

# Debates in the Eastern House of Assembly

Wednesday, 2nd of August, 1950

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Pursuant to notice the Members of the Eastern House of Assembly met in the Council Chamber, Enugu, at 10 a.m. on Wednesday, the 2nd of August, 1950.

## PRESENT

### OFFICIAL MEMBERS

- The Chief Commissioner, Eastern Provinces,  
Cdr. J. G. Pyke-Nott, C.M.G., R.N.
- The Resident, Owerri Province,  
Mr J. S. Smith.
- The Resident, Ogoja Province,  
Mr V. K. Johnson.
- The Resident, Calabar Province,  
Mr C. J. Mayne.
- The Acting Secretary, Eastern Provinces,  
Mr F. R. Kay.
- The Acting Resident, Onitsha Province,  
Mr S. P. L. Beaumont.
- The Acting Secretary (Finance), Eastern Provinces,  
Mr J. G. Mackenzie.
- The Deputy Director of Medical Services, Eastern Provinces,  
Dr D. Murray.
- The Acting Deputy Director of Agriculture, Eastern  
Provinces,  
Mr A. F. W. Sheffield.
- The Acting Deputy Director of Public Works, Eastern  
Provinces,  
Mr C. E. Andreae.
- The Acting Senior Crown Counsel, Eastern Provinces,  
Mr E. N. Egbuna.

## UNOFFICIAL MEMBERS

- The Member for Urban Areas other than Port Harcourt,  
Reverend O. Efiang, O.B.E.
- The First Provincial Member for the Cameroons Province,  
Mr J. Manga Williams, O.B.E.
- The Member for Professional, Salaried and Wage-earning  
Classes.  
Mr L. N. Mbanefo.
- The First Provincial Member for the Onitsha Province,  
Mr P. E. Chukwurah.
- The First Provincial Member for the Owerri Province,  
Mr M. W. Ubani.
- The Provincial Member for the Ogoja Province,  
Dr F. A. Ibiam, O.B.E.
- The First Provincial Member for the Calabar Province,  
Mr Asuquo Okon.
- The Second Provincial Member for the Cameroons Province,  
Galega, Fon of Bali.
- The Second Provincial Member for the Onitsha Province,  
Mr C. D. Onyeama.
- The Member for Urban Aspect of Life in Port Harcourt,  
Mr G. C. Nonyelu.
- The Second Provincial Member for the Owerri Province,  
Mr D. N. Achara.
- The Provincial Member for the Owerri (Rivers) Province,  
Mr H. Buowari Brown, O.B.E.
- The Second Provincial Member for the Calabar Province,  
Mr Nyong Essien.

## ABSENT

## OFFICIAL MEMBERS

- The Resident, Rivers Province,  
Mr L. T. Chubb.
- The Acting Resident, Cameroons Province,  
Mr W. D. Spence.
- The Deputy Director of Education, Eastern Provinces,  
Mr C. T. Quinn-Young.

## UNOFFICIAL MEMBERS

The Member for African Commercial Interests,  
Mr G. H. H. O'Dwyer.

The Member for Educational Interests,  
Mr A. Ikoku, O.B.E.

**Prayers**

At the request of the President, Reverend O. Efiang, O.B.E., the Member for Urban Areas other than Port Harcourt, opened the proceedings of the House with prayers.

**Confirmation of Minutes****His Honour the Chief Commissioner:**

The Minutes of the Extraordinary Meeting held on the 19th of July, 1950, having been printed and circulated to Members, is it your pleasure that they should be confirmed?

“ Aye ”.

**Administration of Oaths**

The following took the Oath as Member of the House:—  
Mr E. N. Egbuna, Acting Senior Crown Counsel, Eastern Provinces.

**SPEECH by the Chief Commissioner, Eastern Provinces, His Honour Commander J. G. Pyke-Nott, C.M.G., R.N.**

GENTLEMEN,

My first duty, and a very pleasant one too, is to extend our welcome to the new Member for the Professional, Salaried, and Wage-earning Classes. The people of the Eastern Region are fortunate in having his services available to assist in the work of this House, and we wish him all success. At the same time I should also like to extend our welcome to the former Member for the Professional, Salaried, and Wage-earning Classes in his new capacity as Acting Senior Crown Counsel. We congratulate him on his appointment to the Legal Department, and we are glad that his ready smile and directness in debate will not be entirely lost to this House.

This is the first ordinary meeting of the Eastern House of Assembly to be held in our new spacious building. I feel sure you will therefore wish me on this special occasion to pay a tribute to the Public Works Department for the excellence of the architecture and construction work. We are fortunate in having a building of these proportions and grandeur which will pass down to future generations as a monument to constitutional progress. It will, I think, be a continual inspiration to us all, and I feel sure we shall rise to even greater heights in our eloquence, and in the standard of our debates.

Gentlemen, it is the usual practice to deal with Regional departmental activities and Development progress in the annual written Address to this House at the Budget Session, but on this occasion it seems to me to be desirable to give an account of the recent progress that has been made in certain directions which do not receive much publicity. Additional importance is attached to this in view of the revision of the Development Plan which is now being undertaken.

The first subject with which I wish to deal is Leprosy, and the Leprosy Control Scheme. Members are, I know, aware of the work that has been done in the past in this Region, and is still being done, by a small band of very noble workers who have dedicated their services to the cause of the unfortunate people who have been struck down with this fell disease. Our admiration for, and gratitude to, this small band who have already achieved so much is intense. What may not be so widely known is the recent development in Leprosy Control together with the plans for the future, and I therefore propose to give an account of this.

In very recent times the success which has accompanied the use of sulphone treatment holds out entirely new hope to the sufferers from this dreaded complaint. On the authority of Dr Bland, the Senior Leprosy Officer, I am able to say that with this new treatment any patient, no matter how advanced the disease may be, can be discharged, symptom free and uninfected, within a period of six years. In cases in which there is a lesser degree of infection, and which are taken in hand in the early stages, the discharge of the patients is being effected within one year of the commencement of sulphone treatment. The continuation of this outstanding success does of course presuppose that the leprosy microbes will not develop in time a resistance towards the drug, but there is no evidence so far of anything like that happening.

It is, I think, unnecessary for me to stress the tremendous social improvement that will be derived from a full exploitation of this success, nor for that matter, the economic benefit that must accrue to the Region. As a minimum estimate, and a very minimum one too, there are upwards of 100,000 people in the Eastern Region suffering from this disease. If all these infected persons could be segregated in the course of the next five years, it would be possible, with the quick turnover which can now be obtained by the use of the sulphone treatment, to get the disease of leprosy well under control in ten years. This, if it could be brought to pass, would be one of the greatest achievements of all time.

The plan that has been prepared with the object of attaining this achievement consists of establishing provincial settlements providing full hospital treatment, segregation villages to isolate all infectious cases, and clinics to provide the sulphone treatment to

all those who are not in need of the hospital treatment available in the settlements. The policy on which the plan is based has been approved by the Central Leprosy Board. This Board is not a Government institution in the general sense of the word as its membership is made up of representatives from the Government Medical Service, the various Missions and the British Empire Leprosy Relief Association.

So far as this plan is concerned, most of the cost is connected with the capital expenditure necessary for the proper establishment of the provincial settlements and hospitals, the segregation villages, and the clinics. Provided all this can be completed in the near future, and with Colonial Development and Welfare Funds, then one of the major obstacles in the way of the plan will have been overcome. It stands to reason that, if the sulphone treatment continues to show the same measure of success as at present, and if there is no serious curtailment of the plan, then the recurrent charges in respect of the treatment itself must decrease steadily in future years, until in ten years time they will have been reduced to a negligible figure. Sulphone treatment is, fortunately, inexpensive in that it costs only ten shillings to fourteen shillings per patient per year, and in any case the drug is issued free by the Central Government, and it will not be a charge against Regional Funds.

It is now necessary to give you some idea of the progress that has been made up to date. There are provincial settlements and hospitals, but not all fully established or equipped in Onitsha Province at Oji River, in Owerri Province at Uzuakoli, and at Isoba in the Rivers Province. So far there are seven segregation villages and twenty-four clinics in the Onitsha Province, thirty segregation villages and fifty-five clinics in the Owerri Province, and ten segregation villages and twelve clinics in the Rivers Province. In these three Provinces the Government Leprosy Control Service undertakes all the medical work in the settlements and throughout most of the rural extension areas. The Voluntary Agencies, that is to say, the Missions, undertake all education and welfare work.

In Ogoja Province there are two provincial settlements, one in the Northern part of the Province at Ogoja with seven segregation villages and seven clinics. All of these are run by the Roman Catholic Mission with assistance from the Native Administrations and are eligible for grants-in-aid assistance from Government. The other is in the southern part of the Province at Uburu with eleven segregation villages and eleven clinics all of which are run by the Church of Scotland Mission with equivalent assistance and the same eligibility for grants-in-aid.

In Calabar Province there are two settlements, one at Itu run by the Church of Scotland Mission and the other at Ekpene Obom run by the Qua Ibo Mission, but there has been no rural extension work undertaken so far in this Province.

In the Cameroons there is no effective Leprosy control work being undertaken, there are merely Native Administration Leper Camps in Bamenda and Kumba.

Needless to say, the rural extension work which is so essential to the success of the scheme is being held up by the revision of the Development Plan, because for one thing, it is impossible to approach the Voluntary Agencies and solicit their assistance until such time as the extent of funds available for grants-in-aid is known. This statement does not, of course overlook the amount of grant-free work done by the Voluntary Agencies in the past and at the present time, nor does it overlook the additional assistance which the Native Administrations and the Local Governments of the future may be able to give.

In the 1950-51 Estimates £35,000 was provided under Head 49 Development and Welfare for grants to Voluntary Agencies for the upkeep of Leper Settlements and the maintenance of pauper patients, and £239,230, of which £143,090 is in respect of the Eastern Region, has been provided under Head 50 Colonial Development and Welfare for Leprosy Control work. For the revision of the Development Plan the Senior Leprosy Officer has submitted two reduced estimates, one to keep within a target figure of £400,000 over the period 1950-51 to 1955-56, and the other showing a total expenditure of £738,280 over the same period. So far as the former estimate is concerned, the Senior Leprosy Officer has stated that a reduction of this sort will mean in effect reducing existing Leprosy Control work by one half, which would be nothing short of disastrous at a time when it is evident that we are beginning to get the disease of leprosy under control. This target figure of £400,000 permits no provision for grants-in-aid to the Church of Scotland Mission at Itu and in southern Ogoja, nor to the Catholic Mission in northern Ogoja, nor does it make provision to enable any mission to open up extension work in Calabar Province or to commence work in the Cameroons.

On the 31st December last there were 12,760 segregated patients and 28,184 regular attending out-patients making a total of 40,944 in all. As I have already mentioned, a very approximate estimate places the number of lepers in the Eastern Region at 100,000 as a bare minimum.

Gentlemen, before passing on from this subject I should like to offer public recognition of the services rendered to the Eastern Region by the British Empire Leprosy Relief Association. These services have been rendered in the way of research, in the providing of lay workers, and in the truly charitable work of supporting child patients. Any comparisons between the institutions who have dedicated themselves to this service to humanity would be entirely out of place. I cannot, however, pass on without paying the highest

possible tribute to the work that has been done on behalf of the people of the Eastern Region at the Itu Settlement by Dr and Mrs Macdonald and their praiseworthy staff. A full appreciation of the great services that are being rendered to the unfortunate members of the community stricken down by this disease can only be obtained by a visit to the settlement. It seems so strange that little or no publicity is given by some of the Press in this country to the work that is being done in this direction, and many others, in the service of the people, and in the cause of humanity. It may not be long I fear before those two words "thank you" have departed entirely from the vocabulary of a large proportion of the rising generation in Nigeria.

And next, I wish to say a word or two on the subject of Townships in the Eastern Region. It does not seem to be sufficiently well known that Town Planning Authorities have been established in the following townships: Aba, Calabar, Enugu, Port Harcourt and Umuahia, and that the Crown rents in these township areas amounting to £9,000 at Aba, £500 at Calabar, £3,500 at Enugu, £15,000 at Port Harcourt and £2,500 at Umuahia are now paid to the respective Town Planning Authorities to enable them firstly, to start right away with planned improvements and, secondly, to provide a source of income which can be offered as security for loans from the Regional Loans Development Board. The advantage of loan works is that the present day inhabitants are able to enjoy the improved amenities resulting from the expenditure on capital works of the amount of the loan, but subject of course to the payment of interest and redemption charges. If no improvements could be undertaken until the amount required had been saved from the revenues, then very few of this generation would be likely to enjoy improved amenities in their towns. I must make it clear that the sums which I have mentioned represent a transfer of a total sum of £30,500 per annum from the pocket of the Regional Government to the pockets of the respective Local Governments. Another source of income, which is of course available to Townships as security in respect of the payment of interest and redemption charges on a loan, is the revenue derived from rates. I am glad to say that the township of Enugu is alive to the possibilities that have been thrown wide open by the establishment of the Regional Loans Development Board, and I commend the Township Advisory Board, but I am afraid that the same state of aliveness does not exist elsewhere. There seems to be an impression abroad, fostered I think by persons who wish the community no good, that the Regional Government is financially responsible for all social services and amenities throughout the Eastern Region. This contention is continually being repeated with emphasis in a certain section of the Press, and the spurious argument advanced is that any taxpayer no matter how much or how little he pays, is automatically entitled to any

amenity he requires irrespective of the cost. It is high time that this impression was uprooted and thrown on the rubbish heap, and it is high time that the propaganda of these anti-social persons was countered. All of the tax in the Eastern Region is paid to the Native Administrations, except a very small contribution which is paid into Regional funds, and the Native Administrations use this money to maintain such social services as they are able to afford. The total of the small contributions received into the Eastern Regional funds, and more, is paid back to the Native Administrations in the form of grants-in-aid. The average annual tax paid in the Eastern Region is not more than fifteen shillings per adult male. No sensible person could expect amenities on a European scale with this rate of tax existing. Let it be emphasised now that in the future nearly all of the increases in social services, whether medical, education or otherwise, and whether in townships or rural areas, will have to depend on the raising of a rate locally to pay for them. Nowadays there is little justification for the employment of Regional funds to provide special amenities in one particular town or area. The Regional revenue should and must be used for the benefit of the community as a whole. I hope that the section of the Press to which I have referred will publish what I have just said, and publish it without any misrepresentation or distortion.

There is one other matter connected with Townships which I wish to mention before I leave the subject. It is true that the members of the Township Advisory Boards are not the elected representatives of the people. These Boards, in their present form, date from the time when there was no rating imposed, and when the only revenue available to a township consisted of sundry fees collected in respect of services provided. They have persisted in this form because the process of introducing rating has been a slow one. This has been due in part to lack of staff, and in part to the objections raised by the people at being asked to contribute towards the improvements and amenities which they themselves demand. Let me say that the lack of staff is a very real problem, but it could be immensely eased if the Local Authorities were not submerged under a vast mass of complaints mostly of an individualistic character, and if they were not continually embroiled in political wrangles which are often aimed at obstructing progress. With the introduction of Local Government, the Township Advisory Boards will give place to Local Government Councils of which the members will be the elected representatives of the people. Even so, it is the policy to introduce the election system in advance of Local Government where staff and other matters make it possible.

I should like now to give you a brief account of the interest that is being taken in this Region by the Colonial Development



Corporation. As I think you are aware, the Corporation was established in the United Kingdom with a large capital to assist in the industrial development of the Colonies. In the Eastern Region, there are at present two important projects in which the Corporation is interested. The first is the building at Onitsha of a large factory to make sacks which will cost some £1½ million. In the first instance Indian jute will be used in the manufacture of the sacks, but experiments are proceeding with a local fibre substitute, and if these experiments are successful plantations of this local fibre will be established. Negotiations in respect of the site area have reached an advanced stage. The economic value to Nigeria of this factory will be very considerable, and the employment that will be available should be of great benefit to the Eastern Region.

The second is a fishery and cold storage undertaking based on Port Harcourt. The Corporation has acquired two trawlers, and proposes to trawl for off-shore bottom fish. The scheme provides for wide distribution of the catch over the Eastern Region by means of the railway and refrigerator wagons, and by means of refrigerator lorries. There will be a cold storage plant at Port Harcourt with subsidiary cold storages probably at Aba, Umuahia, and Enugu in the first instance. Again, this venture should be of the greatest value to the Eastern Region in augmenting the available food supplies. To this I might add that a further, and again very valuable augmenting of the Region's food supplies, will take place when the cattle ranching and dairy production scheme, which is to be established in the highlands of Ogoja Province is in full swing. This is a project which is being undertaken by the Regional Production Development Board.

There is one final word that I should like to say concerning the Press. It is said with all sincerity and in the interest of the Nigeria of the future. I wonder if all the leaders of the Nigerian Press would realise fully the responsibility that rests on their shoulders as guardians in part of the morals of the public, and I use the word morals in its widest sense. It would indeed be a sorry state of affairs if this responsibility was to be placed as a burnt offering on the altar of circulation and profits. I say this because I have more than once been horrified by press matter which for sheer and unadulterated vulgarity could not be eclipsed.

Gentlemen, all in the Eastern Region crave progress, all but a very small minority desire normal conditions in order that this progress may be stimulated and accelerated. Previously I have told you that I will use all of my ability and energy to lead you as fast as you can go. I will now go even further than that, and with your consent I will apply a certain amount of propelling

force from behind. Gentlemen, even if we do tumble and bruise our knees, we can rise again, have the abrasions treated, and then press on.

#### **Papers Laid**

##### **The Acting Secretary, Eastern Provinces:**

Sir, I beg to lay on the table the papers standing in my name on the Order Paper of the Day, viz:—

Ordinances and subsidiary legislation enacted or made since the last meeting of the House which are in terms applicable to the Region.

Report of the Committee appointed by the Eastern House of Assembly to report on the distribution of the proposed representatives to the new Eastern Regional House.

Memorandum on the imposition of an Education Rate in the Eastern Provinces.

Report of the Standing Committee on Finance for the period February to July, 1950.

Report of the Select Committee of the Legislative Council of Nigeria on Constitutional Review dated 1st April, 1950, with Note on two-chamber Legislatures.

Sessional Paper No. 20 of 1950—Review of the Constitution of Nigeria—Despatch dated the 15th July, 1950, from the Secretary of State for the Colonies.

A Bill for an Ordinance to amend the Prisons Ordinance.

A Bill for an Ordinance further to amend the Criminal Code Ordinance.

A Bill for an Ordinance for the establishment of an Institute to undertake Research into matters relating to Trypanosomiasis, for the incorporation of a Committee to manage the Institute and for other purposes connected therewith.

A Bill for an Ordinance to amend the Aliens (Deportation) Ordinance.

A Bill for an Ordinance further to amend the Labour Code Ordinance (Chapter 99).

A Bill for an Ordinance further to amend the Workmen's Compensation Ordinance.

A Bill for an Ordinance to make provision for regulating the planting and growing of Agricultural Crops, for the control of Plant Diseases and Pests and for matters connected therewith.

- A Bill for an Ordinance to make provision for regulating and inspecting and grading of produce intended for export, for the control of pests in such produce and for matters connected therewith.
- A Bill for an Ordinance to make provision for the conferring of certain powers upon Consular Officers of foreign states with which consular conventions are concluded by His Majesty and for matters connected therewith.
- A Bill for an Ordinance further to amend the Native Authority Ordinance.
- A Bill for an Ordinance to amend the Nigeria Groundnut Marketing Ordinance, 1949.
- A Bill for an Ordinance to amend the Nigerian Oil Palm Produce Marketing Ordinance, 1949.
- A Bill for an Ordinance to amend the Education Ordinance, 1948.
- A Bill for an Ordinance to amend the Income Tax Ordinance.
- A Bill for an Ordinance to amend the Eastern Region Local Government Ordinance, 1950.
- A Bill for an Ordinance to amend the Native Lands Acquisition Ordinance.
- A Bill for an Ordinance to provide for the establishment of a Corporation to be known as the Nigerian Coal Corporation, for the transfer to the Corporation of all Colliery Undertakings of the Government, and for purposes connected with the matters aforesaid.

Certificates of Urgency in respect of the following Bills:—

A Bill for an Ordinance to confer powers, and impose duties and restrictions, in relation to gold, currency, payments, securities, debts, and the import, export, transfer and settlement of property, and for purposes connected with the matters aforesaid.

A Bill for an Ordinance to amend the Customs Ordinance.

The Groundnuts (Inspection for Export) (Amendment) Regulations, 1949 (No. 19 of 1949).

The Potato (Marketing and Export) (Amendment) Regulations, 1949 (No. 20 of 1949).

The Ginger (Marketing and Export) (Amendment) Regulations, 1949 (No. 21 of 1949).

The Capsicums (Inspection for Export) (Amendment) Regulations, 1949 (No. 22 of 1949).

The Palm Oils, Palm Kernels, Cocoa and Cassava Starch (Inspection for Export) (Amendment) Regulations, 1949 (No. 23 of 1949).

The Cotton Marketing and Export (Amendment) Regulations, 1949 (No. 24 of 1949).

The Swollen Shoot Regulations, 1950 (No. 28 of 1950).

#### Motions

##### **The Acting Secretary (Finance), Eastern Provinces:**

Sir, I beg to move that the House adopt the Report of the Standing Committee on Finance for the period February to July, 1950, which Report has been laid on the table of this House.

##### **The Acting Secretary, Eastern Provinces:**

Sir, I beg to second.

##### **His Honour the Chief Commissioner:**

The question is that this House adopt the Report of the Standing Committee on finance. Will those in favour say "Aye" and those to the contrary "No".

The "Ayes" have it.

##### **The Member for Urban Areas other than Port Harcourt (Rev. O. Efiang, O.B.E.):**

Sir, I beg to move the Resolution standing in my name:—

"Be it resolved: That this House do hereby ratify the  
"nomination of Mr D. N. Achara to be a member of  
"the Regional Board of Education of the Eastern  
"Provinces in accordance with section 11 (2) (h) of the  
"Education Ordinance, 1948, in the place of  
"Mr E. N. Egbuna, who has resigned his  
"appointment."

##### **The First Provincial Member for the Calabar Province (Mr Asuquo Okon):**

Sir, I beg to second.

##### **His Honour the Chief Commissioner:**

The question is that the Motion be adopted. Will those in favour say "Aye" and those to the contrary "No".

The "Ayes" have it.

##### **The Member for Urban Areas other than Port Harcourt (Rev. O. Efiang, O.B.E.):**

Sir, I beg to move the Resolution standing in my name:—

"Be it resolved: That this House do hereby ratify the  
"nomination of Mr M. W. Ubani to be a member of the  
"Shadow Produce Inspection Board in accordance  
"with paragraph 5 of the Bill for the Produce  
"Inspection Ordinance, 1950."

**The Provincial Member for Ogoja Province (Dr F. A. Ibiam, O.B.E.):**

Sir, I beg to second.

**His Honour the Chief Commissioner:**

The question is that the Motion be adopted. Will those in favour say "Aye" and those to the contrary "No".

The "Ayes" have it.

#### Bills

THE PRISONS (AMENDMENT) ORDINANCE, 1950.

**The Acting Secretary, Eastern Provinces:**

Sir, I beg to move the following:—

"Be it resolved: That this House do advise His Excellency  
"the Governor that the Bill for 'An Ordinance to  
"amend the Prisons Ordinance' is acceptable in  
"principle."

Sir, the Bill is designed to empower the Director of Prisons to make Standing Orders, a power with which he is not presently invested under the Prisons Ordinance. This Bill, Sir, merely gives legal effect to a long standing practice. The Director of Prisons has, as long as I remember, issued Standing Orders on the matters mentioned in Clause 2 and other matters, and it seemed to me at first sight that to legalise a practice so long accepted was a work of supererogation. But on further thought I could see the wisdom of the measure. It is, I suggest, in the interests of the Prisons staff that they should be under no possible misapprehension as to the validity of any Standing Orders for the time being in force, and for the necessity of prompt compliance with them. The departmental instructions which will be replaced if this Bill becomes law are in a different category. As most Members will be aware, a departmental instruction is to many members of the department little better than a target, a windmill at which they tilt in their spare time. With sufficient accuracy of aim it can generally be destroyed. And if it cannot be destroyed it can frequently be ignored with comparative immunity—an immunity which increases in direct proportion to the skill of the petition writer employed by the gentleman hauled up for breach of the instruction.

Now, Sir, in non-essential services to play ping-pong with departmental instructions in leisure hours has long been a recognised privilege of the Civil Service. The temptation to play is irresistible and the exercise does no one any harm. But, Sir, in essential services there must be at every minute and every hour of every day an instantaneous obedience. It must be clear to the members of those departments that they are irrevocably committed by law to the instructions laid down for their guidance. In leisure hours they may still propound amendments, but they

cannot and must not fool about in the fond belief that they can break an instruction first and argue about its validity afterwards. They must be under no shadow of doubt that, as an essential service, they are under the strictest discipline—a discipline that is imposed for the welfare of the community as a whole.

Sir, I beg to move.

**The Acting Senior Crown Counsel, Eastern Provinces:**

Sir, I beg to second.

**The First Provincial Member for the Calabar Province (Mr Asuquo Okon):**

Sir, I am not for a moment opposing this amendment, but I can see no substantial reason why these Standing Orders should not be published in the *Gazette*, and I am suggesting, Sir, that that section of the amendment should be removed.

**His Honour the Chief Commissioner:**

Would the Member be prepared to bring that up in Committee stage?

**The First Provincial Member for the Calabar Province (Mr Asuquo Okon):**

Yes, Sir.

**The First Provincial Member for the Owerri Province (Mr M. W. Ubani):**

Sir, I am not against this Motion, but I wish to bring a point which is of vital importance to most Members and to me, and it is on the question of amendments which are proposed to the original Ordinance. This question has been raised in the House before, and that is that every Member should have a copy of the original Ordinance before him when an amendment is proposed. We are asked to say for or against, and I feel I am not very well guided, Sir, in the matter, and I ask whether you will agree that we should have these copies.

**His Honour the Chief Commissioner:**

I will make a note of what the Member says and the question will be looked into. I have some recollection that copies of the Ordinances are certainly being supplied to Members of Legislative Council and I rather thought it was being extended to Members of the House of Assembly, but I am not certain on that point.

**The Acting Secretary (Finance), Eastern Provinces:**

It is a matter, Sir, of uniformity between the three Regions and I do not think a definite decision has been made. It was certainly referred to Government.

**His Honour the Chief Commissioner:**

The Member may rest assured that the point raised will be looked into. We are actually speaking now to the principle of the Bill.

**The Provincial Member for Ogoja Province (Dr F. A. Ibiam, O.B.E.):**

On a point of order, Sir, I do not know if we speak to any Bill for or against in its first reading.

**His Honour the Chief Commissioner:**

The Member is dealing with Legislative Council procedure. The procedure in the House of Assembly is that we take the Bill in principle to start with and, having accepted the Bill in principle in the mover debate, the Bill then proceeds straight into Committee. Then we recommend it to the House and the Bill is accepted or otherwise, and it is sent forward to Legislative Council with any recommendations there may be.

If no Member wishes to speak to the principle of the Bill, then I will put the question.

**The First Provincial Member for the Owerri Province (Mr M. W. Ubani):**

I wish to emphasise what my friend, the First Provincial Member for the Calabar Province has said. I feel, Sir, that since the Prisons Department is a public institution, any Standing Orders drawn by the Director of Prisons should be published. The public will be interested to see how the Department is organised and in training and management and uniform and other material points. If the Orders are published, then the public will be assured that the Standing Orders are available for criticism.

**His Honour the Chief Commissioner:**

I am not clear whether or not the Member is speaking on the principle of the Bill. When the Bill goes into the committee stage of the full House then the Member will have an opportunity, if he wishes, of moving an amendment.

**The First Provincial Member for the Owerri Province (Mr M. W. Ubani):**

Right, Sir, I support the Bill.

**His Honour the Chief Commissioner:**

The question before the House is that this House do advise His Excellency the Governor that this Bill is acceptable in principle to this House. Will those in favour say "Aye" and those to the contrary "No".

The "Ayes" have it.

The House will now resolve itself into Committee to consider the Bill clause by clause.

*The House is in Committee.*

*Title.*

*Enactment.*

*Clause 1.*

*Clause 2.*

**The First Provincial Member for the Calabar Province  
(Mr Asuquo Okon):**

Sir, I suggest that the words "but need not be published in the *Gazette*" be deleted and that the Clause read:—

"The Director of Prisons may, with the approval of the Governor, make such Standing Orders as he may think fit and proper for the good order, discipline and welfare of the Prisons, and such Standing Orders shall be binding upon all prison officers."

**His Honour the Chief Commissioner:**

The question is that Clause 2 of the Bill be amended by the deletion of the words "but need not be published in the *Gazette*" and the insertion of a fullstop after the word "officers". Will those in favour say "Aye" and those to the contrary "No".

The "Ayes" have it.

The House will now resume.

**The Acting Secretary, Eastern Provinces:**

Sir, I beg to report that the Bill entitled "An Ordinance to amend the Prisons Ordinance" has passed through Committee with one amendment.

**His Honour the Chief Commissioner:**

The question before the House is that this House do advise His Excellency the Governor that this Bill is acceptable to this House with the amendment recommended in Committee. Will those in favour say "Aye" and those to the contrary "No".

The "Ayes" have it.

THE CRIMINAL CODE (AMENDMENT NO. 2) ORDINANCE, 1950

**The Acting Senior Crown Counsel, Eastern Provinces:**

Sir, I beg to move the following:—

"Be it resolved: That this House do advise His Excellency  
"the Governor that the Bill for 'An Ordinance  
"further to amend the Criminal Code Ordinance'  
"is acceptable in principle to this House."

Under various sections of the Criminal Code, notably sections 219, 221, 222, 222 (a) and (b) certain acts done in relation to girls under the age of thirteen are made criminal offences, and one of the purposes of the Bill is to raise the age below which such acts constitute an offence from thirteen to fifteen. This is to bring it more or less into line with the English law on the subject. The Criminal Law Amendment Act of 1885 dealt with this matter. In that Act two types of offences were made criminal and emphasis was laid on how they should be proved in Court. One was the offence of defilement and the other was the offence which a householder commits if he permits his premises to be used for that



purpose. Under that Ordinance a person who was charged with either of the offences was allowed to put in a defence of reasonable belief that the girl concerned was of or above the age of sixteen. It was considered, however, at a later stage, that this defence should not be available in certain cases, and the Criminal Law Amendment Act, section 2, provided that as a general rule the defence of reasonable belief should not be available to any person. That Act nevertheless proceeded to make the defence available in cases where the offender was being charged for the first time with the offence. That section of the Ordinance has been criticised on several grounds, and it is felt that the defence should be further restricted. The amendment proposes to delete the defence of reasonable belief, which is available in cases of offences defined in sections 219, 221 (1) and 222. At the same time it proposes to insert a new section. This is dealt with in clause 6 of the Bill, and the new section is numbered 222 (c), paragraphs (a), (b) and (c). This puts our law on almost the same footing with the English law, save that an owner of premises who permits them to be used for the unlawful purposes defined in section 219 cannot avail himself of the defence of reasonable belief.

Sir, I have dealt with this at length for one reason only, and that is to show that the object of the amendment proposed in this Bill is to ensure that our local law conforms as much as possible with the English law.

Section 52 (b) of the Criminal Code requires attention, but I do not propose to deal with it at length. Under section 51 of the code, any person who:

- (a) does or attempts to do, or makes any preparation to do any act with a seditious intention;
- (b) utters any seditious words;
- (c) prints, publishes, sells, offers for sale, distributes or reproduces any seditious publication;
- (d) imports any seditious publication, unless he has no reason to believe that it is seditious,

shall be guilty of an offence and liable on conviction for a first offence to imprisonment for two years or to a fine of one hundred pounds, or to both such imprisonment and fine, and for a subsequent offence to imprisonment for three years.

Section 52 (3) provides that no person shall be convicted of an offence under section 51 on the uncorroborated evidence of one witness.

It is considered that section 52, sub-section (3) as it stands is too wide and that the nature of proof required tends not only to make prosecution expensive by allowing for multiplicity of witnesses, but also to delay and defeat the ends of justice.

