

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 6th December, 2001

The House met at 2.30 p.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

ORAL ANSWERS TO QUESTIONS

Question No.742

REFUND OF SACCO SHARES TO MR. GICHUHI

Mr. Muiruri asked the Minister for Agriculture:-

(a) whether he is aware that Mr. Njenga Kahura Gichuhi, ID.No.5468076, who worked as a foreman with Kenya Ports Authority, Mombasa, from 1965 to January, 2001, has not been refunded his shares by Mombasa Ports SACCO Society Limited; and,

(b) when he will be refunded.

The Assistant Minister for Agriculture and Rural Development (Mr. J.D. Lotodo): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am not aware.

(b) Mr. Njenga Kahura Gichuhi was refunded his shares amounting to Kshs89,119 after netting off his loan balance interest and part payment against his total accumulated savings of Kshs139,730. The payment was done in the month of June, 2000 vide Voucher No.7362, dated 30th May, 2001 in a Cheque No.039580 dated 4th June, 2001.

Mr. Muiruri: Mr. Deputy Speaker, Sir, I want to seek your guidance because this Question appeared in this House on 4th December. It also appeared here yesterday and, on those two occasions, I have had an answer from the Minister for Agriculture. The first answer I got stated: "Yes, I am aware." Today, the Assistant Minister has said he is not aware.

Mr. Deputy Speaker, Sir, the reply to part "b" of my Question states:-

"Mr. Speaker, Sir, Kenya Ports Authority owes Njenga Kahura Gichuhi Kshs9,199. His cheque for the refund is being processed and will be ready by 5th December, 2001. As soon as it is ready, it will be sent to his last known address".

This is the answer signed by the Minister for Agriculture, hon. Dr. Bonaya Godana.

Mr. Deputy Speaker, Sir, you have heard the Assistant Minister's answer today which is totally different. I am also seeking your guidance because I addressed this Question to the Ministry of Transport and Communications because the man in question worked for Kenya Ports Authority (KPA) and not the Ministry of Agriculture. Under the circumstances, who am I going to believe?

Mr. Deputy Speaker: Mr. Muiruri, you are really not so concerned about who answered the Question as to the content of the answer. Is that so?

Mr. Muiruri: Mr. Deputy Speaker, Sir, I know this man since he comes from my constituency.

Mr. Deputy Speaker: No! Hon. Muiruri, your concern now is the content of the reply and not the person who has answered it.

Mr. Muiruri: Mr. Deputy Speaker, Sir, then going by today's answer, I know this man. He came to see me about one month ago. He has not been paid his money.

Mr. Deputy Speaker: Mr. Assistant Minister, what do you have to say about that?

Mr. J.D. Lotodo: Mr. Deputy Speaker, Sir, as far as we are concerned, this man has been paid his money. Mr. Njenga Kahura Gichuhi signed that cheque and his ID.No.5468076 appears on it. So, what else do we need to answer?

Mr. Deputy Speaker: No! What is the cheque number and when is it dated?

Mr. J.D. Lotodo: Mr. Deputy Speaker, Sir, the cheque number is 039580 dated 4th June, 2001 and the amount is Kshs89,119.

Mr. Anyona: Mr. Deputy Speaker, Sir, could the Assistant Minister tell us which one of the two answers is correct? This is because, under the rules, the Minister signs an answer and sends it to the Clerk. That is what the Member has now and, apparently, the answer he is reading is different. Could he confirm whether what he is saying is the right thing or what hon. Muiruri is saying is the right thing?

Mr. J.D. Lotodo: Mr. Deputy Speaker, Sir, it is correct. I do apologise for that inconvenience but the answer signed by the Minister was long time ago and we received this information yesterday. So, I am giving the real life situation.

Mr. Imanyara: Mr. Deputy Speaker, Sir, the cheque is alleged to be dated 4th June, 2001. My concern is that this practice, of Ministers giving different or contradicting answers or Questions being referred to different Ministries as an excuse for not answering, is getting very prevalent. Is the Assistant Minister not in contempt of the House for giving an hon. Member two contradictory written answers?

Mr. J.D. Lotodo: Mr. Deputy Speaker, Sir, we sent the latest answer today to the Clerk of the National Assembly. In fact, we gave him the 15 copies required. So, we have rescinded the earlier answer. Instead of deferring the Question, as has been the practice, we decided we should continue and answer it because the information we have is correct.

Mr. Deputy Speaker: Order! For the sake of good order, if you issued an answer subsequent to an earlier one which you had sent, you should really begin your statement here by withdrawing the first answer and apologising to the House. So, let that be noted.

Mr. Gitonga: Mr. Deputy Speaker, Sir, there is still something that is not quite clear to us. The Questioner says that the man in question was working for Kenya Ports Authority which comes directly under the Ministry of Transport and Communications. The Question is being answered by the Minister for Agriculture and Rural Development. Is it not probably correct to say that the answer is contradictory because the Ministry answering the Question is not where this particular individual works?

Mr. Deputy Speaker: Order, Mr. Gitonga! We are in Question Time and you stood up on a supplementary question. Now, you are asking the Chair to make a ruling as to which reply is appropriate. That will not be allowed!

Mr. J.D. Lotodo: Mr. Deputy Speaker, Sir, considering the fact that this person was a member of Mombasa Ports SACCO Society Limited, and co-operative societies are under the Ministry of Agriculture and Rural Development, that is why this Question was directed to the Ministry of Agriculture.

Dr. Kulundu: Mr. Deputy Speaker, Sir, now that he is not telling the House the truth, could he tell us what disciplinary action he has taken against the officers who gave him that misleading answer in the first place?

Mr. J. D. Lotodo: Mr. Deputy Speaker, Sir, we have issued a directive that the officer should not give a misleading position. What I have said in the House today is the correct answer. Mr. Muiruri himself has signed, and I have stated his ID number. So, I did not see the fuss.

Mr. Muiruri: Mr. Deputy Speaker, Sir, this man worked for a total of 36 years; that is from 1965 to 2001. Now that we have two conflicting answers, could the Minister give an assurance to this House that this money was properly calculated? This is because the amount is Kshs89,119 and what he is refuting is only Kshs139,730. Could the Assistant Minister give an assurance that this money was properly tabulated because it forms a very small amount of money considering that the man worked for a total of 36 years? To me, it is a very small amount of money. Could he assure this House that this is the correct amount of money? Or could he go back again and verify and come up with the correct amount of money because this is peanuts?

Mr. J. D. Lotodo: Mr. Deputy Speaker, Sir, the contribution by Mr. Gichuhi was too small, as you can remember, because somebody contributes as per his or her earnings to those co-operative societies. Therefore, it means that the contributor was contributing less money. This is what we have for him. There is nothing we can do about it.

Question No.698

COMPLETION OF TITIE WATER PROJECT

Mr. Muya asked the Minister for Water Development:-

(a) whether he is aware that Titie Water Project intended to serve Tetu and Thegenge locations

and parts of Karundu location is an old project which has never been completed; and,
(b) what plans he has for the completion of this project.

Mr. Deputy Speaker: Is there no one from the Ministry of Environment and Natural Resources? We will come back to that Question later.

Question No.772

LACK OF CLEAN WATER IN NJABINI TOWN

Mr. Waithaka asked the Minister for Water Development:-

(a) whether he is aware that Njabini Township lacks clean water in spite of its proximity to River Chania, River Sasumua and Sasumua Dam; and,

(b) whether he could

consider supplying the residents of Njabini with water from Sasumua Dam.

Mr. Deputy Speaker: Still, there is no one from the Ministry of Environment and Natural Resources. We will come back to the Question later.

Question No.705

ALLOCATION OF LAND TO EMBAKASI SQUATTERS

Mr. Deputy Speaker: Is Mr. Mwenje not here? We will come back to his Question. Question by Mr. Kihoro!

(Mr. Kihoro took time to stand up)

Mr. Deputy Speaker: Mr. Kihoro, do you not listen?

Mr. Kihoro: Mr. Deputy Speaker, Sir, I am sorry. I thought my mobile phone might go off.

Question No.685

BANNED ORGANISATIONS IN KENYA

Mr. Kihoro asked the Attorney-General:-

(a) which organisations or societies are banned in Kenya today and what the respective reasons for the ban on each are; and,

(b) whether he could lift the ban where there is no good reason to continue the ban.

Mr. Deputy Speaker: Is the Attorney-General still not here? We will come back to the Question. Next Question, Mr. Imanyara!

Question No.748

MONEY PAID FOR SUITS AGAINST GOVERNMENT

Mr. Imanyara asked the Attorney-General:-

(a) how much money the Government paid out as compensation arising out of suits filed against it in the following years: 1998, 1999, 2000 and 2001; and,

(b) what action the Government has taken against the officers responsible for actions leading to the filing of the suits.

Mr. Deputy Speaker: Is the Attorney-General still not here? We will come back to the Question later. Dr. Murungaru's Question!

Question No.752

PAYMENT OF DAMAGES TO MR. MWENJE

Mr. Deputy Speaker: Is Dr. Murungaru not here? We will come back to this Question later.

For the second time, Mr. Muya's Question!

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- (a) whether he is aware that Titie Water Project intended to serve Tetu and Thegenge locations and parts of Karundu location is an old project which has never been completed; and,
- (b) what plans he has for the completion of this project.

Mr. Deputy Speaker: Is there still no one here from the Ministry of Environment and Natural Resources? If the Minister is not here--

Mr. Imanyara: On a point of order, Mr. Deputy Speaker, Sir. Last week, you made a ruling on this issue and there was an undertaking from the Leader of Government Business - I think it was the Deputy Leader of Government Business - that some time this week they will issue a Ministerial Statement with regard to this particular Question. It was your own ruling; about absence of Ministers and Assistant Ministers. Could we know the state of that Ministerial Statement because it was supposed to deal with absence of Ministers and Assistant Ministers and you know that there is need for collective responsibility?

The Minister of State, Office of the President (Mr. Sunkuli): Mr. Deputy Speaker, Sir, while you make the ruling on that point of order, the truth, as you can see, is that hon. Members are also absent. I think it will be very fair for the hon. Member not to be unfair to Ministers and Assistant Ministers alone.

Mr. Deputy Speaker: Order! I know what to do in respect to hon. Members who are not present. What we are interested in is what the Government is trying to do about the absent Ministers and Assistant Ministers.

I will come back to that Question should the Minister come in because I think it is important that this Question is disposed of today. This is the third time it is appearing on the Order Paper. So, I will come back to it.

(Question deferred)

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- (a) whether he is aware that Njabini Township lacks clean water in spite of its proximity of River Chania, River Sasumua and Sasumua Dam; and,
- (b) whether he could consider supplying the residents of Njabini with water from Sasumua Dam.

Mr. Deputy Speaker: Is there no one from the Ministry of Environment and Natural Resources? I will keep it in abeyance as the other one.

(Question deferred)

Question No.705

ALLOCATION OF LAND TO EMBAKASI SQUATTERS

Mr. Deputy Speaker: Is Mr. Mwenje still not here?

(Question dropped)

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Mr. Deputy Speaker: Is the Attorney-General still not here? The Question is deferred.

(Question deferred)

Question No.752

PAYMENT OF DAMAGES TO MR. MWENJE

Mr. Deputy Speaker: Dr. Murungaru still not here? The Attorney-General is not here and he has no Assistant Attorney-General. So, clearly, I will have to defer the Question.

(Question deferred)

Mr. Ndicho: On a point of order, Mr. Deputy Speaker, Sir. In the same vein, I would like to ask the Government, possibly, through Mr. Sunkuli, to intimate to the President that we need an Assistant Attorney-General so that when the AG is out of the country, like now, his duties in Parliament can be performed by the Assistant Attorney-General.

Mr. Deputy Speaker: Order! That cannot arise from these Questions.

Mr. Anyona: Mr. Deputy Speaker, Sir, I mean, in all seriousness, this means that Parliament is paralysed. It cannot transact business, and the Chair has been emphasizing the importance of hon. Members on both sides of the House being present. How do we proceed? Something has to happen.

The Minister of State, Office of the President (Mr. Sunkuli): Mr. Deputy Speaker, Sir, this goes to my honourable colleague. Questions are not the business of the House. I think Parliament will still proceed with the business as soon as the Questions are over.

Mr. Deputy Speaker: Order! All business on the Order Paper is serious business. The Chair had already ruled that the Clerk will prepare a list of all hon. Members who have put Questions but have not turned up to ask them and all Ministers and

[Mr. Deputy Speaker]

Assistant Ministers who have turned up to answer their Questions, and action will be taken.

There is going to be no debate because I have already made a ruling.

Mr. Imanyara: Mr. Deputy Speaker, Sir, what is your position regarding the statement that was promised by the Leader of Government Business? Has it been withdrawn? It was an undertaking to the House.

Mr. Deputy Speaker: Order! I do not see him, do you?

Mr. Imanyara: I do not, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Order! The Speaker himself has ruled on what should happen to those who absent themselves when they have business to attend to in the House. Whether that is going to mean naming, or other forms of punishment, I cannot tell now, but I can assure you one thing; that action will be taken.

An hon. Member: Parliament will adjourn!

Mr. Deputy Speaker: You are adjourning; are you? The Chair is not aware of Parliament being closed, but whatever the case, whether it takes one day or two days, or one week or one month, action is going to be taken. But for the time being, the Clerk is compiling a full list of all hon. Members who have asked Questions but have not turned up to ask them and Ministers and Assistant Ministers who have not turned up to answer Questions legitimately put to them.

Mr. Muiruri: On a point of order, Mr. Deputy Speaker, Sir. Last week, Mr. Speaker ruled that he would name Ministers who normally absent themselves from the House and thus fail to answer Questions. Today, you have promised us the same thing. When will action be taken against Ministers who never turn up to answer Questions?

Mr. Deputy Speaker: Order! Order! That is not a point of order!

Mr. Anyona: On a point of order, Mr. Deputy Speaker, Sir. In respect of hon. Members and Ministers who had Questions to ask or answer, your ruling is clear. What about the Leader of Government and his Deputy, who should always be here to ensure that Ministers are here? Are they also going to be named?

Mr. Deputy Speaker: Hon. Members, the Chair cannot compel an hon. Member to attend Parliament, be he the Leader of Government Business or whoever. However, the Chair can take action against hon. Members who make promises to this House and fail to fulfil them. That is one of the issues the Chair is going to deal with, and deal with it very firmly.

We shall now have to proceed to Questions by Private Notice. The Questions hon. Members want to refer to have already been deferred.

Mr. Kihoro: On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Order!

Mr. Kihoro: On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Mr. Kihoro, you had better raise a matter that is different from the Questions, which I have ruled on. Is the matter you want to raise different? If it is not, you are in real trouble.

(Mr. Kihoro resumed his seat)

(Laughter)

QUESTIONS BY PRIVATE NOTICE

NAMES OF CONSTITUENCY AIDS COMMITTEES

Mr. Musila: Mr. Deputy Speaker, Sir, I beg to ask the Minister of State, Office of the President, the following Question by Private Notice.

(a) Could the Minister table the names of Constituency Aids Control Committees (CACCs) which have been formed throughout the country?

(b) How much money was allocated to each of the committees since they were formed and how much of the allocated money has so far been paid to the committees?

(c) Could the Minister give the number of bicycles or any other means of transport that have been issued to each committee?

The Assistant Minister, Office of the President (Mr. Kochalle): Mr. Deputy Speaker, Speaker, Sir, I beg to reply.

(a) I beg to table the list of the CACCs that have so far been formed.

(Mr. Kochalle laid the list on the Table)

(b) The list also indicates the amount of money issued to each of the CACCs.

(c) The National Aids Control Council (NACC) is not in a position to provide means of transport to CACCs. The CACCs are expected to utilise the operational funds they have been allocated to finance their transport.

Mr. Musila: Mr. Deputy Speaker, Sir, this is a very serious matter. This is the fifth time this Question has come before this House. You will recall that, when this Question came up on 14th November, 2001, when you were in the Chair, it was answered in the same manner the Assistant Minister has answered it now. You ruled that the Assistant Minister should bring certain details to the House, namely, the list of bicycles issued to CACCs and the criteria used to issue certain CACCs with bicycles. Secondly, the Assistant Minister had alleged that certain CACCs had misappropriated the funds allocated to them and that, consequently, money could not be released to CACCs, upon which the Chair ordered him to bring the list of those CACCs. I have with me here a copy of the HANSARD of that day. On Tuesday, an Assistant Minister, Office of the President, Mr. Samoei, stood here and read out the same answer. I gave him a copy of the HANSARD of 14th November, 2001, to remind him of what transpired on that day. Another Assistant Minister has now come back with the same answer. We need your guidance. Do we continue dealing with one Question for five days without making any headway on the matter?

Mr. Kochalle: Mr. Deputy Speaker, Sir, I am aware of all that the hon. Member has said. However, the matter raised in this Question now falls under the docket of Mr. ole Ntimama, who is not around. Be that as it may, what I have told him is that the NACC is not in a position to provide means of transportation like bicycles. So, the question of NACC issuing bicycles to CACCs does not arise.

Hon. Members: Aah!

Mr. Deputy Speaker: Order! Mr. Assistant Minister, in fact, this Question was partially answered the last time it appeared on the Order Paper. It was deferred so that you could come here with a list showing how you distributed, among other things, the bicycles.

An hon. Member: And radios!

Mr. Deputy Speaker: The radios and whatever other materials you had distributed. That was really the outstanding issue.

