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Covering Dates 6th Oct., to 13th Oct., 1953

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COLONY AND PROTECTORATE OF KENYA

LEGISLATIVE COUNCIL DEBATES

OFFICIAL REPORT

10th COUNCIL INAUGURATED
JUNE, 1952

VOLUME LVII

1953

SECOND SESSION — SIXTH SITTING
6th October, 1953, to 13th October, 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.).
MEMBER FOR LEGAL AFFAIRS (HON. E. N. GRIFFTH-JONES).
MEMBER FOR FINANCE AND DEVELOPMENT (HON. E. A. VASEY, C.M.G.).
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.).
MEMBER FOR EDUCATION AND LABOUR (HON. C. H. HARTWELL).
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:

HON. H. L. ADAMS (Secretary for Commerce and Industry).
HON. T. F. ANDERSON, O.B.E., M.D. (Director of Medical Services).
HON. D. L. BLUNT, C.M.G.
HON. F. W. CARPENTER (Labour Commissioner).
HON. C. H. G. COVENTRY.
HON. M. H. COWIE.
HON. G. M. EDYE.
HON. S. D. KARVE, O.B.E., M.B.B.S.
HON. CHIEF U. MUKIMA.
HON. I. OKWIRRY, M.B.E.
HON. E. J. PETRIE (Secretary to the Treasury).
HON. SIR EBOO PIRIBHAL, O.B.E.
HON. J. L. RIDDOCH, O.B.E.
HON. G. M. RODDAN (Director of Agriculture).
HON. A. G. C. SOMERHOUGH, O.B.E. (Acting Solicitor General).
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-CAPTAIN THE HON. L. R. BRIGGS, Mount Kenya.
HON. S. V. COOKE, Coast.
HON. W. E. CROSSKILL, Mau.
HON. E. J. HOLLISTER, Nairobi North.
LT.-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. MACONOCHE-WELWOOD, Uasin Gishu.
HON. LADY SHAW, Ukamba.
HON. R. C. J. LETCHER, Trans Nzoia.
HON. MRS. A. R. SHAW, Nyanza.
HON. H. SLADE, Aberdare.
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.	HON. S. G. HASSAN, M.B.E.
HON. C. B. MADAN.	

Eastern Area:	West:
HON. A. B. PATEL, C.M.G.	HON. VASIER I. E. NATHOO.

Western Area:
HON. J. S. PATEL.

Arab Elected Member:
HON. S. MACKAWI.

Representative Members

African	Arab
HON. W. W. W. AWORI	HON. SHERIFF ABDULLA SALIM
HON. M. GIKONYO	
HON. J. JEREMIAH	
HON. E. W. MATHU	
HON. B. A. OHANGA	
HON. J. M. O. TAMESO	

Clerk of the Council
A. W. PURVIS

Assistant Clerk of the Council
H. THOMAS.

Reporters:

MRS. P. HUBBARD.
MISS E. M. VAIL.
MISS S. E. FARNDLELL.



COLONY AND PROTECTORATE OF KENYA

LEGISLATIVE COUNCIL DEBATES

TENTH COUNCIL

SECOND SESSION—SIXTH SITTING

Tuesday, 6th October, 1953

The Council met at ten o'clock.

(Mr. Deputy Speaker in the Chair)

PRAYERS

ADMINISTRATION OF OATH

The Oath of Allegiance was administered to the following Members—

Mr. C. H. G. Coventry.
Mr. E. J. Hollister.
Mr. R. C. J. Letcher.
Mr. A. G. C. Somerthouh, O.B.E.

COMMUNICATIONS FROM THE CHAIR

ILLNESS OF THE SPEAKER

THE DEPUTY SPEAKER: HON. MEMBERS will have been distressed to hear of the serious illness of the Speaker who has, during his term of office, gained the affectionate esteem of us all. It is gratifying to know that he is making some progress towards recovery. We hope that before long he will be sufficiently restored in health to be able once more to take his place in presiding over our Council.

In the meantime, I am sure it will be in accordance with the wishes of all hon. Members if I, on your behalf, convey to Mr. and Mrs. Horne an expression of our deep sympathy in Mr. Horne's illness and hope that his restoration to health may be speedy and lasting. (Applause.) (Hear, hear.)

DEPUTY SPEAKER—MODE OF ADDRESS

THE DEPUTY SPEAKER: Before we proceed to the business of the day, it would perhaps be appropriate, to remove doubt and to avoid misunderstanding and to ensure uniformity, if I inform Members of the correct method of addressing the Chair in the present circumstances. The Chair should be addressed as, "Mr. Deputy Speaker, Sir".

PAPERS LAID

The following papers were laid on the Table:—

Reports of the Commissioner for Transport, East Africa High Commission, and the General Manager on the Administration of the East African Railways and Harbours for the year ended 31st December, 1952.

East African Posts and Telecommunications Administration Annual Report, 1952.

Sessional Committee Report on submission of Breach of Privilege.

Select Committee Report on the Firearms Bill.

(BY THE CHIEF SECRETARY)

Statutory Rules and Orders, 1947, No. 314—Death Duties, Double Taxation Relief (South Africa), the Double Taxation Relief (Estate Duty) (South Africa) Order, 1947.

Department of Immigration Annual Report, 1952.

Annual Report of the Registrar General, Official Receiver and Public Trustee for the year 1952.

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HON. C. B. MADAN.

Eastern Area: West:

HON. A. B. PATEL, C.M.G. HON. VASIER I. E. NATHOO.

Western Area:

HON. J. S. PATEL.

Arab Elected Member

HON. S. MACKAWI.

Representative Members

African

HON. W. W. W. AWORI
HON. M. GIKONYO
HON. J. JEREMIAH
HON. E. W. MATHU
HON. B. A. OIANGA
HON. J. M. O. TAMESO

Arab

HON. SHEHRIFF ABDULLA SALIM

Anglo

Clerk of the Council
A. W. PURVIS

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Department of Immigration Annual Report, 1952.

Annual Report of the Registrar General, Official Receiver and Public Trustee for the year 1952.

Probation Service Annual Report, 1952.

Judicial Department Annual Report, 1952.

(BY THE CHIEF SECRETARY for the Member for Legal Affairs)

Land Bank Annual Report, 1952.

Development Supplementary Estimates of Expenditure No. 4 of 1953.

Supplementary Estimates of Expenditure of the Colony and Protectorate of Kenya No. 6 of 1953.

Annual Report of the Development and Reconstruction Authority, 1952.

Report on the Progress of Development Projects Quarterly Report for the Period 1st April to 30th June, 1953.

A statement of revenue and expenditure for the half year to 30th June, 1953, together with a commentary thereon by the Member for Finance, is circulated for information.

(BY THE MEMBER FOR FINANCE AND DEVELOPMENT)

THE MEMBER FOR FINANCE AND DEVELOPMENT: This last is a new department, Sir, for the Council but I propose to follow this procedure in the future as often as possible so that Members should be informed of the progress, from time to time, of the Colony's finance.

Annual Trade Report of Kenya, Uganda and Tanganyika for the year ended 31st December, 1952.

(BY THE SECRETARY FOR COMMERCE AND INDUSTRY)

Registrar of Co-operative Societies Annual Report, 1952.

(BY THE MEMBER FOR AFRICAN AFFAIRS)

Labour Department Annual Report, 1952.

(BY THE MEMBER FOR EDUCATION AND LABOUR)

Report of the Select Committee on the High Commission Services.

(BY THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES for the Member for Health, Lands and Local Government)

ORAL NOTICES OF MOTION

EMERGENCY REGULATIONS—CAPITAL CHARGES

MR. BLUNDELL (Rift Valley): Mr. Deputy Speaker, Sir, I beg to give notice of the following Motion:

This Council is of the opinion that the processes of Justice on Capital Charges arising from Emergency Regulations must be greatly accelerated and simplified, and requests Government to introduce emergency procedures whereby trial and punishment in such cases may be seen to be both swift and effective.

D.A.R.A. SUPPLEMENTARY ESTIMATES No. 4 of 1953 IN PARTS

(Governor's consent signified)

THE MEMBER FOR FINANCE AND DEVELOPMENT: Mr. Deputy Speaker, Sir, I beg to give notice of the following Motions:

(a) BE IT RESOLVED that a sum not exceeding £11,601 be granted to the Governor, on account, for or towards defraying the charges of D.A.R.A. Supplementary Estimates of Expenditure, 1953, No. 4 of 1953, Part I.

(b) BE IT RESOLVED that a sum not exceeding £25,000 be granted to the Governor, on account, for or towards defraying the charges of D.A.R.A. Supplementary Estimates of Expenditure, 1953, No. 4 of 1953, Part II.

(c) BE IT RESOLVED that a sum not exceeding £102,768 be granted to the Governor, on account, for or towards defraying the charges of D.A.R.A. Supplementary Estimates of Expenditure, 1953, No. 4 of 1953, Part III.

SUPPLEMENTARY ESTIMATES No. 6 OF 1953 IN PARTS

(Governor's consent signified)

(a) BE IT RESOLVED that a sum not exceeding £401,045 be granted to the Governor, on account, for or towards defraying the charges of Supplementary Estimates of Expenditure No. 6 of 1953, Part I.

(b) BE IT RESOLVED that a sum not exceeding £35,087 be granted to the Governor, on account, for or towards defraying the charges of Supplementary Estimates of Expenditure No. 6 of 1953, Part II.

(c) BE IT RESOLVED that a sum not exceeding £120,835 be granted to the Governor, on account, for or towards defraying the charges of Supplementary Estimates of Expenditure No. 6 of 1953, Part III.

SUPPLEMENTARY ESTIMATES No. 7 OF 1953

(Governor's consent signified)

BE IT RESOLVED that a sum not exceeding £19,700 be granted to the Governor, on account, for or towards defraying the charges of Supplementary Estimates of Expenditure No. 7 of 1953, Part I.

EMERGENCY FUND—INCREASE IN ALLOCATION

(Governor's consent signified)

BE IT RESOLVED that a sum of £750,000 be allocated to meet expenditure arising from the state of Emergency.

CUSTOMS DUTIES ON FOODSTUFFS

(Governor's consent signified)

BE IT RESOLVED that the Customs Duties on Foodstuffs (Provisional Exemption) Ordinance, 1946, shall remain in force until the 31st day of December, 1954.

ESTATE DUTIES—DOUBLE TAXATION RELIEF

THE ACTING SOLICITOR GENERAL: Mr. Deputy Speaker, Sir, I beg to give notice of the following Motion:—

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 of 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.

ORAL ANSWERS TO QUESTIONS

QUESTION No. 133

MR. BLUNDELL asked the Member for Education and Labour to state why there has been so much delay in the building of the Royal Technical College, and give the estimated date for its completion?

THE MEMBER FOR EDUCATION AND LABOUR: There has been no undue delay in the building of the Royal Technical College.

Initial sketch plans for the building were approved in May, 1951; a contract for the foundations was let in November, 1951; and a contract for the superstructure was let in April, 1953. The period between the preparation of the sketch plans and the starting of work on the superstructure was therefore two years, during which time the foundations of the building were constructed.

Having regard to the complicated nature of the building it is considered that this lapse of time is not excessive. The building contains a high percentage of specialist laboratories for work on hydraulics, heat engines, electrical engineering, building science, etc., and many types of equipment not available in Kenya. It has therefore been necessary to consult numerous specialist authorities both here and in the United Kingdom.

The date for the completion of the contract for the superstructure is the 15th June, 1955; but it is hoped that the classroom wing will be completed some time before this date.

MR. BLUNDELL: Mr. Deputy Speaker, arising out of that answer, in view of the great interest and the anxiety which many groups in the country have to participate in the training which will be available at this college, when completed, has the hon. Member considered giving any form of priority in order to speed construction?

THE MEMBER FOR EDUCATION AND LABOUR: The work is being done by contract and the time of completion is

[The Member for Education and Labour] laid down in the contract. I do not think any further action is possible in that direction.

MR. COOKE (Coast): Surely the point is, that this delay occurred after the report had been issued about four or five years ago. I think even the hon. Member himself would think that the matter could have been more expeditiously gone ahead with. That is where the delay occurred.

MR. BLUNDELL: I do not wish to worry the hon. Member but is it really reasonable for a building of this type to take four years from gestation to birth?

THE MEMBER FOR EDUCATION AND LABOUR: I think it is perfectly reasonable. It is of interest in this connection to know that the Assistant Director of Technical Education, who was recently in the United Kingdom, has reported to me that he has visited a much smaller technical institute there which was started in 1949 and this is still occupying temporary buildings and it is estimated that the permanent buildings will take another three years to erect. He estimates that a college of the size of our Royal Technical College in the United Kingdom would take at least five years from the time the initial plans were prepared until it was open to receive students. He believes that our rate of progress is really very satisfactory compared to what happens in the United Kingdom.

MR. BLUNDELL: When the hon. Member makes comparisons of that sort, has he taken into regard the numerous difficulties in the way of building anything in the United Kingdom?

MR. COOKE: What was the date of the report when it was published and the time that elapsed since the publication of the report and putting the work into operation?

THE MEMBER FOR FINANCE AND DEVELOPMENT: In answer to the hon. Member for the Coast, I was Member for Education at the time this was begun and I can assure him that such was the pressure of Government, it was given priority over a great number of other works which were considered equally desirable. I can assure him that once the decision had been made, the money was available for the College to be begun.

Nothing was left undone as far as the Government was concerned to overcome the difficulties that lay in regard to drawing up the building plans by an already overworked Architectural Department in the Public Works Department and overcoming the land difficulty and arranging for adequate finance, not only from the Government of Kenya, but from other sources.

MR. A. B. PATEL (Eastern Electoral Area): Mr. Deputy Speaker, Sir, would the hon. Member inform the Council if any arrangement is being made to start any of the faculties earlier than the classes are ready?

THE MEMBER FOR EDUCATION AND LABOUR: Yes, Sir. The first of the courses of instruction will commence, we hope, on the arrival of the first lecturer, who is expected in October this year. This will be a mechanical engineering subjects course which will take place in accommodation provided by the Railways. The course will be transferred to the College buildings as soon as they become available. We are also examining the possibility of commencing classes in borrowed buildings.

QUESTION No. 141

MR. COOKE asked the Chief Secretary how many Europeans in the armed forces have been killed and wounded during the Emergency up to the end of September, 1953—

- (a) by hostile action;
- (b) by accidental discharge of firearms?

THE CHIEF SECRETARY: Ten Europeans in the armed forces have been killed by hostile action during the Emergency up to the end of September and four wounded.

In the same period 13 Europeans have been killed by the accidental discharge of firearms and 12 wounded.

MR. COOKE: Mr. Deputy Speaker, arising out of that answer has every precaution been taken to see that the young men do not lose their lives in this negligent manner. Has Government taken action, or the General Officer Commanding, to reduce the number of accidental deaths?

THE CHIEF SECRETARY: The answer is yes, Sir. The Commanding Officers have been instructed to pay particular attention to the instruction of safety precautions with firearms.

QUESTION No. 143

MR. MACONOCHE-WELWOOD (Uasin Gishu): asked the Member for African Affairs: In view of the statement made by Mr. T. A. Watts, D.C., Central Nyanza, dated 7th August, 1953, which was broadcast, regarding the duty of local people to call back their relatives now working outside the Province, to help develop the new *shambas* at Sakwa, will Government state—

- (1) Whether it is the policy of Government where new land is being made available to a supposedly crowded native reserve to ask for the return of Africans working outside, thereby possibly nullifying the relief given to the overworked soil in the original area?
- (2) Whether it is the intention of Government to discourage in this way Africans from working outside their reserves during the present acute manpower and economic crisis?
- (3) Whether the District Commissioner concerned was acting on the instructions of Government when he made this statement, and if this is not so, is it now the accepted practice for District Commissioners to make public statements of major policy without reference to the Members of Government concerned?

THE MEMBER FOR AFRICAN AFFAIRS: The answers to (1) and (2) are in the negative.

(3) The report of what the District Commissioner said to the people of Sakwa is misleading. His remarks were not directed towards Luo labour working on farms or in industries outside his Province but to those people from the Samia, Alego, Kadimu and Sakwa Locations of Central Nyanza district who have been driven out by tsetse fly and who are now living in Uganda, Tanganyika and South Nyanza. It is not the

practice for district commissioners to make public statements on matters of major policy without reference to the Members of Government concerned and, as will be seen from the foregoing explanation, the District Commissioner's statement in this case does not come within that category.

MR. MACONOCHE-WELWOOD: Mr. Deputy Speaker, Sir, arising out of that answer, in that case is it the practice of Government to permit the official Information Press Office to issue a press handout which is totally incorrect in relation to the statement just made. The press handout stated perfectly clearly the facts as I set them out and that handout is issued by the Government Information Office.

THE MEMBER FOR AFRICAN AFFAIRS: If I may comment on that, Sir, I must express an apology on behalf of the Provincial Information Officer in Kisumu who did admit that there had been a mistake on this occasion which should not have occurred and I trust it will not occur again.

MR. MACONOCHE-WELWOOD: Will Government agree that in future, when mistakes are made, immediate contradictions are issued in the press handout.

MR. BLUNDELL: No answer!

THE CHIEF SECRETARY: Yes, Sir.

QUESTION No. 144

MR. A. B. PATEL asked the Member for Agriculture and Natural Resources to state:—

- (a) If he has received a copy of the report of the Committee appointed by the Government of Tanganyika to consider the future of the Indian School of Agriculture, Morogoro, in respect of which school an arrangement exists with the Tanganyika Government for admission of Indian students from Kenya?
- (b) If the reply is in the affirmative, will the hon. Member please state the attitude of the Kenya Government concerning the recommendations made in that report and the action (if any) the Kenya Government proposes to take?

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES:

(a) The answer to the first part of the question is in the affirmative.

(b) The report of the Committee appointed to consider the future of the Indian School of Agriculture at Morogoro was received by the Government of Kenya on 11th September, 1953—last month—and is at present under consideration. The Committee sat in Tanganyika Territory from 17th to 19th June, 1953, and submitted its recommendations to the Tanganyika Government. Before this Government is in a position to make decisions on the recommendations contained in the report, it will have to assess the final conclusions of the Tanganyika Government, and in the meanwhile is seeking the advice of the Indian and Arab Settlement Board, which is closely concerned with the policy of the agricultural training of Asians.

MR. NATHOO (West Electoral Area): Will the hon. Member give us an assurance that no undue delay will take place before referring to the Indian and Arab Settlement Board for an answer.

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: The hon. Member will appreciate that this report mainly recommends the building of a new school not by us but by the Tanganyika Government. The suggestions that the Tanganyika Government may make for the reception of students from their country and any other such matters will be immediately put before the Indian and Arab Settlement Board.

QUESTION No. 146

MR. COOKE asked the Member for Education and Labour whether the Government, as agreed to by a Motion in Legislative Council last July, will expedite a statement with regard to its policy towards the employment of Kikuyu in the Highlands?

THE MEMBER FOR EDUCATION AND LABOUR: Yes, Sir. The Member for African Affairs in a speech made in the Legislative Council on 23rd July and reported in columns 95-98 of Vol. LVI of HANSARD explained what the Government policy at that time was with regard to the employment of Kikuyu in the Highlands. It will be appreciated that

circumstances are constantly changing and Government measures have to be adapted accordingly.

After the July debate the Governor's Emergency Committee appointed a sub-committee of the Member for Agriculture and Natural Resources (Chairman), the Member for African Affairs, the Member for Education and Labour, the Hon. M. Blundell and the Hon. Maconochie-Welwood to report on this matter. The sub-committee will shortly submit its report to the Emergency Committee. After the Emergency Committee has considered it, a public statement on the matter will be issued.

QUESTION No. 147

MR. COOKE asked the Member for Education and Labour if it is true, as stated in a leading article of *Baraza* of 26th September, that African members of the Pioneering Corps on demobilization are—

- (a) deprived of their issue of clothing;
- (b) paid by deposits in the Post Office Savings Bank?

If the answers to these questions are in the affirmative will the Government request the Military Authorities to—

- (a) issue civilian clothing in lieu;
- (b) agree that those who so desire are paid in cash?

THE MEMBER FOR EDUCATION AND LABOUR: The answer to the first part of the hon. Member's question is as follows:—

(a) The Pioneers are not deprived of their issue of clothing on demobilization. They are allowed to retain the following articles:—

- 1 blanket.
- 1 pair of boots.
- 1 pair of khaki drill trousers.
- 2 bush jackets.
- 1 pair of khaki drill shorts.
- 1 general service cap.
- 1 pullover.
- 1 khaki flannel shirt.
- 2 pairs of socks.
- 2 pairs of vests and underpants.

Cleaning and toilet articles (including two towels).

[The Member for Education and Labour]

(b) The men are being offered the choice of one of the following three alternatives for the payment of sums due to them:—

- (i) A cash payment of Sh. 50 and the remainder in a Post Office Savings Bank account.
- (ii) A cash payment of Sh. 100 and the remainder in a Post Office Savings Bank account.
- (iii) A full cash settlement and no Post Office Savings Bank account.

In view of these facts the need for considering action as in the second part of the hon. Member's question does not arise.

MR. COOKE: On the question of the statement by the newspaper *Baraza*, if this was not correct, why was no answer given at the time, why was the information not published at the time to relieve the anxiety of these people?

THE MEMBER FOR EDUCATION AND LABOUR: As far as the Pioneers were concerned, they were given the correct information by the military authorities. So far as the article in *Baraza* is concerned, I have written to the editor on the subject.

MR. BLUNDELL: Is the hon. Member able to give the Council the percentage of Pioneers who have accepted Alternative (iii)—cash payment?

THE MEMBER FOR EDUCATION AND LABOUR: No, Sir, I cannot give that figure but I do know that the majority of those who have been demobilized so far have taken Alternative (ii).

BILLS**FIRST READING**

The Guarantee (High Commission Railways and Harbours Loans) Bill—(The Member for Finance and Development)—Order for First Reading read—Read a First Time—Ordered to be read a Second Time tomorrow.

The Guarantee (High Commission Posts and Telecommunications Loan) Bill—(The Member for Finance and Development)—Order for First Reading read—Read a First Time—Ordered to be read a Second Time tomorrow.

The Interpretation and General Clauses (Amendment) Bill—(The Acting Solicitor General)—Order for First Reading read—Read a First Time—Ordered to be read a Second Time tomorrow.

The Oil Production (Amendment) Bill—(The Secretary for Commerce and Industry)—Order for First Reading read—Read a First Time—Ordered to be read a Second Time tomorrow.

The Land Acquisition (Mombasa Oil Refinery) Bill—(The Secretary for Commerce and Industry)—Order for First Reading read—Read a First Time—Ordered to be read a Second Time tomorrow.

The Audit (Amendment) Bill—(The Member for Finance and Development)—Order for First Reading read—Read a First Time—Ordered to be read a Second Time tomorrow.

The Explosives (Amendment) Bill—(The Member for Education and Labour)—Order for First Reading read—Read a First Time—Ordered to be read a Second Time tomorrow.

ADJOURNMENT

THE DEPUTY SPEAKER: This concludes the Orders of the Day. Council will stand adjourned until 9.30 tomorrow morning.

Council rose at thirty-five minutes past Ten o'clock.

Wednesday, 7th October, 1953

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

[Mr. Deputy Speaker in the Chair]

PRAYERS

PAPERS LAID

The following papers were laid on the Table:—

Select Committee Report on the Traffic Bill (Bill No. 44), 1953.

Report of the East African Commissioner for the year 1952.

[By THE CHIEF SECRETARY]

The Supplementary Estimates of Expenditure of the Colony and Protectorate of Kenya, No. 7 of 1953.

[By THE MEMBER FOR FINANCE AND DEVELOPMENT]

The Mines and Geological Department Annual Report, 1952.

[By THE SECRETARY FOR COMMERCE AND INDUSTRY]

ORAL NOTICES OF MOTIONS

NEED FOR DETERRENT SENTENCES

MR. HARRIS (Nairobi South): Mr. Deputy Speaker, Sir, I beg to give notice of the following Motion:—

This Council, recognizing that crimes of violence and crimes committed in defiance of decent society are on the increase, resolves that Government gives immediate attention to making the serving of a sentence a real deterrent to either repetition or contemplation of such crimes.

To this end such attention should be given to the necessity for issuing a directive to prison officers on the implementation of existing regulations, or to the revision of existing regulations or to any other measures considered necessary to achieve this object.

SOCIAL SECURITY LEGISLATION

MR. CROSSKILL (Mau—on behalf of Mr. Sunde (Aberdare not present): Mr. Deputy Speaker, Sir, I beg to give notice of the following Motion:—

That a Committee be appointed to investigate and to make recommendations on the following questions—

(a) whether there is now, or likely to be in the near future, need to provide by legislation for the social security of employees in their old age;

(b) among what races, and in what types and levels of employment, such provision (if any) should be made;

(c) at what age or respective ages such provision (if any) will be needed;

(d) by what method or alternative methods such provision (if any) should or could be made;

(e) in what proportions the employer and the employee should bear the cost of any such provision;

(f) whether and to what extent voluntary provident schemes for employees should be accepted in satisfaction of the provision (if any) to be required by law;

(g) any other incidental questions; having due regard to economic and practical considerations.

OPERATIONS AGAINST TERRORISTS

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

That it is the opinion of this Council that the operations against the terrorists are not being conducted with the necessary vigour, determination and sense of urgency.

SUGAR CONSUMPTION TAX ORDINANCE

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

BE IT RESOLVED that the Sugar Consumption Tax Ordinance shall remain in force until 31st December, 1954.

ORAL ANSWERS TO QUESTIONS

QUESTION No. 138

MR. BLUNDELL (Rift Valley) asked the hon. Member for Legal Affairs. In view of the judgment which has been given by Lord Goddard in the case of Tyrrell

[Mr. Blundell]

(a Judge of the Supreme Court in Malay) v. Secretary of State for Colonies and others, will Government state what action it intends to take to request the U.K. Government to see that Judges in Kenya are endowed with an immunity equivalent to that given to Judges in the U.K. under the Act of Settlement, 1700 A.D.?

THE ACTING SOLICITOR GENERAL (in the absence of the Member for Legal Affairs): The Government does not intend to take any action to request the U.K. Government to see that Judges in Kenya are endowed with an immunity equivalent to that given to Judges in the U.K. under the Act of Settlement of 1700. It considers that Judges in Kenya, as in other Colonies, are already amply and effectively protected and secure in their offices.

Colonial Judges hold office during Her Majesty's pleasure. The Queen's pleasure can constitutionally be exercised only upon the advice of Her responsible Ministers, in this case, the Secretary of State for the Colonies. Since 1870, it had been the established practice that a Colonial Judge can only be dismissed if, in addition to the Secretary of State for the Colonies, the Judicial Committee of the Privy Council so advises. The safeguards which Colonial Judges enjoy are, therefore, as good and effective as any which could be devised.

MR. MACONOCHE-WELWOOD: Mr. Deputy Speaker, Sir, arising out of that answer, may I ask the hon. Member whether those powers exercised by the Judicial Committee of the Privy Council are in fact, powers vested in the Crown and delegated to them, or whether in judging such cases, they are acting in a purely judicial capacity? (Laughter.)

THE ACTING SOLICITOR GENERAL: The function of the Judicial Committee of the Privy Council is to advise Her Majesty on what are Her Majesty's prerogative powers. An office holder who holds his office during the tenure of good behaviour, which is what a Colonial Judge holds his office under—and many other officials—holds his office during the Queen's pleasure and theoretically, the Crown could dismiss. In practice, however, that pleasure of the Crown to dismiss can only be exercised by, and on

the advice of, the Secretary of State, who takes the advice of the Judicial Committee of the Privy Council who are, therefore, exercising their constitutional function of advising the Sovereign on the exercise of the prerogative by the Sovereign. (Applause.)

MR. BLUNDELL: In view of the statement made by Lord Simon in 1949, that the present immunities for the Judges of Colonial Territories was not sufficient, would the hon. Member give us an assurance that he will examine the matter?

THE ACTING SOLICITOR GENERAL: No, Sir, no such assurance can be given.

QUESTION No. 140

MR. COOKE asked the Chief Secretary:—

(a) If he considers that Press Office Handout No. 360 of 1953, in the matter of the inquiry into the raid on Naivasha Police Station is a balanced and fair abstract of the Commission's report?

(b) Was the abstract shown to Colonel Modera, the Commissioner, before publication?

THE CHIEF SECRETARY:

(a) Press Office Handout No. 360 of 1953, was not an abstract of the report of the Commission of Inquiry on the attack on Naivasha Police Station and Detention Camp, but a statement of the decision of the Governor in Council on that report. The statement contained an abstract from the report and the abstract was a balanced and fair one, in my opinion.

(b) Colonel Modera was given a copy of the statement before publication.

QUESTION No. 148

MR. USHER (Mombasa) asked the Chief Secretary to state:—

(1) How many Asians have been—

(a) called up; and

(b) enrolled in the Kenya Police Reserve or other Emergency Forces to date?

(2) How many of those enrolled are—

(a) Hindus;

(b) Muslims;

(c) Sikhs?

Dr. HASSAN (Eastern Electoral Area—Director of Asian Manpower—on behalf of the Member for Education and Labour): As at 1st October, 1,275 notices had been despatched. Of these—

214 had been enrolled in the Kenya Police Reserve;

41 who had been passed medically fit were awaiting enrolment in the Kenya Police Reserve;

14 had been assigned to military duties.

The total effective call-up was therefore, at 1st October, 269. Of these—

99 are Hindus;

106 are Muslims;

36 are Sikhs.

The remaining 28 consist of 25 Goans and three Seychellans.

MR. A. B. PATEL: Mr. Deputy Speaker, Sir, arising out of that answer may I ask the hon. Chief Secretary if, for the European call-up and enrolled persons, they also have separate figures for Roman Catholics, Protestants, Scots, Irish and English? (Laughter.)

THE MEMBER FOR EDUCATION AND LABOUR: Mr. Deputy Speaker, the answer is no.

MR. A. B. PATEL: Arising out of that answer, Sir, why should they not do it?

The Interpretation and General Clauses (Amendment) Bill

Order for Second Reading read.

THE ACTING SOLICITOR GENERAL: Mr. Deputy Speaker, Sir, I beg to move that the Interpretation and General Clauses (Amendment) Bill be read a Second Time.

This is a short Bill and, it is hoped, a non-controversial one. It seems unnecessary to expand very much on the objects and reasons. There are, however, three clauses which perhaps need a little explanation. The first is clause 4. This provides for the situation which arises when the substantive holder of an office in the service of the Government goes on home leave pending relinquishment of office or retirement, and enables a new holder to be appointed at once.

Clause 6 of the new Bill takes care of the situation which arises when a

Member of the Executive Council, who has rule-making powers, is unable to act through illness or any other cause, or is absent from the Colony, and it enables the Governor, by a notice in the Gazette, to appoint another Member of the Executive Council to make those rules, so that the rule-making power continues.

The seventh clause of the Bill deals with the situation which arises by proclamation under the Boundaries Ordinance, the geographical internal boundaries of the Colony are altered or the nomenclature of any area in the Colony is altered. It takes care of it by providing that any reference in legal instruments, such as deeds or old laws, previous ordinances, etc., to these areas by this new name does not affect the reference to them by the old. In other words the old names are still legal references although a few names have been imposed, or new areas have been created within the limits of the old areas.

Mr. Deputy Speaker, Sir, I beg to move.

THE CHIEF SECRETARY seconded.

Question proposed.

THE DEPUTY SPEAKER: If no other Member wishes to speak I will put the question.

The question was put and carried.

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

The Oil Production (Amendment) Bill

Order for Second Reading read.

THE SECRETARY FOR COMMERCE AND INDUSTRY: Mr. Deputy Speaker, Sir, I beg to move that the Oil Production (Amendment) Bill be read a Second Time.

Sir, there has, for a considerable time, been great interest in the possible existence of oil in the Colony and Protectorate. The Government attaches the greatest importance to this search for oil. It would, if oil could be found in commercial quantities, have a most profound effect on the economy of this Colony and Protectorate and also on East Africa as a whole. We are at present, as hon. Members are aware, without any locally-produced prime mover other than wood

[The Secretary for Commerce and Industry]

and electricity. It would be of the greatest economic importance and would, of course, provide an invaluable export. A great deal of work in regard to this search has been carried out by the Geological Survey and very valuable assistance was received from experts loaned by the Economic Co-operation Administration. This led up to the publication of a report on certain parts of the Colony by Mr. Ayers, which still further increased interest.

An application for an oil exploration licence was received from the Shell Company, Limited, on behalf of its subsidiaries, the Shell Overseas Exploration Company, Limited, and the D'Arcy Exploration Company, Limited. This application and the discussion arising therefrom, drew attention to the necessity for re-examining the legislation which was in operation in the Colony, dealing with this question, and it was found that because the present Oil Exploration Ordinance was an old Ordinance based on a Colonial model and promulgated as long ago as 1924, it required considerable amendment to bring it up to date with modern requirements and the development which had taken place in the Colony.

Discussions have been held with representatives of the Shell Company, Limited, both here and in London, and the present proposals which are included in the amendments now before this Council have been agreed by the Shell Company, Limited, and are, in the opinion of the Government, a reasonable basis for operation. The purposes of the Bill are set out in the Memorandum of Objects and Reasons and the Bill is presented in such a way that where it is proposed to amend a clause the original text can be seen.

In regard to the details of the Bill itself, Sir, I do not think that I have any comment to make on the first four clauses. Clause 5, sub-clause (1), clarifies the position by giving a clear definition of the land to which the provisions of the Ordinance apply, and by removing a doubt which previously existed by including specifically the sea-bed and the subsoil thereunder as defined in the clause. The remaining sub-clauses of this

clause define more clearly land which is excluded from the rights of a licensee under the Ordinance, and the circumstances under which the licensee may exercise certain rights over such land.

Sub-clause (2) (a) defines land which is expressly excluded from the rights conferred on a licensee or lessee under the Ordinance.

Sub-clause (2) (b) excludes further land with a proviso that rights may be exercised with the consent of the appropriate authority, and that in certain cases, and subject to safeguards, a licensee may enter to prospect.

Sub-clause (3) gives the Governor power to give rights in respect of land otherwise excluded under sub-clauses (2) (a) and (2) (b).

Sub-clause (4) deals with the exclusion of land from the operation of the Ordinance which is required for a public purpose.

The effect of this whole clause, too, is that it permits, under certain circumstances deviation drilling which is in accordance with modern mining practice, where entry on the surface is not permitted.

Clause 6 incorporates the new clauses designed to provide for the giving of adequate notice of intention to enter on to land and also provides for the payment of compensation. The arrangements in connexion with the payment of compensation are much in line with similar provisions in the Mining Ordinance, although in this instance an appeal lies to the Courts of the Colony.

Clause 7 is, I think, self-explanatory.

Clause 8 changes the previous provisions of the law which gave power of pre-emption to Her Majesty's Government. It was considered that in the light of the development which has taken place in Kenya, it was appropriate that any such rights should be vested in the Kenya Government, and this has been agreed to by the Secretary of State. It is also considered that it is an adequate safeguard if the right of pre-emption is limited to times of war or of national emergency.

The purpose of introducing these amendments, Sir, is to clear the legal background in order that the necessary

[The Secretary for Commerce and Industry] licences may be granted for this important exploratory work to continue and we hope that work in detail—some preliminary work has been carried out—will begin very shortly.

Sir, I beg to move. (Applause.)

THE CHIEF SECRETARY seconded.

Question proposed.

THE DEPUTY SPEAKER: If no other Member wishes to speak I will put the question.

The question was put and carried.

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

The Land Acquisition (Mombasa Oil Refinery) Bill

Order for Second Reading read.

THE SECRETARY FOR COMMERCE AND INDUSTRY: Mr. Deputy Speaker, Sir, I beg to move that the Land Acquisition (Mombasa Oil Refinery) Bill be read a Second Time.

Sir, it is a very great honour to me to be asked to move this Second Reading, because you, Sir, in another capacity, are unable so to do by the high office which you are at present fulfilling. In so doing, Sir, I am very conscious of the fact that I shall not be able to perform this duty with that clarity and happiness of phrase with which you have graced this Council for so many years.

Sir, this Bill, though comparatively simple, may well be the first step in a most important economic development in Kenya, and indeed in East Africa as a whole. The setting up of a refinery at Mombasa would represent the investment of a very large amount of capital indeed, probably a sum not less than some £40,000,000. The refinery would employ a large labour force of all races. It would result in the bringing in of many families from overseas; it would increase the purchasing power of the Colony; it would create additional demands for local produce and manufactures, for consumer goods and services. There is no doubt that the project would provide a great stimulus for subsidiary secondary industrial development and that it would be

of enormous economic benefit to the Colony. As has been stated recently in the local Press, a final decision has not yet been reached with regard to the construction of the refinery, but as soon as arrangements have been made for acquisition of the land it is the intention to carry out a great deal of detailed planning work.

Hon. Members may be interested to know that the draft of this Bill has been agreed between the Legal Department and the eminent lawyers employed by the Royal Dutch Shell Group.

MR. BLUNDELL: Most interesting.

THE SECRETARY FOR COMMERCE AND INDUSTRY: Those lawyers were very eminent indeed. My hon. and learned friend, the Attorney General, who is unfortunately absent to-day, himself conducted negotiations with them, both here and in London. I know that he would wish me to inform hon. Members that those legal representatives accepted the draft prepared by Mr. Mills-Owens, the legal draftsman in the Colony, subject to minor amendments, and asked that he should be congratulated on his excellent work. Such praise was very high praise indeed.

MR. BLUNDELL: The Legal Service is coming up!

THE SECRETARY FOR COMMERCE AND INDUSTRY: The purpose of this Bill is clearly set out in the preamble and I do not propose to take much of the time of the Council in expanding on it. At one stage it was proposed to acquire this land compulsorily under the powers under the Indian Land Acquisition Act. As the ultimate development of the construction of the refinery was, however, still not finally decided, it was considered that such a step would be inappropriate and that it was necessary to introduce special legislation. The Bill is designed to allow the Crown to acquire the land and to lease it for the purpose of construction of a refinery. Provision is made for the payment of compensation, and the procedure will be in accordance with the appropriate sections of the Indian Land Acquisition Act, which are referred to in the Bill itself and of which a summary is given in the Second Schedule.

The land which it is proposed to acquire is on the mainland at Mombasa

[The Secretary for Commerce and Industry]

south of Likoni Ferry, and details are set out in the First Schedule to the Bill.

The Bill further provides for the vesting of the scheduled land in Her Majesty on a date to be appointed;

For the granting of a lease to the Company of all or any part of the scheduled lands on payment of such stand premium and rent as the Governor may deem expedient. This will cover the reimbursement of the costs of the acquisition:

For the payment of compensation to persons interested in the scheduled lands; in accordance with the machinery established under the Indian Land Acquisition Act.

For authorizing the Company to establish a Refinery on the land;

For the compulsory acquisition of any additional land in the same neighbourhood if it is required at any time before the expiration of 10 years from the appointed day; any declaration for the acquisition of such land to be laid before the Legislative Council and not to be carried into effect if any objection is supported by a majority vote;

For the compulsory acquisition of easements and wayleaves necessary for the operations of the Company; any order to this effect in respect of privately-owned land held under the Land Titles Ordinance to be laid on the Table of the Legislative Council and not to be operative if the Council passes a resolution to that effect. Any easements and wayleaves required over land held under the Crown Lands Ordinance or under the Native Lands Trust Ordinance will be subject to the relevant provisions of those Ordinances.

It is relevant to state that the Royal Dutch Shell Group has given an undertaking to reimburse the Government for the cost of acquiring the land. Other matters of detail will be covered in the agreement for lease, in a lease if the project materializes. If it does not do so, the land in question will revert to the Crown without payment of compensation.

Mr. Deputy Speaker, Sir, I beg to move.

THE CHIEF SECRETARY seconded.

Question proposed.

MR. USHER: Mr. Deputy Speaker, Sir, I wish to give the heartiest welcome to this Bill. The proposals, which are now brought nearer—a step nearer—have been before the public for a long time and they have naturally been anxious to know what was going to happen, and when it was going to happen. I have very little so say about the Bill, which I find, on the whole, eminently satisfactory, but I think it is advisable to underline certain points, and in order that those concerned may be relieved of any possible anxiety, to have them clearly stated in this Council.

First of all, Sir, I should like—I think it is a matter of principle, but of course that is subject to your ruling—I should like to refer to the question of nuisance, and I do so because there is hesitation among people at the Coast in regard to dealings in land there. The point in particular that I have in mind is that there should be, as I understand there will be, provision in the leases that there shall be every care taken to guard against nuisances arising from the construction of the plant itself.

That, of course, does not appear clearly in the clause itself—I think it is clause No. 6. The same question arose in connexion with the erection of the Bamburi Cement Factory and, many hon. Members will remember that the question also arose in connexion with the Parklands Power Station, where it was clearly pointed out that, if there was a nuisance, the people that built there came to the nuisance, and that was really the critical point of the argument. Here, of course, there are already residents fairly close to where we believe the refinery will be erected, if it is erected.

Therefore, Sir, I think it will be appropriate if an assurance can be given that in the leases all possible safeguards will be given against nuisances, whether they are superficial or infernal.

The second point I wish to make, Sir, is this. I am not quite sure whether, under this Bill, there is provision for the full safeguarding of municipal rights, functions and powers in the areas which may be acquired.

[Mr. Usher]

The third point I have to make is in regard to the possible acquisition of further land. That is under clause 8, and, of course, not sub-clause (1) or (2), but sub-clause (3). Sub-clause (3) seems to me to provide for a possibly very short period for consideration if other lands are to be brought into the ambit of this undertaking. The Governor is to make a declaration and the matter is to be put before this Council on the first day of the next meeting of the Council. Some of the meetings of the Council are very short, Sir, and I should have preferred to see a positive time given, whether it be one month or three months, in order that the matter may be further ventilated. I should, therefore, like, if it is not proposed to accept any amendments on this subject, a clear statement that ample time will be given for any declaration that may be so made to have full consideration by the people concerned and by their representatives.

That, Sir, covers the main points. I should add that as people are not aware of what the sections of the Indian Land Acquisition Act import, that it is quite clear that compensation is upon the basis of market value plus 15 per cent for disturbance. If that was stated, I think it would relieve some doubts.

Sir, I beg to support.

Mr. JEREMIAH (African Representative Member): Mr. Deputy Speaker, Sir, it is not my intention to try and oppose this Bill—which is considered to be for the benefit of the whole country, if the company is going to erect their oil refinery here but I would like, Sir, to know that when the land is acquired the owners of the land will not suffer hardship. I would like an assurance, Sir, to know whether some of the people who will be deprived of their land will be given alternative land. If not, would it be possible for Government to arrange that they are paid reasonable compensation for their crops and development, because in most cases when you have land and leave it I think it is not very fair, because land to some people is their only means of earning their living.

Another point, Sir, which I would like to hear is in regard to compensation. It is mentioned that when it is intended to acquire other land or to declare other

land later on for the purpose of this Ordinance, compensation will be paid, but not if the other land is Crown land. Now, Sir, my knowledge of the Coast Province is that in many areas there are Crown lands where Africans are living and they live on that land and believe that they are living on their land. I would like to know, Sir, that if such people in the case of that land going to be acquired, and it becomes necessary for them to be evicted, whether they would not be considered for compensation, because they might have been living there for years and Government is aware of that, and it would not be their fault that they are living in that area, and therefore I think such people should be considered for compensation.

In clause 8, Sir, it is provided that the Governor shall be given the power to declare any other land. Now, I consider that the power to acquire land, especially in the Native Land areas, should not be left to one man, and I would later on, Sir, suggest an amendment, if the Government would consider making it Governor in Council instead of Governor.

With regard to easement, I am not quite agreeable to that. I am glad to find that the land, or the stream, or the river which would be polluted are not within the Native Land Unit, but such a river may be flowing through the Native Land areas. Now, what would be the position of those people using the water. This is a point that requires some clarification.

I am opposed, Sir, to the power of acquiring land being left in the hands of the Governor himself, and also I am opposed to the land being declared as Crown land without alternative land being made available for the people who used that land.

The land question, Sir, is very important, and I think should be given very fair consideration. In the meantime, instead of saying I support the Bill, I will wait to hear what will be the reactions of Government to my comments.

SHERIFF ABDULLA SALIM (Arab Representative Member): There is only one point which I do not appreciate in the Bill. It is this, why Government should

[Sheriff Abdulla Salim]

acquire land and pay people compensation: when people receive compensation they do not know what to do with the money, they lose the money in a few days' time. Instead of acquiring the land and paying compensation, why does not Government lease the land from these people and then sublet it to the company. Of course they will have to pay compensation for the trees to the squatters who are going to be removed from the land, and I would like to suggest, Sir, and I think this would be appreciated by the people, mostly Arabs, if the Government would lease the land instead of acquiring it by compensation, I have no objection to the acquisition, but acquiring the land and paying them compensation, they would not know what to do with the money, they cannot get land for the money they have received, the price of land has gone up, it is very difficult for them to get similar land anywhere at the coast. If Government would lease the land, they would get the benefit for 99 years, and the Government can sublet it to any company it likes.

I do not say, Sir, that I oppose the Bill. I think it will be very useful, but I am thinking of the point of leasing as it would be very helpful to the people at the coast.

Mr. COOKE: I think, Mr. Deputy Speaker, that the last speaker has made a good point—not criticizing Government acquiring the land—but the point that the landowner should be given, perhaps, alternative land elsewhere I think is a good point. I would support him in that respect, although I think there is no possible alternative to the Government acquiring the land.

As Member for the Coast, I would like to welcome this Bill and welcome this enterprise very much. Indeed, so far as Europeans are concerned, I have not received any criticism whatsoever, and we are all looking forward, not only to the implementation of this scheme, but to its early implementation, so we give it all the support we can.

Mr. NATHOO (West Electoral Area): Mr. Deputy Speaker, Sir, whilst welcoming the move on the part of the Government for such a far-reaching effect Bill, I would like to make one observation with regard to the compensation in connexion with this land.

Some time ago there was another scheme in which the Government acquired some land round about the coast, and it was years before the owners got any compensation at all out of it and there was a great deal of hardship suffered by the people who had lost land under this Acquisition Act. I would like an assurance from the hon. Mover to say that no undue delay will take place once the question of acquisition has been decided, and the price fixed, that these owners should get the compensation so that they can invest it or whatever they want to do with the money.

THE MEMBER FOR FINANCE AND DEVELOPMENT: I had not intended to speak in this debate, but I would like to say how much I welcome the remarks of the hon. Member for the Coast in welcoming this particular project, because I think that one or two speeches from the other side—I except the hon. Member for Mombasa—may well have left an impression that there is going to be difficulty, awkwardness, and a lot of delay in carrying this project through.

Well, Sir, this is not only a question of acquisition of certain points of land. This is a question of bringing to this Colony a tremendous economic asset which will provide employment for a large number of people in this Colony, by a company whose record of employment, as good employers, stands equal to any company I know. I think, Sir, that we must remember that we have sometimes to subordinate the part to the good of the whole, and the good of the whole in this case is to bring to this country a tremendous project of the type which we have not been able to get to this country before. I think we should be taking the line and the attitude that we will do anything to smooth out their difficulties and nothing to discourage them, and I am sure that this is really the intention of this Council.

Mr. BLUNDELL: I should like to endorse the remarks that the hon. Member for Finance and Development has made. I should like to place on record—I am sure I speak for all Members on this side of the Council when I say that the company will be assured, in the event of them deciding to proceed with this project, that they will have all the assistance that is necessary to enable them to establish themselves here.

THE DEPUTY SPEAKER: If no other hon. Member wishes to speak I will ask the hon. Member to reply.

THE SECRETARY FOR COMMERCE AND INDUSTRY: Mr. Deputy Speaker, Sir, I am very grateful to my hon. friend the Member for Finance and Development, and to the hon. Member for Rift Valley for bringing this matter back to perspective, as I think some of the points raised perhaps tended to lose sight of the very great issues involved.

Sir, the hon. Member for Mombasa asked that adequate safeguards should be given in regard to possible nuisance arising from the refinery. I can assure him, Sir, that it is the Government's intention to see that such adequate safeguards are included in the agreement for the lease.

There is nothing in this proposed legislation, so far as I am aware, Sir, which takes away any power from a municipal authority, or, indeed, relieves a municipal authority from its obligations in respect of the areas coming under its authority.

The hon. Member raised the point that the period given to this Council to consider whether a declaration in the future should be agreed, or whether wayleaves should be granted, under certain circumstances might be short in relation to the fact that the Council at times sits for short periods, and that there might not be very much notice before the next session of the Council. Well, Sir, I suggest that that matter would lie at the discretion of the Council. If such a difficulty arose, an hon. Member could surely move a Motion to defer consideration, and the matter would, therefore, I think, be adequately safeguarded.

I can give the hon. Member the assurance which he sought that compensation payable under this Ordinance will be on the basis of market value plus 15 per cent for disturbance.

Sir, in regard to the remarks made by the hon. Member for African Interests, Mr. Jeremiah, he raised the point that, in the first place, I think, all people who had interests in the land that was acquired should receive compensation. Well, it is laid down in this Bill that any person who has such an interest is entitled to compensation and they can make a

case to the Collector when he is appointed.

He raised the question, too, as to whether people should be given alternative land in lieu of compensation. I am advised that the Collector, if he thinks fit, has power to offer alternative land in lieu of compensation. It is a question at the discretion of the Collector and, of course, it depends on the availability of suitable land. I would also point out that there is a right of appeal to the Court against the award of the Collector when that has been made.

It was suggested by the hon. Member that the Bill should be amended to give powers, or to vest the powers to acquire additional land at a further date, in the Governor in Council rather than in the Governor. That, Sir, I think is an unnecessary amendment and I would mention that the Government is particularly anxious to avoid amending the text of this Bill. I have already explained that it has been agreed between the Government lawyers and those of the Royal Dutch Shell Group, and if it is passed as it stands, matters can immediately proceed and that delay, which was worrying another hon. Member, can be minimized. If there are amendments now, the Bill will have to go back for further consideration and complications might arise. This, I think, in fact, is not a very major point. The Governor would, of course, act on the advice of the responsible Members of his Government and whether the matter was discussed on that basis, or at the Executive Council, in this connexion I do not think matters.

There are safeguards in Legislative Council in regard to the acquisition of further land and the whole matter could be thrashed out on the floor of this Council and that, I think, is as good a safeguard as the hon. Member could possibly seek.