In regard to the requirement of corroboration in cases other than where a person is charged with the offence of uttering seditious words, *i.e.*, cases coming under paragraphs (a), (c) and (d) of subsection (1) of section 52, it is my view that corroboration of the type required is unnecessary. It should be sufficient, in order to convict, to rely on the testimony of a single witness, even though uncorroborated, where the testimony of that witness is unimpeached. Where, however, there are suspicious circumstances and the evidence of the witness is challenged, the Court would generally insist on corroboration of such testimony. Corroboration is required in such cases as a well-established rule of practice and not one of law. It is considered, however, that where there is a prosecution for the offence of uttering seditious words—corroboration of the testimony of a single witness giving evidence against the accused person should be insisted upon. Where two persons attend a public meeting and are subsequently called upon to report from memory all that they heard, it is reasonable to expect that their report might differ in some ways. What one heard or thought he heard may not have been heard by the other. Sedition may not have been uttered at all. Corroboration of evidence seems clearly essential in such a case, and it is therefore proposed to relate the provisions of section 52 (3) to the offence of uttering only.

It is my view that the proposed amendment to section 52 (3) is not an absolute necessity, but in order to save time and the expenditure of public funds involved in producing superfluous evidence, and in order to prevent the ends of justice being defeated, it is considered proper to restrict the operation of the section to the offence of uttering only.

I am sure that my learned friends on the Unofficial side agree with this. From the practical point of view it makes no difference whether you produce one or two witnesses, as no Magistrate or Judge would convict unless he was fully convinced that the person before him had committed the offence with which he was charged, and the accused would only be convicted of the offence if there were sufficient material evidence on which to do so before the Court.

Sir, I beg to move.

**The Acting Secretary, Eastern Provinces:**

Sir, I beg to second.

**The Second Provincial Member for the Onitsha Province  
(Mr C. D. Onyeama):**

Sir, in rising to speak to this Bill I have a little difficulty. The Bill as it is made up contains some clauses dealing with offences against morality and, other clauses dealing with procedure

in relation to trials for sedition. Now I certainly have nothing against the Bill as regards offences against morality, but I would never subscribe to the amendment that is sought with regard to sedition. It appears to me, that the amendment that is sought is not so much to ensure a fair trial as to save expense. I have always understood that a criminal trial will always be conducted without regard to expense so long as justice is done. I do not see that the Crown will incur more expense by providing corroboration in respect to the spoken word. The defence in a criminal trial is supposed to have every possible legal safeguard to ensure a fair trial. The Bill strikes me as aiming at securing rapid conviction, so that where the Crown has not enough evidence they can now bring forward one witness, whereas under the old law corroboration would be required. If we accept this amendment we will be going backwards in our evolution. If the old legislators in 1923 thought it wise to insert this section concerning corroboration in matters affecting sedition, which is only one step from treason, there is no reason why we should now in 1950 go backwards to ensure that people are convicted on the testimony of one witness.

I find it difficult to say that I support the Bill because it deals with two distinct and unrelated matters, and this is not a thing to be cured in Committee. Therefore I am obliged to say that I cannot support the Bill in principle.

**The First Provincial Member for the Calabar Province  
(Mr Asuquo Okon):**

Your Honour, I am in the same difficulty as my friend because it is extremely difficult for me to support the matters dealt with in the amendment now before the House. I agree with him, Sir, in regard to the amendment with respect to morality. I have no question there, but when it comes to the matter dealing with sedition, then I have plenty of quarrel. I oppose strongly the amendment to section 52 of the Criminal Code, which amendment is suggested in clause 3 of the Bill before the House. This amendment, to my mind, is unnecessary as well as unreasonable. Besides it infringes very much on the right of the individual which he has enjoyed for the last twenty-five years or so. The law as it stands to-day provides that when a person is being prosecuted for (a) doing or preparing to do or conspiring to do a seditious act, or (b) uttering seditious words, or (c) printing, publishing, disseminating, etc., seditious publications, or (d) importing seditious publications, the Court before whom he is being tried should not convict him on uncorroborated evidence. This has been the law for twenty-five years or so, and I must say that under that law several cases for sedition have been successfully prosecuted by the Law Officers. Now, Sir, what the amendment is seeking to do is to make it easier for the officers prosecuting in these cases to secure convictions, and that, I should say, is very well borne out by what my learned

friend on the other side has said. Speed in securing convictions. But I must warn this House that having given the individual the right to demand corroboration before conviction, which right he has enjoyed for a long time, which right has not been abused by him and which right there is no possibility of his abusing, we cannot now deprive him of that right without giving good and substantial reasons. If the necessity for corroboration is retained—as the amendment seeks to do in the case of uttering seditious words—I am convinced that it should be retained also in the case of doing a seditious act, as it is insufficient to convict for uttering seditious words without bringing before the Court evidence to show how the alleged seditious words were understood and received by those who heard them, so it is also insufficient in the case of doing a seditious act without any evidence as to the impression given by the alleged act in the minds of those who saw it. It may well be that those officers who are in charge of prosecutions are finding it difficult to secure convictions while the law stands as it is, but the individual is entitled to the right that has been given to him. Certainly, Sir, the purpose of laws and regulations is not to make easier for civil servants the performance of the tasks they have set for themselves. I oppose the amendment.

**The Member for Urban Aspect of Life in Port Harcourt  
(Mr G. C. Nonyelu):**

Sir, I think I am in sympathy with my learned friends with regard to the amendment that deals with sedition. I think that maximum protection should be given to any person accused of any offence, in that an accused person is supposed to be innocent until the contrary is proved. So that in dealing with this question of corroboration, I think it is unnecessary, and from the legal point of view I am surprised that the amendment is introduced, especially as sedition is just a step down from high treason. If the law requires corroboration in all seditious matters, and if we are trying to bring our laws in line with the English practice, then we should leave this section 52 as it is.

My quarrel in dealing with the question of morality is that the age is limited to fifteen. I would have expected it to be sixteen, so as to give the maximum protection to our girls.

**The First Provincial Member for the Owerri Province  
(Mr M. W. Ubani):**

I speak, Sir, from the point of view of the layman. In the first place the Bill as it stands raises a point of complication in my mind. I see no reason why it should have been so drafted in this complicated form, that is, bringing in the question of morality and the other section dealing with sedition. I think this alone gives one a very bad impression of the whole frame up of the amendment which is proposed. On the question of sedition, Sir, I feel it is

the duty of any law court to spend as much as possible in digging out the truth in any matter before it, so that if the amendment is intended to save money and time, then I cannot support it. I feel the more witnesses in Court the better in seeking conviction, particularly in the case of sedition, which is next to treason, and I feel that it is not time or money wasted at all. If the object of the Courts is to give justice, then money should not come into it.

I feel, Sir, that I cannot support the Bill.

**The Second Provincial Member for the Calabar Province  
(Mr Nyong Essien):**

I am quite in sympathy, Sir, with my learned colleagues, and strongly shelter my support under the wings of my legal friends. I have no legal point to raise against this amendment, but I am supporting the principle that out of the mouths of two or three witnesses shall every case be established. To bring in an amendment against that principle means to play with the liberty of man. I am not supporting the amendment.

**The Provincial Member for the Ogoja Province (Dr F. A. Ibiam,  
O.B.E.):**

Sir, it would seem a pity that the first section of this Bill, which deals with protecting young girls from men having carnal knowledge of them before they are of age, should be voted against because of section 3 of this Bill. I wonder, Sir, if it would not be wise to strike out this section 3 and make it another Bill entirely, and let us deal with this section on morality, because I think we are all agreed that it is good to limit the age and make sure that our young girls are protected. As a matter of fact one member has stated that the age of fifteen seemed very low. In the Ibo country girls get married at the age of fifteen or sixteen, and often enough the girl might not be of that age, but merely because she has developed faster than her age she can become a wife. It is difficult to ascertain ages in this country and I am speaking of this Bill to remind Government again, Sir, of the necessity of properly registering births in Nigeria. I am hoping to bring a motion before Legislative Council on this matter. If this section 3 could be struck off and we deal mainly with the section on morality, I am prepared to support this Bill, Sir.

**The Provincial Member for the Owerri (Rivers) Province  
(Mr H. Buowari Brown, O.B.E.):**

I am in agreement, Sir, with the last speaker. I think it is a mistake to have two matters mixed up in one amendment; it would be better if section 3 dealing with sedition be brought up in a new bill, with the necessary amendment, as suggested by the Acting Senior Crown Counsel himself, for this House to consider. Meanwhile I will support the Bill on the question of morality, but not on the question of sedition.

**The Member for Urban Areas other than Port Harcourt  
(Rev. O. Efiang, O.B.E.):**

I do not propose to multiply words because my other friends have spoken so eloquently and adequately on the subject that this amendment, particularly the portion relating to sedition, is not acceptable in principle. But I do feel in committee stage we should be able to amend it or delete it, instead of proposing the introduction of two different bills. I support the members who say they are not prepared to support the whole Bill in principle at this stage.

**The Member for Professional, Salaried and Wage-earning Classes  
(Mr L. N. Mbanefo):**

If I may, Sir, I should like to say a few words on this Bill.

It does seem that there are two principles involved, and therefore we cannot accept the Bill in principle because if we do we shall accept the two principles, one under the section dealing with sedition and the other dealing with morality. It seems to me that section 3, which I imagine is designed to make proof unnecessary where seditious intention has been established, has been so mixed up in the drafting that it seems to be trying to do two things at the same time. In the first place, section 51 has four sub-sections, the first deals with persons who attempt or conspire with others to do any act with a seditious intention. If there was conspiracy to do a seditious act, it would not be sufficient to convict on the uncorroborated testimony of one person. But under sub-section (b) it says, "utters any seditious words"; under sub-section (c) "prints, publishes, sells, offers for sale, distributes or reproduces any seditious publication". It may not be necessary to produce corroborated evidence of publication because the evidence is in the publication itself. As far as (d) is concerned, "imports any seditious publication, unless he has no reason to believe that it is seditious", it may be necessary to have corroboration.

But it does seem to me that section (3) of the clause No. 52 does require reconsideration so that the purpose to be achieved by the amendment could be brought out clearly. It is not sufficient reason to say that it will save expense. The corroboration of one witness would not involve much expense.

For that reason I am moving that the Bill be accepted in principle, but that section 3 of the Bill be deleted from the Bill as it stands.

**His Honour the Chief Commissioner:**

Gentlemen, it is now 11.30 a.m. Is it your pleasure that the House should adjourn for ten minutes?

"Aye".

*The House adjourned at 11.30 a.m.*

*The House resumed at 11.50 a.m.*

**The First Provincial Member for the Cameroons Province  
(Mr J. Manga Williams, O.B.E.):**

Sir, I rise to second Mr Mbanefo, that clause 3 be deleted.

**His Honour the Chief Commissioner:**

If no other Member wishes to speak to the principle of the Bill I will put the amendment. The amendment is that clause 3 of the Bill should be deleted.

**The Acting Secretary, Eastern Provinces:**

Sir, I rise to oppose this amendment. I cannot see that the clause involved, Sir, is depriving the accused of rights which he now possesses, so much as that the clause takes him out of a privileged class of criminal. In the ordinary course, Sir, it is a rule of prudence and not of law that a Court will not convict on the uncorroborated testimony of one witness, and that rule applies to almost every criminal. Why, then in sedition matters should a man be placed in a more favourable position than other criminals? Certainly, Sir, where the offence consists of spoken words there can be no question not only that there should be corroboration, but that no Court inside the Empire would dream of convicting on the uncorroborated testimony of a single witness. That, Sir, is in a class by itself and is dealt with under section 51 (b). In section 51 (1) (a) as the learned Crown Counsel has pointed out, what is required is an act in sub-clauses 1 (c) and 1 (d) where printed matter or exhibits are before the Court and it is only necessary to prove that the accused himself is connected with the exhibit. I find it extremely difficult to see, Sir, why in such matters as those in sections 1 (a), 1 (c) and 1 (d) the accused should be placed in a relatively better position than any other criminal, and that is the real question before the House. And, Sir, I cannot see that these matters introduce any novel principle or any great difficulty which should allow this House to strike out the clause which governs these matters. I oppose the amendment, Sir.

**The Acting Senior Crown Counsel, Eastern Provinces:**

Sir, I rise to oppose the amendment with all the emphasis at my command. It has been suggested by Members that there is something novel about the amendment I have proposed. There is nothing of the sort. When I introduced the Bill I dealt extensively with the position in connection with offences against girls. I tried to show that in about 1885 the legislation which concerned the question of proof favoured practically every man, be he the actual culprit or a householder. I pointed out that the accused person was allowed under that Ordinance to lead evidence to show that he had a reasonable belief in estimating the age of the girl that she was about sixteen. Then about forty years later the Criminal Law Amendment Act of 1922 changed this defence, insofar as one could call it a defence, and limited it to young people under the age of

twenty-three. There is nothing novel in granting concessions and then at a later stage discovering that it is not quite in accord with principles established elsewhere—and we have our guidance in the law of England in this case. If it is suggested by Members that we take our guide from current legislation in England but refuse to follow this guide in other desirable cases, we are not being fair to ourselves.

I suggest that there was confusion as to what was really intended in that Ordinance. Surely, dealing with the first part of 51 (a) there is authority for saying that where a person, for instance, attends a meeting and does something and in respect of his own act is brought to Court and charged with the offence of sedition, it is definitely required of the prosecution to prove that in fact seditious words were uttered by someone, the very act of the individual notwithstanding. Where seditious words are spoken at a meeting it is the person who utters these seditious words who is liable to conviction, not the persons who merely attend and do nothing. As far as (c) and (d) are concerned, the document itself provides intrinsic evidence. But so far as the uttering of seditious words is concerned, it is in the interest of the accused person to ensure that he is protected to the fullest extent, so as to prevent unjust persons giving false testimony. Where a paper is published which contains seditious words, all that is required to be proved is the mere fact of distributing and publishing. When a person appears charged with sedition, the position must be defined in such a way that ample opportunity will be given to both the prosecution and the defence to put their witnesses in the box. Left as it is the law requires that there must be more than one witness, and since the evidence of one witness must be corroborated it becomes clear that the duty of the Judge is to ensure that there must be more than one witness. If there is only one witness and his evidence is not corroborated in the essential details, the Judge should of necessity throw the case out. This means that even where the sole witness is very creditable and the Court can rely on his creditability, but no further corroboration is forthcoming the accused person must be discharged.

I am convinced, Sir, that the amendment is a very reasonable one.

**His Honour the Chief Commissioner:**

I will put the amendment to the House. The question before the House is that the Bill should be amended by the deletion of clause 3.

Will those in favour say "Aye" and those to the contrary "No"?



**The Acting Secretary, Eastern Provinces:**  
 May we claim a division on this, Sir.

DIVISION

*For*  
 The Second Provincial Member for the Calabar Province.  
 The Provincial Member for the Owerri (Rivers) Province.  
 The Second Provincial Member for the Owerri Province.  
 The Member for Urban Aspect of Life in Port Harcourt.  
 The Second Provincial Member for the Onitsha Province.  
 The Second Provincial Member for the Cameroons Province.  
 The First Provincial Member for the Calabar Province.  
 The Provincial Member for the Ogoja Province.  
 The First Provincial Member for the Owerri Province.  
 The First Provincial Member for the Onitsha Province.  
 The Member for Professional, Salaried and Wage-earning Classes.  
 The First Provincial Member for the Cameroons Province.  
 The Member for Urban Areas other than Port Harcourt.

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*Against*  
 The Acting Senior Crown Counsel, Eastern Provinces.  
 The Deputy Director of Public Works, Eastern Provinces.  
 The Acting Deputy Director of Agriculture, Eastern Provinces.  
 The Deputy Director of Medical Services, Eastern Provinces.  
 The Acting Secretary (Finance), Eastern Provinces.  
 The Acting Resident, Onitsha Province.  
 The Acting Secretary, Eastern Provinces.  
 The Resident, Calabar Province.  
 The Resident, Ogoja Province.  
 The Resident, Owerri Province.  
 The Chief Commissioner, Eastern Provinces.

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**His Honour the Chief Commissioner:**

The result of the voting is "Ayes" 13, "Noes" 11.

The "Ayes" have it.

The question before the House is that this House do advise His Excellency the Governor that this Bill, amended by the deletion of clause 3, is acceptable in principle to this House. Will those in favour say "Aye" and those to the contrary "No".

The "Ayes" have it.

The House will now resolve itself into Committee to consider the Bill clause by clause.

*The House is in Committee.*

*Title.*

*Enactment.*

*Clause 1.*

*Clause 2.*

*Clause 3.*

*Clause 4.*

**The Member for Urban Aspect of Life in Port Harcourt  
(Mr G. C. Nonyelu):**

I should like to move an amendment, Sir, that sixteen years be substituted for fifteen years, in view of the fact that under clause 2 a wife must be above the age of fifteen. I do not see why unlawful knowledge should be legalised under sixteen years.

**His Honour the Chief Commissioner:**

I am not quite sure of the Member's amendment. Would the Member give me his exact amendment.

**The Member for Urban Aspect of Life in Port Harcourt  
(Mr G. C. Nonyelu):**

My amendment is to clause 4, sub-clause (a); the deletion of the word "fifteen" and the substitution therefor of "sixteen".

In view of the fact that under the Marriage Ordinance no marriage can be celebrated unless the parties are sixteen years of age, which is legalised carnal knowledge, I do not see why carnal knowledge should be legalised under the age of sixteen.

**The Provincial Member for the Owerri (Rivers) Province  
(Mr H. Buowari Brown, O.B.E.):**

I should like to know if the Member is not mixing up Native Marriages with Lawful Marriages. In lawful marriage under the Ordinance a girl must be of the age of sixteen but she may be so developed that she could be married under Native Law and Custom. Under Native Law, if the parents are willing to give her as a wife they can do so. I see no reason why they should not be allowed to do so.

**The First Provincial Member for the Calabar Province  
(Mr Asuquo Okon):**

The Member moving this amendment has suggested that "sixteen" should be substituted for "fifteen" in clause 4, but the word "fifteen" also occurs in clause 2.

**The First Provincial Member for the Cameroons Province  
(Mr J. Manga Williams, O.B.E.):**

I rise to second Mr Buowari Brown's statement. I would rather have fifteen years stand as it is.

**His Honour the Chief Commissioner:**

I will put the amendment. The question is that clause 4, sub-section (a) be amended by the deletion of the word "fifteen" where it occurs in the last line but one and the substitution instead of the word "sixteen". Will those in favour say "Aye" and those to the contrary "No".

The "Noes" have it.

The question is that clause 4 stands as part of the Bill. Will those in favour say "Aye" and those to the contrary "No". The "Ayes" have it.

Clause 5.

Clause 6.

**The Member for Professional, Salaried and Wage-earning Classes  
(Mr L. N. Mbanefo):**

I have an amendment to propose on clause 6. We must be aware of the position in this country that many people marry under Native Law and Custom and they sometimes marry girls about whose ages there is some doubt, whether she be fifteen, or above or below that age. This may apply to people who are more than twenty-two years of age, and if it appears reasonable to believe that the girl is above the age of fifteen, then the defence should be available to people like that, especially when it is established that it is their first offence under sub-section (a). I am pressing that the age limit of twenty-two years be deleted—in fact that the whole of the clause be deleted.

**His Honour the Chief Commissioner:**

Can the Member give me the exact amendment that he is proposing.

**The Member for Professional, Salaried and Wage-earning Classes  
(Mr L. N. Mbanefo):**

That the whole of clause 222c, sub-section (b) be deleted.

**His Honour the Chief Commissioner:**

In fact, that the words "that he is not above the age of twenty-two years" should be deleted.

**The Member for Professional, Salaried and Wage-earning Classes  
(Mr L. N. Mbanefo):**

I think that in framing this amendment to clause 222c sub-section (b) where we have young men of under twenty-two under consideration, we should bear in mind that quite a lot of people contract marriages under Native Law and Custom where it may well be that the girl is just under fifteen. I consider that the defence should be available to such people as is envisaged under sub-section (a).

**His Honour the Chief Commissioner:**

Does the amendment fulfil all your requirements?

**The Member for Professional, Salaried and Wage-earning Classes  
(Mr L. N. Mbanefo):**

Yes, because where a person can show that it is his first offence and that he had reasonable grounds for believing the girl was above fifteen, the defence should apply irrespective of age.

**The Acting Senior Crown Counsel, Eastern Provinces:**

I am opposed to that amendment. This morning Your Honour dealt with quite a lot of points dealing with morality issue and I was quite happy when my friends of the other side upheld the points that were raised. Now the object of the clause is to make an exception in the case of a young man who might be reasonably excused when he yields to temptation to which a grown up person should never yield. One should not expect a man of thirty or forty to yield to such temptation. There could be no question of a sudden urge, and I wonder if the Member proposing the amendment has thought of that aspect. We want to keep certain standards of morality, and in this case we must reserve the defence to young men only.

**The Second Provincial Member for the Onitsha Province  
(Mr C. D. Onyeama):**

With all respect, I disagree with the last speaker. As it now stands, if a young man is one day over twenty-two the defence is lost to him. I feel that in a case where a man of twenty-four or twenty-five marries a girl in the reasonable belief that she is more than fifteen years of age he should be allowed to say so in Court. After all, he may be acting in all innocence. The amendment does not seek to say that a man of thirty should be allowed unbridled licence. The stipulation is made that it should be a first offence and that he must convince the Court of the reasonableness of his belief. All that is required by the amendment is not that it should be removed but that the age limit should be extended, especially in areas where there is no birth register and people have to carry on by guess work. I support the amendment and would suggest that it be left to the Crown to prove whether the girl is fifteen or not.

**The First Provincial Member for the Calabar Province  
(Mr Asuquo Okon):**

I support the amendment that has just been made with regard to this clause. I am thinking that the matter is a very difficult one with regard to proof. According to the amendment the burden of proof is upon the accused person. I should imagine, Sir, having regard to the standard of education in this country and the facilities, or should I say the inadequate facilities for the registration of births, that the burden of proof should properly be left on the shoulders of the prosecution. On that score I entirely agree that the particular sub-section should be deleted.

**The Member for Urban Aspect of Life in Port Harcourt  
(Mr G. C. Nonyelu):**

I am opposed to the amendment on this ground. If we are to go on modern lines, then even the age of twenty-three is too high. The English equivalent is twenty-two. The object of this Bill, if

it becomes law, is to protect our girls, and if this age limit is removed I think it will give unbridled licence to grown ups. I am opposing the amendment.

**The Acting Secretary, Eastern Provinces:**

Sir, I should like to oppose the amendment. I am shocked that it should be suggested that any man of any age should be entitled to raise such a defence once in his lifetime. It may well be, Sir, that a man over the age of twenty-two might get drawn into one of these offences, and it may well be that he has reasonable cause to believe that the girl was over the age of fifteen. He could state that, Sir, not as a defence in law but by way of mitigation of sentence. I am thinking, Sir, in terms of the customs of the people, and I am thinking not so much of ordinary marriage by dowry but of the law of inheritance. When the girl's father dies she may be inherited by a distant relative. It may be that the costs of the father's funeral are heavy. It may be sheer cupidity, but whoever pays what satisfied her father's heir can take the girl with his consent, no matter what her age or what her fate; she is simply a marketable asset. And it is these cases of inheritance which under Native Law and Custom represent, as every District Officer knows, the most disturbing feature of the type of offence with which this Bill seeks to deal. During my time in this country I have dealt with over ten thousand matrimonial cases and I could talk for hours on the subject and on the sort of things with which every District Officer is only too familiar. I don't propose to do so, but merely to state my conclusion, which is justified by my experience, that the privilege presented by this section should not be extended any further.

**The Resident, Owerri Province:**

One speaker has represented that until there are adequate facilities for the registration of births and deaths no age limit should be specified. We should not wait till then for it is most improbable that a person who is tempted to commit this type of offence would ever begin by asking to see the girl's birth certificate.

**His Honour the Chief Commissioner:**

The question is that sub-section (b) of section 222c under clause 6 be deleted. Will those in favour say "Aye" and those to the contrary "No".

The "Noes" have it.

The question is that clause 6 stands as part of the Bill. Will those in favour say "Aye" and those to the contrary "No".

The "Ayes" have it.

The House will now resume.

**The Acting Senior Crown Counsel, Eastern Provinces:**

Sir, I beg to report that the Ordinance further to amend the Criminal Code Ordinance passed through Committee with no amendment.

**His Honour the Chief Commissioner:**

The question before the House is that this House do advise His Excellency the Governor that this Bill, subject to the deletion of clause 3 of the Bill is acceptable to this House. Will those in favour say "Aye" and those to the contrary "No".

The "Ayes" have it.

THE WEST AFRICAN INSTITUTE FOR TRYPANOSOMIASIS  
RESEARCH ORDINANCE, 1950.

**The Deputy Director of Medical Services, Eastern Provinces:**

Sir, I beg to move the following:—

"Be it resolved: That this House do advise His Excellency  
"the Governor that a Bill for 'An Ordinance for the  
"establishment of an Institute to undertake research  
"into matters relating to Trypanosomiasis, for the  
"incorporation of a Committee to manage the  
"Institute and for other purposes connected there-  
"with' is acceptable in principle".

Your Honour, the immediate purpose of this Bill is to establish and to manage research in Trypanosomiasis, or Fly Disease. The goal of the Bill is no less than to rid tropical Africa of this plague in man and cattle, and it is an inspiring thought that we are now asked to forge a weapon of such calibre. It happens to be in Nigeria, great and varied in its climate, and terrain, that the project has found suitable sites for the Institute and for its field stations. The project, however, is but one part of a great concerted plan in which the Colonial Office, Nigeria and the other three West African Colonies are partners in the management and upkeep, with the Colonial Office, I should say, contributing about two-thirds and Nigeria contributing about one-seventh of the cost. The type of management, with its minimum four Members from Nigeria—Official and Unofficial—is especially designed for collaboration with the sister organisation in East Africa and with those other bodies and voluntary agencies throughout the world, such as the World Health Organisation, the Nuffield Foundation, the Rockefeller Foundation and others. With these bodies Members of the Institute are already engaged in an assault on this fundamental barrier to progress in West Africa.

Sir, to some of us freedom from this disease simply means freedom of men and beasts from sleeping sickness, but to most of us it means far more. It means, indeed, something very much like the Canaan

of our dreams, with a vision of our plains with their herds of fat kine, our fields with lush crops of mixed farming, our people strong and dynamic, in whom faulty feeding is no more known, and our highways free at last from the reproach of weary wasted herds, goaded on to our markets in a grim race with death from fly disease.

Sir, I beg to move.

**The Acting Deputy Director of Agriculture, Eastern Provinces:**

Sir, I beg to second.

**His Honour the Chief Commissioner:**

If no Member wishes to speak to the principle of the Bill I will put the question.

**The Provincial Member for the Ogoja Province (Dr F. A. Ibiam, O.B.E.):**

Sir, I do not want to waste words here. I merely want to offer thanks to Government for bringing out this Bill. Everyone knows of the ravages caused by sleeping sickness, and the idea of establishing an Institute for the purpose of research and treatment is very welcome to this country. I support the Bill wholeheartedly.

**His Honour the Chief Commissioner:**

The question before the House is that this House do advise His Excellency the Governor that this Bill is acceptable in principle to this House. Will those in favour say "Aye" and those to the contrary "No".

The "Ayes" have it.

*The House is in Committee.*

*Title.*

*Enactment.*

*Clauses 1-6.*

*Clauses 7-11.*

*Clauses 12-14.*

*Clauses 15-17.*

**His Honour the Chief Commissioner:**

The House will now resume.

**The Deputy Director of Medical Services, Eastern Provinces:**

Sir, I beg to report that the Bill for an Ordinance to establish an Institute to undertake Research into matters relating to Trypanosomiasis, for the incorporation of a Committee to manage the Institute and for other purposes connected therewith has passed through Committee with no amendment.

**His Honour the Chief Commissioner:**

The question before the House is that this House do advise His Excellency the Governor that this Bill is acceptable to this House. Will those in favour say "Aye" and those to the contrary "No".

The "Ayes" have it.

THE ALIENS (DEPORTATION) (AMENDMENT) ORDINANCE, 1950

**The Resident, Owerri Province:**

Sir, I beg to move the following:—

"Be it resolved: That this House do advise His Excellency  
"the Governor that a Bill entitled 'An Ordinance  
"to amend the Aliens (Deportation) Ordinance',  
"is acceptable in principle".

This Bill is entirely non-controversial and merely brings the principal Ordinance up to date. It defines "alien" as "any person who is not a British subject or British-protected person" and empowers the Governor to make an order for the deportation of an alien whose continued presence in Nigeria is, in certain circumstances, deemed to be undesirable.

Under section 5 of the principal Ordinance an alien deportee may be placed on board a ship and detained there. Section 6 requires the Master of that ship to give him and his dependants a passage.

Since the enactment of the Ordinance about thirty years ago aeroplanes and motor cars have been introduced into Nigeria in large quantities, and the purpose of the present Bill is to make it possible to order the deportation of an alien by one of these means of transport, as well as by ship. All that is necessary to amend section 5 of the principal Ordinance is to insert in two places after the word "ship" the words "or aircraft or motor or other vehicle"; clause 3 adds to section 6 a sub-section compelling persons controlling such means of transport to give the deportee and his dependants a passage.

Finally, opportunity is taken to add another sub-section introducing a penalty, for which no provision at present exists, for disobedience of an owner to give an alien a passage in a ship, aeroplane or other vehicle.

**The Resident, Calabar Province:**

Sir, I beg to second.

**His Honour the Chief Commissioner:**

If no Member wishes to speak to the principle of the Bill I will put the question.



The question before the House is that this House do advise His Excellency the Governor that the Bill shortly entitled "The Aliens (Deportation) (Amendment) Ordinance, 1950" is accepted in principle. Will those in favour say "Aye" and those to the contrary "No".

The "Ayes" have it.

The House will now resolve itself into Committee to consider the Bill clause by clause.

*The House is in Committee.*

*Title.*

*Enactment.*

*Clause 1.*

*Clause 2.*

*Clause 3.*

**His Honour the Chief Commissioner:**

The House will now resume.

**The Resident, Owerri Province:**

Sir, I beg to report that the Bill entitled "An Ordinance to amend the Aliens (Deportation) Ordinance" passed through Committee with no amendment.

**His Honour the Chief Commissioner:**

The question before the House is that this House do advise His Excellency the Governor that this Bill is acceptable to this House. Will those in favour say "Aye" and those to the contrary "No".

The "Ayes" have it.

THE LABOUR CODE (AMENDMENT) ORDINANCE, 1950

**The Acting Secretary, Eastern Provinces:**

Sir, I beg to move the following:—

"Be it resolved: That this House do advise His Excellency  
"the Governor that the Bill entitled 'An Ordinance  
"further to amend the Labour Code Ordinance' is  
"acceptable in principle".

Members will not only have studied the Bill but the objects and reasons which have led up to its introduction, and there is no need to recapitulate them.

This House is most keenly aware of its obligations towards the class of persons for whose protection the principal Ordinance is designed, and amendments such as the present Bill contains, designed to strengthen the protection afforded must, I suggest, meet with the approval of the House.

At first sight, I must confess, I viewed with alarm the provisions in clause 2 of the sub-clauses (a) and (b). A power to enter, inspect and examine without a search warrant obtained after sworn statement before a Magistrate is suspected as an unwarranted and unwarrantable infringement on the liberty of the subject, and this House is, and will continue to be, zealous in its safeguarding of those liberties. But, Sir, I would draw attention to the words at the beginning of the clause in question—"A Labour Officer . . . shall, for the purposes of the execution of the provisions of this Ordinance have power to do" the things set out in the remainder of the clause. It does not carry its powers beyond those already granted under the main Ordinance. It merely ensures that the Officers appointed to secure adherence to the provisions of the Ordinance, have the powers necessary to secure that adherence.

In sub-clause 2 also there is a proviso of a type now so familiar to Members of this House, to prevent ill-considered litigation. That is sub-clause (h). Before a Labour Officer indulges in litigation arising under this clause, the consent of the Commissioner of Labour is necessary. I am sure that the proviso will commend itself to every Member of the House.

It is not until we come to clause 9 that we again come to a matter of major interest. It may well be that in the past in our zeal to match and meet with International Labour Conventions we have not only gone further than our own people and our own Native Authorities desired, but that we have gone further than those International Conventions to which we subscribe, themselves desired us to go. I should not like to say more than this—that if we have erred we have erred in the right direction. If the Nigeria of a generation ago welcomed any relief from any responsibility, no matter what the consequences, we can say in this Region that that is not the temper to-day. To-day we believe that from the youngest taxpayer to the oldest, it is the duty of every man with a social conscience born anew, to exert his legitimate utmost for the welfare of the community in which he lives. There is no other way. This clause 9 largely enables progressive communities to help themselves. We know that far outside the provisions of this clause progressive communities are already busier than the ants, setting standards that Members of this House wish to see emulated in every tribe and clan.

