill.

Now, one of them is this question—I think it comes under Clause 8—of the firearms certificate. Now, as I read this, the certificate for a firearm, an individual firearm, is personal to the holder. That firearm may not be lent to another person who holds a firearms certificate. That sounds all right if you say it quickly, but it produces the most fantastic situations. Suppose an hon. Member came to stay with me and wanted to go and shoot partridge. He holds a firearms certificate, he holds a game bird licence or whatever it may be, but because he happens to arrive without a gun, although I have two guns, I am not in a position to lend him my gun. That seems fantastic.

THE SOLICITOR GENERAL: Would the hon. and gracious Lady say to which clause of the Bill she is referring.

LADY SHAW: It is No. 8, the whole way through. The question of a certificate under Clause 8, which is backed up later by the question of being able to lend a gun under the instructions, which includes gun-bearers, in a later clause.

THE SOLICITOR GENERAL: I think the hon. and gracious Lady is under a misapprehension. The restriction against giving and lending and the like are limited to prohibiting those actions in respect of another person not authorized. If the other person has a firearms licence, which entitles him to use or have in his possession the firearm, in question, of course, it can be handed over to him.

LADY SHAW: If that is so, I am satisfied. I would like to be sure it is covered in the Bill.

My point is, if you hold a firearms licence a licence to use a firearm—that is an individual firearm number so-and-so, a licence for a firearm A, are you allowed to use firearm B belonging to someone else? That is my whole point and now you have given me my answer. You go and stay with a man who holds a firearms licence and a gun. He is not in a position to lend you that gun, in spite of the fact that you are a licensed holder of firearms and are presumably not of intemperate habits. It may be impossible for you to use that gun. That does seem a most exaggerated form of protection. It may be tight and suitable in the time of the Emergency, in which case it can come in under the Emergency Regulations. It would not form part of the permanent piece of legislation designed for the ordinary, normal, commonsensical use of firearms. This is going to bring up in the Select Committee, for I think it is an absurd provision.

Another matter which also arises in the Ordinance is this question of lending a revolver or automatic for protection. Again I am not talking about the Emergency, these things should be limited most strictly during the period of the Emergency and special arrangements will be necessary for the holder of firearms, revolvers or automatics by a member of a family who is not really liable for that firearm, but in the ordinary way of life it does seem a little ridiculous if you have a son who is licensed to hold and to use a firearm, he cannot use your revolver if he has taken out a licence for a shotgun, it is perfectly obvious that in a family of four or five, not all are going to have a revolver or shotgun. If you are known to be a suitable

person to use that gun, under certain circumstances it seems ridiculous that something cannot be done about it. I think something should be done. You cannot all of you take out one licence for one gun, it must be worked out for ordinary normal times that that particular convenience can be arranged whereby a member of the family or reasonable people, friends and so, should be able to be lent a properly licensed firearm.

Now, the last point I would like to bring up is the question of the age of fourteen. I am not suggesting that a boy of thirteen, eleven or twelve should go out into the wilds with a .303, but I do suggest to you, Sir, that a very large number of little boys of ten or eleven have been carefully taught by their fathers to use a .22. My own sons were most excellent shots with a .22, shot a large number of various kinds of animals at the age of ten or eleven. Given that the child is properly taught or instructed in suitable places, not in the middle of town, to use a .22, I cannot see why they should not do so.

MR. CROSSKILL: Mr. Speaker, I welcome this Bill in that it not so much imposes further restrictions on the possession of firearms but provides a greater degree of control which is so necessary. There is in my opinion, and the opinion of Members on this side, a number of amendments which should be made and I am glad therefore that the Government is committing this to a Select Committee.

There are four points of principle on which I would like to comment at this stage. First of all, in clause 4 which refers to the greater penalties which can be imposed in the Northern Frontier District than other parts of Kenya, to which I agree, I would suggest it might be useful to add to that "other specified areas". It would, of course, be very necessary to see that the Northern Frontier District was delineated with greater care on the map, with far greater care than it appears to be at the present time! (Laughter.)

MR. HAVELOCK: Well done!

MR. CROSSKILL: Like the hon. and gracious Lady for Ukamba, I am not

[Mr. Krossell]
 happy about the lack of provision in this Bill for lending or borrowing. I have a suggestion for carrying that out. It would undoubtedly cause hardship or inconvenience in any case, if it is not possible in some or various circumstances under certain circumstances of a family, for sporting purposes, and so I understand the hon. Member would be necessary for every-thing which was used to have a firearm certificate. But surely a firearm certificate need only be taken out if one owns a firearm. Therefore, provision should be made in another manner for borrowing or lending under limited circumstances. I suggest it could possibly be done by issuing a "Permit to use." A "Permit to use" in any form would be issued under the present system as provided for in this Bill for the issue of firearm certificates. It would not be necessary to have an actual permit to use a firearm, but a "Permit to use" which could be issued as a certificate of competency is for driving a motor vehicle, a certificate issued once satisfying the applicant's needs, but would not alter in any way the issue of a firearm certificate as provided for in the Bill. For the moment I am not sure what I would like to suggest, but I think what we must have is an immediate abuse of the law, to witness that if there is no provision made for borrowing or lending, there will be abuse which would be very serious.

The other point which I have to make, is a point under clause 1 which provides that the licence certificate will be valid for one year after the year and is valid up to the end date in the following year. I suggest it would be more correct if provided for the owner of the firearm if it is taken out by the licence holder. But in my list of amendments, I have stated that it would be better to provide for the licence holder, but I do not think it would be necessary to provide for the licence holder, but it would be more correct if provided for the licence holder. I suggest it would be more correct if provided for the licence holder, but I do not think it would be necessary to provide for the licence holder.

The hon. Member is well treated by the Council. I suggest the Committee should consider the provisions of the Bill which are necessary.

with regard to a gun-bearer which I think, is so temporary that it might be allowed to pass, but with regard to sub-sections 8, 9, 10 and 11 of Clause 7, I feel very strongly that all those bodies or persons should be obliged to take out firearms certificates for the reason that Government can then control and examine those arms and know where they are. I recommend that even such bodies as clubs, owners of miniature ranges and even persons who have arms for the purposes of starting athletic races should be obliged to have firearms certificates. It is quite possible for this certificate to be issued free but for the very purpose of control it is very necessary that they should have them. I see no good reason why they should be exempted.

Subject, therefore, Sir, to these recommendations and to others which will be made from this side of Council, I beg to support.

GROUP-CAPTAIN BRIGGS: Mr. Speaker, Sir, I would like to support what the hon. Member for Mau has said. One additional point—I wonder if the hon. Solicitor General would consider including a provision that reminders should be sent out to the holders of firearms certificates so that there is no question of very heavy penalties being imposed purely due to lack of memory on the part of the holder.

There are two other points which perhaps he could also cover up Clause 16 (1) which says "Any firearm which is so designed or adapted that if pressure is applied to the trigger, the muzzle cannot be discharged until pressure is removed from the trigger or the magazine containing the missiles is empty," has referred to the matter in reference to automatic weapons. As he is speaking there are a number of weapons in the possession of our police forces, which are I think of course, in some cases, which are not strictly automatic weapons but can be adjusted in such a manner as to fire in bursts and I think it is a matter which should be considered. I think the maximum number is in the nature of three or four, where hardship is imposed in the case of such weapons and if they are prohibited from holding them and they are

[Group-Captain Briggs]
 required in self-defence. They might find some difficulty in replacing them.

There is one other point on behalf of all the small boys in the Colony, that is Clause 26 (b): "Any weapon of whatever description designed or adapted for the discharge of any noxious liquid, gas or similar thing." Perhaps my hon. and learned friend was referring to water pistols, perhaps he would say whether they would be prohibited.

MR. MATHU: I have only one matter I would like to raise in support of the Second Reading of this Bill and that is to request that the Solicitor General should look into it. I refer to section 33 where persons who have been sentenced to imprisonment or detention for three months or more for any offence will not be allowed to possess firearms for a period of five years. This is a very wide power. I would like to confine the penalty only for very serious offences. I would like to ask the Committee whether they would go into this and find out whether this question should only affect those persons who have been found to possess their firearms to the extent of manslaughter or murder—something very serious of that nature. If we feel we would like to cover this person who has been put inside for three months or more or detained, then I suggest the way to cover that would be by the way of Emergency Regulations until we go through our present difficulties to normal times. I think, Sir, the powers provided in 33 (1) are very wide indeed. I have in mind sub-section (3) where persons may apply for exemption, but I do think even with that safeguard, these powers are excessive.

Mr. Speaker, I support the Motion.

THE SPEAKER: It is now a quarter to the Council will stand adjourned until 10.15 a.m. to-morrow morning.

ADJOURNMENT

Council rose at forty-five minutes past Twelve o'clock p.m.

Wednesday, 29th July, 1953

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

[Mr. Speaker in the Chair]

PRAYERS

ORAL NOTICE OF MOTION

THE CHIEF SECRETARY: Mr. Speaker, I beg to give notice of the following Motion—

BE IT RESOLVED that a Select Committee be appointed for the purpose of the superintendence and management of the catering for Legislative Council, to consist of the following Members:—

Major the Hon. F. W. Cavendish-Bentuck, C.M.G., M.C., (Chairman)

Dr. the Hon. I. F. Anderson, O.B.E.

The Hon. M. Gikonyo

The Hon. N. F. Harris

The Hon. W. B. Havelock

Dr. the Hon. S. D. Karve, O.B.E.

The Hon. C. B. Madan

The Hon. I. E. Nathoo.

ORAL ANSWER TO QUESTION

QUESTION No. 122

MR. W. W. W. AWORI asked the Member for Education and Labour how many Africans, Europeans and Asians have received loans from the Education Loans Management Board and the amounts allotted in each case?

THE MEMBER FOR EDUCATION AND LABOUR: Two Africans, 21 Asians and 13 Europeans have so far been in receipt of loans from the Board of Management for Educational Loans. The total sums approved have been £1,520 for the African, £10,204 for the Asian and £5,796 for the European loans.

BILLS

SECOND READING

The Firearms Bill

Debate continued.

MR. SLADE: Mr. Speaker, I hope I shall not be wasting the time of the Council if I elaborate two points of principle made by other speakers yesterday.

[Mr. Crosskill]

happy about the lack of provision in this Bill for lending or borrowing. I have a suggestion for carrying that out. It would undoubtedly cause hardship or inconvenience, at any rate, if it is not possible to lend or borrow under certain circumstances for protection among various members of a family, for sporting purposes also, and as I understand the hon. Member, it would be necessary for everyone who uses arms to have a firearm certificate. But surely a firearm certificate need only be taken out if one owns a firearm. Therefore, provision should be made in another manner for borrowing and lending under limited circumstances—I suggest it could possibly be done by having a "Permit to use". A "Permit to use" an arm would be issued under the greatest scrutiny as provided for in this Bill for the issue of firearms certificates. It would not be necessary to have an owner's permit to use a firearm, but a "Permit to use" which could be issued as a certificate of competency is for driving a motor vehicle, a certificate issued once only during the applicant's lifetime. That would not alter in any way the issue of a firearm certificate, as is provided for in this Bill, for the owner of a firearm. But I think what we must avoid is any unavoidable abuse of the law. I do believe that if there is no provision made for borrowing or lending, there will be abuse which would be very wrong.

The next point which I have to make, Sir, is with regard to clause 5 which provides that the firearms certificate will be taken out any time during the year and is renewable at the same date in the following year. I suggest it would be much more convenient for the owner of the firearm if it were taken out by the calendar year, that is on the 1st of January each year. Not only would it be more convenient for the owner of a firearm in that he would remember among his other licences, that it was necessary to renew the firearms certificate, but it would be much more convenient for Government in checking up and controlling the possession of firearms which is so necessary.

My fourth point is with regard to Clause 7 which provides for exemption from firearms certificates. The first is

with regard to a gun-bearer which, I think, is so temporary that it might be allowed to pass, but with regard to sub-sections 8, 9, 10 and 11 of Clause 7, I feel very strongly that all those bodies or persons should be obliged to take out firearms certificates for the reason that Government can then control and examine those arms and know where they are. I recommend that even such bodies as clubs, owners of miniature ranges and even persons who have arms for the purposes of starting athletic races should be obliged to have firearms certificates. It is quite possible for this certificate to be issued free but for the very purpose of control it is very necessary that they should have them. I see no good reason why they should be exempted.

Subject, therefore, Sir, to these recommendations and to others which will be made from this side of Council, I beg to support.

GROUP-CAPTAIN BRIGGS: Mr. Speaker, Sir, I would like to support what the hon. Member for Mau has said. One additional point—I wonder if the hon. Solicitor General would consider including a provision that reminders should be sent out to the holders of firearms certificates so that there is no question of very heavy penalties being imposed purely due to lack of memory on the part of the holder.

There are two other points which perhaps he could also clear up. Clause 26 (1) assesses "Any firearm which is so designed or adapted that, if pressure is applied to the trigger, missiles continue to be discharged until pressure is removed from the trigger or the magazine containing the missiles is empty". has referred to that intention in reference to automatic weapons. As he is probably aware, there are a number of weapons in the possession of quite reliable people, which are, I think, of German, in some cases Italian, origin, which are not strictly automatic weapons but can be adjusted in such a manner (Laughter.) My hon. and learned friend that a number of shots can be fired in succession; I think the maximum number is in the nature of nine. I do feel some hardship is imposed on the owners of such weapons and if they are prohibited from holding them and they are

[Group-Captain Briggs]

required in self-defence. They might find some difficulty in replacing them.

There is one other point on behalf of all the small boys in the Colony, that is Clause 26 (b): "Any weapon of whatever description designed or adapted for the discharge of any noxious liquid, gas or similar thing". Perhaps my hon. and learned friend was referring to water pistols, perhaps he would say whether they would be prohibited.

MR. MATHU: I have only one matter I would like to raise in support of the Second Reading of this Bill and that is to request that the Solicitor General should look into it. I refer to section 33 where persons who have been sentenced to imprisonment or detention for three months or more for any offence will not be allowed to possess firearms for a period of five years. This is a very wide power. I would like to confine the penalty only for very serious offences. I would like to ask the Committee whether they would go into this and find out whether this question should only affect those persons who have been found to possess their firearms to the extent of manslaughter or murder—something very serious of that nature. If we feel we would like to cover this person who has been put inside for three months or more or detained, then I suggest the way to cover that would be by the way of Emergency Regulations until we go through our present difficulties to normal times. I think, Sir, the powers provided in 33 (1) are very wide indeed. I have in mind sub-section (3) where persons may apply for exemption, but I do think even with that safeguard, these powers are excessive.

Mr. Speaker, I support the Motion.

THE SPEAKER: It is now a quarter to one. Council will stand adjourned until 12.30 on to-morrow morning.

ADJOURNMENT

Council rose at forty-five minutes past Twelve o'clock p.m.

Wednesday, 29th July, 1953

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

[Mr. Speaker in the Chair]

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BILLS

SECOND READING

The Firearms Bill

Debate continued.

MR. SLADE: Mr. Speaker, I hope I shall not be wasting the time of the Council if I elaborate two points of principle made by other speakers yesterday.

[Mr. Slade]

The first is the point made by the hon. Members for Ukamba and Mau concerning the form and effect of a firearms certificate under this Bill, as now drawn. It seems to me, Mr. Speaker, that the Bill in its present form is attempting to do with one hand work which requires two hands. The proposed firearms certificate will be a certificate issued to specified individuals in respect of specified firearms only, which means that whoever holds a firearms certificate is limited to certain weapons that he may use with the very stringent and, in my view, unnecessary results pointed out by the hon. Member for Ukamba, in that holding a firearms certificate in respect of certain weapons you cannot allow members of your family or guests to use those weapons whether for protection or sporting purposes unless they have a firearms certificate in respect of the same weapons. It does seem to me, Mr. Speaker, that we have got to reconsider this, particularly bearing in mind that this is permanent legislation and not Emergency legislation. The real issues are two-fold, as for motor vehicles. The first involves the fitness of an individual to use firearms generally or firearms of specified types. The second, and quite a different one, is the registration and ownership of firearms. I do not think those two issues can be covered by one certificate.

My hon. and learned friend, the Solicitor General compared the certificate under this Bill to a driving licence. That is what it should be like but it is not like that at present. It should be a certificate recording that the person specified therein is considered fit to possess and use firearms generally or, if you like, restricted kinds of firearms as you have, or used to have, with the certificate of competency: for example where you could get a certificate for the old T. Model Ford and not for any other kind of car. Then if you have a certificate of competency, call it what you like, call it a firearms certificate, which authorizes an individual to use firearms generally; along with that you have a licence, as you have with motor cars, for specified firearms and you have a system of registration showing who owns that firearm, and any change of ownership. You must arrange as with

motor cars for transfers of ownership to be recorded in the register and in that way, in my submission, you will get the required results.

Given a firearms certificate you will be allowed to use any of the kinds of weapons specified in that certificate as long as those weapons are properly registered and licensed. It will be an offence though if, not having a firearms certificate, you use any weapon licensed or unlicensed; or again an offence if, having a firearms certificate, you use an unlicensed or unregistered weapon. I am afraid if that principle is accepted it will involve a certain amount of recasting of the Bill, but I think not so much as might at first appear, because nearly all of the provision in the Bill relating to a firearms certificate can still apply to what I call a certificate of competency and it only means adding a few provisions for the licensing and registration of specified firearms.

The other point I want to elaborate is the point made by the hon. Member for African Interests, Mr. Mathu, concerning clause 33 (1). As he pointed out, that clause is very wide in its present provision and particularly when you bear in mind that it provides for automatic forfeiture of firearms certificate for five years. As it stands, it lays down that if anyone goes to prison or detention for three months or more, for any offence whatsoever, he cannot be allowed to have a firearm for five years, unless he makes a special appeal to the Governor in Council and gets exemption which does produce a curious result, as an hon. Member has pointed out to me, that if you are sent to prison for bigamy you are minus your revolver for five years. (Laughter.)

It appears to me, Mr. Speaker, that really the necessary provision is made in clause 37, which overlaps 33 and the provisions of clause 37 might be sufficient by themselves. That clause provides that where any person is convicted of any offence, whether under the Ordinance or for any other offence for which he is sentenced to imprisonment for any term, the Court then has discretion to make an order for forfeiture or disposal of firearms and to cancel firearms certificates or permits. That I should have thought was enough. If, however, it is considered necessary to have clause

[Mr. Slade]

33 (1) as well, I would suggest that it be limited to offences which, in the judgment of the Court, have involved improper or careless use of firearms certificates or have indicated a tendency on the part of persons convicted towards improper or careless use of firearms certificates, because those are the only cases in which it could be appropriate to forfeit a firearms certificate, by reason of conviction or imprisonment.

There is another aspect of clause 33, Mr. Speaker, which is even more important in principle. It is the same point that was raised only last week by the hon. Member for Uasin Gishu on the Traffic Bill. This question of automatic punishments—section 33—as I have already pointed out provides that, in the event of certain convictions and sentences, there will be automatic forfeiture of licences for five years. Mr. Speaker, I do contend that automatic punishment of any kind should be avoided wherever possible. You cannot always avoid it, as we know for example in the cases where sentences of death are considered necessary but in a case like this it is quite unnecessary and it is far better to give the Courts in each case discretion. It is quite easily done if you provide by this section, as you have provided by clause 37, that in this specified class of case, the Courts, having regard to all the circumstances of the case, may forfeit the firearms certificates for any period up to a maximum of, say, five years and then you would be meeting the object of the clause, and at the same time giving the Court that latitude and discretion that is always desirable in the light of the case concerned. (Applause.)

MR. JEREMIAH (African Representative): Mr. Speaker, I have only a little comment to make in regard to the principle contained in clause 19. In this clause it is provided: "Whereas a registered firearms dealer is convicted of an offence against this Ordinance, or against any law for the time being in force in the Colony relating to customs in respect of the import or export of firearms or ammunition, the Court may order—(a) that the name of the registered firearms dealer be removed from the register; and (b) that neither the dealer nor any person who acquires the business of that dealer, nor any person who

took part in the management of the business and was knowingly a party to the offence, shall be registered as a firearms dealer".

Now, Sir, here perhaps the hon. Mover will tell us if the person who is going to acquire the business, if that dealer is not going to be registered, how is he going to acquire business at all?

Another point in clause 19 (c). It also says: "That any person who, after the date of the order, knowingly employs in the management or conduct of his business the dealer convicted of the offence, or any person who was knowingly a party to the offence, shall not be registered as a firearms dealer."

Justice is not going to be carried out properly, because it appeared to me that the person convicted is going to lose his licence for dealing, and also after that he is going to be prevented from being employed in business of the same kind as trade, that is firearms. My objection is that this man is going to suffer twice for one offence that has been committed once and I think the Government or the Committee of Supply concerned will have to consider that and perhaps make it unnecessary for a man who is convicted not to be employed again in the same kind of business.

THE SPEAKER: No other Member wishing to speak, I will ask the hon. Mover to reply.

THE SOLICITOR GENERAL: A number of very useful points have been raised in this debate and I would like to assure the Members who have raised them that they will be considered in Committee. I do not, of course, wish to anticipate that consideration unduly, but I feel that certain points do call for an answer from me at this stage.

Some Members asked whether this Bill has been drawn specially for Emergency conditions. The answer is quite definitely no. It is permanent. It is designed as a permanent measure and it is based on the precedent of the United Kingdom Act of 1937, which is permanent and is a peace-time statute. The Bill does not effect or replace the special provisions relating to the firearms and ammunition which are contained in the Emergency Regulations and which will only remain for the duration of the Emergency.

[The Solicitor General]

Mr. Speaker, I think it would be convenient if I dealt with some of the points raised *seriatim*.

The hon. Nominated Member, Mr. Cowie, raised a question on the definition of "firearm". He asked if it would include a cross-bow and, in my opinion, it would not include a cross-bow, because the definition talks of a lethal barrelled weapon—I confess I am not an expert in the handling of a cross-bow—in fact I know precious little about a cross-bow, but my dictionary informs me that the main characteristics of a cross-bow are first a release mechanism and secondly a groove for missiles.

Mr. Cowie: Will the hon. Member give way? My question related to the second part of the definition and not to the first, where it states "Any weapon of whatever description or design" could the hon. Member please cover that point?

THE SOLICITOR GENERAL: I thought I had replied I am wrong.

Mr. HAYFLOK: You are?

THE SOLICITOR GENERAL: "Any weapon of whatever description designed or adapted for the discharge of any noxious liquid, gas or other things."

Mr. Cowie: Or other thing.

THE SOLICITOR GENERAL: "Other thing" is most clearly governed by "noxious". It is a matter of construction and "noxious" governs "liquid, gas or other thing". If it were not a necessary grammatical inference it would follow from what is known as the *ejusdem generis* rule.

I should like also to assure my hon. friend, the Member for Mount Kenya, and all his little friends that water pistols are safe. In other words, they can go on squirting themselves to their hearts' content without a firearms certificate. I feel that I shall earn the lasting dislike and condemnation of school masters and parents for this statement which would also apply, incidentally, to pea-shooters.

The question of borrowing and lending—I entirely agree that it is a most important one and one which will have to be considered very carefully in the Select Committee. For myself, I hold no very strong views, except, as was said in

Hamlet—I cannot remember who by—"borrowing dulls the edge of husbandry"—we must not dull the edge of control. That is the only qualification, the one reservation we must bear in mind when dealing with this question of borrowing and lending. We need, as my hon. and learned friend for the Aberdare said, both the assurance of competency in the individual and registered records of firearms held in this country.

There is another point, too. As I think he is aware, firearms can vary greatly, both in effect and in weight, and in the ability to use them.

The hon. and gracious lady from Ukamba suggested that in clause 32 the age limit of fourteen years was too high and she quoted, as an example, her own children. Well, of course, all other children may not be of the same standard as the hon. and gracious lady's children, but again we will have to consider that it could be reduced, possibly, in respect of particular weapons, such as the 22 rifle or a 20-bore shotgun.

The hon. Member for Mau suggested that the specially severe penalties, described in clause 4 (2), in the Northern Frontier District might very well apply more widely. That special penalty is designed as a sanction against arms running. I think that anyway it might very well be extended to all of the Northern Province, and whether or not power is required to extend it *ad hoc* to other areas can be considered by the Committee.

The same hon. Member also suggested that the licensing period should be from the 1st January to 31st December. Again that can be considered. But we must also remember that many other licences also run from the 1st January and it requires a bit of a feat of licensing if we put too many licences into the same period. If it can be done, it will be done, but there are difficulties. There are, of course, also advantages, it would cover the point made by the hon. Member for Mount Kenya regarding the reminders, which would not then be necessary. Even if the licensing period is retained, as at present to run from the issue of licences, I do not think I could give the hon. Member an assurance that we will provide in the Bill for reminders to be sent, although attempts would be made once the

[The Solicitor General]

organization had been built up and the system working and attempts to introduce some administrative system of reminders.

The hon. Member for Mau also suggested that the three exemptions provided in sub-clauses (8), (9) and (10) of clause 7 should go, that these exemptions were undesirable and that persons to whom they relate should be required to have a firearms certificate. Again, of course, the views of the Committee will be ascertained on these points, but I think it is worth pointing out that of these three exemptions—sub-clause (8) refers to members of a rifle club or cadet unit using weapons which belong to the club or unit, and in respect of which the club or unit may have a firearm certificate using them as members for the purposes of drilling or target practice. It might, I suggest, be very difficult or rather unnecessary to require each member to have a firearm certificate in respect of the weapon he uses for target practice or drill when the weapon is already on a firearm certificate held by the club or unit. As regards sub-clause (9), that relates to shooting galleries and is confined to miniature rifles not exceeding 22 calibre. It also exempts from the necessity of having a firearm certificate what I might call customers of shooting galleries. Again, I think it might be unnecessary to require those people to have firearm certificates.

As regards people starting races at athletic meetings, that does not happen very frequently and it is a question of opinion whether on each occasion the starter should have a firearm certificate. It is, in my opinion, not necessary, but it will be considered.

Now the hon. Member for Mount Kenya, in regard to clause 26, stated that a number of persons are already in possession of weapons which could be adapted for use as automatic weapons. That may well be so, but I do suggest to him that no very great hardship will result for those persons, since if they are suitable persons to have automatic weapons, they will be able to apply to the Chief Secretary for authority.