The hon. Arab Representative Member suggested that he had no objection to the land being sold by private arrangement to the interested company, but he failed to see why the Government should step in and exercise compulsory powers of acquisition. Well, Sir, I think that, having regard to the importance of this project—

SHERIFF ABDULLA SALIM: Mr. Deputy Speaker, on a point of explanation,

[**Sheriff Abdulla Salim**]
I did not say I had no objection to private people selling the land privately to the company. My point was, instead of Government acquiring the land by paying compensation, they should take it on lease and then lease it to the company. That is the point—not buy the land.

THE SECRETARY FOR COMMERCE AND INDUSTRY: I am grateful, Sir, to the hon. Member for correcting me. The reason, I think, for his suggestion was that if the people concerned received a cash payment for compensation, they would not know what to do with the money. Well, they must be in a very happy position, Sir, and I wonder whether they would know what to do with the money they got for the rent, but the only method of dealing with a project of this scope, and the only basis on which the large interests concerned will be prepared to consider coming to this site at all, would be on the basis that the necessary land selected for the refinery was acquired on a cut and dried basis, so that they would then be in a position to operate without possible complications and detailed negotiations.

In regard to the point raised by the hon. Member for the Coast, I have already referred to the possibility of granting alternative land. I have nothing to add to my previous remarks.

Sir, I beg to move.

The question was put and carried.

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

The Explosives (Amendment) Bill —
Order for Second Reading read.

THE MEMBER FOR EDUCATION AND LABOUR: Mr. Deputy Speaker, Sir, I beg to move that the Explosives (Amendment) Bill be read a Second Time.

Sir, in the year 1951 Government appointed an Inter-departmental Committee consisting of Mr. Cusack, who was then Secretary for the Member for Law and Order, Mr. Garland of the Public Works Department, Mr. Smith of the Railways, Mr. Harding of the Mines Department, and Mr. Cullen of the Public Works Department to examine the operation of the Explosives Ordinance and to make

any recommendations they thought necessary to improve the working of that Ordinance.

The Committee submitted its report towards the end of 1952 or early in 1953. It was a very useful practical document, it was accepted by Government and this Bill is based on the recommendations of the Committee.

The Bill falls into three parts. Firstly, those sections which seek to transfer the responsibility for administering the Ordinance from the Director of the Public Works Department to the Commissioner for Mines. The Committee thought and all authorities concerned have subsequently agreed, that that function falls more appropriately to the Mines Department than the Public Works Department. Incidentally that also means that the ministerial responsibility will pass from me to the Member for Commerce and Industry under whom the Mines Department falls.

The second set of amendments, Sir, are designed to tighten up the control of the position of the movement, transfer and use of explosives. Those sections are based on recommendations of the Committee.

The third set of amendments are designed to increase the penalty which the Committee thought and Government agreed are too small in view of the decrease in the value of money and increase in the danger of the quantities of explosives which are now being handled.

I do not think it is necessary for me to go into detail. The purposes of the various sections are fully explained in the statements of objects and reasons. I shall be grateful if any Member wishes to make any suggestion for the amendment of any sections will let me know as soon as possible, because the matter is a technical one, and I would like the opportunity of discussing any suggestions with the technical experts before the Committee stage of the Bill.

Mr. Deputy Speaker, I beg to move. (Applause.)

THE CHIEF SECRETARY seconded.

Question proposed.

MR. MACDONOCHIE-WELWOOD: Mr. Deputy Speaker, Sir, there is one point I would like to raise on this Bill. That comes under the objects and reasons. The

[Mr. Maconochie-Welwood] last clause in which it points out that an extra £3,000 will be spent on an inspectorate. I view this, Sir, with a certain amount of apprehension, as it has become the practice to set up new inspectorates to take on work probably performed in the ordinary way by the Police. It is quite an expensive department. I cannot see the object of spending £3,000 on an inspectorate in view of the fact that explosives are distributed widely throughout the Colony, particularly in the mining areas which are exceedingly remote. It seemed to me right that the enforcement of the Ordinance should be done by the existing Police or by the Inspector of Mines who already exist. In fact, the gist of my remark is that £3,000 seems to me to be unnecessarily spent in setting up an entirely new body with an inspectorate.

MR. COWIE (Nominated Member): There are two points I wish to raise on this Bill.

The first one concerns the extent to which legislation being introduced in this Council is being influenced by present conditions. I wonder if the Committee which designed these recommendations, starting in 1951, actually formed a conclusion that it was necessary to have the restrictions now put in clause 11. There it seems to prohibit the movement of explosives to the extent, as I read it, that one farmer could not borrow any explosives from a neighbour. That is not an unusual thing to happen! My point is that if it is necessary under present conditions to restrict those movements—and there may well be a good reason—I ask hon. Mover if he could give an assurance that when the time comes in due course, Government would not be opposed to passing amending Bills or Ordinances to restore this kind of legislation to be more fitting in a state of peace.

Many of these things might well be done by Emergency Regulations rather than by inclusion in Bills of a permanent nature.

The second point is only a small one. It concerns the schedule at the end. There I see that ammunition of various kinds—"cartridges" in brackets—are included in the list of authorized explosives which have not been deleted by the amendment in clause 22. I wonder how far that over-

laps with the Firearms Ordinance or any other legislation. It would seem that ammunition of various kinds—cartridges—might mean that someone going to shoot duck at Naivasha, might have to have a licence from an Explosives Inspector. May this be clarified, Sir?

LADY SHAW (Ukamba): If the hon. Mr. Cowie had not got up and made this point I would have done so myself. I refer to the point on the question as to whether this Bill is not very greatly influenced by the Emergency. I believe we are making a very great mistake if, owing to the Emergency, we are putting on a Statute Book legislation which is due to the condition of the Emergency and does not take into consideration the normal conditions to which we hope we may return. I am prepared to agree that when normal conditions return, unless we are very foolish, blind or short in memory; we will be prepared to agree that more precautions over firearms, explosives and all things of that kind may be more necessary than those required in the past. There have been mistakes in the past through being too slack, too easy in the past over firearms and explosives. But we are suffering from the greatest possible danger of going to the other extreme. I would like that point very carefully examined by any Select Committee who may examine these things, or certainly by Government before they bring this to its final Third Reading.

THE MEMBER FOR FINANCE AND DEVELOPMENT: I would like to deal with the point made by my hon. friend the Member for Uasin Gishu. I think he is correct in saying that perhaps the object and reason goes into what might be called rather exceptional financial detail. The passing of this Bill would not, of course, commit any hon. Member to vote for an estimate of expenditure which will be put before the Council in due course without which no authority for expenditure will be given by the Treasury. (Laughter.)

THE DEPUTY SPEAKER: If no other Member wishes to speak, I will ask the hon. Mover to reply.

THE MEMBER FOR EDUCATION AND LABOUR: With regard to the point raised by the hon. Member for Uasin Gishu on which the hon. Member for Finance and Development has just spoken, it was one

[The Member for Education and Labour] of the recommendations of the Committee which was accepted by the Government after full consideration, that additional staff would be required in the Department now made responsible for administering the Ordinance; but as the Member for Finance and Development has said, if the Council did not think fit to vote money to pay this extra staff, which we think necessary, they could not be employed.

With regard to the first point raised by the hon. Mr. Cowie, and also referred to by the hon. and gracious Member for Ukamba, the new clause 11 was recommended by the Committee. I do not think it is likely that they had the Emergency conditions in mind. I ought to have said, when I was speaking before, that I shall be moving an amendment at the Committee stage to the new clause 11A, one which will relax it to some extent. I hope that will satisfy the two hon. Members. The text of that amendment has already been distributed.

On the last question raised by the hon. and gracious Member for Ukamba, I do not think it is true to say that the provisions of this Bill have been influenced unduly, or really at all by the fact that we have an Emergency. Indeed, Emergency regulations were passed about a month ago introducing amendments thought necessary on account of the Emergency. We believe that the provisions in this Bill are necessary as a permanent measure; but of course any detailed amendment which any Member wishes to suggest at the Committee stage, I shall be very glad to examine in consultation with the expert advisers of Government.

I think there was a further point, again raised by the hon. Mr. Cowie, with regard to cartridges. I am sorry that in the time available since he spoke, I have not been able to sort that out. I will look into it before the Committee stage of the Bill, and if it seems to be necessary I will move an amendment at that stage.

MR. DEPUTY SPEAKER, Sir, I beg to move.

The question was put and carried.

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

The Audit (Amendment) Bill

Order for Second Reading read.

THE MEMBER FOR FINANCE AND DEVELOPMENT: Mr. Deputy Speaker, I beg to move that a Bill entitled the Audit (Amendment) Bill be now read a second time.

Sir, this Council is well aware that up to now the fiscal year of the Colony has run in line with the calendar year, beg to move that a Bill entitled the 31st December. I think hon. Members of this Council are also aware that as a result of discussions and negotiations which have been going on for some time it has now been decided by the Governments of Kenya, Tanganyika and Uganda that in future the Government Fiscal Year in each year will be from the period 1st July to 30th June. It was thought at one time that that would mean a considerable number of amending Bills, but it has been found after a fairly long investigation that really the one main amending Bill necessary is one which will clear the audit position of the Colony.

There are many reasons in the various territories why this change is desirable—the better collection of figures, the easier assessment of trends in revenue depending on various seasonal changes in crops and business and things of that kind.

It will, of course, mean that this year the Council will have the blessing of two Budgets being presented to it. One, which under our Standing Orders must be laid before the end of this month, and the other, which under the new arrangements will probably have to be laid before the end of April. I am sure that if nothing else moves this Council to vote for this Bill, the thought of having two Budget debates within the next nine months would move everybody to vote unanimously for this particular change.

Sir, I beg to move.

THE CHIEF SECRETARY seconded.

Question proposed.

MR. HARRIS: May I take this opportunity of saying how glad we are to see the hon. Member for Finance and Development back after his recent illness in his usual perky form. May I say

[Mr. Harris]

that when we heard he had suddenly been taken to hospital, we had hoped that we might have delayed our second Budget within nine months. Unfortunately, as he is now back, that hope has been destroyed and we accept this Motion. (Laughter.)

THE DEPUTY SPEAKER: If no other Member rises to speak, I will put the question.

The question was put and carried.

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

SELECT COMMITTEE REPORT

The Firearms Bill

THE CHIEF SECRETARY: Mr. Deputy Speaker, Sir, I beg to move under Standing Order 108 that the Traffic Amendment Bill as amended by the Select Committee Report be considered—Firearms Bill, I beg your pardon.

I regret, Sir, that it has not been possible to have the Bill reprinted, owing to shortage of time and sickness in the Crown Law Office, but the Select Committee Report, Sir, which I laid on the Table yesterday sets out in detail the amendments which it is proposed to make. These amendments are, in the main, designed to cover points which were raised by hon. Members in the debate on the Second Reading, and others which were raised in the course of the Select Committee's deliberations.

In view of the full report, Sir, I do not think that it is necessary for me to go into a detailed explanation of the amendments and I therefore beg to move, Sir, that the Firearms Bill, as amended by the Select Committee Report, be considered.

THE MEMBER FOR FINANCE AND DEVELOPMENT seconded.

Question proposed.

THE DEPUTY SPEAKER: If no Member rises to speak, I will put the question.

The question was put and carried.

THE DEPUTY SPEAKER: Would you wish to take the Third Reading now and clear that out of the way?

THE CHIEF SECRETARY: If you please, Sir.

THE DEPUTY SPEAKER: Will you propose it?

THE CHIEF SECRETARY: I beg to move that the Firearms Bill be now read a Third Time and passed as amended.

Question proposed.

The question was put and carried.

The Bill was accordingly read a Third Time and passed.

MOTION

ESTATE DUTIES—DOUBLE TAXATION RELIEF

THE ACTING SOLICITOR GENERAL: Mr. Deputy Speaker, Sir, I beg to move:—

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.

Hon. Members will recollect that notice of this Motion was given by the hon. Member for Legal Affairs on the 23rd July, 1953, and the Motion was withdrawn on the 29th July in order that hon. Members could study the text of the agreement which was then laid on the Table of this Council.

The purpose of this proposed legislation is simply this: under the United Kingdom Finance (No. 2) Act, of 1945, in particular section 54, the British Government is authorized by Orders in Council to enter into arrangements with the Governments of any territories outside the United Kingdom which levy duties of a similar nature as estate duty

[The Acting Solicitor General]

for the avoidance of double taxation. Agreements were therefore entered into by the Governments of the United Kingdom and South Africa under that provision. Moreover, by Article VIII of that agreement, its terms can be extended to any British colonial dependency. Although provision for relief from double taxation in cases of persons domiciled in Kenya but possessed of assets in South Africa which attract estate duty in South Africa, exists in our Estate Duty Ordinance, it is considered advantageous that in matters of this nature the principle upon which relief will be given shall be clearly determined. This is done by the agreement. The estate duty law of Kenya contains no power permitting the extension of this agreement here nor, indeed, does it contain any power which will permit any agreements for relief entered into by the Governments of other countries for the relief of double taxation to be implemented here. It is therefore necessary to introduce an amendment to the Estate Duty Ordinance, Chapter 257 of the Laws of Kenya, on the lines of section 54, sub-sections (1), (2) and (3) of the United Kingdom Finance (No. 2) Act, and also on the lines of section 33, sub-section (1) of the Income Tax Ordinance, Chapter 254 of the Laws of Kenya, in order to empower the bringing into force of relief from double taxation agreements extended to the Colony by Order in Council.

The actual loss in revenue envisaged is negligible and there is no Treasury objection. Mr. Deputy Speaker, I beg to move. (Applause.)

Question proposed.

THE DEPUTY SPEAKER: If no Member rises to speak, I will put the question.

The question was put and carried.

MOTION

CUSTOMS DUTY ON FOODSTUFFS

THE SECRETARY TO THE TREASURY: Mr. Deputy Speaker, Sir, I beg to move:—

BE IT RESOLVED that the Customs Duties on Foodstuffs (Provisional Exemption) Ordinance, 1946, shall remain in force until the 31st day of December, 1954.

This Ordinance has been renewed annually and its renewal is regarded as

formal. I think all I need to do is to remind hon. Members that the purpose of the Ordinance is to allow of the import of foodstuffs to make up for any shortage in local production and that such foodstuffs imported should not be subject to Customs duty.

Sir, I beg to move.

THE MEMBER FOR FINANCE AND DEVELOPMENT seconded.

Question proposed.

THE DEPUTY SPEAKER: If no other Member wishes to speak, I will put the question.

The question was put and carried.

THE DEPUTY SPEAKER: It is now just about time for our customary break and Council will suspend business for fifteen minutes.

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

COMMITTEE OF SUPPLY

Committee of Supply—Order for Committee read, Mr. Deputy Speaker left the Chair.

IN THE COMMITTEE

[Sir Charles Mortimer in the Chair]

MOTION

DEVELOPMENT SUPPLEMENTARY ESTIMATES OF EXPENDITURE—No. 4 OF 1953

THE MEMBER FOR FINANCE AND DEVELOPMENT: Mr. Chairman, these Supplementary Estimates are, as their title describes them, to do with development expenditure. I propose, as usual, Sir, to deal with them in three parts.

I beg to move:—

BE IT RESOLVED that a sum not exceeding £11,601 be granted to the Governor, on account, for or towards defraying the charges of Development Supplementary Estimates of Expenditure, 1953, No. 4 of 1953, Part I.

You will notice, Sir, that I have altered, with your permission I trust, Sir, one word in the Resolution as submitted to Council—substituting Development for D.A.R.A. which now no longer exists.

Question proposed.

THE CHAIRMAN: It will be convenient if we carry out the usual practice. The

[The Chairman] Clerk will read the serial numbers in turn. If any hon. Member wishes to make any comment will he please rise quickly, so that he may say what he wishes to say at the proper time.

Serial No. 2.

MR. BLUNDELL: I have one point I would like to raise with the hon. Member for Finance on No. 2. It is simply this, we would like to know—we would like to have an assurance—that the equipment which will be installed will not result in recurrent charges for maintenance after the period of the Colonial Development and Welfare Grant.

Is there here a hidden recurrent expenditure which will be with us for some time arising out of the equipment?

THE MEMBER FOR FINANCE AND DEVELOPMENT: Mr. Blundell is well aware that unless I get notice of it, I cannot answer a question of detail. I will give him this assurance that (a) I will go into the matter, and (b) I will see that there will be no recurrent commitment beyond the period of the Colonial Development and Welfare Fund. This Council will not be committed to it, without reference to the Council. I think that covers the point.

MR. BLUNDELL: It covers the point, but what we have in mind is this: There may well be in here a scheme which has been approved, but it so happens that by reason of the equipment being installed, we are committed to carry on the recurrent side afterwards. Although you have given us an assurance that you will examine the matter and not commit us without reference to the Council, by reason of the capital equipment being installed of some value, in fact, we might have established a position from which we could not withdraw.

THE MEMBER FOR FINANCE AND DEVELOPMENT: I will give the hon. Member the assurance that attention will be given to that point, should that position be allowed to arise, and no expenditure would be permitted without reference to Council.

Serial No. 4

MR. NATHOO: Mr. Chairman, I would like to know from the Member for Finance whether the growers in that

district or the ginners in the cotton industry were consulted in connexion with this expenditure. Sir, identically the situation arises in Nyanza where this sort of expenditure is generally incurred after consultation with the interests concerned. I would like to know whether these interests are being consulted, and if not, that in future the various parties are consulted before spending the money from the Cotton Cess Fund on something which does not directly affect cotton-growing itself.

THE MEMBER FOR FINANCE AND DEVELOPMENT: I cannot say that any specific interest was consulted. The hon. Member will be aware that on the 8th July, 1952, Legislative Council passed a Resolution for payment to be made to the Revenue of the Development and Reconstruction Authority from the Coast Province Cotton Cess Fund for the purpose of financing the specific projects as may be approved by the Governor in Council.

As far as the Member for Development is concerned the Governor in Council was consulted and did approve this particular project. I see the implication behind the hon. Member's point and I will willingly give an assurance that in future, before money is spent from this Fund, I will ask the Members concerned to make certain that the interests concerned will be consulted.

I think before we do pass from No. 4 I would suggest that the attention of this Council and also of the Colony be drawn to the fact that this is, in the middle of an Emergency, progressive measure which is being taken to assist the Coast Province. This is the establishment of a trade school; some £32,000 is going to be spent on this school within the next two years and the recurrent costs of running that school will be something in the nature of £6,000 by the third year. I think, Sir, my hon. friend, the Member for African Affairs may well like to underline the value of this progressive measure during the time of difficulty.

MR. BLUNDELL: In view of the method of using Legislative Council as a vehicle for publicity, will the hon. Member accept a reduction in the African Information Office votes?

THE MEMBER FOR FINANCE AND DEVELOPMENT: The answer is no.

[The Member for Finance and Development] because, as Mr. Blundell is well aware, and will agree, one of the proper places for publicity of Government policy in principle and detail is this Legislative Council.

MR. NATHOO: In order to remove any misunderstanding that might arise from my query I would like to state that we appreciate that this sort of scheme is in the best interests of the country. We welcome it. But when funds are taken from certain specific revenue which has been contributed by certain sections of the community, I think it is only right that they should be consulted beforehand. The final say, of course, must remain with the Governor in Council about this.

THE CHIEF SECRETARY: Mr. Chairman, Sir, I can give an assurance that in this particular case the local interests were consulted, certainly the local growers and certain local bodies were fully consulted about this. They have been pressing for it for a long time.

Serial No. 7

MR. COOKE: Could I have an assurance from the hon. gentleman that there will be no expenditure on police stations unless the authorities are certain that these police stations are strategically properly sited. I raise the point because when I went round the mountain last June with Colonel Gheris I saw one or two police stations on which extensive repairs were taking place, which, it was confessed, were not strategically very favourably sited. I would ask that this matter should be considered in that light. Timau was one of these particular stations.

THE CHIEF SECRETARY: I can give an assurance that it will be done in the case of permanent police stations. In the case of honorary police stations, as was made clear in this Committee, I think, earlier this year, it is sometimes necessary to learn by experience exactly what the best strategic position is. I can give the hon. Member an assurance that that point is very definitely borne in mind.

THE CHAIRMAN: That is the end of Part I—I will put the question.

The question was put and carried.

PART II

THE MEMBER FOR FINANCE AND DEVELOPMENT: Mr. Chairman, I beg to move:—

BE IT RESOLVED that a sum not exceeding £25,000 be granted to the Governor, on account, for or towards or defraying the charges of Development Supplementary Estimates of Expenditure, 1953, No. 4 of 1953, Part II.

Hon. Members are aware that this is a matter of reimbursement of the Civil Contingencies Fund, the money having already been paid out. Hon. Members opposite may ask whatever questions they like on the subject.

THE CHAIRMAN: There is only one item under this head—No. 8.

MR. BLUNDELL: Mr. Chairman, I would like to ask the hon. Member one matter of principle. It is the use of the Civil Contingencies Fund for this particular item. I would like the hon. Member to explain to us why it was necessary to use the Civil Contingencies Fund—why the money used could not have been moved through a normal Supplementary Estimates vote.

First, let me say that if the principle of additional funds for the Industrial Management Corporation—that if that has been agreed—if that Corporation was involved in urgent negotiations which needed immediate funds, then in our view it would be the proper use of the Civil Contingencies Fund. If on the other hand, the principle having been agreed, it was merely desired to put working capital at the disposal of the Industrial Management Board, and there was no urgent necessity for any specific project, then it is our view that the money should come forward as in normal Supplementary Estimates and not as a withdrawal from the Civil Contingencies Fund.

THE MEMBER FOR FINANCE AND DEVELOPMENT: I agree entirely. The position was as the hon. Member visualized it in the first part of his statement. The Planning Committee had agreed to an additional £25,000 of the balance of the remaining allocation of the industrial sites, being placed at the disposal of the Industrial Management Board. The Treasury was faced with the

[The Member for Finance and Development]

position of the Industrial Management Board anxious to help certain industries wanting additional finance, wanting to assist a certain industry placed in difficulties and to assist that industry quickly. To delay until the time when it could have been put before this Council would have meant, indeed, that the company in question would have been placed in an extremely serious position. I agreed in those circumstances to the £25,000 coming from the Civil Contingencies Fund because they were in line with the principles enunciated by the Member for Rift Valley.

MR. HARRIS: Would the hon. Member for Finance therefore suggest to the Industrial Management Corporation that before they prepare Estimates for next year they should get a very careful estimate of the money for which they are likely to ask. In fact, what this means, is, that by taking £25,000 out of the Civil Contingencies Fund, the Member for Finance and Development becomes the final arbiter as to what industry should be helped rather than the Management Corporation. I suggest they should have sufficient working capital to prevent the necessity of going cap in hand to the hon. Member for Finance.

THE MEMBER FOR FINANCE AND DEVELOPMENT:—My hon. friend, the Secretary for Commerce and Industry will deal with one side. The other side I think I must deal with, from this point of view. In so far as the money is to be withdrawn from the Civil Contingencies Fund, it is a fund for which the Member for Finance accepts, in fact, ministerial responsibility. In so far as ministerial responsibility is the criterion for withdrawal from the Civil Contingencies Fund, I must contend that the only arbiter must be the man responsible for spending the Fund. In so far as the other side is concerned the hon. Secretary for Commerce and Industry will deal with it.

I would remind the hon. Member for Nairobi South of something. He is well aware that a Planning Committee is about to sit on the period 1954-1956, when no doubt this will be borne in mind.

THE SECRETARY FOR COMMERCE AND INDUSTRY: Following on what my hon. friend has just said, the position is that a

proposal has been put before the Planning Committee for the financing of this Corporation during the next three years' planning period. In the meantime the Board is well aware that it cannot enter into further commitments until it knows what its position is likely to be during that period.

THE CHAIRMAN: No other Member rising to speak, I will put the question.

The question was put and carried.

PART III

THE MEMBER FOR FINANCE AND DEVELOPMENT: I beg to move:—

BE IT RESOLVED that a sum not exceeding £102,768 be granted to the Governor, on account, for or towards defraying the charges of Development Supplementary Estimates Expenditure, 1953, No. 4 of 1953, Part III.

This is again in accordance with general procedure. Part III covers the procedure now adopted for re-votes.

Serial No. 9

MR. BLUNDELL: Before that, on a matter of the hon. Member's opening speech, in view of the elimination of D.A.R.A. and the substitution of the word Development, would I be right in assuming that the whole of the charges against D.A.R.A. can be deleted by hon. Members on this side of the Council?

THE MEMBER FOR FINANCE AND DEVELOPMENT: The answer is no, Sir. As the hon. Member is well aware, all that has ceased to exist is that body of three people which gave authority to certain development projects. The responsibility has now fallen on the Planning Committee of which the hon. Member is now a permanent member, and the other is the Member for Finance.

MR. BLUNDELL: May I have the word permanent underlined?

MR. COOKE: As these are all re-votes, cannot we take them all together?

THE CHAIRMAN: I would be very happy to.

MRS. SHAW (Nyanza): I would like to know whether—No. 14—we can have any information as to when the new Kenya High School for Girls will be ready.

THE MEMBER FOR EDUCATION AND LABOUR: This is the Kenya High School, Nairobi. I suppose the hon. and gracious Member is talking about the new school we hope to build at Nakuru. I have not got the slightest idea when it will be ready, because as yet we have not got the money.

MRS. SHAW: Is it in order to ask if the Member is making any provisions for the reception of the girls leaving the primary school in this year? Their situation is going to be very difficult.

THE MEMBER FOR EDUCATION AND LABOUR: The answer is yes.

MR. BLUNDELL: Where!

The question was put and carried.

MOTION

SUPPLEMENTARY ESTIMATES No. 6 OF 1953

THE MEMBER FOR FINANCE AND DEVELOPMENT: The next three Motions deal with Supplementary Estimates of Expenditure—General. I would like to move:—

BE IT RESOLVED that a sum not exceeding £401,045 be granted to the Governor, on account, for or towards defraying the charges of Supplementary Estimates of Expenditure, No. 6 of 1953, Part I.

Question proposed.

Serial No. 17

MR. MACONCHIE-WELWOOD: Number 17 is most curious explanation of a fine of cattle of the Masai of Tanganyika by a magistrate and I do not think the explanation is satisfactory. It would appear that what exactly happened is that the magistrate fined the Masai of Tanganyika, for an offence against the Diseases of Animals Act, 500 head of cattle and not a money payment, whereupon, without waiting to see if an appeal would take place, the cattle were sold for a low sum in Nairobi, and on the appeal being upheld, this Government became liable to the sum of £3,000 to pay back to the Masai against the error on the part of the officer concerned in sending the cattle up for sale before the appeal against the magistrate's decision had been held. I would like an explanation of this matter from the hon. Member.

THE MEMBER FOR FINANCE AND DEVELOPMENT: I will try to amplify the explanation given here, Sir. As the memorandum note states, in March, 1952, 14 Tanganyika Masai with a herd of cattle estimated at about 5,000, were found trespassing in Kenya in the Lake Jipe area. Thirteen of those Tanganyika Masai were charged and convicted and the magistrate ordered that some 500 cattle were forfeited to the Crown. The hon. Member is quite correct—the cattle were transported to Nairobi and sold to the Kenya Meat Commission for Sh. 39,307/62. The small value was due, I think, to the fact that the cattle had deteriorated as a result of their journey, to some extent. Now at that stage an advocate in Tanganyika took up the case of the Tanganyika Masai and appealed to the Supreme Court of Kenya acting in its appellate role. The Supreme Court decided that the order of forfeiture was *ultra vires* and remitted the case back to the magistrate, directing him to impose a different but unspecified sentence within his legal powers. The magistrate then fined each of the 13 accused Sh. 800. Once again the accused appealed to the Supreme Court of Kenya against the sentences and the Supreme Court reduced them to fines of Sh. 50 each on six of the accused and quashed the fines completely on the remaining seven accused.

At that particular stage the cattle could not be returned as they had been sold and it became obvious that some arrangement had to be made to satisfy the claim of the Tanganyika Masai, on whose behalf the Tanganyika Government were negotiating. The Tanganyika Government intimated that they would accept Sh. 101,998 in full settlement. Now the difference between this sum and the amount realized by the sale of the cattle to the Kenya Meat Commission is set out in the memorandum notes. The Supreme Court order, of course, meant that interest had to be paid on the money from the time of the original confiscation. Cattle prices in Tanganyika—this may surprise hon. Members—are higher than in Kenya and owing to the long journey to Nairobi, the cattle had deteriorated considerably in condition and realized prices below their value in Kenya at the time of their forfeiture. I am sure that farmer Members on the other side of the Council will

[The Member for Finance and Development] appreciate that there were cows among the cattle forfeited and they died as a direct result of the incident. Those are the facts and I must let them speak for themselves.

MR. HARRIS: The only people who seem to have got anything out of this are the Masai and the Kenya Meat Commission. I wonder, Sir, if the hon. Member for Agriculture and Natural Resources could buy many more 5,000-lots of cattle at Sh. 8 a head—whether the consumer would begin to realize some benefit!

THE MEMBER FOR FINANCE AND DEVELOPMENT: Five hundred—not 5,000—500 were forfeited.

DR. HASSAN: May I ask the hon. Member if it is not a fact that the cattle taken by the Meat Commission and those claimed by the Masai differed in number by about 120 cattle? The Masai claimed for 500 cattle but I do not think the Meat Commission received 500 cattle.

THE MEMBER FOR FINANCE AND DEVELOPMENT: Once again if hon. Members are going to ask for details I must have notice of questions. But I will look into it. As far as I am concerned the facts are as stated and as supplied to me. I cannot accept any other facts until I have had time to investigate.

MR. MACONOCHE-WELWOOD: Mr. Chairman, in view of the very unsatisfactory nature of this matter I think it should be investigated and I would ask that the hon. Member for Native Affairs should investigate why out of a fine of 500 cattle that was levied—why, out of 5,000 cattle, among the 500 head of cattle there were females confiscated to take to the Meat Commission. It seems extraordinary that the Masai when ordered to pay 500 head out of 5,000 to the Meat Commission that that should include some element of female stock and I suspect they were so old that they could hardly walk and that was the reason they were given by the Masai in lieu of oxen.

THE MEMBER FOR FINANCE AND DEVELOPMENT: I can give the hon.

Member, the assurance that the matter will be looked into in view of the general position that has arisen and we will communicate with the hon. Member in due course.

MR. CROSSKILL: Would the hon. Member also undertake to look into the question of cattle prices? It is stated that the cattle prices in Tanganyika are higher than in Kenya but I believe that at the present time the reverse is the case. Would he comment on that when examining the question?

THE MEMBER FOR FINANCE AND DEVELOPMENT: I will look into it. I can only assure you that the Treasury is dependent, of course, on the advice of knowledgeable people and that this is the statement made.

DR. HASSAN: May I ask when the cattle were confiscated, what was the hurry in trying to dispose of these cattle.

MR. BLUNDELL: They were going to die otherwise!

THE CHIEF SECRETARY: I think, although I do not know the details of the matter and I could not guarantee it, that shortage of grazing was the particular trouble in that matter.

MR. COWIE: I do know a good deal about this case and I know at the time there was no other alternative but to send the cattle away, there was no other way of keeping them alive.

MR. TAMENO (African Representative Member): Was not the amount imposed by the Supreme Court and not therefore a matter for reduction.

MR. MACONOCHE-WELWOOD: From what the hon. Member has said it would appear that if the cattle had not been confiscated they would have died. This appears to be like a certain Emergency legislation—if you have your gun stolen, you are fined and if an offence is committed against the Territory, then the Territory is fined.

THE MEMBER FOR FINANCE AND DEVELOPMENT: Answering the hon. Member for African Interests, Mr. Tameno, if the hon. Member will read the notes he will see that after negotiating, the Tanganyika Government has intimated, on behalf of the Masai concerned, that they will accept this amount.

[The Member for Finance and Development]

The amount was not imposed. The hon. Member seems to be under a misapprehension.

THE CHAIRMAN: In view of the assurance that an inquiry will be made, we will pass on to the next item.

Serial No. 24

MR. BLUNDELL: I want to raise one question on boiler inspectors. I would like to know why it was not possible to give a boiler inspector a salary that would attract him to come to Kenya. Why do we have to up-grade his nomenclature to "Factory Inspector (Engineering)"? This reminds me of the fact that you cannot get in England any longer a rat catcher. I believe they are now called "rodent exterminators"! I do not like the idea of having a phoney nomenclature to attract an officer in the public service. Why can we not put a boiler inspector's salary at such a figure that a boiler inspector—who should be proud of his trade—will come out here and be a boiler inspector and not "Factory Inspector (Engineering)"?

MR. COOKE: Nomenclature or nomenclature?

LADY SHAW: Nomenclature—emphasis on the first syllable.

MR. BLUNDELL: I am sorry, Mr. Chairman, I did not have a very good education but it cannot be put right now!

LADY SHAW: Many other people here have had a very good education but they nearly always get it wrong—

MR. BLUNDELL: Was it right, then?

LADY SHAW: You were very much nearer right!

THE CHIEF SECRETARY: What is correct?

LADY SHAW: Nomenclature—emphasis on the first syllable.

MR. COOKE: Can we find out? Mr. Chairman?

THE CHAIRMAN: I must have notice but I will give a ruling later if hon. Members so desire!

THE LABOUR COMMISSIONER: Mr. Chairman, the fact remains we cannot get a boiler inspector at the sort of salary a boiler inspector expects to receive. We thought, by having a factory inspector,

with the special qualifications of a boiler inspector, we would be able to kill two birds with one stone. If boiler inspector could be a part-time job, we could use him as a factory inspector as well—that is the main point of the argument. We do not mind if you wish to raise his salary to the sort of salary which would attract a boiler inspector *qua* boiler inspector, only; we are quite willing. But it seems to us, if we are to go into the range of a factory inspector's salary, we should plump for a factory inspector with experience as a boiler inspector.

MR. MACONOCHE-WELWOOD: I would suggest to the hon. Member that his salary might be sealed as a boiler inspector's if he inspected boilers and also carried out tests on boilers and charged a fee for it. The position at present is that you have a boiler tested by one person and you get a certificate which is then handed to the boiler inspector who does nothing whatsoever but because it is so many years old says it must be so many thousands of an inch less thick and condemns it!

THE LABOUR COMMISSIONER: As far as I am aware, the Government boiler inspector does undertake inspection of actual boilers, when specific application is made. But there is a panel of boiler inspectors and we are normally prepared to use that panel.

GROUP-CAPT. BRIGGS (Mount Kenya): Regarding the remarks on this, it is the practice to-day for a boiler inspector to go round, he then hands the owner of the boiler a list of names of people who are qualified boiler testers. A tester then has to be obtained—they are usually only obtainable at Nairobi, at considerable expense—to do the actual testing of the boiler.

THE LABOUR COMMISSIONER: In fact, that is not so, as there is no boiler inspector to-day!

THE CHAIRMAN: If we have no Motion other than the acceptance of this item—nobody seems anxious to speak further—we will proceed.

Serial No. 26

MR. HARRIS: Could we have an estimate from the hon. Member as to how much this Kenya-Ethiopia Boundary Commission is going to cost, either in

[Mr. Harris] total or per yard of boundary, or if it is easier arithmetic, per foot. Every time we have Supplementary Estimates the Boundary Commission crops up for a little bit more money. I believe the original business was estimated to cost something like £40,000 and we are now up in the region of £160,000 and still it seems to go on.

Mr. MATHU (African Representative Member): Mr. Chairman, I was going to raise the point raised by the hon. Member for Nairobi South. I asked a question on this item on another occasion. I feel that we shall have to look into our nomenclature to see whether it is recurrent—it is styled "Non-recurrent" but it recurs every time we come here and I would like to know why. Who is to blame—are we to blame or the Ethiopian people—that we cannot get a boundary and not know how much we are in for?

The Member for Education and Labour: Mr. Chairman, it is nice to know that although the Member for Kiambu is not present to-day, Members on the other side are still interested in the Boundary Commission, in particular the finances of it.

The Member for Nairobi South is incorrect in saying at any time that the estimates of £40,000 for the total cost of the Commission was ever made. What actually happened was this. Back in 1950 or 1951, I forget which, a memorandum was put to the Standing Finance Committee explaining the extreme difficulties, in view of the nature of their task, of estimating in advance the money required by the Commission. It was then agreed by the Standing Finance Committee that from time to time money should be voted for the purposes of the Commission, accounts being submitted of the way in which the money was spent. That is how we have had to proceed. Owing to the nature of the work, it has not been possible to make accurate pre-estimates. Therefore, from time to time it has been necessary to submit Supplementary Estimates for more money in addition to what was voted in the year's Estimates.

With regard to the total cost, Sir, I am not going to be so rash now as to

make an estimate for the total cost of the whole job for the reasons I have just given. In the year 1950 the actual expenditure was £5,500—in round figures—in 1951 £43,000 approximately and in 1952 £54,000. In 1953 £36,000 was originally voted, and there has been a re-vote of £21,000. I have asked for an estimate for 1954 and the Boundary Commission have given me a figure of about £50,000. I must emphasize that this is not a firm figure. In 1955 they hope the job will be finished. Leave pay and terminal benefits for staff—that is gratuities—will have to be paid in that year.

Mr. BLUNDELL: I would like to address my remarks to the hon. Member for Finance rather than the hon. Member for Education and Labour—

The Chairman: You should address them to the Chair! (Laughter.)

Mr. BLUNDELL: I agree, Mr. Chairman, I accept your rebuke. I was hoping that the Member for Finance would listen and not palm it off on the Member for Education.

There are two points that worry us very much on this item. We do not really like accepting an item which involves us in a long period of expenditure. If I remember rightly when the memorandum came before the Standing Finance Committee there were pros and cons presented to us for the delineation of the boundary. Again I think there was some mention, although I am speaking from memory, of something in the region of £40,000. None of the Unofficial Members of the Standing Finance Committee were very keen on using £40,000 for this purpose but decided perhaps that it would be well to finalize the boundary. I am sure that if the Unofficial Members of the Standing Finance Committee had realized that the proposals were going to involve them in something close to £200,000 their decision might have been different.

What I want to emphasize, Sir, is that we do not like getting ourselves involved in expenditure over many years by the presentation of a memorandum in which the figures in our view could not have been properly calculated. That is the point we do not like.

[Mr. Blundell]

The second thing I would like to ask the hon. Member for Education is would he examine the memorandum—I think he has it in front of him—would he see if there is any estimate in the memorandum for the completion of the task: My recollection is that there was and it was a long time earlier than 1955.

Mr. NATHOO: Mr. Chairman, I would like to add my support to what the hon. Member for Rift Valley has said. I definitely remember—I was a member of the Committee then—that the figure which the hon. Member for Rift Valley said was the figure and we were given to understand that in two years' time the job would be completed. I would like the hon. Member to ascertain whether the facts stated by the hon. Member for Rift Valley are correct. We would never have agreed—I certainly for one—to get involved in a long job involving £200,000.

Mr. COOKE: Mr. Chairman, I support the other two speakers and I would like to ask the hon. Member who is responsible to see that the money is being spent economically, that it is not being wasted. Is there anyone responsible on the other side of the Council?

Mr. HARRIS: Before the hon. Member answers, may I ask if His Ethiopian Majesty's Government is in fact responsible for part of the expenditure of this Commission and if so whether the payments are up to date.

The Member for Finance and Development: Yes, Sir, to the last question.

The Member for Education and Labour: I am afraid that all Members on the other side of the Council are under a misapprehension. A series of memoranda was submitted to the Standing Finance Committee—I am sorry I have not got them all here—

Mr. BLUNDELL: Well, then, you may be under a misapprehension!

The Member for Education and Labour: No, I am not. It is you who are under a misapprehension. Perhaps I might read what is said in one memorandum in 1951: "By memorandum No. XAF 3/2/III of the 20th February,

1950, it was explained that no date was then available to frame an estimate of the cost of this Commission. By minute No. 8 of 1950 a token sum of £2,000 was recommended for the preliminary expenses of the Commission, and this sum was later provided by Special Warrant. Memorandum XAF 3/2/IV of the 3rd October, 1950, explained that it was still not possible to estimate the cost of the Commission and the Standing Finance Committee was invited to recommend that provision for its cost should be made as and when required from the funds of the Colony. The Committee by minute 152/1950 agreed to this arrangement, on condition that statements of expenditure should be submitted for scrutiny when available".

The Standing Finance Committee by this memorandum of September, 1951, were asked to vote another sum of money of £47,000 which they proceeded to do. Further memoranda have gone to the Standing Finance Committee on the same sort of line—"We are very sorry it is not possible to make a pre-estimate".

Mr. BLUNDELL: Nobody would dispute the facts given us by the hon. Member—by the nature of his training he would see that the necessary steps were properly covered! The point we are worried about is that the initial memorandum could never have given, in our view, any indication that the total amount was likely to reach £200,000—I am sure that had it done so no member of the Standing Finance Committee would have agreed. I hardly like to mention it but I had a discussion with a distinguished member of the Boundary Commission the afternoon the original memorandum was placed before the Standing Finance Committee and he told me that he considered that nobody who had prepared the memorandum had any conception of the ultimate cost. If he was thinking that, then, Sir, I do believe the information could have been found for the original memorandum. This is not a witch hunt against the hon. Member or the department—it is a matter of principle which I know the hon. Member for Finance will agree. We do feel that we have got landed into a continuing obligation amounting to £200,000 on the original memorandum which was never shown therein. As to the part reluctantly taken

(Mr. Blundell) by the members of the Standing Finance Committee—he says on each occasion they were asked for money they agreed—well, what else could we do? No one but a maniac would stop in the middle and have half a boundary! But we are committed in principle to something about which we know nothing in regard to the details of expenses and we wish to seize this opportunity of bringing home to the hon. Member opposite how strongly we feel about it.

In that regard I propose to move that this sum of £9,300 be reduced by £15, in order that hon. Members on this side of the Council may (a) register their objection to what has happened, and (b) ensure the return of this subject for debate.

MR. COOKE: Could I have my question answered? Who scrutinizes the expenditure, who is responsible for seeing the money is being spent prudently—for example, each member of the expedition may have a "Frigidaire"! Is the hon. Member responsible to see that scrutiny is done?

THE MEMBER FOR EDUCATION AND LABOUR: Mr. Chairman, might I deal with the point of the hon. Member for Rift Valley first? It is true—

THE CHAIRMAN: I will propose the question of Mr. Blundell's Motion first.

It is proposed that the sum of £9,300 be reduced by £15.

Question proposed.

THE MEMBER FOR EDUCATION AND LABOUR: It is quite true that the original memorandum did not say how much the whole thing would cost for the reason that nobody knew what it was going to cost. If hon. Members thought it was unsatisfactory to embark on this project, they might have said so at the time, instead of which they accepted it and agreed to vote what was required from time to time.

In regard to the point made by the hon. Member for the Coast, of course, both I and the hon. Member for Finance are responsible for seeing that the money is properly spent—

MR. COOKE: Are you satisfied?

THE MEMBER FOR EDUCATION AND LABOUR: I am satisfied. What happens is this: Although the vote is a one-line vote, in fact, the Commission divides it into sub-heads and has to give details of what each sub-head is for. We both satisfy ourselves that the money is reasonably spent.

With regard to the deduction of £15 I suppose I have to oppose it—it does not make any difference! (Laughter.) As a matter of principle I think it is quite reasonable to ask for it, therefore I oppose.

MR. NATHOO: Arising out of the remarks of the hon. Member for Education and Labour, I think it is—I am glad that the Standing Finance Committee is dead now. If all the discussions were recorded—(Hear, hear)—I think what Mr. Blundell said is not recorded in the minutes of the Standing Finance Committee—I am not saying it out of vengeance—but we do remember that there was a sum mentioned in the original preliminary memorandum of that sum and it was only on that that we based our recommendation. I am quite sure that other Unofficial Members would not have agreed to this position had we had the slightest inkling as to what we were landing ourselves in.

MR. BLUNDELL: The hon. Member has not answered the question I asked probably some minutes ago now. What was the period estimated for the completion of this task in one or two of the earlier memoranda? My clear recollection, in support of the hon. Mr. Nathoo, my clear recollection is that it was certainly either 18 or 24 months.

THE MEMBER FOR EDUCATION AND LABOUR: I am sorry. I have not got it in my head—I do not think it was mentioned in previous memoranda but I would not like to be certain about it.

THE MEMBER FOR FINANCE AND DEVELOPMENT: I do hope that having had a very good and free discussion on this particular item, the hon. Member will withdraw his Motion—it was only a token Motion. There has been a fair expression of dissatisfaction from the other side on the progress of this particular work.

[The Member for Finance and Development]

If I may introduce a personal note, I am beautifully in the clear as I was not a member of the Standing Finance Committee nor the Member for Finance at that time but I have been into this since the matter was raised by the hon. Member for Kiambu—the Treasury—that is the Member for Finance together with the hon. Deputy Chief Secretary has been pressing for some firm estimate and for a firm period so that whatever may have been the original mistakes—if mistakes there were and my hon. friend does not admit there were mistakes—this matter is now thoroughly in the minds of the Members.

MR. COOKE: Have these accounts been audited?

THE MEMBER FOR FINANCE AND DEVELOPMENT: No, but the account will be audited and submitted in due course to the Public Accounts Committee for it to make the comments it always does if it feels that there has been wasteful spending.

MR. BLUNDELL: I will withdraw my Motion if I can have two assurances. I would like circulated to the Chairman of the Unofficial Members' Organization one copy of each of the memoranda on the subject which went to the Standing Finance Committee and I would like the assurance that there will be—curious as it may seem—an opportunity to debate this again. I suppose more money will be required—my object in reducing the vote by £15 is to give us an opportunity of speaking again when we have read the memoranda. Presumably the opportunity will arise—I will withdraw—

THE MEMBER FOR EDUCATION AND LABOUR: Copies of the memoranda can be circulated.

Motion by leave withdrawn.

Original question put and carried.

PART II

THE MEMBER FOR FINANCE AND DEVELOPMENT: This is the usual question of reimbursement to Civil Contingencies Fund.

Sir I beg to move:—

BE IT RESOLVED that a sum not exceeding £35,087 be granted to the

Governor, on account, for or towards defraying the charges of Supplementary Estimates of Expenditure, No. 6 of 1953, Part II.

Serial No. 34

MR. HOLLISTER (Nairobi North (Acting)): Mr. Chairman, the last item, we should be grateful if some small explanation can be given. This is the question of ex-gratia payments to pay cost of repairs to: a police officer's car and advocate's fees. One would have hoped from the bald statement that the police officer was deliberately rammed by a lorry, that the owner of the lorry would have been in such a place that he could have been got at for quite a long time. If that is not the case, people with a criminal record are usually easier to trace than those without. In any case, was any consideration given at all to the attachment of the lorry itself in order to defray this amount of money?

THE MEMBER FOR FINANCE AND DEVELOPMENT: I rather anticipated that this particular item would raise a few questions, so I got the details, what I might call considerable details. In July, 1947, a special police officer at Limuru ordered a lorry, driven by an African, to stop. It did not do so. Mr. Harvey overtook it in his own car and signalled the lorry to stop, whereupon the lorry deliberately drove into Mr. Harvey's car. The driver was an old offender, under the licensing laws. Mr. Harvey was operating lawfully on behalf of the Government at the time. He reported the accident to his insurance company, who held that they were not liable because the accident occurred when he was not on normal business or pleasure—normal insurance conditions. The officer concerned then put in a claim to the Commissioner of Police for the cost of repairs to his car, Sh. 1,270/40. The owner of the lorry was fined Sh. 50 for failing to supply the name of the driver of the lorry.

An undertaking was given to Mr. Harvey that Government would accept liability for any amount (including costs) which he could not recover through court action from the owner of the lorry. He obtained the services of an experienced advocate. The Accountant General was instructed, in December, 1947, to pay

[The Member for Finance and Development]

to Mr. Harvey the amount claimed and told that it would be charged to an Advance Account to be cleared as soon as the civil action was settled. That was the position in December, 1947, and I contend we could do no other than treat the officer in that manner.

A long delay took place before this court case was heard, firstly because the officer went on leave, and later because the principal witness was absent. Eventually it came up for hearing on 31st May, 1950, but still could not be concluded because of the absence of the lorry driver. Early in August, 1950, judgment in the case was given in favour of the officer for Sh. 1,227 plus Sh. 135 costs. By this time the owner, wanted on a criminal charge, had disappeared.

In February, 1951, the debtor was brought before a court and ordered to pay Sh. 30 per month. Only one payment was made, in March, 1951, and then the man disappeared. (Laughter.) A warrant for his arrest was issued. That was in March, 1951, and he was found and brought before a court in November, 1952. (Applause.) Before hon. Members applaud they had better hear the story to the bitter end. The magistrate declined to order imprisonment and ordered payments of Sh. 150 on 3rd December, 1952, and thereafter Sh. 150 on the third day of each month; in default of payment a further warrant of arrest was to be issued. This was done in January, 1953, but the man had again disappeared. (Laughter.) In these circumstances the case was dropped.

As far as recovery of the money was concerned, I think hon. Members will agree that we pursued it fairly well, and fairly long, but when the magistrate declined to order imprisonment and give us control of the man, it was of little use to pursue the matter.

MR. MATIU: What happened to the driver, Sir. (Laughter.)

THE MEMBER FOR FINANCE AND DEVELOPMENT: I do not propose to go into the journeys of the driver, but if the hon. Member for African Interests listened to the first part of my long story, he would have noticed that the owner

of the lorry was fined Sh. 50 for failing to supply the name of the driver.

MR. HARRIS: Has the lorry disappeared with the owner?

THE MEMBER FOR FINANCE AND DEVELOPMENT: The lorry, I think, was so damaged as to be of little value.

The question was put and carried.

PART III

THE MEMBER FOR FINANCE AND DEVELOPMENT: Mr. Chairman, Part III deals with re-votes.

Sir, I beg to move:—

BE IT RESOLVED that a sum not exceeding £120,825 be granted to the Governor, on account, for or towards defraying the charges of Supplementary Estimates of Expenditure, No. 6 of 1953, Part III.

Question proposed.

THE CHAIRMAN: As all these are re-votes, does any hon. Member wish to raise any questions on any of them? If not, I will put the question.

The question was put and carried.

MOTION

SUPPLEMENTARY ESTIMATES, No. 7 OF 1953

THE MEMBER FOR FINANCE AND DEVELOPMENT: Mr. Chairman, I beg to move:—

BE IT RESOLVED that a sum not exceeding £19,700 be granted to the Governor, on account, for or towards defraying the charges of Supplementary Estimates of Expenditure, No. 7 of 1953, Part I.

Question proposed.

THE CHAIRMAN: Any hon. Member wishes to make any comment?