Sir, I beg to move.

**The Acting Senior Crown Counsel, Eastern Provinces:**

Sir, I beg to second.

**His Honour the Chief Commissioner:**

If no Member wishes to speak to the principle of the Bill I will put the question.

**The Provincial Member for the Owerri (Rivers) Province  
(Mr H. Buowari Brown, O.B.E.):**

I would like to express my very hearty thanks to Government for the introduction of this Bill, particularly clause 9. Under International Law we were precluded from employing the usual customary labour for communal purposes and we have found it very difficult to get people to do anything. Now that rates are going to be imposed and we are given the privilege of calling people under this Ordinance to do work for their own benefit, I think that Government has taken a very good stand in this matter. I thank whoever is responsible.

**His Honour the Chief Commissioner:**

The question before the House is that this House do advise His Excellency the Governor that this Bill is acceptable in principle. Will those in favour say "Aye" and those to the contrary "No".

The "Ayes" have it.

The House will now resolve itself into Committee to consider the Bill clause by clause.

*The House is in Committee.*

*Title.*

*Enactment.*

*Clause 1.*

*Clause 2.*

*Clause 3.*

*Clause 4.*

**The Member for Professional, Salaried and Wage-earning Classes  
(Mr L. N. Mbanefo):**

Sir, I find it difficult to understand some of the provisions of clause 4. If a worker is in need his employer can quite easily lend to him the amount he requires and such an advance can be repaid by easy instalments from his wages. But under section 19 (1) no advance in excess of one pound shall be paid to any worker. It seems to me that this would be a hardship upon the worker and I find it difficult to support the Bill as it stands. The other sub-clauses seem to me quite in order, but I think that sub-clause 19 (1) should be deleted.

**The Member for Urban Areas other than Port Harcourt  
(Rev. O. Efiog, O.B.E.):**

Whilst I do not say that it is desirable for workers to get into debt, I feel that I should associate myself with the last speaker, because sometimes circumstances compel workers to go to their employers for a loan, to be recovered from their wages. I associate myself with the last speaker.

**His Honour the Chief Commissioner:**

I did not quite gather whether or not the Member was moving an amendment.

**The Member for Professional, Salaried and Wage-earning Classes (Mr L. N. Mbanefo):**

That was my intention, although I did call for an explanation of the purpose of that clause.

**His Honour the Chief Commissioner:**

Might I suggest that the amendment could wait until we hear the explanation.

**The Acting Secretary, Eastern Provinces:**

I would particularly draw attention to the words "not being a recruited worker". That goes to the heart of the matter. A recruited worker is a person on a long continuous contract and such a worker, as I understand the section, could receive an advance in excess of the sum of one pound. But in the case of a daily-paid labourer who has no such contract, if he gets into debt to his employer for more than the sum of one pound it is quite obvious that his position in relation to his employer may be, I suggest, even worse than his relation to a money lender, and it is most undesirable that an unscrupulous employer should be allowed to keep employees in his debt and force them to submit to any iniquities that he imposes on them. It is for the benefit of the worker that this clause is introduced. As I understand the clause it applies only to daily-paid workers.

**The Member for Professional, Salaried and Wage-earning Classes (Mr L. N. Mbanefo):**

I do not find "recruited worker" defined in the Ordinance.

**The Acting Secretary, Eastern Provinces:**

No, it is not defined, Sir, in the main Ordinance.

**His Honour the Chief Commissioner:**

Is the Member satisfied?

**The Member for Professional, Salaried and Wage-earning Classes (Mr L. N. Mbanefo):**

I am sorry to say, Sir, I am not. In my view the term "recruited labour" applies mostly to, say, people being sent to Fernando Po. I do not think there would be greater hardship to an employee obtaining an advance of £4 to be recovered by 10s monthly instalments than sending him to a money lender to pay 9d per pound interest per month—something over 25 per cent interest per annum. It would help employees to obtain advances from their employers on easy terms; they have already been protected from payment of interest or discount. I am proposing the formal amendment, that clause 19 (1) be deleted.

**The Acting Resident, Onitsha Province:**

Sir, I would oppose this amendment. This Bill is based on an International Convention drawn up to protect the worker, and I think there is little doubt that this clause has been inserted with an eye to protecting his interests. We must take into consideration our own local conditions, and if we do allow employers to advance money to labour not employed on agreement, they will be able most effectively to restrict the choice of that man to change his employment or force him to accept conditions which he would not accept if he were not so tied by debt.

**His Honour the Chief Commissioner:**

I will put the amendment. The question is that clause 4 should be amended by the deletion of sub-clause 19 (1). Will those in favour say "Aye" and those to the contrary "No".

The "Noes" have it.

**The First Provincial Member for the Onitsha Province  
(Mr P. E. Chukwurah):**

May I suggest this amendment to clause 19 (1); the deletion of "not being a recruited worker" and the insertion of "daily paid" between "any" and "worker" in line 2, to read: "No advance in excess of the sum of one pound shall be paid to any daily paid worker.....".

**The Acting Secretary, Eastern Provinces:**

The amendment is not seconded, Sir. If no one else wishes to speak I merely oppose it.

**His Honour the Chief Commissioner:**

I will put the question. The question is that clause 4, sub-clause 19 (1) be amended by the insertion of "daily paid" between "any" and "worker" in line 2 and the deletion of "not being a recruited worker". Will those in favour say "Aye" and those to the contrary "No".

The "Noes" have it.

**His Honour the Chief Commissioner:**

The question is that clause 4 stands as part of the Bill. Will those in favour say "Aye" and those to the contrary "No".

The "Ayes" have it.

*Clauses 5-13.*

The House will now resume.

**The Acting Secretary, Eastern Provinces:**

Sir, I beg to report, that a Bill for an Ordinance further to amend the Labour Code Ordinance has passed through Committee with no amendment.

**His Honour the Chief Commissioner:**

The question before the House is that this House do advise His Excellency the Governor that this Bill is acceptable to this House. Will those in favour say "Aye" and those to the contrary "No".

The "Ayes" have it.

Gentlemen, at this stage, it being one o'clock, I think it is proper and would suggest to the House that we might adjourn now and resume again at a later hour to-day, or, if it is your pleasure, to continue sitting through until 2 o'clock. We are behind the schedule of business which we were expecting to complete this morning. It is important, unless this House is to drag on at this meeting for ten days or more, that we should be as expeditious as we can and make up time where possible by fairly long sittings. If it is your pleasure that we resume this afternoon I would suggest that we return at 4 o'clock and sit until 6.30 p.m.

**The Member for Urban Areas other than Port Harcourt (Rev. O. Efiang, O.B.E.):**

Sir, the Unofficial Members expressed the wish to me long before you spoke, that they would prefer one session at all costs.

**His Honour the Chief Commissioner:**

Then, if it is the pleasure of this House, I propose that we proceed until 2 o'clock and adjourn then for the day.

**THE WORKMEN'S COMPENSATION (AMENDMENT) ORDINANCE, 1950****The Acting Senior Crown Counsel, Eastern Provinces:**

Sir, I beg to move the following:—

"Be it resolved: That his House do advise His Excellency  
 "the Governor that a Bill for 'An Ordinance further  
 "to amend the Workmen's Compensation Ordinance'  
 "is acceptable to this House".

I can do no more, Sir, than refer Members to the objects and reasons for this amendment which, I am certain, will satisfy the wishes of the Unofficial Members. As Members are aware, legislation in connection with Workmen's Compensation was introduced into this country in 1941 in a comparatively easy form. Since that time much experience has been gained and much development has taken place. At this stage, therefore, it is considered desirable to elaborate and extend the original provisions of the Ordinance which by modern standards are inadequate. I am certain that the Member for Professional, Salaried and Wage-earning Classes will welcome these provisions, which are entirely in the interests of the worker. The main provisions, Sir, are in clause 2 of the Bill which amends section 2 of the principal Ordinance, and the object is to include within the term "worker" a much larger number of persons, with the exception of those excepted in the provision itself.

Clause 5 deals with compensation payable in cases of permanent and total incapacity. It amends the principal Ordinance, section 7 thereof, which reads as follows:—

“Where permanent total incapacity results from the injury the amount of compensation shall be a sum equal to forty-two months’ earnings or seven hundred and fifty pounds, whichever is less . . . .”

The suggested amendment is that section 7 of the principal Ordinance should have the words “forty-two months’ earnings or £750” deleted and “forty-eight months’ earnings or £1,000” inserted. This, I imagine, takes into consideration the present day value of money. At any rate, it is a substantial increase.

Clause 6 provides additional compensation where injury results in permanent total incapacity of such a nature that the injured person must have the constant help of another person. In this case the worker is entitled to a quarter of the amount due to him under section 7, to enable him to pay for this special help.

Clause 7, which amends section 8 of the principal Ordinance, makes provision for the Court to allow a degree of incapacity in a suitable case. When a person feels that he is entitled to special consideration, he can, by putting his case to the Court, get the Court to award him higher compensation.

Clause 9 amends section 15, and allows a worker to get medical examination and treatment from a doctor named by him when he has suffered injury. This is particularly welcome and it will remove the suspicion which largely exists where a worker is compelled, more or less, to go to a medical officer named by his employer.

Clause 10 repeals the provisions of section 18 (2) which provides for the deduction of periodical payments. This is very important, indeed, Sir. Section 18 (2) says: “Any periodical payment may, on review under this section, subject to the provisions of this Ordinance, be continued, increased, diminished, converted to a lump sum, or ended. If the accident is found to have resulted in permanent incapacity, the periodical payment shall be converted to the lump sum to which the workman is entitled under the provisions of section 7 or section 8, as the case may be, less any amount which he has already received by way of periodical payments, and such lump sum shall be dealt with in accordance with the provisions of sub-section (2) of section 12.”

The amendment ensures that even if the workman has already during the course of his incapacity received periodical payments, he is nevertheless entitled to the full amount of compensation due to him where he has been declared totally incapacitated.

Clause 11 amends the principal Ordinance by inserting four additional clauses which make the employer liable for the expenses

incurred by a workman within Nigeria as a result of an accident arising out of and in the course of his employment, and empowers the Governor in Council to extend the provisions of the Ordinance to incapacity or death certified as caused by any disease specified in this order.

The purpose of these amendments is to bring the law on Workmen's Compensation into line with that which obtains in other countries.

**The Acting Deputy Director of Public Works, Eastern Provinces:**

Sir, I beg to second.

**The First Provincial Member for the Calabar Province  
(Mr Asuquo Okon):**

Your Honour, there are two points on which I should like some explanation. First of all I would refer to clause 2 (c). I see that a person employed in agricultural or handicraft work by an employer who normally employs less than ten workmen has been excluded from the provisions of this Ordinance. I should like to know why that is so. Secondly, I should like to refer to clause 9. I notice that when a medical practitioner has been named by the worker he must be approved by the employer, but no approval from the worker is necessary when the employer names the medical practitioner. I should like to know the reason for that too.

**The Acting Senior Crown Counsel, Eastern Provinces:**

Sir, I presume that that type of workman is excluded, because in that type of employment one would naturally expect the employer to take into his employment only his own relations. If he employed less than ten people, four or five of them would perhaps be children and the others his personal servants. One would expect him to be placed in a position where he would be able to pay in accordance with his means. The Ordinance is intended in the main to govern cases where people are employed in large numbers.

With regard to the naming of a medical practitioner, it is only fair, in my view, that the man who pays the piper should call the tune. Even where a workman chooses his own doctor, it must be realised that his fees would be paid by his employer, and therefore it is necessary for him to approve of someone who would be able to discharge his duties efficiently. Where the employer chooses the doctor in any case he would pay, and surely you would not expect the worker to have anything to do with it. It is an additional safeguard for the worker, and if he is not satisfied with the doctor nominated by his employer he can insist on having his own.

**His Honour the Chief Commissioner:**

If no Member wishes to speak to the principle of the Bill I will put the question.



**The Member for Urban Areas other than Port Harcourt  
(Rev. O. Efiang, O.B.E.):**

Sir, I rise to recommend the Bill in principle, but there is one point that worries me and that is, what will be the position of people who employ labour, say to the tune of twenty men, and who are not in a sufficiently stabilised financial position to afford this large compensation. It appears to me, Sir, that the Ordinance is designed particularly for big establishments such as big Firms or Government, where labour is employed on very large scales. The Ordinance has not defined that position, and I feel myself that the small man who employs fifteen to twenty labourers will be hard hit. I should like an explanation on this point, Sir.

**His Honour the Chief Commissioner:**

If no other Member wishes to speak I will call on the mover to reply.

**The Acting Senior Crown Counsel, Eastern Provinces:**

This point is the opposite of that raised by the speaker before the last one, who wanted to know why an employer of less than ten men should not be brought within this Ordinance.

Here I think the solution of the problem is for the person taking into his employment about twenty men to organise his business on modern lines. He should make provision by taking out insurance policies to cover the financial demands which may be made upon him under this Ordinance.

**His Honour the Chief Commissioner:**

The question before the House is that this House do advise His Excellency the Governor that this Bill is acceptable in principle to this House. Will those in favour say "Aye" and those to the contrary "No".

The "Ayes" have it.

The House will now go into Committee to consider the Bill clause by clause.

*The House is in Committee.*

*Title.*

*Enactment.*

*Clauses 1-5.*

*Clauses 6-11.*

**His Honour the Chief Commissioner:**

The House will now resume.

**The Acting Senior Crown Counsel, Eastern Provinces:**

Sir, I beg to report, that a Bill for an Ordinance further to amend the Workmen's Compensation Ordinance passed through Committee with no amendment.

**His Honour the Chief Commissioner:**

The question is that His Excellency the Governor be advised that this Bill is acceptable to this House. Will those in favour say "Aye" and those to the contrary "No".

The "Ayes" have it.

## THE AGRICULTURE ORDINANCE, 1950

**The Acting Deputy Director of Agriculture, Eastern Provinces:**

Sir, I beg to move the following:—

"Be it resolved: That this House do advise His Excellency  
 " the Governor that the Bill entitled 'An Ordinance  
 " to make provision for regulating the planting and  
 " growing of agricultural crops, for the control of  
 " plant diseases and pests and for matters connected  
 " therewith' is acceptable in principle".

As a result of the transfer of the Produce Inspection Branch of the Agriculture Department to the Department of Marketing and Exports, it has been decided to repeal the Agriculture Ordinance 1948 (No. 37 of 1948) and re-enact a new Ordinance omitting all the provisions of the old Ordinance which relate to produce inspection and cognate matters. The previous Ordinance was debated in this House during July, 1948. The new Ordinance is substantially the same as the old one, except that provision has been made for such matters as the term of office of members of the Board of Agriculture, the power of the Board to co-opt, the Chairman's vote, etc.

In clause 4 it is proposed that the Director of Geological Survey shall be a member of the Board of Agriculture. I feel sure members will welcome this addition. Clause 11 gives right of entry to take samples to officers not below the rank of Agricultural Assistant. Clause 12 gives powers to officers not below the rank of Assistant Agricultural Officer to call upon persons to furnish any information they may reasonably require.

Sir, I beg to move.

**The Acting Resident, Onitsha Province:**

Sir, I beg to second.

**His Honour the Chief Commissioner:**

If no Member wishes to speak to the principle of the Bill I will put the question.

The question before the House is that this House do advise His Excellency the Governor that this Bill is acceptable in principle. Will those in favour say "Aye" and those to the contrary "No".

The "Ayes" have it.

The House will now go into Committee to consider the Bill clause by clause.

*The House is in Committee.*

*Title.*

*Enactment.*

*Clauses 1-5.*

*Clauses 6-10.*

*Clauses 11-15.*

*Clauses 16-18.*

**His Honour the Chief Commissioner:**

The House will now resume.

**The Acting Deputy Director of Agriculture, Eastern Provinces:**

Sir, I beg to report that the Bill for an Ordinance to make provision for regulating the planting and growing of agricultural crops, for the control of plant diseases and pests and for matters connected therewith passed through Committee with no amendment.

**His Honour the Chief Commissioner:**

The question is that His Excellency the Governor be advised that this Bill is acceptable to this House. Will those in favour say "Aye" and those to the contrary "No".

The "Ayes" have it.

#### THE PRODUCE INSPECTION ORDINANCE, 1950

**The Acting Deputy Director of Agriculture, Eastern Provinces:**

Sir, I beg to move the following:—

"Be it resolved: That this House do advise His Excellency  
 "the Governor that the Bill entitled 'An Ordinance  
 "to make provision for regulating the inspection and  
 "grading of produce intended for export, for the  
 "control of pests in such produce and for matters  
 "connected therewith' is acceptable in principle".

As a result of the transfer of the Produce Inspection Branch of the Agriculture Department to the Department of Marketing and Exports, it is considered essential to enact a new Ordinance embodying those provisions of the Agriculture Ordinance, 1948 (No. 37 of 1948) which relate to the inspection of agricultural produce intended for export and to repeal Ordinance No. 37 of 1948. This Ordinance applies only to the produce of the description mentioned in the Schedule, but the Governor in Council is empowered to add to or delete from the Schedule any description of produce. Under clause 5 a Produce Inspection Board is set up whose powers are laid down in clause 8. Clause 12 simplifies the procedure relating to the cancellation and suspension of licences.

Sir, I beg to move.

**The Acting Secretary (Finance), Eastern Provinces:**

Sir, I beg to second.

**His Honour the Chief Commissioner:**

If no Member wishes to speak to the principle of the Bill I will put the question. The question is that this House do advise His Excellency the Governor that this Bill is acceptable in principle. Will those in favour say "Aye" and those to the contrary "No".

The "Ayes" have it.

**The First Provincial Member for the Calabar Province  
(Mr Asuquo Okon):**

May I suggest, Sir, that we take the sections in groups.

**His Honour the Chief Commissioner:**

I certainly will.

The House will now resolve itself into Committee to consider the Bill clause by clause, and in doing so, is it the pleasure of the House that the clauses are taken five at a time?

"Aye".

*The House is in Committee.*

*Title.*

*Enactment.*

*Clauses 1-5.*

*Clauses 6-10.*

**The Provincial Member for the Ogoja Province (Dr F. A. Ibiam,  
O.B.E.):**

Your Honour, I regret that I did not bring the point I am about to make in the other Bill, but in clause 5 certain Members are nominated by the House of Assembly, and in clause 6, sub-section 4, it reads as follows:—

"Where an unofficial member is temporarily incapacitated by illness or is temporarily absent from Nigeria, the Governor may appoint any person (not being a public officer) to be temporarily a member of the Board during such incapacity or absence."

When a member is absent from meetings I think that a substitute should be appointed by the House of Assembly concerned and not by the Governor, and I would move that in place of the "Governor" we substitute "House of Assembly concerned".

**His Honour the Chief Commissioner:**

The amendment is: to delete the word "Governor" in clause 6 sub-section (4) and instead insert the words "House of Assembly concerned".

**The Acting Secretary, Eastern Provinces:**

I think the Member means to say "Unofficial Members of the House concerned".

**The Resident, Owerri Province:**

If this amendment is admitted, then it looks as if the Eastern Region will run the risk of sometimes having no one at all as its representative; for it is hardly to be expected that the Unofficial Members, in the case of sudden illness, could make the necessary journeys for meetings to discuss its representation. Surely Government could be entrusted with the duty of choosing a temporary representative?

**The First Provincial Member for the Calabar Province (Mr Asuquo Okon):**

It appears to me that the despatch of business would be very much hampered if this nomination of substitutes was allowed to vest in the House of Assembly because a member might be absent for only a brief space of time, and to call a meeting of the House to appoint another member would make for delay. Again, as has been said previously, it would be very difficult to contact members. I would suggest that the section stands as it is.

**The Provincial Member for the Owerri (Rivers) Province (Mr H. Buowari Brown, O.B.E.):**

I am in entire agreement with the last speaker. There would be a lot of delay if this was vested in the Unofficial Members of the House, and I think it would be a mistake to call us to decide on a representative when the Governor can do this for us.

**The Provincial Member for the Ogoja Province (Dr F. A. Ibiam, O.B.E.):**

There are three reasons which make it a necessity for some other member to be appointed. In section (3) it says "if the Governor be satisfied that an unofficial member:—

- (a) has been absent from two consecutive meetings of the Board without the permission of the Board".

Since the office will have to be declared vacant before another member is substituted there will be ample time to make the decision.

- (b) covers where he is mentally unfit and (c) where he is unfit to discharge his functions.

Since there will be ample time available I do not think it would be a waste of correspondence for the House to have the chance of appointing another member.

**His Honour the Chief Commissioner:**

I do not think the Member has read the section quite correctly. Sub-clause (3) provides the availability to declare a vacancy, in which case the nomination is made as laid down formally in

section 5. But in the circumstances which are set out separately in sub-section (4), then the Governor may appoint persons. I have explained this to the Member from the Chair because, in view of what has been said, I am not certain whether the Member wishes to pursue the amendment. Sub-section (4) does not cover a vacancy but a temporary absence.

**The Acting Deputy Director of Agriculture, Eastern Provinces:**

(3) is a vacancy and (4) a temporary absence.

**His Honour the Chief Commissioner:**

Is the Member satisfied?

**The Provincial Member for the Ogoja Province (Dr F. A. Ibiam, O.B.E.):**

I am satisfied, Sir.

**The Member for Urban Areas other than Port Harcourt (Rev. O. Efiang, O.B.E.):**

I support the mover of the amendment. In view of the fact that we have such terms as "Emergency Meeting" and "Extraordinary Meeting", I do not think it will be a waste of time to convene an extraordinary meeting to see about the substitution of members.

**The First Provincial Member for the Owerri Province (Mr M. W. Ubani):**

On a point of explanation, Sir, what is the significance of temporary appointment? What happens in the event of it becoming permanent?

**The Acting Senior Crown Counsel, Eastern Provinces:**

Sir, as the section stands it deals with four related but distinct subjects. Sub-section (1) a Member of the Board other than an ex-officio member may at any time resign, but an unofficial member's term of office is three years, unless he resigns. Sub-section (2) provides that an unofficial member who has ceased to be a member could be re-appointed. It has nothing to do with (1). Sub-section (3) deals with the situation where a person has been absent from meetings. It empowers His Excellency to declare his office vacant. Sub-section (4) covers the issue raised by members and deals with temporary absence. It applies, for example, to the case where a member is incapacitated by illness and is absent three or four times, as the case may be. It seems to me quite clear that such a person should not be allowed to prevent the ordinary business of the Board from going on. As all the Regions are represented it is proper that His Excellency should be able to nominate a substitute at short notice in place of an absentee member.

**His Honour the Chief Commissioner:**

Is the Member satisfied?

The Member, not having expressed his satisfaction, I will put the amendment. The question is that clause 6, sub-section (4) should be amended by the deletion of the word "Governor" and the

insertion of the words "Unofficial Members of the House of Assembly concerned". Will those in favour say "Aye" and those to the contrary "No".

The "Noes" have it.

The question is that clause 6 stands as part of the Bill. Will those in favour say "Aye" and those to the contrary "No".

The "Ayes" have it.

*Clauses 11-15.*

*Clauses 16-20.*

*Clauses 21-25.*

**The Acting Deputy Director of Agriculture, Eastern Provinces:**

Sir, I propose that the word "Offences" be included in section 21 as a marginal note. It was in the old Bill and should be in this one.

**His Honour the Chief Commissioner:**

The question is that clause 21 be amended by the insertion of the word "Offences" as a marginal heading. Will those in favour say "Aye" and those to the contrary "No".

The "Ayes" have it.

*Clauses 26-30.*

*Clause 31.*

*Schedule.*

**His Honour the Chief Commissioner:**

The House will now resume.

**The Acting Deputy Director of Agriculture, Eastern Provinces:**

Sir, I beg to report that a Bill for an Ordinance to make provision for regulating the inspection and grading of produce intended for export, for the control of pests in such produce and for matters connected therewith passed through Committee with one amendment.

**His Honour the Chief Commissioner:**

The question is that His Excellency the Governor be advised that this Bill is acceptable to this House with the amendment recommended in Committee. Will those in favour say "Aye" and those to the contrary "No".

The "Ayes" have it.

Gentlemen, at this stage and having reached ten minutes to two, is it your pleasure that the House should now adjourn, or is it the wish of the House to continue until 2.30?

**The Resident, Owerri Province:**

I think we should continue: we must do as much as possible.

**The Acting Senior Crown Counsel, Eastern Provinces:**

I have another Bill, and it is a very short one.

**His Honour the Chief Commissioner:**

Is it your pleasure that we should take one more Bill?

"Aye".

## THE CONSULAR CONVENTIONS ORDINANCE, 1950

**The Acting Senior Crown Counsel, Eastern Provinces:**

Sir, I beg leave to move the following:—

“ Be it resolved: That this House do advise His Excellency  
 “ the Governor that the Bill for ‘An Ordinance to  
 “ ‘make provision for the conferring of certain powers  
 “ ‘upon Consular Officers of Foreign States with which  
 “ ‘Consular Conventions are concluded by His  
 “ ‘Majesty and for matters connected therewith’, is  
 “ ‘acceptable to this House in principle’ ”.

Sir, the objects and reasons of this Bill are to confer on permanent Consular Representatives of Foreign States certain privileges normally reserved in international usage for persons of diplomatic status only. The main privileges which are usually restricted to Foreign Nationals are provided for by the Bill.

Under clause 2, Consular Officers are authorised to take grant of representation without necessity of obtaining power of attorney in certain cases.

In clause 4 provision is made restricting the power of entry into Consular offices by the Police. But so far as this is concerned, there is a proviso—paragraph (a) which enables the Police to enter such premises for the purpose of extinguishing fire. In such a case the Consular Officer would welcome the presence of the Police. Paragraph (b) permits a constable to enter where he has reasonable cause to believe that a crime involving violence has been or is being or is about to be committed in the Consular office, and paragraph (c) permits the entry of a person entitled to enter by virtue of any easement, contract or other private right. A person who has the right of legal entry into such premises should not by this legislation be prevented from exercising his rights.

Clause 6 provides for exemption from certain stamp duties and clause 7 for exemption from certain Customs duties.

Clause 8 empowers Consular Officers to act for the owners of wrecked vessels in certain cases.

Clause 9 is very important. It enables the provisions of this Ordinance to be applied only where there is reciprocity of arrangement between His Majesty’s Government and the foreign states concerned for conferring diplomatic privileges.

**The Acting Secretary, Eastern Provinces:**

Sir, I beg to second.

**The Member for Professional, Salaried and Wage-earning Classes (Mr L. N. Mbanefo):**

I should like to support the Bill, but I should like to suggest for the consideration of the Acting Senior Crown Counsel that the Ordinance does not define who is a Consular Officer. It may well be that a Consul would have several employees under him and it would become necessary to know to what extent such immunity goes. This point went to Court in England before and it was held



that a letter from the Foreign Minister was enough. Here it could not be defined by a letter from the Foreign Minister as we have no Ministers here, but a letter from the Chief Secretary could certify that the person in question is a Consular Officer. I think if the Ordinance makes this provision it would be satisfactory.

**His Honour the Chief Commissioner:**

If no other Member wishes to speak to the principle of the Bill I will ask the mover to reply to that.

**The Member for Urban Areas other than Port Harcourt (Rev. O. Efiang, O.B.E.):**

It is not clear to me as to the quantity of commodities allowed to be imported free of duty. I should like a guarantee that it is only for personal consumption and not for trade, Sir.

**The Acting Senior Crown Counsel, Eastern Provinces:**

It would be undesirable in the Ordinance to define the status of officials who enjoy these privileges. The answer would very largely depend on what arrangements are made between His Majesty's Government and the Foreign Government concerned. I would point out as a matter of interest the definition of Consular Officers in clause 7 of the Bill.

**His Honour the Chief Commissioner:**

The question before the House is that this House do advise His Excellency the Governor that this Bill is acceptable in principle to this House. Will those in favour say "Aye" and those to the contrary "No".

The "Ayes" have it.

The House will now go into Committee to consider the Bill clause by clause.

*The House is in Committee.*

*Title.*

*Enactment.*

*Clauses 1-9.*

**His Honour the Chief Commissioner:**

The House will now resume.

**The Acting Senior Crown Counsel, Eastern Provinces:**

Sir, I beg to report that a Bill for an Ordinance to make provision for the conferring of certain powers upon Consular Officers of Foreign States with which Consular Conventions are concluded by His Majesty and for matters connected therewith passed through Committee with no amendment.

**His Honour the Chief Commissioner:**

The question is that His Excellency the Governor be advised that this Bill is acceptable to this House. Will those in favour say "Aye" and those to the contrary "No".

The "Ayes" have it.

Gentlemen, is it your pleasure that we should now adjourn?

"Aye".

**The Acting Secretary, Eastern Provinces:**

Sir, I think that the Clerk of the House, at the request of the Unofficial Members, has a photographer in attendance for the purpose of taking a group photograph.

**His Honour the Chief Commissioner:**

Would you be good enough to announce that to the House?

**The Acting Secretary, Eastern Provinces:**

As this is the first occasion on which we have met as a House in this building, the Unofficial Members have arranged for a photographer to be in attendance outside the building to take a group photograph.

**His Honour the Chief Commissioner:**

When is the House resuming?

**The Acting Secretary, Eastern Provinces:**

To-morrow the Revenue Allocation Commission and Mr Williams will be here to meet the Unofficial Members for discussion.

**His Honour the Chief Commissioner:**

Is there any chance of resuming in the House to-morrow? I should say none.

**The Acting Secretary, Eastern Provinces:**

I should say none, Sir, with the Revenue Allocation Commission here.

**His Honour the Chief Commissioner:**

In that case I will adjourn the House until 9.30 a.m. on Friday morning, if that would be convenient. Is that the pleasure of the House?

“ Aye ”.

*The House will stand adjourned until 9.30 a.m. on Friday morning.*

**The Provincial Member for the Ogoja Province (Dr F. A. Ibiam, O.B.E.):**

We are not sure where the Revenue Allocation meeting will be held.

**The Acting Secretary (Finance), Eastern Provinces:**

In the Committee Room here, Sir, at 9.30 a.m. You have another meeting afterwards with Mr Williams.

**Adjournment**

*The House adjourned at 2 p.m.*

# Debates in the Eastern House of Assembly

Friday, 4th of August, 1950

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Pursuant to notice the Members of the Eastern House of Assembly met in the Council Chamber, Enugu, at 9.30 a.m. on Friday, the 4th of August, 1950.

## PRESENT

### OFFICIAL MEMBERS

- The Chief Commissioner, Eastern Provinces,  
Cdr. J. G. Pyke-Nott, C.M.G., R.N.
- The Resident, Owerri Province,  
Mr J. S. Smith.
- The Resident, Ogoja Province,  
Mr V. K. Johnson.
- The Resident, Calabar Province,  
Mr C. J. Mayne.
- The Acting Secretary, Eastern Provinces,  
Mr F. R. Kay.
- The Acting Resident, Onitsha Province,  
Mr S. P. L. Beaumont.
- The Acting Secretary (Finance), Eastern Provinces,  
Mr J. G. Mackenzie.
- The Deputy Director of Medical Services, Eastern Provinces,  
Dr D. Murray.
- The Acting Deputy Director of Agriculture, Eastern  
Provinces,  
Mr A. F. W. Sheffield.
- The Deputy Director of Public Works, Eastern Provinces,  
Mr C. E. Andreae.
- The Acting Senior Crown Counsel, Eastern Provinces,  
Mr E. N. Egbuna.

### UNOFFICIAL MEMBERS

- The Member for Urban Areas other than Port Harcourt,  
Reverend O. Efiang, O.B.E.

- The First Provincial Member for the Cameroons Province,  
Mr J. Manga Williams, O.B.E.
- The Member for African Commercial Interests,  
Mr G. H. H. O'Dwyer.
- The First Provincial Member for the Onitsha Province,  
Mr P. E. Chukwurah.
- The Provincial Member for the Ogoja Province,  
Dr F. A. Ibiam, O.B.E.
- The First Provincial Member for the Calabar Province,  
Mr Asuquo Okon.
- The Member for Urban Aspect of Life in Port Harcourt,  
Mr G. C. Nonyelu.
- The Second Provincial Member for the Owerri Province,  
Mr D. N. Achara.
- The Provincial Member for the Owerri (Rivers) Province,  
Mr H. Buowari Brown, O.B.E.
- The Second Provincial Member for the Calabar Province,  
Mr Nyong Essien.