Mr. Kochalle: Mr. Deputy Speaker, Sir, I was not aware of that aspect. However, I would like to be given time so that I can get from the Ministry of Health the number of bicycles it has distributed. The bicycles are being distributed under the supervision of the Ministry of Health.

Mr. Michuki: Mr. Deputy Speaker, Sir, when we met in Mombasa to discuss the HIV/AIDS catastrophe, the President of this Republic, supported by all of us, declared HIV/AIDS a national disaster. Therefore, it needed very quick action. The list that has been supplied to the hon. Questioner indicates that my constituency has received Kshs25,000, the least amount given to any of the CACCs. Some CACCs have received Kshs45,000, Kshs240,000, Kshs300,000, among other amounts. Why the disparities? Some constituencies have been given as many as 30 bicycles; others have been given radios. Could the Assistant Minister tell us the criteria being used to dish out this money? Or, is it that equipment is now being supplied for campaign purposes?

Mr. Kochalle: Mr. Deputy Speaker, Sir, I am not aware of the campaign the hon. Member is talking about. What we know is that, at least, every constituency has received some money. Most constituencies received a lot of money, but my own constituency received about Kshs40,000 only. We also know the President has declared HIV/AIDS a national disaster.

Hon. Members: What about the bicycles?

Mr. Kochalle: Mr. Deputy Speaker, Sir, I am not aware of the issue of bicycles. But I have requested for time to find out, from the Ministry of Health, how the bicycles have been distributed.

Mr. Musila: Mr. Deputy Speaker, Sir, you have heard the Assistant Minister say that he is not aware of the issue of bicycles. The Minister who attempted to answer this Question last time said that the bicycles were bought by the Ministry of Health, and that he did not have jurisdiction to pursue the matter, which is under that Ministry, upon which you told him that you had extended his jurisdiction to the Ministry of Health, so that he could bring the list here. So, the Chair has to help us, because I do not know where we are heading to. When this Question came up for the first time, it was handled by Maj. Madoka. When it came up for the second time, it was handled by Mr. Samoei. Today, the Question is being answered by Mr. Kochalle. What baffles me is that each of these persons has given us a different story. So, we need your guidance on this matter.

(Mr. Kochalle stood up in his place)

Hon. Members: Sit down! It is upon the Chair to guide the House!

Mr. Kochalle: Mr. Deputy Speaker, Sir, allow me to respond. We will ask the Ministry of Health to provide us with number of bicycles it has distributed. It is the Ministry of Health that has distributed the bicycles.

Hon. Members: Sit down!

Mr. Deputy Speaker: Order, all of you! Mr. Assistant Minister, really, you do not take the business of this House seriously. You had a week to get information from the Ministry of Health. Hon. Members do not come here to ask Questions for fun. Questions on HIV/AIDS, in particular, the scourge having been declared a national disaster by the Government, cannot be taken lightly. So, you should bring the list on Tuesday. Whether you are going to get it from the Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports, or the Ministry of Health, or from wherever, you are responsible for the production of that list here on Tuesday.

Mr. Kochalle: Yes, Mr. Deputy Speaker, Sir.

HARASSMENT BY POLICE IN SOUTH MUGIRANGO

Mr. Omingo: Mr. Deputy Speaker, Sir, I beg to ask the Minister of State, Office of the President, the following Question by Private Notice.

(a) Is the Minister aware that on 21st November, 2001, five police officers illegally invaded Iringa

Bomocharo, Bonyabwanga and Bombure villages in the pretext of flushing out *chang'aa* brewers?

(b) Is he further aware that the officers destroyed property, allegedly took bribes and harassed women and children between 3.00 a.m. and 1.00 p.m., thereby attracting the wrath of the villagers?

(c) Could he table a list of the officers involved in these illegal raids and state what action he is taking against the DO, the chief and the police officers concerned?

The Minister of State, Office of the President (Mr. Sunkuli): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am aware that on 21st November, 2001, at about 3.00 a.m, five policemen on patrol at Nyanchenge area of Nyamarambe Division, Gucha District, arrested 18 suspects allegedly for manufacturing, selling and consuming *chang'aa*.

(b) I am not aware of the alleged harassment of women and children. However, I am aware that an irate mob attacked the officers and rescued all the suspects. In the process, two of the officers were injured.

(c) Security operations aimed at eradication of *chang'aa* are not illegal since the manufacture, sale, supply, consumption or being in possession of *chang'aa* is prohibited under the law.

Mr. Omingo: Mr. Deputy Speaker, Sir, this is the third time I am raising this issue of police harassment. On 14th November, 2001, police in the pretext of searching for *chang'aa*, actually invaded a home, looted property and took Kshs88,000 from a trader. When I asked a Question here about the incident, the Minister said that he was not aware of it. On 8th August, 2001, the same thing happened. The police invaded one market centre and held five people---

Mr. Deputy Speaker: Ask your question!

Mr. Omingo: Mr. Deputy Speaker, Sir, one of the five people who were held by the police was a madman, who had to bribe his way out. What I am saying is that the Minister is aware that my people are being harassed because of what they believe in. Could he confirm or deny that these constant raids in my area are meant to harass people who are otherwise peace-loving Kenyans?

Mr. Sunkuli: Mr. Deputy Speaker, Sir, there is no intention to harass anybody. The hon. Member had, in fact, discussed the issue of police harassment of his constituents with me. I had undertaken to ensure that the people of Nyamarambe area are not harassed by the police. But I have concentrated my answer on the facts that I have just stated.

Dr. Kituyi: Mr. Deputy Speaker, Sir, in his written reply, the Minister has mentioned that security operations will continue to weed out people who brew *chang'aa*. If you were at the gate of Parliament Buildings this morning, you would have seen the product of security operations: There were women who came here with their daughters raped by brutes called security officers during a security operation. The Minister has armed goons who do not know what security means and who take advantage to pilfer, loot and rape. What security threat is caused by brewing of illicit alcohol? The Minister calls it a security operation, yet it is unleashing of violence on citizens!

Mr. Sunkuli: Mr. Deputy Speaker, Sir, I do not want to belabour the remote effects of brewing and drinking of *chang'aa*, but the hon. Member's question is important because if a policeman or anybody who is armed commits an offence, he will be treated like any other criminal and will be charged before a court of law. It is our responsibility to ensure that those who are armed do not, in fact, harass citizens.

Mr. Anyona: Mr. Deputy Speaker, Sir, we have been told that the new Minister in charge of internal security is a very tough man. I do not know about that, but I think he is a good and serious man. How does he distinguish between trigger-happy police officers and administration policemen (APs), who just go around harassing people, which happens most of the time, and genuine officers who seek to eradicate *chang'aa*?

The Minister uses the same trigger-happy officers to investigate cases and write answers such as the one he has read out to us here. Will the Minister amend the law to provide for legal brewing of *chang'aa*? Uganda and Tanzania have legalised the brewing of their local brews and this has reduced the rate of illegal brewing. Will he amend the law, have *chang'aa* brewed in the normal manner so that we can also make some money out of it and cut down this harassment of people? Very innocent people are harassed by these trigger-happy police officers.

Mr. Sunkuli: Mr. Deputy Speaker, Sir, I will ensure that the police officers do not use the law on *chang'aa* against the citizens of this country. But the mere possession of *chang'aa* still remains an act against the law of Kenya. Whether one day *chang'aa* will be brewed in such a manner that it may not be poisonous to the people, or whether it will be totally eradicated by social activity, is for all of us to wait and see. Instead amending the law to legitimise *chang'aa* brewing, it might be good for all of us to ask our citizens not to drink it.

Mr. Mwalulu: Mr. Deputy Speaker, Sir, you realise that the Minister has not fully answered the Question. Could he tackle part "c" of the Question which has asked him to table the list of those officers who were involved in this illegal raid?

Mr. Sunkuli: Mr. Deputy Speaker, Sir, does the hon. Member want to know the names of the officers who were involved in the raid? I have a number of officers who went on security operations on the material day. It would have been appropriate, for instance, for the Departmental Committee on Administration, National Security and Local Authorities to hear the names of the officers for purposes of asking me detailed questions. But hon. Members should not also expose these particular officers to unnecessary jeopardy.

Mr. Muchiri: Mr. Deputy Speaker, Sir, some operations are genuine security operations. There are normal duty patrols where policemen go only to patrol an area and come across people drinking *chang'aa*. However, in this country we have been told that there are some people who have planted *bhang* in Mount Kenya. Has the Minister ever tried to go and confirm whether this is true? If not, why has he not done so?

Mr. Sunkuli: Mr. Deputy Speaker, Sir, although that is a different Question, the hon. Member will appreciate that we, in fact, have stated here that there were some people who had planted *bhang* in Mount Kenya. We arrested quite a number of them and uprooted a lot of *bhang* from Mount Kenya.

Mr. Muniyo: Mr. Deputy Speaker, Sir, the Minister is aware that we are spending a lot of money importing *waragi* from Uganda. Also, there is a factory in Athi River Township which manufactures the same rum, which is not even purified or sieved. Our local brews are much better than this rum. Is the Minister telling us that we will continue risking the lives of our people by encouraging them to drink that rum as opposed to drinking our local brews?

Mr. Sunkuli: Mr. Deputy Speaker, Sir, I do not have information about which of the brews tastes better; whether it is *chang'aa* or the other type of beer. But this same House has always said that two wrongs cannot make a right. For instance, hon. Michuki had to bring a Motion here to deal with illicit drinks that are dangerous to the health of Kenyans. So many people were blinded here in Nairobi by a drink called *kumi kumi*. Unless we are serious about the health of our people, the situation is going to continue deteriorating unless we stop supporting things that are not good for them.

Mr. Kamolleh: Bw. Naibu Spika, nafikiri Swali lolote linaloletwa katika Bunge hili huwa mali ya Bunge hili. Mhe. Omingo ameuliza ni askari gani waliokuwa katika hali hiyo, usiku ule mambo hayo yalipotokea. Waziri anasema kwamba hatatoa habari hiyo hapa, lakini ataitoa kwa Kamati inayohusika. Je, si Kamati hiyo inachaguliwa na Bunge hili? Yafaa Waziri alipatie Bunge hili orodha ya askari waliohusika na kisa hicho.

Mr. Sunkuli: Bw. Naibu Spika, niliomba radhi kubana orodha ya majina ya askari waliohusika kwa sababu askari hao wanaweza kuwa ndugu za mhe. Kamolleh, na hatutaki kuhatarisha maisha ya watu.

Mr. N. Nyagah: On a point of order, Mr. Deputy Speaker, Sir. My point of order is on procedure. Is it in order for the Minister of State, Office of the President, in charge of internal security, to answer a question in Kiswahili, when he started off in English?

Mr. Deputy Speaker: Order! Order! I think the Minister was being considerate because, up to now, he may not be aware that hon. Kamolleh is literate in any language than Kiswahili.

(Laughter)

Mr. Omingo: Mr. Deputy Speaker, Sir, to be very sincere and honest, this is a very serious matter which touches on my own security. The late hon. Ndilinge issued a statement in this House about his security and it was not taken seriously. What is happening here today is a vendetta being carried out against my own life and that of my people. After I complained about that illegal act, the OCPD told me that there is a problem because we have parallel posting involving administration police and the regular police. That raid was particularly illegal. That is why the Minister is avoiding answering my---

Mr. Deputy Speaker: Ask your question!

Mr. Omingo: Mr. Deputy Speaker, Sir, the first part of my Question has not been answered. Secondly, the District Officer (DO), who is under the influence of particular powerful people, has actually been brought to my constituency to terrorise my people. The DO was demoted when he was in Kehancha after stealing money from people, and then he was brought to Nyamarambe. The DO is working in cohorts with the chief to harass my people. Could the Minister confirm or deny that, that raid was illegal and it was bent to harass my people and threaten them in my own home?

Mr. Sunkuli: Mr. Deputy Speaker, Sir, I hope the Chair recognises that Mr. Omingo's constituency actually borders my own constituency. I had explained to him that we will look into his complaints. He had already told me about the DO, and explained to me all these details. We were handling this matter bilaterally. So, I do not know why he has brought this issue to the House.

Mr. Deputy Speaker: Order! Order! Now that he has brought it to the House, it belongs to this House.

So, he has committed no crime by asking that Question.

Next Question, Mr. Shitanda!

Mr. Omingo: Mr. Deputy Speaker, Sir, are you satisfied that my Question has been answered adequately and the issue of my personal security has been addressed to or you want to cover it up?

Mr. Deputy Speaker: Strictly speaking, it is not for the Chair to be satisfied that your Question has been answered. If you are not satisfied, there are provisions in our Standing Orders which should take effect. Leave the Chair out of your cross-border *chang'aa* business!

Mr. Shitanda, ask your Question!

SHOOTING OF MASTER MOKENI BY POLICE

Mr. Shitanda: Mr. Deputy Speaker, Sir, I beg to ask the Minister of State, Office of the President the following Question by Private Notice.

(a) Is the Minister aware that a prison convict kept at Kabras Police Station was shot and killed by the police on 10th November, 2001?

(b) Is he further aware that the convict, by the name Stone Mokeni, had been kept at the Police Station three days after conviction in a Butali Court?

(c) What led to the shooting of the said Master Mokeni by police?

The Minister of State, Office of the President (Mr. Sunkuli): Mr. Deputy Speaker, Sir, I beg to reply.

(a) Yes, I am aware.

(b) I am aware the convict was being kept at Kabras Police Station awaiting his committal warrants from the court.

(c) On the 10th of November, 2001, at about 7.30 a.m., the convict, Andrew Stone Mokeni, attempted to escape while being escorted outside the cell. The escorting officer sounded an alarm prompting other officers from the station to respond. As the convict was running towards Malava Forest, he was challenged to stop, but he defied. He was shot, re-arrested and taken to hospital, where he died while undergoing treatment.

Mr. Shitanda: Mr. Deputy Speaker, Sir, the Minister has been supplied with the wrong answer by his officer. This convict, Stone Mokeni, escaped from the police station, climbed a tree and actually perched himself up on top of the tree. The policemen went for him and were shown by some women where the convict was. The man actually started pleading with the police that they allow him to come down from the top of the tree. Could the Minister tell this House the danger that this man posed while on top of the tree to warrant the shooting?

Mr. Sunkuli: Mr. Deputy Speaker, Sir, certainly I do not have the facts that the hon. Member seems to have. But the material fact here is that the convict ran away from the police station. I am not aware as to whether he climbed a tree at a certain point, because I do not have that particular information.

Mr. Muturi: Mr. Deputy Speaker, Sir, in the Minister's answer, he has not denied that the said Master Stone Mokeni was a convict. The Question states that, "three days after he had been convicted, he was kept at the police station". Could the Minister tell this House what a convict was doing in a police station, three days after being convicted when we know that he ought to have been in some prison? A police station is not a prison!

Mr. Sunkuli: Mr. Deputy Speaker, Sir, as a former magistrate, I must really admit that I find that surprising. But it is very surprising why the court did not issue a warrant to commit him to prison.

Mr. Ndicho: Mr. Deputy Speaker, Sir, now that the Minister has admitted that it was wrong for this person to have been kept in a police station while he was a convict, what action will he take against the police officers who kept him in the police station, instead of taking him to prison?

Mr. Sunkuli: Mr. Deputy Speaker, Sir, in this particular case, the police officer could not have been wrong. This is because a prisoner cannot be taken by a police officer to prison without a committal warrant from the court.

Mr. Munyasia: Mr. Deputy Speaker, Sir, whether Master Stone Mokeni was running or he was on top of a tree, in either case, what danger did he pose to the police officers to make them decide to shoot him, instead of merely running after him, catching and bringing him back to the police station? If the Minister finds that the police officers made a mistake because he posed no danger, what action is he going to take against those police officers who shot Master Stone Mokeni?

Mr. Sunkuli: Mr. Deputy Speaker, Sir, police officers do not shoot a convict because he poses a danger to them. That is not the only reason, because the police officers are empowered to use reasonable force to apprehend a convict. Sometimes they might shoot a convict, but due to unforeseen consequences, that might result in death. That might also be the problem that arises when it comes to the question of apprehending people.

Mr. Imanyara: Mr. Deputy Speaker, Sir, the Minister has not responded to Mr. Muturi's question as to what the convict was doing at the police station after he was convicted in a court of law. A police station is not a court! How was the convict moved from the court and taken to the police station, after being kept there three days without a [Mr. Imanyara] warrant? To move a convict from the court and take him to the police station also requires a committal warrant! How did the convict find himself in a police station, if he was convicted in a court of law?

Mr. Sunkuli: Mr. Deputy Speaker, Sir, the hon. Member is a lawyer and he knows that when a person is taken to the court by the police and the court makes an order, that person still remains in the hands of the police until the court transfers him to the prison.

Mr. Shidiye: Thank you, Mr. Deputy Speaker, Sir. I am worried because if the convict climbed a tree, could the police not have used other methods, for instance, threatening to cut down the tree, which was the best alternative instead of shooting him?

(Laughter)

Mr. Sunkuli: Mr. Deputy Speaker, Sir, that is true but, as I said earlier on, I do not have those facts. I am informed that this particular convict was shot when he was running away.

Mr. Anyona: On a point of order, Mr. Deputy Speaker, Sir. First of all, the Minister has admitted that he does not have those facts. So, really, what the House is being treated to is anything you can imagine. A matter where a Kenyan has been killed in a very reckless manner; a situation in which a convicted prisoner finds himself in a police station contrary to the law. It would be wrong for the House to let this matter just rest there. I would like to request the Chair to order the Minister to come back and tell us how this convict found his way from the law courts to a police station. We have been in court and prison, and we know what happens there. Once you have been convicted, the prison authorities will not allow anybody to come near you. So, what happened in this particular case? There was a conspiracy somewhere! I would like to request the Chair to order the Minister to go back, investigate the matter properly, come back and tell the House what happened.