THE MEMBER FOR FINANCE AND DEVELOPMENT: Mr. Chairman, I have one comment to make in the absence of my hon. friend, the Member for African Affairs, and that is once again to draw the attention of the Council to a progressive measure which is being undertaken by Government—a matter of assisting Africans in Machakos District Council area in this case. Hon. Members must know that owing to the failure of the long rains, the Wakamba in the central area of Machakos District will be critically short of food during the next

REPORT

SIR CHARLES MORTIMER: I have to report that the Committee of Supply has considered items A, B and C of the Sub-estimates and reports to the Council its acceptance of all the items as proposed.

THE MEMBER FOR FINANCE AND DEVELOPMENT: Mr. Deputy Speaker, I beg to move that the Council do agree with the Committee in the said Resolutions.

Question proposed.

The question was put and carried.

ADJOURNMENT

THE DEPUTY SPEAKER: That concludes the business on the Order Paper for today. The Council will stand adjourned until nine-thirty to-morrow morning.

Council rose at forty minutes past Twelve o'clock.

[The Member for Finance and Development]

six months. It was felt that if more sisal fibre produced in the area was sold, the population would have more money available with which to buy food. The African District Council factory can only process at the present moment about 50 tons of fibre per month. It is proposed to make a loan available to enable them to purchase fibre in the excess of capacity they can process and also additional equipment so that they can speed up their processing capacity. Government felt this a very desirable method of encouraging industry in this particular area so it feels that a loan should be granted, interest free.

MR. USHER: Might I ask if the hon. Member could state in plain language what the rate of interest is?

THE MEMBER FOR FINANCE AND DEVELOPMENT: The loan will be free of interest.

MR. BLUNDELL: In view of the great assistance which the Wakamba have given to this country during the present Emergency we would like to record especially our very hearty endorsement of this item. (Hear, hear.)

The question was put and carried.

THE MEMBER FOR FINANCE AND DEVELOPMENT:—With your permission, Sir, and the permission of the Council I would ask that the next item on the Order Paper—The Emergency Fund—Increase in Allocation—be postponed. So far as this is concerned, I think hon. Members will appreciate this will mean a fairly long speech and under the circumstances I would be grateful if they would agree to its adjournment.

THE CHAIRMAN: I think that this request is acceptable to hon. Members and is, therefore, approved.

Items A, B and C have been dealt with.

THE MEMBER FOR FINANCE AND DEVELOPMENT: I beg to move that this Committee doth report to the Council its agreement of the Resolution on the Order Paper.

Question proposed.

The question was put and carried.
Council resumed.

[Mr. Deputy Speaker in the Chair]

Thursday, 8th October, 1953

The Council met at thirty minutes past nine o'clock.

[Mr. Deputy Speaker in the Chair]

PRAYERS

COMMUNICATION FROM THE CHAIR

ILLNESS OF THE SPEAKER

THE DEPUTY SPEAKER: I have a brief communication to make to hon. Members. In accordance with the unanimous wishes of hon. Members, I conveyed to Mr. and Mrs. Horne an expression of the sympathy and good wishes of the Council. I have received a reply from Mrs. Horne:—

"Thank you very much for your letter of the 6th October. I appreciate very much the kindness shown by yourself and the Members of Legislative Council in your sympathetic reference to the Speaker's illness and your wishes for his speedy recovery. I shall convey these to him and I know that he will be heartened and helped by them.

Yours very sincerely,
Marjory Horne."

(Applause.)

ALTERATION IN ORDER PAPER

There is a small alteration in the Order Paper of the Day in that there should be inserted after No. 1, the No. 1 (a)—Paper to be Laid.

PAPER LAID

The following paper was laid on the Table:—

A statement of the Emergency Expenditure from the Emergency Fund to 31st August, 1953.

(BY THE MEMBER FOR FINANCE AND DEVELOPMENT)

MOTION

EMERGENCY REGULATIONS—CAPITAL CHARGES

MR. BLUNDELL: Mr. Deputy Speaker, I beg to move:—

That this Council is of the opinion that the processes of Justice on Capital Charges arising from Emergency Regulations must be greatly accelerated and simplified, and requests Government to introduce Emergency pro-

cedures whereby trial and punishment in such cases may be seen to be both swift and effective.

MR. DEPUTY SPEAKER, in speaking to this Motion, I would like to ask all hon. Members to deal with the Motion with moderation for the following reasons. I think that we must realize the importance of the maintenance of law, and secondly, equally important, the sanctity of law. The danger of tackling or changing the law is that once it is changed it ceases to exist. I believe that is something against which we must guard.

Now, we have had for 15 months a danger in front of us which is the danger of armed rebellion and I see to-day a second danger looming up which may be equally menacing. It is a breakdown in the respect for law and order of the more unstable elements of our society everywhere. One can already see the beginnings of it in the attack on that chief in WZumbane. The other day a certain armed attack by robbers in Moshi and certain figures which I will give later amply demonstrate it. So there are before us at the present time two problems. The first is the ordinary problem or extraordinary problem we have had for 15 months of the *Mau Mau* movement. The second problem which is being superimposed upon it is the desire of the bandit or thug to cash in on the extraordinary circumstances which rule to-day.

Now it is a serious matter for everyone. It is a serious matter for every race; it is not peculiar to any particular race. I propose to give this Council figures to demonstrate how it affects everybody and secondly how serious it is.

Since the beginning of the Emergency, the declaration of the Emergency, 14 Europeans have been killed by known *Mau Mau* attacks, 6 Asians and 449 Africans and 5 Seychellois. That in itself is a lengthy and appalling list of casualties from armed rebellion. Now, superimposed on those, we must give the figures which I submit arise from the general deterioration in law and order which comes, in my opinion, from our inability to deal effectively and swiftly with those whom we have captured for *Mau Mau* offences or offences under the Emergency Regulations. The figures of what I would call banditry are almost more alarming than those direct attacks

[Mr. Blundell]

which we can attribute to *Mau Mau*. I must make it clear, Sir, to Council, that it is not always possible to distinguish between direct *Mau Mau* attack and the attack of the man who is cashing-in on the state of disorder in order to advance himself financially. Nevertheless, the figures I am going to give are figures which arise solely from banditry as opposed to the *Mau Mau* revolutionary movement. They are alarming, they are lengthy, and I believe they substantiate the case which I wish to make for more effective methods of justice.

From July to September, inclusive, this year we have had 26 Africans murdered, 6 Asians and Arabs by bandits. We have had 30 murderous attacks on Africans, 2 on Asians and 3 on Europeans. We have had 23 robberies of violence on Africans, 14 on Arabs and Asians and 7 on Europeans. We have had major robberies, 4 involving African property, 3 involving Asian and Arab property and 7 involving Europeans. Now, I do submit to Council that that is a very serious position. When we are totalling up, as we are, week by week, our figures to the extent of either 7 murders or murderous assaults or robberies with violence of a serious nature, it does not take very long before that figure assumes very massive proportions.

Now, Sir, I have tried to put before Council my reason for moving this Motion and to convince the Council, of the extent of the increase and alarming picture presenting itself to us. It is my belief that there is a real danger of a spread of this callous disregard for life and limb and property, unless we can convince the majority of our population of the necessity to respect the law. That is all the more necessary, Mr. Deputy Speaker, because we are living in a transition period, because for a great majority of the country, it is a transition period from the swift, effective, often barbaric, tribal sanctions to the slow laborious civilized process of our own law. Unless we can convince the great majority of our people that the processes of our law are as effective against wrong-doers as the old tribal sanction, we are going to have a great danger before us which is an increasing and still more alarming spread to achieve wealth by murder and assault rather than by honest endeavour.

Now, Sir, I want to turn from that to what it actually happening. Having given the cases—attacks, assaults and murders—I would like now to turn to what is happening to those apprehended by law so that Council can judge for themselves whether our present methods are swift and effective. After the Lari Massacre, when the Secretary of State visited this country, we had discussions with him in which we presented this danger to him. It was agreed that we should expedite the process of law and speed the administration of justice up. In other words, the principle of speeding up law was accepted, it was accepted that we were moving into a situation which demanded a swifter method of applying the law.

Now, let us look at what has happened in regard to the Lari Massacre. My information at the moment is that although that Massacre took place on the 26th March and although the Chiefs of that area specifically asked His Excellency the Governor for the most speedy and quick form of justice, my information is that up to date—unless it happened this morning—not one man who has been convicted at Lari has yet had his sentence carried out. The actual figures are these—109 have been convicted, 105 have appealed, 81 are still awaiting the hearing of their cases or are in the process of having their cases heard and not one single man has yet had his sentence carried out.

Now, Mr. Deputy Speaker, it is more than six months since the Lari Massacre and what are we to assume that the Chiefs who asked for the speedy administration of effective processes of law, what do they think of the responsibility which we are supposed to be wielding on their behalf in this matter.

From the Lari Massacre I would like to turn to those cases which have come before the Emergency Assizes. These Emergency Assizes deal with cases arising out of the specific Emergency Regulations which we have introduced to deal (a) with murders and the *Mau Mau* attacks, and (b) banditry arising from the general disturbance of the social conditions of the country. They do, in effect, present us with the best opportunity of dealing with bandits cashing-in on *Mau Mau*. Of the first six cases which were presented in the Courts in March and

[Mr. Blundell] April of this year, five convictions have been confirmed after appeal, and there has been one appeal to the Privy Council. But again my information is that although these cases were initiated in March and April, not one single sentence up to date—unless it has happened this morning—has been carried out.

Why I think that this is so serious is it is in this class of persons—this class of case—that the bandit and the thug, who have given us an alarming increase in murders, attacks and robberies with violence, it is in these cases, before these courts, that this class of person is taken, and yet, what is the position? To return to the Lari massacres, on 26th March, not one effective action has yet been taken by us in proved cases, nor yet have we secured the carrying out of any sentence under cases before the Emergency Assizes, which started as early as March and April of this year.

I do submit to this Council, Sir, that in the circumstances of this country, in the circumstances which I have tried to put forward—that we have a great population which is moving away from the old, swift, tribal sanctions to our own slow processes—this is a serious delay and may cause us, as I have already indicated, a greater acceleration still in banditry.

Now, Sir, I believe it is essential to speed up the processes and to show people that the Law is as effective as the *Mau Mau* murderer or the bandit. Now, what are the facts to-day? It takes a second to kill a man with a pistol—it takes us six months to even decide whether we are going to do anything about the murderer, and I do submit that the difference between a second and six months is so vast that the great majority of African people will never comprehend that there is any retribution for the instantaneous murder. It seems to me that there are two courses before us: the first course is to attempt to speed up still further the processes we have at the moment and I would recommend that to hon. Members opposite. The second course is to examine new methods which must, of necessity, take some time to introduce. I would, therefore, recommend strongly that we should speed up the existing processes, which I am certain we can do, and I put forward

these suggestions. First, the elimination of inefficiencies in the courts. Now, in to-day's *East African Standard* there was a complaint by Mr. Justice Holmes in which he stated that he had to do the work of the Registrar, the police, and the Attorney General, and he considered the position too ridiculous for words. Now, Sir, I do not think that there can be any Member here who has not heard tales of courts assembling to find there were no witnesses; subsequently, on re-assembling, no prisoners; subsequently, the documents have been mislaid. That has happened and as long as that is happening, all we can convince any ordinary citizen is that we are utterly incapable of bringing a man to justice.

Secondly, I should like to suggest to hon. Members opposite that we should make a thorough examination of mechanical improvements in the processes of the Law, that is, in the transition of the Judges; reports of original trials to Appeal Courts, and the application of psychiatrists to the cases concerned. Next, I would like to suggest that we have an examination of the numbers in the Supreme Court—and an alarming feature of the problem is as the cases come forward, many of them go to the Supreme Court, but the personnel of that court is no greater than it was six months ago, and recently the whole of the procedure had to be held up because the Supreme Court went to Mombasa. I do submit that we must, if necessary, increase the personnel of the Supreme Court, so that we can have a continuous flow of cases.

Lastly, I would like to suggest to hon. Members—I would like to ask whether it is not possible to put some officer in charge whose sole responsibility it would be to see there is a quick, swift and easy flow of cases, documents and persons through the various processes of the Law, so that as soon as the first hearing in the court of the Emergency Assizes is held, if an appeal lies, immediately the documents go forward for the appeal, the appeal is taken and the processes of the Law carry out their inexorable course.

The second course which I think is open to us is to consider new processes. Now, I want to record that I do not believe that it is our responsibility on this

[Mr. Blundell] side of the Council—the hon. Members opposite are the Government of this country, much as the hon. Members on this side would like to be, and as much as the hon. Members on the other side might sometimes wish we were.

THE CHIEF SECRETARY: No, no. (Laughter.)

MR. BLUNDELL: Nevertheless, the responsibility is theirs, and I believe the function of hon. Members on this side of the Council is to present the facts and the case to the hon. Members opposite and ask them to take the necessary action as a Government which is determined to see that the ordinary citizen of this country is protected from murderous assaults by bandits. It seems to me therefore, Sir, that we should urge hon. Members opposite to approach the Secretary of State again, who is well aware of the problem—as we presented it to him when he was here and he was sympathetic to the problem—and ask him to consider amending the Order in Council which set up the Emergency to allow us to set up special courts. Now, Mr. Deputy Speaker, Sir, I am going to deal with this matter with caution. I think it is the responsibility of hon. Members opposite, and I merely wish to establish principle in moving this Motion. I believe we must consider the possibility of special courts in which appeal will lie either to his Excellency the Governor or the Commander-in-Chief and we should not in that case speed up the processes up to the end of the Emergency Assize period, but we would enormously accelerate the processes immediately afterwards.

Finally, Mr. Deputy Speaker, I would like to say this, that everybody who speaks in this Motion should do so very conscious of his duty to all the people in this country, not to any one group or section. It is our duty—as a Council, it is the duty of hon. Members opposite, to see that in moments of tension such as these, when undoubtedly there is an acceleration of these terrible assaults and murders, to see that the ordinary citizen is confident that Law exists so that those who defy it are dealt with. Now, I gave the figures by races, and I did it because I wished to prove to this Council that this is not a matter which affects any

one race; every race in this country, every class of person is being attacked, harried, murdered, robbed and assaulted, and also when they are alive, because of the fragmentation of our society, we always think of them by races, but I would point out to hon. Members of this Council that, dead, they are non-racial—they are merely silent witnesses to the inadequacy of our methods to protect them. I believe that one of the factors, only one—but a very vital one in proving our capacity to protect these people—is the speed and efficiency of our Law. I would ask the hon. Chief Secretary—to allow on my Motion a free vote. I want a free vote for these reasons. I want the ordinary person in this Council—we, on our side, who have the responsibility of advising the Government for the good of everyone in this country, and the hon. Members opposite, who have the responsibility of carrying out their own opinions and our advice for the good of all people in this country—I want them to have the opportunity of recording what is their view on this matter because I believe that we have a right, on that basis, to approach the Secretary of State and ask for his assistance on this matter.

Mr. Deputy Speaker, I beg to move. (Prolonged applause.)

DR. HASSAN: Mr. Deputy Speaker, Sir, I rise to support this Motion.

THE DEPUTY SPEAKER: Are you seconding?

DR. HASSAN: I am seconding this Motion.

In seconding this Motion, Sir, I feel that the Motion as it stands is quite non-controversial and I do not think any Member sitting in this Council on either benches would disagree that the processes of Law in dealing with lawlessness in this country need to be tightened up. The members of the public are very much perturbed to see that murders are being reported and Security Forces are pressed to deal with it, usually arriving there in the quickest possible time, but late enough not to catch the person who is committing the murder. Unfortunately, so far as Asians are concerned, six of them have been murdered by *Mau Mau* and as far as I have been able to ascertain, not one suspect in any of those cases has yet been held up and brought to

[Dr. Hassan]

justice. Sir, what is needed is that something has got to be done quickly to show the result of dealing with lawlessness to the public, which the public do not find usually done in the quickest possible time. In some cases, I find there has been quick action by the Security people. One case was reported to me the day before that an African went into a shop of a shoemaker and took a pair of shoes and ran out of the shop, got on his bicycle and tried to get clear away. He got out of the shop, shouted at the top of his voice, some people came along and chased him and caught him. The fellow was taken to the police station with the pair of shoes and, in two hours' time, the same fellow was seen passing on the same bicycle, smiling at the shoemaker in front of the shop. Now, this was one of the quickest proofs of the quickest justice being meted out to lawless men in this town. I feel, Sir, that the people who are dealing with those who are committing offences need to be pulled up about it. It is so difficult to catch all the lawless individuals because they are very intelligent, they commit murder, arson and offences and disappear very quickly and then when they are caught, the public want to see that justice is meted out to them quickly and efficiently, and all that was needed in explaining the motive of the Motion the hon. Mover has done in the proper way, and I feel there is nothing more for me to say in support of it and I beg to second, Sir. (Applause.)

Question proposed.

MR. MADAN (Central Electoral Area): Mr. Deputy Speaker, Sir, I do not for a moment think that, in so far as the principle that is involved in this Motion is concerned, it will be opposed by any Member, but I think that when you come to matter of details and how the principle that is involved here is to be enforced, there may be differences of opinion, and serious differences of opinion. I agree with much of what the hon. Mover has stated, but I certainly would not go as far as he would to provide the remedies and the means to achieve his object. As I see it, Sir, there are three departments in Government who deal with the administration of justice in this Colony. There are the

Courts, there is the Attorney General's office and there is the Police Department. The easiest thing for any nation to do in time of stress is to become frantic and to lose one's head and it is to be remembered, Sir, that there is no country in the world, there is no system of law which responds spontaneously upon the commission of crime. The process of law is slower than the commission of crime and it must inevitably be so, because the law is concerned in ensuring that the justice that is dispensed and the system that is applied will not in any way be derogatory to human rights.

I gave you, Sir, the names of the three departments which deal with the administration of justice in this Colony. I have considerable experience of courts and the methods in which they work. Let me say here, and pay my humble tribute to the judges and the magistrates who work in this Colony, that they are most conscientious and honest and they are hard pressed for time—in fact, I think they are overworking—and they are doing their job as well as they can under the circumstances. (Applause.)

It is true, and I agree with the hon. Mover, I do not think we have got a sufficient number of judges and magistrates to cope with the situation. It is to be remembered that the existing system was called upon to meet an extraordinary situation, and the demands upon its working, which bear no relation to the means at the disposal of the system. We have tried to implement the means but what has been done is not enough. The second department which comes into the picture is the Attorney General's Department, Sir. Again I have considerable experience of the working of that department and the personnel in it, too. I can safely say, and justifiably say, that even that department is overworked. Those who are not engaged in drafting legislation which sometimes we cannot understand, the others are extremely busy, Sir, and their energies are concentrated upon bringing cases into court, to make trials swift and to ensure that the results of those trials are carried out as speedily as possible.

I regret I cannot say the same about the police. I feel, Sir, that they are a bit too complacent in the matter. If you dial 999, sometimes it takes them an hour

[Mr. Madan]

to reach an affected place—this is supposed to be the quickest police service that we have in the Colony. You can imagine, Sir, how far the gangsters can escape into unknown areas in an hour's time, and if there are delays in the courts, the witnesses who are not there, papers are not produced, then in my submission it is really the police to blame for it and whoever is the Member responsible for it, he might investigate the matter.

Sir, I said it would be quite easy to lose our heads and also to lose sight of the essential principle involved in a matter of this kind. Whatever system we may devise, what we have to ensure, and I think what matters more than anything else, is the preservation of the liberty of the subject, and that liberty has to be preserved consistently with the administration of justice to miscreants. If we are to introduce methods or a system of administration of justice which would lose sight of that fact, I think we would be descending to the same level as the gangsters themselves.

The second principle I should like to advocate is that it has to be remembered, Sir, that justice must not only be done, but seem to be done. I would much rather have delays than let any section of this country think that justice was not being done.

MR. MACONOCHE-WELWOOD: It is not being done at the moment.

MR. MADAN: With due respect to hon. Members on my right, who are whispering inaudibly for you, but I can hear—

MR. COOKE: It is not being done at the moment.

MR. MADAN: I say, Sir, I do not agree that justice is not being done—I say justice is being done but it is not as fast as it might be.

MR. BLUNDELL: Yes.

MR. MADAN: But we have to remember that it is extremely important that the population should know justice is not only done, but seems to be done. Once you lose sight of that fact, the very factor about which we are grumbling, the disappearance of respect for law and order will come into play and will ever

remain in the hearts of the people. I, Sir, could not for a moment agree that the appeal courts should be abolished. I could not concede that for a moment, for I think to concede a principle of that kind would be putting ourselves back hundreds of years. I do not wish, Sir, to be misunderstood. I am not for one moment saying that His Excellency or the Commander-in-Chief could not promptly, efficiently and quickly provide means to deal with appeals, but appeals should be heard and decided by those who are used to doing this kind of work, and that is obviously, judges of appeal courts, and if we are to abolish the court of appeal it would be most derogatory; it would remove a principle in the British system of administration of justice and lastly, Sir, we would be putting ourselves back to a state of civilization, almost at the same level as the people against whom we are grumbling and we are trying to put right.

MR. COOKE: Mr. Deputy Speaker, Sir, I remember many years ago reading Lord Cromer's *Modern Egypt* and Lord Cromer, needless to say, was the father of our present Governor of Kenya, and in that book Lord Cromer quoted an old Persian proverb, and that Persian proverb said "Better a speedy denial of justice than justice long delayed". I may not, and I am sure Lord Cromer may not, have entirely accepted that, but it does contain a germ of truth that is necessary to be realized abroad to-day. I will put it this way, Sir, that justice will not be deterred from doing swift justice by fear that we should be charged with doing an injustice. I think that is a fear that seems to be abroad to-day.

Now, my hon. friend, the Mover, quoted tribal sanctions and if I may say so, Sir, there is a great deal behind what he says in that matter. I entirely support this Motion, needless to say. I remember reading in the paper when Sir Philip Mitchell was here, the late Governor—he went down to the Luo country and complained about the amount of crime taking place there. He said to the chiefs that they were not doing their duty. The chiefs had the obvious retort—they said to Sir Philip Mitchell: "Give us back our own sanctions and we will soon do away with crime in Nyanza Province." We have taken away from the tribal authorities their own sanctions—many

[Mr. Cooke] of them vicious—but we have not put sufficient sanctions in their place.

If I may give a very personal instance, when I was in Wajir in the Northern Province over thirty years ago, after taking part in a Somali punitive expedition, things got very much out of hand because the Boran, normally a very pusillanimous tribe, started killing small children with all the butchery that the *Mau Mau* are using to-day on men, women and children of every race. We were given extra-judicial authority in the Northern Frontier—and I think no one would accuse any of us of being vicious people—and we stopped the killing of children in a very short time because we took action on the spot, quick and sure action. I think that that is what my hon. friend is asking to-day, he is not asking for any abrogation of the law but he is asking that the law should be much swifter and much surer.

The last speaker talked of us losing our heads. Some of us in this part of the world have been many years in Africa and I think the last thing we would do is lose our heads but there is a great danger of losing our nerves—which we are losing at the present moment—certain people, especially those very many good Kikuyu who have been subjected to a terrific strain. Those loyal Kikuyu—I believe and most Europeans believe, that we are not doing enough to protect those men by giving swift and speedy justice. Only in today's paper there is an account of a gunman run to earth in Eastleigh. He had a loaded .32 revolver when he was captured and found on him were the proceeds of a recent hold-up so that there could be no reasonable doubt about the guilt of this man. Now by the grace of God, if he had resisted or had time to pull out his revolver, he would probably have been shot but he has been saved and he is going to be brought for trial. Not only will there be great delay in bringing him to trial but he will have to be specially guarded: we will be taking away the forces of law and order to guard a real tough. It is a vicious circle. The more toughs—the longer we keep them, the longer we have more men whose duty it is to look after them and the less men there are for duty on the streets.

I would go further than my hon. friend, the Member for Rift Valley and I would say this, Sir, that in all cases such as this, where the death penalty is applicable, that these men should be brought at once in front of a first-class magistrate with plenary powers—the sentence should not go to appeal but should go to a body of assessors of all races who would sit continuously to see whether the verdict was correct in law. The magistrate is sufficient judge as to whether it was correct in fact. Then the execution should take place within a very short period. That would not apply to the whole of Kenya but to special scheduled areas where it is necessary to take quick action. It would be nothing like as brutal as the *Mau Mau* are to their victims, not that I would in any way sustain or support what they are doing, but there must be something—an eye for an eye, a tooth for a tooth, the Biblical injunction is still here—and he who takes to the sword must perish by the sword and perish swiftly by it. I suppose I have in my time in this Council, possibly more than any other Member, supported the rule of law, time after time I have supported it, I support it still, but I do say this; a surgeon would cut out a diseased part and take a big risk if necessary. It is necessary for us now, where the sickness is, where the malady is severe, we must take strong action. So without any hesitation, I support the Motion.

MR. COWIE: I am not very certain whether I am in a position in this Council to take advice from the other side, or give it, but as the hon. Mover has invited a certain amount of free comment, I would like that privilege.

During the last war, I think we, who were concerned with a number of local troops, realized very forcibly that where punishment was not meted out speedily to offenders, it had very little effect. We were dealing then with crimes of very much less seriousness than we are now, and when a case went to court martial, sometimes it would take even up to six or eight months before the award came through. Finally, one would have the man up and tell him the award, and then he would ask you to remind him exactly what happened at the time, what sort of crime he had committed, because he had forgotten all about it. Quite clearly, that

[Mr. Cowie] was of no benefit to the man himself, and certainly not to any of his associates who might have been involved at the time he committed the crime, because they had probably been transferred or lost contact.

The whole point of that story is that, quite clearly, unless the award comes through quickly it is of little effect.

Without wishing in any way to challenge the methods of British justice, I do think there is one feature in the way justice is administered by other nations in Africa which we could copy. In other continental sections of Africa I have seen methods where punishment is meted out very much more quickly than we seem to be able to do it here, and the effect is, therefore, very far-reaching and very advantageous.

The third point, Sir, is that the people which we are endeavouring to administer have not long emerged from a system of administering justice which was very much more speedy than it is now. That has already been referred to by the hon. Member for the Coast, but out of these three examples it is perfectly clear that, unless the punishment can follow the crime more quickly, most of the benefit or the effect of that punishment is lost.

I would, therefore, Sir, like to support the hon. Mover of this Motion in the main theme which he has advocated. I think the details are very difficult to debate in this Council or how it should be done but the intention is very clear and worthy of support.

MR. OIANGA (African Representative Member): I think it is right to say we all feel we would like to support the Motion which has been moved by the hon. Member for Rift Valley. With the main principle, I do not think that there is anybody who would disagree. We all want quick swift justice where serious crimes of the kind we are dealing with now are concerned, but it happens to be that the way that all these things we wish for could be done is through the established courts of justice in a civilian population. That being so, the justice which we ask for, and which we are sure we will get in the end, is necessarily slow.

If I followed correctly the leading ideas in the Motion, which has been so ably moved by my hon. friend, the Mem-

ber for Rift Valley, I could see four very important things. The first is this, that where possible all forces of security should shoot at first sight. Mr. Deputy Speaker, that is being done in the field, it is the quickest justice that is humanly possible where an offender is known to be obviously an offender and he is in the battlefield, he is given the quickest possible justice—he is shot at sight, and that is the end of the matter. Questions of delays do not arise, but we are not dealing with the field, we are dealing with people drawn from the civilian population, and as such the best term for them is not convicts or terrorists, but suspects. They are being suspected of serious crimes that have been committed, either by them or by somebody else. Now, they have necessarily to come to court and when they come it would appear that perhaps the extreme point that would satisfy the Motion which we have before us now is hanging without trial. But that is the extreme idea which I do not think anybody in this Council would responsibly support, and we have been asked, Mr. Deputy Speaker, by the hon. Mover to speak responsibly, and speaking responsibly we could not advocate to the country that we should hang anybody suspected of a crime without trial.

The third one, the main idea in his speech, would be that where a suspected criminal has been brought to the courts preliminarily, and it appears that he is a convict, he is convicted of that particular crime, then sentence him, but deny him two things. Do not give him an opportunity of appeal of any kind, and secondly, the right of His Excellency the Governor to confirm the execution should be excluded. I think both points would be legally out of order. I shall wait to hear what the Legal Member has to say on some of these things for the advice of us all, but I thought these two things were necessary and however slow justice may appear, or seem to be coming through, it is going through its established channels.

Now, that is what I gather roughly from the speech of the hon. Member for Rift Valley, but he does ask for something quite definite in the Motion, and that is that the Government be asked to introduce Emergency procedure regulations whereby trial and punishment in such cases may be seen to be both swift

{Mr. Ohanga} and effective. He is asking for special procedure, special regulations that would assist in bringing quick justice.

Now, I have not quarrelled with that, in fact it would be difficult to quarrel with any regulations until you have seen what they are, but it appears to me that there is one essential point that has been left out of this. It is asking for swift and effective procedure; this leaves out justice, it would seem. The measures should make it appear swift and effective though not just. It is not stated but from the reading of this Motion, and from his speech, that would appear to be so. In other words, we are being asked in the Council to sanction rough justice.

Now, Sir, the history of British justice is long established, and is respected throughout the world. A previous speaker has suggested that there possibly a departure might be made. I would not be for that, although I myself feel that at a time like this quick justice is to be sought. I do feel that it would be quite out of order to try and depart from British justice and depart from justice law, where people are not tried roughly in order to gain rough justice, but the sure justice for which the British tradition is known.

Now, that being so, Mr. Deputy Speaker, I support this Motion and would like to seek an assurance from the hon. Member that by asking the Government to introduce these regulations it would be made quite sure that justice is justice and not rough justice, for whomsoever is suspected of crime.

I beg to support.

MR. USHER: Why all the silence from that side?

THE ACTING SOLICITOR GENERAL: I speak with some diffidence in this matter, as hon. Members on both sides of the Council are aware that it is a unique combination of accident and incident that brings me here at all, but nevertheless this is a matter with which I am intimately concerned normally, and moreover, it is a matter with which I have been professionally concerned for a great many years, that is to say, with the administration of the Criminal Law in every conceivable circumstance that it can be administered under the British system; the ordinary criminal law, Martial Law,

Military Courts of every sort, in every form. I think I may claim to have had the experience of seeing them work.

Now, the Motion put before us contains behind it a proposition, and the proposition, as I understand it, is this, that justice should be swift and that if it is not swift it is likely not to be effective. That is to say, not likely to be a deterrent. Now, that is true, that proposition, but it is only true up to a point. You can go so far with the shortening of justice and if you go over that point it ceases to be justice as we recognize it. I do not say that it may not be necessary to go beyond that point, but I do submit that it is a matter that requires a great deal of consideration and a great deal of justification.

Now, let us see what we have done with British justice since the Emergency started. The Emergency has been a sort of bed of Procrustes and we have stretched justice on it and we have done a considerable amount of lopping off. The whole of the important preliminary trial procedure, that safeguard whereby a man's possible guilt or undoubted innocence is tested before he even goes to trial, the whole of that has been done away with. Under the Emergency Assizes procedure a man may go to the court which is going to try him as soon as he is arrested and the evidence is completed and the case is ready to be tried. Now, that is a very big excision.

As regards the trial process itself, which is the next stage, we have reduced that to a certain extent by reducing certain formalities in the shape of lengthy records, and I think it can be claimed that a trial under the Emergency Assizes procedure in Kenya, by an experienced Judge, is as quick a trial as can be obtained anywhere. It is far quicker than a court martial, because whereas all Judges are comparatively experienced, most courts martial are, to begin with, anyway, completely inexperienced but the speed and precision with which a Judge, dealing with a matter which he fully comprehends, the speed with which he works is something which cannot be emulated by any sort of *ad hoc* court which may be set up.

There is, therefore, very little room for improvement in the actual trial process. There are cases, of course, where papers

[The Acting Solicitor General] are not served, witnesses do not turn up, prisoners have not turned up, and what can fairly be described as minor inefficiencies have occurred, and those are dealt with as promptly as possible as soon as they are discovered and it is hoped—and indeed, experience shows—that as people get more experienced in dealing with these matters, those sort of difficulties get ironed out.

An allusion was made by the hon. Member for Rift Valley to something that Mr. Justice Holmes was reported in yesterday's newspaper as having said. I have acquainted myself with the matter, and what, in fact, happened was this: that at a certain stage in the trial the learned Judge did not appreciate that he was trying the case under the Emergency Assize procedure, in which no certificate dispensing with the preliminary inquiry is required, and he demanded such a certificate, and when he could not find one among his papers, suggested that he had to do the Attorney General's work. He was put right on that, and then somebody informed him that they had not been served with papers, and two minutes later the receipt for the papers was found in his file but before that time he mentioned that he had to do the Registrar's work. Well, these little displays of judicial spleen, with which learned hon. Members are familiar, always make the headlines, and the subsequent corrections never do, and that is all that happened there.

With regard to the Lari massacre, at first sight those figures look rather formidable. The massacre took place at the end of March and nobody has as yet been executed. Well, when you take the figure, so to speak, which runs from the date the crime was committed to the final date when the drop falls, one must allow a reasonable margin for investigation, and some crimes take a long time to investigate. Lari was a completely unprecedented massacre, something for which no one was prepared, something for which no blue-print existed. Within one month the first trial had taken place, more than 2,000 people were arrested, a special camp was built, a special procedure was initiated, a screening process on a scale quite unprecedented was adopted and less than 30 days afterwards the first people were on trial. Even now,

on Lari alone, this country, with its limited resources, has put three times as many people on a capital charge that they do in the whole of England in the whole of one year. That takes a certain amount of organization, and the only real complaint to be made about that is that up till now the final processes of justice have not taken place.

If you go on from the question of trial, the next stages, the post-trial stages, those are stages with which the Attorney General's Department is not very much concerned, in fact, as a department, not at all. It comes under, to some extent, the Member for Legal Affairs, but it involves only two stages, one of them the appellate stage, the other what is might call the prerogative stage. The last stage, the prerogative stage, is the stage at which the fountain of mercy is permitted to play, and at which the Governor exercises the Royal Prerogative of mercy.

Now, in any system, whether it be courts martial, military courts, occupational zone courts, whatever system of justice the British have introduced at any time, they have always allowed and permitted the prerogative stage to remain, and that, I venture to suggest, no Member of this Council would like to cut out.

That leaves us only the appellate stage. Now, here it is quite fair and quite proper that criticism can be directed. There are a great deal of mechanics at that stage, the stage that gathers the papers of the case together after a man has been convicted, and gathers in reports of his mental condition and background and history, all those safeguards which have been adopted over a long period before the extreme penalty is imposed on a man, and at that stage a good deal of streamlining could take place, and that is a matter to which Government's attention is very closely directed. At the moment, and undoubtedly hon. Members can be promised that they will see a considerable shortening in the time factor which passes between the condemnation of a man at the trial of first instance and the final consideration of the case by the Governor, when the prerogative is exercised. That mechanical factor of the appellate stage can be shortened and will be shortened.

That leaves us always with the one problem and the important problem

[The Acting Solicitor General] which is whether or not you can cut out the appellate stage. Now, the only alternative to British justice, as we know it, is some other form of justice which removes the appellate stage. That is to say, that very careful filter, that final safeguard where the whole of the case is looked at and tested, both as to fact and law, before a man is put away. Any other system that is introduced, whether it is a judge sitting alone, whether it is a military court, whether it is a court established under martial law, does away with that appellate system and that is why it is fast. It is perfectly true to say that if you limit your justice to courts of trial, courts of first instance, you will get a tremendous increase of speed because there is no buffer state between condemnation as the trial and the exercise of the prerogative, whether the flow of mercy is controlled by the Governor or the General, or whoever it may be. It is the biggest step which any community can take, to abolish that appellate stage, and when suggestions are made for alternative processes, it must be appreciated that they take that extreme step of abolishing that appeal.

You can set up an *ad hoc* court with one judge sitting and no appeal, but that is not British justice as it is known and as it is established. You can set up martial law if the whole of the Government is prepared to abdicate and say: "We cannot control this situation, it is beyond us; we cannot manage it any longer, the enemy is on top of us." If you did that, and then handed over the government of this country to the General Officer Commanding, there would be martial law, which is no law, because it is the will of the General. It would mean that this Council could not sit here unless the General consented to it. That is martial law and that is the quickest process of justice that can be established. There is a sort of illegitimate half-way house between the courts established by statute and the courts established under the military, and those are what are known as Statutory Military Courts. They are courts that sat in Palestine, known as Defence Regulation Courts, and here they would be Defence Regulation Courts. They are courts which are established by Defence Regulations but are staffed by military

officers, and from which there is no appeal locally except to the General or perhaps to the Governor, but there may be a further appeal to the Privy Council because they are statutory courts.

It is possible theoretically to set those courts up. It would mean an amendment of the Order in Council which expressly precludes the setting up of those courts, and it would mean, above all things, a departure from the main rigid principles of English justice, that one court of first instance is not enough to put a man to death.

Now, Sir, whenever this matter of speeding up justice is considered there is one other factor which has to be considered. There is a limit, I suggest, to the extent which speed means justice. There is no doubt about it, that there is an immense gratification in times of popular tumult and disturbance for the murderer or the bandit to be hanged within a matter of a few hours or days, and for the processes of civilian life to go on with a sort of undercurrent of fustidies from firing parties and the crash of the drop in the distance.

In the end, how sound is that? Law is something which is only tolerated if people respect it. By "respect it," I do not mean for one second that they like it. The test of respecting the law, which every community has to accept, if it respects law, is this; do the ordinary members of the community—are they satisfied, and do they think that under the system of law under which they live, if they were caught up in its toils and were innocent that they would have a very fair chance of establishing that innocence? If they do think that, then they respect the law and in their heart of hearts they do not care so much whether people are hanged within four days or four weeks or four months, but the moment they lose faith in the law, that respect for the law, that trust in the law, then the law becomes intolerable and the disease that speedy justice may create is worse than what it is supposed to cure. It means that there is a general breaking down of respect for the law instead of a particular breaking down.

In considering that side of it also, I am the first to agree that justice should be speeded up, must be, and can be speeded up in this country. But I do ask

[The Acting Solicitor General] hon. Members to bear in mind that there is a limit to that process and, in my submission, that limit is reached when you take away the appeal procedure, which does have such a delaying effect although it does provide the foundation of safety.

Whenever this proposition comes up we stand, I think, at the cross roads, or if you like, at the bar of history, because up to now although the Emergency has been going on for one year, I think one can say that history is going to be very kind to the people of Kenya. There has not been in this country one single case of mob violence, not one case of that gross, heinous disrespect for the law—lynch law. No man, however shocking the allegations that have been made against him—some of them very, very, very shocking—no man has been hustled, attacked, or even insulted in any way. He has gone to his trial, and he has stood his trial without the slightest interference from anyone, and that is a record which, in the circumstance, hon. Members may think is unique. There are many other places in the world where in a situation not half as bad as this, one could imagine what would happen to the poor wretches who were accused of participation in these crimes.

At this cross roads there is a decision to be made. Do we progress as we go on, do we progress by the step we are taking, do we, by adhering firmly to the principles of justice as we have inherited them, do we progress through the rule of law and order to the re-establishment of the Queen's peace which is our goal, or if we abandon certain principles are we going to get any further any faster, for if we abandon them we have to say we will abandon the rule of law and order as we have inherited it. We will abandon the rule of law and order in its strictest form, as we brought it here, and as we have sought to establish it. We will do this, we will accept, as we must accept, that by abolishing the appeal system and limiting our trials to courts of first instance, we may often shed the innocent blood.

I do not say that that stage may not be reached; what I do venture to submit to this Council is that we would have to be very, very hard pressed to reach

it, and that stage has not been reached yet. (Prolonged applause.)

MR. SLADE (Aberdare): Mr. Deputy Speaker, I should like to start by congratulating my hon. and learned friend, the Acting Attorney General, on a very able and helpful speech, which, however, from past experience of him, was all that I expected. I can vouch for his very wide experience in matters of this kind, and it is indeed most fortunate that in this particular debate we should have the help of one who has spent a large part of his legal career in dealing with courts martial and other rather exotic procedures of justice. I may add, as a personal note, that I had the pleasure of serving under him during the war for a matter of a year or so, and I can say he does know what he is talking about, which we cannot always say of ourselves.

Mr. Deputy Speaker, the subject-matter of this Motion is an example of many other issues that we have had before us in this Council ever since the Emergency began. They all had one thing in common, I think. We have had to ask Government to recognize an Emergency, as an Emergency and to be realistic, without fear, without sentiment, and without hypocrisy. I will not quote the many examples of that we have had, but I would point out that bit by bit Government has come round to being realistic, but always desperately slowly. I would give one example, and that is our request, I think a good year ago or maybe ten months ago, that all oath administrators should receive sentence of death, and that is now the law, just yesterday. This is the same: It is at least six months since we pressed upon Government in this Council and outside, the absolute necessity of speeding up justice during the Emergency, and here we are at it again to-day with very little progress made in spite of what my hon. and learned friend has pointed out in the way of doing away with preliminary inquiry and setting up the Emergency Assizes. The figures speak for themselves, the fact that men brought to trial for the Lari massacre of six months ago have not yet been hanged, not one of them, and in those cases I would point out, moreover, that there is not even the excuse that my hon. and learned friend brought forward, of delay in investigation, because those men were up for trial

[Mr. Slade]
almost immediately after the Lari massacre. The delay is since the start of the prosecution, there is a lot of trouble there.

Sir, on this Motion I speak as a lawyer, with the very greatest possible pride in my profession, the greatest possible pride in the tradition of British justice, but as a lawyer, I do recognize this, the law is the handmaiden of society, not the mistress of society. Our laws are made to give effect to public opinion, to the needs of society, and to serve society, and they must be adapted to those needs. We must always, I think, in considering the law and what is required of the law, distinguish between the substance of justice and its forms.

I might almost regard the law as someone who has always the same body but wears different clothes. If we look through the many Christian communities of the world I think the substance of justice is the same but you can see very different forms, and we have seen, of course, in our own history of the law in England, the same person gradually developing different clothes. As we develop our civilization, so new forms and more and more complicated forms became suitable to our needs and were developed, as new clothes, and changing fashion. I am afraid that in the past we have overlooked that fact that in trying to bring our law to more primitive places and peoples. We have tried to bring not only the person but all the clothes of a completely civilized community. It is the same mistake as we made in the Boer War when we brought our soldiers in their red coats to fight in the climate of South Africa against guerrilla men in khaki. I think the parallel is fair.

We tried to bring the full panoply of form as well as substance to this Colony. Now, I am not discussing here, Mr. Deputy Speaker, the question as to whether our ordinary Penal Code and Criminal Procedure Code is suitable for this Colony in time of peace, but I do say this, that we must at least look very carefully at it in this time of Emergency.

When the Government declares a State of Emergency it is recognizing that drastic action is needed, that the ordinary liberties of the subject, the freedom of the person, freedom of the Press, and so on, have got to be set aside for a time

until the Emergency is over. That is the whole essence of Emergency Legislation. To study the Emergency Order in Council and the Emergency Regulations, you will see that the powers given there to the Governor are precisely those powers of cutting across the liberties that we cherish so much in ordinary times, cutting across those liberties and safeguards in order to get them back again more quickly. That is how we have to face this issue, to revalue our traditions of justice. We intend to preserve them, but if we are to preserve them, we will have to give something away for the time being.

The question is, as my hon. and learned friend quite rightly said, how much are we to give away, and what is the nature of our need? Speed is essential, speed in the administration of justice in an Emergency of this kind, in order, as he said himself, that the law may be respected. We could cut away a lot of our trimmings of the law and still have justice, far more than we have cut away yet. Let us look at it as the law, that ordinarily wears a fine coat and waistcoat, having to take off the coat and get to work in its waistcoat for a time.

Now, as the hon. Member quite rightly said, we are asking in this Motion for justice to be speeded up, for procedures to be devised whereby trial and punishment may be seen to be swift and effective, but it is for the Government to decide how that is to be done. Only, Mr. Deputy Speaker, when we ask for these things we must face what we are asking for. It is no good saying in one breath: "We want this speeding up of justice"; and in the next breath: "Oh, but we cannot afford to abandon any of the finest trimmings of that justice". We have got to face it, as the hon. and learned Member rightly pointed out, that if you are going to have this speeding up you are going to give away something that you cherish. Let it be so, and that being so, I think it is our duty to suggest where cuts could be made.

As the basis of my suggestions I would refer the hon. and learned Member to matters of his own experience, because if you look at the procedure laid down by the Army Act and Air Force Act for the dealing with all kinds of offences by the forces, even capital offences, you

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can see something which I suggest is very parallel to our condition. You will see a procedure laid down, which was devised for administration by people who were not lawyers, in circumstances where the law was not easily to hand, devised, though, for time of peace as well as time of emergency, and therefore devised in cold blood. It has been in force for very many years and has stood the test of many years, and there is one outstanding feature of that law; I would point out that it has never recognized any right of appeal.

Now, my hon. and learned friend said that that was rather the cross-road; if you abandon the right of appeal you are throwing away the essence of justice. I say, Mr. Deputy Speaker, it cannot be so, not even according to the strictest British standard can it be so, when by the Army Act and the Air Force Act you have a whole system of justice set up for peace as well as war, where people can be brought to trial on a capital charge and there is no appeal after conviction, only confirmation, confirmation by the Commander-in-Chief. That is what I suggest we could have here.

It may be that, of late, there has been—I have to acknowledge there has been—some refinement of the laws to which I refer, that recently there has been considerable change in the functions of Judge Advocate and Deputy Judge Advocate General and some provision for appeal, but what I point out, Sir, is that we have been happy under our laws for a matter of 70 or 80 years with a procedure that allowed no appeal. I would suggest that we can be happy in this country, with an Emergency we do not intend to last that length of time, with a like procedure.

There are other aspects we have to face, and it is always a question of whether it is the substance or the form. Now, it may seem a very bold thing to suggest, but I do suggest that in some respects, in a crisis of this kind, in order to get greater speed we might sacrifice some of the strict rules of evidence. Those rules of evidence, I know, are based on the principles of justice and designed to preserve the principles of justice, but for the greater part they are based on a perfectly natural sense of justice that any man has even without

those rules. In certain respects they are merely a refinement, a great refinement, of those principles which are desirable in time of leisurely peaceful procedure, but undesirable in times such as these. Indeed, I believe we have to move, in times such as these, away from the judiciary to some extent to the executive. That is really the effect of Emergency legislation. It is a necessity always recognized by the Emergency legislation that you have to put more and more temporary authority into the hands of the executive and that, I believe, applies even to the disposal of Emergency crimes.

I would suggest again that Government consider moving over to something in the nature of a layman's court, a layman's court administering natural justice, because in this country we have plenty of just men who are not trained lawyers. They may need a lawyer at their elbow to advise them and guide them, but the people are there, competent and entitled to share, people of all races, and there is this advantage, that in creating a layman's court you do relieve them of the inhibitions that come from the lawyer's training. I know, and I think any judge will bear me out, that you can give a trained judge or advocate any amount of licence you like by legislation, but still when it comes to exercise his powers, he will be hampered by his training and by all the rules that he learns, and he will not be able to set one of them aside. That is the case for bringing laymen more into the picture and lawyers further into the background.

Above all, I would urge that we reconsider this question of appeal and think more in terms of confirmation by the Governor than appeal to an appellate court, preserving always, and this I do agree, preserving always that in the same act the prerogative of mercy.

I have very little more to say, Mr. Deputy Speaker, but it does come again to this, that we have got to sacrifice some of our justice in order to preserve the rest, and I would remind hon. Members opposite that at stake in this matter, among other things, is the confidence of the forces of law and order. Those who have to administer the law in the field at the present time. We must keep them confident that when they capture a

(Mr. Slade) criminal, after great labour and difficulties and dangers, that criminal will be quickly brought to justice, and even more important, perhaps, is the confidence of those Africans that we are asking to stand on our side, or to come on to our side. It is a matter of astonishment to me that so many have had the courage to stand out on our side and are still standing out, and increasing in numbers, with so little support from what we call our system of justice.

We must think again, and we must also remember what has been said before in this Council, and, I regret, only laughed at from the other side, that very great danger that if you do not become realistic in your administration of justice in this Emergency, certain elements will take the law into their own hands, and I ask Government to consider and examine conscientiously whether that has not already started to happen. Is Government satisfied that there is not any independent activity outside the courts of law? Is Government satisfied that there is not a certain measure of hypocrisy at the moment, when we talk of British justice in this Council and close our eyes to things that are happening outside this Council. Better surely, be honest and cut away some of the trimmings in order to satisfy all that there is still justice of some kind, because that is what we must preserve.

Once again I beg this Council to accept this Motion and act on it with all sincerity and seriously, before there comes yet another case where we are too late again.

Mr. Deputy Speaker, I beg to support. (Prolonged applause.)

THE DEPUTY SPEAKER: It is now time for the usual break. Council will suspend business for fifteen minutes, that is we resume at twenty minutes past eleven.

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

THE CHIEF SECRETARY: I was somewhat hesitant about speaking in this debate since I regarded it as rather a specialized subject and one relating particularly to the learned profession who are very jealous of their privileges; but one or two incidents occurred which encouraged me.

There seemed to be a certain amount of apprehension on the other side that nobody was coming forward on this side to speak and we are unfortunately rather short of the legal profession on this side. Another factor was that this Motion was so very ably moved by a layman. A further factor is a story which came to my ears of a member of the learned profession receiving legal advice from a layman.

I do not wish to occupy the time of this Council unnecessarily, Sir, but I did want to point out that, as was described in some detail by my hon. and learned friend, the Acting Solicitor General, a new machine—new machinery—has been introduced here and of necessity it takes such a machine some time to get into full production. I have had experience during the last 24 hours—indeed, during the last 12 hours, to my detriment last night, that production is on the way from this new machine. I should say also, Sir, that we have for some time been endeavouring to deal with the procedure and with a view to making for swiftness and effectiveness, certain small adjustments have been made and, I trust, others will be made shortly.

In connexion with a point made by the hon. Member for Aberdare, Sir, as I understood it, regarding the position of appeals under the Army Act, I think that he corrected himself or modified his original statement to some extent, as I understood from his original statement that no appeal whatsoever existed in the case of a court martial, but as I said Sir, he modified that to some extent, I have been advised by a member of the learned profession that as regards appeals under the Army Act, there has been since 1950 provision for appeal courts martial, and with further provision for appeal—I do not know the technicalities—this perhaps only in certain cases but further provision for appeal to the House of Lords. I am, also, I told that, in fact, it had been thought that this procedure would have been introduced many years before 1950, but that the war and its attendant ancillary complications thereafter held up this.