## ABSENT

## OFFICIAL MEMBERS

- The Resident, Rivers Province,  
Mr L. T. Chubb.
- The Acting Resident, Cameroons Province,  
Mr W. D. Spence.
- The Deputy Director of Education, Eastern Provinces,  
Mr C. T. Quinn-Young.

## UNOFFICIAL MEMBERS

- The Member for Professional, Salaried and Wage-earning  
Classes,  
Mr L. N. Mbanefo.
- The First Provincial Member for the Owerri Province,  
Mr M. W. Ubani.
- The Second Provincial Member for the Cameroons Province,  
Galega, Fon of Bali.
- The Second Provincial Member for the Onitsha Province,  
Mr C. D. Onyeama.
- The Member for Educational Interests,  
Mr A. Ikoku, O.B.E.

**Prayers**

At the request of the President, Reverend O. Efiang, O.B.E., the Member for Urban Areas other than Port Harcourt, opened the proceedings of the House with prayers.

**Confirmation of Minutes****His Honour the Chief Commissioner:**

The minutes of the last meeting having been printed and circulated to Members, is it your pleasure that they should be confirmed?

“ Aye ”.

**Bills**

**THE NIGERIA GROUNDNUT MARKETING (AMENDMENT)  
ORDINANCE, 1950**

**The Acting Deputy Director of Agriculture, Eastern Provinces:**

Sir, I beg to move the following:—

“ Be it resolved: That this House do advise His Excellency  
“ the Governor that the Bill entitled ‘ An Ordinance  
“ ‘ to amend the Nigeria Groundnut Marketing  
“ ‘ Ordinance, 1949 ’, is acceptable in principle ”.

Under section 26 (1) of the Nigeria Groundnut Marketing Ordinance, 1949 (No. 11 of 1949) the Marketing Board may apply any funds at its disposal, among others, to grants for development purposes to the Northern Regional Production Development Board.

Provision is made in sub-section (2) of section 26 for the transfer of funds to the Eastern and Western Regional Production Development Boards in respect of produce purchased in these areas. It is, however, further provided that these payments are limited to the profits arising from the sale of produce so purchased.

The proposed amendment seeks to remove this anomaly by deleting sub-section (2) and by providing that the Marketing Board may make proportionate payments to the Eastern and Western Regions out of any funds (and not merely trading profits) available to it. Sir, I beg to move.

**The Acting Secretary (Finance), Eastern Provinces:**

Sir, I beg to second.

**His Honour the Chief Commissioner:**

If no Member wishes to speak to the principle of the Bill I will put the question.

The question before the House is that this House do advise His Excellency the Governor that this Bill is acceptable in principle. Will those in favour say “ Aye ” and those to the contrary “ No ”.

The “ Ayes ” have it.

The House will now resolve itself into Committee to consider the Bill clause by clause.

*The House is in Committee.*

*Title.*

*Enactment.*

*Clause 1.*

*Clause 2.*

The House will now resume.

**The Acting Deputy Director of Agriculture, Eastern Provinces:**

Sir, I beg to report that the Bill for an Ordinance to amend the Nigeria Groundnut Marketing Ordinance, 1949, passed through Committee with no amendment.

**His Honour the Chief Commissioner:**

The question is that this House do advise His Excellency the Governor that the Bill shortly entitled "The Nigeria Groundnut Marketing (Amendment) Ordinance, 1950", is acceptable. Will those in favour say "Aye" and those to the contrary "No".

The "Ayes" have it.

THE NIGERIA OIL PALM PRODUCE MARKETING (AMENDMENT)  
ORDINANCE, 1950

**The Acting Deputy Director of Agriculture, Eastern Provinces:**

Sir, I beg to move the following:—

"Be it resolved: That this House do advise His Excellency  
"the Governor that the Bill entitled 'An Ordinance  
"to amend the Nigeria Oil Palm Produce Marketing  
"Ordinance, 1949', is acceptable in principle".

Under section 26 (1) of the Nigeria Oil Palm Produce Marketing Ordinance, 1949 (No. 12 of 1949) the Marketing Board may apply any funds at its disposal, amongst other things, to grants for development purposes to the Eastern and Western Regional Production Development Boards. These grants are to be in due proportion to the value of produce purchased in these Regions. It is immaterial from what source these funds arise.

Provision is made in sub-sections (2) and (3) of section 26 for the transfer of funds to the Northern Regional Production Development Board and to the Colony in respect of produce purchased in these areas. It is, however, further provided by these sub-sections that the payments to the Northern Region and the Colony are limited to the profits realised by the sale of produce originating in these areas. This limitation prevents the Marketing Board from utilising other funds at its disposal for transfer to the Northern Region and the Colony.

The proposed amendment seeks to remove this anomaly by deleting sub-sections (2) and (3) and by providing that the Northern Region and the Colony shall be eligible for proportionate payments from the Marketing Board out of any available funds.

**The Acting Secretary (Finance), Eastern Provinces:**

Sir, I beg to second.

**His Honour the Chief Commissioner:**

If no Member wishes to speak to the principle of the Bill I will put the question.

The question before the House is that this House do advise His Excellency the Governor that this Bill is acceptable in principle to this House. Will those in favour say "Aye" and those to the contrary "No".

The "Ayes" have it.

The House will now resolve itself into Committee to consider the Bill clause by clause.

*The House is in Committee.*

*Title.*

*Enactment.*

*Clause 1.*

*Clause 2.*

The House will now resume.

**The Acting Deputy Director of Agriculture, Eastern Provinces:**

Sir, I beg to report that the Bill for an Ordinance to amend the Nigeria Oil Palm Produce Marketing Ordinance, 1949, passed through Committee with no amendment.

**His Honour the Chief Commissioner:**

The question is that this House do advise His Excellency the Governor that the Bill shortly entitled "The Nigeria Oil Palm Produce Marketing (Amendment) Ordinance, 1950" is acceptable. Will those in favour say "Aye" and those to the contrary "No".

The "Ayes" have it.

THE INCOME TAX (AMENDMENT) ORDINANCE, 1950

**The Acting Secretary (Finance), Eastern Provinces:**

Sir, I beg to move the following:—

"Be it resolved: That this House do advise His Excellency the Governor that the Bill entitled 'An Ordinance further to amend the Income Tax Ordinance', is acceptable in principle to this House".

This Bill provides, Sir, for a number of amendments to the Income Tax Ordinance. The amendments proposed are fully explained in the "Objects and Reasons" given at the end of the printed copy of the Bill, which Members have seen; and so it is not necessary for me to give long and detailed explanations of all these amendments. I will therefore refer mainly to the proposed amendments which require closer reference to the Ordinance itself.

Clause 2 amends section 2 of the Ordinance to extend the definition of "executor" to include a trustee under a trust created by a will. As is explained in the "Objects and Reasons", liability in respect of a deceased person will rarely be unsettled at the end of the period of administration of the estate and the amendment will consequently not prove of great importance in this country, but it will promote uniformity in income tax legislation as between British West African Colonies.

The amendments proposed to the Ordinance in clause 3 of the Bill are required in order to bring the proviso of sub-section (2) of section 8 of the Ordinance into line with the rest of the sub-section. The principal part of sub-section 8 (2) refers to the carriage of passengers, mails, livestock and goods, but the proviso refers only to goods. It is therefore necessary to include the words "passengers, mails and livestock" in the proviso also.

Clause 4 of the Bill proposes amendments to section 9 (1) paragraph (r) of the Ordinance to exempt from Nigerian Income Tax the profits of non-resident air lines operating in Nigeria, in the same way as non-resident shipping lines are exempted. The exemption only applies where these air lines or the persons operating the air lines are resident in Nigeria and are representatives of countries which give similar exemptions. Such exemptions are already granted to air lines of those countries with which Nigeria has double taxation arrangements.

Clause 5 provides for two amendments to section 10 of the Ordinance. The third proviso to section 10 (e) of the Ordinance reads "No deductions under the provisions of this sub-section shall be allowed for any year in excess of the written down value of the plant, machinery or fixture at the commencement of that year". This proviso has the effect of preventing a deduction for wear and tear of plant for the period in which it was purchased, which was never intended. This defect is remedied in the new proviso in clause 10 (a) of this Bill, which also carries out the original intention of the proviso by prohibiting deductions in excess of the net cost of the plant, that is the difference between the original cost and the sale value of the plant. The second section of this clause, section (b) amends the second proviso to section 10 (h) of the Ordinance, by deleting from this proviso the deductions allowed under paragraph (g) of section 22 of the Ordinance. This is a



consequential amendment following from the amendment to the final proviso of section 22 (g) of the Ordinance made by the Income Tax (Amendment) Ordinance, 1949.

Clause 6 (a) of the Bill amends section 11 (g) of the Ordinance. The amendment is consequential on the abolition of Excess Profits Tax in the United Kingdom and the continuing of the United Kingdom National Defence Contribution under the name "Profits Tax". The second part of the clause, section (b) amends section 11 (i) of the Ordinance, which prohibits any deduction for interest paid by a Nigerian taxpayer outside Nigeria to another person also outside Nigeria, except when tax in respect thereof has been accounted for under section 29 of the Ordinance. Section 29 provides only for deductions in the case of interest on mortgages and debentures. It is considered that there is no justification for prohibiting deductions in respect of payments outside Nigeria of all other types of interest and the object of the amendment is to remove this prohibition and make all such payments of interest outside Nigeria eligible for deduction.

Clause 7 of the Bill provides for a number of amendments to section 18 of the Ordinance. The object of these amendments is to make arrears of income paid in respect of previous years chargeable for tax in respect of the year in which they were earned. As Members know, the rate of tax increases as income increases, so if the arrears of income were added to the income actually earned during the current year of assessment, the arrears would be chargeable at a higher rate of tax than if they were charged in the separate years in which they were earned.

Clause 8 amends the proviso to section 20 (2) (a) of the Ordinance by increasing the period from six months to twelve months within which deductions in respect of losses incurred in trade or business during the year of assessment can be claimed. This brings this section into line with United Kingdom income tax legislation and is necessary in order to give full effect to the double taxation relief arrangements made with the United Kingdom.

Clause 9 (a) is a necessary drafting amendment to section 22 (e) of the Ordinance. Clause 9 (b) amends the first proviso to section 22 (e) of the Ordinance to increase the maximum additional deduction allowed in respect of expenditure incurred on educating and maintaining a child elsewhere than in Nigeria, up to £210. This is more in accordance with the present actual costs of such maintenance and education. Clause 9 (c) amends the second proviso to section 22 (e) of the Ordinance which limits the allowance in respect of a child when the child has an income of its own. As the proviso is at present worded an allowance or deduction can only be granted when it is greater than the income of the child. That is, if the deduction in respect of the expenditure

incurred is £150 and the child has an income of £149 or £150, a deduction of £150 will be granted, but if the child's income is £151 or more, no deduction would be allowed. The proposed amendment which deletes the present proviso and substitutes a new proviso is intended to remedy this situation by allowing a deduction (within the maximum allowed) in respect of the expenditure on the child's maintenance and education, as is in excess of the child's income. It is the fairest way of allowing these deductions.

Under section 25 (1) (a) the holders of certain decorations are exempted from tax if their incomes do not exceed £150 per annum. The object of clause 10 of the Bill is to amend this section of the Ordinance by including the George Cross and George Medal among these decorations. I will deal with clause 10 (b) of the Bill in a moment, with clauses 15, 16 and 17.

Clause 11 is a drafting amendment to make the provisions of section 37 (7) of the Ordinance correspond with the provisions of section 8 (2) of the Ordinance (which I have mentioned earlier), of which section 37 (7) is a corollary.

Clause 12 amends section 49 (1) of the Ordinance. Under section 49 (1) the Commissioner of Income Tax may require a person to keep records, books and accounts in such language as he may direct. The amendment in this clause provides that the Commissioner may also direct the form in which the books and accounts are to be kept. Appeal against the Commissioner's order lies to the Supreme Court.

Clause 13 amends section 54 of the Ordinance to make more explicit the Commissioner's right to use fresh evidence on the original facts of an assessment when he makes reassessments or additional assessments.

Clause 14 amends section 67 (1) of the Ordinance. This section at present states only that "tax may be sued for and recovered in a court of competent jurisdiction". The object of the amendment is to fix the stations at which Courts may have jurisdiction in respect of such civil suits, as there has been some difficulty in fixing the stations. By this amendment the civil suit will be heard at the place stated in the Assessment Notice as being the place at which payment of tax is to be made.

The object of clauses 10 (2), 15, 16 and 17 is similarly to fix the places at which the courts may have jurisdiction in respect of criminal proceedings under the Ordinance, e.g., for failure to render proper returns or supply information, and in respect of criminal prosecution for non-payment of tax.

The Income Tax (Amendment) Ordinance, 1949, repealed or amended certain provisions of the Income Tax Ordinance, mentioned in clause 18 (1) of this present Bill. Clause 18 (1) limits

the application of these amendments to the years of assessment commencing on or after the 1st April, 1949. Without this saving clause these amendments would apply to assessments of income earned during years previous to the passing of the amending Ordinance, which would be unjust. Section 2 of clause 18 of this present Bill is similarly a saving clause providing that certain amendments to the Ordinance proposed in this Bill will not apply to assessments of incomes which have been earned prior to the 1st April, 1950; that is, the provisions in the Ordinance so repealed or amended shall as they existed before the 1st April, 1950—the date on which the Bill will come into force—continue to be operative for the purposes of assessing incomes earned before the 1st April, 1950.

Sir, I commend this Bill to the House.

**The Acting Resident, Onitsha Province:**

Sir, I beg to second.

**His Honour the Chief Commissioner:**

If no Member wishes to speak to the principle of the Bill I will put the question.

The question before the House is that this House do advise His Excellency the Governor that this Bill is acceptable in principle. Will those in favour say "Aye" and those to the contrary "No".

The "Ayes" have it.

The House will now resolve itself into Committee to consider the Bill clause by clause.

*The House is in Committee.*

*Title.*

*Enactment.*

*Clauses 1-18.*

The House will now resume.

**The Acting Secretary (Finance), Eastern Provinces:**

Sir, I beg to report that the Bill for an Ordinance further to amend the Income Tax Ordinance passed through Committee with no amendment.

**His Honour the Chief Commissioner:**

The question is that this House do advise His Excellency the Governor that this Bill is acceptable. Will those in favour say "Aye" and those to the contrary "No".

The "Ayes" have it.

THE EASTERN REGION LOCAL GOVERNMENT  
(AMENDMENT) ORDINANCE, 1950

**The Acting Resident, Onitsha Province:**

Sir, I beg to move the following:—

“ Be it resolved: That this House do advise His Excellency  
“ the Governor that the Bill for ‘ An Ordinance to  
“ ‘ amend the Eastern Region Local Government  
“ ‘ Ordinance, 1950 ’, is acceptable in principle ”.

Sir, this short Bill raises no matter of principle. It seeks to rectify an error in the printed impression of the principal Ordinance. In section 237 of that Ordinance, which is a saving clause intended to retain in force orders and regulations made by the former Native Authorities until they are repealed by their Local Government successors, there is an incorrect reference to the “ sixth ” instead of the “ fifth ” schedule. This schedule is a list of other Ordinances which are amended by the Principal Ordinance, whereas the fifth schedule lists Ordinances under which the existing Native Authority Notices, Regulations, etc., remain in force. It is to this fifth schedule that section 237 relates and not to the sixth schedule.

Opportunity has also been taken to clarify the wording under sub-section (4) of this same section 237.

Sir, I beg to move.

**The Acting Senior Crown Counsel, Eastern Provinces:**

Sir, I beg to second.

**His Honour the Chief Commissioner:**

If no Member wishes to speak to the principle of the Bill I will put the question.

The question is that this House do advise His Excellency the Governor that this Bill is acceptable in principle. Will those in favour say “ Aye ” and those to the contrary “ No ”.

The “ Ayes ” have it.

The House will now resolve itself into Committee to consider the Bill clause by clause.

*The House is in Committee.*

*Title.*

*Enactment.*

*Clause 1.*

*Clause 2.*

The House will now resume.

**The Acting Resident, Onitsha Province:**

Sir, I beg to report that the Bill shortly entitled "The Eastern Region Local Government (Amendment) Ordinance, 1950" passed through Committee with no amendment.

**His Honour the Chief Commissioner:**

The question is that this House do advise His Excellency the Governor that this Bill is acceptable. Will those in favour say "Aye" and those to the contrary "No".

The "Ayes" have it.

THE NATIVE LANDS ACQUISITION (AMENDMENT)  
ORDINANCE, 1950

**The Resident, Calabar Province:**

Sir, I beg to move the following:—

"Be it resolved: That this House do advise His Excellency the Governor that the Bill entitled 'An Ordinance "further to amend the Native Lands Acquisition "Ordinance' is acceptable in principle".

Sir, I must first of all invite the attention of Members of this House to an omission in the draft amendment to this Bill. Right at the end of paragraph 2 (b) after the word "Ordinance" should appear the words "or under the provisions of the Eastern Region Local Governments Board". These words, Sir, amended the principal Ordinance, and they appear in paragraph 3 of the principal Ordinance.

Sir, this Bill seeks to exempt from the definition of the word "alien" in the principal Ordinance bodies corporate established under any Ordinance which empowers those bodies to acquire and hold land. This is effected by including in the existing definition a new paragraph (b) (1). This paragraph, Sir, will enable Regional Development Boards established under the provisions of the Regional Development Boards Ordinance, 1949, referred to in the "Objects and Reasons" to acquire interest in land without having to obtain the approval of the Governor. It is obviously necessary that such Boards should have complete freedom of action, and to effect this it has been considered expedient to re-cast the entire definition.

Sir, I commend this Bill to the House.

**The Deputy Director of Public Works, Eastern Provinces:**

Sir, I beg to second.

**The Member for Urban Aspect of Life in Port Harcourt  
(Mr G. C. Nonyelu):**

Sir, in supporting this Bill, I wish to make an alteration to clause 2 (b) (ii) of the Bill. I would suggest that the words "where such corporate body is composed solely of natives of Nigeria" be deleted.

**His Honour the Chief Commissioner:**

Would not the Member prefer to put this amendment in the Committee stage?

**The Member for Urban Aspect of Life in Port Harcourt  
(Mr G. C. Nonyelu):**

I will, Sir.

**His Honour the Chief Commissioner:**

If no Member wishes to speak to the principle of the Bill I will put the question. The question is that this House do advise His Excellency the Governor that this Bill is acceptable in principle. Will those in favour say "Aye" and those to the contrary "No".

The "Ayes" have it.

The House will now resolve itself into Committee to consider the Bill clause by clause.

*The House is in Committee.*

*Title.*

*Enactment.*

*Clause 1.*

*Clause 2.*

**The Member for Urban Aspect of Life in Port Harcourt  
(Mr G. C. Nonyelu):**

Sir, I beg to move the following amendment. That the words "where such corporate body is composed solely of natives of Nigeria" be deleted. The object of this amendment is to bring sub-clause (ii) in line with sub-clause (i) because under (b) sub-clause (i) any company, whether composed of natives of Nigeria or not shall have the right to acquire land without the sanction of the Governor. Here you have a corporate body being limited only to natives of Nigeria. I think there is some anomaly. The right is being given to non-natives to acquire land just because they are incorporated under the Companies Ordinance, but if those natives are incorporated and are thus given legal entity under the Companies Ordinance . . . .

**His Honour the Chief Commissioner:**

As I understand the Member's amendment, it is to delete the words "where such corporate body is composed solely of natives of Nigeria?"

**The Resident, Calabar Province:**

Sir, I presume the Member realises that this has not been amended and is a repetition of the original principal Ordinance.

**The Member for Urban Aspect of Life in Port Harcourt  
(Mr G. C. Nonyelu):**

The principle involved is not quite sound. My contention is that if you give natives of Nigeria and non-natives the right to acquire land under the Companies Ordinance without the consent of the Governor, you should also give them the right to acquire land without the consent of the Governor if they are registered under the Native Lands Acquisition Ordinance, because these are the two Ordinances which give legal entity to companies in this country. I think the section should be re-drafted to give the true intention of the Bill, and I humbly submit that this should be done.

**The First Provincial Member for the Calabar Province  
(Mr Asuquo Okon):**

Your Honour, I think if I understand this section properly the definition of "alien" could be interpreted in a negative way. It seems to me that this clause seeks to define who is an alien. A native of Nigeria is not an alien, and, therefore, a corporate body established under the Native Lands Acquisition Ordinance, where such a body is composed solely of natives of Nigeria, is not an alien. That should satisfy us.

**The First Provincial Member for the Cameroons Province  
(Mr J. Manga Williams, O.B.E.):**

Sir, with regard to the question of acquisition of land I am doubtful and would like it to be explained. Lands in the Cameroons are vested in the Governor, without whose consent no land can be acquired.

Secondly, in the Cameroons the most part of the land is under the Plantation, which is the Cameroons Development Corporation and after those lands were taken from us, Native Reserves were created and these reserves are surrounded by the Plantation. Since the Native Reserves are the only lands we possess and claim in perpetuity, I should like to know whether a person who wishes to acquire land within the Native Reserve should apply through the Native Authority concerned or to the Governor, or whether in case the Natives refused the Governor might grant the party the right to acquire land in our Native Reserves?

As I consider this Bill should not be applicable to lands known as Native Reserves in the Cameroons. Except after extension, lands shall have been added to our Native Reserves and the natives consent to the acquisition of a plot within that area otherwise I strongly object to this Bill as we have no means of expansion.

**The Acting Secretary, Eastern Provinces:**

Sir, the Native Lands Acquisition Ordinance does not apply to the Cameroons. Cameroons lands are dealt with under the Land and Native Rights Ordinance and form no part of the matter which we are considering here this morning.

**The First Provincial Member for the Cameroons Province  
(Mr J. Manga Williams, O.B.E.):**

Thank you.

**The Acting Senior Crown Counsel, Eastern Provinces:**

The intention of the amendment is to ensure that natives of Nigeria and a body incorporated under the Native Lands Acquisition Ordinance may acquire land without obtaining the necessary consent of the Governor or his delegates. It does not seek to preclude companies incorporated, for instance, under the Companies Ordinance from acquiring the necessary consent. As a matter of fact it would be fatal if that were so; it would have the effect of practically enabling any company in this country to acquire land indiscriminately without referring to Your Honour or the Governor. I think my friend has not read this section in the light of what is intended, and perhaps he will, after what the First Provincial Member for the Calabar Province (Mr Okon) has said, accept that the very object which he seeks is the one which is provided under this Ordinance.

**The Member for Urban Aspect of Life in Port Harcourt  
(Mr G. C. Nonyelu):**

I accept that explanation, but I am afraid the drafting did not convey that impression.

**His Honour the Chief Commissioner:**

Is the Member satisfied?

**The Member for Urban Aspect of Life in Port Harcourt  
(Mr G. C. Nonyelu):**

Yes, quite satisfied.

**The Second Provincial Member for the Calabar Province  
(Mr Nyong Essien):**

Sir, I should like to know the opinion of the Member for the Ogoja Province and also the opinion of this House on the use of the word "natives".

**His Honour the Chief Commissioner:**

I am afraid I must rule the Member is out of order in seeking the opinion of other Members of this House.

**The Second Provincial Member for the Calabar Province  
(Mr Nyong Essien):**

I think in a motion moved in this House some time ago by the Member for Onitsha Province it was said that the words "native" or "natives" should not come in as a substantive but as a qualifying word, because as a substantive it carried with it certain impressions that are not complimentary to the indigenous population of Nigeria.



**His Honour the Chief Commissioner:**

I am not certain whether or not the Member is pressing an amendment. Is he?

**The Second Provincial Member for the Calabar Province  
(Mr Nyong Essien):**

I should like to.

**His Honour the Chief Commissioner:**

I should like to warn the Member now that I would wish the amendment in writing in that such an amendment would have to amend the whole of the original Ordinance. I should want in writing the exact places where the amendments would have to take place.

**The Second Provincial Member for the Calabar Province  
(Mr Nyong Essien):**

As Your Honour pleases.

**His Honour the Chief Commissioner:**

I think the mover mentioned an amendment to this Bill.

**The Resident, Calabar Province:**

Sir, I beg to move the following amendment. That section 2 (b) (ii) should read: "A corporate body incorporated under the provisions of the Land (Perpetual Succession) Ordinance, where such corporate body is composed solely of natives of Nigeria or under the provisions of the Native Authority Ordinance or under the provisions of the Eastern Region Local Government Board Ordinance".

**His Honour the Chief Commissioner:**

I will put the question on that amendment.

**The First Provincial Member for the Calabar Province  
(Mr Asuquo Okon):**

Excuse me, Sir, but I do not know whether that amendment is necessary having regard to the fact that under (b) (i) it is said "A body corporate established under any Ordinance which empowers that body to acquire and hold land". I think that under that Ordinance the Board, Sir, is empowered to acquire land.

**The Resident, Calabar Province:**

Sir, I would remind Members that this part was in the principal Ordinance.

**The Acting Senior Crown Counsel, Eastern Provinces:**

Sir, it is my view that the object of the amendment is to bring within the ambit of the definition such bodies which are created under ordinances which empower them to hold land. The Regional Development Boards established under the provisions of the Ordinance, 1949, are empowered to hold land. It does follow, Sir, that if the Ordinance as it stands goes through, these Boards will be empowered to hold land and there will no longer be the

necessity of requiring the consent of His Excellency or his delegates. The matter may be gone into at a later stage and, if necessary, there will be no difficulty in inserting the amendment. Perhaps the mover would like to withdraw the amendment.

**The Acting Resident, Onitsha Province:**

I would like to support the amendment. Since attention has been called to the Native Authority Ordinance in this Ordinance, it would be well to include the Eastern Region Local Government Ordinance as well.

**The Acting Secretary, Eastern Provinces:**

I do not think that this amendment is necessary. As I understand it, the Local Government Ordinance is covered by clause 2 (b) (i) here and I don't think, therefore, that any amendment is necessary.

**His Honour the Chief Commissioner:**

In view of that, presumably the member will withdraw his amendment.

**The Resident, Calabar Province:**

I will withdraw the amendment.

**His Honour the Chief Commissioner:**

I will put the question, then, on the clause as it stands. The question is that clause 2 stands as part of the Bill. Will those in favour say "Aye" and those to the contrary "No".

The "Ayes" have it.

*The House will now resume.*

**The Resident, Calabar Province:**

Sir, I beg to report that the Bill entitled "An Ordinance further to amend the Native Lands Acquisition Ordinance", passed through Committee without amendment.

**His Honour the Chief Commissioner:**

The question is that this House do advise His Excellency the Governor that this Bill is acceptable. Will those in favour say "Aye" and those to the contrary "No".

The "Ayes" have it.

THE NIGERIAN COAL CORPORATION ORDINANCE, 1950

**The Acting Secretary (Finance), Eastern Provinces:**

Sir, I beg to move the following:—

"Be it resolved that this House do advise His Excellency  
 "the Governor that the Bill entitled 'An Ordinance to  
 "provide for the establishment of a Corporation to be  
 "known as the Nigerian Coal Corporation, for the  
 "transfer to the Corporation of all Colliery Under-  
 "takings of the Government, and for purposes  
 "connected with the matters aforesaid' is acceptable  
 "in principle to this House".

This Bill is of particular interest and importance to the Eastern Region. Though there are coal deposits in one or two places in Nigeria, it is only at Enugu that coal has so far actually been mined. Members will recall that coal mining started at Enugu in 1915. The Colliery developed rapidly. From the beginning until 1943 it was a branch of the Railway, and in 1943 the Colliery became a separate Department of Government, though the Railway continued to do the accounting and storekeeping for the Colliery for a few years longer. On the 1st of April, 1949, the Colliery Department became a self-accounting Department with separate revenue and expenditure estimates and was expected to be self-supporting, meeting all its expenditure from its coal sales.

In November last year His Excellency the Governor appointed a new body called the Enugu Colliery Board, consisting of a Chairman, who is a Government official, and six members, four of whom are non-officials and two are officials. This Board has been granted wide powers for the technical and financial management of the Colliery Department. However, it is not a statutory Board, established under a law; it was established by an administrative act of the Governor; and the Colliery still remains a Department of Government. Now, if this Bill becomes law, the Colliery will be transferred to the new Nigerian Coal Corporation. This will be a great change.

The Corporation to be established by this Ordinance will be a body corporate with perpetual succession and a common seal, carrying out the functions and duties conferred on it by this Ordinance and by the Governor. Members will remember that this is not the first Corporation established to take over and manage an industrial concern started by Government. Last year the Electricity Corporation was established to take over and manage the Government Electricity Undertakings. Government policy of handing over Government industrial undertakings was supported by the Fitzgerald Commission, which stressed the difficult position of a Government which is not only the employer but also the arbiter in industrial relations.

The working of the Colliery at Enugu will not be the only duty of the Corporation. It will prospect for coal and work and win coal in such other deposits in Nigeria which may be made available to the Corporation under licence issued by the Governor. All coal deposits are not automatically vested in the Corporation, but nevertheless the Corporation will in fact have a virtual monopoly of coal mining in Nigeria.

Now, turning to the Bill itself, clause 2 gives definitions of certain terms used in the Bill. Members will note that the term "coal" includes not only the sub-bituminous variety of coal found at Enugu but also lignite and brown coal, which are known to

exist in Nigeria. It also includes bituminous coal and anthracite, which have not yet been found in Nigeria, and it appears unlikely that they ever will be found in Nigeria.

Clause 3 of the Bill describes the establishment and constitution of the Corporation. The Corporation will consist of a Chairman and not less than six or more than nine other members appointed by the Governor in Council. The necessary qualifications of three of the members is laid down; one shall have experience of industrial or mining affairs; one must have experience of industrial relations and one must represent the consumers of coal in Nigeria. I might add, here, that the biggest consumer is the Nigerian Railway. Particulars of the tenure of office of the Chairman and members are described in more detail in sections 1 to 5 of the First Schedule to the Ordinance. It will be noted that the Chairman holds office in accordance with the terms of the instrument appointing him to be the Chairman and the terms of office of the other members is specifically limited to a period of three years, but they may be re-appointed.

Clause 4 of the Bill is most important. It details the duties and general functions of the Corporation. The Corporation, as I have already mentioned, will work not only the existing Collieries at Enugu, which will be handed over to it, but will also work other deposits of coal made available to it under licence issued by the Governor. In addition, the Corporation may treat the coal by cleaning it or pressing it into briquettes. It may also carbonise the coal to produce gas, tar and coke, and it may sell these products. Enugu coal does not coke by any present-day commercial methods, but research is going on always and a method may be found, or a coking coal may be found elsewhere in Nigeria. The Corporation is also given power to proceed with work already started on the lignites for the production of chemicals, liquid or solid fuels. It may also undertake the mining of clay, fireclay, sand and limestone for the manufacture of bricks, firebricks, glass and cement. All these raw materials occur, though not necessarily in large quantities, in the neighbourhood of the present Collieries and all need considerable fuel for their manufacture into useful products. The Corporation will also have power to plant and maintain plantations of trees; the Colliery at present uses many tons of timber a month from Port Harcourt, so it may be more economical for the Corporation to grow at least a part of its requirements.

In sub-clause (3) of this clause it is laid down that the policy of the Corporation shall be directed to ensuring the safety, health and welfare of their servants by providing houses, schools, hospitals, recreational facilities, etc. It also provides for joint consultation committees for production, which is already the policy of the present Board. These committees are most important; it is essential for the well-being of the industry that all who are

employed in it should take a real interest in the work and progress of the industry and that the relations between management and employees should have the firm foundation of confidence and mutual understanding.

It will also be the policy of the Corporation, as laid down in sub-clause (4) to secure sufficient revenues to cover recurrent expenditure over a period of years.

Clause 5 authorises the Corporation to delegate some of their functions to the Chairman to enable him to transact day to day business.

Clauses 6 to 8 deal with the transfer of assets to the Corporation and the transfer of rights and liabilities under existing contracts with the Colliery Department. The assets to be vested in the Corporation are detailed in the Second Schedule to the Ordinance, and they include all property now being used by the Colliery Department, all land and timber plantations owned or leased by the Crown in connection with the Collieries, all Colliery houses, hospitals and other buildings and all coal and other products mined and unsold at the Colliery on vesting day, and all spare stores. All these assets will be valued, and will bear interest payable to Government at a rate to be fixed by the Governor in Council. The Corporation will also create and issue debenture stock of a total nominal value equivalent to the moneys advanced to the Colliery since the 1st April, 1949.