Mr. Sunkuli: Mr. Deputy Speaker, Sir, before I say what I wanted to say, the hon. Member should know that actually I did not say that I did not have the facts. I said that I did not have the facts the hon. Member had. But in view of what the hon. Member has said, I would like to request the Attorney-General to look into this matter with a view to establishing a public inquest.

(Applause)

Mr. Shitanda: Mr. Deputy Speaker, Sir, this police station has become very notorious and a big security risk to my people. Could the Minister consider re-locating it to somewhere else, for example, Kibera?

(Laughter)

Mr. Sunkuli: Mr. Deputy Speaker, Sir, that will not solve the hon. Member's problems. I think that the hon. Member should learn to live with the police station. Maybe, we can transfer the security personnel who are there, but this police station is certainly useful to his people.

EMPLOYMENT CONTRACT FOR MR. GARETH GEORGE

(Mr. Obwocha) to ask the Minister for Finance:-

(a) Could the Minister table the new employment contract documents for the Managing Director of Kenya Commercial Bank Limited, Gareth George, as earlier promised?

(b) Is the Minister aware that Kenya Commercial Bank Limited has advertised the following prime commercial properties for sale:-

(i) Kipande House - Kenyatta Avenue/Loita Street;

(ii) Enterprise Building - Enterprise Road, Industrial Area;

(iii) Hamburg House - Tom Mboya Street;

(c) Could he further explain what circumstances prompted the sale?

Mr. Deputy Speaker: Is Mr. Obwocha not here? I am sorry, that Question is dropped!

(Question dropped)

SUSPENSION OF DONOR FUNDS FOR ROADS

Mr. P.K. Mwangi: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Finance the following Question by Private Notice.

(a) Could the Minister explain what reasons have caused the suspension of Kshs2.4 billion by World Bank meant for emergency rehabilitation of roads?

(b) Could he table the list of the projects affected?

(c) When will the Government fulfil the basic conditions set by the donors as per the deadline of 30th November, 2001?

The Minister for Finance (Mr. Obure): Mr. Deputy Speaker, Sir, I beg to reply.

(a) The World Bank suspended, on 1st October, 2001, disbursements to the Kenya Urban Transport Infrastructure Project due to allegations of fraud and corruption in the implementation of the project. The World Bank, at first, alleged that there was fraud and corruption in the manner in which some consultancy contracts were awarded. They have submitted a report to the Government on these allegations and the report is being used by the police. The matter is currently under investigations by the Criminal Investigations Department (CID), and I am not in a position to pre-determine the outcome of those investigations.

(b) I would like to table a list of projects which have been affected by the suspension of funds. I would like to say that, by and large, the bulk of the work in most of the projects had been completed. Although there are some payments yet to be made, they will be made after the investigations have been completed and the matter determined.

(Mr. Obure laid the document on the Table)

(c) The basic condition set by the World Bank is for appropriate action against those found guilty of fraudulent activities. Although the Government was given a deadline of 30 days from 1st October, 2001, to meet the condition, the police have not yet concluded their investigations and I would like to urge them to do so as quickly as possible.

Mr. P.K. Mwangi: Thank you, Mr. Deputy Speaker, Sir. Kenya has lost Kshs2.4 billion as a result of corruption and more than 16 projects have been affected. Among those projects are Jogoo and Lang'ata Roads. Could the Minister tell us when the Government will take the World Bank conditions seriously since it cannot avoid the World Bank the way they have avoided handling the issue of the teachers?

Mr. Obure: Mr. Deputy Speaker, Sir, there is an explanation I would like to make here. It is not correct to say that we have lost a credit of Kshs2.4 billion. I would like to explain that bit. The total loan under this arrangement was US\$115 million which is equivalent to Kshs9.2 billion. Out of this amount of money, Kshs2.9 billion had been transferred to the *El Nino* Emergency Project for rehabilitation of urban roads. I would like to point out that the *El Nino* Emergency Project has not been affected, and it is going on as planned. At the time of suspension of disbursement of the proceeds of this loan, the account had a balance of approximately Kshs1.7 billion and the World Bank was the only donor under this arrangement. I would like to say further that if you examine the list that I have laid on the Table on the projects which have been affected, you will find that the balance due for payment, because the bulk of the work is virtually complete, is Kshs171,631,146.75. So, I would like to say that the impact of the suspension of disbursement of these funds is not as great as the hon. Member for Maragwa would like us to believe. Secondly, I would like to say that the impression being created here is that the Kenyan group who were implementing this project were solely responsible for this alleged fraud and corruption. However, I would like to say that the implementation was in the hands of both the Kenyan members of staff and the World Bank officials. In this case, the same allegations have been made in respect to certain World Bank officials and I believe that action is being taken against those individuals.

Mr. Sambu: Mr. Deputy Speaker, Sir, the Minister has said that the World Bank suspended the proceeds of the loan due to certain irregularities. Those were projects which were on-going. Could the Minister tell the House why the Germany-funded Roads 2000 has not taken off? Since there are no irregularities, why has the Germany-funded Roads 2000 for Western Kenya not taken off?

Mr. Obure: Mr. Deputy Speaker, Sir, that is slightly different from the question I was handling. But I would like to say that a delegation of senior officials from the Federal Republic of Germany are in the City right now, and we are carrying out the normal two-yearly consultations. We are reviewing the projects, which we are

undertaking with them. This is part of the agenda on our discussion, and we should be able to come up with something satisfactory for Mr. Sambu.

Mr. Kombo: Mr. Deputy Speaker, Sir, many of the contractors involved like Krishan Behal & Sons Ltd, Crescent Construction Company and Hayer Bishan Singh & Sons have, in fact, appeared before the PIC and the PAC. Recommendations were made that these contractors should not be given any job in this country. That does not require the CID to be involved. So, what investigation are you struggling to get? Why, in the first place, were these contractors given the job?

Mr. Obure: Mr. Deputy Speaker, Sir, each of these contracts were signed at different times. My understanding is that there was very competitive bidding at that particular time. The second point is that there are also allegations of fraud and corruption. I believe that this had to do with the procurement methods and the manner in which some of those contracts were secured. So, if there are any questions in terms of integrity and honesty in the manner in which they were procured, we will establish this after these investigations have been done.

Mr. Wamae: Mr. Deputy Speaker, Sir, the Minister is aware that the Kenya Government has not been getting funds from the IMF and the World Bank. It is only these emergency loans that we were given and it appears we have misused them because of corruption. What will the Minister do to "clean" the Kenyan name so that we can go back in the good books of the World Bank and IMF?

Mr. Obure: Mr. Deputy Speaker, Sir, what hon. Wamae said, that Kenya has not been receiving loans and other forms of assistance from the World Bank and the IMF, is not true. It is true to say Kenya is, indeed, on an IMF programme at the moment. What has happened is that the IMF programme has stopped disbursement because we have not met certain conditions which hon. Members are very much aware of. I would like to emphasise the point I made earlier that this particular project, in respect of which funds have been suspended, was being implemented by staff of both the World Bank and the Government of Kenya. The allegations of fraud and corruption, in fact, relate to both World Bank and Kenya Government staff. We are asking the police to get to the core of this problem. We know what action is being taken at the other end and we should be able to come to the root of this problem.

Mr. P.K. Mwangi: Mr. Deputy Speaker, Sir, now that the Minister has told us that there is Kshs2.9 billion to rehabilitate rural roads and that tenders have been advertised, could he assure this House that the opening of these tenders will be free of corruption?

Mr. Obure: Mr. Deputy Speaker, Sir, I can assure this House that the tendering for this project will be as transparent as possible. I can also assure hon. Members that they can sleep comfortably knowing that public interest will be taken care of.

Mr. Deputy Speaker: Dr. Kulundu's Question, in fact, was answered. So, it must have appeared on the Order Paper by mistake. But there is another Question which I deferred to Tuesday.

Next Question, Mr. Gatabaki!

PROTECTION OF KENYANS FROM TOXIC SUBSTANCES

Mr. Gatabaki: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Public Health the following Question by Private Notice.

(a) Is the Minister aware many fruit juices and other popular ready-to-drink products contain dangerous levels of lead, harmful to consumers' health?

(b) Is he also aware that Kenyans may be facing cancer and other health risks because of uncontrolled use of artificial flavours and preservatives in a wide range of processed and packaged food products?

(c) Is he also aware that saccharin, banned in some countries as far back as 1997 is widely used in Kenya as sweetener and preservative in fruit juices?

(d) What measures is the Ministry taking to ensure that Kenyans are protected from toxic substances in processed and packaged food products?

The Assistant Minister for Health (Dr. Galgalo): I beg to reply.

(a) Yes, I am aware that some fruit juices manufactured by Komal(?) industry based in Nyeri contain dangerous levels of lead.

(b) I am not aware that Kenyans face cancer and other health risks as a result of the use of artificial flavours and preservatives in packaged food products as their levels conform to the standards set in Food, Drugs and Chemical Substances Act.

(c) I am aware that saccharin has been banned in the USA, but continues to be used in Kenya as studies

have not provided evidence on its harmful effects on humans.

(d) The Ministry is carrying out regular and strict sampling of food articles which are analysed to ensure that they are fit for human consumption. The Ministry has closed down the production of food juices which contain high levels of lead.

Mr. Gatabaki: Mr. Deputy Speaker, Sir, I would like to thank the Assistant Minister for accepting that, indeed, most food products contain dangerous substances. The consumers of ready-to-drink products are mainly our students. The Assistant Minister says that he is aware that the USA has banned the use of saccharin, but Kenya still uses it as a sweetener. Could the Assistant Minister tell this House what precautions he has taken to make sure that this Nyeri firm is stopped from selling products which are harmful to our population?

Dr. Galgalo: Mr. Deputy Speaker, Sir, the hon. Member will appreciate the fact that in this particular case where we had to close the operations of this firm in Nyeri, the problem was detected by our public health officers while they were conducting regular checks on products on the shelves. They got information that those particular drinks were not being produced according to the standards set. They moved in, identified them, analysed the juices, found them to be poisonous and closed down that particular firm. So, we have instructed our public officers throughout the country to continue checking, especially the new products whose origin they do not know and bring samples of such products for analysis. Whenever we find anything that does not conform to the regulations that have been set by the Kenya Bureau of Standards and our Ministry, we will act on them.

Dr. Kulundu: Mr. Deputy Speaker, Sir, it is a bit frightening that Kenyans have been exposed to juices containing lead which, as the Assistant Minister rightly affirmed, can lead to lead poisoning which affects the bone marrow. In his answer to part "c" of the Question, the Minister says that Kenyan studies have not shown any evidence that saccharin is harmful. Could he be kind enough to tell us who carried out the study? Could he table the results of the study so far carried out so that we can be satisfied that something is being done?

Dr. Galgalo: Mr. Deputy Speaker, Sir, my brother, Dr. Kulundu, knows that saccharin is a sweetener used in this country by diabetics. It is used throughout the world. It is only in USA where they did one study. That particular study did not confirm, but suggested there was an association between consumption of saccharin and blood cancer. As a nation, we have a responsibility also to assure ourselves that such studies are genuine. We are carrying out studies in collaboration with the WHO and our own department which deals with research. Once we satisfy ourselves that this is a dangerous product, then we will withdraw it from our market.

Mr. Deputy Speaker: Dr. Galgalo, he asked you to lay on the Table the results of the Kenyan study.

Dr. Galgalo: Mr. Deputy Speaker, Sir, I said it is on-going, and we have not got a report on it. It is a collaboration between our Ministry and the World Health Organization.

Dr. Murungaru: Mr. Deputy Speaker, Sir, the normal practice is that, when a substance which is intended to be therapeutic comes into question, it should be withdrawn pending the completion of the investigation. The Assistant Minister ought to have done that. That, notwithstanding, there are many other sweeteners which are perfectly safe and which are as cost-effective as saccharin. Could the Assistant Minister direct those who manufacture drinks to use alternative artificial sweeteners other than saccharin whose efficacy and safety is in question?

Dr. Galgalo: Mr. Deputy Speaker, Sir, unless my point was missed, I said saccharin is being used throughout the world except in the USA where it was banned in 1997 as a result of a single study. We also have to be fair to the producers of saccharin. We have to convince ourselves, beyond any reasonable doubt, that it is a dangerous product before we take any drastic action. That is why we are seriously studying this. In any case, the level of blood cancer which the US claims is related to the consumption of saccharin is negligible. We have every reason to convince ourselves before we take any drastic action.

Mr. Angwenyi: Mr. Deputy Speaker, Sir, the Assistant Minister says that they have withdrawn from the market a number of products that have been found to be harmful to human health. Could the Assistant Minister tell us whether they made a follow-up of the people who had been harmed by those products to ensure that companies concerned compensate them?

Dr. Galgalo: Mr. Deputy Speaker, Sir, there is no way we can identify which individuals consumed those products since they were introduced into the market. If there is information on any particular individuals who may have suffered as a result of that, then we will take action.

Mr. Kombo: Mr. Deputy Speaker, Sir, the Food and Drug Agency of the United States is one of the leading agencies on this matter. They carried out a test and found out that saccharin was harmful to human health and banned it in the United States and, yet the Assistant Minister stands up here and says that we have to be fair to the producers, as though Kenya is being used as a guinea pig. At the expense of the lives of Kenyans, is he in

order to be fair to the producers when the Americans have rejected it?

Dr. Galgalo: Mr. Deputy Speaker, Sir, we have no obligation, as a Government, to follow what is done in the United States. We have a responsibility and departments that operate very well. We have ways of handling our own problems. You will recall that, during the anthrax scare, our Ministry stood firm against insinuations by the United States that the specimens we received tested negative for anthrax and yet our own research showed that they were positive. We stood by our results, and we are proud to stand up to our own standards.

Mr. Gatabaki: Mr. Deputy Speaker, Sir, it is frightening to hear the Assistant Minister defend inaction in Kenya with regard to sweeteners imported from the United States. In the United States, it is indicated on the labelling that the sweeteners are harmful to the consumer's health. The Assistant Minister is telling Kenyans, that Kenya is so advanced than America where we import the sweeteners from, that there is no need telling our people that they are harmful to their health. However, it shows how careless this Government is.

Mr. Deputy Speaker, Sir, we have often read in the newspapers that most of the hon. Members here, including the Leader of Government Business have been subjected to food poisoning from juices. So this is not fiction. The majority of our children, one way or the other have suffered from food poisoning. Being aware of how harmful some of these products are, as he has admitted, what specific measures has the Assistant Minister taken to ensure that fruit juices and other ready-to-drink products are safe for his children, my children, Mr. Deputy Speaker's children and other Kenyan consumers?

Dr. Galgalo: Mr. Deputy Speaker, Sir, we will enhance surveillance by our Public Health Officers. We will make them go out and pick samples throughout the country and analyze them. We will take action against manufacturers of any products that we find harmful to the health of Kenyans.

Mr. Deputy Speaker: Next Question!

GRABBING OF GOVERNMENT LAND IN KERUGOYA

Mr. Keriri: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Lands and Settlement, the following Question by Private Notice:-

(a) Is the Minister aware that Government Land Inoi/Kaitheri 665, which houses Ministry of Roads and Public Works workshop was transferred from the Government on 9th August, 2001 to private individuals?

(b) Is he further aware that one the same day, the title deed was issued to two individuals and that on 22nd August, 2001 the title deed was closed on sub-division of this piece of land into nine plots?

(c) Could the Minister nullify all the transactions carried out between 9th and 22nd August, 2001 and issue a certificate to the Ministry of Roads and Public Works?

The Assistant Minister for Lands and Settlement (Mr. Sudi): Mr. Deputy Speaker, Sir, I beg to request the Chair to defer this Question to another date because the Minister who was supposed to answer this Question has not arrived.

Mr. Deputy Speaker: What are you? You are an Assistant Minister!

The Assistant Minister for Lands and Settlement (Mr. Sudi): Mr. Deputy Speaker, Sir, I understand that fact, but the answer is with the Minister.

Mr. Deputy Speaker: Would Tuesday be okay for you?

Mr. Keriri: Mr. Deputy Speaker, Sir, that is alright, but I forwarded this Question to the Ministry in mid September, by Private Notice. I do not know what has been happening to it. I think there is a deliberate plan to delay answering the Question, and I hope there is no intention to do that.

Mr. Deputy Speaker: The Question is deferred to Tuesday next week.

(Question deferred)

Mr. Deputy Speaker: Order, hon. Members! I had an unusual request from the Attorney-General that I allow him to give oral answers to Question Nos.685, 748 and 752. He came just after we had passed these Questions. Our practice has been that, once we have gone to Questions by Private Notice, we do not go back to Oral Questions. As much as I sympathise with the Attorney-General, I think I will decline that request on this occasion.

MINISTERIAL STATEMENT

MINISTERIAL CIRCULAR

The Assistant Minister for Education, Science and Technology (Mr. Ojode): Mr. Deputy Speaker, Sir, consequent to my promise to lay on the Table a circular cancelling Circular No.G9/1VOL8/6 of 15th November, 2001, on the year 2002 public primary schools user charges as was demanded by this House and the Chair, I wish to table Circular No.G9/1VOL8---

Mr. Deputy Speaker: The Chair does not demand but directs!