The hon. Member for Aberdare made somewhat cryptic references to the hypocrisy or possibility of hypocrisy on

(The Chief Secretary) this side of the Council in connexion with his statement that if justice is not realistic, certain other elements may take the matter into their own hands, as I understood it. I am not quite sure what grounds he had for this statement or exactly what it meant, but I would ask that if he has any particular definite cases in view, would he be so good as to send the details to the Attorney General or perhaps the Commander-in-Chief, whichever is appropriate to the circumstances of what he has in mind. As regards Government attitude to this Motion, Sir, while not associating myself with everything that has been said in the debate, I may say that I am entirely in agreement with the principles and motives underlying the Motion. (Applause.) The Government does not propose to oppose this Motion, Sir, and everyone on this side of the Council may vote according to their conscience.

MR. MACONOCHE - WELWOOD: Mr. Deputy Speaker, it had not been my intention to speak in this debate but I think it has now wandered on for some time and I would like to bring it back to the real point underlying the Motion. The object of this Motion was not to discuss the details of how justice should be speeded up, the object of this Motion was to show the Government and to the people of this country of all races that we, at any rate, on this side of the Council, are dissatisfied with the slowness of justice and we believe that means can be found, by examination, of speeding up the processes of justice, and in speeding up those processes of justice it is not our belief that injustice will result—quite the opposite. We believe that at this time the speeding up of justice is essential to justice being done and that is all. It is not in a debate such as this that we can put forward the means by which it can be done—that will come later and it is the business of hon. Members opposite. (Hear, hear.) And here I would like to make brief references to a promise made after the Lari Massacre by Government to the loyal chiefs in that area—that justice would be swift, and that retribution would follow immediately for that crime. And, Sir, I submit that six months is a very long time, and that that promise was not carried out, and we are now demanding that it be carried out.

Now, Sir, there are certain points I feel I should touch on, because they have a bearing on the generality of the debate made by certain speakers. The hon. Mr. Madan made a statement that the primary object of the law was to protect the liberty of the subject. Now I agree with him, but would ask him as to whether under the present procedure we are protecting the liberty of the subject. That is to say the subjects—hundreds and thousands of them in Nairobi to-day—at the present moment there is no liberty for the subject in Nairobi—the African subject. He is dictated to by gangsters and thugs, because the law, in its slowness in dealing with things and above all by not making itself respected, has led to a position where the law is not feared, but the thugs are feared, and no African to-day in Nairobi dares to do certain things like going on buses, smoking cigarettes or drinking beer without doing so in fear of his life. That is our success in protecting the liberty of the subject.

Now, Sir, it has also been said by the hon. Mr. Ohanga that what we ask for was hanging without trial. That is the last thing the hon. Member wants or I, myself, want, or anyone else in this Council. What we do want is that a man should be hanged—when he is convicted—speedily. I am not going into how that can be achieved—I think there are ways of doing it, and I believe there are ways of doing it within the framework of the law.

The hon. Acting Solicitor General, in a very able maiden speech, said that we had not yet reached the stage of considering very much speedier justice at the risk of sacrificing certain things that we believe in. My suggestion is that we have reached that stage, and my suggestion is that throughout this Emergency suggestions have been made from this side of the Council and eventually very slowly they have been carried out. We asked for this speedy justice months ago. The Emergency Assizes were set up and I have been assured by Judges acting on those Assizes that they may be Assizes but there is very little emergency about them, and that is not good enough and that is why this Motion has been brought, because we think that the time has come when we cannot drift any longer. Everyone living in this town knows the seriousness of this situation—everyone living in

[Mr. Maconochie-Welwood] this town knows that there is little respect for the law. It is a truism to say it here. The hon. Acting Solicitor General referred to respect for the law. So far as I know respect for the law in this country at the moment is confined to very few people. The vast masses of people in this country have lost their respect for the law, because the law has not succeeded in bringing the evil-doer to justice. It has often been said throughout this Emergency that one of the most dangerous things we can do is to take steps that would embitter the Kikuyu people. Now, Sir, I would put another point. I am getting very tired of that particular argument, because I have seen the increasing bitterness throughout this country and in areas remote from the Emergency, at the failure of justice—at the failure of Government to restore the peace and orderliness of life to which ordinary Africans have got accustomed under our rule, and if there are a million and a quarter Kikuyus who are some of them actively on our side and some of them actively against us and a vast number neutral, there are, also, 3,500,000 other Africans whose lives have been greatly upset by this Emergency, and if a plebiscite could be taken of their views of justice and respect for the law, I do not think the issue would be for one moment in doubt—everyone of those men would support this Motion. I believe every African not actively engaged in this thugery would support the speeding up of justice even at the occasional risk of injustice. What we have to do with this matter and what we do so seldom, is to balance the value of the increasing number of lives that are going to be lost through the increasing disrespect for law and order, and the few who might suffer injustice if you abolish appeal or if you speed up certain processes of the courts. It may well be that one or two innocent men may be hanged, but perhaps my sense of right and wrong is not that of the law. My sense of what is right is this—that you must take that risk—and however the law is framed, that risk must always exist—it is a better thing to risk the lives of a few innocent criminals brought to trial than to have increasing murders day by day throughout the country. What we are doing to-day is to jeopardize the lives of all Africans in

Nairobi by being over-sympathetic to a small gang of thugs who are now dominating the City. It is not the law that is respected in Nairobi—the people respected by the Africans in Nairobi to-day are the thugs of the *Mau Mau*. I beg to support the Motion.

Mrs. SHAW: In supporting this Motion I do not want to cover ground that has been gone over by other speakers, I only want to ask for information from the Acting Solicitor General on one point. Some months ago, His Excellency gave us a promise that the processes of the law in this Colony would be speeded up. We were assured by the Attorney General that, in order to do this, a law, still on the Scottish Law Statute Book, although not operative since 1903, was to be invoked. We were given to understand that, by this means, it would be possible to carry out a death sentence on a convicted murderer within fourteen to sixteen days of his conviction; but this has not happened. For, as our Leader said, not a single Lari murderer has paid the penalty for his crime as yet.

The whole problem, I think, has been summed up by the hon. Mover when he stressed that, whereas under tribal sanction, retribution follows immediately, to-day, under the laborious processes of our law, retribution if it follows at all, does not do so for many months by when, as Colonel Cowie says, the crime has been lost sight of. So, Mr. Deputy Speaker, I only ask why the suggested procedure has not been used for these special listed cases—I believe that is the legal term for these cases under the Emergency Regulations. For until we can bring home to the *Mau Mau* murderers and thugs that unless there is swift and speedy capture, and sentence following the commission of a crime, we will not put down this rebellion.

Mr. Deputy Speaker, Sir, I would just add that while I would not deny justice, I find it hard to regard with mercy people who have reverted to a bestial barbarity which shows no mercy to their victims, often innocent, including women and little children. (Applause.)

MR. CROSSKILL: Mr. Deputy Speaker, Sir, I wish to make one brief point in support of this Motion. We have listened to the very admirable exposition on the

[Mr. Crosskill] processes of the law from the hon. and learned Acting Solicitor General, but I would ask him for one moment to consider the mental processes of those thugs and murderers who have been convicted but who are still awaiting punishment. I do suggest that they may well consider that they will be able to get away with nothing more than a period of imprisonment. That is a very dangerous situation. Still more dangerous are the mental processes of the prospective thugs and murderers who see others committed to prison who still have not suffered any effective punishment.

The hon. Member for the Non-Muslim Central Area, Mr. Madan, stated earlier in this debate that not only must justice be done but justice must seem to have been done. With that we all agree, but I would like to emphasize the very great danger that exists when it seems that justice is not being done.

I beg to support.

MR. MATHU: Mr. Deputy Speaker, Sir, I would like to make a few observations on the Motion before the Council, and to say that I agree with the Mover that we must accelerate the process of justice on capital charges arising from the Emergency Regulations. I also agree, Sir, that we should do what we can to ensure that trial and punishment become swift and effective. But I would like, Sir, to go a step back, from the time the person is brought to the Court and try to indicate to the Council one of the things that is causing tremendous concern and desperation among the African community, in Nairobi in particular. I refer to these daylight murders where gunmen come and shoot in daylight, walk away or cycle away and that is the end. We do not hear—let alone bring them—to the court and to try to hasten the process of justice in the courts—they do not come to the courts! I want to ask the Council and the Government why is it that witnesses are not coming forward. Before we can hasten the process we must bring the persons to court. The court of the first instance, even leaving alone the talk about appeal, because I do feel, Sir, that this is where the weakness of the whole situation lies. Witnesses do not come forward and the gunman therefore has the complete field to himself.

Why are not the witnesses coming forward? The answer is this, because they know they will be shot, because we and Government have failed to protect completely those loyal elements in Nairobi and elsewhere who want to come forward and give evidence.

That, Sir, as I say, is the crux of the matter. I am satisfied that certain measures could be taken to allow witnesses to come forward and point to this man and say that he is the criminal and that he did it. I would support any measure that would bring us to that point, because what we are dealing with now is the very fact that the cause of the trouble is the lack of courage of witnesses to come forward and say, "This is the gunman, I saw him". Surely they cannot be living in the forests. In Nairobi they must live somewhere, in a house, between four walls; they cannot own that house by themselves, they must be living with some people. Why cannot we get information? The answer is that once the information has been given and it is known that a man went to the police, that man does not live that night.

I would like to ask the hon. Members on my right here and on the other side of the Council—what we have to consider is the point that once we know we have a witness, then what we have to do is for the courts to improve the situation and to make sure that the fellow goes to the gallows as speedily as possible.

We have recently reorganized the police activities in Nairobi and Mr. Timmerman, a capable policeman, has taken certain measures which seem to improve the situation, but even now the gunman is still abroad. We have increased the police force, the troops are in Nairobi, but the gunman is still having the upper hand. What is wrong, why are so many bodies in the streets of Nairobi and we do not apprehend these criminals. I suggest, Sir, that the first thing we should do is to know who are on the side of law and order in Nairobi of all communities and give them special protection, make sure that they themselves, and their families, when they come forward and give information—perhaps put them in a plane, send them to Timbuctoo where they can go and feel absolutely safe and we can then go to them to get information—something like that, something drastic of that nature.

(Mr. Mathu) Short of that, this Motion, even if this comes true, we will still not have justice done because the criminals are abroad, Sir.

Now, the question of the Lari massacre. Suggestions have been made that we have taken six months and it is very exasperating that we should wait so long. But I do think, Sir, that my hon. friend, the Acting Solicitor General did indicate that comparatively, taking the whole world, we have done a very difficult case, a job, more quickly than any similar case in history. I suggest, Sir, that if we cut away some of the frills in the courts in the first instance, and cut some of the frills in the Appeal Courts, it is possible to get these people to serve their sentences or have their sentences carried out more speedily.

Sir, I think that—as I read this Motion—the gist of the Motion is that we should cut away the Court of Appeal. Now, Sir, I do not think I can support that. What I would like to support is that there are certain processes, which are done now in our Courts, that we can cut away, without harming the justice that we want to administer. I refer, for example, that when a Judge has sentenced an African to death, it is required that the District Commissioner of the area where the African resides or resided should make a report. That is done by post and it takes about one week or ten days in some cases, before that report comes forward. I do not think it is necessary—I think we can do away with that. The fact is that the District Commissioner when the man lived there may have changed places and the District Commissioner at the place now has to go and inquire into Mr. "Xa" sentence to death. That takes time, he has to find people who can give information. Cut that away, that will give us on the credit side about ten days or a fortnight in this matter.

I also think that we can cut away with getting the psychiatrist to report on whether the fellow is mental or not. It is obvious that if the fellow is mental in prison his behaviour will be mental, in ordinary cases without referring to the psychiatrist we should assume that the fellow is normal and should go forward. There again, I think we can save some time in the process.

I think, Sir, the Emergency Assizes also have speeded up the process of justice in this way. That if a judge does not recommend that the fellow should appeal, if the appeal goes forward, under the Emergency Regulations, the Court can be summarily dismissed without hearing it at all. Those powers are there, and are being used, I think, and that again is giving us on the credit side a number of days, and is saving time between the time a fellow is sentenced and the time the confirmation or otherwise is given by the Governor in Council.

The other way we could speed up the process of justice is that there are certain minor inefficiencies that my hon. friend, the Acting Solicitor General mentioned and the hon. Member also mentioned. I think we should remove the inefficiencies. It should be known quickly where the files are and they should be put on the table at the right time. Those kind of things are not beyond the administration of justice. They can and should be done. There again, I think we can save some time in these matters.

Now finally, Sir, I do think that if it is found that the police are under strength to carry out the necessary investigations in order to bring a culprit before the court, well, this Council should be asked to vote money for extra police to do the job. If the magistrates and the judges are under strength this Council should be asked for money in order to bring the establishment to full strength so that the work can be done more speedily than now, and remove the back-log in the courts. I think also that we can appeal to our lawyers. I think that when they are briefed by their clients, sometimes they are very verbose. Unless it is a cross-examination on minor points they adjourn and so on and say that their clients are not in Nairobi—they are somewhere else—and things of that kind. There again I think we can ask them to help us in not being, as I say, unnecessarily verbose, and of course they must make sure of getting their fees otherwise it might be difficult. There are certain ways of speeding up justice in this country, without departing from the established system of law. Therefore I am advocating that.

I do not think we can go beyond what we have already done and I suggest that the Emergency Assizes and the Appeal

(Mr. Mathu) Courts, which are vital to-day should be improved on the lines I and previous speakers have suggested. We can achieve what the Motion wants without endangering the system of justice that we want to carry out in this country.

I would like before I sit down to say again that the criminal in Nairobi is having such a free time and we should like, I should like, to suggest that Government should think seriously the best way by which we can get evidence and witnesses coming forward and telling where people are, because without that, I think this Motion will be abortive. (Applause.)

THE MEMBER FOR FINANCE AND DEVELOPMENT: Mr. Deputy Speaker, my hon. friend, the Chief Secretary, has indicated that the Government side will be allowed a free vote in this particular Motion. I would like to say that I personally shall vote for the Motion. I would like to say, Sir, though, that I do it despite some of the speeches that have been made from the other side of the Council—speeches which might well have given completely the wrong impression—that what this Motion is seeking is punishment and not justice. Therefore I will vote for the Motion, not because of the speeches, but because of the brilliant maiden speech of my hon. friend the Acting Solicitor General, because of the speech of my hon. friend, Mr. Madan, because of the speech of the hon. Mr. Mathu and last, but by no means least, because of the very good speech of the hon. Member for Rift Valley, who, in moving the Motion, left no doubt as to what was in his mind, whatever else may have been said from his side of Council.

MR. NATIHO: There are only one or two points on which I would like to say something in the course of the debate. In the first place, I think it is a matter of great satisfaction and credit to us all that we have heard a very high standard of speeches during the debate in which, I think, we can say the temper and nerves of all people concerned are so strained. As a rule, Sir, in a debate of this nature, we hear some very wild speeches, with the result, that people who are inclined to vote for the Motion are scared away from it. But on the whole, Sir, when we have gone over the speeches made by the various Members we will find nothing

wrong with the Motion moved by the hon. Member for Rift Valley.

There is one thing that has given me a great deal of distress and that is the brilliant speech of the hon. Acting Solicitor General. After all these months he admits that there is room for cutting down the appellate stage. Surely if there is room for cutting it down, it should have been done before and should not have waited for this Motion. (Hear, hear.)

The second serious allegation was made about the inefficiency of the police. It is all very well for people to say that these armchair critics can sit back and say things, but when the police are given the fullest possible powers, all the money they want, and all the equipment they want and then they cannot bring to justice people who are committing these daylight robberies and crimes of violence in this town, I think it is time that we must look into our house and see what is wrong. If, as the hon. Acting Solicitor General suggested, the Government feels that these criminals are beyond us and we cannot deal with them, then for heaven's sake say so and let us have martial law. But in the absence of that inability of ours to control crime in this town, completely shaking the faith of the people in the Administration and Government, something should be done to tighten up the measures whereby the police will do their work in a manner which will inspire fear in the criminals and confidence in the population.

THE ACTING SOLICITOR GENERAL: On a point of explanation to the hon. and gracious Member for Nyanza, I am afraid I know nothing of the Scottish Statute of 1903. There are two Crown Counsels who are Scottish lawyers and we will look into it. All I know of Scottish capital procedure in the earlier part of the century is that it was so slow that you had to write out the death sentence with a quill pen in long hand before you could pronounce it! With regard to the promise made that the Statute so applied, that a death sentence could be carried out fourteen days after conviction, that would not be possible here. In a colony there is a prerogative right of the subjects of Her Majesty abroad to go to the Privy Council, a process which takes time, and that is at the root of the delay at Lari, because the

[The Acting Solicitor General]

first people whose appeals were dismissed in the Lari massacre went to the Privy Council and they have only just been refused leave to appeal. We here cannot cut out the prerogative rights of subjects to go to the Judicial Committee of the Privy Council. If it could be cut out, it could only be cut out by imperial statute.

Mrs. Sitaw: In order to help the hon. Acting Solicitor General's research, might I say that it was under special listed cases—we were told that was the name given to cases. And also it occurred in a statement made by the Attorney General at Government House in April, either just before or just after the Lari massacre.

THE DEPUTY SPEAKER: Hon. Members are aware that they are not able to make more than one speech in a debate, but I have allowed a certain amount of latitude, because I thought this was in accordance with the wishes of hon. Members in general.

Mr. BLUNDELL: I would first like to underline four points that I tried to make when I opened this Motion. It is, I believe, the function of the Council—on our side of the Council—to advise Members opposite on the Executive activities of Government. The principle I want to establish was this, that the Council does not consider that the processes of law and order are swift enough at the moment to ensure that law and order are maintained. I specifically did not wish to get involved in detail, because I believe that the matter of detail is a matter for the hon. Members on the other side if they are going to carry out the advice which we give them. I do not believe it is really our function to argue how the processes of law and order should be trimmed, what particular stages in the process of law should be removed. What our function is, is to say, in no uncertain voice, that the present process is far too slow and that the responsibility for increasing it falls on their shoulders and not on ours. I think hon. Members all over the Council have made their opinion in that matter only too obvious.

Secondly, I wish to clear out of the way a misunderstanding. I do not believe we will ever deal with the *Mau Mau* terrorists by reverting to tribal

sanctions. That was not any suggestion of mine. The point I wished to make was this. When five and a quarter million of our people have only so recently abandoned tribal sanctions there is a great danger, if they begin to learn that the slow, laborious process of our law is of no effect whatsoever; that is the point I was trying to make.

The third point is this—none of my remarks, nor, I think, the remarks of any Member on this side of Council must be taken to refer to any cases other than those which appeared before the Emergency Assizes under the Emergency Regulations. What we are asking for is the adaptation of the Law to the circumstances of the times as portrayed before us in the acceptance by the hon. Members opposite of the necessity to create the Emergency Regulations, for which special offences go before special courts.

The last thing, Sir, is the whole question of appeal. I am not going to enter now into whether we are wise to have appeals or not to have appeals. I do not think it is even germane to this situation here. The fact at issue is the point which the hon. Member for African Interests, Mr. Ohanga, made. It is that justice must be swift, just and effective. Now if it will please the hon. Member, I would willingly, with the leave of the Council, amend the Motion, by putting "just" between "swift and effective". It was no part of our business to move the Motion with the thought that we wished to destroy the just part of Law. With that in mind, I would ask hon. Members to view the whole question of appeal in this light. The Law must be swift, it must be just, it must be effective. I do not mind—I do not think any hon. Member on this side of the Council would mind—how many appeals are inserted in the process of Law, provided there is swiftness, justice and effectiveness. That is the point, in my view, upon which hon. Members opposite should put their attention in deciding what are the methods by which they can speed up the processes.

Now, Mr. Deputy Speaker, to deal with one or two individual points. The hon. Member, Mr. Ohanga, must accept from me that I had no intention, nor had any other hon. Member, that we should hang without trial. I would like

[Mr. Blundell]

to suggest we eliminate that from our thoughts immediately.

Secondly, I have intimated to him that if it would make him happier to insert the word "just" between "swift" and "effective", it would completely put to this Council what I had in mind in moving my Motion.

The hon. Member for Central Area, Non-Muslim, Mr. Madan—I hope he will forgive me—I appreciate the point of view he put forward. He is trained in the processes of the law, indeed, it is his profession, but listening to him I could not help but think that in his anxiety to preserve the law, we might well lose it. I have a macabre picture in my mind that when the victim is shot, when the corpse falls, we do not hear the clanking of the relentless machinery of justice coming down the street, we hear first the soft whispering of the lawyers, the fluttering of their gowns, rather like vultures coming off the trees around the corpse! Now I believe that we have got special circumstances here to-day and that we cannot afford so much fluttering and so much whispering.

Mr. Deputy Speaker, the hon. and learned Acting Solicitor General, I, too, should like to congratulate him on the speech he made. It is one, I am certain, to which every Member in the Council listened.

I would like to ask him one or two questions. I felt in my mind that in the presentation of his case, he was far too complacent in assessing the speed with which the measures which had been introduced had solved the problem. He said many processes had been lopped off. I would like to say, I would like to ask whether he thinks—as a result of his lopping off—that between the first initiation of the case in the courts and six months later, when as yet no sentence has been carried out, is it really swift, has it really achieved anything? The first case under the Emergency Assizes began on the 3rd March; the man has been sentenced, he has been found guilty; even to-day, no sentence has been carried out, despite all those loppings off, despite the tribute he gave to the police for the speed with which they presented the cases, no justice has been effected.

I have here, Mr. Deputy Speaker, a statement which was given to the Press by the Secretary of State. It is on that note, with the exception of one or two remarks that the hon. Member, Mr. Mathu, made, that I would like to end.

The statement to the Press was this:—
"The Government and I both think that this is the phase of decision." That is the first statement. The second one is this: "It is quite clear that there has to be a great speeding-up in the processes of justice"—and the last is this: "What we have discussed are administrative measures—that is, the number of judges who are going to try cases, Emergency Assizes, dispensing with one or two formalities, considering courts of the first instance and things like that; also tighter arrangements for appeal." That is the statement which the Secretary of State made to the Press nearly six months ago and I would like to endorse every word of what the hon. Member for Western Area, Mr. Nathoo, said—in view of that public statement that "we have now reached the phase of decision"—that it should be necessary for hon. Members on this side of the Council to move a Motion of this nature, necessary for the hon. Acting Solicitor General now to say that he is considering extra psychiatrists, extra judges, extra methods of recording in the courts, necessary for him now to tell us, now, six months after the public proclamation of the "phase of decision" I do suggest that this is what is worrying the public, that this is why I brought this Motion.

Now, Mr. Deputy Speaker, I want to deal with a few remarks which the hon. Mr. Mathu made. I believe that it is not fair to blame either the hon. Members opposite or the police force for their inability to secure the assistance of witnesses. That stems from the very factor we are discussing to-day. If one was in Nairobi, a poor African come into Nairobi from outside, and one saw a gunman shoot another African down and all one can see is that no criminal has yet, under the Emergency Assizes, no brutal murderer from the Lari massacre, has yet been hung, would one hurry forward as a witness? I very much doubt it. Indeed, if you wish to get witnesses to come forward boldly, bravely, the answer lies in implementing the requests we are making in this Motion. In truth, the law

[Mr. Blundell] is so slow, it is not being seen to-day. In the African districts of Nairobi it is not seen to be law. So long as that persists it is useless for us to imagine that witnesses will come forward.

One last word, Sir, I do not know what other hon. Members would think but I would warn Council that it is a very grave step indeed to abrogate Civil powers and move towards martial law and I do not think the situation in this country—however attractive it may seem to some people—warrants it. I think it is wise to record this from this side of Council because statements of that sort may do the country immense harm. I believe that provided the Government will show the resolution necessary in bringing criminals to justice through the processes of civil law, properly adapted and streamlined within the framework of British justice, we can achieve that. That suggestion of the abrogation of civil powers is not a suggestion which, at this stage of the proceedings, at any rate, I believe is wise or necessary.

Lastly, Sir, for 15 months now, the members of the police force have borne a tremendous burden. They were a police force trained by 50 years of peace and precipitated into 15 months of murder and assault. I do not believe we do any good to the maintenance of law in this country by shouting at the police that they are inefficient. (Hear, hear.) They have an immense burden to bear and if it had not been for the police force I would ask hon. Members whether they would be sitting in Council, so I would like, in closing the debate, at any rate, not to associate myself with what I believe are unfair accusations of inefficiency in the police force.

Mr. Deputy Speaker, I beg to move my Motion. (Applause.)

The question was put and carried unanimously.

MOTION

EMERGENCY REGULATIONS—NEED FOR DETERRENT SENTENCES

MR. HARRIS (Nairobi South): Mr. Deputy Speaker, I beg to move:—

That this Council, recognizing that crimes of violence and crimes committed in defiance of decent society are on the increase, resolves that Government gives immediate attention to

making the serving of a sentence a real deterrent to either repetition or contemplation of such crimes.

To this end such attention should be given to the necessity for issuing a directive to prison officers on the implementation of existing regulations, or to the revision of regulations, or to any other measure considered necessary to achieve this object.

Now, Sir, in speaking to this Motion, it may be very necessary to get very near to being repetitive of the debate which we have recently finished. I will take a hint from that debate, Sir, and try and speed up the processes of debating and I will try to be as quick as I can. Now, Sir, in wording the Motion I have tried to draw a distinction and a very clear distinction between those persons serving sentences for normal crimes which happen in normal days and those in prison ~~serving~~ sentences for crimes of violence and crimes committed in direct defiance of the decency of society. I believe, Sir, if you put this Motion against a world background, you will find that for many years there has been growing indiscipline in many countries. It is perhaps not inopportune to mention here that throughout the British Empire, the Empire which was created by those people who have brought humanity to a great number of places in the world, it is in this Empire that a peculiar uprising of violence is apparent. I wonder whether, in fact, we have not—I say we, I mean the British—have not brought humanity to the peoples throughout the world, rather quicker than they and we ourselves have learnt the lessons of citizenship.

If we realize that there is a generation growing up to-day in the world that believes that the rule of the thug and the rule of force is the rule which will help them to attain prosperity and comfort, if we agree to that, surely then, it is only natural that here, in Africa, we would probably get the most acute form of that tendency.

It is here in Africa, particularly in Kenya, that we have stopped the tribal sanctions of 50 years ago. We have substituted a rule of British law and British justice and, Sir, I wonder how many of the people in Africa to-day, under the circumstances in Kenya to-day, believe

[Mr. Harris] that the rule of justice and the rule of law will, in fact, give them the peace and prosperity which they have decided they can obtain by the rule of thuggery and force.

As has been said, Sir, under the cloak of *Mau Mau* in Kenya at the present time, I wonder how much of our crime is in fact an appearance of this world trend, where the rule of thuggery and violence is uppermost. We are teaching the people of all races in Kenya to-day that if they do resort to violence, if they do, in fact, commit crimes against every decent precept of society, if they do, they go to prison. And, Sir, for a vast majority of our population, prison is not the deterrent which many people of the world know.

I believe that the worst thing that can happen to any criminal in Kenya is to be sent to the quarry-camp. I am told that there it is really tough, but I would very much like the Commissioner of Prisons, and, say, the President of the Nairobi Chamber of Commerce to spend a day going through the routine of the prisoner in the quarry-camp, consider his housing, his food, his hours of work and the amount of work he does during those hours and then to go to one of the quarries in the Mathari Valley where a law-abiding, decent citizen is earning an honest living and find out just how much punishment that man in the quarry-camp is getting for a crime against society—I think you will find that with housing and food the criminal is doing better than the honest man.

It is not my job in this debate to try and produce an answer to the problem. It is my job to pinpoint the problem. It may be that the Prisons already have the necessary power to make it uncomfortable for these thugs when they go to jail. It may be that certain members of the prison staff are not seeing that the existing regulations are being enforced. It may be, Sir, and I think this is more likely, that I will be told that you can give these convicts everything that is uncomfortable but that it would cost a tremendous amount of money in order to get the prison staff to enforce the regulations.

In the last ten months we have been told that we had been spending money on the Emergency at the rate of £290,000

per month. I believe that the effect of that will be that when we have a Budget we will have to go through it very carefully and we will have to divide everything into two categories—those things that are essential and those things that are desirable. I believe, Sir, that to-day in Kenya we are paying for many many things which are desirable but not essential. I would submit to the Council that the whole structure of society in this Colony and outside it depends on bringing this rule of thuggery and force to an end. The only way to do that is to make sure that prison is so uncomfortable for those people convicted of such crimes, that they will never dare go back there again and when it is known to their friends, they will never try to emulate their crimes.

In that belief, I commend this Motion to the Council.

MR. USHER seconded.

Question proposed.

THE CHIEF SECRETARY: Mr. Deputy Speaker, Sir, although I am not a gramophone record, I will repeat again, Sir, that on this Motion; as on the last, there is complete freedom of conscience on this side of the Council and indeed, Sir, the Motion will have my personal support because it, in fact, reflects what Government has been doing for some time, giving attention to the matter which the hon. Member mentioned.

There are two particular points which should have consideration. I appreciate that the hon. Member did not consider that he should go into details, but I would ask the Council to bear with me if I mention one or two details because I think it less than fair to the Prisons Officers and to the Prisons Service and, indeed, to this Council if I did not mention these points.

The importance of making prison work, prison sentences arduous, onerous and deterrent—in the words of the Motion, I think—is no new thing. It has not, in fact, always been easy to find suitable work on the spot. I shall be very grateful to hon. Members or anyone else if they can suggest forms of work, for it is a very useful thing to have this in reserve, although we have been launching out on a number of new schemes. Hon. Members will probably be aware that there has been a con-

[The Chief Secretary]

siderable increase of prison camps in various places during the last year or so.

Now the particular forms of work concerned are generally *tsetse fly* bush clearing—clearing bush against *tsetse fly*—on the Mara River and Nyanza. Stone quarrying at Langata, Ngong River, Mackinnon Road, Voi, Lukenia and Upper Tana and I can assure hon. Members that improving techniques will, we hope, result in a greater output and harder work on the part of the prisoners concerned, than perhaps apply to the civil workers with whom he made a comparison even though the former does not have the same sort of incentive as the latter.

The housing indeed, I admit, it is frequently better than the civil worker has, but in that connexion there are points about housing which are not entirely designed for the comfort of the inmate in that case.

I omitted to mention among the various works concerned, road-making on the Witu-Garsen Road and at Lodwar. Both are places which the ordinary person would not choose to work for his own benefit.

I should mention the hours of work, Sir, which starts at six o'clock, that is the unlocking time, six-thirty to twelve o'clock—break from twelve to one, and work from one to four again—outside those hours there are various chores to be performed inside the prisons.

The hon. Mover did anticipate one point when he talked about the question of money. Well, Sir, we make it go as far as we can but there is a very serious point. In this matter of the degree of work performed depends to a very large extent on the supervision available. Now, I do not only mean the number of warders who can be put on at the same time; another factor is European supervision, but there is a further factor that warders are on duty the whole time and no doubt their attention begins to stray to some extent in the middle of a hot afternoon even though they are not working so hard as the prisoners, but it is unfortunate that the degree of supervision should fall off for that reason. The alternative, Sir, of providing a shift system by which a warder would come on bright and hearty when the prisoners were beginning to feel fairly jaded would

involve a considerable sum of money and I am sure I would have the agreement of my hon. friend, the Member for Finance and Development, who has carefully left the Chamber, when I say that I have to examine that particular aspect very very carefully.

Now, Sir, lest it be thought, and I am sure it is not intended, lest somebody should think that a reflection on the Prisons Department is intended, I think it is only fair to point out that the prison population has increased very considerably. In October, 1952, it stood at 13,500. In August this year it had risen to 27,000 and it is increasing every day. Now, as the hon. Member pointed out, money has been made available through the Emergency Fund and a considerable amount has been spent on the staff of the Prisons Department which has been expanded and is being expanded. There are now approximately 1,700 warders—African warders—10 Asians and 47 Europeans. If the population goes on increasing it may be necessary to increase that staff. There is, also, the training of these people. The increase in staff, as I say, has been very considerable because before the Emergency the Prisons Department was exiguous in the extreme, but a considerable number of these people are gradually getting trained, and some very good material to augment the existing good material is being recruited.

I can assure the hon. Member that this particular subject of the Motion has been very much in my mind, and I have had discussion with the Commissioner of Prisons on a number of occasions and we are keeping very carefully under review the question of any amendments to the rules, regulations or even the Ordinance, which may be required. While I have no reason to think that the object of the hon. Mover is failing owing to the ignorance of prison officers to carry out the rules and regulations to the fullest extent practicable, I shall be very happy indeed to make sure that they are fully aware and that they do carry them into effect. I may say that with the considerable amount of new material coming into the Prisons Department and also an extension of a number of prison camps, it is very necessary that inspection should be frequently carried out to ensure that the theory is being put into practice.

[The Chief Secretary]

There is one further point which I should mention, and that goes back to the hon. Mover in his introductory remarks, where he drew a distinction between the ordinary "respectable" convicts and those who are enemies of society. I may say that considerable progress has been made over the last year or two in regard to the segregation of different types of prisoners, and this particular aspect is taken very much into account. There have been considerable difficulties owing to antiquity of a number of prisons in this country, but that should be very much improved with the completion of the new prisons at Shimo-la-Tewa and Kamili, and in the meantime everything possible is being done in the way of segregation particularly by putting particular inmates in particular prison camps. I can give hon. Members an assurance, Sir, that although this idea contained in the Motion is not a new thing, I shall continue to give it attention and so will the Commissioner of Prisons. (Applause.)

MR. COOKE: The hon. gentleman seems to be quite unaware that a Committee on this particular matter four years ago made a very strong recommendation. Not only did that Committee but the Habitual Offenders Committee as well so that everything that has been said to-day has been said *ad nauseam* in front of those two Committees and apparently no action was taken although strong recommendations were made; they could no doubt be found in the Secretariat pigeon-holes.

THE CHIEF SECRETARY: I may have got my timing wrong and staff difficulties enter into it, but I am perfectly aware of the reports to which the hon. Member refers but no doubt a number of people here were not present at the hearing of the matter of those reports.

MR. MATIU: I want to say just a few words in support of this Motion. I would like to refer to a matter of the work that my hon. friend, the Chief Secretary, mentioned and to suggest, Sir, that I think we can use prison labour in making uninhabitable areas habitable at the present moment. Congested areas in the Central Province could be relieved by getting some of the inhabitants to settle along the Tana where we can get settlement schemes and I think prison labour

would be suitable for that kind of work and it will make them quite uncomfortable—in the very words that my hon. friend the Mover has said.

The second point is that if we want to make them work hard in order that they should be deterred from ever committing crimes, it follows that you have to look after their physical condition because I cannot see how you can expect a man to put in a very good day's work if his physical condition is not sound. Therefore, the feeding, housing, clothing and medical attention and that kind of thing come into it. You cannot have it both ways.

Finally, Sir, this question of training which my hon. friend has mentioned is a very important one. If we do not want these people to commit a crime again, to be anti-social when they are given liberty, we should equip them in such a way that when they come out, they can earn a decent, honest livelihood. I know that is happening, I am only suggesting we might be able to do that on a greater scale than at the moment.

THE CHIEF SECRETARY: On a further point of explanation, may I thank the hon. speaker for his remarks, but I did not refer to that particular aspect because it seemed to me to be outside the terms of the Motion.

MR. MADAN: Mr. Deputy Speaker, there are very few remarks I want to make about this Motion with which I am in agreement and I support it. I think in discussing details on the matter of where the prisoners are to be put to work we might lose sight of the very important principle that is, or could be, evolved out of this Motion. That is to consider why people commit crimes in defiance of decent society. The hon. Mover referred to the bringing in of humanity too soon to people who are not ready to receive it yet and he stated that he thought that the modern tendency is that crime brings prosperity—if I have got him right. But when we brought humanity to Africa, or for that matter to any other part of the world, it is my contention that we overlooked many other essentials. With the removal of the older systems, or changes that we brought about in the older civilizations or semi-civilizations, we forgot that the basic necessities of life have to be provided such as education, equality

[Mr. Madan]

of opportunity. Sir, if we had provided the elementary rights to people surging forward with an unquenchable desire to live like others, we would not have these troubles to-day.

MR. HARRIS: Mr. Deputy Speaker, Sir, very briefly, I am very grateful to the Chief Secretary for not only supporting this Motion but also for giving the statement that he did. The only thing that I should ask is that in cases of bush clearing, quarrying and so on, where geography makes a place desirable, would he add to the mere labour something else which will act as a deterrent. If he would like to know what sort of thing, I suggest one of his officers might go on a sort of course to Aldershot and see the things that they do to British soldiers when they are incarcerated there.

I would like to say, Sir, that I hope that nothing in my opening was taken as a criticism of the Prisons Department and my only suggestion was that perhaps during the heat of the afternoon certain officers are not quite so attentive to duties as usual.

I think, Sir, the points raised by the hon. Mr. Mathu are perhaps irrelevant. I am only talking in this Motion, as I thought I made clear, of a certain class of criminal which the hon. Chief Secretary called honest criminal.

THE CHIEF SECRETARY: No, Sir, respectable, respectable and honest are not always the same thing.

MR. HARRIS: Sorry, Sir, Respectable criminals.

Lastly, Sir, the hon. Member for Central Area, I think, misunderstood me on the question of humanity. What I meant by humanity was the succession of prison reformers who reformed the prisons long before many of the prisoners inside were ready to receive the reforms. That is what I was getting at.

With that, Sir, I beg to move.

The question was put and carried.

ADJOURNMENT

THE DEPUTY SPEAKER: We have now reached the time for adjournment.

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

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

Friday, 9th October, 1953

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

[Mr. Deputy Speaker in the Chair]

PRAYERS

ORAL ANSWERS TO QUESTIONS

QUESTION No. 135

MR. COOKE asked the hon. Member for Finance and Development:—

With reference to the Nairobi-Mombasa Road:—

(1) When the bridges over the Kiboko and Simba Rivers are likely to be completed?

(2) The cause of the delay in the re-alignment of the road from Athi River to Mile 30?

THE MEMBER FOR FINANCE AND DEVELOPMENT:

(1) By the end of January, 1954.

(2) Plant movements necessitated by the Emergency will cause a delay of about two months in the completion of this work.

QUESTION No. 136

MR. COOKE asked the hon. Member for Finance and Development if he is aware that valuable units of road construction machinery have lain idle near Longonot Station for many months; and what steps he intends to take to see that they are put to productive use?

THE MEMBER FOR FINANCE AND DEVELOPMENT: The answer to the first part of the question is in the affirmative.

As regards the second part of the question, the machinery belongs to a commercial concern and its future use is, therefore, a matter for decision by this concern.

MR. COOKE: In an Emergency such as this, could not the machinery in some way be taken over by Government. I understand there is a great shortage of machinery at the moment.

THE MEMBER FOR FINANCE AND DEVELOPMENT: I would like to say that the machinery—so far as we are concerned, the Road Authority have used their own plant to carry out Emergency works and there has been no complaint

[The Member for Finance and Development]

from the Military Authorities as to the manner in which this work has been executed. A limited amount of plant has been hired to avoid dislocation in the normal Road Authority work, but in view of the limited funds at the disposal of the Authority, it is not considered advisable for the Authority to hire further plant in view of the increased cost resulting from this method of construction. If further plant is required for use on Emergency works the question of hiring additional machinery will be examined.

I have consulted the Legal Department as to whether we have the power to requisition road construction plant under the Emergency Regulations and am informed that we probably have not. We have the power to requisition vehicles, but could, of course, obtain the power to requisition road construction machinery if this was considered necessary.

But, Sir, I think that as long as we can carry out our work from our own machinery and the machinery we hire, to call upon the requisition of private plant would be to interfere with the liberty of the subject unnecessarily.

MR. COOKE: Arising out of that answer, Mr. Deputy Speaker, did not one of the hon. gentleman's colleagues inform us earlier this year that work on the Bamburi Road could not be proceeded with because of the shortage of machinery?

THE MEMBER FOR FINANCE AND DEVELOPMENT: I think I have pointed out that the Road Authority has—whatever the position was then—hired whatever machinery they thought was necessary to carry out the road construction at Bamburi.

QUESTION No. 139

MR. BLUNDELL asked the hon. Member for Finance and Development to state:—

(a) The estimated cost of the Chief Secretary's new house?

(b) Whether such estimate was approved by D.A.R.A.?

(c) The actual cost of the house when finished?

(d) The number of prisoner-days engaged in preparing the laying out of the tennis court, gardens and paths?

(e) Whether the gate house and guest house were approved in the original plan and submitted to D.A.R.A.?

THE MEMBER FOR FINANCE AND DEVELOPMENT:

(a) £13,980.

(b) Yes. On the 31st January, 1952.

(c) £15,309.

(d) 931 prisoner-days.

(e) The guest house was included in the original plan and submitted to the Development and Reconstruction Authority, but as the layout of the grounds had not been finalized, the gate house, was not shown on the plan although sufficient funds were allowed for it in the original estimate.

MR. BLUNDELL: Arising out of that answer, Mr. Deputy Speaker, were the 931 prisoner-days calculated in the cost which the hon. Member has given of the £15,309?

THE MEMBER FOR FINANCE AND DEVELOPMENT: I think the answer is undoubtedly yes.

QUESTION No. 145

MR. NATHOO: Mr. Deputy Speaker, on behalf of the hon. Member for Eastern Electoral Area (Mr. A. B. Patel), I beg to ask the Member for Agricultural and Natural Resources to state:—

(a) In view of the fact that imported sugar costs much more to this country than the one produced locally and there is not adequate local production, what reasonable steps are adopted by him to encourage increased sugar production locally?

(b) If he is aware that Miwani Sugar Mills (Kenya) Ltd., at Miwani and Kenya Sugar Ltd. at Ramisi are prepared to increase sugar production at their respective mills if they are given reasonable encouragement?

(c) If he has received any communication or communications from Miwani Sugar Mills (Kenya) Ltd.

[Mr. Nathoo]

suggesting steps which need be taken in order to encourage increase in the sugar production at Mtwani?

(d) What suggestions are made by Mtwani Sugar Mills (Kenya) Ltd. which will help them to increase sugar production and what he has done in this connexion?

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES:

(a) As the hon. Member is aware, Mr. A. C. Barnes, a recognized authority on sugar production, visited the Mtwani and Kenya Sugar Estates towards the end of 1952. His recommendations on the measures necessary to increase sugar production are, so far as is practicable, being implemented. Specific action has been taken as follows:—

(i) A road through the main sugar-growing area from Kibos to Mtwani has been reconstructed at a cost of £16,000 and will facilitate the transport of sugar cane grown by Asian farmers to Mtwani mills.

(ii) Legislation to regulate the relations between the cane growers and the sugar millers is under active consideration, in consultation with interested parties in Nyanza.

(iii) Yield experiments are in progress both in Nyanza and Coast Provinces to find means of increasing the yield of sugar per acre. These experiments have led to the production of a new and improved variety of cane (C.O. 421) which is now being planted by the Mtwani Sugar Company.

(iv) The possibility of manufacturing industrial alcohol from the by-product, molasses, is being examined in discussion with the sugar companies.

(b) I am well aware, and indeed appreciative, of the fact that the Mtwani Sugar Mills and the Kenya Sugar Company are prepared to increase sugar production at their respective mills and every reasonable encouragement is being and will be given to them by Government to do so.

(c) and (d) A proposal has been received from the Mtwani Sugar Mills that a new road should be built from Mtwani to Chemillil in the interests of increased

sugar production. The proposal has been considered by the Road Authority but as the Authority has insufficient funds to meet the full cost of this work, which entails the construction of two fairly large bridges, and as the company would be the principal beneficiary if the road should be completed, it is considered that it would be reasonable, once a final estimate of the work is completed, to ask the company to share in the cost of this construction.

MR. MATHIU: Arising out of that reply and in particular the reference to (c) and (d), is the hon. Member satisfied that the working conditions of the labour at Mtwani and Ramisi are such that they will give them encouragement to work harder and produce more.

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: I understand that the labour conditions at those mills have been examined on several occasions by the Labour Department and the conditions are now considered to be satisfactory.

THE MEMBER FOR FINANCE AND DEVELOPMENT: I would like, Sir, to correct at the earliest possible moment the reply which I gave to the hon. Member for Rift Valley which, I understand, is not, in fact, correct. The 931 prisoner-days were, in fact, not charged to the building of the house. Indeed, the position is that the prisons have not charged for that work.

MR. COOKE: So the costings are not correct?

THE MEMBER FOR FINANCE AND DEVELOPMENT: I think the hon. Member for the Coast has something in that. It is a matter which I will look into.

MR. BLUNDELL: If that had been the original answer, I had a Supplementary to ask. Would that be in order now? The hon. Member said that undoubtedly he thought the cost—because he used the word “undoubtedly”, I was rather doubtful myself! I am grateful to the hon. Member for his integrity for coming forward and admitting that. May I ask my Supplementary?

THE DEPUTY SPEAKER: Yes.

MR. BLUNDELL: The Supplementary I wish to ask is this. If the costing of the prisoners is not included in the original

[Mr. Blundell]

cost, has the hon. Member any idea of the actual cost of a prisoner-day?

THE MEMBER FOR FINANCE AND DEVELOPMENT: The answer, Sir, is that I would have to have notice of that question. I think there is something in the point raised by the hon. Member for the Coast. I will go into the costing of prisoner-days, where they undertake work of this kind to improve Government property.

QUESTION No. 149

MR. GIKONYO (African Representative Member) asked the hon. Member for African Affairs:

(a) How many cattle, sheep or goats, bicycles, motor vehicles, donkeys, have been seized from the Kikuyu tribe in the form of communal punishment up to the end of September, 1953; and

(b) whether in view of the bitterness which has resulted from this form of communal punishment Government is prepared to consider the revocation of the regulation permitting it?

THE MEMBER FOR AFRICAN AFFAIRS:

(a) Six thousand and forty-seven head of cattle, 15,033 sheep or goats, 28 bicycles, one motor vehicle, 52 donkeys and six pigs have been seized from members of the Kikuyu tribe under the Communal Punishment Regulations, up to the end of September, 1953.

In addition, 245 cattle, 15,846 sheep or goats, 79 bicycles and 50 donkeys have been seized from forest squatters and farm labourers who were mostly Kikuyu.

(b) Communal fines are imposed after the most careful consideration within the most limited area possible in cases where the inhabitants have condoned or assisted in the most serious crimes or brutal murders, or refused to give information concerning such crimes. The remedy for the people is co-operation to assist the forces of law and order, and while cases continue in which the local inhabitants assist *Mau Mau* terrorists, the Regulations must stand.

MR. MADAN: Arising out of that answer, is it also not true that the affected people are first given an opportunity to give information before confiscation takes place?

MR. COOKE: Will Government consider the expediency of killing more thugs rather than risking doing injustice to a number of people?

THE MEMBER FOR AFRICAN AFFAIRS: The answer to Mr. Madan is yes, they are given every opportunity and every case is most carefully investigated before a decision is taken to impose communal punishment.

The answer to the hon. Member for the Coast—I hope he is aware that every effort is made to kill thugs.

MR. MATHIU: Arising out of that reply, could not the hon. Member say whether the deprivation of milk to children, who cannot give any information, is just—as an effect of this communal punishment?

THE MEMBER FOR AFRICAN AFFAIRS: Sir, I am not aware of any serious hardship having been caused in the deprivation of milk to children, but I can certainly look into this aspect of it.

MOTION

TRAFFIC BILL—SELECT COMMITTEE REPORT

THE CHIEF SECRETARY: Mr. Deputy Speaker, I beg to move, under Standing Order No. 108 that the Traffic Bill, 1953, as amended by the Select Committee, be considered.

The report of the Select Committee, which I have already tabled, shows full and detailed information as to the amendments proposed to the Bill as originally submitted to this Council.

The amendments are designed largely to meet the points raised by the hon. Members in the debate on the Second Reading and the Committee also considered, Sir, certain points raised in memoranda submitted in response to an invitation issued by the Select Committee.

There is attached to the report a draft of the amendments to the Bill consequent upon the recommendations of the Select Committee.

Sir, I beg to move that that report be considered.

THE DEPUTY SPEAKER: According to the Standing Orders, when such a Motion is moved, it is proceeded with without the question being put, so debate will proceed, if any.

MR. MACONOGHIE-WELWOOD: Mr. Deputy Speaker, Sir, I rise briefly to say why I did not sign the Select Committee Report. Pressure of other business did not allow me to attend a single meeting of the Select Committee, of which I was a member, so under those circumstances, I did not think it right to sign the report.

THE DEPUTY SPEAKER: No other Member rising to speak, perhaps the Mover will move that the report be adopted, then we can pass to Third Reading.

THE CHIEF SECRETARY: I beg to move that the report be adopted.

THE MEMBER FOR FINANCE AND DEVELOPMENT seconded.

Question proposed.

The question was put and carried.

The Traffic Bill, 1953

THE CHIEF SECRETARY: Mr. Deputy Speaker, I beg to move that the Traffic Bill, 1953, as amended, be read a Third Time.

Question proposed.

The question was put and carried.

The Bill was accordingly read a Third Time and passed.

COMMITTEE OF THE WHOLE COUNCIL.

Committee of the whole Council—Order for Committee read. Mr. Deputy Speaker left the Chair.

IN THE COMMITTEE

[Sir Charles Mortimer, C.B.E., in the Chair]

The Interpretation and General Clauses (Amendment) Bill

Clauses 1 to 3 agreed to.

Title and enacting words agreed to.

The Oil Production (Amendment) Bill

Clauses 1 to 3 agreed to.

Title and enacting words agreed to.

The Land Acquisition (Mombasa Oil Refinery) Bill

Clauses 1 to 3 agreed to.

Clause 4

MR. USHER: There is one point I wish to bring up and I think it had better be tied to this clause—No. 4—which deals with leases to the Company by the Crown for, among other things, ancillary purposes. Ancillary purposes include provision of housing and facilities for recreation or welfare of the employees of the Company.

Sir, it has been generally understood—I do not know quite upon what grounds—that the Company, if it establishes itself in this place, will be, as it were, self-contained. Now, Sir, I hope that the Government, in making these leases, will discuss fully with the Company the propriety of this idea of being self-contained because there are many people, including myself, who feel that it would be a very good thing if the administration and the technicians of the Company could integrate themselves as far as possible with the community of the Coast and of Mombasa.

There are good sociological reasons for this and I should like some assurance that the point will be borne in mind and that in the negotiations preceding such leases, discussions with the Company to this end will take place.

THE SECRETARY FOR COMMERCE AND INDUSTRY: Mr. Chairman, I can give an assurance that the point raised will be discussed with the Company. I am not quite clear what the hon. Member really is driving at—I cannot think that that employees of a concern like that will live an entirely cloistered existence within the limits of the refinery and not come in and mingle with the people in Mombasa and enjoy the local amenities.

THE CHAIRMAN: If I may adopt the unusual procedure of speaking from the Chair, I think I can explain the situation better than anyone else here, as I have been in all the negotiations on this subject.