Clause 8 and the Third Schedule concern the liability of the Corporation under certain contracts entered into by the Colliery Department or Government in respect of Colliery staff and Colliery activities before vesting day. It will be noted that Government will remain responsible for that part of any pension, gratuity or other similar benefit, for instance, leave, which has accumulated before vesting day.

Clause 10 deals with the acquisition of land. When the Corporation needs land and cannot acquire it on reasonable terms by private treaty or agreement, the Governor in Council may order acquisition of the land under the Public Lands Acquisition Ordinance. The Corporation will reimburse Government the cost of acquisition, compensation, and the Governor will then vest the land in the Corporation. The Corporation will not be allowed to alienate this land so acquired. A similar provision was made in the Electricity Corporation Ordinance.

Clauses 11 to 18 deal with prospecting and mining by the Corporation. Clause 11 relieves the Corporation from certain provisions of the Minerals Ordinance and of the Minerals Ordinance Regulations, as detailed in the Fourth Schedule to this Bill. The Minerals Ordinance was drafted primarily to cover tin

mining and it is not adapted for coal mining, especially by a public corporation. In the Fourth Schedule the Corporation is exempted from clauses in the Minerals Ordinance that call for the taking up and marking out of exclusive prospecting licences, mining leases and so on and from the payment of mineral royalties. It will be noticed that the Safe Mining Regulations are not to apply to the Corporation; but a new set of Safe Mining Regulations is going to be issued along with the Ordinance. The powers of the Inspectors of the Mines Department to see that mining is conducted generally in a safe and proper manner are retained under the Minerals Ordinance, as are all those regulating inquiry into accidents.

Clauses 12 and 13 give the Corporation the virtual monopoly to search for and to mine coal. No right, lease or licence for coal can be issued to any person or body other than the Corporation, unless the Corporation is unable to undertake the work on its own account. At present Government prohibits prospecting for or mining black coal—in distinction to lignite—except by its own servants. The lignites east and west of the Niger are open to all, but this will cease if this Bill becomes law. The legal authority for the Corporation to prospect for and mine coal will be a licence issued by the Governor demarcating the surface area under which the Corporation may work. This surface area will not be acquired by the Corporation but only such parts of it as are necessary for surface buildings or works.

Clause 14 empowers the Corporation to enter on the area specified on the licence and to carry out ordinary prospecting work. There is nothing new or novel in this clause.

Clause 15 restricts the Corporation from working on certain types of land, including venerated places, but there is no restriction of sub-surface operations, that is, of work beneath any land, provided there is no interference with surface rights.

Clause 16 authorises the Corporation to construct all sorts of works required for mining anywhere below the surface of the area allocated to them by the Governor's licence. Clauses 17 to 18 deal with compensation payable by the Corporation to landowners. Compensation will be payable for the disturbance of any surface right, and for damage to houses, economic trees or crops, but not in respect of underground mining unless it causes surface disturbance or damage. Compensation will be determined by agreement, but if the parties are unable to agree the District Officer will assess and determine the compensation. His decision will only be subject to appeal to the Governor, whose decision will be final.

Clauses 19 to 21 deal with the financial powers and procedure of the Corporation. It will be noted that the Corporation must establish a general reserve fund; it may, with the approval of the Governor, issue debenture stock for certain purposes and likewise

with the approval of the Governor, borrow money by way of loan, overdraft or otherwise.

Clauses 23 to 24 deal with the accounts and reports of the Corporation, and I do not think they require any comment.

Clauses 25 to 28 concern the employment of staff by the Corporation. Clause 26 empowers the Corporation to establish pension and other superannuation schemes for its staff, and under the second sub-clause there can be little or no alteration in the present conditions regarding pensions and gratuities. Clause 28 deals with the transfer of the present Colliery Department staff to the Corporation. It provides that all present staff will be seconded to the Corporation for two years on their present conditions of service and during this period the Corporation and the staff will have opportunity to discuss and agree on conditions of service for the Corporation staff. The Corporation will offer members of the staff appointments in the service of the Corporation, and where members of the staff accept these appointments they will cease to be members of the Government service. But as I have already stated, Government will still be responsible for their pensions earned before the vesting day of the Corporation.

Under clause 29, the Corporation will be liable to Companies Tax, Customs Duties and other taxes and rates, general or local.

I have referred earlier to the four Schedules to the Ordinance, and there is little to add. It will be noted that the First Schedule, in addition to laying down the terms of office of members of the Corporation, also deals briefly with the proceedings of meetings of the Corporation Standing Orders, the use of the Common Seal of the Corporation and the execution of contracts and instruments.

I feel sure, Sir, that the establishment of a Coal Corporation to run and develop the coal mining industry of this country will be advantageous to the industry and will greatly help the economic development of this country. I strongly commend this Bill to the House.

**The Acting Senior Crown Counsel, Eastern Provinces:**

Sir, I beg to second.

**The First Provincial Member for the Calabar Province  
(Mr Asuquo Okon):**

I support this Bill in principle, Sir, and I must congratulate Government on the step it has taken to regulate on a sound and business-like basis the coal mining activities of the country. I have, however, some observations to make on some clauses of the Bill.

First of all clause 3. Under clause 3, sub-clause (3) (a) and (b), persons to be appointed by the Governor to serve on the Board must appear to the Governor to be qualified in some way; but

when it comes to (c) provision is made that the person to be appointed should be one to represent the consumers of coal in the country. I wonder whether it has been taken into consideration that the consumers of coal in this country represent a very large body of people and even the humblest householder uses coal. How is it possible for someone to be appointed to represent a body of persons of this type. It might have been understandable if the Governor were to appoint someone who in his opinion knows something about the consumption of coal.

I would now refer to clause 18. The mover said that power has been given to this Board to acquire land under the Public Lands Acquisition Ordinance. I think it is a fact that when there is any dispute as to the compensation payable under that Ordinance, reference is always made to the Courts for the assessment of the compensation. I do not know, but perhaps there may be some substantial reason why a departure from this procedure should be made in this particular matter and reference be made to a District Officer, with appeal allowed only to the Governor. If there is no substantial reason, then I am submitting, Sir, that the District Officer should have nothing to do with the case and the individual should be allowed to take the question of assessment of compensation to the Courts and should not be restricted.

**The First Provincial Member for the Onitsha Province  
(Mr P. E. Chukwurah):**

I want to ask, Sir, what the fate of the workers in the Colliery will be when the Corporation takes over. Is Government to pay pensions to those who are due, say in a month or two after the Corporation has taken over, or is the Corporation liable to pay the benefits to such persons?

**The Provincial Member for the Owerri (Rivers) Province  
(Mr H. Buowari Brown, O.B.E.):**

Sir, I think this is a very wise step on the part of Government after the lamentable incident which occurred in November last year. This will make coal mining in Nigeria a matter for the Corporation to deal with and Government will no longer be the employer.

I find no fault so far in the Bill, except in connection with clause 15, sub-section (2):

“ If any question arises under paragraph (e) of sub-section (1) as to whether any land is sacred or whether any thing is an object of veneration, such question shall be decided by the Resident, whose decision shall be final.”

I have some doubt as to a Resident's ability to decide this matter finally. What in our opinion would be an object of veneration might be to the Resident something foolish, and therefore I think that the question of deciding whether something is worthy of



eneration in our eyes should not be left entirely in the hands of the Resident. There must be local advice, so I do not agree to the Resident being the sole arbiter in this matter.

**The First Provincial Member for the Cameroons Province  
(Mr J. Manga Williams, O.B.E.):**

I wish to say a few words, Sir, in connection with those things which to Africans are sacred. Throughout the history of the world we find that there are places considered sacred, and when Moses was called by God he was commanded to take off his shoes from off his feet for the place he stood was holy ground or sacred ground. Even where no injurious effect is felt by the people, as customary it leaves a kind of fear by imaginations in the minds of the people that some sort of trouble may result because a sacred land traditionally had been interferred with: I know of many instances. Some educated Africans ignore these things, but I disagree with them.

They would for the purpose of helping the Corporation and the Resident regard the idea as foolish for a place to be treated as sacred ground and should not be used, but in many cases I think the belief and feelings of the people are to be taken into consideration.

The world as a whole started from one beginning with the various beliefs and superstitions and through superstitions we arrived at the knowledge of the living God and Divine Ruler. I therefore think that special consideration be given to such places which are regarded as sacred and are reported as such to the Corporation.

After all I don't believe that the whole mining area will be treated as sacred and if that special spot covers a ton or two of gold or silver, or any other mineral, it can be left untouched, as by reserving that small spot would not prevent the Mining Corporation from continuing its business and making its profit.

**The Member for Urban Aspect of Life in Port Harcourt  
(Mr G. C. Nonyelu):**

I am in agreement with the principles of this Bill, but I would like to lay emphasis on and to remind this House of what my learned friend the First Provincial Member for Calabar has said with reference to clause 18 of the Bill. It is very important, so far as the law stands to-day in Nigeria, that the acquisition of land for public purposes should always be dealt with under the Lands Acquisition Ordinance, and I think that taking this right from the Court to the District Officer, and thereafter to the Resident, is a vital flaw in the constitution of this Corporation, and I would ask Unofficial Members to vote against clause 18 solidly when it comes to Committee stage. We know very well the effect it will have if this matter is taken before the District Officer. The parties

would have no right of representation, and if Nigeria is progressing then everyone should have the right of representation in matters affecting land, especially as land is a natural asset.

My only complaint, apart from that, is that the membership is a little bit too technical and composed of people with high technical knowledge. If we compare it with the Electricity Corporation we will find that the membership is made more elastic. There is provision for Members of this House to nominate two or three people to sit in an advisory capacity, and I think the idea of advisory capacity may be introduced here with beneficial effect.

**The Resident, Owerri Province:**

May I say, Sir, on behalf of all Residents in the Eastern Provinces, that in the matter of sacred land and objects of veneration, no Resident will make a decision without full enquiries and a Resident will, if anything, be prejudiced in favour of the people against the Coal Corporation.

**The Provincial Member for the Ogoja Province (Dr F. A. Ibiam, O.B.E.):**

I welcome this Bill, Sir, and I am very glad that Government has seen fit to establish this Bill so that we have a Nigerian Coal Corporation which will be able to take complete control of our coal industry in this country. This is following the advice of the Fitzgerald Report, and we hope, Sir, that the existence of such a Corporation will make for better conditions of service for those whom they employ. I have always regretted that when we have so much coal in Nigeria, a product which could bring us revenue and from which we could manufacture other products, we should be importing coal from South Africa now and again, or that other West African Colonies should buy coal from anywhere else except from Nigeria.

The mover of the Bill has pointed out that the principal consumer of coal in this country is the Railway. I hope that when the Corporation has come into existence it will not be so. At present with the advances that Nigeria is making, we find it very difficult to get firewood in urban areas in places like Aba and Umuahia, and therefore the introduction of the use of coal in the ordinary homes would be of great benefit to the country. The Corporation should seek by wise advertisement to encourage the sale of coal to the humbler homes, as is done in other countries.

I am glad that the Corporation will have the right to prospect in other fields, apart from coal, because I think there are other minerals in the country which have not yet been tapped. At present the Geological Survey Department has this monopoly, and we shall be very pleased to have the Corporation assisting in these matters.

I pointed out to the House the importance of coal in the manufacture of by-products which would be of great use to Nigeria. Our roads need tarring. Everyone knows that during the rainy season the roads are quite impossible, and some of them are closed altogether. But if the roads are tarred then we shall have better roads and better trade, and, in consequence, more advancement. The manufacture of this type of coal tar from coal in Nigeria, if it can be done, would save us a lot of expense.

I would like to say that we welcome the qualifications outlined in clause 3, sub-section 3, that these three people shall be specially qualified. I suppose sub-section (3) (c) means the Railway, which is the principal consumer, but as I have said before, the Corporation should make it possible for most urban towns to use coal as fuel so that then we should have far more private consumers using in the aggregate far more coal than the Railway.

I would point out that it is not at all clear who the three or six other members are to be. Is it that they should be just ordinary men picked and appointed by the Governor?

I should now like to refer to clause 10. In the middle of this clause there is a sentence which includes the phrase "Public Lands Acquisition Ordinance". I have always wondered, Sir, what the difference is between Public Lands Acquisition Ordinance and Native Lands Acquisition Ordinance.

Also, I should like to mention the matter of sacred lands. I was only going to touch on what the Member for Rivers Province has said and I am glad that the Resident, Owerri Province has pointed out that no Resident would take a decision until he had made the most careful investigation and obtained the advice of the people concerned. But I am wondering, Sir, if two tons of gold or silver existed under the ground whether that place would be left alone. I doubt it.

I strongly recommend this Bill.

**The Second Provincial Member for the Owerri Province  
(Mr D. N. Achara):**

I rise, Sir, to support this Bill.

The point that I was about to raise has already been raised by the First Provincial Member for the Onitsha Province, that is, what will be the benefits of those at the moment working for the Colliery Department? I hope that when an explanation is given to him my point will be covered.

This question of sacred land raised by the Member for the Rivers Division has been partially satisfied by the Resident, Owerri Province, but I must sound a note of warning here nevertheless, that in collecting or getting advice the person seeking that

advice should be very careful of the sources from which he gets it. There has been any amount of trouble caused in land questions where the Administrative Officer obtains his advice from people like clerks in his office; and I must emphasise that when such an occasion arises, advice should be obtained from the people of the district and not necessarily from civil servants such as clerks and interpreters. We have several land cases in Courts and we, who know the real owners of the lands in question, knew that correct information has not been obtained. I only mention this in case there is any need to find out things about land, so that those to be asked should be honest and good men of the area, who may not be working in the Native Administration and may not be civil servants.

**The Resident, Ogoja Province:**

I am astonished at the last speaker's suggestion that District Officers and Residents obtain advice on matters of this sort from office staff. It seems an extraordinary suggestion and I am sure he is not meaning that.

**His Honour the Chief Commissioner:**

If no other Member wishes to speak to the principle of the Bill I would ask the mover to reply.

**The Acting Senior Crown Counsel, Eastern Provinces:**

There is one point raised by a Member concerning the acquisition of land under the Native Lands Ordinance and under the Public Lands Ordinance.

Acquisition under the provisions of the Native Lands Acquisition Ordinance is only intended to prevent an alien from acquiring any interest in land without the prior consent of the Governor. This will ensure that the conditions of the grant are clear to the native who owns the land. Under Public Lands Acquisition, provision is made for Government or other bodies to acquire land compulsorily where negotiations have failed and in the interests of the community as a whole the land must be acquired. Provision is made to allow the parties to go to Court so that compensation and other conditions insisted upon can be determined. It is for the purpose also of protecting, as it were, the people against Government. The object is to ensure that land belonging to the natives of Nigeria is under their control and that no authority or other body can deal with it in a manner which it likes. It is subject to the control of the Court in the necessary case.

**The Acting Secretary (Finance), Eastern Provinces:**

There are one or two points raised, Sir, that I would like to comment on.

First of all the question of membership of the Board and particularly the point that a member should be appointed representing consumers of coal. As has been mentioned, at the

present time the Nigerian Railway is by far the biggest consumer of coal. The Corporation has hopes of extending the sales of coal to a wider public, but much depends on the price the public will pay.

There are three technical members laid down in the Ordinance—three people particularly qualified to sit on the Board—but that still leaves three and possibly six to be appointed by the Governor in Council. This means that the technical members will probably be in the minority. I think I am right in saying that representatives of consumers are members of the Coal Board in England.

In regard to section 18 (1) which Members referred to while talking about compensation, I would point out that section 18 (1) refers to the compensation payable in respect of damage caused while mining or prospecting. It does not apply to the section dealing with acquisition. The section dealing with acquisition is 10 (1). 18 (1) only refers to prospecting and mining in the same way as section 75 (1) of the Minerals Ordinance. In regard to prospecting and mining, assessment of compensation by the District Officer will enable quick settlements to be made, whereas it takes a long time if matters are taken to Court.

Another Member referred to staff. What would be their rights as Government servants when taken over by the Corporation. I would refer him to the Third Schedule of the Bill where it says:

“Where under a contract of service provision is made for the payment of a pension, gratuity or other similar benefit, the Corporation shall not be liable in respect of any part of any such pension, gratuity or benefit which is attributable to service before the vesting day.”

That refers to liabilities that have been taken over by the Corporation, but the liability which Government has towards its employees of course remains and is not altered by this Ordinance. I hope that will satisfy the Member.

With regard to venerated places, I think the Resident, Owerri, dealt with that completely. I should add that the same thing arose under the Minerals Ordinance in connection with applications for prospecting licences. The question then came up that venerated places should be dealt with to the satisfaction of the people.

I think, Sir, that deals with matters that have been raised by Members.

**His Honour the Chief Commissioner:**

The question before the House is that this House do advise His Excellency the Governor that this Bill is acceptable in principle to this House. Will those in favour say “Aye”, and those to the contrary “No”.

The “Ayes” have it.

The House will now resolve itself into Committee to consider the Bill clause by clause.

*The House is in Committee.*

*Title.*

*Enactment.*

*Clause 1.*

*Clause 2.*

*Clause 3.*

**The First Provincial Member for the Calabar Province  
(Mr Asuquo Okon):**

With regard to clause 3, Sir, and having regard to what has been said concerning the meaning of "consumers of coal in Nigeria", I would suggest, Sir, that for clarity and precision the words "consumers of coal in Nigeria" be deleted and the words "Nigerian Railway" be inserted instead.

**The Acting Senior Crown Counsel, Eastern Provinces:**

Sir, the position regarding that section is that while it is quite likely that that power will be exercised for nominating a person or representative from the Nigerian Railway, it is thought that the word "represent" is not correctly used and I am authorised to say that at a later stage a more suitable word will replace it. The idea generally is that that particular individual does not actually represent a particular interest, but is appointed on account of his expert and peculiar knowledge of colliery matters, having regard to all circumstances. As the Acting Secretary (Finance) has said, no harm will be done because there is still provision for the appointment of three or six people. We are trying to ensure that there are sufficient technical experts to deal with particular aspects of the Colliery work on that Board. I am quite sure that my friend will not press for an amendment of that particular section.

**The First Provincial Member for the Calabar Province  
(Mr Asuquo Okon):**

Having regard to what the Acting Senior Crown Counsel has said, I withdraw the amendment.

*Clauses 4-17.*

*Clause 18.*

**The Member for Urban Aspect of Life in Port Harcourt  
(Mr G. C. Nonyelu):**

I beg to move the following amendment to clause 18, which reads as follows:—

"The amount of the compensation payable under clause 17 shall be determined by agreement between the parties or if the parties are unable to reach agreement by reference to the Court under the Public Lands Acquisition Ordinance." deleting the rest of the sentence and the sub-clauses thereafter.

You will see, Sir, that I specifically mention clause 17 in the amendment in view of the fact that if the object of the original intention of referring matters to the District Officer is because it dealt with matters specifically mentioned under clause 17, it must be pointed out that there is no specific matter mentioned in clause 18.

**The First Provincial Member for the Calabar Province  
(Mr Asuquo Okon):**

I support that amendment, having regard to the objections I raised earlier in debate.

**The Acting Secretary, Eastern Provinces:**

Sir, I am opposed to the amendment. I think the wording of clause 18, sub-section (1) is somewhat obscure, but I think the words "amount of compensation payable under the provisions of this section" refer to clause 17. I am having some difficulty with that. But I think it is perfectly clear that it is the amount of compensation payable under the provisions of clause 17, or possibly any other part from clause 11 onwards. I think it is meant to blanket the whole from clause 11 to the end of clause 18.

I do feel that it is not in the interests of the people of this country that their only remedy should be to go before the Courts when small amounts of compensation are involved and quick decisions are necessary. There is nothing whatsoever in clause 18 as it stands to prevent people being represented before the District Officer, and in settling these claims it is normal for the District Officer to hear any advice tendered to him by any party, and I think the fears expressed on the subject of advice are not necessary. If we take the amendment suggested by my learned friend, then the people will be involved in heavy costs and long delays brought about by the litigation which it is the purpose of this section to get rid of at all costs.

**The First Provincial Member for the Calabar Province  
(Mr Asuquo Okon):**

Can I speak as many times as possible, Sir?

**His Honour the Chief Commissioner:**

Yes, in Committee.

**The First Provincial Member for the Calabar Province  
(Mr Asuquo Okon):**

I am quite in sympathy with the Secretary, but I should like to point out that it is not the amount of compensation that is to be determined, but who should settle the amounts. That is the principle involved, and from my experience, Sir, the Courts have worked out certain principles upon which these matters are settled, and these established principles are not available to the District Officer. I am therefore insisting that this amendment should go through and that the Courts should come in on these matters and not the District Officer.

**The Provincial Member for the Owerri (Rivers) Province  
(Mr H. Buowari Brown, O.B.E.):**

I am opposing this amendment, Sir, and I would like the section to read: "The amount of the compensation payable under the provisions of section 17" instead of "this section". That is all the amendment I think should be effected under clause 18. It is natural that the point should be pressed on the question of compensation going through the Courts, but many of these cases can be easily dealt with by the District Officer. In many cases the compensation involved will be only a few pounds while the Court case may cost fifty or sixty guineas. I strongly suggest that the clause remains as it is, with the exception of the amendment I have proposed in line 2 of clause 18, that is "provisions of section 17" instead of "this section". I see no reason why people should be put to extra expense in employing legal opinion and wasting money. It is perhaps natural that it is our legal friends who have pressed this point.

**The Member for Urban Aspect of Life in Port Harcourt  
(Mr G. C. Nonyelu):**

I am not pressing this point because of my legal profession, it is just the principle involved. May I remind Members of this House that we have Magistrates, Grades I, II and III. These small cases will naturally come before a Magistrate, Grade III, that is, the Assistant District Officer or the District Officer. I will now read you a portion of this section as it stands:

" . . . if the parties are unable to reach agreement by the Divisional or District Officer, who shall, as soon as practically possible, assess and determine the amount of the compensation payable at the date of such assessment and shall notify the parties of the sum awarded".

The District Officer is not asked to act expeditiously but as soon as practicably possible, and since District Officers are very busy it will take a long time for them to deal with matters affecting land.

Also, there is nothing to compel a District Officer to take evidence or even allow the parties to appear before him. All he has to do is to assess the compensation and notify the parties, so that clause 18 would appear to be bad from all angles.

**The Member for Urban Areas other than Port Harcourt  
(Rev O. Efiang, O.B.E.):**

I do not think the intention is, Sir, to debar at the first instance the intervention of the District Officer, but I do think that the door should not be closed against any person seeking redress in the Court. I think I shall be interpreting the mind of the man in the street correctly and it will meet his wishes if I say that he would not refuse to deal with the District Officer, but that in cases of



difference he should not be debarred from going to Court. While I personally deprecate going to Court, I think those who are court-minded in matters like this should not be prevented from doing so.

**The Provincial Member for the Ogoja Province (Dr F. A. Ibiam, O.B.E.):**

This clause seems dubious to me, even with the amendment suggested. I think my learned colleagues are trying to show that, as the Member for Urban Areas other than Port Harcourt pointed out, even if we allow clause 18 to stand as it is provision should be made whereby the owner of the land could seek redress if he is not satisfied after sections (1), (2), (3) and (4) had been gone into. I do not know what the law officers would say, but I am inclined to agree that some provisions should be made to allow the owner of the land to seek redress in Court. He may not need to seek this redress and the District Officer may satisfy him, but in any case he should have the privilege of taking the matter to Court and let them look into the matter. It may involve the appearance of legal people and it may involve fifty guineas or so. If he wins the case, then he is compensated and the money is paid back to him; if he loses, well people will learn from that. We have argued this particular type of section in other bills before now and we have always agreed that the privilege should be granted.

**The Second Provincial Member for the Owerri Province (Mr D. N. Achara):**

I agree with the last speaker, Sir, that provision should be made for a man, if he is not satisfied with a decision of the Resident (I am afraid I do not quite know what a District Officer's basis of assessment is), to go to Court. One District Officer might assess a piece of land at so much, while another might say something quite different. A District Officer goes by what he feels at the moment. I feel that it will satisfy the desire of those of us who want provision to be made for a man to go to Court where he cannot agree with the decision of either the District Officer or the Resident if it is laid down that the matter should be dealt with by the District Officer in the first place and by the Resident if needs be; but that a final decision should be obtained in the Court in a case where the land owner is not satisfied.

**The Acting Secretary, Eastern Provinces:**

Sir, I feel that the last speaker has overlooked that part of the section—it is most material—which says that the decision of such an officer shall be subject only to appeal to the Governor. I do think that that is an extremely important proviso. If these matters get into the Courts, as the amenders of the clause would suggest, then we do not know through how many channels of appeal the cases will go before the decision which the people wish to seek is reached. But, Sir, if the District Officer reaches a decision, then there is only one superior appeal, namely, to the Governor.

It has been suggested that the District Officer will be slow in getting on to land questions, but surely it is not suggested that any magistrate would be half as quick as a District Officer. In this Region we are extremely short of magistrates and we have hundreds of cases hanging fire at almost every centre. I cannot believe that a decision from the Court would be quicker than a decision from a District Officer.

**The Member for Urban Aspect of Life in Port Harcourt  
(Mr G. C. Nonyelu):**

May I suggest a compromise, Sir, which may be acceptable to the Official side. I would suggest, instead of the previous amendment, that sub-clause (2) of clause 18 be deleted entirely and the following substituted . . . . .

**His Honour the Chief Commissioner:**

The Member is now pressing an amendment of his own amendment.

**The Member for Urban Aspect of Life in Port Harcourt  
(Mr G. C. Nonyelu):**

I am suggesting a compromise. Instead of sub-clause (2) I would insert:—

“ A person aggrieved by the decision of such an Officer may appeal thereafter to the Supreme Court or the Governor, whose decision shall be final ”.

**The Acting Senior Crown Counsel, Eastern Provinces:**

Sir, nothing really can be added to what the Secretary has said. It is best for all concerned that the matter should be dealt with by an Administrative Officer. We all have experience of what happens in the Courts and we know how long it takes to get the Court to make up its mind regarding an issue, or even to deal with the matter at all. If we decide to make any concession and agree to let such matters to go into the Magistrate's Court, we might as well in principle go the whole way and provide for right of appeal to go as far as the Privy Council. But in the ordinary land case there is no question of principle involved: it is simply how much money is due and how soon can the person entitled thereto get it. I suggest that in cases like this allowing an appeal to the Magistrate's Court and from that to a higher Court would unduly prolong the issue and lead to very real disadvantages. No doubt Members have in mind the very complicated nature of some of these questions of principle. But where a Court might find difficulty in determining some of these cases, a District Officer might find no difficulty in arriving at an *ad hoc* decision satisfactory to all.

With regard to the amendment suggested earlier there is ordinarily no objection, but it is submitted that the word “ section ” in this sub-section covers the whole of clauses 11 to 18. There is no doubt that the word has been rather loosely used, because as

one would notice there is no question of division into parts. The Minerals Ordinance is divided into parts. In this case a person applying for compensation under "section 17" would also have to look up the provisions of clauses 11 to 18 to make sure that he is qualified therefor. There is no objection to the amendment, however, if Members press for it.

**The First Provincial Member for the Calabar Province  
(Mr Asuquo Okon):**

If section 18 is framed in order to bring it into line with the Minerals Ordinance, then I think I should require some explanation of what clause 11 means:

"The provisions of the Minerals Ordinance and of the regulations thereunder specified in the Fourth Schedule shall not apply in relation to the activities of the Corporation."

That would appear to me, Sir, to exclude the Minerals Ordinance from anything dealing with clause 18 concerning compensation payable in case of damage.

**The Acting Senior Crown Counsel, Eastern Provinces:**

I think, Sir, the important point in that phrase read out by my friend are the words "regulations thereunder specified in the Fourth Schedule". That is dealing with a special subject and has nothing to do with compensation.

**The Acting Secretary (Finance), Eastern Provinces:**

May I say, Sir, that the provisions of the Minerals Ordinance are specifically stated in the Fourth Schedule. Sections 2 and 3 of this Ordinance refer to control and property in minerals in this country. Section 4 deals with the prohibition of underground mining except under licence. Section 7 deals with the saving of venerated places. Sections 15 deals with royalties. Section 26 with mining, but section 74 is the actual section which deals with compensation.

**His Honour the Chief Commissioner:**

I will put the question on the amendment. The question is that clause 18, sub-section (1) be amended by deleting the word "this" in the second line and inserting the figures "17" after the word "section" in the second line, and by deleting all of the words which follow the word "by" and instead inserting "reference to Court under the Public Lands Acquisition Ordinance."

**The Resident, Owerri Province:**

May I know which word "by" is referred to? Is it in the second or third line?

**His Honour the Chief Commissioner:**

The word "by" in the third line. And the deletion entirely of sub-sections (2), (3) and (4). The question is that clause 18 be

amended accordingly. Will those in favour say "Aye", and those to the contrary "No".

The "Noes" have it.

**The Member for Urban Aspect of Life in Port Harcourt (Mr G. C. Nonyelu):**

Sir, may I further amend the definition of clause 18 to read as follows: In the second line, by omitting the word "this" and by adding the words . . . . .

**His Honour the Chief Commissioner:**

I am afraid the Member is out of order because this is part of the amendment which has just been negatived by the House.

**The Member for Urban Aspect of Life in Port Harcourt (Mr G. C. Nonyelu):**

This is a new amendment entirely.

**His Honour the Chief Commissioner:**

The amendment which I have put to the House which was part of the Member's own amendment was that the word "this" should be deleted and that the word "17" should be inserted after the word "section".

**The Member for Urban Aspect of Life in Port Harcourt (Mr G. C. Nonyelu):**

I had not finished the amendment. I am just introducing another clause.

**His Honour the Chief Commissioner:**

The Member is suggesting now an amendment which has already been negatived. The Member can put any other amendment he likes other than any part of an amendment which has been on the floor of the House and debated.

**The Member for Urban Aspect of Life in Port Harcourt (Mr G. C. Nonyelu):**

I do not think the amendment in line 2 of clause 18 has been rejected by the House.

**His Honour the Chief Commissioner:**

The Member himself proposed the amendment which I took down here and, as I pointed out, that amendment was part of the amendment which the Member for Port Harcourt has proposed.

**The Provincial Member for the Owerri (Rivers) Province (Mr H. Buowari Brown, O.B.E.):**

That was mine, Sir.

**His Honour the Chief Commissioner:**

But the Member for Port Harcourt had proposed that amendment.

**The Acting Secretary, Eastern Provinces:**

Might I suggest, Sir, that the clause can easily be amended at a later stage in the progress of the Bill into law. I feel we are wasting time now since it has to go further and the amendment can be taken in another House.

**His Honour the Chief Commissioner:**

I propose, in putting this Bill forward from this House, to say that the word "this" in clause 18 (1) of the Bill is ambiguous as it stands and that this House was uncertain of its actual meaning, but that the feeling of the House was that it should refer to all of clauses 11 onwards. Would that satisfy the Member?

**The Member for Urban Aspect of Life in Port Harcourt (Mr G. C. Nonyelu):**

Yes, Sir.

*Clauses 19-30.*

*First Schedule.*

*Second Schedule.*

*Third Schedule.*

*Fourth Schedule.*

**His Honour the Chief Commissioner:**

The House will now resume.

**The Acting Secretary (Finance), Eastern Provinces:**

Sir, I have to report that the Bill for "An Ordinance to provide for the establishment of a Corporation to be known as the Nigerian Coal Corporation, for the transfer to the Corporation of all Colliery undertakings of the Government, and for purposes connected with the matters aforesaid", passed through Committee with no amendment.

**His Honour the Chief Commissioner:**

The question is that this House do advise His Excellency the Governor that this Bill is acceptable. Will those in favour say "Aye", and those to the contrary "No".

The "Ayes" have it.

Gentlemen, it is now 11.45 a.m. Is it your pleasure that we adjourn for ten minutes?

"Aye".

*The House adjourned at 11.45 a.m.*

*The House resumed at 12 noon.*

THE GROUNDNUTS (INSPECTION FOR EXPORT)  
(AMENDMENT) REGULATIONS, 1949

**The Acting Deputy Director of Agriculture, Eastern Provinces:**

Sir, I beg to move the following:—

“Be it resolved: That this House do advise His Excellency  
“the Governor that the Groundnuts (Inspection for  
“Export) (Amendment) Regulations, 1949 (No. 19 of  
“1949), are acceptable in principle”.