Clause 33, to which the hon. Member for African Interests and the hon.

Member for the Aberdare referred, is, I agree, a very stringent clause.

It is a matter of opinion as to whether one approaches the question—the problem—from the angle disclosed in this Bill that you apply a stringent prohibition with an escape clause for relaxation on application, or whether you water down your prohibition and make it applicable only in limited sets of circumstances—that again will be considered in the Select Committee.

There is, however, this point to be remembered. I think that violent crime has been all too frequent particularly in the period since the war, and that any form of deterrent or preventive-sanction is not likely to be found unhelpful.

Lastly I come to the hon. Member for African Interests, Mr. Jeremiah's remarks regarding clause 19. Clause 19 again is a very stringent clause and designedly so. It is for the purpose of disciplining firearm dealers. Firearm dealers have large stocks of firearms in their possession, they are persons who can, if they are so disposed, place in possession of firearms those who through the use and possession of those firearms can be of grave danger to the community. It is essential that this bill imposes on firearm dealers stringent restrictions and that they are stringently enforced, and for that reason I personally—although it will be considered in the Select Committee—I personally would not water-down the provisions of clause 19. It virtually results in placing a firearm dealer whom the Court thinks has offended gravely against the provisions of this Bill, with which he is required to comply, it places him beyond the pale; he is not allowed thereafter to engage or be employed in firearms dealing. If the Court takes that view—remembering that the powers under this clause are discretionary—if the Court does take that view, then I think it entirely right and proper that the man convicted—the firearm dealer—and those who participate with him in his offence should be disqualified from further participation in that line of business. They are not to be trusted and they have forfeited the right to engage in that business.

I think I have dealt with the points raised in this debate and I wish to do whatever it is that my hon. friend from

[The Solicitor General] the Rift Valley did yesterday—I move the Motion.

The question was put and carried.

Ordered to be read a Second Time and committed to a Select Committee.

SELECT COMMITTEE

THE CHIEF SECRETARY: Mr. Speaker, I beg to move that a Select Committee be appointed on the Firearms Bill consisting of the following:

The Chief Secretary (Chairman)

The hon. M. H. Cowie.

The hon. F. N. Gullith-Jones.

The hon. H. L. Adams.

The hon. H. Slade.

The hon. W. F. Crosskill.

The hon. Zalrud Denny.

The hon. J. Jeremiah.

The hon. Sherif Abdullah Salim.

Question proposed.

The question was put and carried.

The Ex Officio Members of Executive Council (Transfer of Functions) Bill (Bill No. 45)

THE CHIEF SECRETARY: This Bill, Sir, has two particular merits, it is short and secondly, it says what it means and it means what it says. (Applause.) I do not think, Sir, that it is necessary for me in those circumstances to go into detail. It is a matter of administrative convenience of altering the specific Members in particular laws which are affected by transfer of functions which have been made under the Royal Instructions.

THE MEMBER FOR LEGAL AFFAIRS seconded.

Question proposed.

MR. USHER: Sir, I wish to raise one question in connexion with this Bill and I hope that it will be possible for the hon. Mover to give me some satisfaction in it because I mean what I say and I am going to say what I mean. Sir, I think in this Council, we all of us look forward to the time when the Members referred to in this Bill become—will have become Ministers, emerging from the dull chrysalis to the bright hues of a butterfly, or if you like, from the state of a mortal to something approaching that of the

Olympians. (Hear, hear.) One of the things that Olympians enjoyed, Sir, was otiosity, and we feel that many of our Members are encumbered too much with the cares of their departments. If I go into the office of The Member for, shall we say, Health, Lands and Local Government, I find that he has more piles of files than ever he had when he was head of a department. We should like to assist in the evolution, Sir, that I have referred to, and I wish to ask the Government if it will consider when taking action under this Bill when it becomes law, how far there can be a devolution of authority now exercised by Members to the heads of departments whereby Members will obtain greater leisure and whereby heads of departments will be strengthened. That, Sir, is my point.

THE SPEAKER: No other Member wishing to speak. I shall ask the hon. Mover to reply.

THE CHIEF SECRETARY: Mr. Speaker, Sir, the matter raised by the hon. Member is one of great prospective comfort if I may say so Sir.

MR. HAVELOCK (Kiambu): It is out of order, Sir.

THE CHIEF SECRETARY: But at the same time I may suggest that it is hypothetical and is not connected with the provisions of this Bill.

The question was put and carried.

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

Local Government (County Councils) (Amendment) (No. 2) Bill (Bill No. 47)

THE COMMISSIONER FOR LOCAL GOVERNMENT: Mr. Speaker, I beg to move that the Local Government (County Councils) (Amendment) (No. 2) Bill be read a Second Time. The main object of this amending Bill is to authorize the three County Councils which have come into existence this year to raise money this year by rates and that is effected by clause 3 of the Bill. The principal Ordinance requires a County Council to levy its rates before the 31st March in the financial year for which the rate is levied, a condition which could not be carried out by the

[The Commissioner for Local Government]

bodies which came into existence in May. The opportunity has been taken in clause 2, to make another amendment of the principal Ordinance which transforms into the terms of duties certain functions which were left rather to inference in the Ordinance in connexion with the preparation of estimates and their publication in the Gazette.

Before I sit down, Sir, may I refer to the Notice of Amendment which was circulated on the Order Paper yesterday and say that in the Committee I will ask leave to introduce a further amendment to the principal Ordinance, which I cannot discuss at this stage, but I do wish to draw attention to the page and a half of amendment.

Question proposed.

MR. HAVELOCK: Mr. Speaker, the hon. Member has drawn the attention of Members to a page and a half of extra amendments to the principal Ordinance. We have discussed and considered these amendments and we do not see any particular contentious matter contained in them, but I would like to place it on record, Sir, that the procedure of producing long amendments of this sort to the principal Ordinance attached to one amendment to the principal Ordinance is one which we deprecate on this side of the Council; it does not give the hon. Members sufficient time to really consider the amendments if they are brought in only at the Committee stage and they do not have the proper time afforded for publication. Although in this particular instance I do not think any serious objection will be raised, I would like to say we do not consider such a practice suitable for this Council in future.

THE SPEAKER: As the hon. Member raised what is in effect, a point of order, it is quite open to the Members of this Council, if they do not like any additional amendment to be tagged on to the Amending Bill, they can always vote them out.

MR. HAVELOCK: If I may speak to your statement, Sir, we realize that, but naturally we do not want to upset the Government of the country in this particular matter. (Hear, hear.)

THE SPEAKER: I have always understood they were absolutely irremovable.

THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT: Mr. Speaker, if I may be permitted to add a word of explanation it was only after the publication of the Bill, that is now before the Council, that the hiatus in the original Ordinance came to light and it was thought that it would be to the convenience of hon. Members if we amended the original Ordinance at this time in order to avoid having the expense and trouble of getting a new Bill produced and published. Hon. Members on this side of the Council deprecate as much as hon. Members on the other side the practice of introducing last-minute new amendments, but I did take the precaution in this case of consulting my hon. friends the leaders of the various groups on the other side. I was assured that they would raise no objection whatever to the procedure which is now being followed. (Laughter.) If, however, there is serious objection, there is no objection whatsoever on this side to the withdrawal of the amendments. There is no great urgency about them and they can stand over until October or a later date. I fully explained that when I consulted my hon. friends.

THE SPEAKER: No other hon. Member wishing to continue the debate, I will ask the hon. Mover to reply.

THE COMMISSIONER FOR LOCAL GOVERNMENT: Mr. Speaker, I do not want to add very much to this except only to say that as we all know, there is a great deal in the County Councils Ordinance which is experimental and entirely without precedent and I do hope that this Council will be indulgent to the very necessary amendments which will have to come before us from time to time.

The question was put and carried.

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

The Land and Agricultural Bank (Amendment) Bill (Bill No. 46)

THE MEMBER FOR FINANCE AND DEVELOPMENT: Mr. Speaker, I beg to move that the Land and Agricultural

[The Member for Finance and Development] Bank Amendment Bill be read a Second Time.

Sir, the main new principle which is introduced in this Amending Bill is one which has been under consideration, in consultation with both sides of the Council, for some considerable time. Under the present Land and Agricultural Bank Ordinance, sub-section (1) of section 28, the Land and Agricultural Bank of Kenya is precluded from granting a loan unless there is a properly registered title to the land and such title cannot, of course, be obtained until the land is surveyed. On representation from some hon. Members opposite, it was felt that the Bank should, within its discretion, be given power to advance a loan upon a farm even though the survey had not been completed. The Chairman of the Land Bank, Sir, however, had discussions with the hon. Member for Finance and felt that the Land Bank could not go quite as far as the hon. Member of Finance, on behalf of the Government, would like him. I had a deep consultation with myself in my office, Sir, in both roles, and decided the obvious way was to try and arrive at some proposition whereby the Chairman of the Land Bank, operating as a banker, would feel that if he complied with the wishes of the Government he would not run any risk on behalf of the Land Bank.

The Member for Finance, therefore decided that the Chairman of the Land Bank's point would be met if the Government would guarantee the Land Bank against any loss on any loan issued to a farm whose title was not available because the property had not been surveyed.

The result of this deep consultation between the gentlemen concerned is that this proposal is now placed before the Council, I hope, for the Council to approve. The Member for Health, Lands and Local Government has agreed that if this principle is passed by the Council then such properties on which provisional loans have been granted will receive priority for survey as soon as survey can be carried out economically. It is just possible that there may be some public moneys involved in this if by any chance the Land Bank issues a loan with the concurrence of the Member for Finance,

to somebody whose title is not finally granted and who does not fulfil the requirements of the loan repayment, but I think this is very doubtful.

I mentioned that, Sir, in case you feel there should be anything in the nature of a financial resolution covering this, but there is, I think, no direct loss of revenue involved—it is very problematical, Sir. Most of the other clauses of this Bill deal with principles which have already been established, but the alterations suggested are alterations in—if I may say so—details, such as the increase in the amount of the loan or the non-gazetting of temporary loans. There is, however, one other principle, Sir, that arises. In the principal Ordinance, the fees are set out in the Schedules. These fees were fixed in 1930 and the Land Bank feels that the time has come to review some of these fees, it feels it should not be fixed by the Schedule—tied by a Schedule to the Ordinance. On the fixation of fees the procedure now suggested is that the Land Bank shall have the power to fix fees by regulations after they have been submitted to the Governor in Council, which I think is a proper procedure for matters of that kind. There are no other matters of principle involved and I beg to move.

THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT seconded.

Question proposed.

MR. HAVELOCK: Sir, it would have been very interesting to have been in on this discussion between the Chairman of the Land Bank and the Member for Finance. I always suspected that the Member for Finance had a split personality, I have no doubt it took him sometime to square his conscience, but in spite of that I merely wish to say that we on this side of the Council do welcome and thank the hon. Member for bringing this Bill in. We have been asking for it for some considerable time especially this particular matter of the loan being granted without definite titles especially at the moment when surveyors are in such short supply; this is even more urgent than it was previously. I beg to support this.

MR. COOKE: I rise to ask, Sir, for information, whether this Ordinance provides facilities for Arab or African

[Mr. Cooke] farmers, for instance, if they wish to borrow.

THE SPEAKER: No other Member wishing to speak I will ask the hon. Member of Finance to reply.

THE MEMBER FOR FINANCE AND DEVELOPMENT: There is not very much to say, Sir, except having to deal with the point raised by Mr. Cooke, the hon. Member for the Coast, who knows well enough that no African farmer has been advanced money under this Ordinance, but there are other channels available for African farmers to borrow money, channels in which, if I may say so, the terms laid down are not so onerous as those applied to the Land Bank, in so far as the need for security is concerned. I do not think any Arab has ever borrowed money, but there are several Asian farmers who have been accommodated with loans through the Land Bank.

MR. COOKE: I do not think you have answered my question. Does this facility apply or not?

THE MEMBER FOR FINANCE AND DEVELOPMENT: I think it does, but I think the answer is that another machine is used for that purpose because of the fact the Land Bank has to operate very much as a bank and not as an organization which can take risks in the use of the public money, the same as is the case with the African Land Utilization Settlement Board, of Government advances.

The question was put and carried.

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

COMMITTEE OF THE WHOLE COUNCIL

Committee of the whole Council—Order for the Committee read

Mr. Speaker left the Chair.

IN THE COMMITTEE

[Sir Charles Mortimer in the Chair]

The Adoption of Children (Amendment) Bill (Bill No. 38)

Clauses 1 and 2 agreed to.

Title and enacting words agreed to. Bill to be reported.

The Wild Animals Protection (Amendment) Bill (Bill No. 39)

Clauses 1 to 7 agreed to.

Title and enacting words agreed to. Bill to be reported.

The Protected Areas (Amendment) Bill (Bill No. 41)

Clauses 1 to 5 agreed to.

Title and enacting words agreed to. Bill to be reported.

The Loan Development, 1950 (Amendment) Bill (Bill No. 42)

Clauses 1 and 2 agreed to.

Title and enacting words agreed to. Bill to be reported.

The Loan Development, 1951 (Amendment) Bill (Bill No. 43)

Clauses 1 and 2 agreed to.

Title and enacting words agreed to. Bill to be reported.

Council resumed

Mr. Speaker in the Chair

REPORT

SIR CHARLES MORTIMER: Mr. Speaker, I beg to report that a Committee of the whole Council has considered, clause by clause the "Adoption of Children (Amendment) Bill" and has approved the same without amendment.

BILL

THIRD READING

The Adoption of Children (Amendment) Bill

THE CHIEF SECRETARY: Mr. Speaker, Sir, I beg to move that the Adoption of Children (Amendment) Bill be now read a Third Time and passed.

THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT seconded.

Question proposed.

The question that the Adoption of Children (Amendment) Bill be read a Third Time was put and carried.

The Bill was accordingly read a Third Time and passed.

REPORT

SIR CHARLES MORTIMER: Mr. Speaker, I beg to report that a Committee of the whole Council has considered clause by clause, the Wild Animals Protection (Amendment) Bill and approved the same without amendment.

BILL

THIRD READING

The Wild Animals Protection (Amendment) Bill

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: Mr. Speaker, I beg to move that the Wild Animals Protection (Amendment) Bill be now read a Third Time and passed.

THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT seconded.

Question proposed.

The question that the Wild Animals Protection (Amendment) Bill be read a Third Time was put and carried.

The Bill was accordingly read a Third Time and passed.

REPORT

SIR CHARLES MORTIMER: Mr. Speaker, I beg to report that a Committee of the whole Council has considered, clause by clause, the Protected Areas (Amendment) Bill and has approved the same without amendment.

BILL

THIRD READING

The Protected Areas (Amendment) Bill

THE CHIEF SECRETARY: Mr. Speaker, I beg to move that the Protected Areas (Amendment) Bill be now read a Third Time and passed.

THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT seconded.

Question proposed.

The question that the Protected Areas (Amendment) Bill be read a Third Time was put and carried.

The Bill was accordingly read a Third Time and passed.

REPORT

SIR CHARLES MORTIMER: Mr. Speaker, I beg to report that a Committee of the

whole Council has considered, clause by clause, the Development Loan, 1950 (Amendment), Bill and has approved the same without amendment.

BILL

THIRD READING

The Development Loan, 1950 (Amendment), Bill

THE MEMBER FOR FINANCE AND DEVELOPMENT: Mr. Speaker, I beg to move that the Development Loan, 1950 (Amendment), Bill be now read a Third Time and passed.

THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT seconded.

Question proposed.

The question that the Development Loan, 1950 (Amendment), Bill be read a Third Time was put and carried.

The Bill was accordingly read a Third Time and passed.

REPORT

SIR CHARLES MORTIMER: Mr. Speaker, I beg to report that a Committee of the whole Council has considered, clause by clause, the Development Loan, 1951 (Amendment), Bill and has approved the same without amendment.

BILL

THIRD READING

The Development Loan, 1951 (Amendment), Bill

THE MEMBER FOR FINANCE AND DEVELOPMENT: Mr. Speaker, I beg to move that the Development Loan, 1951 (Amendment), Bill be now read a Third Time and passed.

THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT seconded.

Question proposed.

The question that the Development Loan, 1951 (Amendment), Bill be read a Third Time was put and carried.

The Bill was accordingly read a Third Time and passed.

THE MEMBER FOR FINANCE AND DEVELOPMENT: With your permission, Sir, I would like to signify, under Standing Order No. 128, that the financial resolutions contained in No. 13 and No. 14 of the Order Paper have the recommendation and consent of His Excellency the Governor.

COMMITTEE OF WAYS AND MEANS

Committee of Ways and Means—
Order for Committee read.

Mr. Speaker left the Chair.

IN THE COMMITTEE

(Sir Charles Mortimer in the Chair)

EXEMPTION FROM INCOME TAX FOR CO-OPERATIVE SOCIETIES

THE MEMBER FOR AFRICAN AFFAIRS: Mr. Chairman, I beg to move the Motion which stands in my name concerning the exemption from income tax for a period of five years for African Co-operative Societies.

Mr. Chairman, at the end of 1952 there were 246 African Co-operative Societies. They are all small, struggling financially, they all receive assistance, encouragement and supervision from the staff of the Registrar of Co-operative Societies. They are all short of capital, needless to say. The intention behind this Motion is to give these societies some assistance towards building themselves up into sound business institutions.

The loss of revenue would not be large if this proposal is accepted. It is estimated that it would probably be in the region of £1,000 a year. The proposal is to give this assistance for a period of five years, as I say, to enable these societies which are now struggling to get on a sound footing.

Mr. Chairman, I beg to move.

THE CHIEF SECRETARY seconded.

Question proposed.

MR. HAVELOCK: Mr. Chairman, this particular Motion envisages a definite discriminatory measure and I would say that hon. Members of this group here—at any rate the European group—have no criticism of it at all. We feel that it is necessary; we feel that the Co-operative Societies should definitely be encouraged but we would like to point out that it is discriminatory and it merely underlines the fact that people must be realists in this country and this Council and that there is at times necessity for discriminatory legislation. On this particular aspect I myself—this is a personal opinion—always thought that Government policy of trying to implement the Income Tax Ordinance on Africans is completely un-

realistic under the present state of affairs. Although it does not come under the Income Tax Ordinance, I suppose, I think for individual taxation, Government's policy for putting back graduated African poll tax in order to implement income tax on African individuals has already shown itself a complete failure. I do hope that Government will consider that aspect again.

I believe, Sir, this Motion underlines and supports the principle which I have stated before in this Council and which I restate again, that circumstances must always be taken into consideration and laws cannot be applied to all races in a similar way in this country at the moment.

MR. MATHU: I just rise to place on record the Africans' appreciations of the steps that Government has taken in waiving income tax from African Co-operative Societies for a period of five years. As the hon. Member has said, these societies are very small and they are really working financially under very difficult conditions. Not only must they get money for capital and other expenses to run their business efficiently but also at the same time they are learning how to run their business and that means that in many cases it is trial and error, mistakes and so on. I do think, Sir, that in a period of five years, if greater effort is made by those who are responsible for running these societies, we shall find that the African Co-operative Society members will be in a better position to make their businesses pay and to be able to pay income tax, if required, at the end of that period of five years.

Sir, I beg to support the Motion.

MR. COOKE: I do not think I can quite agree with the hon. Member for Kiambu that it is discriminatory. As far as I read, the exemption is merely given because they are struggling Co-operative Societies. I should be quite prepared to recommend giving it to European Co-operative Societies or Indian or Arab ones; so far as I read it, it is not given because they are Africans but because Government want to give a good start to Co-operative Societies.

MR. OHANGA: I am afraid the last speaker has taken the only point I wanted to make because it seems to me that the operative term here is "struggling financially." I am quite prepared to see

[Mr. Ohanga] the last seven words removed in order to make it completely non-racial. The hon. Member for Kiambu took this opportunity to make this particular point for other things which perhaps are not disclosed. It seems to me that the operative term is "struggling financially" and for any other races in the country. I will be quite happy to see them come under it.

In addition, may I ask if the hon. Member would perhaps disclose—(a) for how many years have these registered Co-operative Societies paid income tax and (b) how much has that come to?

I beg to support

THE MEMBER FOR FINANCE AND DEVELOPMENT: Mr. Chairman, I think I should just intervene in this debate with one word of warning. That is, Government is quite prepared to accept to propose this Motion as it stands but to delete the last eight words, as I think the hon. Mr. Ohanga suggested, would of course mean that the principle has been accepted that income tax should not be paid by Co-operative Societies. Whatever one's personal opinion may be on that—some would be for and some against. I think it would be too great a principle to accept by means of an amendment of this kind.

MR. OHANGA: On a point of explanation. I think the operative words are "struggling financially". If any other Co-operative Society was struggling, I would be quite prepared to see it covered here.

THE MEMBER FOR FINANCE AND DEVELOPMENT: With all due respect to the hon. Member, that would not be effected by the amendment he suggested. I suggest that we cannot put into law that taxation will be levied or not on the principle of whether the people are financially struggling or not.

MR. MATHU: My hon. friend was only making a suggestion. He did not formally offer an amendment.

MR. HARRIS: Mr. Chairman, I am very sorry that the Member for Finance whilst on his feet did not tell us that he had accepted the principle that evidence of struggling would, in fact, render one exempt from income tax. Perhaps the hon. Member for African

Affairs would say whether Government accepts that general principle when he replies.

MR. BLUNDELL: General principle for everyone!

THE MEMBER FOR FINANCE AND DEVELOPMENT: Taking the full spirit of levity which has entered into Committee, whilst I personally agree with the principle of struggling financially, as Member for Finance and responsible for the financial condition of the country, I could not accept it.

THE MEMBER FOR AFRICAN AFFAIRS: I think, Mr. Chairman, the points raised by hon. Members have been dealt with by the hon. Member for Finance. Mr. Mathu has aptly described the difficulties which face these Co-operative Societies and personally I am a firm supporter of trying to get these societies properly established. They are of the greatest value to the African people in their development.

MR. OHANGA: Will the hon. Member reply to my questions?

THE MEMBER FOR AFRICAN AFFAIRS: I apologise for not having replied to Mr. Ohanga's questions but I have not got the information available. I think he asked me how long these societies have paid income tax and how much they have paid. I have not got the information, but I think I am right in saying they have paid no income tax; I am not in full possession of the facts on that.

The question was put and carried.

MOTIONS

LEGISLATION TO AMEND THE ESTATE DUTY ORDINANCE

THE MEMBER FOR LEGAL AFFAIRS: Mr. Chairman, with your leave, and the leave of the Committee, I should like to withdraw this Motion until I have laid on the Table of this Council for examination and scrutiny of those Members who wish to examine the subject. A copy of the agreement referred to in the recital of this Motion, that being an agreement between the United Kingdom Government and the Union of South Africa Government on the relief of taxation in relation to estate duty. Sir, I take this course at the request, as the

[The Member for Legal Affairs] result of representations which have been made to me, if I may say so, quite fairly and properly by my hon. friend the Member for Uasin Gishu, who pointed out that this agreement deals with highly technical matters which it is difficult for him or, indeed, anybody else to discuss unless they have had an opportunity of examining them some time in consultation with their legal advisers or other financial experts and clearly such discussion cannot be very fruitful or informative unless those taking part in it have had the opportunity of studying the text of the agreement in the first place. Therefore, Sir, I propose to lay the text of the agreement on the Table of this Council before proceeding with the Motion, probably at the next sitting of Legislative Council.

I would add, also, Sir, that I feel the point raised and the course now being followed is one which should generally be followed in similar cases of this kind and Government will in future before proceeding with Motions of this character lay any document which requires scrutiny on the Table of this Council in the first place. (Applause.)

THE CHAIRMAN: I take it there is no objection on the part of hon. Members to acceding to the request of the hon. Member for Legal Affairs.

MR. MACONOCHE-WELWOOD: Merely that I would like to thank the hon. Member for his courtesy.

Motion withdrawn.

WAIVORE OF ROYALTIES ON FIREWOOD

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: I beg to move:—

BE IT RESOLVED that the collection of the revenue lost to the Government as a result of the charging by the Conservator of Forests of a royalty on firewood at rates below the full legal rate of Sh. 6 per 100 cubic feet, from October, 1939, to March, 1952, be waived.

I would like to explain, Sir, that under item 6 of the Second Schedule to the Forests (General) Rules, it is specified that the ordinary royalty rate for firewood must be the rate of Sh. 6 per 100 cubic feet and that this has been the statutory rate of royalty on firewood many years past, and is the rate laid

down in the Third Schedule of the old Forest (General) Rules, page 1315 of Volume II of the 1923 Edition of Subsidiary Legislation.

In October, 1939, the then Conservator of Forests authorized the charging of rates of royalty on firewood lower than the rates I have just mentioned. This, Sir, was done deliberately because war had broken out and there was a very big demand for firewood, for troops and towns and so on, and there was at the same time a considerable scarcity of firewood although there were many areas where firewood was available which were inaccessible and in consequence at any reasonable price, which was at that time controlled, it did not pay contractors to go in and bring in the firewood at the rate of royalty which was at that time laid down.

Therefore, in all good faith, the Conservator of Forests, in order to meet the situation, was given authority to reduce the royalty rate. Unfortunately, the necessity of legalizing this reduction by an amendment to the Forest (General) Rules was overlooked.

Now, Sir, since then I have appointed a Committee to go into the whole question of supplying more especially Nairobi with wood fuel and this Committee sat last year and as a result of its recommendations, it has been agreed that the Forest Department, the Conservator of Forests, should have latitude in the rates of royalty that they charge for wood fuel. We are again in some difficulties over wood fuel and it does not pay contractors to extract wood fuel from certain areas at a high rate of royalty. But, Sir, it has now been authorized by the Rules published in Government Notice No. 288 of the 7th March, 1952, that this new procedure be adopted, but the fact remains that from the date of issue of the Conservator's letter in October, 1939, that is after the outbreak of World War II, up to the 7th March, 1952, when the new Rules were published, an illegal rate of royalty has been charged in many cases and it is for the reason of putting that matter right, Sir, that I have moved this Motion; the Director of Audit, in his audit queries Nos. 44, 48 and 49 of 1951 has naturally and rightly called for an explanation of what would appear to be an under-charge.