The Assistant Minister for Education, Science and Technology (Mr. Ojode): Mr. Deputy Speaker, Sir, I wish to lay on the Table Circular No.G9/1VOL8/7 of Monday 3rd December, 2001, cancelling the same. The said circular has since been circulated to all field officers for necessary action. I would like to assure the House that the Ministry of Education, Science and Technology will ensure compliance with the circular. It is addressed to all Provincial Directors of Education, Director of City Education, all District Education Officers and Municipality Education Officers. The subject is: "2002 Primary Schools User Charges.

The circular reads as follows:-

"Your attention is drawn to the Ministry of Education, Science and Technology Circular Ref. No.G9/1VOL8/6 dated 15th November, 2001, on user charges for the year 2002. This is to advise you that the same circular has been withdrawn and should, therefore, not be implemented."

Dr. Kituyi: On a point of order, Mr. Deputy Speaker, Sir. I would like to seek two little clarifications! The Government issued a circular about user charges on 15th November, 2001. It issued another circular cancelling fees and user charges on 3rd December, 2001. Could the good Assistant Minister be so kind as to tell this House two things? One, what earthmoving phenomenon happened in those two weeks to turn around 180 degrees? Secondly, how did you procure some money, between 15th of November and 3rd of December, to pay for the services necessary like painting classrooms, chalk and other services in January next year?

The Assistant Minister for Education, Science and Technology (Mr. Ojode): Mr. Deputy Speaker, Sir, we necessitated the cancellation because of the directive given by the President. On the other question, the parents and communities are expected to continue supporting the public primary schools by mobilising funds for use in implementing education programmes. In that regard, the Government will continue to harness the policy of cost-sharing in education through the Harambee motto!

Mr. Wamae: Mr. Deputy Speaker, Sir, this is not a simple matter as the Assistant Minister is trying to make it! We know that the parents were already taking that responsibility. Why did the Ministry decide to intervene and issue the circular? Why was it necessary?

Mr. Deputy Speaker, secondly, if the parents are still going to be responsible for meeting all those costs like buying the chalk, employing watchmen, repairing desks and putting up the buildings, what was the fees charged by the Ministry for?

The Assistant Minister for Education, Science and Technology (Mr. Ojode): Mr. Deputy Speaker, Sir, I believe Members heard what I said in this House yesterday. I said that the Ministry is looking for alternative sources of funding. Once we have identified the source of funding, some of those problems will not be there! But, in the meantime, the parents must do something in the name of cost-sharing!

Mr. Imanyara: Mr. Deputy Speaker, Sir, as a result of these changes in policy, what is going to happen in January--- What is happening in Kibera is going to be insignificant when January comes! We know that, as a result of this circular, and there being no money voted by this Government, parents will send children to school in January without fees. The sponsors and owners of schools and the committees will be faced with a major crisis. We know that the Government is saving Kshs22 billion as a result of the "Donde Bill" on reduction in interest rates. Could the Government consider bringing revised estimates to this House before we go for recess, creating the necessary funds? Could the Government make available the Kshs4 billion, that has already been saved as a result of the "Donde Bill" in terms of the interest that the Government was paying on the loans, to children to go to school early next year?

The Assistant Minister for Education, Science and Technology (Mr. Ojode): Mr. Deputy Speaker, Sir, those are some of the cases that we will look into. Let me say this: I cannot say everything on what the Ministry is going to do. But if Members want a comprehensive report on this particular issue, we will make it available. But what I am saying is that the Government will ensure that each and every pupil will go to school and will not pay schools fees. It will be our duty to look into the matters that affect the parents.

Mr. Anyona: Mr. Deputy Speaker, Sir, could the---

(Mr. Murathe consulted with an officer from the Ministry)

Mr. Deputy Speaker: Order, hon. Murathe! By all means, you may consult with members sitting on the Civil Servants Benches. But if it is going to be prolonged, proceed to the antechamber and do your consultations in there. That is because they are strangers as you very well know!

Mr. Anyona: Mr. Deputy Speaker, Sir, could the Assistant Minister clarify the following points? One, they issued a circular on 15th November that fees will be paid. Then, later on, the President gave a directive to the contrary. Could the Assistant Minister explain to the House whether the decision to levy fees, and the circular, was a matter that was decided by the Director alone, or whether it was decided by the Minister or the Permanent Secretary, or whether or not the President was advised? Therefore, he should tell us whether it was a Government decision that was made and changed or it was an *ad hoc* decision made by some individuals. That is one thing that did not come out clearly here! Do not say you changed because the directive was from the President! The President runs the whole Government!

Secondly---

Mr. Deputy Speaker: No!

Mr. Anyona: But I wanted him to clarify two points!

Mr. Deputy Speaker: He is going to suffer from information overload!

The Assistant Minister for Education, Science and Technology (Mr. Ojode): Mr. Deputy Speaker, Sir, I have said, and I am still saying, that it was the Ministry which made the decision. Now, the decision was cancelled or reversed by the President. Now, as a Ministry, what we are going to do is to look for other sources of funding, now that the President has already reversed our decision. What I am saying is that we are going to make a comprehensive report that will contain answers to all the questions that you would like to ask.

Mr. Wamalwa: Mr. Deputy Speaker, Sir, while appreciating the efforts that the Assistant Minister is making to answer this Question, it is a difficult situation posed by the directive. I think Mr. Imanyara gave the Assistant Minister a perfect suggestion to look into seriously. As a result of the "Donde Bill", the Government has saved Kshs22 billion in lieu of interest. That is, the money it should have paid as interest, and for the Childrens' Bill. We are adjourning next Thursday and this is an emergency. On the basis of the more than Kshs22 billion that the Government has saved, could the Assistant Minister seriously consider bringing Supplementary Estimates to this House next week, so that we could make it legal and come January, everybody knows that there will be money to run the schools in accordance with that directive?

The Assistant Minister for Education, Science and Technology (Mr. Ojode): Mr. Deputy Speaker, Sir, I would not know whether there is a saving of Kshs22 billion. But nevertheless, those are some of the areas we will explore.

POINTS OF ORDER

WITHDRAWAL OF LICENCE FOR ROYAL MEDIA SERVICES

Mr. Muihia: Mr. Deputy Speaker, Sir, I would like to seek a Ministerial Statement from the Attorney-General's office on the position of the Royal Media Services broadcasting licences and transmission frequencies, in view of court orders preserving the existing frequencies; and whether Royal Media Services Limited is free to start broadcasting from the Limuru site where they were ordered to return.

Mr. Deputy Speaker: Anyone here from the Ministry of Information and Tourism? Well, their attention will be drawn to it by the HANSARD proceedings for today.

KILLING OF SEVEN PEOPLE IN LIBOI TOWN

Mr. Shidiye: Mr. Deputy Speaker, Sir, last week I requested for a Ministerial Statement from the Minister of State, Office of the President. Mr. Samoei promised to give a Ministerial Statement this week but he has not done so. Seven people were killed in Liboi Town in my constituency. This is a grave matter and to date, the police have not taken any action. There is lawlessness in the area because we have been invaded by a militia from Somalia. That is a very serious matter affecting the lives of the people of Lagdera. If the Minister of State, Office of the President is here, he should give an undertaking to that effect. Alternatively, could the Chair give a ruling on this matter because its very serious?

NOTICE OF MOTION FOR ADJOURNMENT
UNDER STANDING ORDER No.20

CLASHES IN KIBERA

Mrs. Mugo: Mr. Deputy Speaker, Sir, I rise under Standing Order No.20 to seek adjournment of this House to raise a Motion in order to discuss an urgent and definite matter of national importance. This is in relation to the clashes in Kibera which are now spreading to Dagoretti Constituency. I have complied with the provisions of Standing Order No.20(2) and I have enough Members of Parliament who support this Motion.

Mr. Deputy Speaker: Order, Mrs. Mugo! It is evident that you have got more than 20 Members of Parliament. The Gracious lady had consulted with Mr. Speaker earlier on, and he indicated his willingness to allow this Motion of Adjournment for the purpose of discussing the fracas in Kibera. So, we will give the time to hon. Mugo to move the Motion at 7.00 p.m. this evening.

CONSTRUCTION OF KASARANI-NJIRU ROAD

Mr. Muchiri: Mr. Deputy Speaker, Sir, I would like to seek a Ministerial Statement from the Minister for Roads and Public Works. On 18th April, 2001, he promised this House that the construction of Kasarani-Njiru Road would start in October, 2001. Up to date, nothing has been done. Could he give a Ministerial Statement as to the circumstances which have prevented the road from being constructed?

KILLING OF SEVEN PEOPLE IN KARIOBANGI

Mr. Muchiri: Mr. Deputy Speaker, Sir, in November this year, the Minister of State, Office of the President in charge of internal security promised to make a comprehensive statement concerning the killing of seven people in Kariobangi, but he has not done so to date. Could the Chair, now, order him to bring a comprehensive statement as he promised?

KILLING OF MS. MUKANYIKA

Mr. Mwakiringo: Mr. Deputy Speaker, Sir, last week, the Chair made a ruling that Ministerial Statements demanded by Members of Parliament must be given within that week. It was on Tuesday when the Minister of State, Office of the President in charge of internal security promised to bring a statement to the House today, on the killing of Ms. Elizabeth Mukanyika at Voi Police Station. This has not been done. Is it that the Front Bench, on the other side of the House, is defying the Chair? What action will the Chair take, because it has made the ruling that, statements must be given within the same week?

MINISTERIAL STATEMENTS

TERMS OF CONTRACT BETWEEN CBK
AND THOMAS DE LA RUE.

The Minister for Finance (Mr. Obure): Mr. Deputy Speaker, Sir, two days ago, Mr. Muturi, the Member for Siakago, wanted the terms of the renewal of contract between the Central Bank of Kenya and Thomas De La Rue and Company Limited laid on the Table of this House. I take this opportunity to do so, now.

(Mr. Obure laid the document on the Table)

Mr. Muturi: Mr. Deputy Speaker, Sir, now that the Minister has laid on the Table the terms of that contract, I need time to peruse through this document so that I can raise any questions that I may desire. In view of the fact that I will be out of the country next week, could I seek the indulgence of the Chair, so that I can raise this issue when the House reconvenes?

Mr. Deputy Speaker: Are you going out of the country on Parliamentary business?

Mr. Muturi: Yes. I will be out of the country on Parliamentary business.

Mr. Deputy Speaker: The document has now been laid on the Table by the Minister for Finance. If we will not have gone on recess by the time you return, I will give you an opportunity to seek clarifications from the Minister. But it does not matter when the House will sit next. Even if it will be after one year, it is your right to raise those issues with the Minister after you have perused that document. So, you will be given the time!

CONSTRUCTION OF KISII-CHEMOSIT ROAD

The Assistant Minister for Roads and Public Works (Eng. Rotich): Mr. Deputy Speaker, Sir, yesterday, hon. Anyona requested for a Ministerial Statement from the Ministry of Roads and Public Works regarding Kisii-Chemosit Road (C21). I am pleased to give the following statement.

Mr. Deputy Speaker, Sir, the contract number is RB0212. The project is being financed by the Government of Kenya and the employer is the Permanent Secretary, Ministry of Roads and Public Works. The Engineer is the Chief Engineer, Roads. Tenders for upgrading of the road to bitumen standard were invited through Press advertisements on 28th May, 2001. The contract for the construction of the road was awarded to Putt Sarajevo, of P.O. Box 48331, Nairobi. Their tender sum was Kshs896,825,000. A letter of award was issued on 2nd October, 2001. The completion period is 20 months, from the time they take possession of the site, which is in two weeks time. The period of maintenance after that is 12 calendar months.

Mr. Deputy Speaker, Sir, the order to commence work will be given immediately the documents are signed by the Permanent Secretary, Ministry of Roads and Public Works, and counter-signed by the Permanent Secretary Treasury. The contractor will have ten days to commence work upon issuance of the order to commence. The China Roads Construction Company is in the process of compiling the documents for signature by the Permanent Secretary, Ministry of Roads and Public Works and counter-signed by the Permanent Secretary, Treasury. Those documents will be signed within two weeks from today.

Mr. Deputy Speaker, Sir, the Resident Engineer of the project has already been appointed and his name is Eng. Gachau. He is in the process of assigning support team for supervision of the works. The budgetary provision for this financial year is Kshs200 million.

Mr. Anyona: Mr. Deputy Speaker, Sir, I would like to thank the Assistant Minister for that prompt Ministerial Statement. I would like him to clarify how he intends to raise the balance between the contract sum of Kshs800 million and the Kshs200 million that is in the budget. Secondly, where is the camp site going to be? There is a site near Kisii School. I think there was some site in Ng'oina which was abandoned. Where is the site going to be and where are they going to start the road, because that also sometimes becomes an issue?

The Assistant Minister for Roads and Public Works (Eng. Rotich): Mr. Deputy Speaker, Sir, we have reached an agreement with the Treasury that we get the balance of Kshs700 million next financial year. The road will start from where it stopped.

Mr. Angwenyi: Mr. Deputy Speaker, Sir, I also want to add my voice in thanking the Ministry for undertaking this project. As you know, this project has been on and off for the last 23 years. I would have been much happier if the Assistant Minister came today and said that people are on site and have started working, instead of telling us that they will sign the documents in two weeks time. Would he tell us why the documents have not been signed to date? Two, I do know that our Government is pressed hard to raise funds for this type of development. Could he tell us why they cannot source funds from donors like they have done for other projects, so that we can be sure that the project will be completed?

The Assistant Minister for Roads and Public Works (Eng. Rotich): Mr. Deputy Speaker, Sir, we have not signed the documents because we want to confirm the bid bond, which we confirmed this morning. The confirmation letter came this morning. Once they give us the bid bond, we have to write to the bank. The bank has to reply to confirm the bid bond. We have already confirmed that. The documents will be ready in two weeks time; from today.

Mr. Deputy Speaker, Sir, the second point raised is that of funds. We have no problem at the moment. We have enough funds to finance the whole project, Kshs896 million.

Mr. Obwocha: Mr. Deputy Speaker, Sir, this is one project in Kisii that is like a sore somewhere in the body. I want some clarification from the Assistant Minister. The Government has made this road to be an election tool. Every time they go to a general election, they promise the people of Kisii that they are going to do the Kisii-Chemosit Road; C21. I have two issues I would like him to clarify. First, is it true that the contractor will divert at Konate to Nyamira District Headquarters, 13 kilometres inside, when they are constructing that road? There is a diversion of 13 kilometres into the district headquarters. Could he confirm or deny that? Secondly, I do

not think he has answered Mr. Anyona's question about the project site. Where is the site going to be? Is it going to be at Kisii or Tombe, or Sironga or Chemosit? The other time, they put up one at Kemera and they removed all the ballast from there. This Government is terrible!

The Assistant Minister for Roads and Public Works (Eng. Rotich): Mr. Deputy Speaker, Sir, we do not choose the site for the contractor. He tells us where the site will be. But it will be between the end of the road and Kisii Town. But we do not choose for them. They choose the site and they have to tell us where it will be. As to the diversion to Nyamira Town, there has been a request and we are looking into it. We hope to connect Nyamira Town to the main road. But we are not diverting the road, we are using the original design. But we shall, hopefully, connect Nyamira Town to the main road.

Mr. Anyona: Mr. Deputy Speaker, Sir, the construction of the road sometimes also involves casual employment. I do not want to have any doubt about whether or not we shall have money, as long as Mr. Obure is in the Treasury. If he does not give us the money, he knows his fate.

Mr. Deputy Speaker: Nyachae was there before!

Mr. Anyona: Well, that is why I am warning him!

Mr. Deputy Speaker, Sir, sometimes, there is an element of casual employment and it generates a lot of controversy when casual employees are imported from outside to the areas where the road is being constructed. Could the Assistant Minister confirm and undertake to ensure that casual employees will come from the areas where the road is being constructed?

The Assistant Minister for Roads and Public Works (Eng. Rotich): Mr. Deputy Speaker, Sir, we have told the contractor to avoid importing labour from outside the environment where the road is being constructed. He is aware of that. He is supposed to get labour from the surrounding area.

POINTS OF ORDER

TARMACKING OF KASARANI-NJIRU ROAD

Mr. Mwenje: Mr. Deputy Speaker, Sir, I do not know whether the Assistant Minister for Roads and Public Works is ignoring to issue a Ministerial Statement about the Kasarani-Njiru Road as requested by Mr. Muchiri. We have the HANSARD here and we can see precisely what he said about it. Could he tell us when it will start, is it tomorrow or the next day?

The Assistant Minister for Roads and Public Works (Eng. Rotich): Mr. Deputy Speaker, Sir, I will issue a statement on Tuesday regarding that and what problems we are encountering.

BILLS ASSENTED TO BY THE PRESIDENT

Mr. Imanyara: On a point of order, Mr. Deputy Speaker, Sir. I rise to seek a Ministerial Statement from the Office of the Attorney-General on a matter that the Chair ruled on yesterday. During this Session, we have passed very many Bills into law; the latest being The Children Bill which guarantees free and compulsory education for children. Could the Attorney-General comply with the Speaker's request that was made yesterday and table the list of all the Bills that have received Presidential Assent so that Kenyans can understand that it was the will of this House and not the President's that children should not pay school fees as from next year? A law was passed by this Parliament that from January, they will not be paying any form of fees. Could he comply with the Speaker's request and table the list of all the Bills that have received Presidential Assent?