Sir, the reason for revoking Regulation 10 (1) which refers to the produce inspection fee, is that the Nigeria Groundnuts Marketing Board have agreed to refund to Government the cost of produce inspection as provided in the estimates. The re-inspection fee only remains as it was.

With regard to Regulations 2 and 5, investigation into the causes of the serious infestation by Trogoderma Beetle of groundnuts stored in the Northern Provinces awaiting railment has proved conclusively that infestation originated in stocks stored over long periods in the vicinity of infested grain.

It is known that the practice is prevalent among producers and middlemen of holding back stocks produced during one season for sale in the following season in the hope of benefitting by a price increase. Stocks thus held are usually stored near grain and in conditions favourable to the breeding of Trogoderma and other pests. The practice is illegal as it is an offence under the Sale of Goods Act of 1893 to sell as “New Crop” groundnuts which are not “New Crop” as defined each year by Public Notice. Prosecutions have not hitherto been made in such cases, but in view of the serious losses caused by Trogoderma and the importance of taking all possible measures to reduce pest infestation in stored groundnuts, it is considered desirable to amend the Groundnuts (Inspection for Export) Regulations to ensure that when cases of admixture of old crop with new crop are proved, the offenders can be prosecuted.

Sir, I beg to move.

**The Acting Secretary, Eastern Provinces:**

Sir, I beg to second.

**His Honour the Chief Commissioner:**

If no Member wishes to speak on the motion I propose to resolve this House into Committee to consider the Regulations clause by clause. The House will now resolve itself into Committee to consider the Regulations clause by clause.

*The House is in Committee.*

*Title.*

*Regulations 2-5.*

**His Honour the Chief Commissioner:**

The House will now resume.

**The Acting Deputy Director of Agriculture, Eastern Provinces:**

Sir, I beg to report that the Groundnuts (Inspection for Export) (Amendment) Regulations, 1949 (No. 19 of 1949), passed through Committee with no amendment.

**His Honour the Chief Commissioner:**

The question is that this House do advise His Excellency the Governor that these Regulations are acceptable to this House. Will those in favour say "Aye", and those to the contrary "No".

The "Ayes" have it.

THE POTATO (MARKETING AND EXPORT) (REVOCATION)  
REGULATIONS, 1949

**The Acting Deputy Director of Agriculture, Eastern Provinces:**

Sir, I beg to move the following:—

" Be it resolved: That this House do advise His Excellency  
" the Governor that the Potato (Marketing and Export)  
" (Revocation) Regulations, 1949 (No. 20 of 1949), are  
" acceptable in principle".

During the war years a system of potato inspection was introduced in order to encourage local production of potatoes and for the conservation of sufficient seed for following crops. These Regulations applied only to potatoes removed from producing provinces for sale in non-producing provinces. There was no restriction on the sale of potatoes of whatever size within the producing provinces. Since the cessation of hostilities potatoes from countries overseas are being freely imported at prices comparing favourably with those charged for Nigerian grown potatoes, and no useful purpose is being served by imposing restrictions on the sale of locally grown potatoes.

Sir, I beg to move.

**The Deputy Director of Public Works, Eastern Provinces:**

Sir, I beg to second.

**His Honour the Chief Commissioner:**

If no Member wishes to speak to the Motion I propose to resolve this House into Committee to consider the Regulations clause by clause.

*The House is in Committee.*

*Title.*

*Regulation 2.*

**His Honour the Chief Commissioner:**

The House will now resume.

**The Acting Deputy Director of Agriculture, Eastern Provinces:**

Sir, I beg to report that the Potato (Marketing and Export) (Revocation) Regulations, 1949 (No. 20 of 1949), passed through Committee with no amendment.

**His Honour the Chief Commissioner:**

The question is that His Excellency the Governor be advised that these Regulations are acceptable to this House. Will those in favour say "Aye" and those to the contrary "No".

The "Ayes" have it.

**THE GINGER (MARKETING AND EXPORT) (AMENDMENT)  
REGULATIONS, 1949**

**The Acting Deputy Director of Agriculture, Eastern Provinces:**

Sir, I beg to move the following:—

"Be it resolved: That this House do advise His Excellency  
" the Governor that the Ginger (Marketing and Export)  
" (Amendment) Regulations, 1949 (No. 21 of 1949), are  
" acceptable in principle".

No inspection fees have hitherto been charged on Ginger, but the erection of markets for Ginger have been met from scale fees collected from buyers. In order to bring Ginger into line with other crops inspected, but not handled by any of the recently formed Marketing Boards, it is proposed to abolish these fees and collect an inspection fee of 10s per ton on all ginger exported. The cost of erecting and operating the markets would be met by Government.

Sir, I beg to move.

**The Acting Secretary (Finance), Eastern Provinces:**

Sir, I beg to second.

**The Member for African Commercial Interests (Mr G. H. H. O'Dwyer):**

Sir, I am afraid I cannot see eye to eye with the mover of this Regulation. When this was discussed in Ibadan early in the year I opposed it tooth and nail. Ginger has not been a very prolific production of the country, and if Government right at the start impose heavy fees for inspection and grading it will put the fear of God into people and production will come down to a very low level. 10s per ton is covered under regulation 17 (1), plus an additional fee of 2s, so for every inspection carried out in one normal working day it means the inspector gets 26s. This is very heavy. If it is now the intention that some fee should be made, I think a fee of about 2s 6d would be reasonable, and say 1s per inspection. I have every sympathy with members of the Board, but I am surprised that this thing was rushed through again as a Regulation.



**The First Provincial Member for the Calabar Province  
(Mr Asuquo Okon):**

There is a question I should like to put. On what basis have these fees been fixed? Are these arbitrary figures or is there any system of assessment?

**The Acting Deputy Director of Agriculture, Eastern Provinces:**

This inspection fee has certainly been increased, but it will be noticed that the former scale fees as scheduled in Regulation 17 (1) were very heavy. £4 was charged to the scale owners in the case of the Grade I Ginger Market and £2 in the case of each scale in the Grade II Ginger Market. I am certain that those large fees would have been passed on to the producer in the old days and the actual price the producer would have got would have had to take into account the cost of the actual fee of £4 in the Grade I market and £2 in the Grade II market. That I think, to a certain extent cancels out the difference between the 10s inspection fee which is now going to be charged. The marketing of ginger is a very fussy business, and if you will look at the Schedule you will see that there are no less than five different grades, all of which have different sub-sections. It is a very troublesome business and takes a lot of time and is therefore expensive. I think that is the reason why the figure of 10s is being imposed as the inspection fee.

**The Member for African Commercial Interests (Mr G. H. H. O'Dwyer):**

It seems to me that the expense is to the producer and not to the man who does the inspection: all he has to do is to say that the ginger is not good and he can't pass it. It is the man who has the ginger who does the dirty work.

**The First Provincial Member for the Calabar Province  
(Mr Asuquo Okon):**

Is it five times as fussy as groundnuts? The groundnuts fee is 2s and this is 10s.

**The Acting Deputy Director of Agriculture, Eastern Provinces:**

There is one other point I should like to make. The price of ginger is somewhere between £50 and £60 a ton, and the inspection fee is 10s per ton. That is 6d per cwt and a cwt is half as much again as a man can carry on his head. It seems to me that 6d a cwt inspection fee for ginger when the price is between £50 and £60 a ton is a mere flea bite.

**The Member for African Commercial Interests (Mr G. H. H. O'Dwyer):**

It is not only the 10s. If you read on you will see there is an additional fee of 2s an hour or part thereof. It may take a whole day to inspect the ginger, and if a fee of 10s has already been lifted by the Comptroller of Customs, it brings it up to 26s.

**The Acting Deputy Director of Agriculture, Eastern Provinces:**

I do not see how the figure of 26s is arrived at.

**The Member for African Commercial Interests (Mr G. H. H. O'Dwyer):**

It is a rough valuation.

**The Provincial Member for the Owerri (Rivers) Province (Mr H. Buowari Brown, O.B.E.):**

Supposing the inspection is not finished in an hour, then the charge would be for two hours, that is, 4s?

**His Honour the Chief Commissioner:**

That is how I read the Regulation.

**The Acting Deputy Director of Agriculture, Eastern Provinces:**

There is another point. This is a re-inspection fee. This 2s per hour is not for the first inspection, and I do not think that re-inspection is necessary in every case.

**His Honour the Chief Commissioner:**

As the motion has been debated and I have given Members a good deal of licence in speaking twice on this, I will put the Regulations in principle first and then I will resolve the House into Committee to discuss them. The question is that the Regulations be accepted in principle. Will those in favour say "Aye" and those to the contrary "No".

The "Ayes" have it.

The House will now resolve itself into Committee to consider the Regulations one by one.

*The House is in Committee.*

*Title.*

*Regulation 2.*

*Regulation 3.*

The House will now resume.

**The Acting Deputy Director of Agriculture, Eastern Provinces:**

Sir, I beg to report that the Ginger (Marketing and Export) (Amendment) Regulations, 1949 (No. 21 of 1949), passed through Committee with no amendment.

**His Honour the Chief Commissioner:**

The question is that His Excellency the Governor be advised that these Regulations are acceptable to this House. Will those in favour say "Aye" and those to the contrary "No".

The "Ayes" have it.

THE CAPSICUMS (INSPECTION FOR EXPORT) (AMENDMENT)  
REGULATIONS, 1949

**The Acting Deputy Director of Agriculture, Eastern Provinces:**

Sir, I beg to move the following:—

"Be it resolved: That this House do advise His Excellency  
"the Governor that the Capsicums (Inspection for  
"Export) (Amendment) Regulations, 1949 (No. 22 of  
"1949), are acceptable in principle".

The term "adequate precautions" is used in connection with the care of such produce while it is in store and/or transit. The law requires the prosecutions to prove that the accused person has failed to take adequate precautions. It is difficult and sometimes impossible for the prosecution to prove this as all necessary facts are almost invariably within the peculiar knowledge of the accused. It is now obvious that if this Regulation is to be enforced the onus of proof that such adequate precautions have been taken must be thrown upon the defence.

Sir, I beg to move.

**The Acting Senior Crown Counsel, Eastern Provinces:**

Sir, I beg to second.

**The Member for African Commercial Interests (Mr G. H. H. O'Dwyer):**

I am sorry to rise up again, but in clause 2 in the case of any prosecution under these Regulations, the onus of proof to show that adequate precautions have been taken shall lie upon "such person". The mover of the motion has mentioned that where the prosecution fails to establish a case against an accused person he should have the responsibility of proving that he is not responsible for any damage to the produce. I think it is the other way round and that a man is innocent until guilt is proved. For the prosecution to say you are responsible for the damage to this produce is rather unreasonable.

**The First Provincial Member for the Calabar Province (Mr Asuquo Okon):**

I support this Regulation. It is a principle of law that such matters are peculiarly within the knowledge of the person charged and it should be proved by him.

**The Acting Senior Crown Counsel, Eastern Provinces:**

Sir, in dealing with this matter I think it is necessary to refer to the particular regulation:—

"Any person who fails to take adequate precautions to prevent deterioration of crops which have been inspected and graded under these regulations while such crops are in store or in transit shall be guilty of an offence against these regulations".

Although it is a principle of pure law that the guilt of a party must be proved by the prosecution, in certain circumstances it is reasonable to expect that the person upon whom a duty has been imposed is the person best able to indicate whether he has carried out that duty. Surely, if crops deteriorate it is the person in whose possession the crops are who should be able to say why they have deteriorated. If it is possible for him to satisfy the authorities that he has taken every reasonable precaution which could be

expected of him, then he would not be liable. It would be utterly impossible to expect the prosecution to do more than establish that the crops have deteriorated.

This is one of the exceptional cases and there can be no valid objection in principle.

**His Honour the Chief Commissioner:**

The question is that the motion is acceptable in principle. Will those in favour say "Aye" and those to the contrary "No".

The "Ayes" have it.

The House will now resolve itself into Committee to consider the regulations one by one.

*The House is in Committee.*

*Title.*

*Regulation 2.*

**His Honour the Chief Commissioner:**

The House will now resume.

**The Acting Deputy Director of Agriculture, Eastern Provinces:**

Sir, I beg to report that the Capsicums (Inspection for Export) (Amendment) Regulations, 1949 (No. 22 of 1949), passed through Committee with no amendment.

**His Honour the Chief Commissioner:**

The question is that His Excellency the Governor be advised that these regulations are acceptable to this House. Will those in favour say "Aye" and those to the contrary "No".

The "Ayes" have it.

**THE PALM OILS, PALM KERNELS, COCOA AND CASSAVA STARCH (INSPECTION FOR EXPORT) (AMENDMENT) REGULATIONS, 1949**

**The Acting Deputy Director of Agriculture, Eastern Provinces:**

Sir, I beg to move the following:—

"Be it resolved: That this House do advise His Excellency  
"the Governor that the Palm Oils, Palm Kernels,  
"Cocoa and Cassava Starch (Inspection for Export)  
"(Amendment) Regulations, 1949 (No. 23 of 1949),  
"are acceptable in principle".

Under Regulation 10 (1) of the Palm Oils, Palm Kernels, Cocoa and Cassava Starch (Inspection for Export) Regulations, 1936 (No. 12 of 1936), made under the Agriculture Ordinance (No. 4 of 1926), and now deemed to have been made under the Agriculture Ordinance (No. 37 of 1948), the following fees are payable on all produce exported:—

		s	d	
Palm Oil	... ..	2	0	the ton
Palm Kernels	... ..	1	3	"
Cocoa	... ..	2	6	"
Cassava Starch	... ..	2	6	"

These fees were originally intended to cover the cost of Produce Inspection and, indeed at the time they were fixed they achieved their object, but as the activities of the Produce Inspection section of the Agricultural Department (as it was prior to September, 1948) increased and as recurrent charges became heavier, due to increases in salaries, costs of materials, etc., etc., these charges no longer covered the costs of inspection and were in process of being revised when the Nigeria Cocoa Marketing Board and the Nigeria Oil Palm Produce Marketing Board came into being. These Boards are now the sole exporters of Palm Oil, Palm Kernels and Cocoa and they, together with the Nigeria Groundnut Marketing Board, have agreed to refund to Government the cost of Produce Inspection as provided for in the Estimates, less the amount of fees collected in respect of minor products such as Cassava Starch, Capsicums, Ginger and Rubber which the Marketing Boards do not handle. In view of this, it is desired to revoke regulation 10 (1) of the above regulations and substitute it with a regulation specifying an Inspection Fee of 5s per ton for Cassava Starch only.

In Regulation 3, the term "adequate precautions" is used in connection with the care of such produce while it is in store and/or transit. The law requires the prosecution to prove that the accused person has failed to take adequate precautions. It is difficult and sometimes impossible for the prosecution to prove this as all necessary facts are almost invariably within the peculiar knowledge of the accused. It is now obvious that if this regulation is to be enforced, the onus of proof that such adequate precautions have been taken must be thrown upon the defence.

Sir, I beg to move.

**The Acting Senior Crown Counsel, Eastern Provinces:**

Sir, I beg to second.

**The Member for African Commercial Interests (Mr G. H. H. O'Dwyer):**

I am afraid I cannot quite reconcile the position as it stands with the 5s imposed on Cassava Starch. I do not know whether the mover of this regulation could, for the purposes of explanation, tell us exactly what the position is as far as Cassava Starch manufacture is concerned in this country. It was started a few years back, but a lot of people went out of business because it was difficult to find a market. Now we find that the 2s a ton as it was then is increased to 5s, and I am afraid that the producers when they find inspection fees bounding up will just be frightened out of the business. A man started producing Cassava Starch in a big way in Aba some few years ago, but he made a loss instead of a profit on his first shipment which pushed him out of business and almost landed him in debt. I think that 2s 6d should be left in this regulation.

**His Honour the Chief Commissioner:**

If no other Member wishes to speak I will ask the mover to reply.

**The Acting Deputy Director of Agriculture, Eastern Provinces:**

Cassava Starch began to be exported from Nigeria during the war. The main export was from the Benin/Warri area, where I was happy to be the Agricultural Officer at that time, and by December, 1942, the export of cassava starch from Nigeria amounted to about 1,200 tons a month, and the greater proportion—over 1,000 tons of that—was coming from the Warri area. The price at that time was between £14 and £15 a ton. The Produce Inspection fee was then 2s 6d, equivalent to 1½d per cwt. At that time an order came from the Controller of Supply that we must export no more cassava starch because it was understood that it was affecting the production of oil and kernels. The ban was only removed about a year ago and my information is that no cassava starch has yet been exported. I would not put the reason for that down to an inspection fee of 5s per ton. The present price of cassava starch in Aba market is 9d per pound, which is in the region of £83 per ton. If the firms who are buying cassava starch wish to export it, they would have to pay somewhere about £80 a ton. The proposed inspection fee of 5s, which has been raised, I may say, to cover the increased cost of produce inspection, would be a mere flea bite—again another flea bite. I have yet to find anywhere a quotation for the export price of cassava starch. I don't know what it is although I have tried to find out, and I can only presume that why the firms are not interested is because the local price is far too high.

**His Honour the Chief Commissioner:**

If no other Member wishes to speak to the motion I will put the question to the House. The question is that the motion is acceptable in principle to this House. Will those in favour say "Aye" and those to the contrary "No".

The "Ayes" have it.

The House will now resolve itself into Committee to consider the regulations one by one.

*The House is in Committee.*

*Title.*

*Regulation 2.*

*Regulation 3.*

**His Honour the Chief Commissioner:**

The House will now resume.

**The Acting Deputy Director of Agriculture, Eastern Provinces:**

Sir, I beg to report that the Palm Oils, Palm Kernels, Cocoa and Cassava Starch (Inspection for Export) (Amendment) Regulations, 1949 (No. 23 of 1949), passed through Committee with no amendment.

**His Honour the Chief Commissioner:**

The question is that His Excellency the Governor be advised that these regulations are acceptable to this House. Will those in favour say "Aye" and those to the contrary "No".

The "Ayes" have it.

**THE COTTON MARKETING AND EXPORT (AMENDMENT)  
REGULATIONS, 1949****The Acting Deputy Director of Agriculture, Eastern Provinces:**

Sir, I beg to move the following:—

"Be it resolved: That this House do advise His Excellency the Governor that the Cotton Marketing and Export (Amendment) Regulations, 1949 (No. 24 of 1949), are acceptable in principle".

At the time no inspection fees are levied on cotton exported, but regulation 51 of the Cotton Marketing and Export Regulations (No. 43 of 1937) provides for the collection of scale fees in cotton markets which are used to reimburse (in part) the various Native Administrations for the cost of erecting and policing the markets and for salaries of the Cotton Examiners engaged on cotton inspection. It is now proposed that these fees should be abolished and that the Nigeria Cotton Marketing Board should reimburse the Native Administrations in full for all expenses in connection with the Cotton markets and inspection of cotton. Regulation 17 (3) provides for the collection of licence fees and it is desired to abolish these also.

In regulation 3, the term "adequate precautions" is used in connection with the care of such produce while it is in store and/or transit. The law requires the prosecution to prove that the accused person has failed to take adequate precautions. It is difficult and sometimes impossible for the prosecution to prove this, as all necessary facts are almost invariably within the peculiar knowledge of the accused. It is now obvious that if this regulation is to be enforced the onus of proof that such adequate precautions have been taken must be thrown upon the defence.

Sir, I beg to move.

**The Acting Senior Crown Counsel, Eastern Provinces:**

Sir, I beg to second.

**His Honour the Chief Commissioner:**

If no Member wishes to speak to the motion I will put the question to the House. The question is that His Excellency the Governor be advised that these regulations are acceptable to this House in principle. Will those in favour say "Aye" and those to the contrary "No".

The "Ayes" have it.

The House will now resolve itself into Committee to consider the regulations one by one.

*The House is in Committee.*

*Title.*

*Regulation 2.*

*Regulation 3.*

*Regulation 4.*

**His Honour the Chief Commissioner:**

The House will now resume.

**The Acting Deputy Director of Agriculture, Eastern Provinces:**

Sir, I beg to report that the Cotton Marketing and Export (Amendment) Regulations, 1949 (No. 24 of 1949), passed through Committee with no amendment.

**His Honour The Chief Commissioner:**

The question is that His Excellency the Governor be advised that these regulations are acceptable to this House. Will those in favour say "Aye" and those to the contrary "No".

The "Ayes" have it.

#### THE SWOLLEN SHOOT REGULATIONS, 1950

**The Acting Deputy Director of Agriculture, Eastern Provinces:**

Sir, I beg to move the following:—

"Be it resolved: That this House do advise His Excellency the Governor that the Swollen Shoot Regulations, 1950 (No. 28 of 1950), are acceptable in principle".

These regulations are substituted for the Ibadan Native Authority (Control of Swollen Shoot) Order. It is considered essential, owing to the serious nature of the Swollen Shoot disease of cocoa, for Government to have wide powers to enable its officers to enter farms and destroy affected trees, should outbreaks occur in any part of Nigeria. I am happy to say that so far no outbreak of Swollen Shoot has been confirmed in the Eastern Region.

Sir, I beg to move.

**The Acting Senior Crown Counsel, Eastern Provinces:**

Sir, I beg to second.

**The Member for African Commercial Interests (Mr G. H. H. O'Dwyer):**

Regulation 5, Sir. The time limit for giving notice of intention to mark and treat trees, I think is twenty-one days. I think this should be increased to twenty-eight days, so that the owner can also attend or send his agent to be present at the time of the



marking of his trees. I do not think twenty-one days is quite reasonable.

I should like an explanation also on the word "destroy", whether it means simply cutting down the tree, uprooting the tree or burning it to ashes. Is the virus destroyed by cutting it out or has it to be dug up and burnt?

**His Honour the Chief Commissioner:**

If no other Member wishes to speak to the motion I will ask the mover to reply.

**The Acting Deputy Director of Agriculture, Eastern Provinces:**

I think twenty-one days is quite sufficient. We have a large staff of officers and junior assistants working on the marking and cutting down of trees, and messengers running to and fro so that we can make quick contact with the people in the cocoa farming areas. It is my opinion that twenty-one days is quite sufficient to contact these people and get the job done.

With regard to destroying trees, the procedure is that a hole is dug round the tree exposing the top roots and the tap root and the tree is cut down below ground level. This ensures that the roots will not start growing up again and the tree, once felled, is for the purposes of the control of Swollen Shoot satisfactorily killed. The causative organism is a virus and it cannot live in dead material. Also the vector of Swollen Shoot virus is what is called a Mealie Bug, and that, too, cannot suck up sap from dead trees, because the sap is no longer there and it cannot transmit the virus to uninfected trees. I hope that is a satisfactory explanation.

**His Honour the Chief Commissioner:**

The question before the House is that the Motion be adopted. Will those in favour say "Aye" and those to the contrary "No".

The "Ayes" have it.

The House will now resolve itself into Committee to consider the regulations one by one.

*The House is in Committee.*

*Title.*

*Regulation 2.*

*Regulation 3.*

*Regulations 4-7.*

The House will now resume.

**The Acting Deputy Director of Agriculture, Eastern Provinces:**

Sir, I beg to report that the Swollen Shoot Regulations, 1950 (No. 28 of 1950), passed through Committee with no amendment.

**His Honour the Chief Commissioner:**

The question is that His Excellency the Governor be advised that these regulations are acceptable to this House. Will those in favour say "Aye" and those to the contrary "No".

The "Ayes" have it.

Gentlemen, that completes the business on the Order Paper of the day and there is now the question of the time the House resumes to-morrow morning. As it will be a fairly heavy day to-morrow, is it your pleasure that the House should reassemble at 9.30?

"Aye".

**His Honour the Chief Commissioner:**

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

**Adjournment**

*The House adjourned at 1 p.m.*

# Debates in the Eastern House of Assembly

Saturday, 5th of August, 1950

Pursuant to notice the Members of the Eastern House of Assembly met in the Council Chamber, Enugu, at 9.30 a.m. on Saturday, the 5th of August, 1950.

## PRESENT

### OFFICIAL MEMBERS

- The Chief Commissioner, Eastern Provinces,  
Cdr. J. G. Pyke-Nott, C.M.G., R.N.
- The Resident, Owerri Province,  
Mr J. S. Smith.
- The Resident, Ogoja Province,  
Mr V. K. Johnson.
- The Resident, Calabar Province,  
Mr C. J. Mayne.
- The Acting Secretary, Eastern Provinces,  
Mr F. R. Kay.
- The Acting Resident, Onitsha Province,  
Mr S. P. L. Beaumont.
- The Acting Secretary (Finance), Eastern Provinces,  
Mr J. G. Mackenzie.
- The Deputy Director of Medical Services, Eastern Provinces,  
Dr D. Murray.
- The Deputy Director of Education, Eastern Provinces,  
Mr C. T. Quinn-Young.
- The Acting Deputy Director of Agriculture, Eastern  
Provinces,  
Mr A. F. W. Sheffield.
- The Deputy Director of Public Works, Eastern Provinces,  
Mr C. E. Andreae.
- The Acting Senior Crown Counsel, Eastern Provinces,  
Mr E. N. Egbuna.

### UNOFFICIAL MEMBERS

- The Member for Urban Areas other than Port Harcourt,  
Reverend O. Efiog, O.B.E.
- The First Provincial Member for the Cameroons Province,  
Mr J. Manga Williams, O.B.E.

The Member for Professional, Salaried and Wage-earning Classes.

Mr L. N. Mbanefo.

The First Provincial Member for the Onitsha Province,  
Mr P. E. Chukwurah.

The First Provincial Member for the Owerri Province,  
Mr M. W. Ubani.

The Provincial Member for the Ogoja Province,  
Dr F. A. Ibiam, O.B.E.

The First Provincial Member for the Calabar Province,  
Mr Asuquo Okon.

The Second Provincial Member for the Cameroons Province,  
Galega, Fon of Bali.

The Second Provincial Member for the Onitsha Province,  
Mr C. D. Onyeama.

The Member for Urban Aspect of Life in Port Harcourt,  
Mr G. C. Nonyelu.

The Second Provincial Member for the Owerri Province,  
Mr D. N. Achara.

The Provincial Member for the Owerri (Rivers) Province,  
Mr H. Buowari Brown, O.B.E.

The Member for Educational Interests,  
Mr A. Ikoku, O.B.E.

The Second Provincial Member for the Calabar Province,  
Mr Nyong Essien.

#### ABSENT

##### OFFICIAL MEMBERS

The Resident, Rivers Province,  
Mr L. T. Chubb.

The Acting Resident, Cameroons Province,  
Mr W. D. Spence.

##### UNOFFICIAL MEMBER

The Member for African Commercial Interests,  
Mr G. H. H. O'Dwyer.

#### Prayers

At the request of the President, Reverend O. Efiang, O.B.E., the Member for Urban Areas other than Port Harcourt, opened the proceedings of the House with prayers.

**Confirmation of Minutes****His Honour the Chief Commissioner:**

The minutes of the last meeting, having been printed and circulated to Members, is it your pleasure that they should be confirmed?

“ Aye ”.

**Motions****The Acting Secretary, Eastern Provinces:**

Sir, I beg to move the following resolution:—

“ Be it resolved: That a Select Committee of the House be  
“ set up to consider paragraph 7 of the Report of the  
“ Select Committee of Legislative Council on Constitu-  
“ tional Review, dated the 1st of April, 1950, as  
“ accepted by Legislative Council on the 3rd of April,  
“ 1950, and to make recommendations thereon ”.

The relevant paragraph of the report of the Select Committee of Legislative Council is this:—

“ The Committee has thoroughly examined the different views put forward with regard to the composition of the Central Legislature. The Northern representatives adhere to their previous view that, on grounds of the relative populations of the Regions, the Northern Regional Houses should have representation in the House of Representatives equal with that of the other two Regions together. Most of the other members, however, held the view that, while the Northern representation might be considerably greater than that of either of the other Regions, the Northern claim to full parity could not be justified in a federal system of the kind recommended by the General Conference, in which only one Legislative Chamber at the centre was proposed. These members urged that representation on a population basis in the House of Representatives could only be justified if a bicameral system were introduced and if the stipulation included in the recommendations of the General Conference that only Northern Nigerians should be entitled to be candidates for election to the Northern House of Assembly were abandoned. With regard to the last point the Northern representatives indicated their readiness to agree to this stipulation being abandoned provided that their claims to parity in the Central Legislature were accepted.

In the discussion of the difficult problem of Regional representation in the Central Legislature it was thought that a solution might be found by following the example provided in other federal constitutions and having two Legislative Houses at the centre—the composition of the House of Representatives being based on population and the composition of an Upper House being based on equality between the

three Regions. This was a proposal which had not been previously considered in the Regions and it was therefore decided to recommend that the Regional representatives should be given an opportunity of discussing it in the Regional Houses before a final recommendation on the composition of the Central Legislature is made by the Legislative Council to the Governor and Secretary of State.

During the discussion on the question of the composition of the Central Legislature one other matter was raised which the Committee wishes to record. The Committee considered that if there is to be a second Legislative Chamber at the centre it would be advisable to reduce the size of the House of Representatives below that recommended by the General Conference (it was recommended by the General Conference that there should be 122 members of the House of Representatives)".

Sir, I do not think that we can very well proceed to debate the merits of the proposal for a bicameral system when Members can only speak once, and I feel quite certain that the House will find it more convenient to appoint a Select Committee so that the matter can be gone into much more freely and in much greater detail.

**The Acting Senior Crown Counsel, Eastern Provinces:**

Sir, I beg to second.

**The Second Provincial Member for the Onitsha Province  
(Mr C. D. Onyeama):**

On a matter of explanation, Sir, this question of a bicameral legislature is something which was never in the contemplation of any of the Regions at the time when they made the recommendations which finally went to Ibadan. In my view it is something which is so important that it would not be right were we to come to any decision as to its acceptance or otherwise without having the matter discussed at the General Conference level, that is to say, I would suggest with all respect that this House recommend that this point, being a new one, should be discussed by the General Conference which put forward the proposals at Ibadan, and it should be for them to say whether they consider this country should have a two-Chamber Legislature or a one-Chamber Legislature. If we took the decision to support this matter without it going to the General Conference, it would be difficult to suggest that this is a decision reached by the ultimate constitution-making body, which I understood to be the General Conference as representing all people, in and out of Legislative Council.

**His Honour the Chief Commissioner:**

Would the Member be prepared to put forward those views in the Select Committee, and then later the Member will have an

opportunity, if he wishes, to debate whatever may be the recommendations of the Select Committee, because the recommendations of the Select Committee will have to come before the House for them to be debated or otherwise, and that will give an opportunity to Members to debate any particular matter with which they may not be satisfied or happy about?

**The Second Provincial Member for the Onitsha Province  
(Mr C. D. Onyeama):**

Yes, Sir.

**His Honour the Chief Commissioner:**

If no Member wishes to speak I will put the motion. The question is that the motion in the terms resolved be adopted. Will those in favour say "Aye" and those to the contrary "No".

The "Ayes" have it.

I will appoint the members of the Select Committee before the House adjourns to-day.

**The Acting Secretary, Eastern Provinces:**

Sir, I beg to move the following:—

"Be it resolved: That the report of the Committee  
"appointed by this House to report on the distribution  
"of the proposed representatives to the new Eastern  
"Regional House of Assembly be now referred to a  
"Select Committee of this House".

Members are in possession of the Report of the Committee appointed by the House, and it does contain matter which is probably contentious, in particular with regard to the representation of Calabar town. It also leaves matters open, Sir, with regard to the Bamenda Province.

I do not at this stage propose to comment in detail on the matter contained in the report as I feel that we shall get along much better if a Select Committee of the House is appointed.

Before moving this motion, Sir, I hasten to offer the congratulations of the House to the members of the Committee who produced this report. They have produced a document admirable for its brevity and yet comprehensive and readily comprehensible. Both the principles they recommend and the details which will arise from the adoption of those principles are lucidly enunciated. And, Sir, it is all the more creditable that they should have produced such results without the assistance of Dr Ibiam and the learned Crown Counsel, now sitting, I am glad to say, beside me. He has so fortified me during the last few days that I appreciate keenly how the Committee must have missed his jovial erudition.

**The Acting Resident, Onitsha Province:**

Sir, I beg to second.

**The Member for Urban Areas other than Port Harcourt  
(Rev. O. Efiang, O.B.E.):**

I would like to make one observation on the motion, Sir. It is not easily comprehensible, and I would suggest that it be submitted to a committee composed, at least, of the Unofficial Members, so that the matter can be thoroughly considered.

**His Honour the Chief Commissioner:**

If no other Member wishes to speak I will put the question. The question before the House is that this motion be adopted. Will those in favour say "Aye" and those to the contrary "No".