(The Member for Agriculture and Natural Resources)

Hon. Members may want to know what sum of money Government has lost by this alleged undercharge and I am afraid it is almost impossible to answer that. If, in fact, over all these years the figure was computed on the difference between what was charged as a royalty and the Sh. 6 on all the fuel that was in fact extracted during that time, the amount undercharged would be somewhere in the nature of £270,000 but I would point out that that is far from being an accurate figure because a very large proportion of this firewood would never have been extracted. Not only that, but when our replanting programme was put into operation we would have had to expend public money on clearing areas for replanting instead of having them cleared for us by fuel contractors, so I am afraid it is quite impossible to give any reliable figure to hon. Members as to what, if anything, has been lost to the Government by this so-called undercharge, so with that explanation I beg to move.

The question was put and carried.

THE MEMBER FOR FINANCE AND DEVELOPMENT: I beg to propose that Committee does report to Council its consideration of Motions Nos. 13 (1) and 13 (3) on the Order Paper.

Question proposed.

MR. HARRIS: Mr. Chairman, on a point of order, should we not also report the withdrawal of 13 (2)?

THE MEMBER FOR FINANCE AND DEVELOPMENT: On a point of order, Sir, I think that is a separate Motion.

The question was put and carried.

THE MEMBER FOR FINANCE AND DEVELOPMENT: Mr. Chairman, I beg to move that the Committee does report to Council the withdrawal of the Motion at 13 (2) on the Order Paper and obtain the consent of Council to the withdrawal of that Motion.

Question proposed.

The question was put and carried.

THE MEMBER FOR FINANCE AND DEVELOPMENT: Might I suggest that this might be a convenient moment to adjourn, Sir.

THE CHAIRMAN: The Committee will now depart and assemble again in full Council in fifteen minutes' time.

Council adjourned at Eleven o'clock and resumed at twenty minutes past Eleven o'clock.

Council resumed.

(Mr. Speaker in the Chair)

REPORTS

SIR CHARLES MORTIMER: Mr. Speaker, I beg to report that the Committee of Ways and Means has considered Order No. 13, Motion 1, in the name of the Member for African Affairs and has approved thereof and reports to the Council.

THE MEMBER FOR FINANCE AND DEVELOPMENT: I beg to move that Council doth agree with the Committee in the said Resolution.

Question proposed.

The question was put and carried.

SIR CHARLES MORTIMER: Mr. Speaker, I beg to report that in the Committee of Ways and Means the Member for Legal Affairs has, with the consent of the Chairman, asked permission to withdraw Motion No. 2 under Order No. 13 and the Committee reports their approval of the withdrawal to the Council and recommends that the Council approve of the Motion being withdrawn.

Question proposed.

The question was put and carried.

SIR CHARLES MORTIMER: Mr. Speaker, I beg to report that the Committee of Ways and Means has considered Motion No. 3 under Order No. 13 and approved of the same without amendment.

THE MEMBER FOR FINANCE AND DEVELOPMENT: I beg to move that the Council doth agree with the Committee in the said Resolution.

Question proposed.

The question was put and carried.

COMMITTEE OF SUPPLY

Committee of Supply—Order for Committee read. Mr. Speaker left the Chair.

IN THE COMMITTEE

(Sir Charles Mortimer in the Chair)

SCHEDULE OF ADDITIONAL PROVISION No. 13 of 1951

THE MEMBER FOR FINANCE AND DEVELOPMENT: I beg to move:

BE IT RESOLVED that a sum not exceeding £37,647 be granted to the Governor, on account, for or towards defraying the charges for Schedule of Additional Provision No. 13 of 1951.

I have pleasure in informing this Committee that this is the last of the Schedules of Additional Expenditure for 1951.

Question proposed.

The question was put and carried.

SIR CHARLES MORTIMER: Schedule of Additional Provision No. 12 of 1952 and No. 13 of 1952 you may take the two together.

THE MEMBER FOR FINANCE AND DEVELOPMENT: I beg to move:

BE IT RESOLVED that a sum not exceeding £607,645 be granted to the Governor, on account, for or towards defraying the charges for Schedules of Additional Provision Nos. 12 and 13 of 1952.

I would like to tell the Committee, Sir, that these, also are the last of the 1952 Schedules of Additional Provision, unless the Director of Audit indicates that there has been any misallocation of funds which must be put right by Schedules of this kind. I think I would like respectfully and humbly to point out to the Committee that within the past twelve months the Treasury and the officials of the Accountant General's Department have achieved the feat of bringing us right through from 1947 to 1952 and have completed that work, which is a remarkable achievement, having regard to the additional work thrust upon them by the Emergency. It shows their intention to see that the accounts of the Colony are kept up to date and I hope before long we shall be in a position to supply this Council and this Committee with periodic information as to the progress of our accounts much more frequently and more accurately than in the past.

That is all I have to say except to point out to hon. Members that this is the end of Schedules of Additional Provision and the place of that procedure

has now been taken by our new procedure of Supplementary Estimates.

Question proposed.

The question was put and carried.

DEVELOPMENT SUPPLEMENTARY ESTIMATES OF EXPENDITURE No. 3 OF 1953

THE MEMBER FOR FINANCE AND DEVELOPMENT: The following is the procedure that has been adopted in this Committee. I will move the Supplementary Expenditure.

I beg to move:

BE IT RESOLVED that a sum not exceeding £164,369 be granted to the Governor, on account, for or towards defraying the charges of Development and Reconstruction Authority Supplementary Estimates of Expenditure, 1953, No. 3 of 1953, Part 1.

I do not propose to go into details but I shall be pleased to endeavour to answer any questions that are asked.

Question proposed.

MR. HAVELOCK (Item No. 2, Mr. Chairman). I want to make it quite clear from the start that any remark I make on this or any question I ask have nothing to do with the fact that it is an inter-racial school but it is due to the fact that it is a kindergarten school. I would like to ask the hon. Member whether it is now the policy of Government to accept contributions for grants to schools for people under the compulsory age and also, as I see from the remarks on the memorandum, that Kenya Government policy is now to contribute to the recurrent expenses of schools for children under the compulsory age. It may well be that this particular school serves children of over the compulsory educational age, if that is so I can quite understand that a proportionate grant should be made in that case; but the fact that it is called a kindergarten school makes one believe that it may be under the compulsory educational age of seven.

THE MEMBER FOR EDUCATION AND LABOUR: Mr. Chairman, in order to reassure the hon. Member I can say quite categorically that it is not our policy that the Colonial Development and Welfare or Government funds should be used to support kindergarten schools. When this scheme was first brought for-

[The Member for Education and Labour] ward a year and a half ago there were certain kindergarten pupils in the school but with the march of time they have ceased to be, they are now Primary pupils. There is no intention that the grant should be made to the kindergarten element of the school.

MR. HAVELOCK: Thank you very much Sir, I would suggest the name might be altered.

THE MEMBER FOR EDUCATION AND LABOUR: I agree.

MR. COOKE: Serial number 6, Sir, I wish to raise two points.

THE CHAIRMAN: Has any hon. Member any item he wishes to raise before item No. 6?

MR. COOKE: No. 6, Sir, Under the Government House I am under the impression that a large sum of money was spent renovating Government House two years ago. There is no explanation as to why there was not done then what is necessary to be done now, that is to spend a large sum of money on Government House Nairobi.

It is always a matter of distaste to raise anything of this nature, but we are looking after the taxpayer's money and I think we should have some explanation as to why after a couple of years there is another large sum to be spent on the renovation of Government House.

Number two, it may be considered a rather meticulous point, but there must have been rather large over-estimations for the renovation of Government House, Mombasa, if now a sum of £2,250 can be taken from that and put into the renovation of Government House, Nairobi, and if that is the kind of estimate that is usually presented, it is no wonder that the bills of this country are large, but one must assume if there is no necessity to spend money on Government House it would have been spent on Government House, Mombasa. Why now has this change been made and why is it necessary to spend this large sum again in Nairobi?

MR. MACONACHIE-WELWOOD: In view of the reply of the hon. Member for Education on the subject of this school, it does raise another issue. While we thought it was a kindergarten school we

objected to it on the ground that no grant should be given to such schools.

MR. COOKE: May I raise a point of order. Is it right for the hon. Member to intervene on another item which has already been passed.

THE CHAIRMAN: I thought we had passed that point, have we not? We passed item 2, but as we are not calling out serial items, I was allowing a certain amount of latitude. If the hon. Member for Uasin Gishu will delay his inquiry for a moment I will ask if there is any reply from the Government side to Mr. Cooke's question.

THE SECRETARY TO THE TREASURY: Mr. Chairman, the hon. Member for the Coast has criticized the accuracy of the estimates for the renovation of Government House, Mombasa.

MR. COOKE: Not criticized, wondering I said.

THE SECRETARY TO THE TREASURY: Well, I can only explain, Sir, that the estimates are drawn up by officers who believe that certain works will be carried out but those officers have experience of meeting the wishes of the lady occupants of such houses and they find that they have to change the plans very considerably to meet the requirements of the occupants. In this case, the Governor's wife required certain variations to be made at Government House, Nairobi, rather than Government House, Mombasa, and I do not think that the hon. Member will say that that is in any way unusual in a lady.

MR. HAVELOCK: On this point I understood through the usual channels that the vote for Government House would not be discussed in Committee. I personally think that that is the principle, or rather the understanding, that we should retain. If there are any queries on the Votes to Government House or to His Excellency, I am quite sure it can be raised through the usual channels.

MR. COOKE: I cannot accept that point. There was no criticism implied on His Excellency at all. The whole criticism is of the people who inspect Government House and say what kind of repairs and renovations have to be put there and they did that obviously two years ago and a large sum of money was expended.

[Mr. Cooke] it is only the mind of my learned friend, the hon. Member, he has suspicions—

MR. HAVELOCK: I have when you speak!

MR. COOKE: When I speak, but when my hon. friend speaks it is immaculate counsel of perfection! All I want to know is why Government slipped up in this matter, why they did not put in these renovations two years ago and, too, either that the £2,250 is necessary or not necessary, why it has been re-allocated to Government House, Nairobi? Will you come back again in a year or two and say you want that £2,250 for Mombasa? I think that the taxpayers have every right to demand an explanation, but there is no reflection on His Excellency.

THE MEMBER FOR FINANCE AND DEVELOPMENT: I rather agree with the hon. Member for Kiambu that a certain procedure has been adopted. In this regard I have circulated this organization with regard to certain proposals. There is one point, however, Sir, which was made by the hon. Member for the Coast which I must answer. He says, "Will you come in a couple of years' time and say you want this £2,250 for Government House, Mombasa?" It is more than likely that we will but what we have indeed done is to say, if this work is done here then the money is not available for it to be done there. We have demanded a sacrifice from one part in order that another part may have what it wants. I suggest that is very good from the taxpayers' point of view.

MR. COOKE: May I have an answer; why this was not done two years ago.

THE SECRETARY TO THE TREASURY: Mr. Chairman, the only possible answer is that renovations now required were not required two years ago, because the Governor and his wife were not there and their wishes could not be consulted. Renovations are not merely to maintain the structure of the building, but have, to some extent, to suit the convenience of the occupants.

THE MEMBER FOR FINANCE AND DEVELOPMENT: On a point of order—not wishing to stifle the discussion—I hope the hon. Member for Uasin Gishu will understand I have no objection to him asking, but I do suggest that if it

is possible to pass on to an item and then go back to an item that has been disposed of, the Committee will never proceed on that basis. I am not raising an objection in this matter, but I do hope that the procedure of going through item by item will be followed or there will, I believe, be a great waste of time.

MR. HAVELOCK: In that case, I would suggest you call the numbers.

THE CHAIRMAN: I was going to do that. I was not expecting that there would be any debate on the items in this particular Schedule.

MR. COOKE: You did, in effect, call the numbers. You did say is there any item between here and No. 6.

THE CHAIRMAN: I did. I am prepared in the circumstances to allow the hon. Member for Uasin Gishu some latitude in the Committee but I think I do agree with the remark of the hon. Member for Finance that we must preserve strict order in this matter or we shall never get through the work of the Committee.

MR. MACONACHIE-WELWOOD: I thank you for allowing me to do this. I only wish to do so because it did not strike me immediately that in getting out of one dangerous principle of the kindergarten school, the hon. Member has put us in a somewhat awkward position. We do not want a debate on this matter in the Committee of Supply, however, nor do we want, by agreeing to this Estimate, to accept the principle of inter-racial schools which has never been discussed in this Council. For the moment this kindergarten school ceases to be a kindergarten school, we fall into another difficulty; that it is now a primary school which is inter-racial in character. That is a matter which should be discussed by this Council, not in the Committee of Supply, and I want to make it quite clear that we do not at this time accept the principal of Government expenditure on inter-racial schools. I hope this will not give rise to a debate because I do not think this is the proper time.

THE MEMBER FOR EDUCATION AND LABOUR: I do not propose to deal with inter-racial issues at the moment, but this school is an experiment and the principle of the inter-racial schools will not be further developed without further debate.

MR. A. B. PATEL: Mr. Chairman, I would like to support this item. I am really surprised that in the first instance it was stated that the matter was raised in order to know whether Government had accepted the principle of giving any grants or spending money for education of children who were below the compulsory age and not for the purpose of raising any matter against the principle of education being provided on an inter-racial basis. Now when it was stated by the hon. Member for Education that this school had now reached the stage when it is beyond the stage of a kindergarten school—a new point has now been raised—I personally think that if we can give grants to schools where children of all races enter, for example, a convent school, where children of all races can take education, and is eligible to have a grant, I do not see why Government cannot spend money where children of all races go and take education. I do not desire to raise a controversy in regard to the merits or demands of education of that type; I only confine my remarks to the point that if we can give grants to any school, where children of all races can go and enter there, then I do not see any reason why Government cannot spend money on schools of that nature.

THE CHAIRMAN: I am going to call further items from 7 onwards—we have reached the end of Part I.

The question was put and carried.

PART II: REPLENISHMENT OF CIVIL CONTINGENCIES FUND

THE MEMBER FOR FINANCE AND DEVELOPMENT: Mr. Chairman, I beg to move—

BE IT RESOLVED that a sum not exceeding £79,135 be granted to the Governor, on account, for or towards defraying the charges of Development and Reconstruction Authority Supplementary Estimates of Expenditure 1953, No. 3 of 1953, Part II.

This Part, Sir, as usual, is the Part which covers the reimbursement to the Civil Contingencies Fund.

Question proposed.

Serial No. 9

MR. MATHU: Mr. Chairman, I would like to have remarked on an item

in another section; I think I would like to support this very wholeheartedly for the reasons advanced by my hon. friend, the Member for Eastern Area.

The question was put and carried.

PART III: REVOTE OF UNSETTLED PROVISION RELATING TO PREVIOUS YEARS

THE MEMBER FOR FINANCE AND DEVELOPMENT: I beg to move—

BE IT RESOLVED that a sum not exceeding £17,315 be granted to the Governor, on account, for or towards defraying the charges of Development and Reconstruction Authority Supplementary Estimates of Expenditure, 1953, No. 3 of 1953, Part III.

I would remind hon. Members that this, of course, is the usual custom. Part III covers the Revotes.

Question proposed.

Serial No. 15

MR. MATHU: Mr. Chairman, I have a question to ask on this Item, No. 15. You have an item here called Housing for African Inspectorate, the sum of £718 is required for that. What I would like to know is how many African inspectors there are and what department are these inspectors in.

THE DIRECTOR OF PUBLIC WORKS: This African housing is for police inspectors. I could not answer, off-hand, how many are involved. It must be realized that this item of £718 is only a Revote, it is not the total amount of money being spent on these quarters.

The question was put and carried.

SUPPLEMENTARY ESTIMATES NO. 5 OF 1953 IN PARTS

THE MEMBER FOR FINANCE AND DEVELOPMENT: I beg to move—

BE IT RESOLVED that a sum not exceeding £238,516 be granted to the Governor, on account, for or towards defraying the charges of Supplementary Estimates of Expenditure No. 5 of 1953, Part I.

Question proposed.

Serial No. 1

MR. BLUNDELL: I would like to ask the hon. Member opposite when is the estimated time we are likely to enter the new

[Mr. Blundell] Legislative Council building. If that is likely to be some time ahead will the hon. Member when paying the rent of £125 for this building draw the attention of the landlord to the very horrible state of the sanitary accommodation and the lack of water supply?

THE MEMBER FOR FINANCE AND DEVELOPMENT: The answer is Yes, Sir.

MR. HAVELOCK: What is the answer to the first question?

MR. BLUNDELL: I had two questions; when is it anticipated we shall enter the new building and the second was whether he would draw the attention of the landlord to the state of the sanitary accommodation.

THE MEMBER FOR FINANCE AND DEVELOPMENT: The hon. Member is indeed well aware that we hope early in the new year

Serial No. 2

MR. COOKE: If I may say so, I would like to welcome very much the brain-wave on somebody's part on the other side of the Council. It is a most excellent arrangement. It does seem a bit of a back-door way to report to the public that this has been done. One would have thought that such an important matter—I know it was in to-day's paper—but I thought we would have had some information as to why this was being done, it would have received the approval of everyone.

There is one point I would like to make, the question of expenditure. I do not—naturally we have not got all the expenditure necessitated here by this change—would I be out of place in asking where will the headquarters of this new province be and what will be the cost to build that headquarters. If information could be given, I would appreciate it.

THE MEMBER FOR AFRICAN AFFAIRS: I think it was in Tuesday's paper that a brief statement was published. It is the intention that this new provincial headquarters should be out at Ngong in the quarters used by the Officer-in-charge of Masai and it is not anticipated that any great additional expense will be necessitated, in fact, the intention is to keep it to the minimum and try and make it work on those lines.

MR. MATHU: How will the new arrangement, the creation of this Southern Province, affect African representation to Legislative Council in that Province?

THE MEMBER FOR AFRICAN AFFAIRS: I think the answer is that it does not affect it.

MR. JEREMIAH: In view of that reply, is it not obvious that African representatives of Legislative Council are going to be overburdened with the work?

MR. MATHU: Does the creation of this almost new constituency not require another extra Member?

THE CHAIRMAN: I do not think all that strictly arises from the matter we have under consideration.

Serial No. 6

MR. SLADE: This item provides for Land Rovers for the Provincial Information Officers. I do not quarrel with that, I am sure they need them. But it may be that there is the still greater need of District Commissioners for Land Rovers. I understand that the District Commissioners in country areas are still minus Land Rovers and their need is very serious indeed. I do hope Government will consider them as seriously as the Provincial Information Officers.

THE CHIEF SECRETARY: As the—(Inaudible)—Land Rovers for District Commissioners. If the hon. Member would let me know later the particular District Commissioners he has in mind I should be very glad to examine because I am aware that a number of District Commissioners have got Land Rovers.

Serial No. 29

MR. CROSSKILL: I would like some information on how many children from Kenya do attend secondary schools in Tanganyika—I was unaware that this was a practice.

THE MEMBER FOR EDUCATION AND LABOUR: At Kongwa there is a secondary school which does hold special courses in commercial subjects, such as accounting. The arrangement is that if a Kenya child attends a Tanganyika school, his parents attend a Tanganyika Education Department fees to the Kenya Education Department and a subsidy is paid in by this Government to the Tanganyika Department.

MR. COOKE: How many pupils are there?

THE MEMBER FOR EDUCATION AND LABOUR: There were two pupils for the first term, and I think three for the second term.

Serial No. 30

MRS. SHAW: I would like to ask on a point of information as to whether the outcome of that strike at Makerere College, whether the report was considered satisfactory by Government and whether the action taken to see that the occurrence does not happen again was also considered satisfactory?

THE MEMBER FOR EDUCATION AND LABOUR: As far as one can see in the general mutability of human affairs, the answer is yes.

Serial No. 31

MR. MAITHI: May I ask a question from the hon. Member in charge of this, I would like to know whether there are provisions for the housing of this officer in the Thika Institute for the Blind, I do not know whether there is—but it seems to me that as this deals with the extra money for current expenditure—what I want to know is whether they are having housing facilities for the new officer when he comes in July of this year?

THE MEMBER FOR EDUCATION AND LABOUR: There is no housing for the officer at present but the Salvation Army recruited him rather earlier than we thought probable. The question of housing is now being considered.

Serial No. 38

MR. SLADE: Under the East African Income Tax—£6,000. With reference to extending the Investigational Branch of the East African Income Tax Department, it would be of great interest to us to see what sort of return this branch yields. I understand it yields a great deal more in costs, judging from a recent case in the paper, which indicates that it may have paid for itself many times over in Uganda. If that is so we might on another occasion advocate still greater extension of this Branch.

THE MEMBER FOR FINANCE AND DEVELOPMENT: I think the fact is that one cannot assess the value of the Investigation Branch because it is not only the actual money recovered but the discouragement that it offers to other people, through the knowledge that the

Kenya Investigational Branch is in the field. The appointment was made in July, 1952, of two retired officers with unparalleled experience in the field of investigation and with their arrival the whole field of income tax evasion in East Africa was opened up. The snowballing effect of the inquiries is now becoming obvious but I do not think that that means there must be of necessity an unlimited expansion of the Branch. The hon. Member for Aberdare can rest assured that we are fully aware of the value of this work and in so far as it is necessary to expand to increase the revenue without increasing the taxation, we are keeping our eye on it.

MR. COOKE: I remember being informed by a late investigator that after he had been out here two years he had won back from Government something like the sum of a hundred thousand pounds without any prosecution, so obviously it was a very paying proposition.

Serial No. 39

MR. BLUNDELL: Is the Serial No. 39 the cost of Coronation decorations is that the one? Will the hon. Member perhaps give Council details of the Coronation celebrations?

THE MEMBER FOR COMMERCE AND INDUSTRY: Unfortunately unlike the hon. Member, I am not in a position to give an eye-witness account. Perhaps he can help me.

MR. BLUNDELL: I was not an eye-witness of the East African Office Coronation celebrations but does that include the expenses of those distinguished Members of the Council who attended the Coronation this year.

THE MEMBER FOR COMMERCE AND INDUSTRY: I understand it was for constructing and furnishing the stands placed inside the East African Office for those distinguished visitors, who unlike my hon. friend, did not see the procession from a seat in the Abbey. Owing to the fact that the procession route was closed from an early hour in the morning to a late hour in the afternoon, it was necessary for them to have refreshment to sustain their bodies during that period.

MR. BLUNDELL: I am sorry to pursue this matter, but I have an uneasy suspicion that there has been a debit to the

[Mr. Blundell]
THE MEMBER FOR FINANCE AND DEVELOPMENT: No, Sir. The hon. Member is under a misapprehension. The Standing Finance Committee of the Central Legislative Assembly agreed that a certain number of distinguished guests should be invited to witness the Coronation procession from the East Africa Office. They agreed that a sum should be provided with which to enable the Commissioner to entertain those people in a manner which he thought fit and worthy of the East Africa Office, and this is largely Kenya's share plus Kenya's share of putting up the stands from which people viewed the procession. The plan, I think, that the hon. Member was thinking about is the furnishing and redecorating of additional rooms—for £500, which had been provided, the amount was partly provided, as the hon. Member will see, from savings and partly from Kenya's contribution now shown in the estimates.

SHERIFF ABDULLAH SALIM (Arab Representative Member): Mr. Chairman, I was one of those who viewed the procession from the East Africa Office and I was very well entertained. I think the amount asked for is very fair. (Laughter.) (Hear, hear.)

MR. COOKE: I am under the impression, from the speeches on the radio—I was not at the East Africa Office—that the entertainment was very lavish indeed!

SHERIFF ABDULLAH SALIM: It was, Sir!

THE CHAIRMAN: That concludes the items under Part I.

The question was put and carried.

PART II—REPLENISHMENT OF CIVIL CONTINGENCIES

THE MEMBER FOR FINANCE AND DEVELOPMENT: I beg to move—

BE IT RESOLVED that a sum not exceeding £29,455 be granted to the Governor, on account, for or towards defraying the charges of Supplementary Estimates of Expenditure No. 5 of 1953, Part II.

As is customary, Sir, Part II covers the vote of reimbursement to the Civil Contingencies Fund.

Question proposed.

Serial No. 40

MR. HARRIS: Sir, I am a very firm believer in the principle of the Civil Contingencies Fund, that is why I am always particularly interested in seeing how the money in this Fund is dispersed.

Now, Sir, in Serial No. 40, we are asked to reimburse £1,500 for payment of outside assistance for the Legal Department up to the end of 1953. It seems to me from the Memorandum that that Department have already had £600 in the Estimates, a further £600 in the Supplementary Estimates, No. 2, and then this item of £1,500 appears as reimbursement to the Civil Contingencies Fund. I would have thought, if this is going to last to the end of the year, as is assumed in the Memorandum, that it would have been better to have £500 reimbursements from the Civil Contingencies Fund and a £1,000 in the ordinary Supplementary Estimates.

Now, Sir, it is because I am so fond of the Civil Contingencies Fund that I do not intend to initiate a debate on this item, but, in fact, Sir, had it been in the ordinary Supplementary Estimates there would have been the usual parliamentary device of moving a token reduction of £10 in order to give an opportunity for Members, particularly on this side, to voice some of the disquietude there is about this particular department in the mind of the public. I merely say at this stage that I would ask the hon. Member for Finance, in future, when bringing items for reimbursement of the Civil Contingencies Fund, to make sure that they are retrogressive payments and not payments on account of the future such as undoubtedly this one must be.

THE MEMBER FOR FINANCE AND DEVELOPMENT: I thank the hon. Member for Nairobi South for raising the point as I agree with him on this question of payments to reimburse the Civil Contingencies Fund. This is indeed a retrogressive payment. The money has, indeed, already been spent because the Legal Treasury felt it essential that the Legal Department should be given bodies to get on with the work which was so often

[The Member for Finance and Development]

requested from the other side of the Council. The Treasury agreed with this particular procedure.