The Attorney-General (Mr. Wako): I am sorry, Mr. Deputy Speaker, Sir. I could not get his question because there was so much noise.

Mr. Deputy Speaker: No. It was a question concerning all the Bills that have received Presidential Assent and that hon. Members are never appraised of this action.

The Attorney-General (Mr. Wako): Are they for this year?

Mr. Imanyara: Mr. Deputy Speaker, Sir, yesterday the Chair did rule that it has always been the tradition of this House that when Bills receive Presidential Assent, the House is informed and there is always a communication from the Chair. We want this to be done so that Members from that side of the House do not go round the country telling Kenyans that there is a party leader who has given children free education when we know that it is this House which passed an Act, in Section 7 of the Children's Bill, that requires the Government to provide free and compulsory education for our children from January next year.

The Attorney-General (Mr. Wako): It is, of course, Parliament which passed this Act, and Parliament is

defined as the National Assembly plus the President. If it is a question of tabling the Bills that the President has given assent to for this year, I will table them. I was not in the House yesterday, but I will do that in accordance with your ruling.

Mr. Deputy Speaker: Hon. Members, the correct position is that Parliament should itself make that list because we assign numbers to those Bills. So, we will do it in conjunction with the Attorney-General.

COURT JUDGEMENT IN FAVOUR OF EQUIP AGENCIES

Mr. Anyona: Mr. Deputy Speaker, Sir, yesterday I did request a Ministerial Statement from the Attorney-General. I do not have the particulars here now, but there is a case of the Nairobi Equip Agencies involving Kshs7.2 billion in connection with a Malaria programme. When the contract was cancelled by the Ministry after the matter had been raised, Equip Agencies took the Government to court. We understand that the ruling was made under what appears to be very dubious circumstances. The issue I was raising is that; could the Attorney-General explain the circumstances that led to the court giving judgement in favour of Equip Agencies to the tune of Kshs1.6 billion? Yesterday I said that it was Kshs1.9 billion, but I have seen some figures and it is reported as being Kshs1.6 billion. Will the Attorney-General appeal against this case, and if not, why?

The Attorney-General (Mr. Wako): Mr. Deputy Speaker, Sir, I was not in the House yesterday, but I am familiar with the case and we have already lodged a notice of appeal, and we are appealing. Consequently, the matter is *sub judice*.

Dr. Kituyi: On a point of order, Mr. Deputy Speaker, Sir. Could the Attorney-General tell the House, if he is appealing on that matter, why the stay of execution has been denied by Justice Kuloba?

The Attorney-General (Mr. Wako): That is the very issue we are appealing on; that Justice Kuloba has denied stay of execution. We have filed a notice of appeal and the matter is still in court under certificate of urgency.

Mr. Mutahi: On a point of order, Mr. Deputy Speaker, Sir. Yesterday you made a ruling that my Question, which was not answered, should be placed in today's Order Paper, but this was not done.

Mr. Deputy Speaker: Did I make this ruling in the morning or afternoon?

Mr. Mutahi: It was supposed to be on today's Order Paper, but it is not there.

Mr. Deputy Speaker: This is clearly an oversight and I will rectify it. The Question will appear on Tuesday, next week.

Dr. Kituyi: On a point of order, Mr. Deputy Speaker, Sir. I would like to seek some guidance from the Chair. You notice that we have a Supplementary Order Paper. Whereas the original Order Paper did contain published amendments at the Committee Stage, not just from the Minister, but also from Members of this House, the Supplementary Order Paper does not include any amendments to the Sugar Bill. Could the Minister tell us what has occasioned the disappearance of the notice given by the hon. Members for amendments to the Sugar Bill?

Mr. Deputy Speaker: I am sorry the Supplementary Order Paper has just been brought to my attention, but a quick glance at it does, in fact, show that there are proposed amendments by hon. Members.

Dr. Kituyi: Those are proposed amendments to the Coffee Bill!

Mr. Deputy Speaker: Order, hon. Members! There is only one Supplementary Order Paper. If you look at page 749 you will see the Sugar Bill, No.24, and the first notice is by Mr. Achola.

The Minister for Agriculture (Dr. Godana): On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Let me deal with this first. The Supplementary Order Paper is quite in order. The other proposed amendments are in the original Order Paper. These are additional amendments proposed by hon. Members.

Proceed!

The Minister for Agriculture (Dr. Godana): With your clarification, that both Order Papers are equally valid, I would like to withdraw my point of order.

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

[Mr. Deputy Speaker left the Chair]

IN THE COMMITTEE

*[The Temporary Deputy Chairman
(Mr. Musila) took the Chair]*

THE COFFEE BILL

Dr. Kituyi: Do we have a complementary Order Paper or a Supplementary Order Paper? If it is complementary, could you give us the procedure on how we will proceed with the two?

The Temporary Deputy Chairman (Mr. Musila): Dr. Kituyi, I want to assure you that we will look at these papers simultaneously and ensure that every proposed amendment is considered.

Clause 2

The Minister for Agriculture (Dr. Godana): Mr. Temporary Deputy Chairman, Sir, I beg to move:-
THAT, Clause 2 be amended-

by deleting

the definition of "broker";

the definition of "commission agent";

the words "controlled by the Board" in the definition of "Foundation";

the word "broking" appearing in the definition of "coffee trade".

by inserting the following new definitions in the proper alphabetical sequence.

"Nairobi Coffee Exchange" means the central coffee auction which is the trading floor of coffee"

"sales catalogue" means a sales catalogue prescribed pursuant to paragraph (h) of section 45(2);

"warehouse" means a designated storage facility for coffee, specifically designed to guarantee the quality and safety of coffee;

Mr. Temporary Deputy Chairman, Sir, the proposed amendments are meant to do away with---

Mr. Murathe: On a point of order, Mr. Temporary Deputy Chairman, Sir. There was a proposed amendment to Clause 1 and you have gone straight to Clause 2.

The Temporary Deputy Chairman (Mr. Musila): Clause 1 comes at the end. It is always the last one.

The Minister for Agriculture (Dr. Godana): He is trying to defend his turf.

Mr. Temporary Deputy Chairman, Sir, I was saying that the proposed amendments are straightforward. The first one is to do away with the definitions of "broker" and "commission agent" because after very frank and prolonged consultations with the Committee, we came to an agreement to do away with those two positions as a way of reducing the chain of middlemen in the coffee business. So, it is no longer necessary to define them. The next two lines regarding the use of the words "controlled by the board" in the definition of "Foundation" and "broking" appearing in the definition of the "coffee trade" are to be done away with for grammatical reasons.

There are introductions of new definitions, in particular the Nairobi Coffee Exchange. Hon. Members felt that, for the avoidance of doubt, we must define the Nairobi Coffee Exchange, even if it is referred to once, and we conceded.

The Minister for Agriculture (Dr. Godana): Mr. Temporary Deputy Chairman, Sir, the last one is where we have defined "warehouse" as meaning a designated storage facility for coffee, specifically designed to guarantee the quality and safety of coffee.

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed to)*

*(Question, that the words to be inserted
in place thereof be inserted, put and agreed to)*

(Clause 2 as amended agreed to)

(Clause 3 agreed to)

Clause 4

The Temporary Deputy Chairman (Mr. Musila): Hon. Members, we have some proposed amendments to Clause 4. This is on page 747 of the Supplementary Order Paper and we will start with hon. Gatabaki.

Mr. Gatabaki: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 4 be amended by adding a new subclause (i) -

"provided that no member of the Board shall, at the same time, be a miller or a member of the Coffee Research Foundation".

One of the biggest problems we have experienced is that of closed membership where somebody is a member of the Coffee Board of Kenya, and at the same time, he is a member of the Coffee Research Foundation, Kenya Planters Co-operative Union (KPCU) and so on. This brings about a conflict of interests. We want a Board that is professionalised and not subject to a lot of vested interests.

(Applause)

(Question of the amendment proposed)

Mr. O.K. Mwangi: On a point of order, Mr. Temporary Deputy Chairman, Sir.

The Temporary Deputy Chairman (Mr. Musila): Now, what is the point of order? I have proposed the Question of the amendment. Do you want to contribute to the debate?

Mr. O.K. Mwangi: Mr. Temporary Deputy Chairman, Sir, I had proposed another amendment to the same clause.

The Temporary Deputy Chairman (Mr. Musila): It will come after this one. We have to deal with amendments one by one. Mr. Minister, what do you have to say?

The Minister for Agriculture (Dr. Godana): Mr. Temporary Deputy Chairman, Sir, indeed, this has been our intention through these reforms and I made it very clear. The policy was explicit; that in none of the coffee institutions, no person will be allowed to sit on more than one Board. If you look at Clause 4, paragraph 2, the Minister is the one who will gazette the names of all those Board members and that is where the Minister will exercise his powers to say: "No, I draw your attention". However, if Members want, for the avoidance of doubt, to repeat, I concede.

The Temporary Deputy Chairman (Mr. Musila): Very well! We must make some clarification there. The proposer, Mr. Gatabaki, says "a new subclause." It should be a new subparagraph. This is because it is not (i) but (I). Therefore, it is to be amended by adding a new subparagraph (I). So, let that be noted.

The Minister for Agriculture (Dr. Godana): On a point of order, Mr. Temporary Deputy Chairman, Sir. If it is a proviso, it cannot be a subparagraph. It can only be a proviso to the paragraph.

The Temporary Deputy Chairman (Mr. Musila): That is alright and it can be handled.

Mr. Ndwiga: Mr. Temporary Deputy Chairman, Sir, could I be in order to add a further amendment to this subparagraph?

The Temporary Deputy Chairman (Mr. Musila): No! You are out of order!

Mr. Ndwiga: Mr. Temporary Deputy Chairman, Sir, my concern is that if we pass this subparagraph as it is now, we are going to have problems. This is because although our intention as the Minister says-- This is because here we cannot say that "at the same time be a miller". We cannot say that because we are saying also that we have slots for millers and other players in the industry. So, I think the spirit was that you cannot be a member of KPCU but KPCU itself and the other millers will compete for their slots on the Board. So, I do not know how we are going to address that anomaly.

The Temporary Deputy Chairman (Mr. Musila): So, in a nutshell, you are saying that you oppose that proposal? Is that not so?

Mr. Ndwiga: Yes, Mr. Temporary Deputy Chairman, Sir.

The Minister for Agriculture (Dr. Godana): Mr. Temporary Deputy Chairman, Sir, I fully agree. You see, when one is ambushed by proposals as far-reaching as amendments to the law which has taken months to prepare as, indeed, I felt this afternoon, because I saw the Supplementary Order Paper only here, I think this is another illustration of how risky a business it can be. I wished, indeed, this proposal was brought up when we were discussing with the Committee. We went through all the proposals that the Committee put forward and, indeed, what hon. Ndwiga is saying, I said the intention, in fact, is not to allow somebody to be on more than one Board in

the industry. However, you cannot lock out a miller because he can be elected in his capacity as a miller by his interest group.

Ms. Karua: On which paragraph is that?

The Minister for Agriculture (Dr. Godana): If you look at paragraph 4, (a) is about the chairman, (b) is co-operative societies (c) elected by plantation coffee growers and (d) one member elected by coffee trade organisations registered under any written law at a meeting of directors of those organisations convened by the Minister to represent the interests of the coffee trade.

Ms. Karua: How does a miller come in?

The Minister for Agriculture (Dr. Godana): A miller is a key member of the Coffee Trade Organisation. You cannot ignore that! So, they might decide to appoint a marketing agent, a miller and so on. I would, therefore, wish to appeal that Members trust the policy statement which was explicit and also trust the provisions in subparagraph (ii) of this Clause which gives the Minister the final word to say:

"No, this cannot be gazetted because it is contrary to this policy which will make the interest group to go back to their meeting and elect a member again".

So, I wish to appeal to the hon. Member to withdraw that further proposed amendment.

Mr. Angwenyi: Mr. Temporary Deputy Chairman, Sir, we would have wished to support the Minister, but he will use his discretion to make sure that the policy is adhered to. But we have been done in many times, when we base our decisions on the discretion of the Minister or any other officer. So, let us support this Motion. A miller, if he wants to be a member of the Board, then, he should resign from the milling business. We have got a very wide spectrum of people, who could be appointed to the Board without having to consider millers.

I support that amendment.

Dr. Kituyi: Mr. Temporary Deputy Chairman, Sir, what the Minister is doing is something contradictory. The immediate past amendment that he moved before the House now was to delink the Coffee Research Foundation (CRF) from the Board, a body that is not under the control of the Board. That is amendment on Clause 2 from you. The import of that is to privatise the Coffee Research Foundation without any controls from the Board. That is what he has just done, in Clause 2. If you are trying to free the CRF from the Board, why do you want to leave the purview that it can assist in the Board? Why do you want to give it freedom from the Board and give it an entry into the Board? You must work either with one or the other.

The Minister for Agriculture (Dr. Godana): Mr. Temporary Deputy Chairman, Sir, they do not understand. The import of the first amendment that we moved, as regards the foundation, is to make them independent of one another, so that the CRF is not muzzled by a Board which says that this is a scientific technical Bill.

The Temporary Deputy Chairman (Mr. Musila): Order, hon. Members! So, since he did that, do you want to do the same? No!

Mr. Imanyara: Mr. Temporary Deputy Chairman, Sir, we have just committed a very serious wrong. We have allowed the Minister to amend a Clause which, through the backdoor, privatises the CRF. This is because under the current Act, the Board of the CRF is controlled by the Coffee Board of Kenya. You have now removed the entry of control completely and what they are doing, because you will see it in Clause 7 also, is through the backdoor. They are trying to privatise the CRF so that the benefit of research, particularly from the rural revenue, can go to the private users. We have made a very serious mistake by allowing that amendment and we are going to reverse it.

Mr. Murathe: Mr. Temporary Deputy Chairman, Sir, I do not know whether I want to comment on that one, because we held very thorough and serious consultations about the delinking the CRF from the CBK. It is the farmers' wish to finance their own research and to be independent of the Board. Today's Coffee Board, not the current interim one, has been misusing, to the tune of Kshs200 million, CRF money and the elections to the CBK, once they elect people to the Board, the Board then has been sending people from the Board to the CRF. That is what we are trying to avoid. The Committee went to South America and everywhere, and found out that research is independent; it is then co-ordinated by the regulatory framework. We know if we do not have independent research, there will be no research going on for coffee. That was done very thoroughly; it was over a period of two years of deliberations. But coming back to the point which we are now deliberating on, I think what we may need is to move a further amendment to clarify that we are not knocking out a miller from being represented in the Board, because subclause 2 allows members of the coffee trade, to pick one to go to the Board. Millers are part of the coffee trade and you cannot, therefore, say that they cannot be on the Board, particularly if you are considering a miller like the KPCU who are controlling 60, 70 or 80 per cent. They are major stakeholders. They need to be on that Board, if they can convince their members to elect them. We would like to move a further amendment to the

amendment--

The Temporary Deputy Chairman (Mr. Musila): Where is it? The Chair has nothing on the Table! I saw a document here and it disappeared.

Mr. Murathe: Mr. Temporary Deputy Chairman, Sir, Mr. Murungi is just completing it.

The Temporary Deputy Chairman (Mr. Musila): Is there any other hon. Member who wants to contribute before I get his document?

Mr. Kibicho: Mr. Temporary Deputy Chairman, Sir, unless this proviso is put in, we are going to be in the same situation that we are in as a welfare Board at ICIPE and coffee trade is controlled by a few people. What should be done is this, as the amendment is being proposed, we propose that a miller can only come into the Board if he falls under that particular section within trade so that we do not have a situation whereby the four millers can monopolise all the seats in the Coffee Board Research and control the trade.

The Minister for Agriculture (Dr. Godana): Mr. Temporary Deputy Chairman, Sir---

The Temporary Deputy Chairman (Mr. Musila): Order, Mr. Minister! There is a proposed amendment which may seek a compromise and we finish.

The Minister for Agriculture (Dr. Godana): History is not properly sort out last minute.

The Temporary Deputy Chairman (Mr. Musila): Incidentally, I do not have a copy of the proposed amendment.

Mr. Murungi: Mr. Temporary Deputy Chairman, Sir, I fully agree with the Minister that, since we have considered this matter at length, we should avoid introducing last minute amendments as much as possible. We are trying to improve on Mr. Gatabaki's amendments by introducing this further amendment to the amendment. We delete the word "miller" so that the miller can be a member of the Board---

The Minister for Agriculture (Dr. Godana): You will have said that "provided no---"

The Temporary Deputy Chairman (Mr. Musila): Order, Mr. Minister! I am chairing this meeting!

Mr. Murungi: Mr. Temporary Deputy Chairman, Sir, so that it reads "provided that no member of the Board shall, at the same time, be a member of the Coffee Research Foundation".

The Temporary Deputy Chairman (Mr. Musila): So, we delete what words?

Mr. Murungi: Mr. Temporary Deputy Chairman, Sir, Coffee Research Foundation, Co-operative Bank of Kenya and the Kenya Planters Co-operative Union Limited (KPCU).

The Minister for Agriculture (Dr. Godana): Mr. Temporary Deputy Chairman, Sir---

The Temporary Deputy Chairman (Mr. Musila): Order, Mr. Minister! I have not even proposed the amendment.

The Minister for Agriculture (Dr. Godana): Mr. Temporary Deputy Chairman, Sir, it is in very bad English.