The "Ayes" have it.

I will appoint the Committee before the adjournment of this House and I will bear in mind what the leader of the Unofficial Members says.

**The Deputy Director of Education, Eastern Provinces:**

Sir, I beg to move the following:—

"Be it resolved: That the Memorandum on the Imposition  
"of an Education Rate in the Eastern Provinces,  
"which was laid on the table of this House on 2nd  
"August, 1950, be referred to a Select Committee of  
"the House".

Sir, I feel that there is nothing to add to the terms of this Resolution. I think all Members have by now seen the memorandum and have realised that there are several points in it which call, perhaps, for an easier form of debate than the more formal debate of the House.

Sir, I beg to move.

**The Acting Secretary (Finance), Eastern Provinces:**

Sir, I beg to second.

**His Honour the Chief Commissioner:**

If no Member wishes to speak, I will put the question.

**The Provincial Member for the Ogoja Province (Dr F. A. Ibiam,  
O.B.E.):**

I would like to take this opportunity of congratulating the Deputy Director of Education for the production of this memorandum on the imposition of an Education Rate. Like him, we are all worried about the progress of education in our own Region, particularly with reference to primary education. I am in close touch with the difficulties which are before the Education Department in this respect, and we are all anxious that this type of rate should be imposed on the people of the Eastern Region, who are hankering for the right type of elementary education. I



hope, Sir, that when we go through this memorandum in the Committee stage and also in the open assembly we will give it our support and make it a successful memorandum. Thank you, Sir.

**The Second Provincial Member for the Owerri Province  
(Mr D. N. Achara):**

I rise to associate myself, Sir, with what the previous speaker has said concerning the memorandum prepared by the Deputy Director of Education and all those who assisted him in preparing it. Matters affecting education are, in my opinion, next to life itself, because all our future plans and all our development and all that this part of Nigeria requires for her progress are entirely dependent upon education. I humbly crave that all the Members should give a loyal support to the plans set out in this pamphlet. It is true the Deputy Director of Education said the contents of the pamphlet were full of imperfections still we can, in course of time, prune the suggestions set out here so that they may approach perfection. I crave that all of us should assist to work on this new thing coming to us so that we may have something really worth while to tell our people in the villages.

Sir, I support the motion wholeheartedly.

**The First Provincial Member for the Owerri Province  
(Mr M. W. Ubani):**

I only rise to say that I support the motion and to say that this is yet another milestone in the progress of this Region and Nigeria as a whole. I commend it and feel that all Members should give it their support. The time is coming when we shall have to show our appreciation for the things that have been done in the interests of our people. We must give this motion our full support, moral, financial and otherwise.

Sir, I support the motion.

**The Provincial Member for the Owerri (Rivers) Province  
(Mr H. Buowari Brown, O.B.E.):**

I beg, Your Honour, to support what the other speakers have said, and congratulate the Deputy Director of Education. There is only one thing I would like to ask. Whilst we require education in Nigeria, for real progress it must be education of the right type. Some forms of education would be dangerous for Nigeria and I am praying that we will get the education we need—education of the head, heart and hand—to enable our people to be useful members of the community. We need technical education, so that the people in the rural areas will be able to appreciate that Government is doing something to help the country get on. We do not want merely people who can use big words and talk English six-foot long.

Sir, I support the motion.

**The Member for Educational Interests (Mr A. Ikoku, O.B.E.):**

Your Honour, I am sorry that I was not here when the Deputy Director of Education moved the motion, but I have heard sufficient to gather the sense of what is going on and I rise to give my whole-hearted support and to suggest that it should be specifically regarded as a memorandum on rates for primary education. We should make it quite clear that we are discussing primary education and the rating therefor. I am very glad that the matter is going to be referred to a committee, if the House so wishes, and I suppose that will be the stage to discuss details. But I think it is only fair at this stage that I should, together with my colleagues, give the assurance here and now that the Eastern Provinces can rise to the challenge if asked so to do, and guided so to do. Provided that the money comes from resources other than regional finances I think we can, in the name of the Eastern Provinces, say that we shall rise to the occasion. It is common knowledge already, Your Honour, that a lot of private money that does not find its way into the estimates is indeed going into education, by way of financing school buildings, etc., and it is this money which we want to draw into the estimates to control and direct. My friend, the Member for the Ogoja Province, proposed a motion in Legislative Council and I suppose here, too, on free education. I suppose no education is free and what we mean by free education is education paid for by the State. We are all agreed, both Officials and Unofficials who have given thought to the matter, that free education will come, but it will come gradually, and we must ensure that goal with our purses. Indeed, perhaps the first step towards that goal is primary education—by which we mean education from infants to Standard II. But it is difficult to stop short there because Senior Primary Education will suffer from repercussions from the Junior Primary and we cannot say that the halting place is Junior Primary Education. However, we hope the time will not be far distant when every village in this Region has Junior Primary schools, perhaps financed from local funds. I repeat, Sir, I endorse whole-heartedly the policy adopted in the Memorandum. I also want to emphasise that we have reached a stage where we must either go on or lose a good deal of what we have achieved. Education in the Eastern Region has suffered by way of expansion. I hasten to qualify that. I will not say it has been good or other than good, but the bare fact remains that education has suffered from expansion, and we must either strengthen the administrative side or face possible regression, or even chaos. We want to support the Deputy Director in his plea for strengthening the education Inspectorate. I raised the point at Legislative Council last March. We cannot expect the number of children going to school now to remain as it is and we cannot allow the administrative machinery to remain static in the face of the large increases, sometimes four-fold and five-fold in the numbers of schools, children and teachers. That would be inviting trouble

and we might find ourselves faced with quantity at the expense of quality, and even that quantity, Your Honour, might be a doubtful quantity. I believe in education, but education can be a two-edged sword if we attempt to omit the spiritual element and the discipline that should come with education, and we might be preparing the Eastern Provinces for a volcanic eruption. Writing is all right, but it depends on what you write. We should not lose sight of the administrative side, and I would particularly strengthen the Inspectorate. I think one paragraph in the Memorandum makes a strong point of that. I should like to support it very much.

There is another paragraph that talks about referring the whole Memorandum to a committee. It mentions that the Deputy Director recommends that the committee should look into the question of the distribution of grants-in-aid, and that the Deputy Director says that in his opinion it is desirable that the persons to constitute this committee should be high-ranking administrative officers of the Education Department, and so on. But it is my opinion that any committee appointed to look into the question of the distribution of grants-in-aid should contain one or two members of the non-Government side who are interested and who have the experience of administering grants-in-aid at a lower level. I refer to the Voluntary Agencies. We have, for instance, the Christian Council, consisting of the Protestant Missions and also the Roman Catholic Mission—the two biggest Voluntary Agencies. I do not think we should try to draw a line in the administration of grants-in-aid for we certainly want to hear those who have to administer it in the last resort.

With these primary observations I whole-heartedly support the motion.

**His Honour the Chief Commissioner:**

If no other Member wishes to speak I will put the question. The question before the House is that the motion be adopted. Will those in favour say "Aye" and those to the contrary "No".

The "Ayes" have it.

I will appoint the Select Committee before the adjournment of the House to-day.

**Bills**

**NATIVE AUTHORITY (AMENDMENT) ORDINANCE, 1950**

**The Acting Secretary, Eastern Provinces:**

Sir, I beg to move the following:—

"Be it resolved: That this House do advise His Excellency  
"the Governor that the Bill for 'An Ordinance further  
"to amend the Native Authority Ordinance' is  
"acceptable in principle".

Some of the clauses in this Bill, Sir, are so self-evident that I need not refer to them, except to say that they deal with flaws in the existing law which, as we have found by experience, call for correction.

But there are others of a different, and even of a dynamic nature. Clause 3 is dynamic. I do not pretend that the clause as it stands is the best that can be devised. I suspect that it will not stand the test of debate. It has been drafted by men wiser than myself to meet the situation which they have been led to believe exists. For that purpose it is obviously adequate; but there may well be circumstances of which they were unaware, which only debate will disclose. With a mind wide open to amendments, therefore, I will confine myself to the principle underlying the clause. As the law stands to-day a Native Authority can raise an education rate only for schools owned and managed by itself. It cannot raise a rate to support a school owned by a Voluntary Agency, whether or not that Agency is recognised by the Board of Education as qualifying for assistance. And that, Sir, in my submission, is an absurdity. The people of this Region have long declared their willingness to devote their resources to further every stage of education. They have seldom made it a condition that they would support only the schools that their own Native Authorities established and maintained. And where they have sought to impose such conditions, an impartial examination of the facts has revealed local difficulties that could easily be ironed out with a little tact.

The clause, Sir, as it stands, leaves it open to the Native Authorities to impose a rate. It does not compel it to do so, but it does enable it to support, which it cannot do to-day, any school which the Local Education Authority may desire to assist. I commend that clause to the House.

Clause 5 is the only other clause that has attracted my attention. Here, Sir, we are dealing directly with the liberty of the subject and therefore we are at once on our guard. I can aver, Sir, from my experience as a District Officer, that this clause will command the unanimous support of the Native Authorities of this Region. They want to run their own concerns. They believe, and I think correctly, that they can do so, and in doing so will have the full support of their people. Extraneous agencies are to them unavoidable evils which, so far as they are unavoidable, they have learnt to tolerate. It is in keeping with the spirit of this Region—the Local Government Ordinance is a case in point—that the use of extraneous agencies should be confined to their minimum.

Sir, I beg to move.

**The Resident, Ogoja Province:**

Sir, I beg to second.

**The First Provincial Member for the Calabar Province  
(Mr Asuquo Okon):**

I am not opposing this Bill, but there is one point on which I should like some information. It is in clause 4. Clause 4 provides for the appointment of committees for general or special purposes, but it excepts from the powers of such committees the power to make subsidiary legislation and standing rules for the Native Authorities. We want to be assured, Sir, that the powers to make this legislation and the standing rules do not include the power to initiate or propose legislation or standing orders.

**The Second Provincial Member for the Onitsha Province  
(Mr C. D. Onyeama):**

There are one or two clauses in the Bill which have caused me some worry. The first is clause 5, to which reference has already been made. Reading clause 5 as it stands, no person who has not read the Ordinance could make head or tail of it. It says: "Section 43 of the principal Ordinance is hereby amended by the insertion of the expression 'or any servant of a Native Authority duly authorised in writing in that behalf by the Native Authority' immediately after the expression 'ward head' where it occurs in the eighth line of sub-section (1) and the fourth line of sub-section (2)." Several Members of this House will find this complete Greek. For anyone who is a servant of a Native Authority to get a letter from that Native Authority authorising him to arrest another person means that the Bill is giving to the Native Authority, and not to the Police, the right to arrest anyone through one of its servants. In the ordinary law a person who is to be arrested has to be arrested with a warrant, and that has to be obtained by swearing information before a Magistrate. The only exception would be where a person was found in the act of committing a crime. But the amendment which is sought in that section will give the Native Authorities power to arrest anyone in the area without the necessity of a warrant of arrest merely by writing a note, addressed not to the Native Authority Police but to any servant—it might be a Court Messenger, a Labourer, Treasurer, etc. Your Honour, I find it difficult to support this clause of the Bill. It may appear small, but it is very important. I think that the power of arrest should not be given without more proper safeguards.

The other point arises under clause 7. It creates a joint committee between two Native Authorities. It says that this joint committee can sue or be sued as such, and it says also that the powers of such joint committees shall not include the power to impose general or other rates. Well, if it is going to be sued I assume that judgment can go against it. Where is it going to get the funds from to satisfy the judgment? There is no provision in the Ordinance for them to have funds. There are none allocated to them. This joint committee seems to be a body quite

independent of both Native Authorities when it becomes a body corporate. It has its own personality and consequently it is answerable for its own acts and is no longer merely an agent of the Native Authorities creating it. Unless funds are created on which it can draw I fail to see how it can exist. The only thing I can see is that it will have power to collect fees or waive fees and charges, and that strikes me as a very slender source of income. Unless it is allowed a more substantial source of income all the funds will be with the Native Authorities and nothing with the joint committee, and the joint committee when sued in court will have no money.

Clause 5 is more fundamental and I very earnestly hope that the Government side will give consideration to the clause and touch it up a bit. As it stands now it is difficult for me to agree to it, and while at this stage I am not opposing the principle of the Bill I can only say that I do not find myself in complete agreement. I will say no more than that.

**The First Provincial Member for the Cameroons Province  
(Mr J. Manga Williams, O.B.E.):**

Your Honour, we are now dealing with matters connected with Native Authority powers and will therefore confine myself to the question of arrest.

In the Cameroons we have many Native Authorities which are controlled by Native Courts.

There are also many places that are quite near to the boundary between ourselves (British Cameroons) and the French Cameroons and have many foreigners or strangers (from French Cameroons and Nigeria) who are rough in their ways. They are very very rough and I use the words very very to emphasise the manner they treat the people on our side of the Cameroons.

I know of a case in which a chief and member of the Native Authority was invited to his beach when it was reported that a certain Cameroonian was being beaten by the strangers. Though unwell he endeavoured to go out to stop them from beating the man. They combated him and said he was a party in the fight and when reporting the case to the police they caused a lot of their people to go and give evidence against him. He was tried in the Magistrate Court and fined £5 which I imagine to have been quite unjust. Many of such things are happening.

If a report comes that people were fighting in a place far away from the Native Authority and a Police Station, we have messengers who are just as good as Police and the Court or Village Head available may ask the Court Messenger to bring the people in for investigation of the cause in dispute and if found to be a matter which needs arrest and detention that can be done. This does not

mean a direct arrest, but simply to collect information of the nature of the cause to enable them to be sure of the necessary action to be taken.

When you have to deal with obstinate people you must have some chance of controlling them by law. It must be borne in mind that all places in the Cameroons are not like Victoria and Tiko, where we have Police Stations. There are distant places without Police Stations where many terrible things are happening. It is pitiful to see how many unlawful things are going on and I used to feel much distressed while considering by what means such things could be checked.

A man may come from the French Cameroons and finding that the few persons living on the British side are weak, would snatch the opportunity and take things by force or steal and escape back to the French side. The offended should be allowed to detain such a person and lead him to the Court. It is no use for them to fold their hands under such conditions.

From the time I became a Member of the Legislative Council and attended the first meeting I mentioned that the boundary between the French and the British Cameroons was just a small river and people can cross from one side to the other within a few minutes which is about a stone's throw and his political boundary has divided people of one family in two. Those from the other side come across and do what seems best to them and run back to their side. There is nothing to stop them. There are no police and therefore when we talk about arrest these conditions should be considered.

If the Native Authority were allowed to issue notes of arrest, such documents may be regarded as warrants to stop the offender, that he be detained.

I am just preparing to submit to the District Officer and the Resident a report requesting device of some means necessary to be used for checking such people from coming over to the British side and trouble our people.

I am not yet prepared to deal with other things in this Bill, because I find that most of what I consider had been mentioned in this Bill. I feel, Sir, that this Bill will be very helpful and acceptable.

**His Honour the Chief Commissioner:**

If no other Member wishes to speak to the principle of the Bill I will ask the mover to reply.

**The Acting Secretary, Eastern Provinces:**

Sir, to dispose in the first place of clause 4. The committee, Sir, is debarred by this section from making subsidiary legislation, creating subordinate native authorities and making standing rules,

but I think I can give assurance that such a committee would not be stopped from considering what recommendations it should make to the full Native Authority Council for subsidiary legislation, but any such legislation arising out of these considerations must be enacted by the full Native Authority Council, and that is the power which I do not think Members would wish to see delegated to committees.

With regard to clause 5, Sir, the Second Provincial Member for the Onitsha Province took me to task for not reading the section in the principal Ordinance and I had hoped, Sir, that he would be persuaded to read it to the House. Since he did not, I propose to remedy the situation.

Clause 5, amending clause 43 of the Native Authority Ordinance.

“43 (i) Where it is desired that any person should be arrested under—

- (a) sub-section (4) of section 25;
- (b) sub-section (3) of section 26;
- (c) sub-section (2) of section 39; or
- (d) sub-section (3) of section 40,

any member of a native authority or any district head, village head or ward head shall, if time permits and it is otherwise practicable to obtain a warrant, apply to a court having jurisdiction over such person for a warrant directing the arrest of such person, and such warrant shall be issued if the court considers it is a proper case for the issue of a warrant.

(2) Where time does not permit or where for any reason it is otherwise impracticable to obtain a warrant in accordance with the provisions of sub-section (1), any member of a native authority or any district head, village head or ward head may arrest or cause to be arrested such person and such person shall forthwith be taken before a court having jurisdiction over him to be dealt with according to the law”.

Now, Sir, it is misleading to suggest that the servants of the Native Authorities can in all cases proceed without a warrant. There is nothing new in the principle here as I see it. The principle has already been accepted with regard to Native Authorities right down to a Ward Head, that first of all if possible a warrant must be obtained. Only in exceptional circumstances can arrests be made without such a warrant, and then the offender, having been arrested, must be taken forthwith before the Court. It does not seem to me that there is any alteration in the principle already accepted and enacted. If we extend the privilege to the servants of the Native Authorities I would emphasise that under the new clause the authorisation of the servant cannot be verbal and that it must be in writing, which is a very important point



indeed. It is, Sir, as my friend from the Cameroons has said, a matter of the utmost importance to the welfare of people living far away from police stations and unable to obtain assistance from the Police, that the Native Authorities should be able to look after themselves and look after their people. As I very well know, Sir, in some parts of the Cameroons it would take five to ten days to procure a magistrate's warrant and three days at least to obtain a Native Court warrant. It is important that we should look at the whole of the country and not just at the big towns where these powers won't be necessary and, as I see it, Sir, won't be exercised. There are other areas. One has only to consider the creek areas and the smuggling canoes. If you wait to obtain a warrant in the Rivers Province your man is far away with his stolen goods or his smuggled goods. In areas where the village head is sixty or seventy years of age and he must go and effect the arrest or else no arrest can be effected until he is present he might suffer great hardship in doing his duty. Surely that would be a poor reward for his long years of service to his people! I cannot see that there can be any possible objection to granting this power, which is, after all, only a very small expansion, but a vitally necessary expansion, of powers already existing.

**His Honour the Chief Commissioner:**

The question before the House is that this House do advise His Excellency the Governor that this Bill is acceptable in principle to this House. Will those in favour say "Aye" and those to the contrary "No".

The "Ayes" have it.

The House will now resolve itself into Committee to consider the Bill clause by clause.

*The House is in Committee.*

*Title.*

*Enactment.*

*Clauses 1-4.*

*Clause 5.*

**The Provincial Member for the Owerri (Rivers) Province  
(Mr H. Buowari Brown, O.B.E.):**

Clause 5, Sir. Whilst I very much appreciate the point made by the Second Member for the Onitsha Province, I feel that as a member of a Native Authority I must support what the First Member for the Cameroons has said. One thing is much to be appreciated in this clause, and that is that the order to be given must be in writing. That is really essential, because I know of cases where there has been some trouble due to misinterpretation and misapplication, etc., of oral instructions—sometimes purposely and inadvertently at other times.

**The Second Provincial Member for the Onitsha Province  
(Mr C. D. Onyeama):**

On a point of order, Sir. Is the Member proposing an amendment or not? This is not the time to make a speech.

**His Honour the Chief Commissioner:**

If the Member intends to propose an amendment he should be given the opportunity of working up to it. I think the Member who rose on a point of order would appreciate this point when he is in Court conducting a case.

**The Provincial Member for the Owerri (Rivers) Province  
(Mr H. Buowari Brown, O.B.E.):**

I am not making an amendment, Sir, but I would like the clause to stand as it is. The fact that the order must be in writing is there and that fact should be appreciated so that there can be no trouble between the messenger and the Native Authority as to whether the man was sent officially or not, since the authority will be in writing.

**The Member for Professional, Salaried and Wage-earning Classes  
(Mr L. N. Mbanefo):**

On a point of information, Sir, when the proposer of the motion replied he read out from section 43 of the Ordinance and said that this would apply only in cases where it was not practicable to obtain a warrant in the normal way. How does he propose that the Native Authority should meet to appoint a servant to carry out the duties under this sub-section?

**The Acting Secretary, Eastern Provinces:**

Under the interpretation of this and under the definitions of the Native Authority Ordinance is included any member of the Native Authority, and it only requires one member to issue instructions in writing where a warrant is required or an arrest is required. It is not necessary to call the whole of the Native Authority.

**His Honour the Chief Commissioner:**

The question before the House is that clause 5 stands as part of the Bill. Will those in favour say "Aye" and those to the contrary "No".

The "Ayes" have it.

Clause 6.

Clause 7.

The House will now resume.

**The Acting Secretary, Eastern Provinces:**

Sir, I beg to report that the Bill for an Ordinance to amend the Native Authority Ordinance passed through Committee with no amendment.

**His Honour the Chief Commissioner:**

The question is that this House do advise His Excellency the Governor that the Bill for an Ordinance further to amend the Native Authority Ordinance is acceptable. Will those in favour say "Aye" and those to the contrary "No".

The "Ayes" have it.

## THE EDUCATION (AMENDMENT) ORDINANCE, 1950

**The Deputy Director of Education, Eastern Provinces:**

Sir, I beg to move the following:—

"Be it resolved: That this House do advise His Excellency the Governor that a Bill entitled 'An Ordinance to amend the Education Ordinance, 1948' is acceptable in principle".

The amendment which is proposed is to section 26 of the Education Ordinance and is a natural corollary to clause 3 of the Native Authority (Amendment) Ordinance which we have just been debating. The present position is that Local Education Authorities and Local Education Committees can only be formed after I have consulted the Regional Board of Education and submitted the matter for Your Honour's approval. The same applies as regards the recommendations for the powers and duties of such bodies. It is proposed in the amendment that the proposal to form such Education Authorities and Committees and the proposals for their powers and duties can now emanate from the Native Authorities themselves or from the Local Government Councils.

Sir, I beg to move.

**The Acting Secretary, Eastern Provinces:**

Sir, I beg to second.

**His Honour the Chief Commissioner:**

If no Member wishes to speak to the principle of the Bill I will put the question. The question before the House is that this House do advise His Excellency the Governor that this Bill is acceptable in principle. Will those in favour say "Aye" and those to the contrary "No".

The "Ayes" have it.

The House will now resolve itself into Committee to consider the Bill clause by clause.

*The House is in Committee.*

*Title.*

*Enactment.*

*Clause 1.*

*Clause 2.*

The House will now resume.

**The Deputy Director of Education, Eastern Provinces:**

Sir, I beg to report that a Bill entitled "An Ordinance to amend the Education Ordinance, 1948", passed through Committee with no amendment.

**His Honour the Chief Commissioner:**

The question is that this House do advise His Excellency the Governor that this Bill is acceptable to the House. Will those in favour say "Aye" and those to the contrary "No".

The "Ayes" have it.

**His Honour the Chief Commissioner:**

That completes the business on the Order Paper for the Day, Gentlemen, and so I will now announce the membership of the Select Committee to consider paragraph 7 of the report of the Select Committee of Legislative Council on Constitutional Review. It will consist of all the Unofficial Members of this House, together with the Chief Commissioner, the Acting Secretary, Eastern Provinces, and the Senior Crown Counsel—the Chief Commissioner acting as Chairman of the Committee.

The Select Committee to consider the report of the Committee appointed by the House to report on the distribution of the proposed representatives to the new Eastern Regional House of Assembly will consist of all the Unofficial Members of the House, together with the Acting Secretary, Eastern Provinces, the Resident, Owerri Province, and the Resident, Calabar Province, the Acting Secretary, Eastern Provinces, acting as Chairman.

The Select Committee to consider the Memorandum on the Imposition of an Education Rate in the Eastern Provinces shall consist of all the Unofficial Members of this House, together with the Acting Secretary, Eastern Provinces, the Deputy Director of Education, and the Acting Secretary (Finance), with the Acting Secretary, Eastern Provinces, acting as Chairman.

Gentlemen, I think that probably the Acting Secretary, Eastern Provinces, may suggest that there is some business that can be completed this morning and I will ask him to speak to the House before adjournment.

**The Acting Secretary, Eastern Provinces:**

I would like to suggest that the Select Committee to consider the Memorandum on the Imposition of an Education Rate should meet within fifteen minutes of the adjournment of this House. On Monday, Sir, we could take the other two Committees—the one on the Review of the Constitution first and the one on the distribution of Representatives second. I do not think we can do all three in one day.

**His Honour the Chief Commissioner:**

Is it your pleasure that we should arrange our business accordingly?

“ Aye ”.

Is it your pleasure, Gentlemen, that we should now adjourn this House until 9.30 a.m. on Tuesday morning, 8th August?

“ Aye ”.

The House will stand adjourned until 9.30 a.m. on Tuesday morning.

**Adjournment**

*The House adjourned at 10.50 a.m.*



# Debates in the Eastern House of Assembly

Tuesday, 8th of August, 1950

Pursuant to notice the Members of the Eastern House of Assembly met in the Council Chamber, Enugu, at 9.30 a.m. on Tuesday, the 8th of August, 1950.

## PRESENT

### OFFICIAL MEMBERS

- The Chief Commissioner, Eastern Provinces,  
Cdr. J. G. Pyke-Nott, C.M.G., R.N.
- The Resident, Owerri Province,  
Mr J. S. Smith.
- The Resident, Ogoja Province,  
Mr V. K. Johnson.
- The Resident, Calabar Province,  
Mr C. J. Mayne.
- The Acting Secretary, Eastern Provinces,  
Mr F. R. Kay.
- The Acting Resident, Onitsha Province,  
Mr S. P. L. Beaumont.
- The Acting Secretary (Finance), Eastern Provinces,  
Mr J. G. Mackenzie.
- The Deputy Director of Medical Services, Eastern Provinces,  
Dr D. Murray.
- The Deputy Director of Education, Eastern Provinces,  
Mr C. T. Quinn-Young.
- The Acting Deputy Director of Agriculture, Eastern  
Provinces,  
Mr A. F. W. Sheffield.
- The Deputy Director of Public Works, Eastern Provinces,  
Mr C. E. Andreae.
- The Acting Senior Crown Counsel, Eastern Provinces,  
Mr E. N. Egbuna.

## UNOFFICIAL MEMBERS

- The Member for Urban Areas other than Port Harcourt,  
Reverend O. Efiang, O.B.E.
- The First Provincial Member for the Cameroons Province,  
Mr J. Manga Williams, O.B.E.
- The Member for African Commercial Interests,  
Mr G. H. H. O'Dwyer.
- The Member for Professional, Salaried and Wage-earning  
Classes.  
Mr L. N. Mbanefo.
- The First Provincial Member for the Onitsha Province,  
Mr P. E. Chukwurah.
- The Provincial Member for the Ogoja Province,  
Dr F. A. Ibiam, O.B.E.
- The First Provincial Member for the Calabar Province,  
Mr Asuquo Okon.
- The Second Provincial Member for the Cameroons Province,  
Galega, Fon of Bali.
- The Second Provincial Member for the Onitsha Province,  
Mr C. D. Onyema.
- The Member for Urban Aspect of Life in Port Harcourt,  
Mr G. C. Nonyelu.
- The Second Provincial Member for the Owerri Province,  
Mr D. N. Achara.
- The Provincial Member for the Owerri (Rivers) Province,  
Mr H. Buowari Brown, O.B.E.
- The Member for Educational Interests,  
Mr A. Ikoku, O.B.E.
- The Second Provincial Member for the Calabar Province,  
Mr Nyong Essien.

## ABSENT

## OFFICIAL MEMBERS

- The Resident, Rivers Province,  
Mr L. T. Chubb.
- The Acting Resident, Cameroons Province,  
Mr W. D. Spence.

## UNOFFICIAL MEMBER

- The First Provincial Member for the Owerri Province,  
Mr M. W. Ubani.



**Prayers**

At the request of the President, Reverend O. Efiang, O.B.E., the Member for Urban Areas other than Port Harcourt, opened the proceedings of the House with prayers.

**Confirmation of Minutes****His Honour the Chief Commissioner:**

The Minutes of the meeting held on the 5th of August, 1950, having been printed and circulated to Members, is it your pleasure that they should be confirmed?

“Aye”.

**Petitions****The Second Provincial Member for the Onitsha Province  
(Mr C. D. Onyeama):**

Sir, I beg to present a petition from the Non-Onitsha Ibo community residing at Onitsha, addressed to Your Honour through me.

Your Honour, in a nutshell this petition, addressed to Your Honour and the House, calls in question the method which had been adopted in selecting the members of the Onitsha Town Council. Shortly, the petition prays that this House might be disposed to nullify this election, but I would point out that it might not be constitutionally possible for this House to do. If it is decided to consider the matter I would suggest to Your Honour that a Select Committee be formed to consider the circumstances of the case. The House is requested to ask Your Honour to appoint a Commission of Inquiry, and I am authorised to say by the persons presenting this petition that they are prepared to bear the cost of the Commission of Inquiry. That is to say, they do not want it to be a charge on Central or Regional funds.

I do not propose at this stage to go into all the details of this petition. It is short, and I think every member of this House has been given a copy. But I would respectfully suggest, Your Honour, that this petition be referred to a Select Committee of this House.

**His Honour the Chief Commissioner:**

The question before the House is that this petition be referred to a Select Committee of this House. Will those in favour say “Aye” and those to the contrary “No”.

The “Ayes” have it.

I will announce the appointments to the Select Committee in due course.

### Papers Laid

#### The Acting Secretary, Eastern Provinces:

Sir, I beg to lay the following papers on the table:—

Report of the Select Committee appointed by the House to consider paragraph 7 of the Report of the Select Committee of the Legislative Council on Constitutional Review dated the 1st of April, 1950, and to make recommendations thereon.

Report of the Select Committee appointed by the House to consider the Report of the Committee appointed to report on the distribution of the proposed representatives to the new Eastern Regional House of Assembly, and to make recommendations thereon.

### Motions

#### The Member for Urban Areas other than Port Harcourt (Rev. O. Efiang, O.B.E.):

Sir, I beg to move the following:—

“ Be it resolved: That this House do hereby ratify the  
“ nomination of the following to be members of the  
“ Electricity Advisory Council in accordance with  
“ section 10 (2) (b) of the Electricity Corporation of  
“ Nigeria Ordinance, 1950:—

“ Mr G. H. H. O'Dwyer

“ Mr G. C. Nonyelu

“ Mr P. E. Chukwurah

“ Mr C. D. Onyeama ”.

#### The First Provincial Member for the Calabar Province (Mr Asuquo Okon):

Sir, I beg to second.

#### His Honour the Chief Commissioner:

The question before the House is that this Motion be adopted. Will those in favour say “ Aye ” and those to the contrary “ No ”.

The “ Ayes ” have it.

#### The Acting Secretary, Eastern Provinces:

Sir, I beg to move the following:—

“ Be it resolved: That this House adopt the Report of the  
“ Select Committee appointed by the House to consider  
“ paragraph 7 of the Report of the Select Committee  
“ of the Legislative Council on Constitutional Review  
“ dated the 1st of April, 1950, and to make  
“ recommendations thereon ”.

Sir, I once had a cook. He was a good cook as cooks go, and as cooks go he went. Constitutions, like cooks, come and go, and a good Constitution like a good cook tries to cater for all tastes.

Sir, I beg to move.

**The Acting Secretary (Finance), Eastern Provinces:**

Sir, I beg to second.

**His Honour the Chief Commissioner:**

If no Member wishes to speak, I will put the question. The question before the House is that this motion be adopted. Will those in favour say "Aye" and those to the contrary "No".

The "Ayes" have it.

**The Acting Secretary, Eastern Provinces:**

Sir, I beg to move the following:—

"Be it resolved: That this House adopt the Report of the  
 "Select Committee appointed by the House to consider  
 "the Report of the Committee appointed to report on  
 "the distribution of the proposed representatives to the  
 "Eastern Regional House of Assembly, and to make  
 "recommendations thereon".

**The Acting Secretary (Finance), Eastern Provinces:**

Sir, I beg to second.

**His Honour the Chief Commissioner:**

If no Member wishes to speak to the motion I will put the question. The question is that this House adopts the motion. Will those in favour say "Aye" and those to the contrary "No".

The "Ayes" have it.

**Bills****THE EXCHANGE CONTROL ORDINANCE, 1950****The Acting Secretary (Finance), Eastern Provinces:**

Sir, I beg to move the following:—

"Be it resolved: That this House do advise His Excellency  
 "the Governor that the Bill entitled 'An Ordinance  
 "to confer powers and impose duties and restrictions  
 "in relation to gold, currency, payments, securities,  
 "debts and the import, export, transfer and settle-  
 "ment of property, and for purposes connected with  
 "the matters aforesaid' is acceptable in principle to  
 "this House".