There is nothing to stop the hon. Member opposite moving a reduction of £1 in this particular vote and then when he has had his debate, withdraw the Motion—that is quite a common Parliamentary procedure. With your permission, the hon. Member is able to avail himself of that procedure any time he wishes. But I would not like him to get the Civil Contingencies procedure mixed up with that particular point. This is retrogressive payment, it was made because I was convinced that the work for which the payment was made was thoroughly justified.

MR. A. B. PATE: During the course of his observations on this item, the hon. Member for Nairobi South said that there was a certain amount of disquietude among the general public with the Legal Department I would like to say, Sir, that in this country, unfortunately the public is in many compartments and there are many layers of public and the views of some of the layers do not reach the highest level either. I would like to say that as far as the Asian community is concerned, I have not heard anything of this nature. As far as the Asian community is concerned, we are fully satisfied with the Department.

MR. MATIU: I would like to associate myself with the remarks of my hon. friend for Eastern Area. As far as I know, the African public are very satisfied with the Legal Department. (Laughter.)

MR. BLUNDELL: Well done!

MR. HARRIS: I would like to thank the Member for Finance for his very excellent suggestion which we will remember for next time. It sounds as though the whole of the three different publics have now voiced their opinions and I do not intend to accept the invitation—to propose to move a token reduction of £1—I have had my say.

THE CHAIRMAN: That concludes Part II.

Question proposed.

The question was put and carried.

PART III—REVOTES

THE MEMBER FOR FINANCE AND DEVELOPMENT: I beg to move—

BE IT RESOLVED that a sum not exceeding £33,492 be granted to the Governor, on account, for or towards defraying the charges of Supplementary Estimates of Expenditure No. 5 of 1953, Part III.

I will remind hon. Members that, as is customary, Part III cover re-votes.

Question proposed.

The question was put and carried.

THE MEMBER FOR FINANCE AND DEVELOPMENT: I beg to move that the Committee reports to Council its agreement with the resolutions under No. 14 on the Order Paper.

Council resumed.

[Mr. Speaker in the Chair]

REPORTS

SIR CHARLES MORTIMER: Mr. Speaker, I beg to report that the Committee of Supply has considered Items 1, 2, 3, 4, 5 under Order No. 14 and has approved of the provision of the necessary funds indicated without amendment. It is in order to do it in that form?

THE SPEAKER: Yes, the Clerk can read separately the Resolutions that have been passed.

THE MEMBER FOR FINANCE AND DEVELOPMENT: I beg to move that the Council doth agree with the Committee in the said Resolution.

THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT seconded.

Question proposed.

The question was put and carried.

SCHEDULE OF ADDITIONAL PROVISION
No. 13 OF 1951

THE MEMBER FOR FINANCE AND DEVELOPMENT: I beg to move that the Council doth agree with the Committee in the said Resolution.

THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT seconded.

Question proposed.

The question was put and carried.

241 Schedule of Additional Provision
No. 12 OF 1952

THE MEMBER FOR FINANCE AND DEVELOPMENT: I beg to move that the Council doth agree with the Committee in the said Resolution.

THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT seconded.

Question proposed.

The question was put and carried.

SCHEDULE OF ADDITIONAL PROVISION
No. 15 OF 1952

THE MEMBER FOR FINANCE AND DEVELOPMENT: I beg to move that the Council doth agree with the Committee in the said Resolution.

THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT seconded.

Question proposed.

The question was put and carried.

DEVELOPMENT SUPPLEMENTARY ESTIMATES OF EXPENDITURE No. 5 OF 1953

THE MEMBER FOR FINANCE AND DEVELOPMENT: I beg to move that the Council doth agree with the Committee in the said Resolution.

THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT seconded.

Question proposed.

The question was put and carried.

SUPPLEMENTARY ESTIMATES OF EXPENDITURE OF THE COLONY AND PROTECTORATE OF KENYA No. 5 OF 1953

THE MEMBER FOR FINANCE AND DEVELOPMENT: I beg to move that the Council doth agree with the Committee in the said Resolution.

THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT seconded.

Question proposed.

The question was put and carried.

THE SPEAKER: That concludes the business on the Order Paper. Council will stand adjourned until 9.30 in the morning.

ADJOURNMENT

Council rose at twenty minutes past Twelve o'clock p.m.

242 MON. JULY 1953

243 Order of Privilege Submission 111

Thursday, 30th July 1953

The Council met at thirty-five minutes past nine o'clock.

[Mr. Speaker in the Chair]

PRAYERS PAPERS LAID

The following PAPER was laid on the Table—

Schedule of write-off authorized by the Member for Finance and Development during the June quarter of 1953 for amounts exceeding £250 each.

(THE MEMBER FOR FINANCE AND DEVELOPMENT)

MOTION

SUBMISSION OF BREACH OF PRIVILEGE

MR. MACDONALD-WILWOOD: Mr. Speaker, I rise on a point of order. Yesterday in this Council a very brief discussion took place in Committee of Supply on a matter of a kindergarten inter-racial school and in this morning's report in the East African Standard it is headlined as though a prolonged debate took place.

Mr. Speaker, I want to submit that one of two things happened which should be drawn to the attention of this Council; either a breach of privilege by the East African Standard in publishing what amounted to a false report of the proceedings of this Council, or else the hon. Director of Education was guilty of a breach of order in continuing by discussions outside this Council with the Press an expansion of the debate which, in fact, consisted of a very few words and has been headlined as a major matter.

THE DIRECTOR OF EDUCATION: Mr. Speaker, I am not aware of having been guilty of any breach of privilege. I certainly had an interview with the East African Standard after the debate. The East African Standard representative was present during the debate and the only information I gave was a statement of fact dealing with the background in connexion with this particular school. So far as I am aware the report in today's paper, which I have read, does not indicate, as the hon. Member has said, that there was a lengthy debate at all.

[The Director of Education] I think it is made quite clear that the information secured from me was quite outside the debate and merely gave the history and background of this particular school.

MR. BLUNDELL: Mr. Speaker, I was not present for the whole of the debate, but reading the article as presented in the newspaper, it is so worded and the follow-through of ideas—from the provision by Legislative Council of the amount of money—the follow-through of ideas from there to the remarks of the Director of Education is put in such a form that I do believe anybody who was not in the debate, I only got the last part of it, would indeed think it was an expansion, transmission of the debate in Council but in actual fact, Mr. Speaker, it was not.

THE MEMBER FOR FINANCE AND DEVELOPMENT: Is it not a fact, I speak from memory of reading the account this morning, in the last concluding sentence of that article, the hon. Member for Uasin Gishu is quoted as saying, "All Unofficials reserve their position" because I think it is a matter of fact, in the HANSARD of this Council, that the hon. Mr. Patel and Mr. Mathu put on record their support of this particular principle.

THE SPEAKER: This is something that happened in Committee of the whole Council yesterday and as I read the news item in the daily paper, which commences by referring to the vote taken in Committee yesterday and afterwards approved in Council, then I would think it could not be taken as being—the next part could not be taken as being—a report, or purporting to be a report, of what happened in the Committee, though a lot of people may very well read it—I can well understand their reading it—as being a report, but it is rather garbled. However, when you come to the end there is a final paragraph which winds up an assurance to this effect: Mr. Wadley said, there would be no extension of inter-racial education without reference to the legislature.

Well, I cannot find in the HANSARD any mention of Mr. Wadley speaking at all, am I right?

THE DIRECTOR OF EDUCATION: Yes, Sir.

THE SPEAKER: The article or news item then goes on to the assurance to this effect that has been given by the Member for Education during the debate. Now, there again we are in a difficulty to know whether the newspaper is purporting to report the debate or whether they are mixing it up with two separate things. But it does seem to me, when you come to the final thing, that the Member was answering Mr. Welwood and taking the thing as a whole, it looks to me that there is a prima facie case of a breach of privilege for a false report of the proceedings of this Council. Therefore, if you move for a Committee, that is a matter which the Council will debate, whether they want a Committee or not.

MR. MACONOCHE-WELWOOD: I thank you for your ruling and I would only say now that I would wish to move for a Committee to examine for a breach of privilege.

LADY SHAW seconded

Question proposed.

The question was put and carried.

MINISTERIAL STATEMENT ON FOOD SUPPLIES

THE SPEAKER: Major Cavendish-Bentline, you might as well make your statement now, as we have already interrupted the Order Paper.

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: I am grateful to you for allowing me this opportunity, Sir.

On the 6th May, in answer to Question No. 98 by the hon. Member for the Coast, I explained in some detail the position as at that time anticipated regarding supplies of maize for the remainder of this year. When I gave that reply we had just completed a comprehensive review of the situation, as a result of which I had every ground for anticipating that Kenya would be able to get through the year without overseas importations of maize over and above Tanganyika's replacements. Since then the position has changed for the worse and, as I naturally do not wish to risk being accused of having misled hon. Members, and I consider it necessary to inform Council how the situation has now developed.

[The Member for Agriculture and Natural Resources]

In the first three months of the year consumption in Kenya totalled 282,235 odd bags, approximately 100,000 bags per month, and if consumption had continued at this rate, or even at the considerably higher consumption rate on which I based my May calculations, imports would not have been necessary. But in the second quarter consumption rose steeply to 574,980 bags as compared with 191,456 bags in the same period in 1952, and this will have the effect of leaving us with only approximately 250,000 bags in store at the end of July. This radical change was unexpected and could not have been foreseen. It was mainly due to heavy issues of "famine relief" in Nyanza Province, which became necessary because of lack of foresight and overselling by the African population, coupled with delayed rains. A contributory factor was the illegal movement of a considerable quantity of maize meal by traders into Uganda, where control both of movement and price of maize was abolished in 1952, and where in consequence prices had risen to fantastic heights.

A further contributory factor to the increased consumption may have been stock piling by traders during the last few months, in expectation of a price increase in this country. This assumption is borne out by the fact that consumption has dropped considerably in July.

The Uganda Government has now reimposed full control, but nevertheless has fixed the official price of maize meal as from 20th June at prices varying from 40 cents per lb. in Kampala, the equivalent of Sh. 80 per bag, to Sh. 88 per bag in Mbarara and other centres. Furthermore a "black market" is still in existence in Uganda in which maize meal fetches prices considerably higher even than these. In these circumstances special measures have naturally had to be taken to prevent illegal movement from Kenya into Uganda, and recently heavy sentences have been imposed.

Tanganyika, who have retained control throughout, also raised their prices in June to Sh. 80 a bag. Throughout this period and despite these fluctuations the price of maize meal in Kenya remained

steady at a maximum price of Sh. 56 per bag retail in pound lots.

Now to meet this changed situation arrangements have been made through the High Commission to import approximately 132,000 bags from America and approximately 198,000 bags from South Africa. In addition, the Uganda Government have promised to send 112,000 bags on a loan basis.

It is expected that these imports will be sufficient to meet demands until the new crop is available for consumption in November or December, but if still heavier issues of famine relief are required east of the Rift, further imports may be necessary.

As regards price, although this imported maize will cost considerably more than East African maize, the price of maize meal to the consumer will not go up. Instead the additional cost of importations will be met, at least in the main, out of Maize Control balances. These balances, which have accumulated out of the margin of odd cents on each bag of maize and maize meal sold by Control, will thus be used for purposes of price stabilization in the general public interest.

I should also like to take this opportunity, Sir, of giving hon. Members some information regarding the interconnected subject of the supply of wheat.

The overall flour consumption in the East African territories increased by 33 per cent between the months of March and May this year, when consumption reached the unprecedented level of 92,500 sacks per month as compared with the 1952 monthly average of 68,800 sacks. This high level gives every appearance of being maintained into the second half of the year. The increase is fairly uniformly spread over all the mainland territories and is thought to be due mainly to increased consumption by Africans due to shortage and/or high prices of the more normal staple foods, maize and rice. Issues of maize to mills have been restricted since May and, as I have just explained, in Uganda the price of maize meal was officially raised in June to 40 cents per lb., equivalent to Sh. 80 per bag, while the "black market" price was and is higher still. In Tanganyika Territory the rice crop

[The Member for Agriculture and Natural Resources] failed completely, and the maize crop partially, not completely, and the price of maize meal was officially raised in June to Sh. 80 per bag. All these factors have encouraged Africans throughout the three territories to eat more wheat flour.

It, therefore, became apparent from about May that some wheat or flour would have to be imported in order to meet the increased demand until the new crop became available. I have come to the conclusion that use of the new crop, i.e. 1953 planted wheat should be delayed if possible until the beginning of 1954, since if we pre-empt on the 1953 crop we shall only postpone the issue and be inviting further difficulties and shortages in 1954.

A further factor in the situation is that of animal feed, and it is unquestionably in the Colony's interests to import wheat rather than flour, so that the resultant wheat offals may be available in the Colony for feeding livestock, thus assisting to maintain the production of butter and milk.

The Government has, therefore, authorized the importation of about 17,000 tons of wheat for consumption in November and December, and, although final arrangements have not yet been made, it appears probable that this approximate quantity of wheat will be imported in two charter ships from South America through the good office of the Director of Produce Disposal, East Africa High Commission.

With the object of relieving the difficult situation occasioned by these shortages Tanganyika did, by agreement with the other territories, endeavour to import flour from overseas, but in this connexion difficulties have arisen. In any event Tanganyika has suffered exceptionally adverse weather conditions and thus has to rely to a large extent on Kenya. In such circumstances I maintain that it falls to Kenya to do everything in its power to keep her neighbours supplied with their essential requirements, as it is the policy of this Government to work in collaboration with the other East African territories with a view to mutual assistance and a solution of our difficulties by helping each other.

This was the system by which East Africa got through the far greater difficulties and dangers of the war and the immediate post-war period. It stood the severe test of that period and I consider, Sir, it would be folly to abandon it now.

Lastly, Sir, I would add a word about butter supplies.

In so far as butter production is concerned, a decline in production during the months of March to June, 1953, resulted in a shortfall of 270 tons of butter as compared with the same period in 1952. Although production has improved latterly it is nevertheless feared that the moisture in the soil in many areas is insufficient to maintain production at its present level. Furthermore, the drop in production due primarily to the partial failure of the rains has been aggravated by conditions prevailing in areas affected by the Emergency, where European supervision has fallen and been reduced to a minimum. Further, a marked rise in labour costs and a 100 per cent rise in the price of cottonseed cake has tended to confirm farmers in their present inclination to tend to go out of butterfat. Reserves of butter are now very low and may prove insufficient to provide full cover for requirements during the annual seasonal drop in production during the period November to March.

Kenya Co-operative Creameries, however, expect to be in a position to maintain practically normal supplies to all three East African territories, at least up to the 1st October, but whether full supplies can be continued after this date depends on reasonably good rains after this period in the main dairying parts of the Colony.

In order, Sir, to forestall a possible shortage of fats, and in view of the fact that inquiries disclosed that imported butter, even if obtainable, would be very much more expensive than the local produce, import licences have been authorized for the importation of margarine to a total of 400 tons.

As regards butter prices, increases in cost of production have justified the granting of a small increase in the wholesale butter price of 15 cents per lb., with consequential increases in the price of non-luxury cheese and ghee. Amended retail selling prices, based on

[The Member for Agriculture and Natural Resources] the wholesale price increases, are being published by the Price Controller and will come into force with effect from Monday next.

ORAL ANSWERS TO QUESTIONS QUESTION No. 116

MR. A. B. PATEL asked the Member for Commerce and Industry if he is aware that edible refined oil imported from Uganda will cost the consumers Sh. 10 less per tin than oil manufactured by local firms from the semi-refined oil imported by such firms from Uganda and refined in Kenya?

If the reply is in the affirmative, will the Member for Commerce and Industry state how long the consumers of edible oil in Kenya are expected to subsidize these local firms in Kenya and also state if these local firms cannot increase their efficiency in order to save the money of the Kenya consumers of edible oil.

THE MEMBER FOR COMMERCE AND INDUSTRY: I am grateful to the hon. Member for raising this question, and I should like to take this opportunity to inform him that plans for the reorganization and rationalization of an important part of the Kenya Edible Oil Industry have been prepared by a well-known United Kingdom concern, which will almost certainly lead to a much higher efficiency in production in the Colony.

MR. A. B. PATEL: The first part of my question has remained unanswered.

THE MEMBER FOR COMMERCE AND INDUSTRY: I would be very grateful to the hon. Member if he would substantiate his claim that there is a difference of Sh. 10 if he would give me details, I am sure that they would interest the consumers as well as me.

MR. A. B. PATEL: Arising out of that question, Mr. Speaker, will the hon. Member say if there is any difference in price between edible imported oil and other oil manufactured by local firms?

MR. BLUNDELL: The question does ask the hon. Member if he is aware—he has not replied yet whether he is aware of anything.

THE MEMBER FOR COMMERCE AND INDUSTRY: I think my reply to my hon. friend's Supplementary question indicates that I was aware there was a difference. I had no intention of giving the impression that I was not aware of a difference. I had asked and I would be very grateful to have details as to how he arrived at that figure of Sh. 10. I am aware there is a difference, but I was not aware that it was Sh. 10.

MR. MADAN: Would the hon. Member tell us if these plans could not have been put into practice before this question was asked?

THE MEMBER FOR COMMERCE AND INDUSTRY: I think my hon. friend well knows that these plans for reorganization, are being put into action by one of the largest firms in the world dealing with this kind of foodstuff, their plans have nothing to do with the timing of the question.

MR. MADHU: Arising out of the answer to the question, could the hon. Member indicate whether the reorganization which will take place and the efficiency of the manufacturing of this commodity will reduce the difference in price that has been referred to in the first part of the question?

THE MEMBER FOR COMMERCE AND INDUSTRY: I do not quite follow my hon. friend, but I did express an opinion in the latter part of my reply.

MR. MADAN: . . . (inaudible.)

MR. BLUNDELL: May I ask the hon. Member if the information in his possession leads him to believe that the price differential was less or more than Sh. 10?

THE MEMBER FOR COMMERCE AND INDUSTRY: It led me to believe that it might be rather less, that is why I asked my hon. friend on what basis he arrived at this figure of Sh. 10.

MR. MADAN: . . . (inaudible.)

THE SPEAKER: If you are going to ask a question stand up and ask.

MR. MADAN: I would ask the hon. Member whether, when the reorganization has taken place, he expects the reduction in price to be as much as Sh. 10.

THE MEMBER FOR COMMERCE AND INDUSTRY: I think my hon. friend poses a hypothetical question.

QUESTION No. 124

MR. MACONOCHE-WELWOOD asked the Member for Agriculture and Natural Resources if he would state the acreage of trees planted by Forest Department in the Mt. Elgon Forest Reserve in 1948, 1949, 1950, 1951, 1952.

2. What is the future proposed acreage of plantations in that area for 1953, 1954, 1955?

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: The acreage of trees planted by the Forest Department in the Mt. Elgon Forest Reserve during the years 1948 to 1952 inclusive is as under—

1948	129 acres
1949	105 acres
1950	258 acres
1951	284 acres
1952	172 acres

2. The future proposed acreage of plantations in the Mt. Elgon Forest Reserve for the years 1953 to 1955 is as under—

1953	200 acres
1954	200 acres
1955	200 acres

MR. MACONOCHE-WELWOOD: Arising out of that answer, Sir, does the hon. Member consider that, with the large labour force available in that area—Kikuyu—for those years, the amount of planting was adequate?

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: Before answering the hon. Member I would like to go into it and I would be very pleased to go into it with him if he likes, but I cannot answer him now.

QUESTION No. 131

MR. BLUNDELL asked the Member for Education and Labour to state what is being done to provide trade unions in the Colony with such advice and guidance as is necessary to ensure their proper and orderly development.

THE MEMBER FOR EDUCATION AND LABOUR: The Government recognizes that in Kenya trade unions require advice and guidance in order to enable them to develop in a proper and orderly manner. This advice and guidance is being provided and it is the policy of the

Government that help of this sort should continue to be provided at all levels.

Some of the ways in which assistance is being made available are:—

(a) Constant contact is maintained between the Labour Department, in particular the staff of the Industrial Relations Branch of the Department and the trade unions, and advice is given to the officers of the Unions on a variety of matters ranging from day-to-day affairs to questions of union policy.

(b) Literature such as translations of trade union legislation and pamphlets on the internal administration of trade unions and the management of trade union accounts are prepared and distributed.

(c) In order to assist local trade unions to acquire a knowledge of good trade union practice it is the policy of the Government to encourage an association between Kenya trade unions and the Trades Union Congress of the United Kingdom. To achieve this end arrangements are now in train for a small party of local African trade unionists to proceed to the United Kingdom for an instructional tour under the auspices of the Trades Union Congress.

MR. BLUNDELL: Mr. Speaker, arising out of that answer will the hon. Member tell me what steps are taken to see: (a) that the funds collected for Unions are properly used, and (b) such funds do not pass into Mau Mau sources.

THE MEMBER FOR EDUCATION AND LABOUR: Sir, under the provisions of the Trade Unions Ordinance there are certain objects upon which funds of the trade unions may be spent—they are laid down quite explicitly. The Registrar of Trade Unions is empowered to inspect the accounts of any union at any reasonable time and Government is satisfied that, so far, no trade union funds have been applied to the ends indicated by the hon. Member. Further, a notice has been published in the Press setting out which of the trade unions are properly registered and warning the public against subscribing to bogus or unregistered unions.

MR. BLUNDELL: Arising out of the original paragraph to the last answer to my question, in view of the constructive outlook, the way in which the Trades Union Congress have been associating with our Kenya trade unions, will Government ask representatives of that Congress to visit this country to study for themselves the prevailing or existing conditions?

THE MEMBER FOR EDUCATION AND LABOUR: Yes, Sir.

MR. COOKE: As regards the hand out referred to by the hon. Member—applications—as soon as you apply to be registered, then you can start collecting—is that correct?

THE MEMBER FOR EDUCATION AND LABOUR: That is so, Sir, under the provisions of the Ordinance.

QUESTION No. 129

MR. HAVELOCK asked the Member for Health, Lands and Local Government to state the exact instructions which have now been issued to Government doctors and hospitals as to their duties in attending and treating non-Government and military personnel.

THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT: In areas where there is an adequate number of private practitioners, Medical Officers and Assistant Surgeons are forbidden to attend non-Government personnel except in cases of emergency. In other areas, Medical Officers are instructed that it is their duty to attend non-Government personnel.

2. With regard to military personnel, the following instructions have been issued:—

(a) *Kenya Regiment*.—Kenya Regiment personnel requiring immediate medical and hospital treatment must be evacuated through military channels. At a Military Base Hospital, the patient, if the military Medical Officer in charge of the case certifies the patient is fit to be moved, may elect to be treated at the Civil Hospital of his choice, it being strictly understood that such election waives all military responsibility for the treatment and the person will personally become responsible for meeting any

fees incurred. Contributors to the European Hospital Fund will of course be entitled to receive reimbursement at the appropriate rate towards hospital expenses incurred during the period of treatment.

(b) *Regular Army*.—Members of the Regular Army will be treated by Medical Officers in an emergency but will normally be evacuated through military channels as laid down in Army Orders.

3. Kenya Police Reserve personnel embodied during the present Emergency are regarded as temporary Government servants and will be accorded medical and hospital facilities accordingly. Wives and families of K.P.R. Force are not entitled to free medical attention, and the members of the Force themselves are not entitled to free medical attention in quarters.

4. It must be appreciated that no instructions can cover every eventually and that a certain amount of discretion must be left to the Medical Officer on the spot. All Medical Officers are aware that, in any emergency, routine instructions can be varied to ensure that the patient's life is not endangered.

MR. HARRIS: Mr. Speaker, arising out of the first paragraph of that answer, Sir, would the hon. Member tell me whether the decision as to whether a case is one of emergency is made by a fully qualified medical person or an unqualified person.

THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT: Wherever a fully qualified person is available, the decision must, of course, rest with him.

MR. MADAN: Sir, arising out of the first part of the answer, if Nyeri falls in an area where a Government doctor is expected to attend to non-Government patients, is the hon. Member aware that a person called Dr. Shaw, in Nyeri Hospital, has refused to attend to Asian patients and has adopted a callous attitude towards cases in great difficulty, in respect of which a complaint has already been made to the Director of Medical Services.

THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT: Mr. Speaker, I was not personally aware of the charges made by the hon. Member, but I understand

[The Member for Health, Lands and Local Government]
from the Director of Medical Services that a formal complaint has been put in and the matter is now under investigation.

MR. MADAN: Would the hon. Member give an assurance, Sir, that if the complaint is found to be true, adequate and proper action will be taken against the Medical Officer concerned?

THE MEMBER FOR HEALTH LANDS AND LOCAL GOVERNMENT: Mr. Speaker, I can give the assurance the hon. Member desires.

MR. BLUNDELL: Mr. Speaker, arising out of the answer of the hon. Member to the supplementary question asked by the hon. Member for Nairobi South, that the responsibility for deciding whether a case was an emergency one or not must rest with a properly authorized person, has the hon. Member given instructions to the hospitals that that will be the procedure followed?

THE MEMBER FOR HEALTH LANDS AND LOCAL GOVERNMENT: Mr. Speaker, after consultation with the Director of Medical Services I am able to state categorically that that instruction has in fact been given.

MOTION

THE EMPLOYMENT OF KIKUYU IN THE HIGHLANDS

THE MEMBER FOR EDUCATION AND LABOUR: Mr. Speaker, in view of the time that has elapsed since this Motion came before Council last week, I think it will be as well to reiterate the present attitude of the Government towards the present return of Kikuyu labour to the Rift Valley Province. Put as briefly as possible, it is that unless special permission is given, no employer may engage any new Kikuyu labour. He may take on a man who has recently been employed in the Province, but he may not engage any fresh arrival. By recently employed, it meant that the man must have been employed within the Province during the 14 days immediately before the date of re-employment.

MR. COOKE: Even if he has gone out of the Province in the meantime?

THE MEMBER FOR EDUCATION AND LABOUR: No, Sir, an employer may take

on a new man if he, the employer, obtains a special permit, but these permits are only issued in exceptional circumstances and after consultation with the District Emergency Committee. The Emergency legislation which gives effect to this arrangement is contained in Government Notice No. 1002 of the 27th June.