The company itself at the earliest stage in the proceedings expressed a desire to have its staff integrated with the local community and not to establish a separate oil township. (Applause.) To that end the firm of Sir Alexander Gibb has been engaged to carry out a sociological survey of the island and its surroundings and to report back to the company to see

[The Chairman]

how far it is possible for the desire of the company in this respect to be carried out, without any serious and alarming effects on the local situation. The representatives of Sir Alexander Gibb have arrived in the country and they went down to the Coast this morning by the early morning plane and will now be engaged in the preliminary investigation for their sociological survey.

MR. USHER: Thank you, Sir—much relieved!

Clauses 4 to 10 agreed to.

First and Second Schedules agreed to.

Title and enacting words agreed to.

The Explosives (Amendment) Bill

Clause 1 agreed to.

Clause 2

THE MEMBER FOR EDUCATION AND LABOUR: Mr. Chairman, I beg to move that clause 2 be amended as follows:—

Add new paragraph (d) as follows:—

"(d) by inserting at the end of the definition of explosives, the following proviso—

Provided that "explosives" shall not include ammunition as defined in the Arms and Ammunition Ordinance, or in any Ordinance for the time being replacing or amending the same."

Question proposed.

The question was put and carried.

Clause 2, as amended, agreed to.

Clauses 3 to 10 agreed to.

Clause 11

THE MEMBER FOR EDUCATION AND LABOUR: Mr. Chairman, I beg to move that clause 11 be amended as follows:—

Substitute for proviso (ii) of Clause 11—

"(ii) no permit shall be required for the conveyance of explosives within any land or property belonging to or occupied by the person conveying, or authorizing the conveyance of the explosives."

Question proposed.

The question was put and carried.

Clause 11, as amended, agreed to.

Clauses 12 to 21 agreed to.

Clause 22

THE MEMBER FOR EDUCATION AND LABOUR: Mr. Chairman, I beg to move that clause 22 be deleted and the following clause substituted:—

22. The Schedule to the principal Ordinance is amended in the following respects—

(a) by deleting the words "Safety Fuse" and "igniters or tishia sticks" and substituting therefor the words "Danolite and instantaneous detonating fuse";

(b) by deleting the words "Ammunition of various kinds (cartridges)."

Question proposed.

The question was put and carried.

Clause 22, as amended, agreed to.

Title and enacting words agreed to.

The Audit (Amendment) Bill

Clauses 1 to 5 agreed to.

Title and enacting words agreed to.

THE MEMBER FOR FINANCE AND DEVELOPMENT: Mr. Chairman, I beg to move that the Committee does report back to the Council its consideration of the Bills on the Order Paper, with and without amendment.

Question proposed.

The question was put and carried.

Council resumed.

[Mr. Deputy Speaker in the Chair]

REPORT

THE DEPUTY SPEAKER: Will hon. Members in charge of Bills report one by one.

THE CHIEF SECRETARY: I beg to report that the Committee of the whole Council has considered the Interpretation and General Clauses (Amendment) Bill and has approved the same without amendment.

The Interpretation and General Clauses (Amendment) Bill

THE ACTING SOLICITOR GENERAL: I beg to move that the Interpretation and General Clauses (Amendment) Bill be now read a Third Time.

Question proposed.

The question was put and carried.

The Bill was accordingly read a Third Time and passed.

REPORT

THE SECRETARY FOR COMMERCE AND INDUSTRY: I beg to report that the Committee of the whole Council has considered the Oil Production (Amendment) Bill and approved the same without amendment.

The Oil Production (Amendment) Bill

THE SECRETARY FOR COMMERCE AND INDUSTRY: Mr. Deputy Speaker, I beg to move that the Oil Production (Amendment) Bill be now read a Third Time.

Question proposed.

The question was put and carried.

The Bill was accordingly read a Third Time and passed.

REPORT

THE SECRETARY FOR COMMERCE AND INDUSTRY: I beg to report that the Committee of the whole Council has considered the Land Acquisition (Mombasa Oil Refinery) Bill and approved the same without amendment.

The Land Acquisition (Mombasa Oil Refinery) Bill

THE SECRETARY FOR COMMERCE AND INDUSTRY: Mr. Deputy Speaker, I beg to move that the Land Acquisition (Mombasa Oil Refinery) Bill be now read a Third Time.

Question proposed.

The question was put and carried.

The Bill was accordingly read a Third Time and passed.

REPORT

THE MEMBER FOR EDUCATION AND LABOUR: I beg to report that the Committee of the whole Council has considered the Explosives (Amendment) Bill

and has approved the same with amendment.

The Explosives (Amendment) Bill

THE MEMBER FOR EDUCATION AND LABOUR: Mr. Deputy Speaker, I beg to move that the Explosives (Amendment) Bill as amended be now read a Third Time.

Question proposed.

The question was put and carried.

The Bill was accordingly read a Third Time and passed.

REPORT

THE MEMBER FOR FINANCE AND DEVELOPMENT: I beg to report that the Committee of the whole Council has considered the Audit (Amendment) Bill and approved the same without amendment.

The Audit (Amendment) Bill

THE MEMBER FOR FINANCE AND DEVELOPMENT: Mr. Deputy Speaker, I beg to move that the Audit (Amendment) Bill be now read a Third Time.

Question proposed.

The question was put and carried.

The Bill was accordingly read a Third Time and passed.

The Guarantee (High Commission Railways and Harbours Loans) Bill

Order for Second Reading read.

THE MEMBER FOR FINANCE AND DEVELOPMENT: Mr. Deputy Speaker, Sir, I beg to move that the Guarantee (High Commission Railways and Harbours Loans) Bill be read a Second Time.

I think, Sir, hon. Members of this Council are well aware that in order that loans raised by the East African Railways and Harbours and by the Self-contained Services of the High Commission shall be able to enjoy trustee status, it is essential that these loans shall be guaranteed by the Territorial Governments. The Bill that we are now discussing required a guarantee of loans of some £3,500,000 and £32,750,000 from this Government. On previous occasions in discussing Bills of this kind, it has been well understood and agreed between both sides of the Council that this Bill would be supplemented by agreement

(The Member for Finance and Development)

between the three Territorial Governments, limiting their liability under the Guarantee to one-third of any amount that might be called upon. The Guarantee is an essential part of the security for the investors. Hon. Members will notice, of course, that while the Bill discusses the point of £3,500,000 and £32,750,000 the Guarantee is, of course, more than that, but that is to cover the possibility of loans having to be raised at a discount.

Perhaps this might be a convenient point, with your permission, Sir, to explain to the Council why one other Bill, a Bill to amend the Guarantee Ordinance, the High Commission Railways and Harbours Ordinance for 1950 has not been introduced into this Legislative Council. It is because the whole of the money has been raised on the London market by the Railways and Harbours and they have not had to go, as might be feared, to an outside agency. Therefore, that particular Bill will not be presented and this will be the only Bill presented on behalf of the Railways and Harbours.

Now there is one point about which I would like to inform all Members at this stage. I think everyone will be well aware of the very great difficulty being found by all colonies, and indeed dominions as well, in the raising of capital for all the projects that they would wish to undertake for the development of their countries, and East Africa, of course, is no different to any other area or region in that it finds it difficult to obtain entry to the London market for all the capital that is needed to carry out development projects, and no development project can be of greater and more vital importance to the development of the Territories as a whole than the East African Railways and Harbours.

The difficulty in raising capital finance on the London market has made the Territories and the East African Railways and Harbours search round for other sources of loan finance and it became obvious that the Territories or the Self-contained Services like the East African Railways and Harbours, were left to seek aid, loan aid, from such financial sources as the Mutual Security Agency or the International Bank. The

International Bank and the Mutual Security Agency are, of course, limited in the type of project to which they can lend money and they can, indeed prefer to, lend money to a specific project rather than a programme of development which cannot be tied down specifically in the way of revenue and production. This meant, of course, that of all the four borrowing authorities which I am now discussing, the Uganda Government, the Kenya Government, the Tanganyika Government and the East African Railways and Harbours, the East African Railways and Harbours was the one that had much more chance of success in having recourse to the International Bank than any of the individual Governments, and it became obvious, therefore, that it was the Railways that were likely to obtain finance from that source and improve the chances of the other Territories in entering the London market and getting a share of what capital was available there, but of course, the term of repayments on borrowings from such sources are, I will not say more onerous, they are more burdensome on the present generation than are loans which can be taken on the London markets and covered by a sinking fund, and a possible conversion of the balance. There is the need, therefore, to meet that extra burden. The agreement that is proposed between the three East African Governments and the East African Railways and Harbours in this matter is that the four participating partners, if I might call them that, in such an enterprise, shall share equally the burden of any additional charge during the years on which there is a shortfall between what would have to be met on the ordinary loan operation and what has to be met on the type of loan operation which the International Bank undertakes. Therefore, in this particular case, if it is the Railways and Harbours that raised the money from the International Bank we shall have to bear one-quarter of the shortfall. On the other hand, if we are the borrowing authority that has recourse to the International Bank, then the other partners will bear one-quarter of the shortfall also. At the end of the period of burden, the other three partners will be repaid by the borrowing partner—the margin of the shortfall.

[The Member for Finance and Development]

It is a complicated matter. I trust I have made it fairly clear to the hon. Members opposite. If they have any questions to ask I will certainly do my best to answer them.

Just one more point, Sir. The Bill, as hon. Members will see in section I, only comes into force on such day as the Governor may by notice in the Gazette appoint, and of course, I will see that the undertaking given in previous debates in this matter are fulfilled before the Bill is brought into force.

Mr. Deputy Speaker, I beg to move.

THE CHIEF SECRETARY seconded.

Question proposed.

THE DEPUTY SPEAKER: If no other Member wishes to speak I will put the question.

Question put and carried.

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

The Guarantee (High Commission Posts and Telecommunications Loans) Bill
Order for Second Reading read.

THE MEMBER FOR FINANCE AND DEVELOPMENT: Mr. Deputy Speaker, Sir, I beg to move that the Guarantee (High Commission Posts and Telecommunications Loans) Bill be read a Second Time.

The case for this Bill is substantially that of the Bill that I have just discussed and tried to explain to hon. Members opposite. I do not think, therefore, that it is necessary to repeat all the arguments that I have just put forward—I will merely say that this Bill also covers the possibility, it is only a possibility at this stage, that part of the loan will be raised from the International Bank and the guarantees and conditions that apply to the previous Bill apply to this one also.

Mr. Deputy Speaker, I beg to move.

THE CHIEF SECRETARY seconded.

Question proposed.

THE DEPUTY SPEAKER: If no other Member wishes to speak, I will put the question.

The question was put and carried.

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

MOTION

Sugar Consumption Tax Ordinance

THE CHIEF SECRETARY: Mr. Deputy Speaker, Sir, in the absence of the Member for Agriculture and Natural Resources, I beg to move:—

BE IT RESOLVED that the Sugar Consumption Tax Ordinance shall remain in force until the 31st December, 1954.

Hon. Members will be aware, Sir, that this Ordinance provided for its termination unless it is kept in force by a Resolution of this Council and it has been extended from year to year in the past and it is proposed that it shall be extended for a further year. Since there is no new principle involved in this, Sir, I do not think it is necessary for me to say more.

Mr. Deputy Speaker, Sir, I beg to move.

THE MEMBER FOR EDUCATION AND LABOUR seconded.

Question proposed.

THE DEPUTY SPEAKER: If no other Member wishes to speak, I will put the question.

The question was put and carried.

COMMITTEE OF SUPPLY

Committee of Supply—Order for Committee read. Mr. Deputy Speaker left the Chair.

IN THE COMMITTEE

[Sir Charles Mortimer, C.B.E., in the Chair]

THE MEMBER FOR FINANCE AND DEVELOPMENT: Mr. Chairman, I beg to move:

BE IT RESOLVED that a sum of £750,000 be allocated to meet expenditure arising from the State of Emergency.

Mr. Chairman, I laid on the Table of the Council yesterday an analysis and a statement of Emergency expenditure to the 31st August, 1953, from which hon. Members will see that some £2,500,000 has been voted to the Emergency Expenditure Fund, and that by the 31st

[The Member for Finance and Development]

August, 1953, some £2,112,220 had been spent, which left on the 31st August a sum of £387,780 in the Emergency Expenditure Fund.

Whilst I will not go through the details of that statement, it might be convenient to summarize the principal items of expenditure which have occurred during these months of Emergency. The Administration total is some £272,000. The Police, which, of course, includes the Kenya Police Reserve, is £1,259,000. Prisons, £93,000. Military expenditure, £134,000 which excludes the Kenya Regiment, but includes a proportion of public work done on behalf of the Military; and the Kenya Regiment, £210,000.

Now, those figures would suggest a monthly average of about £210,000. That, of course, is misleading. The rate in September will be about £240,000 plus extraordinary payments to be made, which I will summarize to the Committee at a later stage. They cover such items as transport of troops and Military expenditure.

So that it would be correct to say, Sir, that at the present moment our expenditure is running at between £250,000 and £260,000 a month.

Now, Sir, the only Military expenditure included in the presented analysis of Emergency expenditure is £84,000, in respect of the movement of the Lancashire Fusiliers, but there is a sum of about £50,000 on Military camps and Emergency work services. We have, however, since this account was made up, paid a further sum of £94,000 in September, £78,000 of which was in respect of the movement of troops. We have very recently received a claim for Military expenditure in April, of about £30,000, and we have now received further claims for the movement of troops amounting to £29,000.

From the fact that I have mentioned that we have very recently received a claim for Military expenditure in April hon. Members will see that our payments of Military expenditure, and their presentation of accounts, is somewhat in arrears, and of course I must make it perfectly clear to this Committee that, in so far as Military expenditure is con-

cerned, the Kenya Treasury has little or no control.

The rate of Police expansion, which hon. Members have seen at £1,259,000, is a snowball. If the additional 450 Assistant Inspectors of Police, which have been authorized are here by the end of the year, and allowing for the full impact of the Asian call-up, Police expenditure will, during the next three months, increase by about £43,000 per month. There will be a consequential non-recurrent expenditure of £38,000 and still more and more claims for additional personnel are being made, usually by, and with the support of, those people who cry for action and still more action.

In addition to the expenditure charged to the Emergency Expenditure Fund, the Colony has incurred additional expenditure attributable to the Emergency and consequent upon new commitments approved during the year by way of Supplementary Estimates.

Now, Sir, I think it would be as well if, at this particular stage, I recounted to the Committee the position of the Emergency Expenditure Fund. When the State of Emergency was declared, it became obvious to me, in my position as Member for Finance, that if the normal procedure of obtaining parliamentary authority for every item of expenditure, before the money could be expended, were to be followed in regard to the Emergency, there would be a continual delay, because money would not be available. I therefore suggested to this Council, of which we are now a Committee, a system of allocating money into an expenditure fund from which money could not be spent without the authority of the Member for Finance. In other words, hon. Members, I accepted personal responsibility for the money that was spent from this Emergency Expenditure Fund, in order that action could proceed during the Emergency without the delay consequent upon the normal parliamentary procedure of obtaining financial authority. I have tried, as far as lay within my power, to fulfil my duties to this Council and to this Committee in ensuring that expenditure has not been wasteful, but I must say, with all due respect to everybody concerned in the spending of money in this Emergency, that unless

[The Member for Finance and Development]
there is a difference in attitude on the part of some of the people who are spending money in this Emergency, I shall have seriously to consider coming back to this Council and saying that I can no longer accept the position of personal responsibility.

I recognize, of course, that in an Emergency things are difficult, that everybody wants everything done at once, but as long as I am Member for Finance I must point out that it is my duty to try and protect the taxpayers and the economy of this country, and however unpleasant that duty, I shall try to perform it. (Applause.) But hon. Members both on my side of the Committee and on the other side of the Committee must bear in mind that unless the Member for Finance and the Treasury have support in this matter, they cannot carry out that duty, and as hon. Members on my side of the Council must be asked to look at the attitude of some of the people who are spending in this Emergency, so, on the other hand, I must ask hon. Members on the other side of the Committee seriously to think when, on behalf of the interests they represent, they press for this or that expenditure. They must remember that in the final issue it is the taxpayer of this country who will have to foot the bill, and the economy of this country that will have to struggle to survive.

Now, Sir, a number of items have been borne by this country through the normal channels of financial procedure. I underline this at this stage lest anyone should think that the money which is being voted to the Emergency Expenditure Fund is all that the Emergency is costing us. That is not correct. This Council and this Committee have, during this year, by way of Supplementary Estimates, approved very heavy new commitments, commitments which are estimated to cost about £25,000 per month, including non-recurrent expenditure, which totals something in the nature of £604,000 for the period 1st January to 31st August, 1953. These commitments, Sir, are for the most part carried by the following departments: Administration, £7,500 per month; African Information Services, £6,700 per month; Police, apart from the amount in the Emergency Expenditure

Fund, £45,100 per month; Prisons, £16,300 per month.

Between now and the end of the year we shall have to face what I called extraordinary payments. We have already, as I have said, paid some £94,000 for Military claims up to the end of March. We have received £30,000 of claims from the Military for April, though they have not yet been paid. We have now received claims for additional troop movements of £29,000. We have reimbursed the Road Authority for money spent on Emergency works to the tune of some £33,000.

The closer administration of Nairobi from now to the end of the year will probably cost an additional £13,000, and the Police expansion for the third quarter of 1953 looks as if it will mean another £167,000. I would ask hon. Members to note this figure does not take into account further Military claims which will be received probably in 1953 for past months, further claims for the movement of troops which may be received in 1953, or such items as the cost of wiring in the Nairobi locations, the first stage of which has cost some £25,000. So that, although I am now asking for £750,000, I must warn the Committee that it is more than likely that I shall be back before the end of the year for more money, for the position that faces us at the present is a balance in the Fund of some £387,000, plus, if the Committee agrees to money I am now asking for, £750,000. Against that, there is our estimated expenditure of September, £224,000, our estimated expenditure for October to December of £750,000, the extraordinary payments I have just listed of £366,000, which will leave me with a deficit in the Emergency Expenditure Fund by the end of the year of at least £223,000.

Hon. Members may ask, "Why are you not asking for the £1,000,000 now?" The answer is the statement I have just made in this debate, that unless I can see an attitude which takes cognizance of the economic battle that we have to fight as well as the other battle, then I shall very reluctantly have to try to find some other form of financial procedure than that which places upon my own shoulders a ministerial responsibility for expenditure over which I have little, and at

[The Member for Finance and Development]
times, no control. It is a thing which the Treasury endeavours to do all the time, to exercise what control it can over expenditure. It is not a very popular procedure, because most people, until it comes to the time of paying the bill and saying who shall pay the bill, are clamant in their demands for those things which bring expenditure and pleasure first and taxation and paying afterwards.

I would like to pay a tribute to the Secretary of the Treasury, and the members of the Treasury, who for eight months now have been engaged in a grim and unpopular battle of this particular kind. (Applause.)

Considering all things, our economy has borne the strain quite well, but the strain is beginning to tell on our finances and on our services. I have appealed for economy to be exercised wherever possible to see if manpower and equipment which is at present costing us such a lot cannot be stretched a little bit further in its endeavour to realize that this country has two battles to fight, the economic battle for survival as well as the physical battle in which we are engaged. I have tried to remind people, and will remind again hon. Members of this Committee on both sides, that the economic battle also is important and must be won. That we must see, whilst we do not endeavour to hinder action, whilst we do not delay action where action is necessary to be swift, that it is the duty of every individual in this country in his own interests and the interests of the Colony to see that no penny is wasted; that it is not a victory to get something extra from the Government, that is a defeat for the taxpayers.

Mr. Chairman, I beg to move. (Applause.)

Question proposed.

Mr. COOKE: Mr. Chairman, there are one or two points I would like to make. With regard to the Military, has the hon. gentleman had it out with them, as it were, with regard to the debts that they are prepared to accept, that is, the class of debts they are prepared to accept. Otherwise, I can see, later on, arguments going on over bills which they will present in, perhaps, a year's time, but if they could now have a conference, which

no doubt he has had, to find out what class of debts they are prepared to accept, it might obviate arguments in future.

There is a small point about barbed wire which we are using now a lot on the locations in Nairobi. It has been represented to me yesterday that there might be a shortage of barbed wire in the country. It would be a good thing if the Government showed provision in the matter and saw that imports were stepped up if necessary.

The third point that I got news of when I was going round the mountain in June, and it may sound funny, after my support of the hon. gentleman's request that we should exercise caution in expenditure, to ask him if there will be any reimbursement made to those officers of the Kenya Police Reserve, the Kenya Regiment, and others, who have had to spend their own money on buying Dietz lanterns and that sort of thing, because they could not be supplied by Government at that time. I think those people should be reimbursed in the small expenditures to which they have been put.

I would like, if I may, to congratulate the hon. gentleman on the clear way he has put this matter, and the courageous attitude he has taken in expressing his opinion about the danger of over-expenditure and too much expenditure. I would be obliged if he would answer those three points I made.

MR. BLAINDELL: Mr. Chairman, having listened to the hon. Member, I think it would be right, from this side of the Committee, to extend our thanks to him for the responsibilities which he has accepted as Member for Finance during this period. I do know that since the formation of the Emergency Committee and the presence thereon of the hon. Member, at no moment, when there has been urgent necessity for any expenditure in connexion with the Emergency, has the hon. Member hesitated to sanction it at once. That is one factor at least in the urgent prosecution of measures designed to end the Emergency for which this Committee should be thankful.

Secondly, Mr. Chairman, I should very much like to support what the hon. Member has said in regard to a watch on expenditure. I think that I can assure

[Mr. Blundell] him from our side of the Committee that we will support him in the evolution of those measures which he may think necessary to watch that expenditure.

It is inevitable in the course of an Emergency that people become Emergency-minded in regard to expenditure. It is my personal belief that an examination might be made now in some districts of posts and expenditures which are being incurred, for which, possibly, the necessity is no longer in evidence, and I think the Committee would be pleased to hear from the hon. Member, in reply, if he has in mind the evolution of any machinery for that purpose, because undoubtedly there is being created in some areas expenditures which are not really necessary.

THE CHAIRMAN: If no other Member wishes to speak, I will ask the hon. Member to reply.

THE MEMBER FOR FINANCE AND DEVELOPMENT: Mr. Chairman, if I may deal first of all with the points raised by the hon. Member for the Coast. Negotiations are, of course, going on continually with the Military as to the class of debts and the basis of payments. It is obvious that the Military are in a very difficult position, that they have to move quickly, that they are, indeed, a British force largely, and therefore their operations financially are conducted through the British Treasury and our position in certain aspects of that will indeed be to pay the bill presented by the British Treasury, with which, of course, we shall argue in any detail that we feel is justified, but arguing in retrospect, as the hon. Member is well aware, is not a very pleasant position.

With regard to a shortage of barbed wire, this matter has already been discussed, and I will certainly take the matter up again.

With regard to the point raised by the hon. Member for the Coast about the reimbursement of officers on expenditure such as Dietz lanterns that could not be obtained by Government, if any member of the forces who has expended his own money in that particular way can put up a case which is justified, I can assure him that it will receive sympathetic consideration by the Treasury, which, though cautious, is, I hope, reasonable.

The hon. Member for Rift Valley dealt with the question of the survey of certain districts. I have asked the economy and efficiency expert normally engaged on work under the Estimates Committee to turn his attention to this particular matter. I think he is about to set out on his first journey of exploration, which I am convinced can save money without reducing efficiency.

The other point that the hon. Member for Rift Valley raised on the question of procedure to keep control, I can only say that this Emergency has more than ever convinced me that some procedure such as the consolidated fund procedure will have to be brought into the finance of this country, now that it is moving to a ministerial type of Government.

The question was put and carried.

THE MEMBER FOR FINANCE AND DEVELOPMENT: 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. Deputy Speaker in the Chair]

REPORT

SIR CHARLES MORTIMER: I have to report that the Committee of Supply has considered the Motion in the name of the Member for Finance and Development:—

BE IT RESOLVED that a sum of £750,000 be allocated to meet expenditure arising from the State of Emergency

and has approved the same.

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 THE WHOLE COUNCIL

Committee of the whole Council—Order for Committee read. Mr. Deputy Speaker left the Chair.

IN THE COMMITTEE

[Sir Charles Mortimer, C.B.E., in the Chair]

The Guarantee (High Commission Railways and Harbours Loans) Bill
Clauses 1 to 7 agreed to.

Title and enacting words agreed to.
Bill to be reported.

The Guarantee (High Commission Posts and Telecommunications Loan) Bill
Clauses 1 to 7 agreed to.

Title and enacting words agreed to.

THE MEMBER FOR FINANCE AND DEVELOPMENT: I beg to move that the Committee of the whole Council do report to Council its adoption of the two High Commission Bills without amendment.

Question proposed.

The question was put and carried.
Council resumed.

[Mr. Deputy Speaker in the Chair]

REPORTS

SIR CHARLES MORTIMER: I have to report that the Committee of the whole Council has considered, clause by clause, the two Bills referred to it and has approved the same without amendment.

The Guarantee (High Commission Railways and Harbours Loans) Bill

THE MEMBER FOR FINANCE AND DEVELOPMENT: I beg to move that the Guarantee (High Commission Railways and Harbours Loans) Bill be now read a Third Time.

Question proposed.

The question was put and carried.

The Bill was accordingly read a Third Time and passed.

The Guarantee (High Commission Posts and Telecommunications Loan) Bill

THE MEMBER FOR FINANCE AND DEVELOPMENT: I beg to move that the Guarantee (High Commission Posts and Telecommunications Loans) Bill be now read a Third Time.

Question proposed.

The question was put and carried.

The Bill was accordingly read a Third Time and passed.

SUPPLEMENTARY ORDER PAPER

THE DEPUTY SPEAKER: It is now almost time for the customary break. During the break a second supplementary Order Paper will be circulated to hon. Members, which will provide that, subject to the approval of the Council, and under suspension of Standing Orders, the African District Councils (Amendment) Bill will be taken immediately after the break.

MR. COOKE: Before we adjourn for break, could you give us any indication as to when the Motion in the name of the Member for Aberdare will be taken, because I do not think he is present here at the moment.

THE DEPUTY SPEAKER: The intention is that after the Motion—which will be No. 10 (a), the African District Councils Bill—has been disposed of, Motion 11 on the Order Paper will proceed.

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

MOTION

SUSPENSION OF STANDING ORDERS
Nos. 91 AND 94

THE CHIEF SECRETARY: Mr. Deputy Speaker, Sir, I beg to move that, under Standing Order No. 168, Standing Orders Nos. 91 and 94 be suspended to the extent necessary to enable the African District Councils (Amendment) Bill to be read the First Time to-day and to be taken through all stages in one day.

THE MEMBER FOR FINANCE AND DEVELOPMENT seconded.

Question proposed

THE DEPUTY SPEAKER: If there is no debate I will put the question.

The question was put and carried.

BILL

FIRST READING

The African District Councils (Amendment) Bill.—(The Member for Finance and Development)—Order for First Reading read—read a First Time—ordered to be read a Second Time to-day.

BILL

SECOND READING

The African District Councils
(Amendment) Bill

THE MEMBER FOR FINANCE AND DEVELOPMENT: Mr. Deputy Speaker, Sir, in the unavoidable, I might almost say regrettable, absence, from the front bench on the Government side of the Member for Health, Lands and Local Government, it falls to my lot to move that this particular measure be now read a Second Time.

Sir, the Bill contains three points of detail and principle and if I may take the two smaller principles first, I will deal first of all with the question of the enabling power for the change of name of an African District Council. I think it would be correct to say that while "a rose by any other name would smell as sweet," as an Englishman, I would say that a rose prefers to be called a rose, and that is the way we like it. If we like to change the name, then we contend we have a right to change that name, so I feel that if any African District Council wishes to change its name, it is right there should be enabling powers so that it can so do.

The other point of principle is the introduction into the African local tax of a penalty clause. I think it is now a recognized principle, both in rating and in taxation, that the man who is late in paying his rates and taxes should incur some penalty, because by late payment, he is liable to penalise the man who meets his liabilities on the just and due date.

Those are the two smaller principles. The third is, I think, of some importance. As hon. Members of Council are aware, the Government has for some considerable time been trying to find a method of assisting African traders. It is fairly obvious that the great majority of African traders, at their present stage of development, could not provide what would be called collateral security by an established and recognized bank. There is nothing in many cases that would be regarded as security for loans to African traders. It became necessary, therefore, for the Government to work out some new machinery which would enable a reasonable risk to be taken, but would

provide the greatest possible security for public funds. The scheme that has been devised, which this Bill would bring into operation, is a scheme where, provided the African District Council will place a sum of money from its own resources, that is, from the taxation drawn from local people, into a fund for lending moneys to African traders for business development, provided an African District Council will do that, the Government will provide a like amount. The operation of the fund will, as is shown in clause 3 of the Bill, be put under a joint board which the Government can nominate. The joint board would be a body corporate, empowered to administer any fund subscribed to jointly by the Council and by the Government for the purposes of assisting African traders. Now it is felt, Sir, that the participation of the African District Councils with local money will bring into this scheme an element of local responsibility and that in the position—the situation where many times the money will be lent on the character of the borrower, this participation of the local Council will prove one of the best safeguards against the abuse of the money. The Government has already approached, I think it is, three of four African District Councils, in the Nyanza Province, everyone of which is willing and anxious to participate in a scheme of this kind. We recognize, of course, there will be difficulties in the administration of the fund—we recognize that if the fund is to be of any use, risks must be taken and losses will be incurred, but we hope that local participation will (a) keep those losses to the minimum and (b) ensure that the recipient of the loan uses it for the best development of his local trading activities.

I feel, Sir, that it is hardly necessary to say anything more than to express the pleasure and delight of Government that the response from African District Councils in the Nyanza Province to this scheme has been so prompt, and to hope that what, if I may say so, for this Colony is a notable experiment will succeed in the Nyanza Province so well that African District Councils throughout the whole of the Colony will feel they can participate in the development of African traders in this matter.

Mr. Deputy Speaker, Sir, I beg to move.

THE CHIEF SECRETARY seconded.

Question proposed.

MR. HARRIS (Nairobi South): Mr. Deputy Speaker, Sir, I had considered opposing this Bill at the Second Reading, although I welcome every single clause in it. But I believe that it is possible that we may in fact have put the principle of African traders borrowing into the wrong portfolio. It is very appropriate, Sir, that it should have been the hon. Member for Finance who proposed this Motion, because I believe this is far more a matter of finance than of local government, health or lands.

I welcome, Sir, the remarks made by the hon. Mover on the question of changing the name of the rose, and I hope that this Bill is the forerunner of other amendments to this same Ordinance which will eventuate in the formation of African County Councils on exactly the same basis as the County Councils in the European areas. But it is on the second of the principles involved, namely, assistance to African traders, that I wish to speak.

Now, Sir, the Board of Commerce and Industry have for some time been most anxious to assist African traders, but they have laid down one principle, and that is, if we are to teach the African trade and commerce he must learn his experience in the hard school laid down by trade and commerce, and there must be no question of any element of welfare or benevolence entering into commercial transactions. That is why, Sir, I feel that perhaps those clauses of the Bill which give power to the Member for Health, Lands and Local Government as the final arbiter on this matter—I feel perhaps that it should have been taken out of this Amending Bill, and made a separate Bill within the province of the Member for Commerce and Industry. Because, if we are to continue encouraging African traders in the belief that they are going to get either something for nothing or at least than a normal commercial rate of interest on which they cannot produce the collateral, then, Sir, I believe we are teaching them the wrong way.

I would, Sir, like an assurance from the hon. Member in replying to this debate that he is satisfied that steps will be taken to ensure that when these boards

are set up—and I notice, Sir, in the Bill, that it can either be one of these boards, or it can be the Member concerned—when these boards are set up, the general principle is insilled into them, that we are teaching Africans commerce, and not teaching them welfare.

As I said, Sir, I had thought of opposing this Bill at the Second Reading, but in view of the general principle, with which I thoroughly agree, I am happy to support it.

MR. MADAN: Mr. Deputy Speaker, Sir, I welcome the provisions of this Bill, which I support with pleasure. I consider it is about time that the Africans were encouraged to take part in the trade and commerce of this Colony, and I am happy that the Government at last has made a start. I believe, Sir, that if this Colony is to prosper, the African must be a partner in the expanding and developing economy of this country, but I would like to sound a note of warning that the African traders who will receive assistance should not be allowed to get away with the idea that they are getting the money *free* and for nothing; and that they will not only be called upon to pay it back, but they will have to pay it back in the end.

Sir, I beg to support.

MR. MATHU: Mr. Deputy Speaker, I beg to support the Second Reading of this Bill and to support the principles embodied in it. I would like to say, Sir, that the principle of giving assistance to African traders which is included in this Bill is a result, I know, of many days of thinking by the Government and by those who are interested in this matter. I, myself, have been very closely associated with it. One difficulty has been that the African at the moment cannot avail himself of the services—that other communities can—of the commercial banks.

First of all, there is an Ordinance in our Statute Book prohibiting Africans to get goods on credit unless they have a certificate of exemption under that Ordinance. No wholesaler would risk giving Africans goods on credit because they know this law exists and they will not be able to get redress if an African defaulted. That is one stumbling block in the way of the African trader.

[Mr. Mathu]

The other stumbling block is that they have not been able, so far, to organize banks, co-operative banks out of which they can get loans to finance their businesses. Therefore, it seems that the other alternative would be a Government organization which would fill the gap for the time being. The Government themselves, I rightly think, would not risk public funds by lending to an individual if they knew that the money might get lost, that is why it fell on the African District Councils arrangement—so that the local body has a stake in the business and will ensure that the money will be forthcoming to repay these loans.

I think it is necessary for me to say that in order to dispel the views expressed by my hon. friend, the Member for Nairobi South, that the African will be given the impression that he is going to be given welfare and benevolence. That is definitely not the case, because we know that there are schemes also of the Government where they assist African farmers and I think I am right in saying—unless my hon. friends on the other side say I am saying it wrong—that every penny that African farmers have borrowed from Government has been repaid.

Now the other point, Sir—before I leave the question of loan, I want to say that a constitution provided for in this Bill, for the Joint Boards, is arranged in such a way that all interested Africans and Europeans will be represented and I think that is a sufficient safeguard. In the *East African Standard* to-day there is a proposal of the membership of the North Nyanza Joint Board, that committee was appointed to draft a constitution and two hon. Members of this Council, I noticed, are on that committee.

I would like to refer to one aspect of principle in this Bill. I refer to the levying of rates on immovable property, either generally or in specified areas. Whilst not opposing the principle, because it is a principle we have already accepted, I would like the hon. Member to tell me what Government is going to do to give the African, the ratepayer of immovable property—it may be a trading plot, it may be a piece of land—the necessary security for it. I do think it is important, if you are going to tax an African shop-keeper for the plot which

he has got from the local government authority, you must give him complete security. At the moment there is no security at all. He is licensed year by year. There is no document in way of a lease—in fact, it is only on a list in the office of the District Council that he holds Plot No. so-and-so in a particular trading market or trading centre. I suggest, as I have suggested many times before, that Government should do their utmost to make sure that some documents which can be used and which can be negotiated on commercial terms are provided to these traders because then they can mortgage the plots if they want to raise a loan like other communities when they have to pay tax on immovable property of this nature. That is a point Government has been unable so far to concede and take it seriously. I want to take this opportunity of impressing on the Council again that this is a very important factor and I think Government should come forward quickly and give Africans negotiable titles, particularly African traders, for the plots they hold and the plots for which they pay rates.

Mr. Deputy Speaker, I beg to support.

MR. RIDDOCH: Mr. Deputy Speaker, Sir, I wish to support this Bill very strongly. The question of making available loans to African traders is one which has been very much in the minds of African traders for many years, and I think the measure has been, or will be, very warmly welcomed by them. Of course there are dangers at the present time in embarking on a measure of this kind and some of the dangers were voiced by the hon. Member for Nairobi South and the hon. Member for Central Area. But, Sir, I think that those dangers will be very much in the mind of the local committee set up to administer those loans. I think it will be their responsibility in the first place to see that the recipients of loans are fully conscious of their nature—that they are essentially commercial and that both interest and principal will have to be repaid.

The main difficulty is, of course, the question raised by the hon. Mr. Mathu—the question of collateral security. I thoroughly agree with him that it is urgent, if the African trading communities are to develop, that they should

[Mr. Riddoch] get transferable titles to the plots of land they hold. That is also a measure that is very long overdue.

I wish to support the Motion.

THE SECRETARY FOR COMMERCE AND INDUSTRY: Mr. Deputy Speaker, Sir, I only wish to make one or two remarks with reference to the points made by the hon. Member for Nairobi South. A good deal of ground has already been covered by the hon. Member for African Interests, Mr. Mathu, and the hon. Mr. Riddoch. We all, as it so happens, are or have been members of the Board of Commerce and Industry—that is, the three Members to whom I referred and myself. We are all, I think, well aware of this feeling that any loans made must be made on a strictly commercial basis, and, as has been pointed out, that was one of the main reasons why it was desired to incorporate African District Councils in this scheme. They have agreed to support it with their money. They have their local knowledge of the people to whom loans are to be made and they will, no doubt, keep their fingers on the pulse, strings and watch the repayment and payment of interest with considerable care and interest.

I would like to say, Sir, that, as was pointed out by the hon. Mover, the adoption of this scheme in Nyanza Province is in the nature of an experiment and as with many other experiments we may find that it is a complete success—we may find the scheme needs modification. It is the Government's intention that on the boards provided for under clause 3 of the Bill, there will certainly be a business man of some prominence appointed so that he will be able to give the necessary type of advice.

In addition, Sir, it is the Government's intention to appoint a committee which will watch the progress of these pilot schemes as a whole and consider their development and possible modifications and also other methods that might be adopted to assist African traders. It will be the intention there again that there will be representation from the Member for Commerce and Industry's office or from the Board of Commerce or Industry on such a Committee when it is set up. I think it is very necessary that there

should be provision of this type in this Ordinance in order to regularize the use of African District Council funds.

Sir, I beg to support.

MR. GIKONYO: Mr. Deputy Speaker, Sir, I rise to support this Bill. Apart from anything else, I would like to ask one or two questions. One is, at present the principles embodied in this Bill will enable African traders in the African District Council areas to borrow money because there is an African District Council in that area. I would like to know what is going to be the position with African traders in the municipalities and in townships? Because in these areas there are no statutory bodies. There are only what we call Advisory Councils and in most cases I do not think they have any funds of their own. I would like to know whether Government has in mind the question of African traders in those areas.

The other point is whether Government has considered the question of contributing to these funds on a pound to pound basis instead of a fixed amount? Because it may be possible for some African District Councils to have a will to increase the amount of their contributions. What is Government going to do, is it willing to contribute on a pound to pound basis?

I beg to support.

MR. OIHANGA: Mr. Deputy Speaker, may I say thank you to Government and to the general support given to this Bill. This is a Bill which has been awaited with great anxiety, in the Nyanza Province especially, where it was first mooted and I would like to urge Government that, if possible, the extension of what is now called an experiment in North Nyanza, may as soon as possible be extended to all districts within the Nyanza Province.

Second, in regard to taxes which may be imposed by the African District Council, there is one particular sub-clause to which I would like to refer. That is clause 5, sub-clause (iii). In this sub-clause (iii) it is stated that there is a Resolution imposing this tax and three months from the date when the tax was first due will be the time when anybody who had failed to pay the tax at that time would be liable for a 50 per cent penalty. I do not know if this

[Mr. Ohanga] is a form of automatic penalty as we have with poll tax of the central kind. If that is so, the poll tax automatic penalty is due not in three months after the time it was due but, I think, in the ninth month; it is the 30th September in each year when the automatic penalty operates and during that time people can pay without being sent to court. May I plead that if it is going to be automatic and the defaulters are going to be taken to court, we should allow the same latitude as is now allowed in the central poll tax so that this penalty is not due in the third month from the time the tax was imposed but in the ninth month.

With regard to the date itself, that is the 30th September each year—that is in regard to the central poll tax date—that date has been working well, but not very well in all areas. In fact, a large number of people in Nyanza who depend mainly for their income on maize which is marketed between the months of October, November and December feel that if possible this date which is now the 30th September should be the 31st December in each year. Now this is perhaps difficult, but when we change perhaps to our new arrangements for the financial year, I would like that particular point to be considered.

I beg to support.

Mrs. SHAW: In supporting this Bill, I agree with the warning given by the hon. Member for Nairobi South. As regards clause 4 of the Bill, the loans must be judged entirely on a commercial and not on a welfare basis.

I would also like, in supporting this Bill, to congratulate the African District Councils of North Nyanza for their foresight in adopting this progressive measure.

I support it most strongly.

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

THE MEMBER FOR FINANCE AND DEVELOPMENT: In this stage—in the even more regrettable absence of the Member for Health, Lands and Local Government from the front bench—I will endeavour to deal with the points raised.

If I may deal first with that of the hon. Member for African Interests, Mr. Ohanga, with regard to the penalty clause. If the hon. Member will look at sub-clause (ii) of clause 5, I think he will find that this clause gives the necessary elasticity to the African District Councils to adjust their rates resolution. This, I think, if he studies it, will provide the kind of safeguard he was thinking of—his mention of the 30th March being the date instead of being one date later in every year. Perhaps if he will look at it, perhaps if he is not satisfied, he can consult the Member concerned and the Member will be sympathetic to any adjustments suggested at a later date.

With regard to the other point he raised, which has not anything very much to do with the present measure, on the question of the penalty date of 30th September for the general African poll tax. It is suggested that it should be put back to the 31st December. I do suggest that if a person is nine months late in paying a tax, a sufficient latitude has been allowed and that if indeed we make it the 31st December, the imprudent man would still find it difficult to pay the tax on that particular date. I think he must leave the African District Council on their side to judge how much elasticity they are prepared to allow their taxpayers. I am afraid that in so far as Government is concerned I must express the opinion that nine months' latitude is not doing too badly.

The hon. Member for African Interests, Mr. Gikonyo, raised a very interesting point—the question of what was to happen to African traders in the municipalities and townships. I thought we had said that at this stage this is an experimental scheme—this is a pilot scheme—if this works, it will be on the basis of the experience of this scheme that Government will move to a consideration in other areas. But the hon. Member who has been, alongside of myself, a member of Nairobi's City Council, knows well enough that the African community has one or two very able representatives on the City Council and I see no reason why those representatives should not try and interest the Nairobi City Council in the same sort of activity on behalf of some of their inhabitants as the African District Councils have on behalf of their inhabitants. It is—I will

[The Member for Finance and Development] does not say a line of attack—but a thought well worth pursuing.

The hon. Member also raised the question of a pound to pound basis. I would say, as I have said in previous debates, that finance is not as easy, if I may put it into slang, "as it used to was". It is difficult. Government has already accepted that it will make the sum of £5,000, I think it is, available to each of the North, Central and South Nyanza African District Councils if they wish to participate in this scheme. The Government's resources, which are the resources of the taxpayers, are not unlimited; and I could not undertake that whatever a local body wished to raise we would match it pound for pound. All I can say is exactly the same as what Government has said in regard to Government's contribution to hospitals and schools in the form of capital grants on the pound for pound basis, that is, subject to finance being available, Government will always do what it can to encourage African District Councils in activities of this kind. I am sorry I can go no further than that. I hope the hon. Member will not take that as being unsympathetic, because I can assure him that each case will be considered, having regard to the finance available.

The hon. Member for African Interests, Mr. Mathu, made a very good point, Sir. I think he is perfectly correct in saying that, in so far as African farmers are concerned, in the repayment of loans I do not believe we have had one defaultation to date. (Applause.) It must be remembered that, just as with a number of these loans, the loan will be on the integrity and character of the borrower, with or without security. That has been the case of many African farmers and the experience of the funds to date has been extremely good. That is why I have very great hopes of the success of this experiment and this scheme.

I think, of course, that no one could argue with the hon. Member, he is correct. We must find some way of giving African ownership of property a security.

There is only one point on which I would like to issue a warning from com-

mercial experience. That is that the mere handing of a piece of paper as proof of ownership will not mean that there is very good regard for it as collateral security until there has been evidence of marketability. I must warn him on that—

MR. MATHU: The first step, as a start.

THE MEMBER FOR FINANCE AND DEVELOPMENT: This first step is the giving of a title of ownership and I think I can assure him that Government is paying very great attention to it at the moment—particular attention to it, because not only in trading areas but in farming areas there is the need for proof of ownership in African hands and the development of individual ownership is an important sociological as well as economical step in the development of the community. (Applause.)

Sir, on your behalf as well as on the behalf of myself, the Mover, I wish to express to the hon. Members of the Council our thanks for the welcome that this Bill has been given. I hope that Nyanza will show the way to the wide development of this scheme throughout the country.

The question was put and carried.

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

COMMITTEE OF THE WHOLE COUNCIL

Committee of the whole Council—Order for Committee read. Mr. Deputy Speaker left the Chair.

IN THE COMMITTEE

[Sir Charles Mortimer, C.B.E., in the Chair]

The African District Councils (Amendment) Bill

Clauses 1 to 7 agreed to.

Title and enacting words agreed to.

Bill to be reported.

THE MEMBER FOR FINANCE AND DEVELOPMENT: Mr. Chairman, I beg to move that this Committee doth report to Council its consideration and adoption

(The Member for Finance and Development]
of the African District Councils Ordinance without amendment.

Question proposed.

The question was put and carried.

Council resumed.

[Mr. Deputy Speaker in the Chair]

REPORT

SIR CHARLES MORTIMER: I have to report that the Committee of the whole Council has considered the African District Councils Bill, clause by clause, and has adopted the Bill without amendment.

The African District Councils (Amendment) Bill

THE MEMBER FOR FINANCE AND DEVELOPMENT: I beg to move that the African District Councils Bill be now read a Third Time.

Question proposed.

The question was put and carried.

The Bill was accordingly read a Third Time and passed.

MOTION POSTPONED

SOCIAL SECURITY LEGISLATION

MR. USUKU: In the most regrettable absence of the hon. Member for Aberdare, might I ask you to consider that this Motion should be postponed but should not fall away; that, if possible, if the hon. leader of Government would agree, it should go into a Supplementary Order Paper for next Tuesday.

THE CHIEF SECRETARY: Mr. Deputy Speaker, I agree, Sir, only I suggest that it goes into a substantive Order Paper for Tuesday because I do not think a Supplementary Order Paper will be necessary.

THE DEPUTY SPEAKER: I think Standing Order No. 36 is the appropriate one for the consideration of this request, it reads as follows:—

"When a Motion appears in the Order Paper, it shall be moved at the proper time, or at such other time as Mr. Speaker may direct, and if any Motion shall not be moved as afore-

said, it shall be deemed to be withdrawn and shall not be published in the Order Paper during that meeting of the Council except with the special leave of Mr. Speaker."

In view of the general acceptance of the suggestion made by the hon. Member, Order No. 11, as it stands on the present Order Paper, will be placed on the Order Paper for Tuesday next when Council resumes.

That completes the business on the Order Paper for to-day.

Council will stand adjourned until 10 o'clock on Tuesday next.

ADJOURNMENT

Council rose at fifteen minutes past Twelve o'clock.

Tuesday, 13th October, 1953

(Morning Sitting)

The Council met at five minutes past Ten o'clock.

[Mr. Deputy Speaker in the Chair]

PRAYERS

ORAL ANSWERS TO QUESTIONS

QUESTION No. 137

MR. COOKE asked the hon. Member for Finance and Development whether it is intended to bring the Cost of Living Allowance increase to pensioners to the level of that of serving officers? And if not, why not?

THE MEMBER FOR FINANCE AND DEVELOPMENT: There is no immediate intention of bringing the Cost of Living Allowance payable to pensioners up to the level of Cost of Living Allowance payable to serving officers but the Government is considering the matter and has approached the Governments of Tanganyika and Uganda as to their attitude towards the desirability of reviewing the present limitation on Cost of Living Allowances payable to pensioners.

MR. MADAN: Arising out of that answer, Sir, appreciating the fact that pensions which are being paid now are hardly adequate to meet the necessities of life, would the hon. Member give an undertaking to expedite the matter?

THE MEMBER FOR FINANCE AND DEVELOPMENT: I am not quite certain whether that arises out of this particular question. As I understand it, this particular question deals with the Cost of Living Allowance and not with pension levels. The hon. Member can rest assured that I am doing what I can to hurry the review forward.

QUESTION No. 150

MR. SLADE asked the hon. Member for Education and Labour:—

(a) What action pursuant to the Report on Young Persons and Children (tabled on the 5th May, 1953) has already been taken?

(b) What further action pursuant to that Report will be taken, and when?

THE MEMBER FOR EDUCATION AND LABOUR:—

(a) The various recommendations contained in the Report affect various portfolios.

As regards part A (Definitions) and Part F (Employment), Government has accepted, with small modifications, the Committee's recommendations in so far as they affect labour legislation. Amendments to the Employment Ordinance and to the Employment of Women, Young Persons and Children Ordinance have been approved by the Governor in Council, and the necessary Bills will be drafted as soon as priorities permit.

Government has also accepted the Committee's recommendations on Film Censorship in Part C (Care and Protection), and new rules giving effect to them were published in Government Notice No. 724 of the 5th May, 1953.

(b) The other recommendations contained in the Report are still under consideration by the Government departments concerned, and consequential action will be taken on them as soon as possible.

MOTION

OPERATIONS AGAINST TERRORISTS

MR. COOKE: Mr. Deputy Speaker, with your permission and that of the Council, I would like to make a small amendment to my Motion, that is to insert a comma after "determination" and to put in the word "imagination" before "and sense of urgency". Then it would read as follows:—

That it is the opinion of this Council that the operations against the terrorists are not being conducted with the necessary vigour, determination, imagination and sense of urgency.

THE DEPUTY SPEAKER: Consent is accorded.

MR. COOKE: I am bringing this Motion to-day because there is a very strong feeling in this country and specially, I am glad to say, amongst commercial and businessmen, this feeling is growing, that all this shilly-shallying and dilly-dallying and murder and muddles which have characterized the policy of this country during the last 15 months has got to cease. Now, Sir, it will be my unpleasant duty to arraign in my remarks

[Mr. Cooke]
certain gentlemen on the other side of this Council, but I am sure they will understand that I am sure every Member of this Council recognizes their sincerity, their ability and their integrity. The only thing I am calling in question is their handling of this difficult situation. I know they will say, or they did when the matter came up before, that they were doing their best. Well, their best at the moment is just not good enough.

The late Lord Beaverbrook once laid down three essential and necessary qualities for businessmen. I believe he put them in this order—industry, good health and a sense of judgment, that is a judgment of men and affairs. No one will dispute that the gentlemen on the other side of the Council do possess industry and, I hope, they possess good health, but I do very much doubt if they possess that sense of judgment that is so necessary to-day in this country.