Sir, as Members are aware, exchange control was originally introduced in Nigeria early in the war with the main object of creating a pool of assets, namely, gold, foreign currencies and certain securities, available to the countries in the sterling area, including Nigeria, for purposes outside the sterling area for the prosecution of the war. The second main object was to prevent a drain on this foreign exchange pool by unnecessary payments abroad. This exchange control was introduced under the Defence

(Finance) Regulations, 1940, which were subsequently replaced by the Nigeria Defence (Finance) Regulations, 1942. These latter Regulations expire on the 10th December, 1950, and the object of this Bill now before the House is to provide new legislation controlling transactions in gold, foreign currency and securities in Nigeria in place of these Regulations. This new legislation now proposed incorporates in a more orderly form and in greater detail the legislation already in force under the Defence Regulations, and closes certain loopholes in exchange control by which some people, not necessarily in this country, have managed to evade the control.

Although the war is now over, control of foreign exchange transactions is still necessary to meet an abnormal situation arising from a long and very arduous war. We are in a difficult transitional period between war conditions and normal peace-time conditions. As the world returns to normality the need for exchange control will become less urgent and therefore exchange control legislation can be regarded as a temporary measure, although it is impossible to say how long it will be necessary.

In the memorandum which I think has been sent to Members, Members will have read also the explanation of the advantages of membership of the sterling area. Nigeria depends mainly on the sterling area for markets for its exports and for the backing of its currency. People in Nigeria, as in the United Kingdom, may at times feel frustrated and disappointed when they cannot always obtain the things they would like from countries, such as the United States, outside the sterling area, but we must always remember that the prosperity of Nigeria depends so much on its exports. Nigeria has a steady market for its exports through membership of the sterling area and Nigeria can obtain the bulk of her requirements from the sterling area. By membership of the sterling area Nigerian currency is freely transferable into sterling and through sterling into the currencies of other countries in the sterling area. Without membership of the sterling area Nigerian currency would only be freely transferable within a smaller area and probably Nigeria would be forced into a system of bilateral trading, that is, special agreements with individual countries on the basis of "Take my goods and I'll take yours". This system would be very difficult to administer and would almost certainly lead to a loss in trade. Finally, we must remember that the reserves of Government and the Marketing Boards are in sterling. It is, therefore, clear that membership of the sterling area is more definitely advantageous to Nigeria. This being so, it is of vital importance to Nigeria, as it is to the other countries of the sterling area, that the stability of sterling should be maintained. To maintain the stability of sterling it is essential to control strictly the transfers of gold, sterling, currency, securities and other property between the sterling area and countries outside the sterling area. This Bill

now before the House will provide such controls, which are no more strict than the controls imposed in other countries which are members of the sterling area. I would like to stress here, as it is stressed almost throughout the Bill, that very wide powers are given to the Financial Secretary under the Bill to grant exemptions by official orders and also in individual cases, and that it is the intention to interfere as little as possible with desirable trade and financial transactions.

Turning now to an examination of the Bill itself which, to say the least, Sir, appears pretty formidable, I would point out that the Bill is divided into six parts and no less than six schedules. I would first invite Members' attention to certain terms and expressions used throughout the Bill. I would particularly refer to the expression "authorised dealer", which means any dealer authorised by the Financial Secretary to act for the purpose of this Ordinance as an authorised dealer in relation to gold or, as the case may be, foreign currency. Normally banks are appointed authorised dealers. This is defined in section 42 (1) of the Bill.

Secondly, a definition of the term "foreign currency". The definition is in section 1 (4) of the Bill. I would point out that "foreign currency" does not include West African Currency, nor any currency issued by the Government or under the laws of any of the scheduled territories. "Scheduled Territories" means any of the territories which are shown in the first schedule to the Bill. The expression "Scheduled Territories" is now being used in place of the sterling area, for one or two reasons. One of these reasons is that the expression "sterling area" is sometimes widely and loosely used to include all countries which found it convenient in the past to link their currencies to Sterling and to keep their reserves either wholly or partly in London. Some of these countries do not belong to the legal sterling area and so the continued use of the expression "Sterling Area" is liable to misunderstanding. In future we will abandon the use of the expression and use "Scheduled Territories" instead. The list of Scheduled Territories is shown in the first schedule to the Ordinance. The Financial Secretary can alter or amend this schedule.

To continue, Sir, Part I of this Bill deals with gold and foreign currency, and the general effect of this part of the Bill is to bring all dealings in gold and foreign currency under control. Clause 1 in that section is divided into three parts and provides that in all dealings in gold one party to the transaction must be an authorised dealer who, as I have already defined, must be a person authorised by the Financial Secretary. Without that there could be no control over the transactions in foreign currency. Foreign currency includes balances at banks payable in foreign currency. Again,

provision is made for the Financial Secretary to allow variations in appropriate cases and to attach conditions to the use to which the currency or gold is put.

The general purpose of clause 2 is to require persons within its scope to offer for sale to an authorised dealer any gold or any "specified" foreign currency which may be at their disposal. This provision is basic to exchange control since it ensures that all gold and foreign currencies which can be used effectively in making payments abroad can be mobilised for this purpose. Specified currencies are those specified by the Financial Secretary, and are generally those which are useful for making payments abroad, but not currencies which are not in general use for purposes of international settlements, or which are so unstable in value as to be unattractive for these purposes. The terms on which authorised dealers purchase the gold or foreign currencies will be authorised by Government and will be subject to small and uniform handling charges.

Sub-sections (2) and (3) provide that in cases where Government has given permission for a person who is in possession of gold or specified foreign currency to retain it for a specific purpose or to obtain it for that purpose, and if he fails to use it for these specific purposes or these purposes become inoperative, he must sell it to an authorised dealer.

Sub-section (4) provides that if a person in accordance with sub-section (1) offers specified currency to an authorised dealer at a higher price or otherwise not in accordance with the terms authorised, the offer shall not be considered as effective in accordance with this Bill.

Sub-section 5 provides that if a person fails to offer gold or specified currency to the authorised dealer, that gold or specified currency will vest in the Financial Secretary. That does not mean that it will be confiscated. It means that the Financial Secretary will pay him the same as if he had offered it to an authorised dealer.

Sub-section 6 provides that the burden of proof that he did offer the gold lies on the owner.

Clause 3 is necessary because in the past there have been difficulties in prosecuting persons having gold or specified currencies who have claimed that they were not entitled to offer them to Government as they only held them on behalf of other persons.

Clause 4 deals with Travellers Cheques. Since Exchange Control was introduced Travellers Cheques issued to persons who are travelling in the Scheduled Territories are marked as cashable in the Scheduled Territories only. They do not involve any transactions in foreign exchange and so this Bill does not apply to them. The Bill applies only to those Travellers Cheques and

similar instruments by means of which travellers obtain their requirements in foreign currencies abroad. Travellers Cheques and Letters of Credit are not expressed in any standard form but are normally an indication to a foreign banker, or correspondent, that the issuing bank will in due course reimburse them for exchange made available to a duly accredited holder of the document. This in the hands of an accredited holder is equivalent to foreign exchange, and it is necessary to regulate the circumstances under which it may be acquired. Travellers Cheques might either be made out in sterling, but cashable elsewhere, or they can be made out in foreign exchange. They are to be treated in the same way as foreign currency.

Part II of the Bill deals mainly with payments by residents in Nigeria to or for the benefit of persons residing outside the Scheduled Territories. The payments may be made either in or outside Nigeria

In clause 5 there are three categories of payments by residents in Nigeria which are prohibited without the approval of the Financial Secretary.

- (i) The straightforward payment (including a payment to the credit of the account of another person, e.g., at a bank);
- (ii) Payment to another resident in the Scheduled Territories by order or on behalf of a person not resident in the Scheduled Territories;
- (iii) Placing a sum to the credit of a person residing outside the Scheduled Territories.

The proviso allows persons in Nigeria to receive payments by their debtors residing outside the Scheduled Territories, such payments to be in the manner prescribed for this particular transaction.

Clause 6 deals with payments outside Nigeria. It prohibits, except with the permission of the Financial Secretary, any payment by residents in Nigeria to persons anywhere outside Nigeria to or for the credit of a person resident outside the Scheduled Territories. But sub-section 2 of this clause makes it clear that residents in Nigeria are free to make such payments if they are using currency acquired from an authorised dealer, or retained by them with the permission of the Financial Secretary for this particular purpose.

Clause 7 deals with another class of payments which have become known as compensation payments. These deals take many forms, but all have one feature in common, namely, they avoid an apparent transfer of funds between Nigeria and a country outside the Scheduled Territories or vice versa. For instance, a person in Nigeria owes tuition fees for his child at school in, say, Canada.

Similarly at the same time a Canadian firm owes a resident in Nigeria certain funds, and so the first resident in Nigeria pays to the second resident in Nigeria the tuition fees which the first resident owed to the firm in Canada. This is not only a transfer of funds, it is a settlement of debt outside the Scheduled Territories. All such payments are prohibited, except with the permission of the Financial Secretary.

Part III of the Bill is concerned with the control of transactions in and the custody of documents relating to securities, defined as shares, stock, bonds, notes, debentures, debenture stock, and units under a unit trust scheme. The object is to prevent the transfer of any security or interest in any security from a resident in Nigeria to a person residing outside the Scheduled Territories without the permission of the Financial Secretary.

Briefly, clause 8 provides that no issue of securities shall take place in Nigeria without permission if the person receiving the security is outside the Scheduled Territories.

Clause 9 deals with the control of transfers of securities or coupons, a coupon representing dividends or interest on a security. The transfer must have the permission of the Financial Secretary if parties reside outside the Scheduled Territories.

Clause 10 prohibits, except with the permission of the Financial Secretary, the issue of bearer certificates or coupons. A bearer certificate means a certificate of title to securities by delivery of which the title to the securities is transferable.

Clause 11 controls the substitution of a security registered in Nigeria by another registered outside Nigeria, and clause 12 similarly prohibits, except with permission, the obtaining of capital payments outside Nigeria for securities registered in Nigeria.

Clauses 13 to 16 provide that every document of title to a security is either physically located or deposited with a responsible person who can be trusted not to allow its transfer except in accordance with the rules of exchange control, or alternatively, that the transfer takes place on a register in Nigeria.

Clause 17 contains special provisions regarding certain securities specified by Government Order. The securities are those conferring the right to payments in a specified currency.

Part IV of the Bill concerns the control of the import and export of currency, securities, etc.

Clauses 21 and 22 are, I think, fairly simple and I do not think they require much explanation, but I should add that these controls are already in force under the Defence Regulations, and certain relaxations have been made, and under the clauses of this Bill the Financial Secretary may permit the import or export where he considers necessary.



Clause 23 concerns payments for export from this country. It is necessary to secure that the earnings of our exports are returned in full to this country and in the right way. Experience has shown that control over transactions in goods must be backed by powers to deal in the last resort with the goods themselves, though it may not become necessary.

Parts V and VI deal with several matters which I do not think require detailed comment.

Clause 24 requires residents in Nigeria to make sure that debts due to them from persons residing outside the Scheduled Territories are duly paid and refrain from any act which would delay the collection of the debts.

Clause 25 imposes a general obligation not to delay the sale, or, as the case may be, the importation of certain goods when permission has been granted for the sale or importation.

Clause 26 deals with property obtained by the infringement of this Bill and its disposal.

Clause 30 deals mainly with Companies abroad which are controlled from Nigeria and this should be read in conjunction with Schedule 2 of the Bill which goes into more detail.

Clause 31 is important. It enables the Financial Secretary to make exemption orders modifying the severity of exchange control. This power will be used extensively.

Clause 35 is also important. It states that this Bill will also apply to the Crown and all Government transactions.

Clause 32 and the Third Schedule referring to it concern blocked accounts. Blocked accounts are explained in paragraph 10 of the Objects and Reasons. "A blocked account is an account with a bank in Nigeria, the balance on which may not be dealt with in any way except with the permission of the Financial Secretary." "This provision is necessary in order to provide a method whereby a debtor can discharge his debt to a non-resident without involving any immediate drain on foreign exchange resources."

Clause 42 contains general provisions as to the interpretation of expressions used in this Bill.

I do not think it is necessary to go into the detail of the schedules attached to the Bill. I have referred already to the first, second and third schedules. On the fourth and fifth I do not think any comment is necessary. The sixth schedule is in connection with clause 36 of the Bill, and this provides that notwithstanding the expiration of the Defence Regulations (Supplies and Services) Retention Order, 1946, the Financial Secretary may by order

continue in force any or all of the Defence Regulations specified in this schedule as are in his opinion necessary for purposes ancillary to the principal objects of this Bill.

I regret I have not gone into many details, but if any explanations are required I will do my best to give them.

This Bill, Sir, is essential for the economic welfare of Nigeria and I commend it to the House.

**The Acting Secretary, Eastern Provinces:**

Sir, I beg to second.

**The Member for Professional, Salaried and Wage-earning Classes  
(Mr L. N. Mbanefo):**

I should like to ask the Secretary (Finance), Sir, why such an important Bill has no penalty clause. It appears that the only penalty is in clause 26, which gives the Financial Secretary power to deal with any property obtained by an infringement of this Ordinance. It does seem to me that this is not satisfactory, but there may be special reasons for not including a penalty clause.

**The Second Provincial Member for the Onitsha Province  
(Mr C. D. Onyeama):**

Your Honour, clause 33 of the Bill is rather obscure. Sub-clause 33 (1) says:—

“It shall be an implied condition in any contract that, where, by virtue of this Ordinance the permission or consent of the Financial Secretary is at the time of the contract required for the performance of any term thereof, that term shall not be performed except in so far as the permission or consent is given or is not required.

Provided that this sub-section shall not apply in so far as it is shown to be inconsistent with the intention of the parties that it should apply, whether by reason of their having contemplated the performance of that term in despite of the provisions of this Ordinance or for any other reason.”

That appears to mean that whereas under sub-clause 1 it is proposed that the consent of the Financial Secretary shall be an implied term, if the parties do not intend the performance with the consent of the Financial Secretary they can go on with their contract despite the provisions of the Ordinance. I cannot understand it.

**The Member for Urban Areas other than Port Harcourt  
(Rev. O. Efiang, O.B.E.):**

I should like to make a few observations on the principle of the Bill while the mover gathers material to answer the last speaker. I rise to support the Bill in principle. It has been described by the mover as formidable. I think it is very very obtruse, but I can do

no more than support it if by so doing we shall get Nigeria to retain her position in the sterling world, or what is now called the Scheduled Territories. I understand that by being part of the sterling area we could block and do more exportation than importation which could accelerate our return to normal. How and when to return to normal has been the great question in the minds of the which could accelerate our return to normal. How and when to return to normal has been the great question in the minds of the people. Of course, these complicated Ordinance cannot be understood by them. A woman in Calabar, who has considerable possessions in Fernando Po, cannot understand why she should be a poor woman in Calabar and rich in Fernando Po. This question is always in the minds of our people, and I hope Government will do all in their power to hasten the time when we shall return to normal so that all the markets of the world could be thrown open to us.

**The Member for Urban Aspect of Life in Port Harcourt  
(Mr G. C. Nonyelu):**

Sir, on a point of information. The Secretary (Finance) described authorised dealers as banks. I would like to know if it is the intention of Government to appoint certain banks to be authorised dealers, or is it just a question of banks established under the Companies Ordinance or under the Companies Act.

**The Second Provincial Member for the Onitsha Province  
(Mr C. D. Onyeama):**

I should like an explanation, Sir, on two small points. One arises in clause 35 . . .

**The Provincial Member for the Owerri (Rivers) Province  
(Mr H. Buowari Brown, O.B.E.):**

The Member is out of order, Sir.

**The Second Provincial Member for the Onitsha Province  
(Mr C. D. Onyeama):**

The term "competent authority" is not defined in clause 43.

**His Honour the Chief Commissioner:**

The Member will get opportunity again in Committee. The Member has risen on a second point of information as he is entitled to, but I think the mover of the Bill is waiting as all the points of information that have been raised are not against the principle of the Bill but in respect of matters that can be dealt with in Committee.

If no other Member wishes to speak to the principle of the Bill I will call the mover to reply.

**The Acting Secretary (Finance), Eastern Provinces:**

With regard to the point raised by Mr Mbanefo, penalties are given in the Fifth Schedule. This schedule provides fully for the enforcement of the Ordinance.

With regard to the question of authorised dealers raised by the Member for Port Harcourt, there is no question of banks being automatically authorised dealers. The Financial Secretary will appoint such persons as he considers fit. Certain banks may be the most competent persons to deal with exchange control and it is possible that there will be more control by persons such as banks. Regarding the question by the Second Provincial Member for the Onitsha Province, I think one has to read clause 33 (1) and the proviso carefully. In the principal part of the sub-clause it is stated: "it shall be an implied condition that, where, by virtue of this Ordinance the permission or consent of the Financial Secretary is at the time of the contract required for the performance of any term thereof, that term shall not be performed except in so far as the permission is given or is not required."

The proviso meets the case where both parties were well aware that permission would not be given to do what they agreed to do, but nevertheless they fully intended to do it. In such a case the contract is to do something illegal and the law, apart from the clause, would be that the contract is illegal and void.

I do hope that these explanations satisfactorily answer the questions put by Members.

**His Honour the Chief Commissioner:**

The question before the House is that this House do advise His Excellency the Governor that this Bill is acceptable in principle to the House. Will those in favour say "Aye" and those to the contrary "No".

The "Ayes" have it.

The House will now resolve itself into Committee to consider the Bill clause by clause.

*The House is in Committee.*

**The Member for Professional, Salaried and Wage-earning Classes  
(Mr L. N. Mbanefo):**

Might I suggest that we deal with the Bill in parts instead of going through it clause by clause.

**His Honour the Chief Commissioner:**

It is acceptable to the House that we should go by parts?

"Aye".

*Title.*

*Enactment.*

*Clauses 1-4.*

**The Member for Urban Areas other than Port Harcourt  
(Rev. O. Efiang, O.B.E.):**

There is a printer's error in clause 1, sub-section 4 (b), line 1.

**His Honour the Chief Commissioner:**

I do not think we need pass a formal amendment in the House. It will be sufficient to say that the House has observed this printer's error.

**The Member for Urban Areas other than Port Harcourt  
(Rev. O. Efiang, O.B.E.):**

There is another also in line 7, clause 2, sub-section (5).

*Clauses 5-7.*

*Clauses 8-20.*

*Clauses 21-23.*

*Clauses 24-30.*

*Clauses 31-43.*

**The Member for Urban Aspect of Life in Port Harcourt  
(Mr G. C. Nonyelu):**

I have just a point of information arising in clause 42, sub-clause (1) where mention is made of authorised dealers. Can I get an assurance from the Acting Secretary (Finance), that this right will be exercised freely, that is, that the appointment of authorised dealers will be freely given to banks constituted under the Companies Ordinance or under the Companies Act, having a registered business in Nigeria, and that it is not a question of selecting one or two of them.

**The Acting Secretary (Finance), Eastern Provinces:**

I regret that I cannot give that assurance as it is left to the discretion of the Financial Secretary and I cannot assume decisions which he will take.

**The Member for Urban Aspect of Life in Port Harcourt  
(Mr G. C. Nonyelu):**

In that respect, may I humbly move the following:—

“ ‘authorised dealer’ means, in relation to gold or any foreign currency, a person for the time being already dealing in financial securities ” and not “ for the time being authorised by the Financial Secretary ”.

**The Acting Secretary (Finance), Eastern Provinces:**

May we have the reason for that and may we know what is meant by “ persons already dealing in financial securities? ”

**The Member for Urban Aspect of Life in Port Harcourt  
(Mr G. C. Nonyelu):**

The object of the amendment is to ensure that all persons who now deal in gold or foreign currency should have the right to continue to deal with foreign currency and gold under this Ordinance, otherwise a situation will arise where one bank in perhaps ten will be

authorised dealers. We all know that banks must be dealing with gold and foreign currency in order to enable their customers to carry out their business transactions. If some banks have a monopoly in dealing with foreign securities they will be able to charge as high a rate as they like. If there is some competition it would make for a moderate rate of exchange and it would also mean that there would not be a loss in profits and business to those banks not so duly authorised.

**The Acting Secretary (Finance), Eastern Provinces:**

May I hear the amendment which my friend wishes to make?

**The Member for Urban Aspect of Life in Port Harcourt (Mr G. C. Nonyelu):**

“ ‘Authorised dealer’ means, in relation to gold or any foreign currency, a person for the time being already dealing in such gold or foreign currency.”

**The Deputy Director of Education, Eastern Provinces:**

It is somewhat unusual for me to speak on such matters, but I am so pleased to find something in this discussion that I can understand. I should like to ask the Member who has proposed this amendment whether by “persons already dealing in foreign currency” he would include some of the gentlemen I met on tour in the Kumba market. Is it desired to make those transactions legal, Sir?

**The Acting Secretary, Eastern Provinces:**

I think we can give the Member for Port Harcourt an assurance that the Financial Secretary will exercise those powers in the best interests of Nigeria as a whole, and I think that should satisfy him.

**The Member for Urban Aspect of Life in Port Harcourt (Mr G. C. Nonyelu):**

I cannot say that I am perfectly satisfied. This is a question of control and we all know what it means when unlimited power of control is given to one individual. That power may be exercised liberally, but not necessarily in the best interests of Nigeria. We are all human beings, and I think we should be more definite. This is a question of exchange control and the control of imports and exports, and where people are already dealing in securities such as gold and foreign currency they should have the right to call on the Financial Secretary to give them the authority to so deal.

**The Member for Professional, Salaried and Wage-earning Classes (Mr L. N. Mbanefo):**

This seems to be quite inconsistent with the motion passed before. The definition proposed by my friend would nullify the whole purpose of the Bill and there would be no control. People would be able to do just as they liked.

**His Honour the Chief Commissioner:**

Does the Member wish to pursue his amendment?

**The Member for Urban Aspect of Life in Port Harcourt  
(Mr G. C. Nonyelu):**

I am not opposing the principle, but this is a question of detail.

**The Acting Secretary (Finance), Eastern Provinces:**

I should like to add, Sir, that this Bill is going to be common to all the Scheduled Territories, and I think the power of authorisation must remain with Government. Government must have the right to authorise or otherwise. As far as I know, Sir, all responsible banks are automatically appointed authorised dealers. There is no intention whatsoever to remove authority already given to any bank. I see no reason why they should be struck off the register, but I cannot pre-judge the Financial Secretary's decision in the matter.

**His Honour the Chief Commissioner:**

I will put the amendment.

**The Acting Secretary (Finance), Eastern Provinces:**

The Member for Port Harcourt made another point. If only one or only a few banks are made authorised dealers they would make a lot of money out of the deals. The charges for these deals are laid down by Government and there is no question of one bank getting more out of it. Definite fees are laid down.

**His Honour the Chief Commissioner:**

The question is that clause 42, sub-section (1) be amended by deleting all the words after the word "being" in the fifth line of the sub-section and inserting in place thereof the words "dealing in such securities". Will those in favour say "Aye" and those to the contrary "No".

The "Noes" have it.

**The Second Provincial Member for the Onitsha Province  
(Mr C. D. Onyeama):**

Clause 35, Sir, I think the word "Act" in the penultimate line of the clause is clearly a mistake and it should be "Ordinance".

**The Acting Secretary (Finance), Eastern Provinces:**

I agree, Sir. This was taken from the United Kingdom drafting.

**The Second Provincial Member for the Onitsha Province  
(Mr C. D. Onyeama):**

I think, Sir, also that in the third line there is a point to which I should like to draw attention. I have not been able to get a definition of the term "competent authority". It is not defined in clause 42.

**His Honour the Chief Commissioner:**

I am not quite clear whether or not the Member is pressing an amendment.

**The Second Provincial Member for the Onitsha Province  
(Mr C. D. Onyeama):**

Sir, I want Government's definition of "competent authority". I think it should be defined.

**The Acting Senior Crown Counsel, Eastern Provinces:**

Sir, the word "competent authority" is not defined in this Ordinance, but if members realise that these are more or less provisions which were originally contained in Regulations and Orders made during the war they may understand why "competent authority" which appears in some of them is not defined. I think it is proper to assume in connection with this Ordinance that the competent authority is the Financial Secretary. The point raised by the Second Provincial Member for the Onitsha Province will be taken into consideration with a view to inserting a proper definition of that word, if it is really considered necessary.

**The Second Provincial Member for the Onitsha Province  
(Mr C. D. Onyeama):**

I am very sorry, but this Ordinance now proposes to set up the law as regards exchange control. It is a complete document in itself and all the terms which are used such as "Authorised dealer" have all been defined. There is no definition of the term "competent authority" in this Bill and in my humble view the Bill is therefore incomplete because there is a term which has not been given a definition. Even in the Defence Regulations the term "competent authority" was defined in respect of each matter with which it dealt, Food Control and so on.

**The Acting Senior Crown Counsel, Eastern Provinces:**

The point is, Sir, that the Member will no doubt have an opportunity at a later stage or in another House to deal with this matter. I can give him an assurance that his point will be noted with a view to further consideration.

**The Second Provincial Member for the Onitsha Province  
(Mr C. D. Onyeama):**

May I suggest that the House will possibly add a note in its recommendations to Government accepting the Bill that the term "competent authority" be defined.

**His Honour the Chief Commissioner:**

This House will certainly make the observations that it has been noticed that there has been no definition of the term "competent authority".



**The Member for Professional, Salaried and Wage-earning Classes  
(Mr L. N. Mbanefo):**

It does seem to me to be a typographical mistake. Under the Defence Regulations the Financial Secretary was the competent authority and I think the intention was that it should be the Financial Secretary in this case. It could quite easily be remedied.

**His Honour the Chief Commissioner:**

I am not an expert at this but it does seem to me that the term "competent authority" is intended to cover the various Financial Secretaries of the different countries.

The other question raised by the Member was the word "act" in the last line but one. Will the Member be satisfied if reference is made to this when forwarding the Bill?

**The Second Provincial Member for the Onitsha Province  
(Mr C. D. Onyeama):**

I think it has already been admitted that the word should be "Ordinance".

**The Acting Secretary (Finance), Eastern Provinces:**

The word "act" occurs several times and it is a mistake. The word should be "ordinance".

**His Honour the Chief Commissioner:**

Is it necessary for this House to pass a formal amendment?

**The Acting Secretary (Finance), Eastern Provinces:**

It is not only in one place. There are several other places where the word "act" has been used in error.

**His Honour the Chief Commissioner:**

It appears again to be one of those errors that have crept in.

**The Acting Secretary (Finance), Eastern Provinces:**

It is a general Bill and it has not been well prepared in adapting the wording for Nigeria.

**The Provincial Member for the Ogoja Province (Dr F. A. Ibiam,  
O.B.E.):**

I think it needs to be gone through very carefully as there are a number of mis-spellings, and these should be attended to before the Bill goes finally to Legislative Council.

**His Honour the Chief Commissioner:**

The Member can rest assured that before we make our recommendations the Bill will be gone through for these printing errors and they will all be pointed out.

**The Member for Professional, Salaried and Wage-earning Classes  
(Mr L. N. Mbanefo):**

The whole of Part VI needs examination. The term "competent authority" occurs in several places, possibly due to the speed with which the Bill was prepared.

**His Honour the Chief Commissioner:**

The question is that clauses 31 to 43 stand as part of the Bill. Will those in favour say "Aye" and those to the contrary "No".

The "Ayes" have it.

*First Schedule.*

*Second Schedule.*

*Third Schedule.*

*Fourth Schedule.*

*Fifth Schedule.*

*Sixth Schedule.*

The House will now resume.

**The Acting Secretary (Finance), Eastern Provinces:**

Sir, I beg to report that the Bill for "An Ordinance to confer powers and impose duties and restrictions in relation to gold, currency, payments, securities, debts, and the import, export, transfer and settlement of property, and for purposes connected with the matters aforesaid" passed through Committee with no amendment.

**His Honour the Chief Commissioner:**

The question before the House is that this House do advise His Excellency the Governor that this Bill is acceptable to the House. Will those in favour say "Aye" and those to the contrary "No".

The "Ayes" have it.

THE CUSTOMS (AMENDMENT) ORDINANCE, 1950

**The Acting Secretary (Finance), Eastern Provinces:**

Sir, I beg to move the following:—

"Be it resolved: That this House do advise His Excellency the Governor that a Bill entitled 'An Ordinance to amend the Customs Ordinance' is acceptable in principle".

The Bill has two objects. First, clause 2 of the Bill provides for the repeal of sections 40, 41 and 42 of the Customs Ordinance and the substitution therefor of three new sections. Section 40 of the Customs Ordinance empowers the Governor-in-Council to prohibit importation, carriage coastwise or exportation of any goods whatsoever. Any such Order by the Governor-in-Council may prohibit absolutely, or for a specified period, or except on compliance of conditions stated in the Order. Section 41 of the Ordinance prohibits the import of the goods detailed in the Second Schedule of the Ordinance and also provides that the Governor-in-Council may from time to time by Order add or delete any goods to or from

the schedule. Section 42 of the Ordinance prohibits the export of the goods detailed in the Third Schedule of the Ordinance, and similarly also authorises the Governor-in-Council to add to or delete from this schedule. It will be noted that in the Third Schedule some goods are stated by name and that the export of all other goods is also prohibited, except under a general or special permit or licence issued by the Comptroller or by such other person as may be authorised by him.

It has been found that section 40 is not in practice very satisfactory, because questions have arisen as to its exact scope. Also, the emergency legislation under which Regulations have been made controlling imports and exports expire on the 9th December. It will therefore be appreciated that it is urgently necessary to make new provision for the regulation of the importation, exportation and carriage coastwise of goods in accordance with the present-day requirements of this country.

Clause 2 of the Bill will effect the necessary amendment to the Customs Ordinance. This clause, as I have said, substitutes three new sections, Nos. 40, 41 and 42, for the existing sections 40, 41 and 42 in the Ordinance. The new section 40 empowers the Governor-in-Council to prohibit, restrict or regulate importation of goods and the new section 41 similarly empowers the Governor-in-Council to prohibit, restrict or regulate the exportation of goods. The new section 42 authorises the Governor-in-Council to control the carriage coastwise of goods.

These new sections are more comprehensive and more specific than the existing section 40 of the Ordinance and will enable the Governor-in-Council to control the importation, exportation and carriage coastwise of goods as and when necessary.

The object of the amendments proposed by clauses 3 and 4 of this Bill are clearly explained in the "Objects and Reasons" given at the end of the printed copy of the Bill. These amendments to sections 77 (1) and 85 of the Ordinance will enable regulations to be made providing for the charging of Customs area rent as well as King's Warehouse rent, and the operation of King's Warehouse procedure may then be deferred without removing the incentive i.e., the payment of rent) to quick clearance from the Customs area. Regulations will also be made for the charging of Customs rent at Customs areas at Apapa, Port Harcourt and Bota, where the Customs areas are not under the control of the Customs Department. Apapa and Port Harcourt are under the control of the Railway, and Bota is under the control of the Cameroons Development Corporation.

Sir, I commend this Bill to the House.

**The Acting Secretary, Eastern Provinces:**

Sir, I beg to second.

**His Honour the Chief Commissioner:**

If no Member wishes to speak to the principle of the Bill I will put the question.

The question is that this House do advise His Excellency the Governor that this Bill is acceptable in principle to this House. Will those in favour say "Aye" and those to the contrary "No".

The "Ayes" have it.

The House will now resolve itself into Committee to consider the Bill clause by clause.

*The House is in Committee.*

*Title.*

*Enactment.*

*Clauses 1-4.*

The House will now resume.

**The Acting Secretary (Finance), Eastern Provinces:**

Sir, I beg to report that the Bill for "An Ordinance to amend the Customs Ordinance" passed through Committee with no amendment.

**His Honour the Chief Commissioner:**

The question is that His Excellency the Governor be advised that the Bill for an Ordinance to amend the Customs Ordinance is acceptable to the House. Will those in favour say "Aye" and those to the contrary "No".

The "Ayes" have it.

Gentlemen, that concludes our business of this session, and after adjourning the House I wonder whether Members would remain behind a minute or two as the Secretary, I think, would like to discuss the question of getting ahead with some further business this morning. Perhaps the Secretary will discuss this with you after the House has been formally adjourned. I adjourn the House *sine die*.

**Adjournment**

*The House adjourned at 11 a.m.*