The Temporary Deputy Chairman (Mr. Musila): I want to seek your indulgence, hon. Members. Mr. Murungi, is this further amendment to Mr. Gatabaki's amendment? Do you want me to read it out the way it is? This is the official version. He says that we further amend Mr. Gatabaki's proposed amendment to Clause 4 by deleting the word "miller" between the paragraphs (b) and (c); and add the words "Co-operative Bank of Kenya and the Kenya Planters Co-operative Union Limited".

Hon. Members: No, please!

The Temporary Deputy Chairman (Mr. Musila): So, how does it read? I am having difficulties?

The Minister for Agriculture (Dr. Godana): On a point of order, Mr. Temporary Deputy Chairman, Sir.

The Temporary Deputy Chairman (Mr. Musila): Order! Let it be read out clearly so that I understand what I am proposing!

Mr. Murungi: Mr. Temporary Deputy Chairman, Sir, as amended, it will read as follows: "provided that no member of the Board shall, at the same time, be a member of the Coffee Research Foundation, a member of the Co-operative Bank of Kenya or a member of the Board of the Kenya Planters Co-operative Union Limited (KPCU)". So, those are the organisations that we want to be included.

The Temporary Deputy Chairman (Mr. Musila): Here you have the Co-operative Bank of Kenya. Hon. Members, we are making laws here and we have to be careful of what we are doing.

The Minister for Agriculture (Dr. Godana): Yes, Mr. Temporary Deputy Chairman, Sir. Thank you very much!

(Laughter)

The Temporary Deputy Chairman (Mr. Musila): Hon. Members, we are making laws. So, we must be

very careful not to scribble things down and then throw them all over. So, if one wishes to propose a further amendment to an amendment, one should do so properly to enable the Chair read it out.

Mr. Minister, you may now have the Floor!

The Minister for Agriculture (Dr. Godana): Mr. Temporary Deputy Chairman, Sir, let me take the benefit of the time the hon. Member needs to refine his idea. I could not agree more with you in appealing to hon. Members to realise that we are making laws here.

Mr. Mwenje: On a point of order, Mr. Temporary Deputy Chairman, Sir.

The Minister for Agriculture (Dr. Godana): But I am also on a point of order!

Mr. Mwenje: Mr. Temporary Deputy Chairman, Sir, there is going to be confusion here. So, I request that we leave this proposal behind to give the hon. Member time to organise the wording of his proposal properly, so that we can understand it.

The Temporary Deputy Chairman (Mr. Musila): Mr. Mwenje, I must dispose of this amendment before we proceed to the next one.

Mr. Mwenje: Before you do that---

An hon. Member: Writing an amendment is not easy!

The Temporary Deputy Chairman (Mr. Musila): What is exciting everybody?

The Minister for Agriculture (Dr. Godana): Mr. Temporary Deputy Chairman, Sir, I wish to appeal to Mr. Mwenje to give the matter before the House the seriousness it deserves. People have been waiting for the passage of the Coffee Bill for years. We know what the situation out there is like. This Bill was drafted after prolonged consultations with all the stakeholders. Last week, I did have a meeting twice with the Departmental Committee on Agriculture, Lands and Natural Resources, and we went through it clause by clause. That is why it is important that, as Members of Parliament, we realise that we do not make important decisions such as proposing amendments on the impulse of the moment. I am afraid that this is what is happening, with potentially very dangerous consequences.

Mr. Angwenyi: On a point of order, Mr. Temporary Deputy Chairman, Sir. I seek protection for the House. The consultations the Minister has had with other people cannot take over the work of this House. The House is the only entity that makes the laws of this country. So, the Minister should not lecture us about making of laws. We want to make the law on the Floor of this House. The Minister may have had consultations with people at various fora, but it is upon this House to ultimately make a good law.

The Minister for Agriculture (Dr. Godana): Mr. Temporary Deputy Chairman, Sir, I will take it for what it is worth.

Let me remind the House that almost every hon. Member who stood here during debate time said that if the Co-operative Societies Act is not amended, even the amendments going to be made to the existing law will be meaningless. Sadly, we have not yet got the Bill; we sent it to the Attorney-General's Office a month ago. I do agree with the hon. Members in this respect. However, the fact remains that the existing mess in the Co-operative Societies Act was as a result of this kind of rushy amendments moved on the Floor of this House, in the context of the Inter-Parties Parliamentary Group (IPPG) negotiations. The amendments made to the Co-operative Societies Act were not properly thought out by the draughtsmen in the Attorney-General's Office, and other experts on the co-operative management. That is the mess in which we landed the country.

The Temporary Deputy Chairman (Mr. Musila): Order, Mr. Minister!

The Minister for Agriculture (Dr. Godana): Mr. Temporary Deputy Chairman, Sir, I am making a plea to hon. Members.

The Temporary Deputy Chairman (Mr. Musila): Yes, but could you wind up!

The Minister for Agriculture (Dr. Godana): I will, Mr. Temporary Deputy Chairman, Sir.

I am making a plea to hon. Members, that, through these amendments, we should not try to catch everything in the net so as to cover even the Co-operative Bank of Kenya and the Kenya Planters Co-operative Union (KPCU). The KPCU is a miller. So, if you accept to remove the word "miller" and put in place thereof the words "Kenya Planters Co-operative Union", you will still be guilty of the same mistake you will have tried to avoid.

Hon. Members: No!

The Minister for Agriculture (Dr. Godana): That is a fact!

The Temporary Deputy Chairman (Mr. Musila): Mr. Minister, you have made your point. What I want to say is that it is absolutely in order for hon. Members to propose amendments to a foregoing amendment, so long as the amendment has not been discussed outside this House. This is very well covered under Standing Order No.106(2), which reads as follows:

"Provided that where an amendment has been moved to any part of a Bill in accordance with the provisions of this paragraph, any Member may move an amendment to that amendment on delivering to the Chair the terms of his amendment in writing."

I now have the hon. Member's proposed amendment to the foregoing amendment in writing. So, I will now propose Mr. Murungi's further amendment to Mr. Gatabaki's amendment, which reads as follows.

THAT, the amendment be further amended by deleting the words "a miller or" after the word "be" and add the following words after the word "Foundation"-

"the Board of the Co-operative Bank of Kenya Limited and the Kenya Planters Co-operative Union Limited", so that the amendment reads as follows:

"Provided that no Member of the Board shall, at the same time, be a Member of the Coffee Research Foundation, the Board of the Co-operative Bank of Kenya Limited and the Kenya Planters Co-operative Union".

*(Question of the amendment to
the amendment proposed)*

The Minister for Agriculture (Dr. Godana): Mr. Temporary Deputy Chairman, Sir, let me make it very clear, that I fully understand the Standing Orders. Hon. Members have every right to move amendments on the Floor of this House. Here is where laws are made. But I want to repeat my plea to hon. Members, that much as we are exercising our rights, we have to take cognisance of the fact that rashy amendments to the law can actually land us into problems. I am just giving reasons why we should be cautious and double-sure about the proposals hon. Members are making in the last minutes of our scrutiny of this Bill.

Mr. Sambu: On a point of order, Mr. Temporary Deputy Chairman, Sir.

The Temporary Deputy Chairman (Mr. Musila): Mr. Sambu, please, let us make progress. Let the Minister make his point and then I will give you a chance to also make yours.

The Minister for Agriculture (Dr. Godana): Mr. Temporary Deputy Chairman, Sir, I am opposed to the proposed amendment for two good reasons. One, I am unhappy with the wording of the amendment. Commentators out there will wonder what kind of Parliament is this which says that "you cannot" and "you can" at the same time.

Hon. Members: No! That is frivolous!

Mr. Sambu: On a point of order, Mr. Temporary Deputy Chairman, Sir. Is the Minister in order to intimidate the House? Are we making a law for commentators or for Kenyans? This House has the right, as provided by the Constitution and the Standing Orders, to make laws.

The Minister for Agriculture (Dr. Godana): Even more importantly, Mr. Temporary Deputy Chairman, Sir, hon. Members conceded that we cannot exclude the millers, as members of the coffee trade, from the membership of the Board. I thank them for that. But now, they have decided to substitute the miller---

The Temporary Deputy Chairman (Mr. Musila): They have not decided yet; they have only made a proposal to that effect.

The Minister for Agriculture (Dr. Godana): Mr. Temporary Deputy Chairman, Sir, what I mean is that hon. Members have opted to substitute "the miller" for a specific major miller by mentioning the KPCU. In effect, they are saying that a member of some other milling body can be there but the KPCU is excluded. That is the import of the proposed amendment to the foregoing amendment.

Hon. Members: Other millers will be elected to the Board!

The Minister for Agriculture (Dr. Godana): So, you want to provide for other millers to be elected to the Board but deny the biggest representative body of coffee farmers and coffee producers, which has amalgamated all the small-scale coffee producers, the chance to have a say in the policy-making process at the Board level? Is that your intention?

Hon. Members: No! Yes!

The Minister for Agriculture (Dr. Godana): I am shocked to hear some of you say "yes".

The Temporary Deputy Chairman (Mr. Musila): I will allow two hon. Members to comment and then I will put the question.

Mr. Ndwiga: Mr. Temporary Deputy Chairman Sir, the Minister has misled the House. We are not saying that the Kenya Planters Co-operative Union (KPCU) cannot be represented on the Board. I had made that point earlier. The KPCU, as a body corporate, can be a member of the Board because it will be elected by its own organisations.

The Minister for Agriculture (Dr. Godana): Mr. Temporary Deputy Chairman, Sir---

Mr. Ndwiga: Mr. Temporary Deputy Chairman, Sir, could you protect me from the Minister?

The Temporary Deputy Chairman (Mr. Musila): You are protected! Mr. Minister, please, sit down!

Mr. Ndwiga: Mr. Temporary Deputy Chairman, Sir, the Minister knows that part of the problem we have now is that we have people who have multiple interests. For example, somebody sits on the Coffee Board of Kenya (CBK), KPCU and on many other boards. We are saying that you only be elected to sit on one board. The Minister made that point himself, and so I do not know why he is opposing this amendment.

Mr. Wamae: Mr. Temporary Deputy Chairman, Sir, I think the issue is very clear. I do not know why the Minister is being confused. All what we are saying is that if you are a member of the CBK you cannot also be a member of the KPCU Board. But KPCU can be elected to represent the millers as a corporate body. This is the difference.

*(Question, that the words to be left out
be left out, put and agreed to)*

*(Question, that the words to be inserted in
place thereof be inserted, put and agreed to)*

(Clause 4 as amended agreed to)

The Temporary Deputy Chairman (Mr. Musila): Hon. Members, I have another proposed amendment by Mr. O.K. Mwangi. This is on page 747 on the Supplementary Order Paper.

Mr. O.K. Mwangi: Mr. Temporary Deputy Chairman, Sir, I beg to move:

THAT, Clause 4(b) be amended by deleting the words "at a meeting convened by the Minister".

My reason for moving this amendment is that the clause calls for eight members elected by the members of the coffee co-operative societies. My concern is that, that meeting where a director is to be elected, does not need to be convened by the Minister. This is because under the Co-operative Societies Act, there is a provision on how coffee co-operative societies should convene their meetings. The Minister should only be worried about how many members should be in the Board. The Minister should only ask the coffee co-operative societies to elect delegates without necessarily having to convene their meetings. There is a provision in the Co-operative Societies Act on how meetings should be convened. So, the Minister should just ask the co-operative societies to send their delegates to the meetings and they will know how to convene meetings and elect their representatives.

(Question of the amendment proposed)

Mr. Ndwiga: Mr. Temporary Deputy Speaker, Sir, normally, I do not differ with my friend, Mr. O.K. Mwangi, but on this issue, I think we have to differ. This is a new Bill and we are saying that, to create these institutions herein, somebody somewhere has got to set the ball rolling. We cannot wish away the Minister. It is true we have removed the Minister from several other areas here. You will recall that when we enacted the Tea Bill here, we allowed the Minister to convene the initial meetings and then left the bodies to regulate themselves thereafter.

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Speaker, Sir, what we are trying to do is to create harmony and order in the coffee industry. I have listened to Mr. O.K. Mwangi's point and I do not know why he has worries over what we have here. For the people managing the coffee industry finally go to elections after we have enacted this law, it will be necessary for them to meet. They have been subdivided into zones. In my area, for example, the zones will range from Gucha District, in Nyanza Province, all the way to Mount Elgon. I do not know if there is any provision in the Co-operative Societies Act under which co-operative societies in that region can meet. So, it is necessary for us to have a Minister or somebody to convene, at least, the initial meeting. Otherwise, if we do not do that, there will be complete disorder and the harmony that we are trying to create will not be achieved.

Mr. Mwenje: Mr. Temporary Deputy Speaker, Sir, just before you put the question, let me make one remark. We know that, at times, we have bad Ministers. Today, we have the KANU Government which does not have good Ministers, but at one stage or another, somebody must be convening meetings. If it is not so, then anybody will convene a meeting from whichever corner he wants and it will be deemed to be a valid meeting. At

the day, you will not even know which was the *bona fide* meeting. So, it is important, as much as we do not like KANU Ministers, for the Minister to be the convenor of these meetings. I oppose Mr. O.K. Mwangi's amendment.

Mr. O.K. Mwangi: Mr. Temporary Deputy Chairman, Sir, my worry was only that it will be cumbersome for the Minister to convene the co-operative societies' meetings. But in view of the feelings of the hon. Members, I beg to withdraw the amendment.

The Temporary Deputy Chairman (Mr. Musila): Therefore, the proposed amendment by Mr. O.K. Mwangi is withdrawn.

(The proposed amendment was withdrawn)

Hon. Members, I received a notice to amend Clause 4(e), signed by Mr. Angwenyi.

Mr. Muiruri: Mr. Temporary Deputy Speaker, Sir, I gave notice to move an amendment to Clause 4(b), which actually comes before Mr. Angwenyi's amendment.

The Temporary Deputy Chairman (Mr. Musila): Yes, as a matter of fact, that is an omission. Mr. Angwenyi's amendment will come later. I beg your pardon. Let us go back to the proposed amendment by Mr. Patrick Muiruri, on page 748, of the Supplementary Order Paper.

Mr. Muiruri: Mr. Temporary Deputy Chairman, Sir, I have a long experience in the leadership of the coffee industry.

The Temporary Deputy Chairman (Mr. Musila): It is on the same Clause. We are on 4(b), instead of talking about experience, you should read the proposed amendment which you want to move.

Mr. Muiruri: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 4(b) be amended by deleting "eight" and substituting it with "six".

And Clause 4(c) be amended by deleting (iii) and substituting it with (v).

The Temporary Deputy Chairman (Mr. Musila): Order! Order! You are reading something different, I do not have that one here on the Order Paper.

Mr. Muiruri: But that phrase is missing. The idea is that---

The Temporary Deputy Chairman (Mr. Musila): Order! No! We are going with what is on the Order Paper!

Mr. Muiruri: But then it is missing because I cannot have---

The Temporary Deputy Chairman (Mr. Musila): Who made it miss from the Order Paper?

Mr. Muiruri: It is of course the Clerk of the National Assembly, because you cannot have only part "(b)" of the Clause being amended!

The Temporary Deputy Chairman (Mr. Musila): Mr. Muiruri, where is your original amendment?

Mr. Muiruri: I gave it to the Clerk of the National Assembly.

The Temporary Deputy Chairman (Mr. Musila): Could you read your proposed amendment?

Mr. Muiruri: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 4(b) be amended by deleting "eight" and substituting it with "six".

The Temporary Deputy Chairman (Mr. Musila): But then, are you saying that your proposed amendment continues further?

Mr. Muiruri: Yes, Mr. Temporary Deputy Chairman, Sir. This is because, obviously, if you look at the Bill itself, you will see that subclauses 4(b) and 4(c) must move together. There is no way you can have subclause 4(b) without subclause 4(c).

The Minister for Agriculture (Dr. Godana): On a point of order, Mr. Temporary Deputy Chairman, Sir. I think there is a clear procedure that is spelt out in our Standing Orders for proposing amendments. If an hon. Member has submitted a proposal to amend the draft Bill, and that proposal has received notice and has been served to the Chair and then the hon. Member comes now to say that he forgot something, I think there must be a limit to something. We should deal with the proposal before the House. We should not allow him to propose new amendments. There is no provision for that in the Standing Orders!

The Temporary Deputy Chairman (Mr. Musila): Mr. Minister, Mr. Muiruri did not say that he forgot something; he alleged that the Clerk of the National Assembly omitted certain things. Be that as it may, Mr. Muiruri would have certainly noticed this earlier. This is because the Order Paper was given to him earlier and he would have noticed it and drawn the attention of the Clerk to that omission. So, I am not going to accept that.

Mr. Muiruri, you should have noticed that omission and drawn the attention of the Clerk to that omission and it should have been rectified. We have no time now to go to the Clerk and look for your original document.

So, under the circumstances, you move the amendment that is on the Order Paper, or you withdraw it. You can do whichever you want.

Mr. Muiruri: Mr. Temporary Deputy Chairman, Sir, then I will move what I already have on the Order Paper. However, when you have eight representatives of the corporators against three representatives representing plantation farmers, there is no balance. It is very easy to manipulate the corporators. All the same---

The Temporary Deputy Chairman (Mr. Musila): Mr. Muiruri, Mr. Angwenyi is on the Floor!

Mr. Angwenyi: Let him finish first.

Mr. Muiruri: Mr. Temporary Deputy Chairman, Sir, I beg to move:

THAT, Clause 5(b)---

The Temporary Deputy Chairman (Mr. Musila): No! We have to finish with Clause 4 first and then come to Clause 5.