Sir, I propose to bring this matter to a division because it is an attack on Government, on the handling by Government of the situation. I am not disguising the fact for one moment that this is a Motion of no confidence in Government. I am asking for a division so that the country may know, both collectively and individually, who are the people who agree with what I and my recorder are going to say this morning.

The time has come when we have got to take off our gloves, as it were, and enter into this as a fight. I know it will be imputed to me as it has been in the past that I am inclined to be wise after the event—that I have got what Americans call "hind sight". If you will bear with me for a moment, I will give a list of some of the warnings that I have uttered in the past ten to fifteen years and no doubt many other Members on this side of the Council have done the same.

In 1940, following a sermon in the Cathedral of the Highlands by the then Canon Lesser, I wrote a leading article in the *Kenya Weekly News* and said that Nairobi was a powder mine which might explode at any moment.

In 1942 I advocated in this Council, as you did, Sir, a social survey of Nairobi. That was inspired by my experience on the Strike Tribunal when I had

seen the scandalous state of affairs that prevailed in the Nairobi slum areas. That survey was not held; if it had, we might have escaped some of the horror of Nairobi to-day.

In 1944, under your distinguished chairmanship, the African Post-war Employment of Africans Committee issued a report and drew the strong attention of Government to the effect that the returning Africans, Pioneers from the Army and so on, would have; and that things were likely to be very difficult from the crime point of view. That report did not even receive the honour of debate in this Council.

In 1948 I proposed two Motions in this Council which were supported by my hon. friend, Mr. Mathu, in which Mr. Mathu drew emphatic attention to the fact that the people in Kikuyu were "meeting in caves and banana groves, cursing the Chiefs and the Government". No action was taken. A few weeks later, following the murder of an inspector of police in Ruiru, I wrote an article in the *Kenya Weekly News* called "The Menace of Lawlessness". For writing that article I was rebuked in this Council by the then Attorney General, Mr. Foster-Sutton, and I was threatened outside this Council by the same gentleman—needless to say, Sir, it did not have much effect!

I mentioned those—I must be excused for mentioning those personal matters. I know they were shared by my colleagues on this side of Council who brought the same pressure to bear on Government just as I did time after time.

I propose this morning to deal with this Motion in three parts. The first is military operations, the second is police and the position in Nairobi, and the third part is the responsibility for these happenings. I am going to be as brief as possible and any quotations that I will make will be from documents. There is no question of gossip at the bars and clubs in Nairobi or Mombasa; I will quote from Press handouts, I will quote from broadcasts by His Excellency the Governor and the Commander-in-Chief; and I will quote from the public Press certain things they have said. Of course, my hon. friend may say that he is not responsible for the Press, but I do contend that Government is responsible if

[Mr. Cooke]
the Press makes a statement of a serious nature and that statement is not contradicted by Government—silence means assent.

Now, Sir, with regard to military operations, I am one of those who has profound respect for the military ability and courage of General Erskine and General Hinde, and any criticisms I make are criticisms of their strategy and tactics which they may well be compelled to adopt by pressure from other quarters. If I am wrong in my surmise, then no doubt I will be contradicted. I want to know what the policy is. I do not want the other gentlemen on the other side of the Council to say that they are giving away information to Dedan Kimathi by answering my questions—because I should think he is fully aware already what the position is. What I want to know is this. Is Government—with regard to the hard core of the rebels—as General Cameron says, about five hundred—what is their policy? As that hard core has established itself in positions in the mountains and forests, is it their policy to starve them out, or is it their policy to go in and liquidate them on the spot? I think the latter should be the policy. Is it their policy to leave the fighting to the home guard, or is it their policy to send in our own troops to take their full share in that fighting? I need not point out, Sir, how impolitic it would be, and indeed how unfair it would be, to leave the greater part of the fighting to the home guard.

Now, Sir, we cannot delay—right throughout the world to-day there are these warnings. We have trouble in British Guiana, trouble all over the world, perhaps trouble brewing in Nyasaland—this is a matter of what they call global politics—but I do suggest that to keep, as we seem to be keeping at the moment, some of our finest regiments more or less immobilized in Kenya, is not a very wise thing to do. My contention is that we must do some very much more hard fighting in the immediate future. I would, if I may, just indulge, Sir, in a very slight historical retrospect. When we first came to this country 60 years ago, the Kikuyu—it was not their fault, and it is nothing derogatory to them—were being harassed by the Somali from the north and the Masai from the south, and

it was the opinion of Dr. Gregory and Father Cagnolo who was the historian of the Kikuyu, that but for our arrival they would have been crushed between the upper and the nether millstones, the Somali and the Masai. Now the Kikuyu was never an aggressive person, strange as it may seem. He was an acquisitive person, rather like the English in that respect, as distinct from the Irish and the Scots! And he liked penetrating into other people's lands, but he was not, as I say, an aggressive person. I think Dr. Leakey bears that out in his book "Mau Mau". He was also like the English, underneath, a deeply religious person. To crush these people, who were on the point of being crushed by the Masai and the Somali we have in this country at the moment—I am not disclosing any secrets—they were already disclosed in the *Sunday Times* three weeks ago, we have five regular battalions of the British Army, six battalions of the King's African Rifles and one battalion of the Kenya Regiment, one squadron of bombers, 12,000 police—regular and irregular—and 18,000 home guards and many thousands of armed Europeans and Africans; we have this tremendous army, amounting to very nearly 60,000 people—just the same, curiously enough, as it took to suppress the Irish rebels 30 years ago—and what—surprisingly—has taken place? Our total casualties to date in action have been only 10 our total casualties killed and wounded are only half of those killed by accidents. I do not want to be unkind, but I believe the Americans already are using an expression "phoney warfare". The Lancashire Fusiliers, that very gallant regiment, who have a very great and deserved reputation in both wars, left this country after nine months without, I am told, one single casualty, killed, wounded or missing. Now, Sir, I think I would not be unfair if I said that this is not waging a war, and I want to know what the reason is. Is it that we are afraid of losing lives? I am told, Sir, that you can pinpoint a rebel position in the forests to such an extent, that you can bring your bombers and bomb it. Well, why, if you can do that, why can you not bring your company of the King's African Rifles and regular troops and go in and annihilate them? I know what is going to be said—the forest is so thick, the positions are so

[Mr. Cooke] impregnable, and so on and so forth. Well, are the positions impregnable? The *East African Standard*, in a leading article, which they called, I think, "Action in the Forests", pointed out discrepancies in a "handout". In one place the discrepancy was where the King's African Rifles came across a rebel stronghold and all the rebels escaped, and the defence was that the forest was so impenetrable, but at the same time our forces were able, apparently, to count the number of cattle that had been stolen by the rebels, and they were able to count how many guns they had and how strong the rebel force was. The fact of the matter was—I don't like being personal—I know the forest, certainly as well as anybody in this room, and probably as well as most people in this country, because I spent week-ends for years hunting there—and it is quite a mistake to say, I contend, that those forests are as impenetrable as some people try to make out. You find glades—I have been living now on the edge of the forest—for the last nine years—you find glades; you get bamboos, but through them elephant and rhino tracks, buffalo tracks; and at any rate if these Nairobi corner boys and "turn" boys can find their way through the forest, surely our trained troops can find their way to capture, kill and annihilate those gangs of thugs?

Now, here is a typical example, Sir—it is no charge against the soldiers concerned, but it is the kind of thing that is constantly happening. Here is the "handout"—I have not got the number—where a company of the Devons came across a hideout. They killed one, recovering his rifle. It was thought that a very large gang was in the hideout but they got away. Now I am told that it is impossible to attack these hideouts. Well I have a handout here about the gallant action by Inspector Stanley Davidson who, although wounded, did attack the hideout with his men and performed a very gallant action and came to grips with the rebels. The same thing happened the other day when the Kikuyu guard went into the dense bush, fought the rebels hand to hand and killed over 35 of them in most dense bush. Sir, it is to be noted that in that action, over 35 of the rebels were killed by the home guard. The single casualty (or the home

guard was one man wounded! Which illustrates, I think, that we are very much inclined to overestimate the cunning and ferocity of the *Mau Mau*. I think, personally, Sir, it is time that they were debunked. I do not believe, really, they are anything like as serious a military force, as we sometimes like to make out. They were defeated by two ladies at Mweiga, they were defeated and captured at the Kinangop by two other women the other day. Their chief victims are young children and old men and women, as witness the murder of Colonel Turner and the butchery of a small African *toto*—who was disembowelled—see the *Mau Mau* pamphlet. That kind of thing seems to be happening, but it does not seem to disturb the amazing serenity of the hon. gentlemen on the other side of the Council. They do not seem to care two hoots what is happening—that is perhaps unfair, but that is the impression I gain—that there is no sense of urgency in finishing this matter. We are allowing these thugs to carry on at their own sweet will instead of going into the forest and killing or capturing them—General Cameron said himself to the troops "It is no use meeting a gang of 20 and killing one and capturing another". He said "You have got to go in and kill or capture all 20". I believe, Sir, that if we had done that from the start we would not have had here to-day this difficult position.

Now, a year ago, when speaking in this Council, I drew attention to the menace of the forest. If action had been taken then, when they were nothing like as strong, the rebels might have been annihilated. Other Members said different. This is what I said: "I think there are potentialities of the gravest danger if we allow the opportunity to slip, and allow those men to establish themselves in those impenetrable forests from which it is only too easy to swoop down on defenceless farms".

"I do not think the Member for Law and Order is here"—he is not here to-day, either—but if he were, he would agree with me that a month ago, immediately I heard that these men were escaping into the forests, I saw him and impressed upon him the absolute necessity of taking strong action against people of that nature."

[Mr. Cooke]

I saw him personally and pointed out the danger of allowing this to arise. He did not then take sufficient action. It is true we had one or two things—we had that stupid operation, I think it was called "operation blitz", but they were just phoney and nothing really came out of them.

Now the other thing we are told is that it is impossible to follow the rebels. It is either raining or it is too dry. I have been two more handouts, one in which the Embu chased the rebels over three rivers, including Tana River, followed them two or three days and nights and then annihilated them. Other people of the Mberere tribe did the same thing a week ago. My contention is, if they can do it, others can do it. I do not believe we are hitting these people hard enough. If I may compare the body politic to the human body, in which, we will say, there is general septicæmia present, and there is a focus of infection somewhere in that body, I think my hon. friend, the Director of Medical Services will agree with me, that it is only a palliative to dress with lotion the pimples and the rashes on the skin, you have got really to go to the centre of the focus of infection and deal with that. My contention is, Sir, that the focus of infection is the *Mau Mau* hard core in the forest, and that they must be dealt with first, last, and all the time. Those are the people who must be beaten, even though it does cause a loss of life, we must go into the hideouts and kill or capture them on the spot. That is exactly what General Cameron ordered the troops to do. I do admit that this has been happening more in the last few months, very much due to a sense of urgency, but in the meantime the position has become immeasurably worse in Nairobi. Now, the position in Nairobi to-day is that the military have been called in because the civilians have failed to keep law and order. In fact, we are on the fringe of martial law in Nairobi. Civil law has apparently broken down. We have drafted in troops, and perhaps in a week or so martial law might be necessary, who knows?

Now, there is, Sir—it does not give me any pleasure saying so—a great lack of confidence in the police. Some of us a year ago drew attention in this Council

to the behaviour of the police. General Templer places above everything else proper behaviour on the part of the police and he started a campaign amongst them in Malaya, which I believe has had miraculous results. It is called "Operation Courtesy", or some such name, but anyway reading a report of the Malaya Parliament, General Templer himself, and the prominent members of the Parliament in Malaya said nothing had done more to restore the confidence of the people than this particular operation. I believe the Commissioner of Police will agree with me it is essential in Nairobi as well. It is all very well to say that I am causing alarm and despondency by drawing attention to the misbehaviour of the police *utkaris* in this town. But it has made them lose the confidence of the general public and, of course, they will not get the information that they require.

Here are three examples from a Nairobi paper called *The Citizen*. You may say that it is an irresponsible paper, but if they are irresponsible why were these allegations of theirs not contradicted by the Information Office months ago? Now, one of these alleges that wanted men were found dossing down in a police post in Nairobi—wanted men, mind you, sleeping in a police post. Another alleges that two men wanted on serious charges escaped from the Supreme Court and they were witnesses, I think, at any rate the trial could not take place. Here is a more serious statement. Now this is not a statement that I am making, it is a statement that I am reading from this paper and it was published two or three weeks ago. The statement is either true or not true; if not, it should be contradicted, if it is true, action must be taken. It says, talking about the Commissioner of Police, for whom I personally have a high regard: "His force has become a by-word for inefficiency and venality, defeated by a sullen native population which has been terrified into silence about the criminals". Well, that is a very serious charge indeed and what is Government going to do about it? Are they going to accept it as true and reform the police, or are they going to say it is untrue and do nothing?

We had this monstrous position of the sacking of Naivasha Police Station, I do

[Mr. Cooke] is the Chief Secretary, another is the Member for Legal Affairs, and the other is the Chief Native Commissioner. I will say at once that I have got nothing but admiration for my friend, Mr. Windley. I am excepting him from anything I say, it applies to the substantive Chief Native Commissioner, if he still is, he seems to have disappeared since he went on leave and nobody knows to-day where he is, what he is doing. Those three gentlemen must be held responsible for the position as it exists in Kenya to-day. I say they are lacking in judgment and the advice they have given to the Governor is not the correct advice. I can mention the inability to deal with the thugs when they first went into the forest. It was then a matter for the police to take action, not for the military. They then failed lamentably after the Jock Scott operation in taking those very necessary steps. I mentioned the deplorable, indeed the criminal, permission to allow the Kikuyu to leave the farms and to go back into the reserves. I have been advocating that that should be stopped months ago. I believe it has been stopped now, months too late. That, according to Dedan Kimathi has increased his force—it is an exaggeration I imagine—a thousandfold, but it has increased it considerably. I believe that has been the opinion of General Erskine, that it was a deplorable bit of bad judgment in allowing those people to go back to the reserves, where there is not only overcrowding, but it is full of dissident, angry people, many of whom went along into the forests. They could have been dealt with, as they are being dealt with now, and that is given public work to do. Where are these 20,000 people who are sent out of Nairobi to go to? They have got no homes in the reserves, you are just making another gang of disgruntled people, more criminals added to the criminal types. Are those people going to be brought in and given work to do, or are they going to be allowed to join the ranks of the rebels? Some of them, I imagine, are quite decent, good people, I do not see any reason why they are not all offered work, compelled to work.

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The other day we had a gesture of contempt—oath taking right behind the District Commissioner's office, right between the District Commissioner's office and our future House! Not only, what is more, contempt, not only for the District Commissioner but for hon. Members of this Council. I believe they have a certain sense of humour these thugs. It rather amuses me; and I am told that the most insolent messages are fixed to trees by "General" Dedan Kimathi, defying the troops and saying they are a lot of this, that and the other thing. Some of us in the old days, if we had been defied like that, we would have done something more about it.

Now, I think I have very nearly come to the end of my Motion, but I have got to say something about my friends on the other side of the Council. There must be people responsible for this, I think, disgraceful lack of policy, this ineptitude, this inefficiency. I may be entirely unjust, I may be entirely wrong in what I am going to say, but it seems to me that there are three people responsible. One

appears to have got a good organization going but, Sir, we appear to lack a Kitchener of Khartoum. What the hon. Member for the Coast has said, Sir, I think is quite right. Our troops are sitting all round the enemy and waiting to be given the word "Go". I know of many young men who would like to get back home and I am sure if they were told to go in and kill everything before them, they would do so. The idea of increasing our casualties does not appeal to me. I do not think it is necessary to show a large number of casualties to show that you are doing something. We are lucky in the fact that the terrorists are not very good shots, the only way they appear to get one is by shooting through the back of the neck.

Let it not be thought, Sir, that we do not appreciate the work that has been done by our young men and the troops in the last 12 months. I personally think they have done a grand job. Many of those youngsters have been asked to do a job, Sir, that you and I would not like to do.)

I beg to second the Motion. (Applause)

Question proposed.

THE CHIEF SECRETARY: In the first place may I congratulate the seconder of this Motion on his brief but nevertheless pointed speech which is his maiden speech in this Council. (Applause.)

If I may say so, Sir, I think he inherited some of the fresh air—the plain and brief honesty in his remarks—of his predecessor—it must be something to do with the air of the Trans Nzoia.

I may say at once, which will probably not be unexpected, to the hon. Mover, that I am unable to agree with the terms of his Motion. He has made various points which related to back history and he has spoken of the present. He has divided his remarks into three main heads, one dealing with military operations, and the next with the Police and position in Nairobi, and the third with responsibility. I think, Sir, that it might be as well if I gave a brief appreciation of the position in the country at the moment, seen from the overall point of view. It will, I think, perhaps explain some of the difficulties which the hon. Mover said he knew existed, but he did not pay a great deal of account to them

[Mr. Cooke] "East Africa and Rhodesia" referred to that document as reprehensible ambiguity, a very good expression. Mr. Graham Green, writing in the *Sunday Times*, says, "The surrender terms may mean anything". So they may. After a year of fighting we issue a document that is so ambiguous that nobody really knows what it means. Apart from that, was it timely to issue the document? We should give these people a chance to repent, but if we had waited for two or three months until General Erskine's operations were in full swing and he had established his posts in the forests and was ready to hit hard, that would have been the time, and not before, to have sent these leaflets out.

Now, all those things, and I could mention a hundred more, have made me lose all confidence in the judgment of—I am very sorry to say so—of the Chief Secretary and of the Attorney General. I believe them to be, as I had said before, men of the greatest sincerity and integrity and ability, but they seem to lack that overruling sense of judgment which is absolutely essential in a country such as this. Therefore, I say that they ought to consider whether the country wants them much longer. I think that they could possibly do extremely important work elsewhere. I regret to say that, but it is necessary to say that.

Now, Sir, I have finished. I deplore the pessimism that is in this country at the moment. Everyone seems to be trying to kill the *Mau Mau* with his mouth instead of with bullets. There is a sort of defeatism abroad which I think is deplorable. People say they are going to leave this country, and shake the dust off their boots, and so on. They say capital is not coming in, and all that sort of thing. I do not think that is the right spirit. I think the right spirit is to come right out and tell Government exactly what we think of them. If necessary, I think we will have to go to the country to see whether they support the line we take or not, I am prepared to do that, we cannot say longer tolerate, in my opinion, the dilly-shallying, and the dilly-dallying that has been going on.

I beg to move. (Applause.)

MR. LETCHER (Trans Nzoia): Mr. Deputy Speaker, Sir, General Erskine

[The Chief Secretary]

Now, Sir, since the end of July the struggle has centred on the part of the Central Province near the Aberdares and Mount Kenya. Our resistance has grown in the Rift Valley, and definite combatant action has been taken against small groups there. The operation of the security forces in the Aberdares has resulted in a number of the enemy removing themselves to Mount Kenya and indeed, we suspect, some of them to Nairobi. A considerable amount has been done by way of food denial campaigns and also by the use of aircraft. The position generally speaking has improved in certain parts of the reserves but there have, of course, been a considerable number of incidents, not only against us, Sir, but also in our favour.

Now, Sir, the hon. Mover referred—asked what was the policy in regard to the hard core of the enemy—is it the policy to starve them out or go in fighting? I can say quite definitely that the policy is to go in fighting wherever practicable. The method of starvation has been used as an ancillary weapon, and it is a fact recently that the troops available have been increased in such a way as to enable us to do more active combatant action in the forest. One of the biggest troubles has been that a body cannot be in more places than one at the same time, and it was very necessary to use troops to a great extent in the reserves and in places where, if we had had the police, the police would have been increased in order to release the troops to follow up offensive action. This position has been improving with the expansion of the police force and their training, and we have got additional troops. I say quite definitely, Sir, that as regards the military operations, it is not for the troops to sit down and remain static, they, themselves, I am quite aware, would have rather taken part in the definite combatant action instead of police work at an earlier stage, but the overall position had to be taken care of. There is no question of leaving all the fighting to the Kikuyu home guard—the Kikuyu guard have done extremely good work, but most of these operations are joint operations by the Kikuyu guard, the Army, the police, either by two or three of those forces, and the operations are planned with a view to the use of the dif-

ferent categories of men in the best possible manner to achieve the success of the operations as a whole.

I am perfectly satisfied, Sir, that in regard to the hon. Mover's suggestion that we must in the immediate future go in and fight harder, that is, in fact, already being done.

Now, Sir, the hon. Mover gave the numbers of the people fighting or operating on our side. They are, Sir, formidable, but the enemy we are up against is also formidable in a number of ways. The hon. Mover has, of course, anticipated some of the reasons given for our lack of immediate success, but, Sir, I think that a very considerable number of people in this country will agree with me when I say that, in fact, this enemy has proved more difficult than we should have supposed in the light of the past history of the tribe. He may say they are not Kikuyu—he may say they are just beasts, but the fact remains, Sir, that these people have given us very much more trouble than anybody would have thought, and, Sir, I think it is perfectly justifiable to say that it is not only the individuals themselves, it is the general conditions under which the operations take place: it is the spread—the fact that these people can move all over the place without settling down in one particular place. He referred, Sir, to "phoney warfare". I deny that it is a question of "phoney warfare" and I should be very disappointed to feel that it was, knowing, as we all do, the people concerned in these operations.

The hon. Mover laid stress on the fact that it was possible to pinpoint rebel positions and undertake air operations against them, and why could not troops be put in straight away? Well, Sir, there is the question of the timing factor: it is not always possible to pinpoint these positions and to take action from the air, but it has been done on a considerable number of occasions and, where practicable, troops have also been used on these operations, but I would point out that it takes troops very much longer to get to a particular point and they are far more likely to become known in their approach than is an aircraft. Of course, Sir, the forests are not impenetrable all over, but there are certain parts of them which are very difficult indeed to penetrate, and quite apart from the time taken

[The Chief Secretary]

in getting through, the escape by the other side is made all the easier.

We all, Sir, would like to see these thugs mopped up straight away, and that is the only thing that can give anybody any satisfaction, so that they are prevented from committing more dastardly crimes of the kind the hon. Mover mentioned, and I deprecate his suggestion that we hear—I hear—of these crimes with serenity.

Now, Sir, on this question of the small number of casualties that have occurred and the matter of going in and fighting hard and killing them all off—I would like to draw the attention of the hon. Member to the fact that 1,965 enemy have been killed since 22nd October, 1952—1,965.

MR. COOKE: Camp followers.

THE CHIEF SECRETARY: They Sir, are the enemy, and some of the biggest difficulties have been caused to us by camp followers as food carriers.

Now, Sir, it is a curious thing, but the hon. Mover will no doubt say that that is not enough. On the other hand there are a number of other people in this country and elsewhere who will say that is far too many. I suggest, Sir, that the answer may be that when one gets extremists of all kinds, the middle way is perhaps the right one, but I do not suggest for a moment that we should stop because of that somewhat formidable number of people who have been killed. But I would like to point out that the implication of the hon. Mover, at least as I understood it, the implication that the security forces sat back and did nothing is incorrect and without foundation. Naturally as long as there are further thugs in the forest we will have to step up that number of casualties.

Now, Sir, there have been a number of determined actions undertaken. I do not propose to give details and a list of all of them, but I think the hon. Member made a brief mention of the action, a week or so ago, in the Fort Hall district, which resulted in the death or capture of a band of some 70. I may say, Sir, that over the last week-end, two actions took place in the Mathera Division in South Nyeri. I have only

had a brief report on it, Sir, but I understand that in one incident the King's African Rifles killed nine, captured, operationally 11 and 11 further people were arrested and their cases are being investigated. In another the Kikuyu guard found a gang of 30 and killed seven and wounded and captured some others. I mentioned that because these things are happening every day or most days.

MR. DEPUTY SPEAKER: It is now time for our customary break. I expect the hon. Member will require more time for his speech. Council will suspend business for fifteen minutes.

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

THE CHIEF SECRETARY: Mr. Deputy Speaker, Sir, I have been dealing with the hon. Mover's head of military operations. He went on to refer to troops in Nairobi, the civil law had broken down and the prospect of martial law at any moment. That, Sir, is definitely not the position. Difficulties had occurred in connexion with the civil law, there is no doubt about that, but the civil law was still working and there is no reason to believe that it will not go on working.

The position as regards Nairobi was that, owing to operations elsewhere, I think that there can be little doubt but that certain people who had been pursuing their nefarious deeds elsewhere came into the city and the co-operation of criminals was achieved by them, with the result that we had two different kinds operating together, the Mau Mau people and the criminals, the sort of people who seize on any opportunity to pursue their crimes. During July/August the number of incidents in Nairobi increased very considerably. There consisted of robberies, hold-ups and actual murders. In the light of that the lawless elements in September embarked on an intimidation campaign by initiating boycotts on buses, smoking of cigarettes and various things. In fact they went too far and overreached themselves, but they did achieve in the first instance a certain degree of success. There was then talk of using intimidation as a means to bring about a standstill amongst African workers in the town. It was not that the majority of these African workers wished to stop work, but they, as I say, had become intimidated.

[The Chief Secretary]

It was then, Sir, that Government took action and this action was aimed primarily at the protection of those African workers. The police were increased, and troops came in to stand by in support of the police and to assist in the protection of the loyal Africans.

That, Sir, I suggest, shows that we were ahead of the enemy on this occasion, because, in fact, this labour standstill did not take place, but I should make it clear, Sir, that there was a need for a very considerable number of extra bodies in order to secure the necessary degree of protection.

The Kenya Police Reserve, of whose good work everybody is aware, was stepped up in regard to its full-time duties, and as I say, additional police were brought in from outside, and as an additional support, the troops were also brought in.

I may say, Sir, that the effect was immediate and a very considerable degree of confidence was restored. The crime figures dropped substantially, although I regret that I am unable to say that crime ceased entirely, and we still have had a number of robberies and hold-ups and other forms of crime, but they are on a very much smaller scale than they were.

Now, Sir, the hon. Member made an attack on the police force. May I say, Sir, that I am aware of General Temple's "Operation Courtesy"; we have got particulars of it, and it is hoped that we shall be able to produce something of the same kind, but it is not a thing that can be done overnight, and one of the particular things about it is that it does require a full amount of training in the lower ranks of the police force in order to be able to instil this feeling. As hon. Members are no doubt aware, we have had to cut the training period very substantially during the time of the Emergency, but as I say, I hope that to some degree, and in the light of different circumstances between here and Malaya, it may be possible to do something on the lines the hon. Member mentioned, and the matter has already received the attention of the Commissioner of Police.

The hon. Member attacked the police force and referred to the misbehaviour of police *askaris* in Nairobi, with resultant lack of information forthcoming. I

do not deny for a moment that these things occur, the hon. Member will be aware that they always have occurred, and I do not believe myself that we shall ever reach the Utopian stage when nothing of this kind happens, but, Sir, I hotly deny that anything on the wide scale which he implies has, in fact, taken place. (Hear, hear.) He referred, Sir,—he seemed to have got his information from a particular publication—he said that that must be true because Government had not denied it. It is true that two witnesses disappeared, but there was a further matter to which he referred, where he said—I am afraid I do not recognize the quotation, I have not the exact wording, but it was something to the effect that the force had become a by-word for something and venality.

Now, Sir, those statements are very difficult to contradict. When I say they are difficult to contradict, the answer is a plain negative. That sort of thing often does more harm than good, because there are other newspapers elsewhere who deliberately do that sort of thing in order to provoke an argument which will carry on a line of correspondence or articles which unfortunately provide extreme interest to the readers. I may not be correct, but I am under the impression that the publication to which he referred is a weekly publication. Therefore, the disadvantages in arguing a matter of that kind are increased by the delay which would take place before they are published, and it is frequently the case, Sir, in this country, as well as in others, that it is better to take no notice because by the following week something else will have cropped up, or been fabricated, which will replace the interest taken in the original matter. I, here and now, Sir, say that there is no reasonable foundation for his statement. I do not deny that an occasional trouble of this kind has taken place and every possible action is taken to prevent its recurrence and to deal with it. It is statements of that kind, drawing attention to statements of that kind, which causes extreme disturbance in a force, or in any body of persons at which such accusations are levelled.

I should have thought, Sir, that the hon. Member, in the light of his experience, would have had more restraint

[The Chief Secretary]

in making such wide and unpleasant remarks.

MR. COOKE: I will deal with it later.

THE CHIEF SECRETARY: No doubt.

The hon. Member referred to my personal responsibility, Sir. Well, I do not wish to take up the time of this Council by producing a personal apologia, or history of my part in things since I returned to this country. There were certain matters in connexion with that personal responsibility to which he referred, matters which have already been the subject of debate in this Council.

He referred also to what he called a "peace terms document". I presume that he is referring to what is generally called the "surrender offer". This was based on experience in Malaya and, although some people may have thought that it would produce enormous numbers of hard core thugs who would come running out of the forests only too glad to surrender, I am afraid that I, personally, Sir, was not so optimistic. The matter of timing is one on which a considerable number of opinions might be held, but it seemed best at that time, in the light of particular circumstances, to take the decision which was taken.

It has had results, Sir; quite considerable results. Some admittedly were food carriers, small fry who did not really count. Others were, in fact, people who did count, but our information is that, even with the numbers that there were—I have not the exact number, but I think there have been 50 or 60—that has had a definite effect on the gangs, and, Sir, it has provided quite a considerable amount of very useful information.

It is suggested that the document was ambiguous, Sir. In my reading of the document it was not ambiguous. The hon. Member said that it would have been better to have waited until the troops were at full strength. Well, one cannot always wait for these things, and as I say, there were circumstances at the time which made that seem the appropriate moment.

The hon. Member, Sir, deplored pessimism in this country, and I think he said that there was too much talking

about things and not enough going ahead and doing them, or something of that kind. Well, Sir, I share his dislike of pessimism and I myself do not consider that we should say that everything is bad. He referred to certain people, I think, talking of leaving the country. Well, Sir, that is one thing that I agree with him on, that it would be unfortunate if that occurred. I am not a pessimist myself, nor am I over-optimistic, but one generally on these occasions gets accused of complacency or something else. On the other hand, Sir, there is no doubt that when we have circumstances such as we have been suffering from for a year or more, restraint in what one says is a most important thing, not only in respect of one's own feelings and its effect on one's work, but, more important, on other people, the effect on other people. But, Sir, I would agree with the hon. Member that there is no cause for pessimism. At the same time, Sir, none of us can be satisfied until the whole of this business is cleared up, and there again I would agree with him. (Applause.)

MR. MADAN: Mr. Deputy Speaker, Sir, so far as this Motion is concerned, there appears to be genuine difference of opinion among the Asian Elected Members, and I am authorized to say that those who will support the Motion will do so not because they feel that there is any lack of confidence in the Government, but because of their desire to see more action taken. I personally, Sir, am not going to support the Motion.

I am one of those Members, perhaps one of those few Members, who always listens to the hon. Member for the Coast with attention. (Laughter.)

MR. BLUNDELL: Shame! Shame!

MR. MADAN: I feel, Sir, that sometimes he is a little too progressive for us, so we cannot really follow him to the end, but there have been occasions when he has given this Council a few timely warnings and if his suggestions had been followed perhaps the conditions in this Colony would have been somewhat better, but that does not mean in my opinion, Sir, that the war against the terrorists has not been pursued with the necessary vigour. I think some of us on this side, I say this with due

[Mr. Madan] respect to everybody concerned, be they Africans, Europeans or Asians, have become used to sitting in a dark room and developing bogey pictures of an imaginary inefficient Chief Secretary, or a Chief Native Commissioner, or a Member for Legal Affairs.

I think, Sir, that the thing to do is to consider the matter on its merits. Ever since the State of Emergency was declared, those gentlemen who had the conduct of affairs in their hands, have they discharged their functions properly and efficiently or not? If they have not, then, of course, they must go, because this country, or any other country for that matter, in time of war cannot afford the luxury of inefficient and complacent people who are not alive to the gravity of the situation, but looking at it from that angle and that point of view, and I know, Sir, that the hon. Member for the Coast is genuine in his desire to see conditions improve here. If this Motion had been moved by, for example, the leader of the Asian Members, Mr. A. B. Patel, one would have strongly suspected that he was trying to throw out the Government and put an Asian Government in power, but it has been moved by the hon. Member for the Coast, and I have always had respect for his views because I think he is sincere and genuine in his desire. But looking at the matter from the test that I have laid down, I think to vote for this Motion would mean three inevitable results, and they are the very reasons for which I do not support it.

— One is that we are trying to fight a battle against the terrorists, and in the course of that battle we are trying to enlist on our side the loyalist part of the Kikuyu population, and that is a very important aspect of the battle against the *Mau Mau*. If we pass a Motion of this kind the *Mau Mau* could ask for nothing better than to turn round and say to their people and their adherents "The Europeans themselves, and the Asian and the African Nominated Members in this Council have no confidence in the Government of the Colony, why do you want to go and support the Government?". Well, that would be a fatal and unanswerable argument if a Motion of this kind is passed.

The second inevitable result will be that we would be making the present

Members opposite us suffer for mistakes made in the past. That is a proposition which I will not support for a moment. At the same time, I say that those who are in power now, and if they are inefficient, they must go, but if mistakes have been made in the past, what we have to see is whether those who are in power now have conducted themselves and discharged their duties as the situation requires, and, Sir, I have not been told anything which would convince me that they failed to rise to the occasion. I listened, as I always do, to the hon. Mover with an open mind. I have been interested in the events which have been taking place in this Colony, both before and after the State of Emergency was declared, but this morning, Sir, I have not heard anything which would make me support the case that has been put forward by the hon. Mover. If anything, it would produce the most dismal type of despondency and heartaches which would turn against us the people, I hope they are not few, who still want to support the Government and still want to fight for the good of the country and who are as anxious as the hon. Mover to bring the State of Emergency to an end.

I think, Sir, it is very important to remember that in a matter of this kind the Government does not look at it from one angle only. The Government must look at it from all angles. There is the angle of the European Unofficials, there is the angle of the Asian Unofficials, there is the angle of the Africans, there is the good of the country that must be considered, and there is the outside world, and judging from those points of view, I consider that the Government have been doing their job properly and I, for one, have complete confidence in the Government.

I am not satisfied that a Motion of this kind should be passed. I said, Sir, I would give three reasons why I would not support this Motion. The third reason is this, if we are to be logical and carry into effect a Motion of this kind, if it were passed, then the Government should, of course, resign and we would have no alternative Government to put in their place, not yet anyway, and I hope not until complete agreement has been reached between all peoples of this Colony as to how such a Government

[Mr. Madan] should work and how it should be formed.

Now, that, to my mind, Sir, brings forth a certain degree of irresponsibility in a Motion of this kind which we should not encourage. There are, I am aware, Sir, incidents which would not increase our confidence in the Government of this Colony, but what it has come to is this, if I may give a very crude example. The Government are sitting for an examination, or are going to sit for an examination. A clever man, I say this with respect, like the hon. Mover comes forward and says, "I do not think the Government is going to pass their examination, so you must not sit for your examination". That we cannot do. I think the Government must be given full opportunities to pass their examination to restore peace in the country and to ensure that in future an episode of this kind will not take place.

I am aware, Sir, that some incidents at least do not inspire much confidence, but they must be judged in the light of what the Government knows. If we are to judge such incidents in the light of what the Government knows, we should be told what Government knows. I realize, Sir, that now I am myself criticizing the Government, but I think a bit of healthy criticism will not do them any harm. There is the Nalvasha incident, Sir, when the police station was sacked. There we have had a kind of report published in the Press about it. I for one, it may be I am ignorant or not so up-to-date as some Members on this side of the Council, do not still know who was responsible for the great degree of irresponsibility which resulted in the *Mau Mau* acquiring so many arms. Compare that, Sir, the officials in the police station, to the poor miserable citizens in this city or anywhere else in the country, who get fined for being careless about their firearms, and one European was sentenced to a term of imprisonment also.

MR. BLUNDELL: Shame, racialism!

MR. MADAN: Nonsense, it is not racialism. Do not introduce racialism into everything. It does not exist as much as you think. But, Sir, it is matters of that kind which annoy people, which annoy the citizens of this Colony, but they are

not of a magnitude which should induce us to stand up here and say we have no confidence in the Government, and that we are going to support a Motion of this kind.

MR. BLUNDELL: Mr. Deputy Speaker, I am going to move an amendment to the Motion for the following reasons. First, Sir, we believe that the Motion, as drafted, deals with the one element of operations in which there has been a notable and marked improvement recently. There are several other elements in the general conduct of operations, about the *Mau Mau* movement itself which we feel still needs further urgency.

Secondly, Sir, I think I speak on behalf of all my colleagues, when I say that the hon. Mover made it clear that the Motion which he was moving was a motion of no confidence, and very much for the reasons which the last speaker has given. The majority of my colleagues will not feel inclined to support that particular aspect of the Motion.

Sir, as the last speaker has said, the Government is irremovable. If we could remove the Government by a vote of no confidence and take upon ourselves the art of governing, the position, of course, would be reversed. The hon. Members opposite would have the delightful task of criticising, and we should have the more difficult task of defending, but that is not possible.

One cannot get away from the fact that to move from this side a vote of no confidence in the Government, that must have an effect on all those loyal tribes and people who are not so understanding of the art of parliamentary discussions as we are, must rouse in their minds the deepest suspicion of Members opposite and make them wonder whether indeed they are batting on the right wicket. I believe that would be disastrous.

Hon. Members opposite, many as are their deficiencies, weak as they are sometimes in decisions and pusillanimous in outlook, are, nevertheless, not entirely their own masters. I stress the word "sometimes". Therefore, Mr. Deputy Speaker, I wish to move the following amendment:—

"That this Council is of the opinion that the Emergency is not being

[Mr. Blundell] handled with the necessary imagination, vigour and sense of urgency and urges the Secretary of State to allow a greater power of decision by the Government in Kenya."

Now, first of all, Mr. Deputy Speaker, in moving this amendment, let me make it clear that some hon. Members on this side of Council have been associated with hon. Members opposite either in Committees or in Council. I would stress that, and that association is not confined to any particular group, it pertains to all groups. Undoubtedly, a tremendous amount of the lack of decision and vigour with which we have been able to prosecute the Emergency lies entirely in the system of Government under which we are governed, and I am going to give some instances, perfectly straightforward, so that people may judge for themselves, some of the difficulties which have encompassed us about in getting on with actual action. We have already moved, as a Council, and I refer to it with your permission, a unanimous Motion pointing out how we are handicapped in dealing with the thugs by the delays in law, and asking that consideration shall be given to altering that. That was expressly excluded from the Order in Council setting up the Emergency. Therefore, so far as delays are concerned, the fault lies elsewhere.

Secondly, a point, Mr. Deputy Speaker, hon. Members here would like hon. Members opposite to answer, and I list, this one, solely in their own jurisdiction and not in ours, nor can anyone sitting on a Committee or a Council be held responsible for it, because it is an executive matter and not an advisory matter. I would stress to hon. Members of the Council that the position of hon. Members on this side of the Council in association with the Government is a clear one of advice only, without any executive responsibility whatever. The point that immediately strikes the public is this, why did the situation get so bad in Nairobi before the necessary action was taken. For instance, in regard to the senior police officer of the necessary standing to deal with the situation. That is the point I would like to ask the hon. Member, because I have conveniently given him the

opportunity of two speeches by moving an amendment.

Secondly, Mr. Deputy Speaker, I believe that our police lack in the middle ranks a great deal of experience and knowledge, and some time ago discussions were held, I believe, with a view to recruiting senior men of experience and responsibility, who could assist us. Now, we would like to know why that has not happened. We have here a unified police force, that is to say it comes under the Colonial service, and we have presumably the whole of the Colonial Service upon which to draw for members of experience, responsibility and ability; where are they? Why have they not been posted here? Why have we not had assistance from them? Those are the sort of things which are going through the minds of the public, and a debate like this gives hon. Members opposite the opportunity of answering.

The public would like to know, and I believe when I refer to the public, I am referring to the public of all races, the public would like to know what are Government's intentions in regard to the really evil men in the *Mau Mau* movement, those who have taken the third degree oath and upward; are they going to be allowed to return amongst us to cause us further havoc? We should like to know, and I intend, Mr. Deputy Speaker, later in the coming session, to move a Motion on this matter, but I cannot help suspecting that the lack of decision in hon. Members opposite in that particular matter can be directly attributed to the system of political catch-as-catch-can which exists in the United Kingdom at the present time.

The next point, a point again which I think falls really within the province of hon. Members and not outside this country—over the wireless last night I heard that there was a great exodus of Kikuyu from Nairobi. Now, what we would like to know is what is going to be done. When I visited recently with a party of hon. Members and other people outside, the district of Fort Hall, I was very impressed with the quality of young men who were operating in that area, and as I meant to do this outside, I should like to do it here. Those young men in these districts are daily in contact with an evil enemy. They are working

[Mr. Blundell] under difficult conditions to re-establish confidence in the people, and law and order, and to defeat that enemy. I would like to record that, from what I saw in Fort Hall, we have there got a very good team indeed. (Applause.) Going on from that, what is going to happen to these men who come back from Nairobi? When we were there we were told by the Administration that they were singularly quiet at the moment, and the reason was that the evil men had gone down to Nairobi. Now, we hear that there is an exodus from Nairobi. What we would like to hear from hon. Members opposite is that these evil men who flock back into Fort Hall will be as swiftly apprehended as possible, and held under detention orders, so that when we put pressure on in Fort Hall again, as we shall have to do, there will not be an immediate flocking back of gunmen, thugs, to Nairobi, itself, to plague the citizens.

When the Secretary of State was here in May and a little bit earlier, those loyal chiefs—to whom everyone in the country owes a great deal, who have rallied round them the loyalists and home guards—urged Government to initiate certain matters in regard to the land of rebels. Now, we would like to know from this side what is the delay in that matter. We know that discussion has taken place about it and more we do not know. We would like to know what exactly is the position—why is it impossible for the Government in that particular matter to act with decision. What held up the progress of their decision because I cannot help but suspect once again that the fault can be laid fairly and squarely, on—whatever it is one lays faults to—the system under which we are governed. (Laughter.)

The next point is this—previous speakers have touched on it too—all Members of my group will agree—

MR. COOKE: On a point of order, is the hon. Member speaking on his amendment or my Motion? It is rather confusing, is he speaking to the amendment, referring to the Secretary of State?

THE DEPUTY SPEAKER: He is speaking on the Motion before the Council and in the process of doing so he is moving an amendment.

MR. COOKE: I cannot quite understand what he is doing. Is he developing any argument in favour of the amendment or is he supporting the amendment by argument? I must be very stupid.

THE DEPUTY SPEAKER: I think if hon. Members will listen with patience they will no doubt be able to form an opinion when the speaker has finished. (Laughter.)

MR. BLUNDELL: I do hope that hon. Members will not have to exercise too much patience. I also hope that the hon. Member for the Coast's intelligence will at least rise to getting some gist of what I am saying.

Mr. Deputy Speaker, I was referring to the feeling which many hon. Members have, when, through no fault of their own, officers are not able to deal with the Emergency, it is not possible to replace them easily and swiftly. Again I attribute this to the system under which we work. It is difficult to move officers within the Colonial Service. Yet I do not think any hon. Member opposite would say that every officer was trained or is perfect for handling such an Emergency as this.

Another point, Sir, which again I believe does not affect this country but can be attributed to overseas. There are people in this country who should know better and who are in a position to know better, who have, in my opinion, issued during the Emergency unwise pamphlets dealing with various matters and what people in this country cannot understand is why such people are left in the Emergency causing further disruption in peoples' minds by the issuing of these pamphlets. That, again, we attribute not to the energy and determination of the hon. Members opposite but the system under which they labour.

A further point is, Sir, if the advice of hon. Members on this side of Council had been taken, undoubtedly we should have stopped a large development of the *Mau Mau* movement when we advised hon. Members opposite to make the administration of the *Mau Mau* oath a death penalty. We advised that first in November and moved it in Council in January. It was accepted but only for the death penalty for an oath to commit a capital offence. The difficulty there, and we warned the hon. Members at the time,

[Mr. Blundell]

was to prove the degree of the oath. What has happened? Quite recently, about eight months later, we have had an Emergency Regulation in which what we asked for about eight or ten months ago has been accepted! Again I entirely attribute that to the system under which we work, and the fact that the hon. Members opposite cannot move with the decision with which they wish.

On the innumerable occasions that I have tried to give, time after time, months afterwards, circumstances have dictated that what was considered necessary in this country and rejected elsewhere has proved to be necessary and has been accepted elsewhere.

I want to go back to what some hon. Members on this side of the Council said at the beginning of this year. It is impossible to produce figures or decisions to deal with an Emergency such as this, to grasp in one hand the vital initiative which is necessary as long as a large element of decision lies something like 5,000 miles away. (Applause.)

I wish in moving this amendment to refer at least to one point which the hon. Mover made. It is no part of our function to defend hon. Members opposite; it is their business and they can do it for themselves. But at any rate all hon. Members in my group with the exception of the hon. Member for the Coast endorsed the action of the hon. Member opposite in the issue of the surrender leaflets and with their consent I said so in a large public meeting in Nairobi. I therefore feel that this is a responsibility which we must accept as well as the hon. Members opposite.

In moving this amendment I have given a little bit of background to it, but I have done so really for this reason. It is the nub of the matter. We have never prosecuted the Emergency with our face straight forward, we have always tended to look over our shoulder and that has stemmed from the system under which we labour. What we ought to say is: "These men are rebels, we are going to deal with them as hardy, as vigorously, as efficiently as we can. We will support every loyalist to the utmost of our ability". But we will never, never cure the problem of the rebels as long as we are concerned with looking over our

shoulders, with what people in other countries are thinking. What we ought to do is to be as ruthless as we can with the rebel, deal with him, eliminate him, and having defeated the enemy then turn—and not until then—to the task of reconstruction and rehabilitation, because to attempt that task in the middle of a major attack upon the rebel blunts the weapon with which we are attacking. There is no doubt whatsoever, as long as we continue to look over our shoulder, as long as we continue to shout about reconditioning and rehabilitation during the actual battle, we shall provide the enemy with ammunition far, far better than any we can produce. That is, in my opinion, our fundamental error up to date in dealing with the Emergency. Nobody imagines that this problem can be cured solely by the defeat of the enemy in the field. There will then inevitably be the task of reconstruction and rehabilitation. What I wish to stress—it should be forcibly put not only to the hon. Members opposite, but to those who largely control many of their decisions that we cannot do both at once. The first is to defeat the enemy on the battleground, the second then is to start the arduous task of reconstructing and rehabilitating him.

Mr. Deputy Speaker, I beg to move my amendment.

THE DEPUTY SPEAKER: The amendment must take the form that all words in the substantive Motion after the word "that" be deleted and the following substituted:—

"That this Council is of the opinion that the Emergency is not being handled with the necessary imagination, vigour, and sense of urgency and urges the Secretary of State to allow a greater power of decision by the Government in Kenya."

GROUP-CAPTAIN BRIGGS seconded.

Question proposed.

MR. CHANAN SINGH (Central Electoral Area): Mr. Deputy Speaker, Sir, the amendment proposed just now makes the Motion more unacceptable to me than it originally was. The reason is I have always felt the Colonial Office interferes in our affairs, in the administration of the Colony, much less than it should. (Laughter.) I certainly do not agree with those of the hon. Members who think

[Mr. Chanan Singh]

that the powers which the Colonial Office now have should be transferred to local people, be they officials or unofficials. The Government of the Colony is established under Orders-in-Council and I personally think that the time for giving more power to the Government of Kenya will not arrive until it is possible to associate all races with the administration of the Colony. I therefore strongly oppose this amendment.

MR. MATHU: Mr. Deputy Speaker, although I agree with quite a number of the arguments which have been advanced by the Mover of this amendment, I regret to say I would not be able to support it because of the latter part of the amendment which brings in constitutional matters. There should be no constitutional change until discussions have taken place. I do think the Government of this country have taken decisions, they have been taking decisions without any unnecessary interference from the Colonial Office. As I say, I would not be able to support this amendment.

MR. COOKE: On a point of order, if I speak on this amendment should I be permitted to reply to this Motion?

THE DEPUTY SPEAKER: Yes.

MR. COOKE: I strongly oppose the amendment. I am sorry the hon. gentleman did not do me the courtesy of showing me a copy nor did he say he was going to propose this amendment when I was speaking to him half an hour ago. In the present terms I strongly oppose it.

The implication is that the Secretary of State is holding on to the coat tails of the hon. gentlemen opposite. I do not believe it. I believe he is giving them every latitude it is possible to give—if there is any fault, I believe it has been the lack of vigour at this end. I could not possibly support that amendment, Sir.

THE CHIEF SECRETARY: In regard to certain points raised by the hon. Mover of the amendment, he asked for certain information. One point was, I think, why things had got so bad before a special appointment of a police officer was made here in Nairobi. I should explain, Sir, that the appointment of that officer was coincidental with a re-

organization of the Nairobi area to fit the particular circumstances which had arisen at that time. A further point was the matter of obtaining from elsewhere, to supplement our existing force, police officers of experience from elsewhere. I may say, Sir, that arrangements were made for that. Certain of those officers have arrived and others will be arriving. I regret that I am not in a position to give the numbers but it is something like seven or eight.

Now, Sir, on the general question of the amendment, I regret that the Government is not prepared to accept this amendment. The reasons are two-fold and relate to the two parts of the form of the amendment. The reason why the Government cannot accept the amendment in respect of the first part is the same as that which was responsible for the Government's opposition to the substantive Motion, because, Sir, it is not true.

The second part, Sir, in regard to urging the Secretary of State to allow and insist upon a greater power of decision in the government of Kenya. I agree, Sir, with the hon. Member for the Coast that very great assistance has been rendered by the Secretary of State. That is where my agreement with the hon. Member for the Coast stops, but the Secretary of State has been of very considerable assistance. (Applause.)

A lot of people loosely refer to the Colonial Office or the Secretary of State holding up things or doing something which they do not like. Now, Sir, I must make it very clear that so long as the constitution remains as it is, the eventual responsibility lies with Parliament. The Secretary of State is responsible to Parliament and we here cannot have ourselves off into a completely water-tight compartment. If we did, Sir, I suggest that there would be considerable disadvantages which would go with that. It is because of the existing constitution, Sir, that we have received the help we have from Her Majesty's Government.

MR. BLUNDELL: But nobody denies that.

THE CHIEF SECRETARY: I appreciate that it was not denied, but I thought for the benefit of other people who would not grasp the point as had the hon.