As for the future, we hope to develop arrangements whereby after consultation with the appropriate local authorities screened labour may take up screened employment. That is to say, Sir, that Kikuyu who we are sure will not indulge in further subversive activity will be permitted to work on farms where proper arrangements have been made for their protection and for the guarding of their quarters, their stock and their crops. We do not intend to proceed with these measures, Sir, until we can be quite certain that there is no risk of any Kikuyu causing a recrudescence of *Mau Mau* activities in the farming areas. I should like to add here that apart from the security aspect there are three factors which must be taken into consideration. Firstly, the wishes of the employer. Not even in the Emergency can Government compel a farmer to employ a Kikuyu if he would rather have working for him a Nandi, or Mkamba; and no policy, however carefully devised, could possibly be successful unless the employers themselves were agreeable to the re-employment of the Kikuyu. Secondly, the employee, himself, must be willing to return to the settled areas and accept the conditions of employment offered to him. It might well be that the type of employment offered would differ from that he had been following prior to his departure. Thirdly, the Labour Department must be satisfied that the terms and conditions of employment are fair and that advantage is not being taken of the Emergency or of the overcrowding of the Kikuyu native land unit to compel the Kikuyu to enter the employment under conditions less favourable than they would otherwise have accepted.

I would like to add a few words on the question of photography. The hon. Mover had given Council a graphic account of the plight of those men who refused to be photographed and who were accordingly prosecuted and sentenced to imprisonment. His contention

[The Member for Education and Labour] is that they were not actuated by any selfish motives, but they were a simple, unsophisticated set of chaps who were so puzzled by the entire operation that they chose imprisonment rather than face the camera. Now, Sir, this is a picture which Government cannot accept. It is the opinion of Government that the *Mau Mau* leaders were determined to do anything in their power to prevent the successful completion of the registration programme and that they accordingly organized a campaign again it. The concerted refusal of these men to be photographed was not based on a vague sense of bewilderment, it was part of the campaign and it arose from the explicit instructions of the *Mau Mau*. Sir, the hon. Mover observed that these men had *no mens rea*. I suggest, Sir, that what they lacked was not *mens rea* but the will to refuse to accept the orders given them by these evil men who were attempting to subvert the established authority of the Government. It is not contended that they were thugs or murderers, many of them had been intimidated and some of them were docilely following the majority, but they were a part of that side reservoir of support, or of acquiescence, without whose help the *gaps* could not operate.

THE SPEAKER: No other hon. Member wishing to continue the debate I will ask the hon. Mover to reply.

MR. COOKE: In the speeches of the hon. Member for Uasin Gishu and the hon. Member for Aberdare, it appears to me that they, as usual, took up a defeatist and negative attitude towards this very serious problem. "I do not mind how much the Kikuyu suffer", said one of them, "And let them return to their tribal areas", said the other. Now, Sir, if that is the attitude to be taken up by the European leaders in this country, all I can say, Sir, with reference, is, "God help this country". I charge those two Members with a complete lack of historical perspective.

Now, it is a matter of history, Sir, that when people are suffering stress and strains, such as the Kikuyu people are suffering to-day, we must—statesmanship at any rate—must see that we do not present those African people with grievances, real or imaginary.

Now, as a historical instance, I need only go back—a long time I admit—to the Irish famine of 1840 where grievances were allowed to grow up and which lasted for generations and embittered the relations between certain sections of the Irish people and the British Government. I need only refer to the Boer War where concentration camps, into which South African—Dutch women and children were concentrated—led to bitterness which lasts until this day and has very adverse effects on the cordial relations between certain sections of the Dutch people and ourselves. So from every point of view, we must make every effort to see that embitterment does not arise.

THE SPEAKER: I must ask the hon. Member to be careful not to introduce new matter and not matters which have been raised by people speaking in the debate. I rather consider that citing all these wonderful examples of past history, results in the introduction of new matters. Nobody can contradict it afterwards. It is the duty of the hon. Member who is replying to restrict himself most carefully to matters raised in the debate and nothing more.

MR. COOKE: I do not understand your reference to the "wonderful matters"; I do not think there is anything wonderful. I think it is very sad.

I do not think the other Members who have spoken in this group have realized the immense debt they owe to the Kikuyu people. Not only because they have played a large part in the promotion of the farming economy of this country but along with the European settlers, but during the two wars, by their loyalty and devotion, they allowed the settlers to go to war and looked after their wives and children left behind with great loyalty and devotion. But cutting out any kind of feeling of gratitude or equity, I would have said that common sense and common humanity alone would have compelled us to see that these thousands of people should not be allowed to wander over the face of the earth, of Kenya, like the Ishmaelites in the biblical days.

Now, I am coming back to my hon. friends, the Member for Trans Nzoia and the Member for Aberdare. I am sorry that he is not here—the hon. Member for Aberdare, I will deal with him later on.

[Mr. Cooke]

I have to deal with some of the remarks of my hon. friend, the Member for African Affairs. Now he, if I read him rightly, my hon. friend gave me the impression that it is his view, and, no doubt, Government's view, that there is sufficient land in the Kikuyu areas, not only for those who are legitimately living there, but for those who may come there, perhaps a 100,000, from the settled areas. Mr. Speaker, I completely traverse that point of view. It is not the point of view held by Mr. Humphreys nor the other agricultural experts who reported on this matter. It may be that there is a certain amount of land of sub-marginal type available but, as my hon. friend, Mr. Mathu said, more than once, it may take many years before this sub-marginal land can be brought into good heart, when it would be possible for anyone to make a good living from that land. Now, even though they may be able to scrape a living, I do contest, Sir, that that living would only be such as to keep them—as the expression is—above the bread line or keep them on the margin of subsistence, but it would not allow them to enjoy those amenities which we ourselves and the Secretaries of State from time to time again have insisted should be enjoyed, better clothing, better housing, and would it permit them to enjoy those privileges of what I call a better type of living.

I just want to ask my hon. friend this question—I think it is susceptible to a plain reply. Is it his opinion that the present land would not only support this increased population, to keep them on the margin of subsistence, but also enable them to promote that standard of living which we from time to time have said in this Council is essential? Perhaps he does not wish to reply but I will give him the opportunity.

Now even assuming that what the hon. gentleman says is quite correct I think it leads us to a very serious dilemma because year after year in this Council, outside this Council, and in England, we have been insisting that the population is so large in the Kikuyu areas that the land cannot support it. In the promotion of that idea, that proposition, we have invited to this country secondary industry and farmers and said there is plenty of labour available for carrying on the in-

dustries of this country. Now apparently we are turning round and saying that there is plenty of land and there is no necessity for these people to go out to work. That will lead to a very serious position indeed. As I envisage it, in a year or two the settlers will be coming to the Government on bended knees, asking Government to supply, to encourage labour to go out. Possibly the answer of Government might then be, "These people got into mischief when they went out last, and we are certainly not going to encourage them to go out now", and the whole economy of the country would thereby suffer.

That is one of the reasons why I brought this Motion, because I foresee that possibility.

Now, the hon. Member for Uasin Gishu rather let his imagination stray. He says—this is in my notes and is reported in the *East African Standard*—"Mr. COOKE suggested whatever the risk to the Emergency and the lives of the European in the Highlands, a policy of immediate return should be formulated by Government." I never said any such nonsense. I contended from the start that Government should have a rigorous survey of these people and a rigorous screening and then after, if a farmer wishes them to return, they should be encouraged to return. But I laid emphasis upon a policy and a policy should be formulated at once. What that policy should be is not for me to dictate, it is for Government to say, and to say that I used the words, or expressed any such sentiment is a gross travesty and is a gross distortion of what I said. I might employ the vivid language, the vivid language that Mr. Balfour once employed in the House of Commons if the hon. Member was here! but as he is not—

THE CHIEF SECRETARY: Keep it for next time!

MR. COOKE: Keep it for another time—how right you are!

Now what I suggested was that Government should formulate a policy and if possible they should take a hint from what Brigadier Hendricks did in North Kenya—that is, encourage employees to come back, after thorough screening and compelling them, of course, to live in villages. I suggested, and I suggest still, that unemployed squatters should be

[Mr. Cooke] compelled—I have had an argument with my hon. friend, the Member for Labour over this—that they should be compelled to accept paid employment in Government or the municipalities. I am not the slightest bit afraid of what people say; if you can bring the Emergency laws that have been brought in, then it is surely possible to bring in Emergency laws to save people from themselves. No one in England could deny that the best thing to do in the circumstances would be to compel the young people to work on public works rather than let them wander round the world—Kenya—joining the thugs, increasing the ranks of the discontents, going immediately into the forests and—as General Erskine himself said—embarrassing the Emergency measures. Surely that is the only point of view—from a humanitarian, common-sense point of view. I am disappointed that Government has taken on this attitude—"I don't care two hoots"—a cynical attitude towards this tremendous problem.

Now the hon. Member for Aberdare tells us, or rather indicates that he does not trust any Kikuyu. Well, if the hon. Member does not trust any Kikuyu, why have them on his farm, thereby endangering the lives of his brother farmers? Up to two months ago my hon. friend had 50-100 per cent of Kikuyu on his farm, unscrubbed, unphotographed. This very gentleman who in this Council time after time rates Government, rates everybody, for having too much trust in the Kikuyu!

There is another very important point which the hon. Member for Nairobi South made—that is the point of view of farmers, coffee and sisal farmers, who are living contiguous with the reserves. Now these people, he contended—and I certainly contend—are put into a good deal of jeopardy and I know there is a very strong feeling in the country about this. Now a very prominent farmer—Mr. H. E. Gill—who I think is a constituent of the hon. Member for Kiambu, who is also absent. He wrote about this position the other day which I am trying to rectify now—what the position is as regarding farmers in the Limuru area. He is replying to Mr. Stewart Bellhouse: "No doubt it would be very comforting for Mr. Bellhouse to know that there were no Kikuyu within miles of him"—Mr. Bellhouse lives

in Rift Valley—"having had them all returned to their reserves. But those of us in this and other districts"—that is Limuru, Thika and other parts—"are at the receiving end, the repatriates have been shovelled back into the reserves surrounding us in large numbers. A gun, after all, may inspire quite contrary thoughts to those at the opposite ends of it"—He means that there are two ends of a gun—one of them the receiving end—and being on the other end of that gun might inspire quite contrary sentiments between Mr. Bellhouse and Mr. Gill. "If we here are to have Kikuyu sitting on the other side of our boundary fences, out of work, possibly hungry, and potential menaces, I can see no reason to get rid of those who are on our farms, being paid and fed, and possibly contented".

Well, I think that is a statesmanlike view to take. Apart from that, from a common-sense point of view, if you send thugs out in hundreds they are bound to get into mischief. I indict Government for its failure to deal with those people.

Now my hon. friend the Member for Labour has stolen a march on me by coming along with new points at the last moment so as to cause a fluster—his probably anticipated he could. My hon. friend completely distorts what I said. I did not say that all those who refused to be photographed were archangels. I know he photographed well that a large number were *Mau Mau*, but those who refused to be photographed and on screening were found to be decent people should be allowed to go back to the farmers. But no, he put them all together—he is like all the hon. Members on this side of Council.

THE MEMBER FOR EDUCATION AND LABOUR: I made it clear in my opening remark that if a farmer wished to employ a man who has not been recently employed in the province—and in this category come those imprisoned for photography offences—he could do so; but he would require a permit from the District Commissioner and the agreement of the District Emergency Committee.

MR. COOKE: I think the hon. gentleman is under a misapprehension. These people are released from prison at Naivasha, they are given no opportunity, they are put straight on a train and sent back to the reserves. These people, al-

[Mr. Cooke] though they have not technically left the Rift Valley, leave it from the point of view of employment and there is no possibility of them being re-employed once they leave the Rift Valley because the Ordinance, the regulations say anyone having left, cannot come back except under most stringent regulations, which means, in effect, that none will come back. I am not satisfied with that reply.

My hon. friend made three points to which I agree—I have never disputed them, no one has ever disputed them. No one wants to compel farmers to employ Kikuyu—no suggestion has been made in this debate by myself or anyone else to that effect. The employees must be willing to return; the Labour Department must be satisfied as to the terms of their employment. Those three points of course, I knew perfectly well. I have always known, I have always taken the attitude that we should never allow anyone to go back until we were perfectly certain of his behaviour—we would not allow anyone to be employed, of course, we would not do any such thing. Those three points at any rate do not trouble us, at least not in this debate.

Now all that I am asking is these two things and I do submit that they are reasonable suggestions, and I would warn Government that, as far as I am concerned—and there are a great many other people who feel strongly about this matter—unless we get the co-operation of Government, we should take other steps. We do not want people sent back if there is a great risk—but there must be risks. People who come to this country come to take risks—otherwise they would live in suburbia at home! If the hon. Members on the other side of the Council are afraid of taking risks, let them go back to their natural homes of Cheltenham or Bourne-mouth, or wherever it is! Those who come to this country take risks—I have been taking risks for 40 years—I take a risk every time I stand up in this Council. (Laughter—Applause.) I have never received anything like the applause I have had now! That has not deterred me, nor will it deter me!

There are only two points I wish to make. I make them with every emphasis. Government must hasten, must expedite,

this return of decent Kikuyu to the settled areas; in the interests of everybody, of the farmers, of commerce, public decency, humanity and in the interests of themselves, Government must come to a decision, an early decision and formulate a policy to return these people. The economy of this country cannot be carried on without them. I say this without any reflection on any other tribe, because the Kikuyu are noted as good agriculturists. One of the best-known farmers in Rumuruti told me that one Kikuyu for his particular type of farmwork was worth two of any other tribe. We cannot afford to do without that labour. Government must come to a decision—an early decision about that matter.

Number two is that they must cut out all labour conventions and take the risk and say, "We are compelling these people being released to take on public works". As a matter of fact, I do not think there need be a lot of compulsion about it. I think most of them are so upset and frightened that they would take it on gladly. Government must not be deterred by any criticism at home or anywhere from doing their duty and employing these unemployed people. If they are not fit to do that, they are not fit to govern this country and the sooner they get out the better. I would not hesitate, like the hon. Member, to mention names if I thought it necessary to do so. I do say they are not fit to govern this country unless they come forward and do something to show us that they are governing.

My hon. friend, the Chief Secretary, made the remark the other day that Government had made its position plain and clear, on everything else. I wish he would do that on this occasion. I do ask Government to put it in writing so that their policy will be plain. I am not content with what I have received from the hon. Member for Labour or the hon. Member for Native Affairs. I would like to see on a White Paper, or whatever kind of paper is necessary, a policy properly laid down, properly formulated as to what Government's policy is and then we will know where we stand. (Applause.)

Question proposed.

The question was put and carried.

MOTION

A COLONY-WIDE POLITICAL ORGANIZATION FOR AFRICANS

MR. MATHU: Mr. Speaker, I beg to move "That in the opinion of this Council the Government should leave the Africans to form and operate constitutionally a Colony-wide political organization".

The African Members of Legislative Council have been very exercised over the question of a political organization for the African people after the proscription of Kenya African Union on the 8th June of this year. Not only the African Members of this Council, but the African public in general of all tribes have made representations, suggesting that we should do our duty in bringing this matter before this Council. We feel it our duty, Sir, to do so and if we did not we would be failing very badly in our duty.

Owing to the trend of events which attended the declaration of the State of Emergency in October last year, it is clear that a disciplined and reputable African political organization is called for. This is even made more necessary when the Government proscribed the Kenya African Union on 8th June this year. Since that time the African Members have had discussions with Government at the highest level more than once and we do feel that we have never been satisfied with the explanations given, why Government announced publicly through the broadcast of my hon. friend, the Member for African Affairs, over the radio that no central or Colony-wide political organization will be allowed to be formed or to function during the period of the Emergency. Now, Sir, the situation prevailing at the moment is that there is no African political organization of a Colony-wide scale in Kenya.

Now, our fear is this, Sir, that when a people, like the Africans, who are six million strong, are left without an adequate and well-organized outlet for their political aspirations, that state of affairs will encourage those who are evil-minded and who want to go underground and we will have a double *Mau Mau* in the years to come, and we do feel, Sir, that it is right and proper and it is a democratic right of the people in a

British Colony, that they should be given encouragement to form and operate, in a constitutional manner, an organization through which they can express their aspirations to the State. Failure to do that, as I suggested, Sir, will lead to subversion and that is a matter that no person of goodwill in this country, or in any other part of the world, would support. But in order, Sir, to place this question of a political organization for the African people in its proper perspective, let me say, Sir, that in the modern world communities and members of a country come together in various ways to promote various interests, which are vital for the common life of that community.

We have, Sir, commercial associations, which promote the economic well-being of the country. We have limited companies, for example, in many other parts of the country for this particular purpose. We have the Chambers of Commerce in this country and elsewhere to promote that particular economic interest, which is very important for the life of a country. Not only that, Sir, you have industrial associations, you have trade unions and you have Civil Service associations. Now these associations are vital also for the healthy development of any country and it is the duty of the State to encourage these voluntary organizations in the form of trade unions and Civil Service associations. You have also other social associations, such as clubs, where members, men and women, meet for sporting purposes or for any other purposes to fulfil their social needs, which is necessary for the livelihood of people.

Finally, as far as these associations of people are concerned, there is the Church, which also has to fulfil the spiritual need of the community. I suggest, Sir, that a rallying point for all these associations is the State and it is necessary to see that they make use of the material which comes out of these associations for the very existence of that State, because without these associations you would not have democratic states at all. You would have what Hitler had in Germany, or what Mussolini had in Italy, or Stalin had in Russia, or has even to-day, that is, one-man or one-group State, which definitely should not be a policy of a British Colony.

THE SPEAKER: It is now eleven o'clock. Business will be suspended for fifteen minutes.

Council adjourned at Eleven o'clock and resumed at fifteen minutes past Eleven o'clock.

SUBMISSION OF BREACH OF PRIVILEGE

THE SPEAKER: Hon. Members, before proceeding with the debate on the Motion moved by the hon. Member for African Affairs, I wish again to refer to the matter which was raised by the hon. Member for Uasin Gishu this morning. It may have gone abroad, and I want to correct the impression if it has done so, that this Council claimed to have privileges on the same basis as the House of Commons. Of course, it has nothing of the kind. It is not a Sovereign Legislature, it is a Subsidiary Legislature and it has such privileges as are to be found out of the Standing Orders and out of the Powers and Privileges Ordinance passed some time ago. Therefore there is some uncertainty as to the form of resolution or form of Motion which was moved by the hon. Member for Uasin Gishu this morning and carried. I am therefore allowing business to be interrupted in order that the Chief Secretary may now move a Motion which will be in appropriate form.

MOTION

SESSIONAL COMMITTEE, INQUIRY

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

BE IT RESOLVED that the resolution passed this morning relating to the appointment of a Committee of Privilege be rescinded and that the Sessional Committee be required to inquire into and report to Council on the circumstances in which the report of the proceedings in a Committee of the Council which appeared in the *East African Standard* of the 30th July, 1953, under the heading "Inter-racial School to be opened in Nalrobi" was made; and that for the purposes aforesaid the Sessional Committee is hereby authorized in pursuance of section 9 of the Legislative Council (Powers and Privileges) Ordinance, 1952, to order persons to attend before

it and to produce documents as provided in the said section.

Question proposed.

MR. COOKE: Mr. Speaker, I am going to oppose this Motion because I want to record that I think it was unfortunate that a hasty decision was come to in this matter and it is now suddenly discovered that we are not a Sovereign Parliament which, I think most people take great—

THE SPEAKER: I take great exception to the hon. Member's remark. It has not been suddenly discovered, the matter was taken in a hurry from a Motion not in writing, and in a matter of that kind it is necessary to regularize the position. My remark was simply to clear the air in order that this Motion could be moved and I do not think the hon. Member is entitled to debate with me on what I have said, but he is entitled to debate on the Motion now moved.

MR. COOKE: I have no intention to debate with you, but it is unfortunate that it has probably been cabled to England now what has been decided. In order to raise my formal objection I will not support this Motion.

MR. MADAN: Mr. Speaker, if I may also support the hon. Member for the Coast, I think that on this particular occasion we are making a "mountain out of a molehill" out of a very small matter. I say that with due respect to what happened this morning. I am also mindful of the breach of privilege which must not be allowed to take place against this Council, but I do think that the matter is so trivial that we might let it lie sleeping and not disturb it, having placed on record our strong disapproval of the manner in which the *East African Standard* has reported the matter.

MR. MACONOCHE-WELWOOD: Mr. Speaker, rising in support of the Motion and as one who originally raised this matter, I must say in reply to the last speaker that I cannot agree that the dignity of this Council and the correct reporting of the proceedings of this Council are not an important matter. I raise this matter in no controversial spirit to either side of Council or with any person in it, I raised it because I think it fit and proper that reports of proceedings of this Council shall be

(Mr. Maconochie-Welwood)
accurate and those who misreport it shall do so at their peril.

The question was put and carried.

MOTION

A Colony-wide Political Organization for Africans

Debate resumed.

MR. MATHU: Mr. Speaker, when the business of the Council was interrupted I was making the point that the State is the rallying point for the various voluntary associations which are formed by the communities which are under the general guidance of the State.

I should like to say, Sir, that it is also through that a political organization is a rallying point of all the other voluntary associations which are formed and operated in a community. I refer, Sir, for example, to the Trade Unions, Civil Service Associations and such organizations and the commercial organizations such as the Chamber of Commerce. They work together with the political organization which could make representation to the state for the promotion of their various interests. You will see, Sir, that as far as the African Community in Kenya to-day is concerned there is no such co-ordinating voluntary political organization for the African people, and therefore, Sir, we think that it is imperative that the African should be given an opportunity and indeed a positive encouragement to set up such an organization in co-operation with all those persons interested. There has been, Sir, two suggestions made as to how this could be achieved. The first is that some existing private organization should be utilized as a basis for the Kenya African political associations, secondly, that a brand new political organization should be formed with a constitution permitting both individual and group membership.

The first suggestion of making an existing tribal association for a central or Colony-wide organization is one we do not accept. The Africans cannot be satisfied with piecemeal, loose knit and not very strongly organized tribal associations, because we believe, Sir, that it is for the good of the whole community that the African people should have one united voice and that that would ease the burden

on the part of the Government in that they will have a body to deal with instead of dealing with numerous local or district associations.

Now, Sir, that is not the only objection we have to using these tribal organizations. Those existing to-day and those registered under the Society's Ordinance are in the main welfare associations—they foster the welfare of their members and they are not political in any sense. In fact, I do not think they would like to be political because I think they are fulfilling a particular purpose and they should be allowed to continue to fulfil that particular purpose of the promotion of the welfare of their members.

You have, also, some of these associations which might have some political objective, and my use of political in that sense is used in a very limited sense, because their major objective, as I say, is welfare.

The limitations that these tribal organizations have are such that they would not be useful as a medium of the expression of the African's aspirations as a whole in the whole Colony. It appears to us then that it will be unwise and, indeed, I think it to be wrong for the Government or any people to press on the African to take and to utilize these welfare associations on a tribal basis, because I do think, Sir, that this will only lead to African political bankruptcy, and in fact, we hear very often in this country of the British way of life which the majority of us have accepted, and I do not think any person would say this is part and parcel of the British way of life, of dismembering a community over their political institutions.

The second suggestion to which I referred is that there should be a new Colony-wide organization and that organization should be formed now. I realize, Sir, and my colleagues do that too, when we plead with this Council that the embargo on African political advancement on a Colony-wide basis be lifted so that they will have to take their place in the restrictions which are dictated by the state of Emergency and on security grounds—they will see the battle against activities until we have the battle against Mau Mau through—that Sir, we realize and there should be no doubt from any hon. Member on that score as to our

[Mr. Mathu] intentions. But we do feel that psychologically we would be very imaginative if we said publicly as a government that our policy is that these Africans shall form and operate a political organization on a Colony-wide basis, and knowing, of course, that as I say that organization will be subject to restrictions which are dictated by security reasons, I think that will be the wisest thing we can do, because I think that even if it is not a physical war—not even a physical battle—the psychological battle amongst the African community, bringing their goodwill to the Government's side is very great. As far as this new organization is concerned we do think, Sir, that the Africans have to sit down and draw up a constitution which we think would be for the interest of all concerned—the co-operation of Government and co-operation of other communities who are interested in the political, economic and social development of this country will definitely be necessary, and we do not think we shall say "Well, it is our do—we do not want the co-operation of anybody. Our intention is that we should co-operate with anybody who is interested in this matter to produce a constitution which will enable the African people to express their political aspirations in a constitutional manner and in the most effective way possible. That organization, Sir, we suggested should have branches throughout the country and these branches should be so firmly established and efficiently run that there should be no doubt in the minds of Members and the people of the country that there is no doubt that they are moving in anything except the best way possible. The central committee should again be very strongly organized—it should be representative of the branches which bring it into being, and it should, also, be firmly established in order to guide the branches to function in the proper way.

I say, Sir, that this organization—the organization of what you might call the central executive committee which we made together—the various branch organizations should be representative. I say this, Sir, because I think that it is absolutely vital that such a central organization should be arranged in such a way that no one section of the African Community should assume monopoly of

leadership, because I do think, Sir, that all Africans should be given the opportunity to influence the affairs that such an organization may be dealing with and no one section—no one tribe, if you like—should be given an overall majority in that committee so that its decision may be the only one to be taken. Now, I think that is a very important point to emphasize. I do not want, Sir, to go into the question of the constitution of such a body, but I have here six broad principles which I should like to place on record.

The first is that that organization should be open to all African people of the Colony.

The second is that the organization should have branches all over Kenya wherever it had a fixed minimum of supporters, these branches should be very firmly organized, for the success of the organization depends on these local bodies.

Thirdly, the central controlling body should be really strong and responsible to its members, Sir, must be drawn from branches and arranged in such a way that no one particular section of African people should have an overall majority.

The fourth, the constitution should include a clause laying down necessary disqualifications to exclude some persons from membership of the organization, locally or centrally.

The Fifth—the policy of the organization should be laid down and published so that would-be members should know what they are going to support.

And finally, Sir, the finances of the association, at both the local and central level, should be very strictly controlled, and all the accounts audited by recognized auditors.

Now those, as I said, are broad principles which should be embodied in any constitution of such a body.