Mr. Muiruri: Mr. Temporary Deputy Speaker, Sir, I withdraw the amendment.

Hon. Members: He has withdrawn!

Mr. Muiruri: Mr. Temporary Deputy Chairman, Sir, I have withdrawn the proposal, but the Minister has heard.

*(The proposed amendment by
Mr. Muiruri was withdrawn)*

The Temporary Deputy Chairman (Mr. Musila): Very well. Then I will now revert to Mr. Angwenyi's proposal to amend Clause 4.

Mr. Angwenyi: Mr. Temporary Deputy Chairman, Sir, I beg to move:

THAT, Clause 4 be amended as follows:-

by adding the following words at the end of that subclause, "or his representative".

I am doing this because, maybe, the Permanent Secretary might be very busy and there should be somebody who can represent his view and the views of his Ministry in the Board.

I am going further and proposing an amendment to Clause 4(f) and 4(g). The subclauses should be amended by adding the following words at the end of each of those sub-clauses: "*ex-officio* without voting power".

The Director of Agriculture and the Commissioner of Co-operatives will be members of the Board, but in their capacity as *ex-officio* members without voting power.

Mr. Temporary Deputy Chairman, Sir, the reason why I am saying this---

The Temporary Deputy Chairman (Mr. Musila): Mr. Angwenyi, without cutting you short, "voting right" would be better than "voting power". It should be "voting right" and not "voting power!"

Mr. Angwenyi: Yes, I accept your correction, Mr. Temporary Deputy Chairman, Sir. The reason why I am proposing this is because we are liberalising this industry and, therefore, we are trying to reduce the influence of the Government in this industry.

As we speak here today, there is a lot of influence from the Government and the industry is collapsing. So, let us hand over the industry to the stakeholders who are the farmers.

(Question of the amendment proposed)

The Minister for Agriculture (Dr. Godana): Mr. Temporary Deputy Chairman, Sir, I stand to oppose the proposed amendment. For the purposes record, I want to plead with hon. Members to oppose the amendment. The whole gamut of this Bill is to give the control of the industry to the farmers and the private sector. That is why we are providing for eight slots on the Board, to what I will call small-scale or co-operative society members. That is why I was surprised when the hon. Member wanted to reduce that in favour of the estates.

Mr. Temporary Deputy Chairman, Sir, we still went ahead to give three slots to the estates and they are 11 in total. We gave three slots to the Government; the Commissioner of Co-operatives, the Director of Agriculture and the Permanent Secretary. Now, somebody is proposing that these slots be taken over by *ex-officios*. Now, the Managing Director, as an *ex-officio* member, does not vote nor does he contribute, except when he is asked to say something. Ultimately, the Government is responsible for policy matters. The Government should, at least, have the voice, both through the Permanent Secretary, who is responsible for policy and the Director of Agriculture, who is the person technically competent. He is always an agriculturalist. We also have the Commissioner of Co-operatives who will advise the Board not to pass what they are opposed to. The three members of the Board cannot make a decision over 11 Board members who are elected by both small-scale

farmers and plantation farmers. Really, I would like to plead with hon. Members not to "suffocate" that opportunity for moderation. I would also like to plead with my colleagues to urge the hon. Member to withdraw this amendment. It would be terrible if this amendment is not withdrawn.

Mr. Murungi: Thank you, Mr. Temporary Deputy Chairman, Sir. We have heard the Minister and I think we should get the focus of this Bill right. The focus of the Bill was to remove the Government from the coffee industry, but we decided that we retain the Permanent Secretary and the Director of Agriculture so that matters of policy are communicated to the Board. If they are voting, what are they voting for? We would like the farmers to be in control of the Board.

The Minister for Agriculture (Dr. Godana): Mr. Temporary Deputy Chairman, Sir, they are in control!

Mr. Murungi: Mr. Temporary Deputy Chairman, Sir, the hon. Minister used to be a Deputy Speaker, and so he keeps on talking when other hon. Members are contributing. Could the Chair protect us from him? We did not interrupt him when he was speaking! If the Government has no intention of interfering with the operations of the Board, why do they insist on voting? I do not think that there is much discussion on this issue; let us support the amendments being introduced by Mr. Angwenyi.

Thank you, Mr. Temporary Deputy Chairman, Sir.

Mr. Imanyara: Mr. Temporary Deputy Chairman, Sir, I think the Minister is confusing issues. In any form of democratic Government, the policy of the Government reflects the wishes of the people. In the coffee industry, the people are the farmers. Therefore, the people who should formulate policy should not be the Government; the Government should reflect what the farmers want, not by voting but by implementing the policy that has been formulated by people who feel the effects of the industry. These people are the coffee farmers and not the Government. These Government officials may be appointed to the Board without any form of knowledge on agriculture. So, why should they vote? They should go there and say: "If that is the wish of the farmers, the Government will comply with it." Therefore, I support the amendment.

Mr. Muiruri: Thank you, Mr. Temporary Deputy Chairman, Sir. The Minister has told us that the whole idea behind this Bill is to hand over the coffee industry to the owners, who are coffee farmers. In this Bill, he has slotted three places for planters. In the same Bill, he has also "planted" three directors from his Ministry, namely, the Permanent Secretary, the Commissioner of Co-operatives and the Director of Agriculture. Surely, we should do with one. The Minister should know that he has changed the rules, that these officials are paid mileage, sitting allowances and so forth, which is another burden to the farmer. So, I support the amendment.

The Minister for Agriculture (Dr. Godana): Thank you, Mr. Temporary Deputy Chairman, Sir. From what the hon. Member who was last on the Floor of this House has said, for the avoidance of doubt, let it be known that it is now more than two years since civil servants who are on full pay were disqualified from claiming attendance allowances. So, that will not be a consideration on statutory boards. This is a fact. These officers are paid by virtue of their employment and this should be taken into account.

I fully agree that the core principle of this reform is to hand over the industry to the people to whom it should belong. Let the Government be the regulator, the policeman or the person to facilitate the appropriate environment. That is the reason why we gave 11 slots out of 14 places to farmers, whether they are plantation farmers or small-scale farmers through co-operative societies. Surely---

Hon. Members: Put the question!

The Minister for Agriculture (Dr. Godana): Mr. Temporary Deputy Chairman, Sir, surely, if something will go wrong in the industry, as has happened with the co-operative societies, the same hon. Members or their successors in this House will ask: "Why did the Government allow this?" I would like to plead, for the record, that hon. Members should not try to say that the Government [**The Minister for Agriculture**] is banished because the Government cannot be banished from guiding the industry. The officials who are here, one is responsible for policy, the other one is a technical person, while another one is the technical person in co-operative---

Mr. Gatabaki: On a point of order, Mr. Temporary Deputy Chairman, Sir. Is it in order for this Minister who represents camels to pretend to cry for the coffee farmer more than the hon. Members who represent the coffee farmers?

(Laughter)

The Temporary Deputy Chairman (Mr. Musila): Order, Mr. Gatabaki!

The Minister for Agriculture (Dr. Godana): Mr. Temporary Deputy Chairman, Sir---

The Temporary Deputy Chairman (Mr. Musila): Mr. Minister, please, sit down! Mr. Gatabaki---

(Mr. Muiruri stood up in his place)

Mr. Muiruri, I order you to sit down!

Mr. Gatabaki: Mr. Temporary Deputy Chairman, Sir---

The Temporary Deputy Chairman (Mr. Musila): Mr. Gatabaki, I order you to sit down! Mr. Gatabaki, you are completely out of order to make the remark that you have made that the Minister looks after camel. Certainly, he does not! Could you rise up, withdraw that remark and apologise to the House?

Mr. Gatabaki: Mr. Temporary Deputy Chairman, Sir, you know how friendly I am to the Minister. Because of his sagacity, I hereby withdraw the remark.

The Temporary Deputy Chairman (Mr. Musila): Mr. Minister, I think you have finished!

The Minister for Agriculture (Dr. Godana): Mr. Temporary Deputy Chairman, Sir, I had not finished because he interrupted me with his point of order. I would like to inform Mr. Gatabaki and other hon. Members that I was a very good herdsboy looking after camels. I would also like to inform him that in the same forthright spirit, I am certainly much better than the likes of Mr. Gatabaki in looking after the interest of coffee farmers who have really suffered in this country.

*(Question, that the words to be inserted
be inserted, put and agreed to)*

(Clause 4 as amended agreed to)

Clause 5

The Temporary Deputy Chairman (Mr. Musila): Hon. Members, I have a proposed amendment by Mr. Muiruri.

Mr. Muiruri: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 5(b) be amended by deleting "Chairman" and substituting it with "Board."

Mr. Temporary Deputy Chairman, Sir, the basic reason for this amendment is that the post of the chairman is elective; the chairman is elected by the other Board members. But any Board member will cease to be a member if he is absent for three consecutive meetings of the Board without the permission of the chairman.

This regulation itself can easily be manipulated by the chairman himself. If the chairman is aware that a certain Board member is eyeing the post of chairman, he may say that he has never given such a member permission to be absent from three consecutive meetings, which would make him cease to be a Board member.

Through this amendment, any member of the Board who wants to absent himself for three consecutive meetings has to get permission from the Board itself. The chairman cannot be given a blank cheque to decide who to give permission or not. The chairman himself can manipulate this rule and misuse it to kick out other members from the Board.

(Question of the amendment proposed)

The Minister for Agriculture (Dr. Godana): Mr. Temporary Deputy Chairman, Sir, I stand to oppose the proposed amendment. Once again, for the record, I want to plead with hon. Members that it is not possible that the Board would give permission for a member to be absent. It would mean that the Board will have to meet first for the purpose of considering a request by one member to be absent. From which meeting? It does not make any sense. For heaven's sake, I plead with my hon. colleague to withdraw this proposed amendment.

Mr. P.K. Mwangi: Mr. Temporary Deputy Chairman, Sir, this House should not suppress the rights of other people. If hon. Members ask for permission to be away from the Speaker and the House does not assemble to give us permission, let us give the chairman the authority to give permission.

The Minister for Energy (Mr. Raila): Mr. Temporary Deputy Chairman, Sir, let us be a bit reasonable in some cases. Even in this House, the Standing Orders provide that a Member shall be absent with the permission of the Speaker. If you are absent for more than eight consecutive days, you lose your seat unless you have permission from the Speaker. This amendment is analogous to a situation where a member will be required to seek the permission of the entire House. This is not possible. It does not make sense. So, I stand to oppose this amendment and I want to plead with other hon. Members to oppose it.

The Temporary Deputy Chairman (Mr. Musila): Hon. Members, this is a minor amendment and we cannot waste more time on it. I will straightaway put the question.

(Question, that the word to be left out be left out, put and negated)

(Clause 5 agreed to)

(Clause 6 agreed to)

Clause 7

The Temporary Deputy Chairman (Mr. Musila): Hon. Members, I have two proposed amendments; one, by the Minister himself, and another by Mr. Imanyara. We will deal with the proposed amendment by the Minister.

The Minister for Agriculture (Dr. Godana): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 7 be amended in subclause (2) –

by deleting the words "commission agents" and "brokers" wherever they occur in paragraphs (b) and (c);

by deleting paragraph (f) and substituting therefor the following new paragraph –

"(f) advise and guide the Foundation in the carrying out of research on, investigation into, and co-ordination of training in all matters relating to the coffee industry";

Mr. Temporary Deputy Chairman, Sir, both amendments are straightforward in view of what I said about commission agents and brokers. On the second amendment, for the avoidance of doubt, we are just clarifying or adding to the explicit description of the functions of the Board. I think these amendments are not controversial. I hope they will be passed.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

The Temporary Deputy Chairman (Mr. Musila): The next proposed amendment is by Mr. Imanyara. However, I would like to draw the attention of hon. Members to some correction. The new subclause will be "i" not "g". In the second sentence, instead of "institute of Committee" it is "Institute of Coffee Research". In the third line, it is not "substation" but "substations."

Mr. Imanyara: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 7 be amended by inserting a new subclause (i) -

"In consultation with the Jomo Kenyatta University of Agriculture and Technology establish an Institute of Coffee Research jointly with the Coffee Research Foundation at Ruiru and its substations at Meru, Muhoroni and Kisii to carry out research into and investigate matters relating to value adding and to the improvement of quality of coffee in Kenya."

Mr. Temporary Deputy Chairman, Sir, while the Minister was moving this Bill, I did indicate to him the dangers that face the three research substations in Muhoroni, Kisii and Meru from unscrupulous councillors who want to grab the land. Because the Minister did not include this, possibly by an oversight, I am sure he will support my proposed amendment, which is merely aimed at improving the quality of coffee by giving it value. It also seeks to formally recognise the role of research. You will recall the Minister himself did indicate that Ruiru 11, for example, is earning coffee farmers in Vietnam and other parts of the world huge sums of money. So, let us formally recognise the role of research by incorporating these institutions in formal institutes of coffee research run jointly by the Coffee Research Foundation and one of the public universities which is directly related to matters of agriculture. This is really a very formal and minor amendment which is meant to incorporate a policy issue, and it should not receive any opposition from the Minister.

I beg to move.

(Question of the amendment proposed)

The Minister for Agriculture (Dr. Godana): Mr. Temporary Deputy Chairman, Sir, I stand to oppose this proposed amendment, and for record purposes, I want to make it clear. The industry cannot go forward without proper research [**The Minister for Agriculture**] backup. We recognise that, no industry can progress, and that is why we have provided elaborately for research on the Bill.

I think Mr. Imanyara, as a good lawyer, will agree with me that it is not always advisable to regulate in detail, in the parent statutes, things which policy makers and other industry stakeholders should be able to decide on from time to time. We already have the sub-stations, and I want to give an undertaking, in accordance with the policy which was passed by this House on the import of this amendment. Mr. Imanyara and some of his friends from Mt. Kenya region and Kisii sub-region may be of course, concerned to save the land which belongs to those sub-stations from unscrupulous people and so on. I fully agree and we intend to do that, but supposing later on, the Coffee Research Foundation or the industry wants to establish further sub-stations; why should we fore-close it by legislating in the statutes? Supposing, Egerton University, which is the premier agricultural university, or for that matter, Maseno University, decides to play a role in this; why should we single out one university and also single out three places only for the conduct of this research? I think, for once, Mr. Imanyara and others should trust the wisdom of policy-makers. I request him to withdraw the amendment.

*(Question, that the words to be inserted
be inserted put and agreed to)*

Ms. Karua: The Ayes have it!

The Temporary Deputy Chairman (Mr. Musila): Order, hon. Members! You know it is completely out of order for you to tell the Chair what the results of a vote is. Therefore, I will refuse to announce the result until I repeat the Question, with a warning that you will be declared disorderly if you announce the result. So, be prepared.

*(Question, that the words to be inserted,
be inserted, put and agreed to)*

(Clause 7 as amended agreed to)

*(Clauses 8, 9, 10, 11, 12, 13,
15, 16, 17 and 18 agreed to)*

Clause 19

The Minister for Agriculture (Dr. Godana): Mr. Temporary Deputy Chairman, Sir, I beg to move:- THAT, clause 19 be amended by deleting the words marketing agent appearing in line 3 of paragraph (f) and substituting therefor the words marketing coffee; paragraphs (d) and (e).

This is a purely a grammatical amendment necessitated by the need to correct what was purely a grammatical error, and it is straightforward.

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed to)*

*(Question, that the words to be inserted in place
thereof be inserted, put and agreed to)*

(Clause 19 as amended agreed to)

Clause 20

The Minister for Agriculture (Dr. Godana): Mr. Temporary Deputy Chairman, Sir, I beg to move:- THAT, clause 20 be amended by inserting the following new subclauses immediately after subclause (4)

"The Board shall, at least 30 days before granting a licence under this section, give notice in the Gazette and in such other manner as the Board may determine.

The Board shall in the notice referred to in subsection (5), specify the name or other particulars of the person or class of persons to whom the licence is to be granted; state the purpose for the proposed grant of the licence and indicate the time it may be issued to the successful applicant; and invite objections to the proposed grant and direct that such objections shall not be received by the Board after 14 days from the date of the notice.

The Board shall, upon considering representations and objections, if any, made under this section, grant a licence applied for, subject to such terms and conditions as may be specified therein."

Mr. Temporary Deputy Chairman, Sir, we agreed on this amendment with the Departmental Committee on Agriculture, Lands and Natural Resources after lengthy discussions. We all concurred that if we look at the recent history of the coffee business, it has been invaded by all sorts of people, including unscrupulous people. Indeed, we know the debt burden KPCU is facing now, where people took loans from it and decided to go to other persons to sell their coffee. We want to avoid this kind of deals, so that anybody who is going to be a dealer in the industry and applies for a licence, those in the industry who are likely to be prejudiced have an opportunity to say no to the issue of the licence to the person because of this and that reason, so that the Board, in determining whether a person is fit to be issued with a licence has all possible information. So, there should be an opportunity, through a public notice, for people to be told, for instance, that hon. Mwenje is applying for the licence to be a coffee dealer. Anybody who has reason to object should raise the objection or forever keep silent. That is the purpose, and I hope hon. Members will agree.

(Question of the amendment proposed)

(Question, that the words to be inserted be inserted put and agreed to)

The Temporary Deputy Chairman (Mr. Musila): Hon. Members, let us now move to Mr. Murathe's proposed amendment on page 748. In view of the time that we have, I am appealing to Members to be brief. We still have got many pending amendments. So, be brief when you are moving your amendment!