[The Chief Secretary]

Mover, it was as well to make that clear because I have come across certain people who do not appreciate the advantages we get under the present constitution even though, in their opinion, there may be other disadvantages.

It is for these reasons, Sir, I must oppose the Resolution.

MR. MACONOCHE-WELWOOD: Mr. Deputy Speaker, I arise to support this amendment and in doing so I should like to make it clear, which apparently is not clear either to the hon. Chief Secretary or to the hon. Mr. Mathu or to the hon. Indian Member, that this Motion does not ask for an alteration in the constitution of this country. This amendment urges the Secretary of State to delegate more authority locally.

MR. BLUNDELL: To the hon. Members opposite.

MR. MACONOCHE-WELWOOD: To the hon. Members opposite, in point of fact, it does not urge a change, it merely urges that the hon. gentlemen opposite should be given more power to act with decision and not have to refer continually for decisions to the Secretary of State.

Now, we submit that it is perfectly within the competence of the Secretary of State to do so without any alteration in the constitution of the Colony.

It was suggested by the hon. Chief Secretary that it was due to this delegation of authority, due to this reference continually to the Secretary of State that we had assistance of troops so far from the United Kingdom. There again I submit that this has nothing to do with this amendment. It would be perfectly in order for decisions to be taken here without having to be referred back to him and still the troops to be given to the assistance of this Colony. A lot has been said continually about the assistance which we have received from the United Kingdom for which we are duly grateful but I think it is sometimes overstressed. Forty or fifty years ago when the colonies and dependencies were in difficulties troops were sent by the mother country and as one has seen in war the mother country is helped by her dependencies. To-day there always

creeps into this sort of argument: "We will do this and you will do that", and it is a matter for bargaining. To my mind, it is the responsibility still of the United Kingdom to assist her children in their difficulties and not a sort of grudgingly given thing which we are lucky to get. I have deliberately taken the opportunity of saying this because it is being constantly said in other places how lucky we are to get this and so on.

To return to the terms of the amendment, everybody outside this Council knows that one of the chief things which has prevented urgency is the continual submission of matters to the Secretary of State and he has to consider them, as the hon. Chief Secretary has said, in the light of whether Parliament will agree to them, and due to that lives are lost here, delays are caused. For those reasons, that politics must interfere in the United Kingdom to our cost here and we feel that in many things it would be perfectly competent for this Government to take the decision and take a risk. We talk round and round the subject of this Emergency and throughout the country everybody is discontented and they inevitably lay the blame on the shoulders of the Government here to some extent and so do I. But nevertheless, I know the ultimate responsibility is the perpetual political shilly-shallying as to whether, if you take strong action, it will have political repercussions at home. Everybody knows that it is waste of breath really going into this again and again in this Council.

Once more I would ask hon. Members opposite to consider whether, in the terms of this amendment, they are not in a position to give a free vote on it, whether they themselves would not like to be able to take more decision than they have been able to take and whether in their hearts, if they had complete power to take decisions, this Emergency would not be shortened.

MR. NATHOO: Mr. Deputy Speaker, Sir, whenever the hon. Member for the Rift Valley speaks in this Council he brings that refreshing sense of expectancy or, may I say, realism, in the remarks he makes and I must congratulate him on an excellent exposition of the situation as he has seen it. The only part I do not agree with him is the

[Mr. Nathoo] remedy he is suggesting where he is asking the Government to ask the Secretary of State for the Colonies to give them more power so that they can act independently of the advice and instructions he gives them.

Now, Sir, in these days of swift communication, where, within a few hours, you can have as long a talk as you like with London, discussing the position, getting advice and assistance, I think it is unwise and certainly I am speaking for non-European races that quite candidly we will oppose it, tooth and nail, any more delegation of power to the local Government until and unless the unofficial Members on this side of Council can convince us that we can get a fair deal in all decisions of all the actions of this Colony. (Hear, hear.)

Now, Sir, I would like to say that it has been alleged from this side of Council that the Government has not the power to make decisions. Sir, I would challenge one of the Members from the other side of Council to say whether that is a fact, or otherwise they must refute it in no uncertain terms.

THE MEMBER FOR AFRICAN AFFAIRS: Mr. Deputy Speaker, Sir, I do not think this is the time for long speeches and I do not propose to make one, particularly in view of the repercussions, the criticism—very often unfair criticism—may have on those who are conducting operations against the *Mau Mau* in the field. For instance, Sir, I can well conceive a certain amount of the disgust among the distinguished British regiments now fighting battles in the field here when they hear themselves described as being immobilized in Kenya—a term which I believe was used by the hon. Mover of this Motion. I have seen their work, I have been in close touch, as close as possible, in Nairobi, by repeated visits to these areas and I have seen the distinguished way in which they are conducting their part in the struggle. I have also seen the extremely fine relations they have made with the local people and I would pay great tribute to their work and sympathetic handling of a very difficult situation, Sir.

MR. BLUNDELL: On a point of order I do not wish to inconvenience the hon. Member, Mr. Deputy Speaker, because

he has not sat in the Council for very long, but is he not now speaking to the original Motion and would he not be able to speak to the Motion and then to the amendment afterwards?

THE DEPUTY SPEAKER: That is so, when he used the phrase a few moments ago I was trying to recollect whether the hon. Member for the Rift Valley had used the phrase quoted.

THE MEMBER FOR FINANCE AND DEVELOPMENT: On a point of order, am I not right in saying, Sir, that Mr. Speaker has more than once indicated to us where it was possible to combine an address to an amendment and principal Motion in one speech, it was a desirable Parliamentary practice to do so?

MR. BLUNDELL: Replying to that particular point of order, Sir, I think the hon. Member for Finance and Development is thinking that everybody has his immense clarity of thought and capacity to bring everything together. I do not recollect Mr. Speaker ever saying that.

THE DEPUTY SPEAKER: I am in entire agreement with the remarks made by the hon. Member for Finance and the opinion from time to time expressed by the Speaker that if hon. Members do wish to combine what otherwise would be two speeches into one speech and the shorter the better, I see no objection to their doing so, but in speaking to the amendment, as the hon. Member is doing at the moment, I think probably he was quoting the Mover of the substantive Motion and in that I think he was in error.

THE MEMBER FOR AFRICAN AFFAIRS: I quite agree I was in error, I was referring to the hon. Member for the Coast; if I did not make myself quite clear I apologize if I did so.

If I may continue, Sir, I will deal with a few points made by the hon. Member for the Rift Valley. He referred to the situation in Nairobi and to a statement in the Press to-day concerning the exodus from Nairobi. I would agree, Sir, that I was somewhat astonished at the method of handling this in the Press. I am investigating it. I was also somewhat disturbed to see statements concerning the repatriation of convicted people, or so I understood it in the local Press, to the reserves and I would assure hon.

[The Member for African Affairs] Members that this is not the policy of the Government at the moment. Inevitably there will be a certain exodus from Nairobi as a result of measures taken—a voluntary exodus—which it is not completely within our power to control, but any Kikuyu who has committed an offence or otherwise is being picked up to be dealt with by the police, will not be repatriated to the reserve at this stage. I think Government's policy has been made quite clear that we intend to put these people into camps for detention.

The hon. Member also referred to the question of land forfeiture by the Kikuyu leaders of *Mau Mau*. I am in a position to say that although, as the hon. Member for the Rift Valley knows, considerable discussion on this has gone on. It is indeed not an easy matter but at this stage a draft Ordinance to deal with this matter has been approved in principle by the Secretary of State and will in due course come before this Council.

MR. BLUNDELL: How many months?

THE MEMBER FOR AFRICAN AFFAIRS: The hon. Member for Rift Valley also referred to the necessity of making it clear that it will not be possible to return to the Kikuyu reserves a fairly large number of *Mau Mau* leaders and hard core who have been convicted of serious *Mau Mau* offences. I would like to say that I entirely agree with the view he expresses and it will be Government's policy in due course to consider legislation to give effect to this. In the meantime these people, as he will be aware, are under suitable detention, but I entirely agree that in the closing stages of this Emergency it will be necessary for Government to provide for this factor in legislation.

MR. BLUNDELL: What I would like to ask the hon. Member, would it not have an impact on the Emergency and accelerate thought and encouragement of the loyal element behind the hon. Member if he gave an expression of Government's opinion now because he would remove the element of fear from the loyalists?

THE MEMBER FOR FINANCE AND DEVELOPMENT: Has he not done it?

MR. BLUNDELL: He said "at the end of the Emergency".

THE MEMBER FOR AFRICAN AFFAIRS: I trust the hon. Member will agree that I have in fact given that expression as a statement of opinion. I also trust that he will bear with me when he realizes that His Excellency the Governor at the opening of the next session of this Council is proposing to make a statement covering a wide range of Government's policy and I would not like to anticipate this statement.

The hon. Member for Uasin Gishu touched on what he describes as the impact of politics in England on action and policy. I trust he will agree with me that such a state of affairs can well arise in Kenya and may well do so to the detriment of operations. (Applause.)

I would like to say, Sir, that during my short time in Nairobi, since I have had to deal with such matters as have to be and are referred to the Secretary of State, I have never had cause to feel myself that he has been unsympathetic or unhelpful or has exercised any unnecessary delay in trying to help us and give us the maximum support possible. I believe he will continue to do so and this reflection put on him by the hon. Mover of the amendment is entirely unjustified.

MR. COWIE: If I may be allowed to speak on both the substantive Motion and the amendment to the Motion, I think it unfortunate the way this debate has gone. Obviously there is a good deal of ill-feeling in Kenya, people are impatient to see the end of the Emergency and quite rightly, this feeling should be expressed here. But the Mover of the substantive Motion levelled an attack, as far as I could analyse, without putting forward anything very constructive—and, as pointed out by other speakers, it is most inopportune to have a Motion of this kind forced to a division. I do hope the hon. Mover would not press that point.

As far as the amendment is concerned, I think it also suffers from bad timing. Is it a fact that the Mover of the amendment has established his point and by bringing that amendment, is he trying to find an escape for the original Motion? The debate, therefore, the whole debate, is not being frightfully constructive and

[Mr. Cowie] I do urge the hon. Mover of the original Motion not to press it to division.

I am afraid I personally oppose both the amendment and the substantive Motion.

MR. J. S. PATEL (Western Electoral Area): Mr. Deputy Speaker, I rise to oppose both the Motion and the amendment and to state that the fact that both the hon. Mover and the hon. amender forget the fact that in this country there is a fight between the civilized classes and the savages. The civilized class has a duty of inculcating civilization into the savages and they cannot, for one moment, come down to the level of the savages and fight the savages out on that basis.

I am confident that the method Government is employing at the moment is quite satisfactory and the Motion and the amendment are out of place at the moment.

GROUP-CAPT. BRIGGS: Mr. Deputy Speaker, Sir, on very many occasions in this Council and outside I have stressed the need for greater sense of urgency, more troops and more forces in the air, speedier justice and also for greater realism. I still believe that had all the measures put forward by hon. Members on this side been adopted with reasonable speed, the end of the Emergency would have been very much closer to-day than, in fact, it is. I believe that had the additional troops we pressed for at the beginning of this year been forthcoming when we asked for them that again the situation would be very much happier than it is and the end would be nearer.

I do realize that many of these delays may not be the fault of hon. Members opposite; it may well be the fault of the system but I find it very hard to understand why some hon. Members of other races on this side of the Council do not find themselves able to support the amendment. It seems to me—I find it very hard to understand—having regard to the fact that the introduction of the death penalty for *Mau Mau* oath administrators was delayed for something like nine months—presumably due to the fact that the matter had to be referred to the Colonial Office—having regard to the fact that that must undoubtedly have

allowed the *Mau Mau* movement to go on increasing and to have prolonged the Emergency, I find it extremely hard to understand why they cannot accept the amendment.

MR. DEPUTY SPEAKER, there is one other matter I would like to touch on. The hon. Mover gave me the impression that he was rather implying a certain lack of fighting spirit in the troops, that they were sitting around doing nothing. I have been in pretty close contact with the security forces since the beginning of the Emergency and I would like to disassociate myself from any implication of that sort. (Hear, hear.)

MR. COOKE: On a point of explanation, if the hon. Member will give way—there was no such implication. I was talking about what orders they got from the Commander-in-Chief, it was nothing to do with the troops themselves, but what the policy was.

GROUP-CAPT. BRIGGS: I am extremely glad to hear that the hon. Mover has made himself clear on that point because I rather got the impression there was something in the nature of an attack on the security forces and I think—I cannot think of anything that would do more harm, to damage their morale, than an attack in this Council, because I know, I have seen a great deal of what they are doing and I know what they are doing. They are fighting under extremely difficult and arduous conditions, they are fighting very continuously, and what is happening in Nairobi to-day, and I might add in my own constituency, is very largely the result of the very great pressure they have—as is common knowledge—been exerting in the mountains, in the areas of the Kikuyu reserves. Well, naturally the result of that is there has been increasing activity in Nairobi and there has been increased activity in my own constituency. I am very confident that the Commander-in-Chief will deal with both those aspects of the matter but it is quite evident that if you grasp a tube of toothpaste very firmly and squeeze it, some of the paste will emerge at either end, particularly the softer paste. I think that is what has been happening.

I entirely agree it is unfortunate that we should hear that large numbers are now going out of Nairobi, presumably

[Group-Capt. Briggs]

back to the reserves. That is obviously going to add to the difficulties there and possibly provide recruits for the gangs in the forest. I do feel Government might very well step in and at least withdraw the facilities of rail travel. I saw in the paper this morning that 1,500 left town by rail. I think that is something which could very well be stopped. (Applause.)

THE DEPUTY SPEAKER: No other hon. Member rising to speak—

DR. HASSAN: Mr. Deputy Speaker, Sir, with your permission, I would like to speak on both the amendment and the Motion and I would like to point out, Sir, that the Motion I am not supporting because it is tantamount to a vote of no confidence in the Government and the amendment I equally do not support because, in addition to no confidence in the Government, it also suggests no confidence in the Secretary of State for the Colonies and the Colonial Office.

Sir, from the time that the Emergency started everyone in this country knew that it was something new in the country, the like of which was never seen in any part of the world, although references have been made that it was something similar to Malaya, but I do not believe it was anything like Malaya. New experiments have to be carried out.

I know there were very energetic and intelligent people in this country who simply said: "We want to be given an opportunity to go and finish off the *Mau Mau* in no time!" They were given an opportunity by the Government to go and finish off the *Mau Mau* but it was soon found out that it was something that needed military people of more experience, better trained to deal with the situation.

Now, Sir, we have one of the great men of military experience here who has taken up the job of doing the operational side and so far as we can see, he is trying his very best and doing all that is necessary. The police also are being expanded, they are doing all that is necessary to bring about peace and eliminate lawlessness but, Sir, we, on this side—I am including myself—we have been acting like spectators around the boxing ring shouting at the combatants how to

protect themselves from his left and how to hit with his right, without any responsibility on us so that if our favourite wins, we shall have the opportunity to tell him—"Yes, you took my advice and succeeded"—and if he fails, we shall have the opportunity to pull his leg, without carrying any responsibility.

I know very well mistakes have been committed in some cases amounting to blunders—but it is something new and everytime some lawlessness is seen in a part of the country the security forces try to deal with it by changing their methods and I feel, Sir, that it will never pay us to criticize the Government in a way which amounts to a vote of no confidence and simply prevents them carrying on the hardest task they have undertaken. To deal with lawlessness by means of the military and by means of the police is not a very easy task and I think it is going to take a very long time to deal with the present situation and the way, in my opinion, hon. Members on this side of the Council can help is by supporting the Government, sympathizing with them, helping them with good suggestions and assisting them in the operational side and in the affairs of dealing with lawlessness.

I do not support either the amendment or the Motion.

THE DEPUTY SPEAKER: The time has come for the adjournment of Council. If no other Member wishes to speak to the amendment, it would be convenient to get it out of the way. Are there other speakers? Mr. Slade? Yes, well, in that case Council will suspend business until 8 o'clock this evening.

ADJOURNMENT

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

Tuesday, 13th October, 1953 (Evening Sitting)

THE DEPUTY SPEAKER: The debate on the amendment proposed by Mr. Blundell to Mr. Cooke's Motion will be resumed.

MR. HARRIS: Mr. Deputy Speaker, Sir, I wish to give notice of an amendment to the amendment already moved in the following terms:—

To delete from the word "and" following the word "Emergency", to delete "urges the Secretary of State to allow a greater power of decision by the Government in Kenya", and to insert "calls upon Government to explore every means of remedying the situation forthwith".

So that the amended Motion would read:—

"In the opinion of this Council the Emergency is not being handled with the necessary imagination, vigour and sense of urgency and calls upon Government to explore every means of remedying this situation forthwith."

My reason for proposing this new amendment, Sir, is that it seemed this morning that nearly all hon. Members of this side of Council anyway were trying to say the same thing, but they were differing as to the words which should be used and, in this amendment, I have tried to meet the point of my hon. friends on my left who were rather worried about the inclusion of the suggestion that greater power should be delegated by the Secretary of State to Kenya, and I feel, Sir, that this amendment does meet this point of view which leaves the initiative entirely with the hon. Members opposite as to what steps they should take to satisfy the obvious disquietude there is in this country over the prosecution of the Emergency. I hope too, Sir, that the hon. Chief Secretary will be able to accept this amendment as there is in it the initiative to take whatever action this Government feels should be taken to speed up the conclusion of the Emergency.

In moving the amendment, Sir, I would like to make it quite clear that my colleagues dissociate themselves completely from any suggestion of a vote of no confidence in the Government for reasons already stated earlier in the

debate. In addition, Sir, by the substitution of the word "Emergency" for the original expression "the offensive against the terrorists" the emphasis is changed from a criticism implied against the forces of law and order and is placed firmly and squarely either upon the Government of this Colony or upon the Colonial Office, and I feel, Sir, that that is a correct change of emphasis because, as has been stated, my colleagues are grateful for the work that the troops and the police are doing in this Colony at the present time, and we would not care to think that those men who are fighting the active parts of the battle are doing anything less than their duty.

For those reasons, Sir, I beg to move this amendment.

MR. CROSSKILL: Mr. Deputy Speaker, Sir, I beg to second this Motion.

I felt this morning that this Council had lost some of its pristine fire during the arguments but perhaps the powder was a little damp on both sides of the Council. I did get the impression that we might have been debating, if the hon. Member for Finance will forgive me, the Budget rather than this Emergency which is costing this country £5 a minute, which is exhausting our manpower and which is discouraging to some extent the flow of capital from coming into this country. I should like myself, personally to have supported the Motion moved by the hon. Member for the Coast but for one very great reason, I and my colleagues found ourselves unable to do so. Recently in the last few months, we or, the representatives of members on this side of Council have been associated very closely with the suppression of *Mau Mau*. We have, therefore, assumed a certain degree of responsibility and if we had supported that Motion, it would have been tantamount to a Motion of censure on the Government and to a certain degree, on ourselves. I therefore felt it would be quite wrong to take any step which would have caused a split and division in the strength which we should in this country marshal wholeheartedly against the forces of *Mau Mau*.

I also could not agree with the inference which, perhaps wrongly, was made from a certain statement the

[Mr. Crosskill]

Mover made with regard to possible pulling of punches by the troops. I feel really that he meant possibly the tactics were wrong and the orders given to those troops should have been more ruthless than they were. If so, the inference was in the misinterpretation of the words which the hon. Mover made.

Undoubtedly there can be no cause for complacency or for satisfaction about the conduct of the measures for the suppression of *Mau Mau* at the present time. We cannot be satisfied until the *Mau Mau* is dead. At the present time we have the ridiculous position of a few hundred terrorists who are pinning to ground many thousands of troops and that alone, I think, quite definitely proves that the measures being taken are still not sufficiently ruthless. I contend that right from the beginning of the Emergency, we have underrated the terrorists; we have underrated and underestimated their intelligence and military capacity. As I have said, this Emergency is costing this country at the present time £5 a minute and furthermore it is exhausting the manpower. I have to-day been talking to an official who told me he had been and is now on K.P.R. duty eight hours every other night and in addition is doing his normal job. That applies to many hundreds, even thousands of people throughout this country which emphasizes that the position must be taken even more seriously than we have been considering it up to the present time. We have no reason for satisfaction on several points which have been reported in the Press and come to our notice recently. In particular I should like to say that we on this side are far from satisfied with Government's control of propaganda. Near seditious statements appearing in the Press and being disseminated throughout the country from various information offices—I feel, Sir, very much tighter control of such near seditious statements should be kept.

Secondly, in the debate earlier in this session, it was stated that 97 *Mau Mau* had been convicted of murder and sentenced to death, but not one of those had yet received punishment. I do feel that until the situation is put right prospective thugs and criminals will think that it is easy to get away with murder. I do attribute the present trouble in Nairobi

to the fact that so many of those criminals have not yet been meted out with their just punishment. Then to-day we see that 1,500 *Mau Mau* have gone up country. I do feel there is some laxity and their destination should have been determined before they left. It appears that they have now drifted up country and it is merely another example of squeezing the toothpaste and the criminals have gone from one end of the tube to the other. We will probably hear of more trouble up country and for that reason I wish to support this amendment.

THE DEPUTY SPEAKER: We are now dealing with the amendment to the amendment.

MRS. SHAW: Mr. Deputy Speaker, I hope I have your indulgence and can speak in omnibus fashion because by this time I am rather confused on what I am speaking—I think the amendment to the amendment.

While agreeing to what the hon. Mover said this morning, for he made it clear it was a vote of no confidence in the Government, if the vote of no confidence were supported and carried by this Council, I feel the Unofficials would have no other course but to dissociate themselves from all active support of Government in the conduct of this Emergency. Now, Sir, I do not think anything could be gained by this action. While agreeing with the hon. Mover that we do not find the required sense of urgency in the conduct of this Emergency, I must strongly deprecate any suggestion that any of Her Majesty's forces now engaged in the forest against *Mau Mau* were not carrying out their duties without fear or favour, and I am glad the hon. Mover corrected that impression. No, Sir, my way of thinking is that the fault still lies in the fact that the ponderous Government machinery is still not geared to the tempo to deal with such an Emergency.

To take some examples—one still hears on all sides, from all parts of the country, tales of mess and muddle, of lack of liaison between Regular Police and Kenya Police Reserve. In fact, only this week, I have had complaints from such widely scattered areas as Songhor, Nyeri and Nairobi. You still hear disturbing reports of leakage of information

[Mrs. Shaw]

resulting in the miscarriage of carefully laid plans. The disastrous effects of the slowness of justice in a debate on law and order was fully dealt with in this Council only last week—

MR. COOKE: More of an indictment of Government than mine!

MRS. SHAW: The disturbing fact that thugs and gangsters in this City were in a position to enforce their will through intimidation on large sections of the community in spite of the police, the equally disturbing fact that so many unauthorized persons are in possession of firearms and that firearms have been run over our borders with comparative ease while, as far as I am aware, nothing has been done by our Government to see that the control of firearms in neighbouring territories has been tightened up. The fact that so often, although there are Emergency Regulations to deal with situations arising, the local government officers do not seem to understand or be able to apply or even in some cases are aware of the existence of such Emergency Regulations. So while agreeing with much that the hon. Mover said in speaking to his Motion, I am supporting the amendment, for it must be common knowledge to the majority of this Council that often, over the past twelve months, Whitehall has been responsible for the policy of too little and too late, but, Sir, even if I believed this were not the case, that the hon. Members opposite were responsible for the lack of drive and decision, I would not support the Motion of no confidence in the Government because by such action we would be dissociating ourselves from any active part in the conduct of the Emergency, even in a purely advisory capacity. I agree with the hon. Mover that the country is seething with discontent and demanding that a greater decision is shown in high places, and that sterner measures are used in dealing with terrorists. I agree with the Leader that one of the causes in dealing with the lack of urgency is that Government refuses to face the facts, in refusing to recognize this for what it is—a rebellion on the part of the Kikuyu people, but even though I join in that demand for urgency and stronger measures against the rebels, I cannot agree that anything

would be gained by dissociating ourselves from Government at this critical stage, and think we would be showing a complete lack of responsibility in doing so. Therefore, I have no alternative, although agreeing with it, but to vote against it and to support this amendment.

I beg to support.

MR. COOKE: Mr. Deputy Speaker, when the hon. Member, who has just spoken, reads her words in cold print tomorrow, she will realize what she has said just now is much more an indictment of Government than I uttered myself this morning. I do not withdraw any of my criticisms of Government and this amendment is merely, as compared with my Motion, a distinction without a difference. This amendment could mean nothing else but a censure on Government. Now, before I sit down, I am going to accept the amendment because, to all intents and purposes, it is the same as my own Motion. Before I sit down I am going to say something pretty severe to my hon. friend for, not *Mau Mau*, but *Mau*, and the hon. Member for Aberdeenshire. Now, Sir, I have been reading over my speech of this morning—here it is—and it is a complete distortion to say that I in any way cast a reflection on the troops in this country. The whole point of my charge was this. I wanted to know why stronger action was not taken against the rebels and what was the strategy of the higher command, and that is as far as I went. I happen to have been in my time a fighting soldier—I was in the ranks—I was not in the Pioneer Corps or anything like that, and the last thing I would do, having fought in two campaigns in the ranks of the Army—the last thing I would do would be to cast a reflection on the soldiers. I think their behaviour out here has been in every way magnificent. I want to know, and I repeat—I want to know what the strategy and tactics are in this country and why has not stronger action been taken in this country. How can a trooper, a private in the Army dictate policy? Of course, he cannot. I want to know why the policy is not more severe. I say to my hon. friend that what he read into my speech was a complete distortion.

MR. CROSSKILL: I am obliged to the hon. Member for giving way.

[Mr. Crosskill]

I did say that I hoped that the inference I had obtained from his words was wrong. I am very gratified to hear that that was so. I did add I felt he really meant that the tactics and orders given to the troops were at fault rather than the bravery and the courage of the troops themselves.

MR. COOKE: Yes, Sir, I support the amendment.

MR. MATHU: Mr. Deputy Speaker, Sir, I do not know where I am now because there is a Motion and amendment after amendment, and I am a bit confused, but as long as that word "not" is in any Motion or amendment it is still a censure, or implied censure, on the Government. If you have the word "not" in any Motion or amendment, I am not going to support it. Unfortunately the rules of debate are that you must not move an amendment which will be a direct negative. If there were no such rule, I would have moved an amendment which would have been a positive amendment. Unfortunately I cannot do that, having heard that word "not" from the word go I cannot move an amendment without the word "not". As I think the word "not" is the word I cannot use in this case, I will oppose the Motion and oppose the original Motion unfortunately. But I will not keep Council long in doing so, but I would like to say that I agree with the previous speaker that we have to be more vigorous, more determined, bore imaginative and give an impression of sense of urgency in dealing with the terrorists in the forests. It does not matter whether you use the word Emergency or Operations against the terrorists—the fact remains that these are the fellows who are giving us trouble. We have not got them, we have not killed them. It does not matter what we say—the rest of the story, of the screening in the towns and in the African areas—the closing of shops, the seizing of cars and motor vehicles—that is nothing—the big noises are in the forest and these fellows here are small fry. They are the people who get their morale kept up because they are here. Up in the Aberdares and Mount Kenya so many of our loyal supporters have been wiped out. The Kikuyu guard posts in the Embu Division in South Nyeri, in Fort Hall and Kiambu have been wiped out.

Naivasha Police Station was ransacked because the big noises are in the forests. I think the emphasis is not whether it is against operations or the Emergency or the Colonial Office or this Government; it is the blokes in the forest and nobody can tell me that unless we are doing something to remove them, kill them, or what we will—that is not happening and Government can defend itself—we can defend them, but the fact remains that the terrorists are in the forests. Sir, if you tell me they are not, then I sit down. If they are there then I say that our first determination, the first thing to do is to kill them, shoot them, but they must not be in the forest. We are terrorizing the common man, the Kikuyu in the land units for doing nothing and night after night asking for papers—identity papers. Those gangs in the forests want identity papers for those boys! Before we do that I say we are not fulfilling our duty—amending Motions, wasting our time in this Council, talking about words. The terrorists are in the forest, Mr. Deputy Speaker. I have listened the whole morning and to-night—I get sick of it all. Unfortunately I am not in command—I cannot shout, but if I can, I will ask for the identity papers from these boys.

The *Kenya Weekly News* of last week put the case better than I can. With your permission I would like to read a very small passage out of it. It said: "General Tempier once reminded the people of Malaya that the Communists did not waste time and effort on sports and pastimes, on play and amusements. If the people of Kenya were to give an absolute priority to the defeat of *Mau Mau*, the task could be quickly finished. If they be not so prepared the consequences will be disastrous for Africans, Asians and Europeans alike. There are only two reasons why this State of Emergency should last another year; because the people of Kenya lack common-sense and sanity—"

MR. COOKE: True.

MR. MATHU: "Or because they lack the guts of woodlice with heart disease." I entirely agree—I do not usually see eye to eye with the writer of that article but this time I think I entirely agree with him.

The African Members, Sir, have been castigated in public and accused openly

[Mr. Mathu]

and privately for their half-heartedness in not supporting Government in their measures against *Mau Mau*. I do not think anyone could charge us with that for the last ten months—we have supported every measure that Government has introduced, by influence from this side of the Council or from elsewhere. Unfortunately the African Members have not the support for the suggestions which they make, which they think would help to end the Emergency—that is only difference of opinion! Every hon. Member comes forward with his petty suggestion—he thinks "When this is done, the Emergency will be over!" We have heard this morning and very frequently that if we pass the death sentence on oath administrators, the Emergency will come to an end. Well, we have done that; the Emergency is still with us. We have said that we will pass the death sentence on those who illegally possess firearms; we have done that and still the Emergency is with us. We have said those who consort with terrorists—and we know that they do—we will pass the death sentence on them; we have done that and the Emergency is still with us.

My hon. friend, the Member for Rift Valley, the other day introduced a Motion when he told us we should speed up the administration of justice. We have agreed to do that and then we shall see what happens; but the Emergency is still with us.

In Nairobi city where the situation is unfortunately very deplorable we have taken the step of fencing-in the African location, segregating the Kikuyu from the rest, and so on and so forth, but are these measures going to end the Emergency?

I should like, Sir, to hear from my hon. friend, the Member for African Affairs, if he would tell us—I am referring to Press Office Handout 565—a statement by the Officer in Charge, Nairobi—where it is stated, Sir—I am referring to this fencing of the Nairobi African locations—where it is stated that as a result of developments of the last few days spontaneous representations have been made by leading Africans for the adoption of measures to secure greater protection for the law-abiding.

One of those greater protection measures was the erection of protective fencing which is intended merely as a temporary expedient. I should like to think who those leading Africans were, because we have been questioned by Africans in Nairobi to tell them what that meant, because it did appear in the *East African Standard*. I should like, in asking that question, to say that, as far as African Members are concerned, what we would like to know is whether Government has underlined this word "temporary expedient", because as a permanent measure I would hate to see law-abiding people enclosed in fences of that kind. It is distasteful, Sir. If they have underlined that word "temporary expedient", I would like to ask Government to give us an assurance they will have a review of this matter, say, every three months to see whether it is necessary to continue with this fencing-in of loyal elements—those are the fellows I am interested in—loyal elements of our African community, because, failing that, we will alienate the feelings of those people who support us in the fight against *Mau Mau*.

They do not want to say anything now against any measure because they want to feel that Government should not say they stand in the way of any measures that are calculated to end the Emergency; but even when they are silent they may be very embittered—they may be very undignified—in measures such as this.

The other point I want my hon. friend, the Member for African Affairs, to tell Council is whether he thinks it is safe to get all the Kikuyu, Meru and Embu in one camp—and all the others in another camp. I am not militarily-minded, but if I was a general in charge of operations against an enemy, I would not put all the enemy in one camp because they will all plot and plan against me. I would split them into small groups, here and there, then I can deal with them. In fact, the British have been accused of "divide and rule", but this time they have forgotten to divide and rule. They have put all the enemy in one camp. I do not think it is wise. I think it is very dangerous to put people together in that way. I think it is very unwise.

Finally, Sir, as far as Nairobi is concerned, it has been said that no Kikuyu,

[Mr. Mathu] no Embu and no Meru should reside in or visit or enter Eastleigh. It is a prohibited area. Now, Sir, there are two elements of these notorious tribes I should like to speak for in this Council. I refer to the loyal elements of these tribes who may genuinely and honestly be earning a livelihood in Eastleigh. Why should they be prohibited from earning a livelihood there?

And a further point, Sir. There are property owners of these tribes who have invested all their money in property in Eastleigh. Do you mean to tell me they are going to have all the residential premises locked up? Then they have to go somewhere—goodness knows where. Do you mean to tell me that people will go with a good heart and will smile in Homeric style. I suggest it is not human.

Have all steps been taken to see that we can deal with Emergency Regulation 4 (a), sub-section 3, where we can close down premises when we know that certain things are done? Can we deal with them in that way?

There is a further point as far as Nairobi is concerned, and that is what other speakers have said before about the moving of nearly 20,000 Kikuyu from Nairobi. I know my hon. friend has already given an answer to that. Excuse me saying so, that answer was very vague. They are going to camps—to do some work there. Where are these camps—what kind of work are they going to do? They are not going right to the reserve. I suggest if we want to utilize people for the future of this country let us get a scheme—a definite scheme to settle the Kikuyu there. My hon. friend, the Member for Rift Valley, thinks we do not need anything constructive now. All we want to do is to finish with the *Mau Mau* negatively, and later we can think what we are going to do with 20,000 from Nairobi alone. If I were in the shoes of the hon. gentleman there I would have a scheme to settle the Kikuyu—produce something constructive for the country in the meantime. If I say that, my hon. friend will say this is a policy of appeasing the Kikuyu. We must not give them anything. If we do not give them anything something will grow up worse than *Mau Mau*. I suggest, Sir, they are human. If we have to move

these blocks from Nairobi, as we did actually in the Rift Valley, they are going to give us a lot of trouble, and the *Mau Mau* in the forests will have a lot of recruits there. They will have a lot more recruits in Nairobi, and the worst type too. They shoot in the daylight here, and we have not caught one.

Mr. Deputy Speaker, like other hon. Members, I would like to say that I have a lot of good things to say for the security forces because they have done a great deal under very difficult circumstances. I will not be a party to those who censure them or discourage them. On the other hand, I should like to say that we could be more imaginative by taking measures to kill the fellows in the forests—not to disturb peaceful women and children in the reserves, which are some of the measures we are adopting. What we have to do as far as the forest people are concerned is we must deprive them of food, firearms and information, because those I consider to be important factors.

I should like to suggest that we can do more. We can go further. When we have done that we must wipe them out in the forests, and then we can proceed. In the meantime the common man in the streets of Nairobi, as I say, he is the person who is suffering—the common African in the Kikuyu reserve—but the other blocks are having an easy time under the trees, in the shade in the forests, undisturbed.

Mr. Deputy Speaker, I oppose the amendment to the amendment. (Applause.)

Mr. SLADE: Mr. Deputy Speaker, before I speak perhaps on a point of order might I ask if we now have the Motion actually amended by acceptance of the original Mover, or are we still speaking on the amendment to the amendment? The hon. Mover did say he had accepted it.

THE DEPUTY SPEAKER: In strict rule we are still speaking to the amendment to an amendment but the debate has roamed so widely and most speakers have covered all the ground, I think it would be rather difficult to confine any speaker now precisely to the amendment to the amendment.

Mr. SLADE: Might I suggest, with the consent of the hon. Mover, that the

[Mr. Slade] amendment is substituted for the original Motion?

THE DEPUTY SPEAKER: If it is the desire of Council that the question of the amendment to the amendment be now put, that will perhaps clear the air.

Mr. BLUNDELL: Perhaps it would assist hon. Members who seem to be getting rather confused if I say I think the amendment I have moved has been misunderstood especially by the hon. Members on my left and if I say I am going to withdraw it, then the amendment to the Motion will become the Motion because the hon. Mover accepted it and much of the cloud and fog in hon. Members' minds will disappear.

Mr. MADAN: On a point of order, Mr. Deputy Speaker, if you allow it to happen now will it not be unfair to Members who wish to speak? I may wish to speak on the amendment to the amendment; if you were to substitute the amendment, you would be depriving Members of the right to speak to the amendment to the amendment—

Mr. BLUNDELL: Nobody can prevent me, with the leave of the Council, withdrawing my Motion—

Mr. MADAN: I am not worrying about the hon. Member for Rift Valley, I am worrying about my right to speak on the amendment to the amendment.

THE DEPUTY SPEAKER: Is any hon. Member prepared to move that the question on the amendment to the amendment be now put?

Mr. MATHU: I beg to move that the question of the amendment to the amendment be now put.

THE DEPUTY SPEAKER: Any seconder to that?

Mr. HARRIS: Asking for your ruling, Sir, it is customary to allow all sides of Council to speak before the question is put. We are still waiting for a word from the Government side on the amendment to the amendment.

Mr. MADAN: With respect and on a point of order, Sir, I would submit that the Asian Members have not had an opportunity to speak on the amendment to the amendment.

Mr. SLADE: With respect, I cannot understand it. The hon. Mover accepted—the hon. Mover may accept the amendment to the Motion, that becomes the substantive Motion; that is what we want to debate now.

Mr. COOKE: Could not the hon. Member for Rift Valley withdraw his Motion with retrospective effect? (Laughter.)

THE CHIEF SECRETARY: If that is withdrawn, the hon. Member for Nairobi South's amendment to the amendment does not exist, presumably, if the hon. Member for Rift Valley's amendment is withdrawn with retrospective effect! (Laughter.)

Mr. BLUNDELL: With all due respect, surely I may withdraw my amendment in favour of the amendment which the hon. Member for Nairobi South has moved—his amendment then becomes the amendment before Council. I would like guidance on this, I do not want to discourage Council, but I can speak, I believe, on the Member for Nairobi South's amendment? If I withdraw my amendment so that his becomes the amendment before Council, may I still speak? I am concerned just as much as the hon. Indian Member for Central Area.

Mr. MADAN: With your permission, I rise again, Mr. Deputy Speaker, because I seek your guidance.

I feel certain statements have been made in this Council this morning and this evening which should be answered by the Asian Elected Members. I realize I have already spoken on the main Motion; if the amendment from the hon. Member for Nairobi South becomes the main Motion from the Coast, I feel you might tell me later on that I have spoken and that I may not speak again. I do not know what other Asian Members feel; I would not like to lose my right.

THE MEMBER FOR FINANCE AND DEVELOPMENT: On a point of order, Mr. Deputy Speaker, may I ask your ruling on Standing Order No. 51: "A Motion for the amendment of a substantive Motion shall be disposed of before the substantive Motion and when a Motion is moved for the amendment of a proposed amendment, such proposed amendment shall be dealt with as if it were the

(The Member for Finance and Development)
substantive Motion until the Motion for the amendment thereto has been disposed of." With all due respect, I suggest that unless the amendment to the amendment is withdrawn, we cannot debate either the amendment to the substantive Motion or the substantive Motion. (Hear, hear.) (Laughter.)

MR. HARRIS: Asking for an interpretation, Mr. Deputy Speaker, Sir, in ordinary language, I take it the amendment to the amendment is still before Council?

THE DEPUTY SPEAKER: It certainly is.

MR. BLUNDELL: There is nothing to prevent me withdrawing my amendment in favour of the amendment, then his may become the amendment.

THE DEPUTY SPEAKER: The proper course, as I see it—I must admit I am not so well versed in Parliamentary procedure as our Speaker is—but as I see it, the proper course is for a question to be put on the amendment to the amendment and if that is carried then it becomes the substantive amendment. The vote would then be put on the substantive amendment and if that is carried, the original Motion goes by default and that becomes the substantive Motion. I think that is the proper procedure without any question of withdrawal or acceptance by the previous Movers of the various Motions.

MR. MADAN: Then, on a point of order, Sir, if the amendment to the amendment becomes the substantive Motion, if a Member has not spoken on either the amendment or the amendment to the amendment, would he be entitled to speak again?

THE DEPUTY SPEAKER: Yes, but speak on the amendment at this stage, if any hon. Member has anything to say.

MR. SLADE: I thank you for having elucidated the position. (Laughter.) That is, without intending to be funny, as hon. Members seem to think! I will now speak, if I may, to the amendment to the amendment.

Mr. Deputy Speaker, in supporting this amendment, as indeed I would have supported the previous amendment, I am not criticizing the original Motion for any

reason other than that of emphasis. I think it has been made adequately clear by some of my colleagues that the fault that we see in the original Motion is the emphasis on failure of operations against the terrorists, as opposed to other shortcomings of handling this Emergency. I do think, Mr. Deputy Speaker, that this is the wrong emphasis because it is in the field of operations against the terrorists that possibly we have cause for the greatest satisfaction. I endorse not only what has been said about the security forces in the field but also administrative officers in the field. I think they earn our high thanks and praise. (Hear, hear.) But I do not concur with the other criticisms that have been levied against the original Motion, the fact that it brings before Council the widespread lack of confidence that exists in the handling of the Emergency—nor do I think any more than the hon. Mover does, that this amendment alters by one jot or tittle the original Motion in that respect. Whether or not such a vote be technically a vote of no confidence, I do maintain, as he does, that it does express this widespread lack of confidence and in my submission, fully justified lack of confidence. I do not understand why it should be such a terrible thing in this Council; which is the forum of public opinion, to express what the great majority of those whom we represent are thinking. I have said before, in this Council and elsewhere—and I do not want to elaborate that point again—I say that the hon. Mover is quite right in bringing forward this Motion expressly, without argument, without beating about the bush, as a statement of the desperate anxiety in the public opinion as to the handling of this Emergency.

Now, Mr. Deputy Speaker, the first amendment was designed to place the blame for that anxiety, for that lack of decision we have discerned on the Secretary of State and I cannot concur in that altogether either. I do think that there is a great deal in what the hon. Member for Uasin Gishu said—it has been said in the Council before—that it is very difficult for the Government faced with the Emergency to move boldly and promptly when it has to refer to someone else many thousands of miles and if that someone else again, in turn, is looking with anxiety at the effect it will have on voters

(Mr. Slade)
in a Parliamentary party system. But we cannot lay all the blame there. There has undoubtedly been a lack of decision here, too. I do not think any of us could say exactly how far it rests with the Government on the spot and how far it rests with the Secretary of State but as an example—just one—of it obviously resting here, I would remind hon. Members of a day in May, when we read the newspapers in the morning and saw, some of us with delight, that the Secretary of State had referred to the state of affairs in the Colony as "armed rebellion", the very same day we were told by the Member for Legal Affairs, that at this stage we could not recognize this as an armed rebellion. That is only one example of people here calling a check on what the Secretary of State had in mind. It is lack of decision and it cannot be denied. Any of us could present to this Council, if time was to spare, a list stretching from one side of this Chamber to the other, of measures that we have urged from this side over the past fifteen months in this Council and outside this Council, measures which were opposed but which have now to the extent of 90 per cent been accepted. Therefore, they were the right measures but it was one month, three months, six months, nine months and twelve months before they were accepted. The hon. Member for African Interests says that these things have been done but the Emergency is still with us. My answer is how long have they taken to be done? Do you think that if they had been done when asked for the Emergency would still be with us and that is the point.

I do not want to labour this, Mr. Deputy Speaker, or waste the time of the Council in saying what I have said before and others have said before here but perhaps one could put a finger on it in this way. There is too much fear. Our trouble, I believe, is that Government, in trying to handle this Emergency, is hampered continuously by fear of criticism from outside and the Secretary of State, in so far as he controls the handling of this Emergency, is hampered likewise. It is not only there that fear is standing in our way. When the hon. Member for Rift Valley moved what seems to me a very reasonable amendment, except that again I thought the

emphasis was wrong, it was taken up by the hon. Asian Elected Members not on the grounds that it placed emphasis in the wrong place or was not justified in fact, but that what it meant was an attempt to get more power into European hands in this Colony. Their motive was not that the proposed amendment was right or wrong, it was fear—that fear of the Europeans on this side of Council. And we, my own colleagues, are not free from blame either. When the question comes up as to whether the Motion means what it says, as to whether it is an expression of lack of confidence in Government, there is a feeling of fear—fear of the effect of saying what you mean. Fear of the effect of expressing what your constituents feel, that is, in fact, a feeling of no confidence.

Mr. Deputy Speaker, we shall not end this Emergency so long as we are all held back by fear. I do urge everyone to set aside fear and to do what the hon. Member for Rift Valley so rightly said. For a change look straight ahead, stop looking over your shoulder, stop thinking of the indirect effect of this or that and concentrate, as advocated by the leader in the *Kenya Weekly News*, so well quoted by my hon. friend, Mr. Mathu, concentrate a hundred per cent on ending the Emergency and we shall end it. We have people in this country to do it and that just brings me to the last point.

The hon. Mover did mention what he described as a feeling of "defeatism abroad in this Colony. I am very glad to say that I have not become conscious yet of this feeling of defeatism. I do not think I shall. It may be that one or two speak of going. Of course, if they speak like that in these times, the sooner they are gone the better. Perhaps they will enjoy a visit to British Guiana. But there are very few. I believe I can say with certainty that in my constituency where, again with certainty, more European have been murdered during the Emergency than anywhere else. I do not know of a single farm that has yet been sold on account of this Emergency, other than sales by executors of those who had been murdered. Again, if anyone wants evidence of determination to carry the Colony forward in spite of the Emergency, I would ask them to visit the Royal Agriculture Show to-morrow and

[Mr. Slade] see the exhibits there—cattle, sheep, every kind of produce, as fine and as large an output from the troubled areas as from anywhere else. Those things mean something and the fact is that people of this country, whatever their confidence in the handling of this Emergency, will see this thing through. If only Government will fear a little less the criticism that comes from ill-informed quarters and do with greater expedition what they know is the right thing to do, they will find the most magnificent backing behind them.

I beg to support.

MR. MADAN: Mr. Deputy Speaker, Sir, I realize that I have already spoken this morning—I will try not to repeat myself, but I ask for your indulgence to be allowed to roam a little, if I do.

The amendment to the amendment, in my opinion, is a pitifully camouflaged piece of work—if that does not mean that the Mover, the hon. Mover, has no confidence in the Government then I do not know what would mean that. For that reason, Sir, as I made it amply clear this morning, I could not support the amendment to the amendment, or the amendment itself, not that it matters, now that it has been indicated that it will be withdrawn.

My reasons are the same as I said this morning about the main Motion. Three statements have been made in this Council, Sir, about things of which I spoke this morning with which I would like to deal. The first is, why is it that Asians in this Colony do not want to see more power handed down to the Government here, which we must remember—and I am not trying to be racial, but I am trying to be factual—consists not even mainly, but only, of Europeans. The Asian Elected Members have made that clear again and again, but some people, like my hon. friend the Member for Mau, either inadvertently or deliberately want to shut their eyes to our reasons. We are not satisfied that His Excellency or the Government Members sitting opposite us are not able or capable of making the necessary decisions. We are not satisfied, Sir, that when the opportunity has demanded it, that any one of these gentlemen has failed to rise up to the occasion.

Sir, when clamour is made for handing down power to the local Government here, we see in it cause for suspicion—we regard it as the first step towards Europeanizing the Government from local resources and no one can blame us for feeling that way, because our experience so far does not justify confidence, Sir. That is the motive, Sir, for our saying that we were against the handing down of more power to the local Government, and supporting the rule and the safeguards that are provided by the Colonial Office. We feel, Sir, the Government here, as they exist, and as they are constitutionally framed, and the Colonial Office provide a bulwark of safety for non-European people, and I would much rather lose many other things, many other precious things, than vote for a motion, or vote for any other measure, if it is disguised to look to be not constitutional than to see a change effected in the present system, unless of course, Sir, as I said this morning, it is done by agreement between all three races; and you cannot blame us for feeling that way, because we form part of a section of the population who have no share in the administration of this Colony. I think I can safely say we do not even have a share in advising the administration of this Colony, as the hon. Member for Rift Valley seemed at pains to emphasize. Nor do we see any prospects of sharing in the administration of this Colony if the attitude of certain European settlers is to remain as it is.

The third and most important reason is the one just mentioned by my hon. and learned friend, the Member for Aberdare—I mean, Sir, the hon. Mr. Humphrey Slade—in case I have his designation wrong—and it is the existence of fear in the minds of Europeans against Asians and Africans—against Asians, because some stupid, mischievous people, blinding themselves to the effect, will say that India wants to see Kenya and East Africa here as an Indian colony. Nothing could be more damning to the interests of this country, and nothing could be more derogatory or politically unwise; as far as such statements are concerned we have said it again and again, and I repeat it here now this evening, Sir, on behalf of the entire Asian community that we have no such

[Mr. Madan] interest in the matter. Our paramount interest—

MR. MACONOCHE - WELWOOD: Mr. Deputy Speaker, if the hon. Member will give way, on a point of order—is this to do with the amendment to the substantive Motion, or the amendment to the amendment?

THE DEPUTY SPEAKER: I have allowed the hon. Member very considerable latitude. A great deal of latitude has been allowed in this debate. I must ask him, as he has already spoken, and I must ask any other Members who are speaking on the amendment to the amendment who have already spoken, to confine themselves to the subject under debate—that is, the amendment to the amendment.

MR. MADAN: I will bear your advice in mind, Sir.

I was dealing with the question of fear which exists in the minds of the population in this Colony, and in all humility and with the greatest respect I want to show regard for the hon. Member who spoke just before me in saying how right he was when he said that we are ourselves—I think he was referring to colleagues only, but in that I include ourselves also—are not free from blame. I will leave that now, Sir, because I see the justification for the interruption, but there is one statement by the hon. and gracious lady from Nyanza, who said, like the hon. Member for Rift Valley, who said in a public speech not long ago, that there should be greater control over the issue of firearms. I could not agree more, except to take this objection, Sir, that control should have been in existence, long before the Emergency. But after the Emergency came into force the Government should have seen that all sections of the population—That is all law-abiding sections of the population were issued with the necessary firearms.

Sir, it may within your knowledge, but I think you will be amazed to learn that while Europeans may walk up to any district commissioner's office and ask for a permit to be issued for his pistol or revolver, an Asian may beg for it and beg for it again, and yet he may not get it. That surely is wrong, Sir. It is—as I said about four years ago in this

very Council on the subject of education—it is wrong for any one section of the population to become saturated with what they desire or asking for their own people, and to say to others—"now we are going to start exercising strict control to see that no mistakes happen". Those mistakes should have been avoided from the very beginning.

Sir, I beg to oppose.

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: Let there be any misunderstanding, Sir, I would like to make it clear that Government is not prepared to accept this third compromise, or third amendment to the amendment.

It would be unreasonable to expect any Government to accept any Motion which, after the Emergency has been with us for a year or so, states that the situation is not being handled with the necessary imagination, vigour and sense of urgency.