Now, the next point I want to raise, Sir, is who at the moment would be the members, or the founders, or the supporters of such an organization. We have, in this country, Sir, amongst the African community, a majority of people who are loyal to the British Government in this country and the United Kingdom, and it is our intention, those of us who have the responsibility of voicing the views of our people in this country, to

[Mr. Mathu] maintain that view that here we are in a British Colony and it is our bounden duty to support and to be loyal to the British Crown which has guided this country for these last fifty years.

Amongst these loyal people, I do not want to go very much into details, you have in Nyanza Province the Luo, Abaluya, Kisu, and Kipsigis communities that have demonstrated their loyalty in peace and in war. (Applause.) And I do not think we would be justified in depriving them of the liberty of coming together in a constitutional manner and expressing their aspirations before the world and this country. I do think it would be a negation of our policy—it would be a discouragement of these people who have helped this country on numerous occasions if we do not encourage them to take their place in an organization such as this.

In the Rift Valley Province you have also an African community like the Nandi, Elgeyo, Marakwet and Tugen. They, again, in peace and in war have supported this country and helped in bringing the advancement of the Colony to the stage at which it is to-day. There again I ask you, Mr. Speaker, could we—could it be said—that it will be recognizing their loyalty by denying these people to form themselves into such an organization as the one we have suggested this morning.

We have the Masai, the Wakamba. The Wakamba have been quoted in this Council practically every time there has been a question to discuss about Africans. They are people who, I think, make more than 70 per cent or 75 per cent of our police force and in the King's African Rifles they are also, in numerous numbers. They have helped us during the two wars more than any other community in the country, and they are doing that during this Emergency. Would we be justified, Sir, in telling these people "Shut up—you stand there with your views in your head—you are not going to express them in an organization on a Colony-wide basis". I do submit that we would be failing in our duty if we did that.

You have the coastal tribes also who, like any other people, have helped this country very much indeed, and there

again I do submit that it would not be right for us to say that they should not come together with the other communities of the Africans and form an organization.

Now, finally let us come to this very notorious Kikuyu community. Even among this notorious community we have thousands of loyalists, resistance groups which are fighting against the *Mau Mau*, and risking the lives of themselves, families and properties. Can we be justified in telling them to "Shut up—you are not going to express any of your aspirations in a central organization", and I submit, Sir, that among Embu and Meru people similar things could be said—I submit, Mr. Speaker, that the loyalty these people have demonstrated is a loyalty that should be recognized and the way to recognize that is to make them feel they are free constitutionally to air any of their aspirations, and make their representations to the Government of this country. Realizing that they are loyal, and saying they are loyal, believing in it; I suggest, Sir, that it is not sufficient. It is not only sympathy that we have to give these people—it is practical sympathy, some thing they can see so that they can say we have got this because we have been loyal to the Government.

Let me say, Sir, as a further point, that in Africa we have British Colonies or some independent Governments in Africa, who are going through more difficult times than ourselves, and who are giving, in spite of that, the African the right of organization on a political plane, even in the very notorious racial South Africa they still have African political organizations functioning even to-day. Whatever we say against Dr. Malan and his Government, they have demonstrated that we have to give these fellows an opportunity of expressing their views. The same applies to Northern Rhodesia—you have the Northern Rhodesian African Congress functioning, protesting against the federation on that Table and the Government in that country which is helmed, I think, by a former member of this Government. The Africans there are allowed to carry on their own political activities, the same thing applies to Nyasaland and the neighbouring territories, Tanganyika and Uganda. The same thing applies in West

(Mr. Mathu)

Africa and there, I think, the British have had more trouble with Africans than we have ever had in East Africa, either continuing to organize politically and to express their opinion. What about the Sudan? The history of the Sudan is known—how the Sudan has been giving the British for years a terrific headache. I give this example to show that even when *Mau Mau* is with us we should not be blinded by that small trouble in comparison with the troubles that the British have faced in Africa and other parts of the world and refuse to give the opportunity to the African people here to organize politically and in a constitutional manner. The dangers of this are great.

As I mentioned earlier, Sir, I should hate to see African politics going underground and the only way we have of preventing that happening is for Government to remove their embargo, to remove this restriction that they cannot have a central organized political movement. As I said earlier, I realize the difficulties of the Emergency and those, as I say, the organizations will have to fit in with.

My final point, Sir, is this: During the political storms of the twenties in this country, the British settlers formed political organizations. There were many, in the end they brought them to one called the Convention of Associations.

Lord Delamere was a big figure in this organization. My hon. friend the Member for Nairobi West, played a very important part in this stormy political organization of those years. My hon. friend, the Member for Agriculture, also in those days played a very important part—(Laughter, applause)—in bringing these political organizations into being and in those days complaints were made that these organizations were not representative. They wanted them to be more representative. Complaints came from local branches and eventually they agreed to dissolve these minor organizations and convert them to a Convention of Associations.

Now the reason that I mention this is that in 1920, the European Elected Members of those days impressed on the whole country and Government that they, as representatives of the people, must be *ex officio* Members of the Convention, of the Association, without a

vote. We want to take a leaf out of that book, and we, as Members representing African Interests in this Council, want to have an organization where we will be *ex officio* Members without a vote. I will go further, under the present development, it would be a mistake not to allow African Civil Servants to become members of such organizations. I would like to see the chiefs becoming members; I should like to see people like my hon. friend, Mr. Okwirry, becoming members of such an organization, because such men will give the stability that is necessary and keep down extremists who want to plant a banana tree to-day and then when their child cries in the evening, go and get a bunch off the tree the same day I do think, Sir, that if we allowed these responsible Africans to become members of such an organization as I am advocating, we will be doing a great service to this country, because these are people who have a chance of carrying the Africans in that respect.

Before I sit down, I have two further points to make. The first is this, that Sir Robert Coryndon, when he was Governor in this country and the settlers of Kenya, agreed that the 1923 White Paper which advocated the paramountcy of African interests, should be whittled down because the battle between the Indians and the Europeans had ended then and they wanted something better. A dual policy was advocated by the European citizens, they supported that thing. A dual policy, which has become a book actually written by one of the editors of a weekly paper in Kenya. The dual policy was that the development of Africans and non-Africans should be complementary on a political plane. Mr. Speaker, is that development going to be complementary when you deny Africans a political organization? The answer is "No". I suggest that in order to carry that policy of partnership forward, the European Elected Members, the Indian Congress and the African organization should co-operate on a political plane together. That partnership is not possible now because we have not got such an organization when the other communities, the non-African communities have their organizations carrying on almost as usual.

Mr. Mathu

So I do say, Sir, that as a man who advocates real co-operation in this country, this is one of the ways by which we can demonstrate to the world that we are going to co-operate and we are going to put our house in order without any unnecessary outside interference.

I do think we can say with Tempon:

... that which we are, we are;
One equal temper of heroic hearts,
Made weak by time and fate, but
strong in will.
To strive, to seek, to find, and not
to yield." (Applause.)

Mr. OHANGA: I rise to second the Motion and say that I do most heartily endorse all the main principles which have been set out so ably by my hon. colleague, Mr. Mathu, in moving this Motion to which we African Members attach so much importance.

Having dealt with most of the issues involved in the actual organization of the Colony-wide Organization, I will try not to go on the same lines as my hon. colleague has done in order to avoid tiresome repetition and I would like to go back a little in order to give a very short sketch of the historical background of African political associations.

I think the year 1918 was the one which first saw the Africans awakening in this country. At that time we had men returning from the First World War filled with great and big ideas which they had learnt practically on the battlefield. When they came back, they had learnt first, to fight together against a common enemy; they had learnt to know that you fight better together than if you are alone and as soon as they came back to their villages and among their own people, they endeavoured to apply some of these principles of fighting a common enemy together and of working together instead of singly to their peace-time conditions.

Soon after that time, shall we say between the years 1920 and 1935, we saw a great African movement. They first became conscious of the importance, not only of spiritual matters, but also of political matters economic and so on. It was during that time, Sir, that we first found some of the rudimentary types

of associations, that really could not be called political at all, merging into the picture. The power of a Government of the people, its influence upon the activities of individuals, its controlling authority and so on were first manifested to them. At that time it was customary for men, women and even children to render, voluntarily, and sometimes forcefully, communal labour for any common purpose. They would be called upon to make roads, build churches and schools, they would be called upon to do all sorts of things which they did willingly. I must say that at that time we did not have very much in the local sphere of taxation. We depended solely on the work of our own hands, but very soon local councils came into existence. We had what was at that time known as the L.N.C.s and that did give some money to the local governments which in the end was intended to replace the communal labour which was assuming very high proportions. Then in order to control the activities of everything that was going on, associations, voluntary in nature, of the people themselves, run by them and operated by them at every way, came into being in order that they may give direction to all the developments that were going on.

At that time too, it happened to be the time when we had a great infiltration of immigrants to the country. When the returning soldiers of the First World War came to settle in the Colony quite a lot of the land which had been looked upon as the Africans' became the property of the people who had come from the war and elsewhere. The Africans became conscious of certain things which they would call their rights and then that promoted the ideas of forming associations in order to protect and to fight for the rights which they considered were their own.

Among the very first political movements to be formed were in Nyanza—the Kavirondo Taxpayers Welfare Association which was, in a sense, a welfare organization, but it did very well in doing its welfare aspect of duties as well as taking on some political matters that could only be dealt with politically. In the Central Province we had the Kikuyu Central Association. We had also the Nyanza Central Association. There were many others, but I do not want to give a list of these, but they all

[Mr. Ohanga]

had one aim—they realized that if they were going to be a people, if they were going to live and work together for common good, they would have to organize themselves on a common platform.

Mr. Speaker, since that time many of these bodies have died, some naturally, some as result of official action, but the spirit which was created then at that time carries on. That is the need to organize yourselves as a people and to work together for the common good and they have from time to time co-operated with bodies under a different name but all the time the one common object was carried forward without very much alteration and in those days of struggle, the African community enlisted the support, encouragement and help of a few Europeans who had come to live in this country and who offered their help and assistance very willingly in order to help organize associations and also to carry on as political bodies.

I should like here to pay tribute to one whom we will find it difficult to forget, who did so much to show the Africans the way to light. I refer to the late Archdeacon W. F. Owen who was actually the father of the Kavirondo Taxpayers Welfare Association, who by his foresight and selflessness gave so much impetus to the Africans to help themselves instead of begging Government for everything and whose leadership will live forever in our minds.

With him there have been very many others, but I was not a very big boy at the time and I cannot remember all of them. We have Canon Leakey and Archdeacon Burns, and much more recently, our present Bishop, the Right Reverend Beecher, who, only a few years ago, has been speaking for Africans on African matters in this Council and in other councils of the Colony. (Applause.)

Mr. Speaker, these gentlemen have rendered a service to the Africans which we will not forget. They realized that without organizations and without the collective opinion of the people, the way of progress would be long and difficult and they were united in seeking to help the Africans to organize, they were united in getting the Africans to form organiza-

tions that would help them along the hard and difficult road of political progress.

I think it is too late in the day to imagine that we can have Kenya without an African Colony-wide organization. It might be said that these organizations I have mentioned were not Colony-wide. As such, they were not Colony-wide, but the understanding and background was Colony-wide. They had common understanding and wherever there was any question of authority or any question or item, they always came forward and never contradicted each other.

Between the years 1925 and 1935 the British Government at home became interested in African affairs and during that period, Royal Commissions flowed into the country to carry on investigations into detailed matters connected with African affairs and the way Africa was being administered. Each dealt with specific aspects of African development—we had Sir Hilton Young and the Omsy Gore Commission and many others but all these Commissions, each one had added a chapter to the progress of African affairs in the country and many of them offered guidance on matters of principle which we still hold to-day in our organizations and in our dealing with the African.

All these Royal Commissions wanted to hear the African voice, together wherever possible and if not as individuals; the best help we could afford them was at the collective level where African members of different associations in different parts of the country would come together, and offer advice together. That was more useful to the Commissions and rendered service to them and helped them in their inquiries and recommendations and so on.

If, as I have said, it was necessary then, how much more is it necessary to-day when we have bigger, more important things to deal with in this Colony and East Africa as a whole. Now the Kenya African Union which I must say was the first African political organization that really covered the whole Colony, that was started in 1944 first as a study union to assist Africans to study political problems and so on but a very big step was taken in African

[Mr. Ohanga]

political affairs in 1944 when for the first time Africans in this country were allowed direct representation in the Council. It was necessary, therefore, that African Members should have the best advice, the best support possible from a body outside this Council in all matters which concern African interests.

Now the Union has been in operation for some time only. The Kenya African Union has been proscribed now and in its place we have nothing except what might be called a vacuum. This vacuum now exists at this time. How long are we prepared to allow this vacuum to stand? If we do not deal with this vacuum, I am quite sure nature will, and I understand that nature has some very violent methods of dealing with the vacuum. I would rather we stepped in and dealt with the vacuum for our own good and not for nature to deal with it as it likes. That is why it appears to me that although the Colony is under an Emergency, it is imperative we should allow a free political African organization to be formed and that then, after being formed will be subject as the hon. Mr. Mathu has said, to all restrictions dictated by the state of Emergency. That, of course, we cannot deny and that, of course, we cannot quarrel with. It is absolutely necessary that we must have in existence something to take up this most dangerous vacuum.

What is Government's position regarding this matter? I think the whole world has been told quite clearly that Government had no sinister motive of any kind in outlawing the Kenya African Union. It was not that it wanted to rob the Africans of their right to speak their opinion, it was not for the opinions that they were voicing that it was taken; it was faulty and lacking in integrity and in all things that go to make a good political organization. That being so, it was outlawed on its own operations but the question of a political union amongst Africans in Kenya remained untouched and that is why my colleague and myself, as do all other Africans in this country do, feel that the open field left by the outlawing of the Kenya African Union should be filled by something on organized lines.

I think acceptance of this Motion which we have brought to Council this morning, Mr. Speaker, would be a clear indication to the outside world that we in this country mean business when we say we outlaw this because of that—we mean it, but we do not use that particular incident to depart from the whole principle of the need for a political organization for the African. I very much feel that this Motion should be accepted for that reason. And what about the position of Kenya to-day? Kenya seems to me to be a three-legged stool; remove one, two remain, it is very difficult to balance the stool on two legs however strong the two legs are, if it was designed to stand on three. We have the European community, the African community and the Asian community; it seems to me that we must make it stand like that because it cannot stand on two—it is not right to say the stool should stand on two with the African kept away. That we cannot do here. We ask that this Motion be accepted subject to the controls dictated by the Emergency. Mr. Speaker, I do not want to add any more to that.

Mr. Speaker, I beg to second.

Question proposed.

THE CHIEF SECRETARY: Mr. Speaker, I have listened with extreme interest to the hon. Mover's speech and the hon. Second's speech and I appreciate their intentions. There is no difference, I think, between us on the spirit and principle of the Motion, but I fear, Sir, that there is a slight difference between us in application and timing and for this reason, Sir, I feel that I must move an amendment to the Motion, Sir.

I move that the Motion be amended by the addition, at the end thereof, of the following words: "that the present time is not opportune".

Now, Sir, I would like to make it clear that this is not a complete negative and a matter applying to the whole of the future. It has been already explained, Sir, that the Government appreciate that in due course, some central political organization for the Africans should be formed, between us on the spirit and think, between us on the spirit and organization for the Africans should operate on constitutional lines, as proposed by the hon. Mover. This will be very desirable, but experience has shown

[The Chief Secretary] that the present moment, in the acute state of the Emergency, is not the opportune time.

Reference has already been made, Sir, to the proscription of the Kenya African Union that has been described as a central Colony-wide political organization. I would not necessarily associate myself entirely with that description, although it may be that Africans on a Colony-wide basis were eligible for membership, but that has disappeared and there remain a number of other organizations, some of them concerned with welfare. Sir, but others are not concerned with welfare. I do not think that there can be said to be a complete vacuum, as has been suggested. There are a variety of methods by which Africans can put forward their views.

Now, on a further point, Sir, experience has shown that when there has existed an association or organization on the lines such as the Kenya African Union, it is desirable that there should be a short passage of time between the disappearance of such an organization and the appearance of another one to take its place. Sir, that is entirely in the interests of the leaders and members of any future organizations which will come about. I see no objections, Sir, to plans being prepared and prospective constitutions discussed, in preparation against the time when it is opportune for such an organization to be formed.

As I say, Sir, I appreciate the intentions which have been expressed by the hon. Mover, but some delay, I am convinced, will favour the carrying into effect of those intentions. It is for these reasons that I beg to move an amendment to the Motion.

THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT seconded, reserving the right to speak.

Question proposed.

MR. BLUNDELL. Mr. Speaker, I only wish to speak very briefly because I will not be able to be in Council to-morrow and I want to speak personally on this Motion. I will support the amendment, but in doing so I wish to make one or two points clear. I am quite certain that we are unwise to stop the free expansion of African political opinion. I am also

quite sure that we must find a medium through which it can express itself in a different way to that of the past.

My reason for supporting the amendment and for making my opinion clear is that I believe it would be disastrous in this matter to have a negative attitude. I do not think the hon. Members opposite have, but I would urge this particular point in accepting this amendment. We should use the space of time so given to us to do our very utmost to help the African Members to produce a political organization which will grow, as most political organizations do in the United Kingdom, from constituency areas or the people themselves upwards to a central point rather than has happened in the past: instead of a method of establishing a strong central weapon which can be used to influence the evil people in the area. We want the organization to be a channel through which people's wishes are expressed fluidly and fluently rather than an organization which directs people's wishes, people who often have no wishes at all, that will not be easy.

I thought it was important that we on this side of the Council, as far as I am concerned, should make it perfectly clear that we have no objection to the proper growth of an African political organization. It is only a question at the moment—of whether experience has not taught us in the past—that it would not be wise to do it at this minute in this Emergency. One other personal point I would like to make is this. I do not believe we shall ever get this organization not presented on violently racial lines and in the case of the less politically mature bodies more difficult lines in so far as the Government is concerned, as long as they are based and projected entirely from a racial angle and I would like to give the hon. Mover my personal assurance that I will consult with the Electors' Union to see whether it is possible at the present to start the beginning of a non-racial organization. (Applause.) I believe it to be important to do that, because curiously enough in this Emergency there has been shown to be a great body of moderate opinion which has difficulty in expressing itself. That moderate opinion is not confined to any racial group. But I would warn hon. Members and the hon. Mover that such a matter

[Mr. Blundell] will not be easy—it will immediately bring us up against profound and difficult political problems. Speaking for myself I would like to record those two points—that stifling of African political thought is not wise and that in the breathing space we shall take now we should try to help them organize their thoughts in such a way that it does not become subversive. The second point is that if it is at all possible to help produce either by new branches or by a complete new organization, if it is possible to produce a non-racial political organization then I shall be only too pleased to do what I can to help. (Applause.)

THE SPEAKER: It is now time to interrupt business and I understand that Mr. Jameno wishes to move the adjournment.

ADJOURNMENT MOTION

MAGADI SODA COMPANY LAND

MR. JAMENO: I beg to move that Council do now adjourn.

During the last session, Sir, I had asked a question which was answered by the hon. Member for Health, Lands and Local Government in connexion with the Magadi Soda Company. The question was: "Would the hon. Member state whether the land occupied by the Magadi Soda Company is Crown Land? If the answer is in the affirmative will he state how this has arisen having regard to the 1904 and 1911 Masai Agreements?"

The answer I got, Sir, goes like this—the answer to the first part was in the affirmative. Dealing with the second point—"Although Lake Magadi is within the boundaries of the area reserved for the use of the Masai tribe by the 1904 and the 1911 Agreements, the latter Agreement excepted, such land as may be required for mining purposes. As the original lease of Lake Magadi for mining purposes dated from 1904, it was automatically excluded and had, in fact, never been included in the Masai Native Reserve.

The Schedule to the Proclamation of the Masai Reserve, dated 23rd July, 1912, after describing in detail the out boundaries, expressly excluded Lake Magadi and the land immediately

surrounding it. The description of the Masai Land Unit contained in the Native Lands Trust Ordinance again expressly excludes the Lake Magadi and the Lake Natron Concessions."

According to the meeting of the Masai Council held on the 18th December, 1952, the Councillors asked why the Masai African District Council, why the Masai do not receive rent and royalties from Magadi. The answer they got, the first time was because the Magadi Concession was not within the Masai Land Unit. Certain Members stated they were not satisfied and the Report says that they proposed to raise the question with their representative on Legislative Council.

The sequence of events, Sir, around 1904 it was on the 9th August, 1904, that negotiations began between Sir Donald Stewart and the East African Syndicate. On the 10th, that was the following day, the Masai agreement of 1904 was signed. In that Agreement there was no statement to show that the land which had been regarded as Crown Land was excluded from the area reserved for Masai. At that time there were approximately 89 square miles in Lake Magadi itself but there was no mention of Lake Natron.

On the 20th September, 1909, an agreement was made between the Crown Agents and the Magadi Soda Company. The actual lease dates from the 15th August, 1904. I would like again to refer to the Masai Agreement dated the 10th August. The Schedule to Proclamation of the Masai which was referred to, not the one that was not referred to, following the 1904 Agreement. It made no mention that the Magadi area was Crown Land. This Schedule was issued on the 30th May, 1906. On the 4th April, 1911, another agreement was made between the Governor and representatives of Masai and that agreement, Sir, and this is the agreement which has been mentioned to have exclusively and definitely excludes Lake Magadi—the relevant part of it was like this—that the Governor was to reserve for the exclusive use of the Masai tribe areas—here followed a description of the boundaries then it goes on to say—"On behalf of His Majesty's Government to endeavour to move all European settlers from the said

[Mr. Tameno]

areas and not to lease or grant any land within the said areas (except land as may be required for mining purposes or for any public purpose) without the sanction of the paramount chief and the representatives of the Masai tribe".

According to that, the way I interpret it is that that agreement did not imply that the Governor need not or could not consult the Masai whenever such land for mining purposes was required. It did not mean that the Masai had no rights at all in such land, it only meant that it will not be for the exclusive use of the Masai. In this connexion, Sir, there is the recent cement works at Sultan Hamud and in this case the land has not automatically become Crown Land.

Thirdly, Sir, on the 4th April, 1911, an indenture was made with the Magadi Soda Company and there was no reference made whatsoever to the Masai and this time the area which was 89 square miles was increased to 306 square miles and it was the first time that Lake Natron was excluded from Masai areas and became Crown Land.

I would like to draw the attention of the Council to the fact that there is no mining taking place in Lake Natron which occupies about 18 square miles. The Schedule to the Proclamation of 1912 was working on a presumption that did not exist. What I would like the Council to consider is first of all that the term "Crown Land" should not be used and secondly, Lake Natron concession should not exist without the consent of the Masai and that it should revert to the Masai Land Unit, and thirdly, that the Masai will have no objection to the Magadi Soda Company carrying on with the job they are doing but ask for fairness that the payment of royalties should be made to the local Masai Government.

I beg to move.

THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT: Mr. Speaker, the hon. Member did courteously give me notice of his intention to bring this matter forward and I have come, more or less, prepared to deal with the points that he raised. I have no quarrel with his general statement of facts, but I do strongly dispute the conclusion that he derived from

them. There is one point to which I take exception. I think I am right in saying that the hon. Member said that negotiations began with the East African Syndicate for a mining lease on Lake Magadi on 9th August, 1904, and that in fact the lease was issued on 15th August, 1904. Well, Sir, I submit that is pretty slick work, even for a Government Department. The negotiations began a long time before the 9th August, 1904, and the lease was, in fact, completed on 15th August, 1904. The first Magadi agreement was entered into on 10th August, 1904, and I do not believe, nothing will induce me to believe, that the Masai leaders of that day were not fully aware of the intention of Government to complete the lease. The lease agreement with the East African Syndicate must already have been drawn up and all the terms completed at that date. It is true that the 1904 agreement with the Masai makes no special mention of Lake Magadi. In 1911, however, when the agreement, which is now in force, was drawn up and completed between the Government and the Masai elders, there was the exclusion, to which the hon. Member has referred, of land required for mining purposes and that did include Lake Natron, although, as he says, it may be true that Lake Natron has not, in fact, been used by the Magadi Soda Company. It is nevertheless part of their lease and is excluded from the Masai land unit for mining purposes. The time may come when the Magadi Soda Company will think it proper and right to use Lake Natron, which is included within the terms of their title.

Now, Sir, the second Masai agreement was completed on 4th April, 1911, and the new lease with the Magadi Soda Company, or with the East African Syndicate as it then was, was dated 11th April, 1911; just a week after. I do not believe that the Masai leaders and elders, at that time, were not acquainted with the Government's intention to complete that agreement with the East African Syndicate. It must have been very well known to all the parties concerned.

When the Carter Commission came out in 1931, so far as I am aware, and I believe I am correct in this, when the Masai leaders and elders were making representations to the Commission about any grievances they might have had, not one

[The Member for Health, Lands and Local Government]

single word of objection was mentioned about the Magadi Soda Company's lease. Then was the time, if they had neglected to take the opportunity in 1911, then was the time to have brought forward their objections.

Now, Sir, a new generation of Masai have come along who are not acquainted personally with the history of all these various transactions and they imagine grievances which I submit, do not exist.

Mention had been made of the non-exclusion from the Masai reserve of the land now being used in connexion with the Sultan Hamud Cement Factory. Well, we are working now under a different law. The Native Lands Trust Ordinance, under which we are now operating lays down very clearly conditions under which land can be taken and used for mining purposes, where that land occurs in a Native Land Unit. That is why there has been no exclusion from the Native Land Unit of that particular area.

Every detailed description of the Masai reserve published from 1926 onwards, has expressly excluded the Magadi Soda Company area and the portion of Lake Natron that lies within Kenya Colony. No exception has been raised until now and I submit that there is no case whatever for the contentions that have now been advanced.

MR. MATHU: Mr. Speaker, I just want to place on record two points. It is this, to say that the Masai who have negotiated with this agreement in 1904 and in 1911, are not here to-day and to go on and say that the new generation knows nothing personally about what happened—I do not think it is a very strong argument, because my hon. friend, the Member for Health, Lands and Local Government was not there himself. (Laughter.) I do not think that we should ignore historical studies by the Masai of to-day which would enable the Masai to bring up the matter now and find that they have a claim for them, I do not think that we should rule them out, because they are not here personally.