Sir, I have recently listened to a great many debates of this nature, some of which have taken a very long period of time. Although I am quite prepared to admit that Government have made mistakes so have other people, but what I am not prepared to admit is that the sole monopoly of wishing to end the Emergency rests with the Opposition, and is not equally shared by my side of the Council. (Hear, hear.)

Now, Sir, the reason why Government cannot accept this amendment is partly because of the introductory wording to which I have just alluded but also because it has been made perfectly clear by some speakers on the other side, that this is deliberately intended to be an indictment of Government, and indeed a Motion of no confidence.

The history, Sir, of the debate that has been taken place to-day is not without interest. It started with a Motion which undoubtedly, although the hon. Member took some effort to disguise it, was, in fact, a Motion criticizing military operations. He was also extremely critical of the police and for that reason I think the Motion he moved was not entirely acceptable to hon. Members on the other side. It was, of course, totally unacceptable to Government. Indeed, I will go further and say that the Motion in the terms in which the hon. Member

[The Member for Agriculture and Natural Resources] moved it did no very great service to the country in the difficult times through which we are passing.

In an effort, Sir, to show that there was still a certain amount of dissatisfaction over the way things are going, which I can quite understand, on the other side and in an attempt to achieve some show of unanimity the second compromise was produced and that, Sir, tried to suggest that the fatuous incompetence which is alleged to be a prerogative of those on my side of the Council was, in part, attributable to the Secretary of State. It was suggested that unanimity might be achieved if it was suggested that part at any rate of the short-comings of Government could be remedied if a formal Motion was passed in this Council suggesting that the Secretary of State should give more powers to the Local Government.

Now, Sir, it was quite obvious that no Government of a Colony with the constitution we have at present could accept a formal Motion of that kind. Even if the word "delegate" was used which it was not that "the Secretary of State should see fit to delegate more powers"—it is quite obvious that in the opinion of many that would more or less be a demand for a change in the constitution under which we work. For that reason, if for no other, the other again being the introductory phrase, Government could not possibly accept that Motion. I say, Sir, that in introducing that Motion, as in introducing the third Motion great care was taken by certain speakers to suggest that it would be bad on the whole to suggest that this was a vote of no confidence in Government.

But, Sir, I would refer to the speeches that were made by the hon. and gracious lady representing Nyanza and by my hon. friend the Member for Aberdare. In their speeches to this Motion, which is not supposed to be a vote of no confidence in Government, the hon. Member representing Aberdare went so far as to talk of fear and suggested why, in this place which should be the forum of public opinion, if people felt they had no confidence in Government, they should openly say so. So when one hears such expressions and statements in

support of what is said to be a harmless Motion can it be wondered at that Government refuses to accept the terms of the Motion which is now under consideration.

I deny absolutely that Government is completely devoid of any sense of urgency, is without any sense of imagination. I am tempted, I must say, to go further and say that sometimes when Government does take the action which it thinks necessary and that action sometime is found to be incommodating to certain sections of the community, then it is sometimes resisted. I do not say that that is unreasonable, it happens always when any Government is faced with difficulties, but what I do say, Sir, is that it is very easy to initiate long debate complaining that everybody is incompetent except the speaker.

MR. COOKE: You used to do it 20 years ago on this side!

THE MEMBER FOR AGRICULTURE AND NATURAL RESOURCES: I did, but not quite in the same way or at such length. (Laughter.) I am not at all sure that this type of debate always has the results that are anticipated. I would suggest, Sir, and I suggest it in all sincerity, that more good might result if specific instances of Government's incompetence were produced—(Hear, hear)—and thereafter when Government has answered or tried to explain whether there were short-comings or not in respect of such specific instances, we stood together instead of fighting and criticizing each other and set to work unitedly to concentrate on dealing with the Emergency which faces the country to-day. (Hear, hear.)

MR. AWORI (African Representative Member): Mr. Deputy Speaker, the African Members have been accused of taking up the time of Council, therefore I will be brief. I do not think I am going to support the amendment to the amendment, nor would I support the original Motion, except that I have got a few observations to make. One is that the Government has blundered too much in handling the Emergency. At the beginning of the Emergency a number of legislations were passed against our wishes. We were accused of irresponsibility, of co-operating with subversive movements because we opposed what Government

[Mr. Awori] wished to do to end terrorism in this country. Now the reason why we opposed was that we know our people, we know their mentality and we know that law alone would not be able to remedy the situation. I doubt if there is anybody in this Council who knows how many laws we have made since the Emergency started, how many regulations have come across, even the police themselves do not know what the laws are. I have been stopped one at mid-day on a main road and I was asked for a pass—I told him it was not curfew time, it was not seven o'clock. He said, "I am sorry, you are right!"

Now we Africans—the more laws you make to control them, the worse the situation. What have we done? There have been many penalties. We have asked for severe penalties for people who administer the oath for *Mau Mau*. It has been accepted that anybody carrying firearms illegally would be convicted of a capital offence but how is it that in the city of Nairobi there are very many thugs carrying guns. A short while ago it was mentioned that there were only twenty guns in Nairobi. I doubt it. Mr. Deputy Speaker—there are about three hundred illegal guns in Nairobi or more. Nobody has tried to get hold of these guns. On every corner we have police and troops, every corner of the street. Now what is happening? It is the innocent people who are being asked for papers, who are being screened and yet the hooligans themselves are going scot-free.

Where are they hiding? What is the intelligence service doing? Why cannot they get hold of the people? Are we going to end the Emergency by having Kikuyus paint their bicycles or by controlling them in one area? No, Sir. As Mr. Mathu mentioned, it will be very very bad indeed if we have the Kikuyus isolated in one particular area because we will give them the opportunity to plot to do what they can. At present it has been mentioned that the Kikuyus are trying to drive the other tribes from the City of Nairobi. Power politics and all that—despite all the laws we have got, the situation does not improve and yet word of mouth, by itself, controls the City of Nairobi. You cannot see Africans smoking cigarettes, you cannot see them going

in buses, they are not patronizing Asian or Arab restaurants. Why? Who are the people controlling the City when there are policemen and troops? That is why I say that there is something somewhere.

MR. COOKE: That is what I say as well, thank you. (Laughter.) (Hear, hear.)

MR. AWORI: I doubt if it is the troops and police that we need, we need psychiatrists, mental and psychologists and all sorts of people, I cannot really express it. Not only people having to use arms but people who understand the African mind and know exactly what is happening.

Recently the African leaders can only express their views in Council, but what part are they doing? Is Government asking for co-operation—no! Government is not asking for their co-operation at all. All we can do is to express what we feel here.

I do not know very much about *Mau Mau*, all I know is and all I can understand is that whoever started *Mau Mau* was a very brilliant man, if he could control the minds of the masses and yet Government with all their doctrines cannot change the people. If that man is alive let him be called to settle this matter.

Mr. Deputy Speaker, I oppose the amendment, or the amendment to the amendment.

THE MEMBER FOR FINANCE AND DEVELOPMENT: Mr. Deputy Speaker, with your permission I would like to speak on the amendment to the amendment to the Motion and also to refer to the substantive Motion in order to get rid of everything in one outburst.

THE DEPUTY SPEAKER: If you have not spoken before, that will be quite in order.

THE MEMBER FOR FINANCE AND DEVELOPMENT: I would like first of all to deal with the rather diffidently based, if I may put it that way, position of the amendment to the amendment and the amendment to the Motion as expressed by the last hon. speaker, the Member for African Interests, Mr. Awori. I imagine that anybody having listened to the speaker would have thought he was inclined to support the hon. Member for the Coast. The only thing that I can say, Sir, is that when Mr. Awori said that

[The Member for Finance and Development]

there was something wrong somewhere, I think his "something wrong somewhere" was a completely different "something wrong" to that suggested by the hon. Member for the Coast, because, if I understood Mr. Awori, his "something wrong" was that too much action had been taken and that too many laws had been imposed. While if I understand the other Members' charges, there can, of course, be no doubt about it that it is a charge against Government of incompetence and indecision, it is that too little has been done and too little decision shown.

MR. COOKE: Too little decision against the *Mau Mau* in the forests.

THE MEMBER FOR FINANCE AND DEVELOPMENT: We seem to have arrived in the peculiar manner which Government seems to have—in the middle path of reasonable moderation.

Now, Sir, the Member for the Coast—I would like first to deal with his part of the Motion. First, Sir, he put the Motion in these words—"that it is the opinion of this Council that operations against the terrorists are not being conducted with the necessary vigour, determination, imagination and sense of urgency". Sir, the hon. Member for the Coast can correct me if I am wrong but I see in that nothing but a vote of censure upon the Commander-in-Chief. I say, Sir, that that can be given no other interpretation. What are the words—that "the operations against the terrorists are not being conducted with the necessary vigour, determination, imagination and sense of urgency". With all due respect, Sir, to the hon. Member for the Coast for whom I have a very deep affection, great regard and a great amount of respect, I am sure he will—

MR. COOKE: Cut all that out!

THE MEMBER FOR FINANCE AND DEVELOPMENT: He will understand me if I say that I prefer to leave the conduct of operation and the judgment of what is necessary in the hands of an experienced Commander-in-Chief.

MR. COOKE: I will deal with you later on!

THE MEMBER FOR FINANCE AND DEVELOPMENT: I am sure the hon. Member for the Coast will deal with me later, it is for that reason that I am making sure that I am dealing with the hon. Member now.

The hon. Member will forgive me if I draw attention to a little slip on behalf of the hon. Member, so unlike the hon. Member, because he told us how absurd it was to say that the forests were impenetrable and how ridiculous it was when there were rhino tracks, elephant tracks and lanes and then a little later on in this plethora of advice which ensues from the hon. Member for the Coast with unceasing vigour and determination, he said, quoting from a speech that he made giving us, I think, advice on how to deal with the terrorists some ten months ago, I think I am right in saying that he said that unless action was taken against them now it would be too late because by then they would have descended into the depths—these are the important words—the depths of the "impenetrable forests". The hon. Member will forgive me if I say that this is a bit unusual from the hon. Member.

He cannot in one speech say the forest is not impenetrable and in the very same speech say the forest is impenetrable—it just does not go, Sir.

What is the position, Sir, with regard to the Emergency? By some strange coincidence I listened to-night to the news of the operations of last week. I can assure the hon. Member for the Coast that the Commander in Chief and General Headquarters did not produce this merely for the sake of my making a point of it in this debate, they said that last week in the operations which ended 10th October, 100 *Mau Mau* terrorists were killed and 108 captured. I suggest, Sir, that that is not a bad example of vigour and determination, imagination and urgency.

MR. COOKE: Were they the hard-core terrorists?

THE MEMBER FOR FINANCE AND DEVELOPMENT: The fact remains that they were terrorists, and what the hon. Member cannot tell me is whether these were not hard-core terrorists because that would be as much imagination as any other statement made by the hon. gentleman!

[The Member for Finance and Development]

Now, Sir, the hon. Member said and implied that the Kikuyu home guards were being left to bear a major share of the operations. I think that statement wants denying, and denying very strongly, because nothing could be more disastrous than for the loyal Kikuyu home guards to feel that they were being left to bear the brunt of battle. It is not accurate, Sir, the whole weight of security forces and the whole weight of equipment and leadership that is wanted is being provided for those Kikuyu home guards. Of course, Sir, it is obvious—

MR. MATHU: Just on a point of information, when there was a very big campaign last week in Fort Hall, when 45 terrorists were killed, the Kikuyu home guard in front killed 38. Why were others not in front?

THE MEMBER FOR FINANCE AND DEVELOPMENT: If the hon. gentleman will refer to the general reports, he will find time and time again that security forces have also been in the forefront of battle. This is something which all are sharing. It is being shared by all races, according to their respective ability to contribute. I think we should make that point perfectly clear.

The hon. Member for the Coast, Sir, said something that I found equally distasteful. In his remarks on the action of the police. Now, Sir, within a very short time we have expanded our police force, I think it must now be somewhere near three- or four-fold. We have had to do that during an Emergency, with very heavy pressure and anybody who has had experience of a rapidly expanding force will not expect during the period of formation the same discipline and the same steadiness as you will get from the regular, who has had long experience and learns to hold himself in check. I say, Sir, that perhaps one of the most surprising things is that in a rapidly expanding police force of that kind, faced, as some of those people have been, with scenes of disgusting and bestial brutality it is a miracle that men have not given way more than they have. (Hear, hear.) I think, Sir, we should be paying tribute rather to the steadiness of the force as a whole, than picking out what I believe are isolated instances, where the strain

of the scenes that they have seen and the things they have had to face have made them give way, in many cases, for a moment only.

Of course, we have all known for many years, and I know that the hon. Member for African Interests, Mr. Mathu, will agree with this, that some attention to the attitude of African police to Africans has been necessary. That we do know, and that we do realize, and the Commissioner of Police has paid attention to that, time and time again. But you need a long time to build up the high standards of a tradition of a police force in the lower ranks of a colony like this, to a standard that one has come to expect from the British police force, where all policemen are looked upon as friends of all the population.

Sir, once or twice in this debate there has been a statement made which cannot be left unchallenged. It is a remark about capital not coming into this country. That is not correct. It is correct to say that there is not as much capital coming into this country, perhaps, as there was before the Emergency, but there are many small firms, and one or two very large projects entering the country at this particular time, Sir. Why, only last Sunday I was interviewed by one of the men of Unilever who are coming into this very township with a very large investment. We have heard of the cement project; we know that in the middle of this Emergency the oil companies are considering the installation of a very large refinery at our Coast, Sir, it is not true that the outside investor has lost all confidence in Kenya. Now it is a remarkable thing, Sir, that on the London Stock Exchange the price of the Kenya Government Loan stood absolutely firm throughout all these troubles until one particular item in a newspaper arose and that was the advent of troops in Nairobi. Until that point, Sir, our investment had shown no reaction throughout the long and tortuous strain of the Emergency.

I would like to say in answer to the hon. Member for African Interests, and I speak here for my hon. friend, the Member for African Affairs, that of course the wiring of Nairobi locations is only a temporary measure, and, of course, the position will be reviewed

[The Member for Finance and Development] constantly because the Government does not, and would not, contemplate that as a permanent part of its policy.

My hon. friend, the Member for Rift Valley, Sir, spoke about the difficulty of getting rid of men in the Colonial Service.

MR. BLUNDELL: I think I used the word "replace". I would not dream of suggesting getting rid of them—that would be far too drastic for the Service.

THE MEMBER FOR FINANCE AND DEVELOPMENT: "Replaced" was the word. I could see his look of horror at the thought of getting rid of my hon. friend the Chief Secretary. Now, of course, it is a very great advantage I admit, sometimes to be able to transfer men whose policy or actions or capabilities you do not agree with, or you do not believe in. But, of course, I speak now from some three years' experience on this side of Council. It is also a very great advantage in a Colony of this kind to have men who cannot be removed by pressure of any particular group. It is a point that gives very great confidence, in my opinion in the impartiality of Government, even though Government may make mistakes. I think, therefore, Sir, that it is as great a point of merit as it is in the eyes of the hon. Member a point of demerit at times.

Now, Sir, I would not of course, deal at any length with the speeches of the hon. Member for Nyanza, or indeed of the hon. Member for Aberdare. I just say, of course, in the case of the hon. and gracious lady for Nyanza—I do not see how she could say what she said and then vote against the Motion or the amendment. I would not see—"their lack of drive", their "no decision"—there was not, that I could see, in her mind anything good that Government have done in this particular Emergency. I am only quoting from the hon. and gracious lady's speech—I see she wants to get up. I had better sit down.

MR. SHAW: In making my point, I brought out instances I can substantiate and indeed have done so to the departments concerned. I only criticized the machinery for dealing—the lack of urgency and drive by the Government

machinery—on the opposite side. I did not criticize the operations of the forces in any way.

THE MEMBER FOR FINANCE AND DEVELOPMENT: I did not say "criticism of operations". I said "Government". No one could read her speech—indeed the hon. Member for the Coast was joyous in the recognition of the supporting speech of the hon. lady, even though her vote was denied him! I can only say to the hon. and gracious lady, and to the Member for Aberdare, exactly what has been said before in this Council. It may not be that we enjoy the confidence of the hon. Member for Aberdare—we regret it—I have said before in this Council that we regret it, but we have not only to consider the confidence of the Member for Aberdare—I repeat that we have to have the confidence of the hon. Member for Rift Valley, the hon. Asian Member for Central Area and Western Area and the hon. Mr. Mathu; we have to have the confidence of all, if we are to govern this country, and much as we regret that confidence of the Member for Aberdare not being with us, we cannot resist feeling that his confidence is not in us because we have not adopted the other 10 per cent of the measures which the hon. Member had advocated, because we had adopted, according to his own words, 90 per cent of them—

LADY SHAW: After a time.

THE MEMBER FOR FINANCE AND DEVELOPMENT: So it is only the additional 10 per cent that still makes him feel he cannot repose in us that confidence which we would value—

MR. SLADE: The hon. Member spoke about percentages. What I want is speed and vigour.

THE MEMBER FOR FINANCE AND DEVELOPMENT: However, when all is said and done, the Motion cannot be regarded, amended or not amended, as anything other than a vote of lack of confidence in Government.

The hon. Member for the Coast referred to two Members of the Government in particular. One hon. Member is not here to defend himself, the other hon. Member, the Chief Secretary is present, but naturally, I think, he hesitated to defend himself on a personal note

[The Member for Finance and Development]

Now, Sir, let me say, if it is question of vigour, then I will vouch for the fact that the hon. Chief Secretary is full of vigour. If it is a question of determination, if determination can be expressed in hours of work, if determination is to do a job and get on with it, then my hon. friend, the Chief Secretary is full of determination. If it is a sense of urgency, then I can only say that, at times my friend, and by my friend I mean the Chief Secretary, rings me up at all hours or day and night in order to get things done quickly—and I hope he will not have any greater sense of urgency than that. If it is a sense of imagination, then I would like to close this particular speech by saying—Heaven forbid he should have the type of imagination that the hon. Member for the Coast seems to want us to have.

MR. COWIE: May I claim the privilege of speaking to the amendment to the amendment?

THE DEPUTY SPEAKER: If you confine yourself to that, yes.

MR. COWIE: I am not entirely convinced that these evening sessions are very profitable! I am not very experienced in debate in this Council, but this debate has deteriorated even further than this morning. I would like to challenge the hon. Members opposite for bringing forward this amendment to the amendment, because all it does is to emphasize the point which I believe they have made, and that is that there is a great feeling of discontent over the handling of this Emergency.

Well, anyone who is content with what is happening is probably not very sane. I believe they have made that point, and it is a good one.

I would also like, with all respect, if I may, to challenge some of the Members on my side and to say I think it is unfortunate if we are going to spend quite a lot of time analysing whether the forest is penetrable or impenetrable. This is a very serious subject, and we should not waste our time to-day by playing with petty thrusts backwards and forwards, and I think Members on this side of the Council have lost a very great opportunity, and that is to invite the Members

on the other side to pledge themselves and the people they represent, almost to subordinate everything else, that is not essential, to the immediate prosecution of this Emergency. If that could be done, and if there were a greater sense of urgency all through the country, I believe the Government could operate much more swiftly.

In the whole of this debate there has been a measure of criticism thrown backward and forward, but I do not really believe it has been constructive. What really matters is for this country to-day to realize that this Emergency has gone on long enough and we must face it, we must be prepared to subordinate almost everything that is not essential to getting on with the job in hand, and therefore, Sir, I would repeat the charge which I made this morning, and beg that the hon. Mover of the original Motion, if the amendment to the amendment becomes part of it, not to press this to a division, because I cannot see that there will be any profit in doing so.

THE DEPUTY SPEAKER: No other Member wishing to speak. I will put the question on the amendment to the amendment. I will put the question in the form required by the Standing Orders—that the words proposed to be omitted stand part of the Motion. Whenever a Motion has been put in that form there has been misunderstanding on the part of some Members, so in order to avoid misunderstanding, I will explain once again what has already been explained—that those who do not support the amendment will say "Aye" and those who do support the amendment will say "No". The question is that the words proposed to be omitted, stand part of the question.

The question was put and negatived.

THE DEPUTY SPEAKER: The amendment is now amended and reads as follows: "That the word at the beginning of the substantive Motion 'That' remains, and all other words in the Motion be omitted and the following words be substituted: 'in the opinion of this Council the Emergency is not being handled with the necessary imagination, vigour and sense of urgency, and calls upon Government to explore every means of remedying this situation forthwith'". My impression is that hon. Members feel that

[The Deputy Speaker]

they have now sufficiently ventilated every possible aspect of this Motion, amendment, and amendment to the amendment. I will allow a few moments for hon. Members to rise and if no Member rises, I will put the amendment in this form—that the words proposed to be omitted stand part of the question. Those who support the amendment will say—what will they say?—(Laughter)—they will say "No" and those who are against the amendment will say "aye".

The question was put and negatived.

THE DEPUTY SPEAKER: The amendment therefore becomes the substantive Motion:—

"That this Council is of the opinion that the Emergency is not being handled with the necessary imagination, vigour and sense of urgency, and calls upon the Government to explore every means of remedying the situation forthwith."

The hon. Member has a right of reply and I think he would be very disappointed if he did not enjoy that privilege.

MR. COOKE: Mr. Deputy Speaker, I am not going to be long. I am just going to deal with a few points. Although I did attack my hon. friend, the Chief Secretary, and do still, I was extremely pleased, if I may say so, that he took it in such good part, which I would expect from him after a friendship of 25 years. I have nothing to dispute in the points he made except that I cannot still accept his view that the surrender leaflet was timely. I think it was extremely untimely and General Erskine—

THE CHIEF SECRETARY: Would the hon. Member give way? On a point of explanation, Sir, I did say that there might be differences of opinion on that.

MR. COOKE: Thank you.

Now, with regard to my friend, the hon. Mr. Madan, I really could not understand—appreciate—his argument. Perhaps it is some lack on my part. He reminded me of that notable saying of Dr. Johnson. "Sir," said Dr. Johnson, "I can give you a reason but I am not called upon to give you an understanding." That is the only remark I have to make with regard to my hon. friend.

The hon. Chief Native Commissioner, always looks very fierce when he gets up and always looks in my direction. I cannot understand why—(Laughter)—because I am not really frightened of him, not a bit. I am sure he does not want to frighten me, I hope that he and I will remain friends for a long time, shall not get into enmity because, as the famous Dick Swiveller said on one occasion, "There is a large and extensive assortment kept in this shop." I hope my friend will not tempt me sometime to show what that assortment is.

Now, I am sorry that the hon. Member for Mount Kenya—I am afraid he did distort what I said, and if he will read my speech in cold print he will see I made no reflection whatever on the troops of this country. My whole point was that it appeared to me that there was not enough action being taken against the terrorists in the forests. That was borne out by the hon. Mr. Mathu and, of course, the fault could not possibly lie with the troops, they do not dictate the policy, nor could the fault lie with the General. With all respect to my hon. friend, I said perhaps it is some policy dictated from home. I asked my hon. friends on the other side of the Council to enlighten me on that, but they were very clever, they avoided the direct question and indulged in irrelevances to an enormous extent. And my hon. friend, the Member for Finance and Development reminds me of the description of Mr. Baldwin somebody gave in the House of Commons: "The Machiavellian Methodist." When he is speaking here he has got such a nice, kind face, just like a parson. (Laughter.) But he has a lot of little bars in what he says, and indeed he has got a lot of the cunning of Machiavelli, but it does not always pay. He did, I am afraid, I am sure quite unconsciously, completely distort what I said.

He accused me of having made an attack on the police, and indeed the boot was completely on the other foot. I asked the hon. gentlemen why they had not defended the police against that attack made by *The Citizen*, also by *Baruca* and *The East African Standard*. I asked the hon. gentlemen why they had not taken notice of those attacks, and I quoted—I have got my speech here. It is no use the hon. gentleman

[Mr. Cooke]

nodding his head! "Here are three examples from a Nairobi paper called *The Citizen*, you may say that it is an irresponsible paper, but if they are irresponsible why were these allegations of theirs not contradicted by the Information Office and the Government months ago?" I still ask that question, surely that is a fair question?

Now, one of those allegations was that wanted men were found "dossing down" in a police post in Nairobi. Is that allegation true or not true? If it is not true, then action should have been taken against the paper for publishing statements of that nature. Another alleges two men, wanted on serious charges, escaped from the Supreme Court. If my hon. friend had listened to to-night's news, he would have heard that two more escaped to-day! That adds more force to my argument. I merely asked, "Is that true?" I do not make the allegation, the allegation was made by what is supposed to be a responsible paper. The hon. gentleman, one would have thought, with his masterly powers of observation would have seen and would have dealt properly with it. He is a very important Government official now; two or three years ago he was on this side of the Council saying far worse things about Government than I have ever said—

THE MEMBER FOR FINANCE AND DEVELOPMENT: No.

MR. BLUNDELL: Oh, yes!

MR. COOKE: But the fact of the matter is that the hon. gentleman used later to withdraw what he said, but I do not, that is the only difference. I went on then to say there is an even more important, damaging statement about the police, and I asked the hon. gentleman if they are going to take action about it. I am not spreading any statements, they were published in this paper. It is up to the hon. Members on the other side of the Council to contradict them. No, they do not, it is typical of their inaction, their inaptitude, their inefficiency, that they allow these damaging statements to be made against the people that they allegedly are trying to protect. I have plenty of friends among the police, thank goodness, but

if I heard my friends criticized as their friends are being criticized in these papers!—as my hon. friends is such an honourable man, the Member for Agriculture, I am surprised he did not start to his feet and indignantly deny that any such things had happened, but he did not.

THE MEMBER FOR FINANCE AND DEVELOPMENT: He has done it on the floor of the Council.

MR. COOKE: He has done it on the floor of the Council? Then he has delayed many weeks and the lies got a very good start before my hon. friend, the Member for Agriculture, denied it on the floor of this Council. That is a typical example of the attitude of my hon. friends on the other side of the Council. They allow these things to happen, they allow the *Mau Mau* to defy them, and what action do they take, what real action have they taken, as I said before, against the *Mau Mau* in the forests? Plenty of action, as Mr. Mathu has pointed out, plenty of action against the decent African boys in Nairobi. I know a lot of it is inevitable. But I come from that type, I like to hit the people who are hitting back, I do not like to hit the people who cannot hit back, that is my philosophy in life. It may not be the hon. gentleman's. He said I was very distasteful, but the hon. gentleman's notions of taste may differ from mine. It all depends on one's upbringing, I suppose.

There was just one Member I wanted to deal with, and that is my hon. friend, the Member for Agriculture, he is also a very saintly person when he gets up on the Government side! But I have a distinct recollection of his sitting on this side of the Council, when I have heard diatribes against Government quite, quite outdoing anything I have uttered to-day! The pages of HANSARD are full of them. The main difference between my indictments and the hon. gentleman's indictments is that I take far fewer words, I think, to utter them! I think he used to stand up for three hours to tell us what he thought about Government. It is all in HANSARD—I have made my point. (Laughter.)

It is an amusing situation, really, because the hon. African Members are voting against my Motion, but every word they have said was in favour of

[Mr. Cooke] my Motion! Their criticism of Government was even hotter than my criticism, yet they say that they do not approve of my Motion. Well—"He who sups with the Devil must have a long spoon"; and if my hon. friends are supping with the Government now, perhaps it will not be so long on perhaps in a few months' time they will less complimentary!

I do not care really what support I get. I have ventilated this matter. I am going to put it to a division because I think the country should know what we, in this Council, think collectively and individually. I am going to ask each Member to register his vote and then we shall know whether the hon. Members think that this Emergency is being handled with vigour and energy and with a proper sense of urgency. It is for them to say, it is for them to give the decision, and the country will know what their decision is. (Applause.)

DIVISION

The question of Mr. Cooke's Motion as amended was put and on a division was negatived by 32 votes to 12 votes. (AYES: Mr. Blundell, Group-Capt. Briggs, Messrs. Cooke, Crosskill, Harris, Hollister, Letcher, Maconochie-Weirwood, Lady Shaw, Mrs. Shaw, Messrs. Slade, Usher; 12. NOES: Mr. Adams, Dr. Anderson, Messrs. Awori, Blunt, Major Cavendish-Bentinck, Messrs. Carpenter, Coventry, Cowie, Hartwell, Dr. Hassan, Mr. Jeremiah, Dr. Karve, Mr. Madan, Sheikh Mahfood Mackawi, Messrs. Mathu, Nathgo, Ohanga, Okwirry, Petrie, J. S. Patel, Sir Eboob Pibbhal, Messrs. Potter, Riddoch, Roddan, Mohamed Ali Said, Chanan Singh, Somerhough, Tameno, Taylor, Vasey, Wadley, Windley; 32. DID NOT VOTE: Sir Charles Mortimer; 1. ABSENT: Messrs. Edye, Gikonyo, Griffith-Jones, Lt.-Col. Grogan, Messrs. Havelock, Hope-Jones, Chief Mukima, Mr. A. B. Patel, Sheriff Abdullah; 9. TOTAL, 54.)

MOTION

SOCIAL SECURITY LEGISLATION

MR. SLADE: Mr. Deputy Speaker, I beg to move:—

"That a Committee be appointed to investigate and to make recommendations on the following questions:—

- (a) Whether there is now, or likely to be in the near future, need to provide by legislation for the social security of employees in their old age.
- (b) Among what races, and in what types and levels of employment, such provision (if any) should be made.
- (c) At what age or respective ages such provision (if any) will be needed.
- (d) By what method or alternative methods such provision (if any) should or could be made.
- (e) In what proportions the employer and the employee should bear the cost of any such provision.
- (f) Whether and to what extent voluntary provident schemes for employees should be accepted in satisfaction of the provision (if any) to be required by law.
- (g) Any other incidental questions having due regard to economic and practical considerations."

Mr. Deputy Speaker, I must apologize for the length of that Motion, I hope in speaking to it I can be correspondingly short.

THE MEMBER FOR FINANCE AND DEVELOPMENT: I wonder if the hon. Member would give way just a second, because I believe we could shorten a lot of the debate if he would consider making the Motion read, "on the following question," eliminating the "(a) Whether there is now, or likely to be in the near future, need to provide by legislation for the social security of employees in their old age". If so, then all the subsequent (a), (b), (c), (d) and (e) can be taken as being directly related to this first main point, which I think is his idea.

MR. BLUNDELL: Is the hon. Member moving an amendment?

THE MEMBER FOR FINANCE AND DEVELOPMENT: I am just suggesting it before we get into the amendment stage, if the hon. Mover could think of that before he puts his Motion, because until he does that, the Motion is his. That is, (a), (b), (c), (d), (e), (f) and (g) may be taken as they stand now as separate

[The Member for Finance and Development]

whereas I believe that all the others are subsequent to the point made in the first point.

MR. SLADE: Mr. Deputy Speaker, that is quite correct, that paragraph (b) onwards, the terms of reference, are really dependent on an affirmative answer to (a). On the other hand, having produced this rather voluminous piece, if anyone has any better wording, I would rather they put in an amendment. I do not want to make any amendment, though I am sure it can be improved.

This, Mr. Deputy Speaker, is a Motion for a Committee of Inquiry. That being so, I hope we shall avoid the mistake we sometimes make of trying to do the job of the committee and anticipate what they are being asked to investigate. My job, in speaking to this Motion, is simply to justify having such an inquiry and the particular terms of reference of that inquiry that I propose. The only thing that I would like to say, by way of preface, is that in proposing this Motion, I am not necessarily an advocate of the welfare state. I am trying to express here something which is quite independent of any such representation, and that is the exactly that every decent employer entertains for the welfare of his employees, not only while they are employed, but also after they are past employment.

Now, speaking on the terms of reference, Mr. Deputy Speaker, paragraph (a) as has been pointed out by the hon. Member for Finance and Development, raises the essential question. The question is whether there should be legislation on this matter of provision for employees in their old age. As I have said, I think the great majority of employers already recognize the need for such provision. The real issue is whether there is a need for it to be provided by law as opposed to voluntary effort.

There are indeed many voluntary schemes already in existence in this country, and I do not want to decry those schemes, or the efforts that are already made by employers who have the right outlook. You find in many large undertakings the most generous provident schemes, insurance schemes, and the like. You find among many small employers, either voluntary pensions

granted to their old employees when they leave work, or provision made for them in the way of a home. But I would like to point out, before going on, that if you leave it entirely to voluntary effort it is not always very fair, particularly in this way, because an employee may move from job to job and when he is young the employer may not think very seriously of providing for his old age, but he comes to his last job and he may not be with his employer very long, but that employer does see that thereafter the employee has no livelihood. The whole burden may fall on the last employer, either to provide a pension or to keep the employee when he is really past work, simply because he has nowhere else to go and no provision has previously been made for him.

Coming to paragraph (b), Mr. Deputy Speaker, I thought it necessary to raise this issue, that if legislation to provide for security of employees is thought necessary, we still have to consider among what races and in what types and levels of employment. As regards races, for example, what occurs to most of us first is—the tribalized African, but it does not necessarily stop there, it is for the Committee to say. One can visualize the employees of other races needing provision soon, if they do not need it now, as they approach old age.

Again, the type and level of employment may make a difference. The type may be such that in some kinds, the employee may last almost indefinitely. In others he is forced, by the nature of the employment, to retire at an earlier age. Age level, I think, one must always watch in any compulsory provision generally of this kind, because above a certain wage margin, the employee should be able to look after himself. That principle is recognized in Workmen's Compensation law and various other kinds of law. I think we ought to put it to the Committee to consider that aspect.

As regards paragraph (c), it is obvious that if any recommendations are to be made the Committee must consider the age at which it is really necessary for any such provision, and possibly different ages for different kinds of employment. Theoretically, I suppose it would be the average age at which the employee is past work in the type of employment under consideration.

[Mr. Slade]

Paragraph (d) "By what method or alternative methods such provision (if any) should or could be made." I very much hope that the Committee, if they recommend any such provision at all, would be able to propose a variety of methods, rather than only one, because it is, after all, this Council that has eventually to decide how, if a law is to be made, and we may make a very much wiser decision if we have a wide selection from which to choose, rather than only one course recommended. People may say it is very difficult to devise any course. I can suggest a system whereby every employee and every employer, throughout the employment, makes contribution by way of buying stamps or by way of putting money into a Post Office Savings Bank account in the name of the employee; that should not be beyond possibility. A kind of insurance scheme, or provident fund scheme, which moves on with the employee wherever he goes from employment to employment, whether long or short. That is what we are asking the Committee to devise.

On paragraph (e) I would only comment that in deciding how contributions are to be made, it is the view of very many people—I hope the Committee will consider it very seriously—that no-one should be encouraged to expect anything for nothing. Therefore, whatever measure of contribution there is to be, many of us think, though the Committee might think otherwise, that an employee should make some contribution of his own to the benefit that he is eventually to derive.

Paragraph (f) is rather important. Mr. Deputy Speaker, in that, as I have said, there are many good voluntary schemes already in existence, and it would be a great pity if individual initiative and voluntary effort in this respect should be entirely destroyed in favour of a somewhat rigid, soulless, compulsory system. Therefore, if the Committee can also devise a way of letting it yield to good voluntary schemes, it might be a very good thing.

The last paragraph; this is an open door for other ideas that the Committee may have, which would probably be much more useful ideas than any raised under the terms of reference I have

already discussed. It gives them that necessary latitude to bring forward their own ideas on all kinds of incidental matters.

Lastly, Mr. Deputy Speaker, governing all this Motion, is this necessity that the Committee should, of course, have due regard to economic and practical considerations. It is very tempting to have castles in the air, devise theories on paper which look right and work out all wrong. In this case it is extremely important that the Committee, before recommending us to embark on any wide scheme which must involve great monetary experiment, as well as considerable interference with the relations of employer and employee, should have their eyes wide open to what they are doing, should really consider whether what they recommend will foster employment, and good employment, rather than breaking down employment, making it more difficult for people to find work, more difficult for employers to take on all the men they would like to take on. Those things must be watched very carefully, and if there is no practical and economic way of legislating for this, however much it might be desirable otherwise, I trust the Committee will say so, and we shall have to face that fact. If, on the other hand, they can devise a practical and economic system of giving effect to something which is so desirable in theory, then we shall derive great benefit and advantage from their advice.

On some matters we have already got very clear ideas, and then in this Council we must say so. On other matters, and I suggest this is one, we have not very clear ideas, but it is time our ideas were made clear, and for such matters we need the preliminary advice of a committee of inquiry, and that is why I have brought this Motion.

MR. HARRIS: In rising to second this Motion, I would like to underline the point made by the hon. Member for Aberdare when he said that we should not try and attempt, in this debate, to anticipate the duty of the Committee, if it is set up.

I would like to make a point, however, that the Chambers of Commerce throughout Kenya have been discussing this

[Mr. Harris]

matter for several years. Many voluntary schemes have been initiated, but there is great difficulty in the lack of actuarial information in the country, and also because of the irregular habits of many employees employed in this country, without in any way committing myself to the findings of a committee. I do think that we have much to gain, as the hon. Mover has said, by clearing our minds and getting really expert advice on any way in which we can tackle this matter.

I beg to second. (Applause.)

Question proposed.

MR. MADAN: Mr. Deputy Speaker, Sir, I rise to support the Motion. Inasmuch as it asks only for a Committee of Inquiry, I feel it is hardly necessary for us to enter into debate about it.

Now, there is, however, one fear in my mind, and it may be that it springs from the wording of the Motion in sub-clause (b). The hon. and learned Mover may be able to dispel my doubt when he replies to the debate. I should not like the Committee or anyone else to think that we are supporting a Motion which is advocating any idea of this Committee making an inquiry on a racial basis, because I feel, Sir, this is the kind of matter which Kenya should deal with as a nation and not on any racial basis.

As a young boy I can still remember, and those with more grey hairs than I can remember it more vividly, the Government doling out assistance to Europeans in a part of which is now known as Stewart Street in the 1930's. I think it was, and I am glad, Sir, that the hon. Member for Aberdare has brought forward a Motion of this kind which I heartily support, at the same time asking his to dispel my doubts on the matter.

THE MEMBER FOR EDUCATION AND LABOUR: Mr. Deputy Speaker, Sir, the Government welcome and accept this Motion, and I would like to congratulate the Member for Aberdare in bringing it forward. I find it a very agreeable change from the destructive criticism which we have heard for the last few hours on the previous Motion.

There is one point I would like to get clear, and perhaps the hon. Mover will

clarify it in his reply. I am taking it that by the words "the social security of employees" in paragraph (a) of the Motion, he is not contemplating any form of universal old age pension subsidised by the State. As I take it from the remainder of the Motion, what he contemplates is some form of provident fund or contributory pension fund financed by contributions from employer and employee. There is, of course, a very great difference between those two things, and I think it is the second, narrower scheme which the hon. Mover has in mind.

With regard to procedure, Sir, the Government has discussed the matter, and our view is that, in view of the importance and the width of this Motion, it will be wise if the investigations were made by a Select Committee of this Council.

It is, of course, perfectly true that when the Select Committee gets on to the latter paragraphs of the Motion, they might easily find themselves in need of expert advice, possibly the advice of an actuary. But we do not think that is a reason for not having the investigations done by a Select Committee because, of course, expert advice could quite easily be made available to it.

Again, with regard to the procedure, us hon. Members know, there is already in existence a committee which is investigating African wages and conditions of employment in relation to output and efficiency, under the chairmanship of the Labour Commissioner. That committee has, I know, already given some consideration to the question of security for old age, and they will, I think, record some conclusions on that subject in their report. So it might be said that there is some overlapping between the existing Committee and the contemplated Committee on this subject. However, that does not matter, because the material collected by the Carpenter Committee and the conclusions they reach will be available to the new Select Committee.

For some years the Labour Department has given a good deal of attention to this matter, and has investigated schemes which already exist in other countries, notably in South Africa, India, Malaya and Ceylon. A lot of material

[The Member for Education and Labour] is available about those schemes, including the legislation on which they are based, and all that material will be available to this Select Committee, assuming that it is appointed.

There is one final comment I would like to make in regard, particularly, to paragraph (g) of this Motion. As hon. Members know, at the present time wages in Kenya are extremely low. That means that unless the contribution by the employer is very large, it will be found that the ultimate amount of money which is available in the scheme at the end of a worker's employment is very little. That has been the experience in the Government staff provident fund. I think we must recognize that while the present low rate of wages persists, it will be very difficult, unless the rate of contribution is very high, to make the scheme at all worth while. That is another connexion between this Select Committee and the Carpenter Committee which is already sitting.

As I have already said, the Government welcomes and supports and accepts the Motion.

MR. BLUNDELL: Mr. Deputy Speaker, I support the Motion very strongly. As hon. Members will know, for some time we have wished to move a Motion of this sort and my only reason for intervening in the debate is this, I would like to urge hon. Members opposite to leave it to a committee first of all. I think, speaking for myself, we want something like this. In my view what we now need is an examination of how this should be done, and having done that also how it can be financed, if at all, and I think that is best done by a committee which the hon. Member can appoint. I understood the hon. Member to say he wanted a Select Committee.

THE MEMBER FOR EDUCATION AND LABOUR: You do not want one?

MR. BLUNDELL: I would urge hon. Members opposite not to have a Select Committee. What we want to know is how to do it, and having found out how to do it, whether we can afford it, and I believe that is best done by a panel of people from outside the Council for two reasons. We can get on to that Committee actuaries, or people experienced

in this type of work from insurance companies, or that line of business. Secondly, we could call on persons of every race, who are not so tied by the daily business of the Council. I feel that if it goes to a Select Committee it will put an added burden on the Members of Council, and I personally would rather have it outside.

THE MEMBER FOR FINANCE AND DEVELOPMENT: In following up the words of my hon. friend, the Member for Education and Labour, I would merely say this, Sir, that I did say to the hon. Member for Aberdare that he should think of the method in which this Motion is framed. The suggestion, if I interpreted it right, is, as said before by my hon. friend, the Member for Education and Labour, that the idea in the mind of the hon. Member is purely an employer/employee contributory scheme. I think that is probably right, but, Sir, if we look at this Motion as it is framed the following question: "Whether there is now, or likely to be in the near future, need to provide by legislation for the social security of employees in their old age"—now as the Motion is framed, the terms of reference under that are not tied in, one to another. They must be related to (a), and when you come down to any other incidental question, I quite frankly believe that the Committee would be perfectly justified in considering under that, as related to (a) only and not to the succeeding paragraphs (b), (c), (d), (e), (f), in attempting to consider a social welfare scheme with contribution by the State. If that is in the mind of the hon. Member, then let the Committee investigate it. If it is not in the mind of the hon. Member, I suggest a re-phrasing of the Motion would be a very wise step. If that is what he feels, I would not dream of moving an amendment.

MR. MATHU: I just want to intervene quickly, Sir, in support of this Motion, and to say that the speech of my hon. friend, the Member for Education and Labour, indicates to me that the question overlaps between the Carpenter Committee, which has been sitting for some time, and this projected committee will take us some months before we can have something final. As far as the Carpenter Committee is concerned, Sir, I do feel that when my hon. friend, the Member for Rift Valley,

[Mr. Mathu] moved the Motion which produced that Committee earlier this year, I thought that by this time we would have some report, because the African workers I am talking about are having a very hard time indeed. In the words of my hon. friend, the Member for Education and Labour, wages are very low.

Now, as I say, I am supporting this Motion, but should like to say there must be a sense of urgency in this matter, there must be a sense of determination and a sense of vigour in this matter.

LADY SHAW: An imagination, I suppose.

MR. MATHU: From the point of view of the workers, appointing committees for wages and social security gives them some expectation, and the rising costs of the major commodities are weighing very heavily on the workers. From their point of view wages and the rising costs seem to be a mirage, a will-of-the-wisp, and if that is going to be another addition to a Committee, and the worker is still expecting results, I say, Sir, this Council should impress upon the committees appointed that this matter is urgent.

THE MEMBER FOR EDUCATION AND LABOUR: Might I explain. If he thinks that I was suggesting that the Carpenter Committee should undertake this investigation, and that their report would thereby be delayed, he is mistaken. That was not my suggestion. I do not think this will in any way interfere with or delay the work of the Carpenter Committee.

MR. MATHU: I understand the hon. Member's point of view, but I would still argue that for the Carpenter Committee we want a sense of urgency even more.

MR. CARPENTER: I would like to assure the hon. Member that the Carpenter Committee has a very great sense of urgency and two of my fellow Members here will tell you that it is more than a sense of urgency that compels the Committee since I have been accused of slave-driving them. I hope that the Committee will have their report ready some time before Christmas.

MR. HARRIS: Still another hour tonight!

MR. CHANAN SINGH: I welcome this Motion wholeheartedly. Some such scheme as suggested in the Resolution is overdue. It would have been better, in my opinion, if the Motion had referred to old age pensions as such, rather than to social security in general terms because this Resolution is to form the terms of reference of whatever committee is appointed and I think our aim should be old age pensions—no other form of security. Whether such pensions would be practicable or feasible, that is another matter, I think we should aim at old age pensions.

Now, the hon. Mr. Mathu has suggested that we should get on with the formulation of social security schemes. Now, this is a matter in which I have been interested in for a long time. I think if we are to have pensions for workers in their old age, a scheme like that cannot be formulated in the course of even a month. It is likely to take some time, but if the committee starts working quickly and come to the conclusion that such a scheme would be desirable actuaries can be asked to get going on the working of the scheme. I think the formulation of the scheme will take some time. Even as it may, I welcome this Motion.

THE CHIEF SECRETARY: On the point as to whether it should be a Select Committee or a committee appointed by members—I have had some difficulty, which the Member for Rift Valley indicated, difficulty in collecting hon. Members of this Council together for meetings of Select Committees, they are all very busy men. While I would not deny them the quality of expertise or whatever the appropriate word is, I have the concurrence of the Member for Education and Labour in the proposal that it could be a committee appointed by the Member and not a Select Committee.

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

MR. SLADE: There are only one or two points I have to answer. My hon. and learned friend, Mr. Madan, raises the question whether paragraph (b) of the proposed terms of reference is intended

(Mr. Slade) to introduce a racial issue. In a way it does—it puts in the question of among what races. I can assure him that I am not inviting the committee to go in for racial discrimination just for fun. What I am doing deliberately is proposing that the committee should be given as wide a purview as possible, however distasteful it may be, the committee may find that different considerations have to be applied to different races. That is our present position of legislation and there is no getting away from it. We have different laws for different races—quite rightly so. Sometimes the law is to benefit some races, other times to control. This committee may think that here is another case for separate legislation of this kind.

The next question was whether by social security of employees in their old age—I really meant some sort of general old age social security. Well, I do actually mean what I said there, and I do not mean by "social security" anything more than providing the absolute needs of living for people who have been working and are no longer able to work. I do, however, prefer social security to straightforward old age pensions for the purpose of these terms of reference, for the same reason as I have said before—we want to give the committee the widest scope, we do not want to pin them down to cash pensions. I can think of other types of social security more appropriate for employees—for instance, some way of providing a home for them particularly in areas where they have

been employed on farms. I do not want to cut out that line of exploration from the committee.

I think the last point was the suggestion made by the hon. Member for Education and Labour that because wages are comparatively low in this country we may not be able to see much result from any scheme of this kind. With all due respect, I do not think that is so. In any scheme of this kind, if you have it at all, you aim at producing after employment something like a percentage of the wage earned during employment and after employment or the equivalent in value of that percentage. Now, surely to a man employed on a low wage with a low standard of living a specified percentage of that work after he retires is worth just as much to him as the same percentage of a higher wage to another man in another standard of living. I think it is worth something however humbly we start. (Applause.)

THE DEPUTY SPEAKER: As the Motion has already been read twice and is rather long, and as it is on the Order Paper, I will put the question in an abbreviated form.

The question was put and carried

ADJOURNMENT

THE DEPUTY SPEAKER: HON. MEMBERS, that concludes the business on the Order Paper for to-day. Council will stand adjourned *sine die*.

Council rose at fifty minutes past Ten o'clock.

WRITTEN ANSWERS TO QUESTIONS

No. 132

GROUP CAPT. BRIGGS (Member for Mount Kenya) to ask the hon. Chief Secretary:—

1. The total number of firearms lost by or stolen from Members of the general public since the beginning of the Emergency and the number of owners of such weapons that have been convicted and the average penalty imposed.

2. The number of firearms lost or stolen from members of the Security Forces—

(a) in action against *Mau Mau*;

(b) in other circumstances,

and the nature of the disciplinary action taken against those responsible.

REPLY: The reply relates to the period from the beginning of the Emergency to 31st August, 1953.

1. The General Public:—

(a) Two hundred and six firearms lost or stolen;

(b) fifty owners convicted;

(c) average penalty Sh. 500 fine.

2. Security Forces:—

(a) Ninety-nine firearms lost or stolen in action against *Mau Mau*;

(b) Thirty-two firearms lost or stolen in other circumstances;

(c) in the case of the Army disciplinary action is taken under the Army act. No case of loss of arms is allowed to be dealt with summarily without reference to the officer empowered to convene a Court Martial. In the case of the Kenya Police and the Kenya Police Reserve disciplinary action suitable to the circumstances is taken by the Commissioner of Police.

The Army has lost 9 weapons in action and 19 in other circumstances. Of these 28 cases, 19 are at present under investigation and in the remainder punishment has been inflicted to the satisfaction of the Commander in Chief.

As regards losses by the Kenya Police and Kenya Police Reserve, action has been taken in appropriate cases by way of reprimands, severe reprimands, fines and prosecutions in the Courts.

The above does not cover the Kikuyu Guard who are not rated as Security Forces in the strict sense of the term. Twenty-eight firearms have been lost by the Kikuyu Guard, of which 22 were in action, five were by way of desertion of Kikuyu Guard, and the remaining case has been taken to Court.

No. 152

MR. BLUNDELL (Member for Rift Valley) to ask the hon. Member for Finance and Development:—

(a) whether financial provision will be available for the Administrative Sub-Station which is proposed at Kilungu in the Machakos district?

(b) if so, when funds will be allotted and construction begun?

REPLY: Yes, Sir. Financial provision has already been made, as an Emergency measure, for an Administrative Sub-Station at Kilungu in the Machakos district. The site has been cleared and levelled and construction will be going on.

No. 153

MR. BLUNDELL (Member for Rift Valley) to ask the hon. Member for Education and Labour:—

When it is intended to present an Ordinance which is designed to create a unified African Teaching Service as was recommended in the Beecher Report?

REPLY: The Governor, in Council approved in May that a Unified African Teaching Service should be established statutorily and that the necessary legislation should be prepared.

The drafting of this legislation has been held up by other work, but it will be undertaken as soon as priorities permit.

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VOLUME LVII

6th October, 1953, to 13th October, 1953

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