We still talk about what happened in 1066 and all that.

The second point I want to record is that the Masai, as a tribe, lost a terrific amount of country through alienation. If their representation on a very comparatively minor matter like royalties to African District Council, surely exception could be made in recognition of the acquiescence of the Masai in 1931, when the Land Commission came here. A small matter of royalties, Sir, could be considered and the Masai Council has been quoted here as having made representation constitutionally.

In this meeting I want to place on record this minor matter of royalties to an African District Council. I think we could concede them that, even if it is not strictly within the law.

THE SPEAKER: Question that Council do now adjourn.

The question was put and carried.

THE SPEAKER: Council will now stand adjourned until 9.30 a.m. to-morrow.

ADJOURNMENT

Council rose at fifty minutes past
Twelve o'clock p.m.

Friday, 31st July, 1953

The Council met at thirty-five minutes past nine o'clock.

[Mr. Speaker in the Chair]

PRAYERS

ORAL ANSWERS TO QUESTIONS

QUESTION No. 128

MR. COOKE asked the Chief Secretary on what date Fort Jesus will be handed over to the Trustees of the Royal National Parks?

THE CHIEF SECRETARY: I am unable to state a date.

Before the Emergency started it had been hoped that it would be possible to hand Fort Jesus over to the Trustees of the Royal National Parks as soon as the new prison at Shimo-la-Tewa was ready. This is expected to be about the end of 1955. With the large increase in the prison population resulting from the Emergency, it will not now be possible to hand over Fort Jesus by that date. In any case it will be necessary to continue to use Fort Jesus as a Remand Prison until a new Remand Prison is built for Mombasa. The Commissioner of Prisons has submitted proposals for the inclusion of the Remand Prison in the Development Plan. It may be possible to hand over part of Fort Jesus while the other part is still used as a Remand Prison.

MR. COOKE: I would raise this matter on adjournment but I know hon. Members want to get away. I am dissatisfied with that answer, if I may say so. I will raise the matter at the earliest possible moment next Session.

QUESTION No. 130

MR. CHANAN SINGH asked the Chief Secretary what are the reasons—

- (i) for stopping Asian-owned buses between Nairobi and Fort Hall; and also
- (ii) for allowing European-owned buses to operate freely between Nairobi and Thika while Asian-owned buses are completely stopped.

THE CHIEF SECRETARY: The object of prohibiting all buses (with the exception of those operated by Grey Line and Kenya Bus Services) on the road Nairobi-Thika-Fort Hall is to make more difficult the illicit movement of Africans connected with *Mau Mau*. I am advised that Africans travel on this route generally by African and Asian-owned buses and seldom by Grey Line and Kenya Bus Services.

QUESTION No. 125

MR. W. B. HAVELOCK, in the absence of Mr. M. Blundell, asked the Hon. Chief Secretary to state the reasons for the delay in providing office accommodation for the Director of Asian Manpower.

THE MEMBER FOR EDUCATION AND LABOUR: There was no delay on the part of Government in finding office accommodation for the Director of Asian Manpower.

The Director of Asian Manpower was appointed on Friday the 5th of June; on Tuesday the 9th of June he was offered four offices in Shah Mansions, in Gulzaar Street. These offices were available forthwith and, in the opinion of the Member for Education and Labour, were adequate for the immediate requirements of the Directorate; the Director was not, however, satisfied with them.

At the request of the Director, various alternative sets of offices were examined and it was not until the 22nd of June that premises suitable in the opinion of the Director were found. The floor space totalled 1,300 ft. The Director was still not satisfied with the extent of the accommodation and asked for two more rooms. These were found on the 29th of June.

Office furniture was delivered on the 1st of July.

MOTIONS

SELECT COMMITTEE TO MANAGE CATERING FOR LEGISLATIVE COUNCIL

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

BE IT RESOLVED that a Select Committee be appointed for the purpose of the superintendence and management

[The Chief Secretary]
of the catering for Legislative Council, to consist of the following Members:—
Major the Hon. F. W. Cavendish-Bentinck, C.M.G., M.C. (Chairman).

Dr. the Hon. T. F. Anderson, O.B.E.

The Hon. M. Gikonyo.

The Hon. N. F. Harris.

The Hon. W. B. Havelock.

Dr. the Hon. S. D. Karve, O.B.E.

The Hon. C. B. Madan.

The Hon. I. E. Nathoo.

Hon. Members are, of course, aware, Sir, that provision is being made in the new Parliament building of Legislative Council for the care of the inner man. I do not think it is necessary to go into the details of the qualifications of the hon. Members I have proposed for this Committee, but I am sure all hon. Members will agree with me that this is a galaxy of talent for the purpose for which the Committee is proposed and that all interests are fully represented.

THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT seconded.

Question proposed.

The question was put and carried.

CONTRIBUTION TOWARDS THE PROPOSED HOSPITAL IN THE HIGH RIDGE AREA

THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT: Mr. Speaker, I beg to move:

BE IT RESOLVED that in accordance with the principles already accepted by this Council, the proposed hospital project to be built in the High Ridge area of Nairobi by the Social Service League shall qualify for a £ for £ contribution not exceeding £100,000 from the general resources of the Colony in respect of approved capital expenditure.

Mr. Speaker, this proposal is in line with other proposals adopted by this Council for the provision of £ for £ grants, for the Nakuru War Memorial Hospital, the European Hospital Association, the Ismailia Community Hospital and a few other minor projects. The Social Service League of Nairobi has done an extremely valuable service over a long period in the free provision of

food and clothing, medical services, nursing services and the like for the poorer members of the community of Nairobi. Although the services are offered to members of all races, it is chiefly the Asian and African members of the community who have benefited by these services of the League. They run a free dispensary on a large scale in Duke Street and a free mobile dispensary for serving the outside districts.

The promoters of the Social Service League have for some years been working on a hospital project. The Government made a grant of land for the purpose in the High Ridge area some time ago and the plans for the new hospital are now ready. A great deal of work has been done in the preparatory stage and the proposal now is to erect a hospital for the accommodation of 120 patients. The total cost of the whole project is estimated to be about £195,000 to £200,000.

Now that seems very low on present-day standards in comparison with other hospital projects. The reason for that is that the members of the Committee of the Social Service League are undertaking supervision of the building themselves. They are doing their own importing of materials, where that is necessary and are saving costs by every possible means. The building in the first instance will be of two stories, although the foundations will be adequate for the addition of a third storey when the time is ripe. The League has considerable funds in hand and is organizing a big drive to obtain further funds, which will be adequate for their share of the total cost.

Now, Sir, the principles for this £ for £ grant that have been accepted by this Council are three-fold. First of all, there must be proof of need. Secondly, proof of ability to maintain by the community that is putting forward the project and thirdly, the availability of funds. On the first point—proof of need—the medical authorities and myself are quite satisfied as to the need for this further hospital accommodation. The Asian wing of the King George Hospital provides 42 beds. The Ismailia Community Hospital will provide 100 beds; this one will provide 120. There are a number of nursing homes in the town open to Asian patients, but when all are added up the total hospital bed accommodation

[The Member for Health, Lands and Local Government] throughout the Colony is aggregated, we still fall considerably short of the very modest aim that we have of five hospital beds per thousand of the population. The hospitals in Nairobi do, of course, serve a dual purpose. They provide for advanced medical treatment for the whole of the Colony and also they serve the outlying districts round about the city.

At present there is a good deal of domiciliary medical service rendered to the Asian community because they have not hitherto been as hospital-minded as some other communities. But when hospital facilities are more adequate than they have been in the past and are better equipped and better served, I am quite sure that attitude of mind will change and there will be very substantial and ever-increasing demand.

Ability to maintain this is a more difficult problem and one on which I was somewhat uneasy. The Social Service League have given an undertaking that they will maintain the hospital and feel confident that they will be able to do so. They have been very definitely informed that the Government can do no worse and at no time accept responsibility for maintaining the hospital. I shall be very much happier when the Asian community, with the approval of this Council, have adopted a hospital fund scheme on the lines of the European Hospital Relief Fund. The discussions on that subject are far advanced and the Committee has been working on it for some time. All sections of the Asian community, including the Social Service League have promised enthusiastic support for the scheme. At a very early date, the scheme, as drawn up by the committee, will be published to get the reactions of the Asian communities in general and I feel confident that before long I shall be able to bring before this Council proposals for legislation to set up a Hospital Relief Fund for the Asian community. That would be a great step forward in our public health services.

As regards the provision of funds, I may say that the Member for Finance has looked on this proposal with a benevolent eye. I am quite sure he will be able to find the funds if he has the approval of this Council for so doing.

This is a fine example of self-help on the part of this section of the Asian community. I commend my resolution to the Council in full confidence of its sympathy and support.

I beg to move.

THE MEMBER FOR FINANCE AND DEVELOPMENT seconded.

Question proposed.

MR. A. B. PATEL: Mr. Speaker, I rise to most heartily support this Motion and I would like to take this opportunity of thanking the hon. Member who moved the Motion and the hon. Member for Finance and the Government generally for putting forward this Motion for acceptance by this Council.

The question was put and carried.

COMMITTEE OF THE WHOLE COUNCIL

Committee of the whole Council—Order for Committee read.

Mr. Speaker left the Chair

IN THE COMMITTEE

(Mr. Charles Mortimer, C.B.E., in the Chair)

THE EX-OFFICIO MEMBERS OF EXECUTIVE COUNCIL (TRANSFER OF FUNCTIONS) BILL

Clauses 1 to 4 agreed to.

Title and enacting words agreed to.

Bill to be reported.

THE LOCAL GOVERNMENT (COUNTY COUNCILS) (AMENDMENT) (NO. 2) BILL

Clauses 1 to 3 agreed to.

New clause.

THE COMMISSIONER FOR LOCAL GOVERNMENT: Mr. Chairman, I beg to ask leave to introduce a new clause of which notice has been given, a clause to amend section 9 of the principal Ordinance.

The introduction of this clause has already been discussed and I do not want to detain the Committee long about it. I emphasize that this clause could be left if you so wish and another Bill—a third amending Bill to this Ordinance could

[The Commissioner for Local Government] be brought to the next Sitting. But there are certain alterations to the boundary of the Molo Township which have been approved by all the authorities who have to approve the alteration of township boundaries in the Highlands and it awaits nothing more than the passing of this clause to be put into effect. It would, therefore, be a convenience if the Committee would agree to this clause being taken to-day.

THE CHAIRMAN: Will you move that this clause be read a Second Time, that would give an opportunity for discussion on the principle.

THE COMMISSIONER FOR LOCAL GOVERNMENT: I beg to move that a clause "Amendment of section 9 of the principal Ordinance" be now read a Second Time.

If I may take the three paragraphs of the clause in order. The first paragraph (a) clears up an ambiguity in section 9 of the Ordinance. Section 9 of the Ordinance provides that when a scheme of county administration comes into force, the Townships Ordinance shall cease to apply to any township within the administrative county. But to give a breathing space it goes on to say that the rules in force under the Townships Ordinance shall remain in force for a period of two years until altered or revoked under the County Councils Ordinance. That is rather a vague expression and it is suggested that it would be better if it read "for a period of two years unless sooner altered".

Paragraph (b) of the proposed new clause restores the rights of the Governor to alter the boundaries of a township within the County Council areas.

I feel that I am rather speaking on behalf of the Member for Lands rather than of the Member for Local Government on this question because so far as Local Government is concerned, the expression "Township" is out of date for County Councils, but the Townships Ordinance is the Ordinance which is referred to in the Crown Lands Ordinance. The definition of Township has got to remain for the purpose of the Crown Lands Ordinance. Therefore, I have got to ask you to put it back with these powers of altering

boundaries and indeed of creating new townships, entirely for the purposes of the Crown Lands Ordinance.

Paragraph (c) of the proposed new clause deals with the trading centres and gives to the County Councils what was always contemplated—the right to absorb trading centres within their areas, and thereupon it is provided that the Trading Centres Ordinance shall cease to apply except as qualified herein, that rules will continue for a short period. The fees charged and tariffs and things will continue to be payable and a similar right of the Governor to alter the boundaries, or create new trading centres is reserved.

I beg to move that the new clause be read a Second Time.

Question proposed that the new clause be read a Second Time and agreed to.

Clause agreed to.

Title and enacting words agreed to.

Bill, as amended, to be reported.

THE LAND AND AGRICULTURAL BANK (AMENDMENT) BILL

Clauses 1 to 10 agreed to.

Title and enacting words agreed to.

Bill to be reported.

THE CHIEF SECRETARY: Mr. Chairman, I beg to move that the Committee do report back to the Council.

Question proposed.

The question was put and carried.

Council resumed.

[Mr. Speaker in the Chair]

REPORT

SIR CHARLES MORTIMER: Mr. Speaker, I beg to report that the Committee of the whole Council has considered, clause by clause, and has approved without amendment The Ex-Officio Members of Executive Council (Transfer of Functions) Bill.

BILL

THIRD READING

The Ex-Officio Members of Executive Council (Transfer of Functions) Bill

THE CHIEF SECRETARY: Mr. Speaker, I beg to move that The Ex-Officio Members of Executive Council (Transfer of Functions) Bill be now read a Third Time, and do pass.

THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT seconded.

Question proposed.

The question was put and carried.

The Ex-Officio Members of Executive Council (Transfer of Functions) Bill was accordingly read a Third Time, and passed.

REPORT

SIR CHARLES MORTIMER: Mr. Speaker, I beg to report that the Committee of the whole Council has considered clause by clause The Local Government (County Councils) (Amendment) (No. 2) Bill and has approved the same with amendment.

BILL

THIRD READING.

The Local Government (County Councils) (Amendment) (No. 2) Bill

THE COMMISSIONER FOR LOCAL GOVERNMENT: Mr. Speaker, I beg to move that the Local Government (County Councils) (Amendment) (No. 2) Bill be now read a Third Time and passed.

THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT seconded.

Question proposed.

The question was put and carried.

The Bill was accordingly read a Third Time and passed.

REPORT

SIR CHARLES MORTIMER: Mr. Speaker, I beg to report that the Committee of the whole Council has considered clause by clause The Land and Agricultural Bank (Amendment) Bill and has approved the same without amendment.

BILL

THIRD READING

The Land and Agricultural Bank (Amendment) Bill

THE MEMBER FOR FINANCE AND DEVELOPMENT: Mr. Speaker, I beg to move that The Land and Agricultural Bank (Amendment) Bill be now read a Third Time and passed.

THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT seconded.

Question proposed.

The question was put and carried.

The Bill was accordingly read a Third Time and passed.

MOTION

COLONY-WIDE POLITICAL ORGANIZATION FOR AFRICANS

Debate resumed.

MR. MATHU: Mr. Speaker, I rise on a point of order. Yesterday my hon. friend, the Chief Secretary, made an amendment to my Motion and if that amendment is carried it will be definitely against the intention of the African Members in moving this Motion. If you will allow me, Sir, I will read the Motion, including the amendment: "That in the opinion of this Council the Government should leave the Africans to form and operate constitutionally a Colony-wide political organization, but the present time is not opportune".

Now, surely no person can propose a Motion in that form, he cannot propose a Motion as I have proposed it yesterday, and insert the words which are the words of the amendment, because those words will be directly against the intention of the Motion.

In my speech, Sir, I said that the second suggestion to which I referred is that there should be a new Colony-wide organization and that organization should be formed now, although, Sir, I did not include the word "now" it is definitely clear that I did say that very categorically in my speech and the whole tenor of my speech never anticipated any future date—it was as clear as daylight and I do not think, Sir, that the African Members should support this amendment for the reason I have given. I may be very ignorant with English grammar, it is many years since I did it. My hon. friend, the Director of Education—I would like him to tell us whether that Motion, as on the Order paper, talks about the present or the future. In my view the grammatical gymnastics is the present—"should leave the Africans to form and operate...." Surely that, as far as the English language goes, means now, it does not mean in a future date, but I would like to say that it is a long time since I did English grammar and I would like him to correct it and my hon. friend the Chief Secretary coming and making a mess of the English language—

THE CHIEF SECRETARY: Mr. Speaker, Sir, on a point of explanation it is considerably longer since I did any English grammar than it is since the hon. Mover did. (Laughter.)

MR. MATHU: I am sure my hon. friend knows that I did not make that remark with any intention of being rude, but my hon. friend has appreciated my point. The point is you do not have two present tenses together. All the English in that Motion is in the present tense, so unless my hon. friend will propose another amendment which will conform to the purity of the English language, then I will oppose it. Like my hon. friend, Mr. Usher, who proposed a Motion the other day to say—that is exactly what he meant to say—that English should be given practical encouragement, but when you put it into English like this—

MR. USHER: It was the hon. Member for Mombasa who proposed it—even in my personal capacity I may say I never studied English grammar at all. (Laughter.)

MR. MATHU: Mr. Speaker, I do not want to keep the Council long. I have risen on a point of order. I ask for your ruling in this matter, principally on these grounds firstly, that from the point of the English language I have in my Motion, talked about the present and not the future. Secondly, that this amendment is definitely against the intention that I have explicitly put before this Council of African Members in regard to this matter, and thirdly, that I did indicate in my Motion, that owing to the Emergency such an organization, even if it came into being, would have to take its place in the restrictions which are dictated for security reasons.

I commend my point of order to you, Mr. Speaker, because I do feel that I have a case here for favourable ruling.

MR. JEREMIAH: I also rise in support—I also support the pleas put up by the hon. Member, Mr. Mathu. I consider the amendment as proposed by the Chief Secretary is directly contrary to the intentions of the Motion and, therefore, I think it should not be accepted.

THE MEMBER FOR FINANCE AND DEVELOPMENT: On a point of order—I

am at the present moment a little confused. Is the argument, as I understand it, is it that the amendment is a direct negative of the Motion, and should not; therefore, have been accepted by the Chairman?

THE CHIEF SECRETARY: Sir, on this point of order—I would like to make it clear—I thought I had made it clear, that this is not a direct negative at all. I did say that I was in agreement—full agreement or my words were, I think, "there is no material difference of opinion between the hon. Mover and myself as regards the principles and theory of the Motion, but the matter of the timing or application might constitute some little difference". I thought it was quite clear from what I said that this is not a direct negative, and I submit, Sir, on this point of order, that the words do not constitute a direct negative.

MR. AWORI: Mr. Speaker, on a point of order—I think—I believe in the views given by my two colleagues, because when we brought this Motion we were aware that the Government had told us that during the Emergency they would not accept anything of this nature, but they would consider it after the Emergency—that is why we put it that we want an organization now.

THE SPEAKER: Two Members are on their feet—one has to be called.

MR. COOKE: I would submit, Sir, that the amendment negatives the intention of the Motion. At any rate the intention of the Motion is negated by the amendment which is practically the same thing as negating the Motion.

THE MEMBER FOR FINANCE AND DEVELOPMENT: I would like to make one point on the argument put forward by two hon. Members opposite which is rather important, that is that the opinion expressed in the speech supporting the Motion or how matters that have taken place outside the Council can have anything to do with your ruling as to whether this is in order or not. I feel whether this the Council has to deal with that surely the Council has to deal with the Motion as it is framed, and the Council votes for or against the Motion as it is framed, and not on the speech made by the proposer of the Motion.

MR. GIKONYO: There can be no doubt that the amendment as proposed negates the intention, therefore, it is directly in negation to the Motion.

THE SPEAKER: I think the matter has been discussed adequately. Now what Members will realize, at length, after they have considered this Motion, is that they have to draft these Motions with greater care. It is no good drafting a Motion as if you were writing a love letter, or anything of that kind. You have to be most specific. Now, if the Motion had read that in the opinion of this Council Government should now leave the Africans to form and operate constitutionally a Colony-wide political organization, it could not have been accepted by the Government and any amendment in the terms which have been brought would have in fact been a direct negative of this word. The proposition that you can control the meaning of the words of the Motion by a speech made, either in support of it, or moving it, is one which I do not think should be accepted at large. It may, in certain cases, operate that way. What we are to go by is entirely the wording of the Motion itself, and you can test that this is not a direct negative, because if the word "now" were inserted in the original wording of the Motion, that would become a direct negative to the Motion already proposed from the Chair.

I am sorry that no Member raised this immediately yesterday when the amendment was moved, because that was the appropriate time to do these things and to discuss a point of order on the amendment. It is immediately when it is proposed or when it is moved, I should say, and before it is proposed from the Chair. It is simply asking me now to reverse myself which in these circumstances I am not prepared to do.

MR. JEREMIAH: In view of your ruling, may I now propose a further amendment, Sir? I beg to move that the words proposed to be added to the Motion be deleted, and the word "now" added.

THE SPEAKER: Will you please hand up the proposed amendment in writing before beginning to speak. Will you

please hand up your proposed amendment in writing.

Surely you heard what I said a little while ago that any attempt to put in the word "now" would be a direct negative to the question already proposed from the Chair. I cannot accept it.

No other Member wishing to speak—I may say that the amendment and Motion can be debated together.

MR. A. B. PATEL: Mr. Speaker, I rise to oppose the amendment and support the original Motion. (Applause.)

Mr. Speaker, I would like to congratulate the hon. Members representing African Interests for presenting their Motion in a language which was very moderate and constructive. Sir, the only argument which has been put forward in support of the amendment, as far as I could understand, is that this is not the right time to start an organization of this nature. Sir, it means, as far as I could see, that during the present circumstances of the Emergency it is not advisable to start an organization such as the hon. African Members desired and the only interpretation I could put on it is that one is afraid of some unscrupulous people misusing the organization if started under the present circumstances.

Now, Sir, against that I would like to say that we passed at the commencement of the Emergency an Ordinance for the Registration of Societies which was intended to control societies of this nature and control them effectively. And that Ordinance could be used by the Government in the case of this organization desired by the African Members. Moreover, as I, Sir, heard very carefully, the hon. African Members invited the co-operation of the Government while the institution of this nature is started. Therefore, I think the fear that is expressed in the amendment is unfounded. Sir, I personally could go further and say that the Government is missing an opportunity by moving this amendment of mobilizing the loyal opinion in the country against the lawless elements. (Hear, hear.) And I believe an act of Government agreeing to allow loyal Africans to form an organization will inspire them with greater vigour in

[Mr. A. B. Patel] favour of the Government and in dealing with the lawless elements. My feeling, Sir, is that the Government has not done sufficiently well, or has not taken practical steps for the purpose of strengthening the hands of the loyal elements by taking the necessary practical steps in various directions. They will, by pressing for an amendment, strengthen the hands of the lawless elements instead of strengthening the loyal elements amongst Africans in this country.

Moreover, we are unnecessarily acting against the principles of freedom of association. If there were practical reasons for doing so, I would not object, but I personally feel, Sir, that this step is taken without any valid reason.

Sir, I would also like to take the opportunity of thanking the hon. Member for Rift Valley for throwing out a very useful suggestion of forming a political organization on a non-racial basis. I dare say that in the present circumstances of this Colony and the temper of various groups, the organizations of a non-racial nature may not work successfully for some time. Human nature is very peculiar and it may not change its habits soon, but, in spite of that, Sir, an association of that nature is worth working for and it will be an effort worth making and, in spite of unsuccessful efforts for some time, if it succeeds in the future, it will be for the good of this country.

Moreover, Sir, while speaking on this Motion I cannot forget the communication that was issued by Government that they will encourage tribal organizations at present and will not look with favour at any organization of the African community on a Colony-wide basis. There I would like to say that in this regard I have always felt that the official and unofficial leadership in this country has failed in grasping the correct importance of a subject like this.

We are again and again told, Mr. Speaker, in this Council and outside this Council that people of this country should develop an all-Kenya outlook and behave as Kenyans. In spite of that, in practice we are being put in the position of developing tribal, religious and racial outlook and we act as small groups as tribes or races and religions. I cannot

understand, Sir, why there is a failure of the leadership in this country in practice. I personally feel that the official and unofficial leadership in this country in this regard has not applied its mind seriously to the great harm which happens by often encouraging tribal or religious or racial outlooks when even it is not necessary.

Therefore, I would urge the Government to consider the request by the African Members more seriously and allow them to start an all-Kenya-wide organization. I personally think, Sir, that the Government will be missing a very good opportunity of showing to the loyal Africans that they are reasonable; of showing to the world outside that they are reasonable. I think they will be making a great mistake by pressing for this amendment. I appeal to them to withdraw it.

MR. HAVELOCK: Mr. Speaker, this matter of whether the time is opportune or not has been put very clearly from the Government side. There are one or two more points that I would like to stress. I would like to stress more than most the fact that all opinion, genuine, proper political opinion must emanate from below and I must admit that should there be an overriding co-ordinating body of an African political association or organization, at this time I fear, and it is a very genuine fear, that there will be an attempt to use such a co-ordinating central body to impose on the people in the country the theories of half-baked politicians in Nairobi. That is the real fear that I have in my mind. I do not think either that it is necessary that organizations that Government will sponsor at this particular time should be entirely tribal. I see no reason why they should not be at least provincial. However, that is a matter of the growth and a matter for the Government to consider.

I particularly stress, Sir, particularly bring up that point because of the remarks of the hon. Member for the Eastern Area, Mr. Patel, that he deprecates the building up of tribal feeling, community feeling and so on. I agree that we should try to broaden those; therefore, I suggest it might be considered that a slightly wider basis should be given to African political organizations.

[Mr. Havelock]

Now, Sir, there is another very important point, to my mind, as to why district and provincial organizations should be cultivated before anything central is set up and that is I am quite certain that it is at that level that the races can find common ground. I am quite sure it is much easier for the different races to co-operate on the day-to-day problems that arise in the districts than it is for them to do so in the very much wider political issues that arise in the centre. I am myself convinced of the use and the need to develop Local Government and I believe it is on that basis that we will get the first co-operation between the races. I would like to see, for instance, although it is not political, it is an example which I think is useful in this debate, I would like to see the European County Councils co-operating with the African District Councils over the development of the common day-to-day questions of roads, water supplies and so on.

It is at that level where people will find that they can co-operate and through understanding and co-operation that they derive particular benefits.

It is extremely desirable that all Members on this side of the Council, indeed, within the whole Council, should direct their minds to see how we can work out a political association where all races come together. But I would say that we have to be a little cautious. That plant is a very delicate one and if it is forced, I believe it would wither. I am very sincere in saying that it is my objective that such co-ordination should be established in this Colony. It is indeed when such co-ordination of an inter-racial character commanding the support of a number of people and a number of sections of the communities of this country—it is only when such an organization is on its feet and strong that we on this side of the Council can demand the Government.

However, I would say this, Sir, that such an organization is not going to be formed by words, by speeches; it is going to be formed only through friendship—(Hear, hear)—“Friendship”, I suggest, is probably a nicer word, and also complete sincerity of purpose for the benefit of Kenya. I am not convinced,

as the hon. Member for Eastern Area has said, that the Electors' Union is necessarily the right instrument. But from this point and from this particular debate which in this particular aspect has been of great use, we at least can try and work out practical steps as to proper inter-racial co-operation.

THE SPEAKER: I have been asked to interrupt business earlier to-day and with your agreement, I propose to do so now. The reason being that the Ex-Officio Members wish to do two things which they cannot do at the same time. One is that they wish to confer among themselves and also be present at the debate, so in order to help them out, we will now adjourn until ten minutes past eleven.

Council adjourned at forty minutes past Ten o'clock and resumed at ten minutes past Eleven o'clock.

THE MEMBER FOR HEALTH, LANDS AND LOCAL GOVERNMENT: Mr. Speaker, the Ex-Officio Members of the Council thank you for the opportunity of conferring and I am now able to propose a further amendment, which I do in these words.

Delete the words in the amendment that has been proposed, ‘but the present time is not opportune’ and substitute the words ‘when the time is opportune, and in the meantime consultations should take place between the Member for African Affairs and the African leaders, as to the form such an organization might take.’

There is little I need say in support of this amendment, as the gist of it has already been conveyed in the speech made by the hon. Chief Secretary, in speaking to the original Motion and in moving his amendment, but it does make clear that the Government have no objection to the major principle, which is embodied in the substantive Motion, but does believe that it is a matter of timing and that it is important that, when such an organization is formed, it should step off on the right foot, with the right objective, with the right leaders and with the right constitution.

I beg to move.

THE MEMBER FOR EDUCATION AND LABOUR seconded.

Question proposed.

THE SPEAKER: I have to put it that way, because I have already got one question proposed. There are two amendments now before us. They will have to be voted on eventually.

THE CHIEF SECRETARY: I am willing to withdraw my proposed amendment in favour of that suggestion.

THE SPEAKER: If it is the wish of the Council that the first amendment should be withdrawn, if there is no objection—it is withdrawn. Then we have only one amendment before us in this form: Delete the words in the amendment that has been proposed, “but the present time is not opportune” and substitute the words “when the time is opportune”. These words to be added to the Motion: And in the meantime consultations should take place between the Member for African Affairs and the African leaders.”

MR. MACONOCHE - WELWOOD: Mr. Speaker, I want to speak very briefly on this amendment, in support of it. The thing I want to emphasize is that the first thing, the thing of greatest importance at the present time, in this country, is the Emergency—(Hear, hear)—and the reason why the Government, with complete honesty of purpose, in my belief, has refused to allow a Central African Organization at this time is because they are putting first things first. Very often the Government has been accused of weakness. When, as on this occasion, under considerable difficulty and political pressure, they withstand a Motion from this side of Council in the interests of security of all races, then I think it is fit and proper that we should support them. (Hear, hear.)

Now, Sir, I believe that the majority of sensible people of all races would agree with Government in this matter, because, fortunately, the majority of the people of all races are not politicians and the majority of the people consider that first things come first. That their security comes first; that the right to pursue their lives in peace and good order comes first and it has been proved to us lately that such central organizations by Africans have led to disorder. If Government weakened in this, if Government, at this time, allowed another organization to be set up of the same sort, I believe and I

think most people in this country believe again I would say of all races—

MR. COOKE: Question?

MR. MACONOCHE - WELWOOD: I said “most people”, There are many who disagree. I added most people were not politically minded—I am aware that politically-minded people would not agree—and that those people would support the Government and do support Government in their action. Here, I would like to touch very briefly on perhaps some of the mistakes that the British people have made. I mention that arising out of the speech of the hon. Mr. Mathu. I think it has been our practice, with the best will in the world, to encourage the formation of political societies at the top, before people had formed the desire at the bottom for such societies—(Hear, hear)—and out of that has arisen much disorder and much unhappiness to the people that the British have governed and I do not wish to see that arise in this country. It has arisen once and I do not want to see it arise again. The institutions of the British people are peculiarly suited to themselves. I know this is a truism, but it cannot be sufficiently reiterated. The British people, through many centuries, have a peculiar political wisdom—it was not a rapid growth—and that political wisdom is based on determination that political freedom shall never lead to political violence. Throughout the long history of England, it has practically never happened that political freedom has led to political violence. But, unfortunately, if you introduce it prematurely to people without that background and without the gradual growth, it is a tragic thing that it often does lead to political violence.

But, as my hon. friend for Kiambu said, we should foster societies from below. I am in entire support, because those societies below will be concerned with things ultimately more important to the people than power-politics. They will be concerned with the betterment of their people, with their economic advance and so forth, which really matters and when they get together, they will in due course form an organization at the top, which will coalesce the ideas of the local organizations. That is what I believe in and that is what I believe most people in this Council believe in and it has emerged

(Mr. Maconochie-Welwood) in this Emergency that the finest Africans, the Africans for whom we all have the greatest respect, have not been the violently politically-minded ones. They have not been the Africans mixed up in politics. They have been simple men in the Kikuyu reserves and in other reserves who have considered the well-being of their people more important than the chimera of political advance and to those people we owe an enormous debt of gratitude. (Hear, hear.) If we start at this time to set up an organization run by the politically minded then we shall be doing the greatest possible disservice to the African people and the simple peasantry. Furthermore, it can be proved in almost every country where racial problems exist that the larger the body you form racially the more strong does racial antagonism become through the action of that body.

The Electors' Union has been mentioned in this debate. The greatest service the Electors' Union has done has been mainly in its constituency organizations and the central organization of the Electors' Union followed on from those.

When it has been suggested in this debate, and here, with great respect, I would differ from my hon. friend, the Member for Rift Valley—he spoke personally—I would say that the Electors' Union is not the proper form for the formation of an inter-racial political group. An inter-racial policy should be discussed at the lower level and eventually at the higher level, I do believe. But I do not think you can graft it on to an organization already formed. (Hear, hear.)

Furthermore I believe that institutions such as inter-racial bodies for the discussion of political subjects should come about in another way than by the deliberate formation of such bodies for the purposes suggested. They should not be formed deliberately in this way, they should arise out of certain joint needs of different races. You cannot set up an organization without something to found it on and it has always been shown in politics the world over that an association of groups, or in this case an association of races, will only come from the desire of different groups to join together

to discuss problems which are of mutual interest and mutual advantage. Because the more you talk about these things and force them, very often, at the worst you produce antagonisms and man, being what he is, the only way you can found organizations of real service to bring races together is in considering the subjects where mutual self-interest arises and that is where I would again reiterate and reinforce the plea of my hon. friend, the Member for Kiambu, that we must start from the bottom and that inter-racial interests are closely knitted at the bottom.

Furthermore, as this country is predominantly rural, as far as the African is concerned, and that the ultimate problems of the country are centred round the problem of land and population, it is more fitting that the majority of political discussions should come in the remoter places rather than in a centre like Nairobi. Because as things are at the present time it is impossible for the leaders of real wisdom in the reserves—and I know such exist—to get together in Nairobi in a central organization. For reasons of finance, and for the reason of having their own work to do, it is quite impossible.

Therefore, if you form at the present time a large African organization centred, as it inevitably would be, upon Nairobi, all you would be doing is producing a body of professional politicians and the voice of the people on the land of this country will most rarely be heard. (Applause.)

THE MEMBER FOR AFRICAN AFFAIRS: Mr. Speaker, I would like to congratulate my hon. friend, Mr. Mathu, on his able speech in moving this Motion. (Applause.) It was, indeed, the best speech that I have yet heard him make, although to-day I found myself perhaps not quite in agreement with the gymnastics in syntax in which he indulged.

I think, Mr. Speaker, that it is very important that in listening and in indulging in disquisitions on democracy and democratic principles which are so admirable, we should at this time not allow them to obscure and disguise the main issue and the main issue behind this Motion and the amendment we have moved is really the events which led

(The Member for African Affairs) up to the proscription of the Kenya African Union.

At the time of the proscription of the Kenya African Union, Government's policy was quite clearly stated and it was indeed reaffirmed in the amendment to this Motion. Government have never had and certainly now have no desire to interfere with the legitimate and sincere aspirations of the African people in the formation of political organizations. I think it fair to say that there is ample evidence of this in the tolerance extended to the activities of the Kenya African Union in recent years. The tolerance that many may have thought to have been over-stretched in the event. (Hear, hear.) The moral behind all this would seem to me to be clear to all of those who watched the progress of the Kenya African Union down their road to disaster—a road paved with destructive policies. The rate of progress down this road was dictated by a Kikuyu oligarchy who assumed control, unscrupulous control, for their own ends—ends frequently not unlinked to their own financial advantage and certainly which seem to be unrelated to the advantage of the African people. Let us not forget the lessons behind this, Mr. Speaker, and let us not forget that it was the district committees of this Kenya African Union, the district committees of the Kikuyu districts who became synonymous with the Mau Mau organization, the district committees which led the Kikuyu people to the brink of the Mau Mau abyss, into which so many of their flock have since tumbled.

In this, Mr. Speaker, I would like to make it clear that I do not associate the loyal elements of the Kikuyu—for there are a large number of Kikuyu who did not support this. It is all too clear, with the loyalists fighting the battle against Mau Mau. Indeed there were also many who in their uneducated, unsophisticated state, were unable to tell black from white, truth from lies and who were so misled as to follow by intimidation the destructive policies imposed by the leaders of the Kenya African Union. These waverers have seen the light and are seeing the light in the events which followed after. These loyalists who are fighting a battle against Mau Mau are not fighting to restore what the Kenya

African Union showed itself to stand for. We must remember that, Mr. Speaker.

There has been much play on vacuum. The word vacuum apparently indicating what was left after the proscription of the Kenya African Union. This, Mr. Speaker, is a serious misrepresentation. It is not a vacuum, it is a time for re-consideration, a time for thought, a time to allow moderate and sensible elements to recuperate and reorganize themselves—to reorganize themselves for the future of the African people; to ensure that in future they may follow something in the nature of a middle of the road policy and under sound, moderate leadership. A time also for unsophisticated and misled waverers to see and to realize that the virulent vapourings of political agitators and political extremists cannot advance African people by one iota. If Government had agreed to allow an association in the nature of the Kenya African Union to step straight into the shoes of the proscribed Kenya African Union, there was, Mr. Speaker, I believe, a serious danger of any replacement of this Union being formed perhaps under the most undesirable tutelage.

MR. COOKE: On a point of order, are these remarks strictly relevant to the Motion being proposed?

THE SPEAKER: A point of order coming from the hon. Member must always be treated with the greatest respect, he has been in this Council a long time. But I cannot see that if you are discussing a Motion "That in the opinion of this Council the Government should leave the Africans to form and operate constitutionally a Colony-wide political organization", and we are discussing the terms of an amendment and we are running both the Motion and the amendment together, as I said earlier on, how—in what way—the matters which have been raised by the hon. Member for African Affairs are not relevant. But I am prepared to hear the hon. Member further if he wishes to elaborate how this is irrelevant.

MR. COOKE: The hon. Member seems to be going into the political history of the past but what we are trying to do is to look into the future. I do not think that he is contributing to

(Mr. Maconochie-Welwood) In this Emergency that the finest Africans, the Africans for whom we all have the greatest respect, have not been the violently politically-minded ones. They have not been the Africans mixed up in politics. They have been simple men in the Kikuyu reserves and in other reserves who have considered the well-being of their people more important than the chimera of political advance and to those people we owe an enormous debt of gratitude. (Hear, hear.) If we start at this time to set up an organization run by the politically minded then we shall be doing the greatest possible disservice to the African people and the simple peasantry. Furthermore, it can be proved in almost every country where racial problems exist that the larger the body you form racially the more strong does racial antagonism become through the action of that body.

The Electors' Union has been mentioned in this debate. The greatest service the Electors' Union has done has been mainly in its constituency organizations and the central organization of the Electors' Union followed on from those organizations.

When it has been suggested in this debate, and here, with great respect, I would differ from my hon. friend, the Member for Rift Valley—he spoke personally—I would say that the Electors' Union is not the proper form for the formation of an inter-racial political group. An inter-racial policy should be discussed at the lower level and eventually at the higher level, I do believe. But I do not think you can graft it on to an organization already formed. (Hear, hear.)

Furthermore I believe that institutions such as inter-racial bodies for the discussion of political subjects should come about in another way than by the deliberate formation of such bodies for the purposes suggested. They should not be formed deliberately in this way, they should arise out of certain joint needs of different races. You cannot set up an organization without something to found it on and it has always been shown in politics the world over that an association of groups, or in this case an association of races, will only come from the desire of different groups to join together

to discuss problems which are of mutual interest and mutual advantage. Because the more you talk about these things and force them, very often, at the worst you produce antagonisms and man, being what he is, the only way you can found organizations of real service to bring races together is in considering the subjects where mutual self-interest arises and that is where I would again reiterate and reinforce the plea of my hon. friend, the Member for Kiambu, that we must start from the bottom and that inter-racial interests are closely knitted at the bottom.

Furthermore, as this country is predominantly rural, as far as the African is concerned, and that the ultimate problems of the country are centred round the problem of land and population, it is more fitting that the majority of political discussions should come in the fœturer places rather than in a centre like Nairobi. Because as things are at the present time it is impossible for the leaders of real wisdom in the reserves—and I know such exist—to get together in Nairobi in a central organization. For reasons of finance, and for the reason of having their own work to do, it is quite impossible.

Therefore, if you form at the present time a large African organization centred, as it inevitably would be, upon Nairobi, all you would be doing is producing a body of professional politicians and the voice of the people on the land of this country will most rarely be heard. (Applause.)

THE MEMBER FOR AFRICAN AFFAIRS: Mr. Speaker, I would like to congratulate my hon. friend, Mr. Mathu, on his able speech in moving this Motion. (Applause.) It was, indeed, the best speech that I have yet heard him make, although to-day I found myself perhaps not quite in agreement with the gymnastics in syntax in which he indulged.

I think, Mr. Speaker, that it is very important that in listening and in indulging in disquisitions on democracy and democratic principles which are so admirable, we should at this time not allow them to obscure and disguise the main issue and the main issue behind this Motion and the amendment we have moved is really the events which led

(The Member for African Affairs.) African Union. For the purpose of the Kenya African Union.

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MR. COOKE: On a point of order, are these remarks strictly relevant, to the Motion being proposed?

THE SPEAKER: A point of order coming from the hon. Member must always be treated with the greatest respect, he has been in this Council a long time. But I cannot see that if you are discussing a Motion "That in the opinion of this Council the Government should leave the Africans to form and operate constitutionally a Colony-wide political organization", and we are discussing the terms of an amendment and we are running both the Motion and the amendment together, as I said earlier on, how—in what way—the matters which have been raised by the hon. Member for African Affairs are not relevant. But I am prepared to hear the hon. Member further if he wishes to elaborate how this is irrelevant.

MR. COOKE: The hon. Member seems to be going into the political history of the past but what we are trying to do is to look into the future. I do not think that he is contributing to

[Mr. Cooke]

the debate for that reason and if anything is not contributing to the debate, in my opinion it is irrelevant.

THE CHIEF SECRETARY: May I suggest that it is never practical to separate entirely the past from the future, unless there is a gap between and we must all learn lessons from the past.

THE SPEAKER I am grateful to the hon. Member for his intervention because it reminds me that the hon. Member for the Coast has said very much the same thing himself in the past that recriminations and so on are very good for the future. I think he was quoting Sir Winston Churchill; therefore, I have to rule against the hon. Member on his own words.

THE MEMBER FOR AFRICAN AFFAIRS
Mr. Speaker, I am very grateful for your ruling in this matter.

My hon. friend the Chief Secretary did draw attention really to the main purpose of my comments and remarks which is to draw lessons from the events of recent times on which Government's policy in this matter must obviously be founded.

Mr. Speaker, I was about to say, that it can had we allowed an association to step straight into the shoes of the Kenya African Union I felt there was a serious danger of this association being formed under dangerous tutelage—dangerous tutelage not only from the influences within but also from without this Colony. It would, in all probability, have assumed such a title as "The African National Congress" on a pattern elsewhere in the world. It would have been a Kenya African Union (Redivivus), it might perhaps have been a proscribed Kenya Central Association (Redivivus). We have learned this lesson in recent years and we must not forget it. It would be formed on the truncated and diseased stump of the Kenya African Union; it would in all probability have proved an unattractive modern version of an old axiom, that a cess-pit by any other name may be iniquitous. (Laughter.) It was to guard against this that Government could see no alternative in the interests of the African people. We have a duty to the moderates and all those who are fighting the battle

against *Mau Mau*, and in that duty, Mr. Speaker, we mean to assume responsibility for ensuring in the interests of all the African people, and all the moderates and reasoning people that any political association that is formed and that, I would say, will be formed is based on sound lines laid down and controlled by reasonable moderate elements, elements represented in the districts on the lines so ably described by the hon. Members for the Uasin Gishu and Kiambu in their constructive speeches. Any such central association must be founded with its roots well down in the people so that moderate elements may have some control and some say, so that it should not just be arbitrarily controlled by talkers in Nairobi, by a handful of Kikuyu agitators, which was what led astray the Kenya African Union.

I would say in conclusion, Mr. Speaker, that Government will be sympathetic to the discussion and to the development of a sound and reasonable African political association on a Colony-wide basis, such as is envisaged in the Motion, but it is a vital question of timing, as has been stated, and therefore, I must press for this amendment to the Motion, Mr. Speaker.

MR. COOKE: Mr. Speaker, my point of view is that when it looks as though we are coming to a reasonable compromise in this matter, I personally think it is a pity that one or two things said by the last two speakers did not remain unsaid. What we want to do now is to come to a reasonable arrangement and I think anything that in any way may embitter feelings should not be expressed. That is the reason I attempted to intervene when the hon. Member was speaking. I think that if it had appeared that the Africans would not accept this amendment, I think then it would have been proper for my hon. friend to make that speech. But that did not arise. Now, Sir, it was my intention to oppose the amendment of my hon. friend the Chief Secretary, but as now this is a very reasonable amendment I wholeheartedly support it.

MR. MATHU: Mr. Speaker, I would like to say that the African Members have looked at this proposed amendment by Government and they have reluctantly decided to accept it. (Hear! Hear!) I said reluctantly because, Mr. Speaker, of the

[Mr. Mathu]

words "when the time is opportune", but we think, Sir, that we have to be reasonable. Even if this Council passed a Motion in the form we advocated, I think we should form a political organization now; no one could expect to see a full-blown Colony-wide political organization tomorrow—it takes time to organize and we do think that while we are discussing as to the best ways of forming this organization the time will be opportune more quickly than some people may envisage, and it is for that reason we support this Motion and we shall, Sir, carry the debate and finish the meeting of the Council as quickly as possible.

I would like, in supporting this amendment, though to say that I hope that my hon. friend the Member for African Affairs will start this consultation with the African leaders immediately—he used the words "in the meantime". I do want to interpret that to be as soon as he can accommodate arrangements to carry on this discussion he will do that as quickly as possible. I am in agreement with my hon. friend, the Member for the Coast. Just when the African Members had indicated before my hon. friend, the Member for Health, Lands and Local Government, moved the amendment that the African Members were going to support it, the Member for African Affairs should not have found it necessary to impress—to impress on the unpleasantness of what happened in the past. Surely we should look into the future. I should like to reply to a few points he made—I would like to do it without rousing any feelings at all. Now, the first point is this. The proposition which we have brought before this Council has made it very clear that our intention in asking for a formation of a Colony-wide political organization is that there should be nothing that would be in the form of the Kenya African Union during the time of proscription and that is why I put it very clearly in my Motion that this organization must be formed and operated constitutionally. I said also in very clear language that the Government and any others interested in this matter will come together and cooperate in forming the organization. That is putting all my cards on the table, Sir, and those are the beliefs the African Members of this Council have in this matter.

Now, my hon. friend, the Member for African Affairs, talks about the Kikuyu talkers in Nairobi and agitators and politicians and at the same time he goes on to talk about the Kikuyu moderates and Kikuyu loyalists. What has he got ready for the Kikuyu moderates in this field that we are dealing with now? What has he got for the Kikuyu loyalists in the field which we are dealing with now? That is the question. They have got the feeling of being left out and it is for them that we are proposing this very Motion. Not only that—he has only dealt with the Kikuyu. I agree with him that the Kikuyu have behaved abominably—I have said that more than once, I have apologized in this Council that I belong to such a people who have behaved in that way, I have done that openly, in public. But what has he got for the loyal Nandi, the Jalu, the Kipsigis loyalists and all the Coast people, the Kamba people? Why not have an organization and leave all the Kikuyu out of it? Get these people in and leave every Kikuyu out? Then I would say that they are talking logic—leave the Kikuyu out of it altogether. I am prepared to tell all the Kikuyu, "Have nothing to do with this organization until the Government are happy about everything". Why do you not form an organization for everyone less the Kikuyu people. I would be happy—it is for that reason I thought it better to end this matter this morning in this Council. It was because I thought it would be a bit unfortunate to refer in a negative sense to this matter that I refrained from referring to it in my original Motion.

I would like to refer briefly to the remarks of my hon. friend, the Member for Uasin Gishu—I agree with him and every other Member—the Member for Kiambu—that we must strengthen the local associations. The head is useless without the legs but I think the hon. Member will agree that the legs are useless without the head. It cuts both ways, but if you organize the people only locally without something to give them unity so that they are one people, you are only doing half the job. That is what I think a German psychologist called the psychology of closure. We have a triangle, one of the sides is not joining—it is the psychology of closure—what I am proposing—we must have a complete triangle with an

WRITTEN ANSWER TO QUESTION

QUESTION No. 110

Mr. H. SLADE: Will the Member for Legal Affairs state:

1. The number of prosecutions in which the procedure of evidence by affidavit, introduced by the Evidence (Temporary Provisions) Ordinance, 1952, has been used since 3rd October, 1952, when that Ordinance became law.

2. (a) The number of prosecutions for administering an oath to commit a capital offence which have been instituted since January, 1953, when the administration of such oaths was by Emergency Regulations (Government Notice No. 77 of 1953) made a capital offence.

(b) The number of convictions resulting from any such prosecutions.

(c) The number of executions resulting therefrom.

3. (a) The number of prosecutions for illegal possession of arms or ammunition, trafficking, etc., which have been instituted since May, 1953, when such acts were by Emergency Regulations (Government Notice No. 721 of 1953 and Government Notice No. 761 of 1953—Reg. 8AA) made a capital offence.

(b) The number of convictions resulting from any such prosecutions.

(c) The number of executions resulting therefrom.

4. (a) The number of prosecutions for assisting terrorists or terrorism which have been instituted since May, 1953, when such acts were by Emergency Regulations (Government Notice No. 760 of 1953—Reg. 3A and Government Notice No. 814 of 1953—Reg. 8F) made a capital offence.

to the other communities when they start wrong things.

I am, in fact, in speaking in this manner, not speaking to my original Motion because I do not intend to use any right of reply if an other Member wishes to reply.

THE SPEAKER: I should make every endeavour while you are on your feet.

MR. MATHIAS: I am, Sir, in fact I have, except that I have one more point which was raised by Mr. Mandel about international conventions. I would say personally I like the idea and I think the African Members in this Council would support such an idea, but it will mean a matter of give and take on all sides for success of such an organization, but as my hon. friend, the Member for African Affairs, is bitter against the Nyeri ruling control in the African community as other communities would not let if they see any community participating therein. It must be a matter of give and take and working by agreement and understanding, which is very necessary and very useful for the racial relations in this country.

MR. H. SLADE: Will the Member for Legal Affairs state:

1. The number of prosecutions for illegal possession of arms or ammunition, trafficking, etc., which have been instituted since May, 1953, when such acts were by Emergency Regulations (Government Notice No. 721 of 1953 and Government Notice No. 761 of 1953—Reg. 8AA) made a capital offence.

(b) The number of convictions resulting from any such prosecutions.

(c) The number of executions resulting therefrom.

THE SPEAKER: That concludes the questions for which the Council will now have advanced until an order is given by the Speaker at 10.15 a.m.

ANNOUNCEMENT

THE COUNCIL WILL MEET AT 10.15 A.M. ON WEDNESDAY, 11th DECEMBER, 1953.

MR. MATHIAS

It is what we African Members of Council have been suggesting. I agree, Sir, that it will be unfortunate if we have no organization in the midst of the Emergency which will give us more work than we have at the present moment. I did say I wish to cover that point, that whatever organization comes up will have to take account of the restrictions which are imposed by security reasons. I made that point because I do want to impress the Council that I have nothing but honest and decent intentions in bringing this Motion before the Council. Of course, I do not agree with the hon. Member for Uasin Gishu that the British had done all wrong by teaching the African and other people. I would not agree with him. Their very presence here has taught the Africans you have European politicians and it is infectious, it is like an infectious disease and no doctor is going to cure that. It is an infection and therefore the Africans will have politicians too and they will have farmers, decent illiterate farmers who do not care very much about anything; they will have them as in the whole of the world that is nothing new.

to not think I would like to reply to the other points because I think I have covered them all except to say that this point of the hon. Member for Uasin Gishu about first things first, I agree with him if he, like I, would quote instances of European political organizations which were come up during the Emergency which in my view are more dangerous than the Kenya African Union or even the African Union they are in existence in the Colony. Why has not the Government stopped it and stopped some of those who are not only the Africans we should doubt if it is the white people too. Those who regard anything in any way dangerous to the Government should be dealt with. I think Government should demonstrate that they will be just Africans as a whole and not at least resistance but also

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VOLUME LVI

21st July, 1953, to 31st July, 1953

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