Mr. Murathe: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 20(1)(a) be amended by inserting the following words after the word "and" appearing at the end -

"It is satisfied that the applicant is not indebted to any other coffee farmer organisation".

Mr. Temporary Deputy Chairman, Sir, I move that amendment purely for the avoidance of any doubts. It may sound rhetorical, but for the avoidance of any doubts, we wish to move that persons who would like to become marketing agents cannot be so, until they clear their liabilities with other coffee farmer organisations. If we leave this loophole untied, you will find somebody accumulating debts somewhere and then run away to open another market elsewhere.

With those few remarks, I beg to move.

(Question of the amendment proposed)

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, I fully agree with the intention of Mr. Murathe. My only worry is that we are overloading the laws that we are passing here. We are not going to specify everything in our laws. Otherwise, we are going to tie people down. I think this kind of proposal should strictly be contained in the rules that would be made later under the Act. That is my only worry. Otherwise, I think there is a lot of merit in what he is saying and I support him fully!

The Minister for Agriculture (Dr. Godana): Mr. Temporary Deputy Chairman, Sir, let me say that I fully appreciate fears that the hon. Member has. I fully understand the logic. We discussed this at length and I did say that I will give an undertaking, if that could be agreed to, that this will be specifically regulated and clear guidelines will be put in the regulations. I do not think it is necessary for us to put it here. This is the parent statute.

Now, in the ordinary course of business, people dealing in the coffee business will always be in debt of some sort or other. We are not saying that you shall not have debts. We are saying that you shall not be the type of fast player, who accumulates debts and runs away to another place. We are, in other words, out to weed out unscrupulous people. But we should not, through that process, punish those who are conscientious and are carrying out business. For instance, think of this imaginary situation. Somebody has applied for a licence. He normally pays his money to the coffee farmers immediately, or within seven or 14 days. In the ordinary course of business, cheques have to be cleared and what have you! He has been through the auctions and the licence is due in the middle of the week. A day later, he goes to the auction. Technically, even if he wrote the cheque yesterday, or maybe, he is trying to cash the proceeds of what he received, he is technically in debt to the farmers. Now, you will get all kinds of unscrupulous people coming and saying: "I do not like Ndwiga! He has not paid!" They will even go to court! So, I plead: Let us leave this to the regulations. I give an undertaking!

*(Question, that the words to be inserted
be inserted, put and agreed to)*

(Clause 20 as amended agreed to)

Clause 21

The Temporary Deputy Chairman (Mr. Musila): Hon. Members, there are two amendments to this clause. One is by the Minister on page 735 and the other one is by Mr. Murathe on page 748. [**The Temporary Deputy Chairman**]

Let us start with the Minister. Please, let us be brief, so that we finish in time.

The Minister for Agriculture (Dr. Godana): Mr. Temporary Deputy Chairman, Sir, I beg to move:- THAT, Clause 21 be amended by inserting the following new subclause immediately after subclause (1) -

(1A) A licence issued under Section 18 shall not be transferable.

I think we know that the logic should be quite clear!

(Question of the amendment proposed)

*(Question, that the words to be inserted
be inserted, put and agreed to)*

The Temporary Deputy Chairman (Mr. Musila): Let us now move to the proposed amendment by Mr. Murathe.

Mr. Murathe: Mr. Temporary Deputy Chairman, Sir, I beg to withdraw the proposed amendment to Clause 21.

The Temporary Deputy Chairman (Mr. Musila): Very well! The proposed amendment is withdrawn.

(Clause 21 as amended agreed to)

(Clause 22 agreed to)

Clause 23

The Temporary Deputy Chairman (Mr. Musila): Hon. Members, I have a proposed amendment by the Minister on page 735.

The Minister for Agriculture (Dr. Godana): Mr. Temporary Deputy Chairman, Sir, I beg to move:- THAT, Clause 23 be amended by inserting the following new subclause immediately after

subclause (2) –

(3) No member of a co-operative society shall pulp his coffee in any pulping station other than a pulping station belonging to a co-operative society of which he is a member:

Provided that where a particular co-operative society does not own a pulping station or where the available pulping station is for any reason unable to satisfy the pulping requirements of the members of that co-operative society, appropriate and expedient arrangements shall be made by the co-operative society to have pulping done in a pulping station owned by another co-operative society.

Mr. Temporary Deputy Chairman, Sir, again, this was a product of very fruitful consultations between us in the Ministry, myself and my team, and Members of the Departmental Committee on Agriculture, Lands and Natural Resources. Basically, the purpose is to make it impossible, or discourage unscrupulous people who would want to take coffee from one place and rush it elsewhere, which may encourage farm thefts and what have you. So, I pray that hon. Members support the amendment.

(Question of the amendment proposed)

(Question, that the words to be inserted be inserted, put and agreed to)

(Clause 23 as amended agreed to)

Clause 24

Mr. Murathe: Mr. Temporary Deputy Chairman, Sir, I beg to move:

THAT, Clause 24(1) be amended by adding a proviso as follows:-

"Provided always that the Board shall take into account existing installed milling capacity and the production trends additional millers"

Mr. Temporary Deputy Chairman, Sir, "the coffee wars" are, really, about liberalising coffee milling when there is no sufficient coffee. So, people have been fighting for the little coffee available. We should be careful so that in future, before the Board can license additional millers, it must be satisfied that the installed capacity is utilised and that there is need for additional milling capacity.

With those remarks, I beg to move.

(Question of the amendment proposed)

(Question, that the words to be inserted be inserted, put and agreed to)

(Clause 24 as amended agreed to)

Clause 25

Mr. Ndwiga: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 25(1) be amended in subclause(1) by inserting after the word "person", the words "other than Kenya Planters Co-operative Union Limited or its subsidiary."

Mr. Temporary Deputy Chairman, Sir, in our deliberations in the Committee on Agriculture, Lands and Natural Resources, and those of us who visited several other coffee producing countries, the advantages that we saw when farmers deal with one farmers body are enormous.

Mr. Temporary Chairman, Sir, the import of this amendment - although I know that there is a proposed amendment by my colleague - is that KPCU is a farmers' body. In the debate we had in this House, what came out very clearly from hon. Members is that apart from just marketing coffee in the central auction, we want a situation where we have value adding facilities. It is very clear that all the other people who will be licensed to deal in coffee as marketing agents will eventually, perhaps, do the function of value adding. That is still being done even today. But the added value does not reach the farmer. There is only one avenue through which the added value can get to the farmer. That is through the farmers' own body. That is the import of this amendment.

Mr. Temporary Deputy Chairman, Sir, the House will recall that when the Kenya Posts and Telecommunications Corporation was liberalised, the Postal Corporation of Kenya was given a latitude of five

years before any competitor could be licensed. Most of the other players who will be looking for these licenses are companies or individuals who owe KPCU huge sums of money and they will be competing with a cash-strapped society.

With those remarks, I beg to move.

(Question of the amendment proposed)

The Minister for Finance (Mr. Obure): Thank you very much, Mr. Temporary Deputy Chairman, Sir, for giving me an opportunity to comment on the proposed amendment.

Mr. Temporary Deputy Chairman, Sir, I think this is one of the most dangerous amendments we have ever had. In fact, it brings to naught, everything we have been trying to do the whole day, and over the period we have been undertaking reforms in the coffee sector.

Mr. Temporary Deputy Chairman, Sir, I was involved in this process and we went to great lengths to give an opportunity to all farmers around the country, to give their input in order to indicate which direction they wanted to move in, in respect to coffee reforms. We went to Western, Rift Valley, Eastern and Central provinces, and particularly Thika, where farmers came in large numbers and gave their views. They indicated the way forward to us. The problem with coffee is that marketing was largely carried by one monopoly, the Coffee Board of Kenya. Farmers were anxious to destroy that monopoly because that is where everything has gone wrong. Today, we are trying to destroy that monopoly. At the same time, there is an amendment before this House, trying to create a new monopoly!

Mr. Temporary Deputy Chairman, Sir, everywhere we went, it was evident that farmers wanted to have latitude to appoint their own marketing agents with whom they would agree on the terms of marketing that coffee. The other alternative is that farmers would form their own marketing organisation. I do not think that we would solve the problems of coffee by creating this monopoly.

With those few remarks, I beg to oppose.

(Applause)

Mr. Keriri: Mr. Temporary Deputy Chairman, Sir, I rise to oppose this amendment. We have been very busy trying to amend the Coffee Act to assist Kenyan farmers. We know what the Kenya Coffee Board has done to coffee farmers, because it was a monopoly on everything. We know how the Kenya Planters Co-operative Union (KPCU) has performed in the process. It has not been any better. In any case, we do not want to remove a monopoly from one organisation and take it to another one. If those farmers want value to be added by the KPCU, they are at liberty to appoint the KPCU their managing agent if it is licensed to become a managing agent. But we do not want in this House to create a monopoly in this process.

With those few remarks, I beg to oppose.

(Loud consultations)

The Temporary Deputy Chairman (Mr. Musila): Order! Order! The consultations are too loud.

Hon. Members: Put the question!

The Temporary Deputy Chairman (Mr. Musila): No, I will not do that. Hon. Members, could you settle down? I want to inform this Committee of the whole House that I have a further proposed amendment by Mr. Muihia to amend Mr. Ndwiga's proposed amendment. He would like to delete the word "or" after the word "limited", and substitute thereof the words "through its wholly-owned subsidiary".

Mr. Muihia: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 25(1) be further amended in subclause (1) by deleting the word "or" after the word "limited" and inserting in place thereof the words "through its wholly owned subsidiary."

The import of this is that if we do not go in this direction, we are not helping our farmers in any way. The KPCU is a wholly-owned farmers' body, and we are not giving it a monopoly at all. We are saying that the KPCU can register another subsidiary which will compete with other agents in the market.

With those few remarks, I beg to move.

*(Question, that the proposed amendment
be further amended, proposed)*

Mr. Wamae: Mr. Temporary Deputy Chairman, Sir, I rise to oppose both the original and the further amendments. We have already said that if any organisation owes any other farmers' organisation money, they will not be given a licence. So, that position is taken care of. Secondly, the KPCU is not prevented from doing value adding, whether we give them a monopoly or not. Thirdly, cheques from the KPCU have been bouncing. With due respect to my colleague, the Shadow Minister for Agriculture, I do not want farmers from Mathira not to be paid their money in seven days when they sell their coffee through the KPCU because there is no money. This is the problem. We want to be sure that whoever markets our coffee will pay the farmers on the due date and will guarantee to do so.

With those few remarks, I beg to oppose.

The Minister for Agriculture (Dr. Godana): Thank you, Mr. Temporary Deputy Chairman, Sir. I want to plead with hon. Members, again, that these last minute rushes can do a lot of damage to the Bill. I think already, we have done two this afternoon. This issue came out clearly in our debate on the Sessional Paper, and Members agreed with it. This issue came out clearly, again, in the debate and discussions we had in the Departmental Committee with the Ministry of Agriculture. I thought I convinced them and I want to repeat here that this is tantamount to giving competitive advantage to one of the players. It is bringing back the monopoly that we talked about. It goes against the whole principle of liberalisation. Hon. Members who think that, indeed, they are helping the KPCU because of the burden of the guarantee, are mistaken. That would amount to competitive advantage. It will amount to discrimination. Even the individual marketing agents will have to pass on the cost of the guarantee somehow.

With those few remarks, I beg to oppose.

Mr. Murathe: Mr. Temporary Deputy Chairman, Sir, there is nothing in this proposed amendment that gives the KPCU monopoly. What we are saying here, and the Minister has accepted, is that if we want a one-stop-shop process, nothing stops Kenyans from choosing other marketing agents. We are only saying that the cost of the guarantee to the farmers, which is something to the tune of Kshs300 million, will be met by those same farmers if the KPCU is required to pay that.

Mr. Temporary Deputy Chairman, Sir, we know there are people waiting in the wings to come in here and kill the farmers' organisation. It is very important that we give competitive advantage to a farmers organisation to get on its feet to be able to compete with these foreign marketing agents, who are waiting in the wings to come into the market. This is the only country where people liberalise and throw away the baby and the water with the basin.

The Temporary Deputy Chairman (Mr. Musila): Hon. Members, I will proceed as follows; I will dispose of the further amendment by Mr. Muihia before I dispose of Mr. Ndwiga's. Is that clear?

*(Question, that the word to be left out
be left out, put and negated)*

*(Question, that the words to be inserted
be inserted, put and negated)*

(Clause 25 agreed to)

(Clauses 26 and 27 agreed to)

Clause 28

Mr. O.K. Mwangi: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 28(2) be amended by adding the words-

"Provided that the Directors of the Company shall be different" after the word "coffee".

The reason for this is that we are allowing commercial millers to incorporate new companies for marketing purposes. All I am saying is that the directors of the milling companies should not be the same as the ones in the subsidiaries. That is why I am proposing this amendment. I believe hon. Members will agree with me that if we have directors of a milling company who also sit on the Board of a subsidiary company, it will be like having one company.

Mr. Temporary Deputy Chairman, Sir, I beg to move.

(Question of the amendment proposed)

Mr. Mwenje: Mr. Temporary Deputy Chairman, Sir, I stand to support that amendment. If you appoint the directors of a milling company to be the same ones running a marketing agency, they might be tempted to mix up the functions of the two companies. It is not right. As we speak now, the Thika Coffee Mills has not paid a lot of farmers their money. If we allow them to be the same directors of the marketing agency, then we will be risking this further. So, Mr. O.K. Mwangi's amendment is quite valid and I think the directors should be different.

I support the amendment.

*(Question, that the words to be inserted
be inserted, put and agreed to)*

(Clause 28 as amended agreed to)

Clause 29

Mr. O.K. Mwangi: Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 29 be amended by deleting the word "purchase" after the word "may" and substituting it therefor with the words "be appointed to sell".

Mr. Temporary Deputy Chairman, Sir, the reason for bringing this proposal is that Clause 29 states a marketing agent may purchase any coffee which has been produced outside Kenya. Although I concur with the Minister that we should allow coffee grown in other countries to be sold in Kenya, we should not allow the marketing agent to buy that coffee and trade it as his own. If we allow the marketing agent to buy and sell our coffee, we will be risking because he can always sell it and claim that he imported it. That is why I am proposing that we allow the coffee agent to be appointed to sell coffee for anyone, but he should not sell it as his own. I am proposing that we amend that section to safeguard the local market, and at the same time allow coffee grown outside Kenya to be marketed through our exchange in Nairobi.

Thank you, Mr. Temporary Deputy Chairman, Sir.

The Temporary Deputy Chairman (Mr. Musila): Very well. Hon. Members, I would like to draw your attention to a typing error at the bottom of the Order Paper on page 747. The words: "Provided that the directors---" do not apply to Clause 29. You should ignore them because they apply to Clause 28.

(Question of the amendment proposed)

The Minister for Agriculture (Dr. Godana): Mr. Temporary Deputy Chairman, Sir, I think the House should have the benefit of this. The import of that amendment is to make it possible for outsiders to appoint Kenyan marketing agents. I think hon. Members had better reflect fully on this. The whole basis of the licensing is that our board has to be satisfied that one is fit and proper to be a marketing agent. Are we, thereby, permitting somebody else to make that determination to actually participate in our auctions? I think this is not very healthy. I am prepared to consult with Members of the Departmental Committee on Agriculture, Lands and Natural Resources, or the hon. Member who has proposed this amendment, to ensure that the permission he gets to deal in Rwandese or Ugandan coffee in our coffee exchange is not for the purpose of trading in the manner that the Minister thinks some people will be tempted to trade in, but that it will be strictly as an agent. After all, we require here that every such contract must be registered with the board. I wish to appeal to the hon. Member to withdraw the amendment in view of this and let us regulate this under our regulations.

Mr. O.K. Mwangi: Mr. Temporary Deputy Chairman, Sir, the only danger involved in this is that Clause 29, as it is now, allows the marketing agents to buy coffee from outside Kenya and sell it here through our exchange. That is why I am saying that this imported coffee will compete adversely with our local coffee. At the same time, this agent could go out there and buy his own coffee and yet he has been licensed by the board to buy and sell local coffee. We should either withdraw that whole section or amend it so that the marketing agent will have no authority to buy coffee for his own trade. The agent can be authorised to sell for other countries.

The Minister for Agriculture (Dr. Godana): Mr. Temporary Deputy Chairman, Sir, I want to give an example. We inserted this provision out of recognition of the fact that; one, we are a commercial hub in the

region; and, two, it is to the advantage of our economy to continue to be the commercial hub of our region. I will give the example of the tea trade when we applied sanctions on Burundi. When the regional countries imposed sanctions on Burundi, we did not have any continuous boundary with Burundi. Burundi wanted to sell its tea through our Mombasa auctions. They could not because the neighbouring countries, if the business was for their benefit like through their ports, would turn a blind eye. So, it was beneficial to them. When they knew the trucks were heading towards Mombasa, they would fly the yellow card to say "bursting sanctions". Burundi ended up shipping its tea through the Durban auction. The South Africans were not parties to the sanctions. Now, if we do not provide for that easy access, we are in effect going to suffocate our own businessmen by encouraging neighbouring countries, who have no auctions or coffee exchanges of their own, to use other countries.

I beg that the Member would withdraw this proposed amendment.

The Temporary Deputy Chairman (Mr. Musila): Mr. O.K. Mwangi, I will give you one chance. Do you want to say anything?

Mr. O.K. Mwangi: Mr. Temporary Deputy Chairman, Sir, I fully concur with the Minister, and that is what I am saying. In view of that; because the way it is, it is now giving an agent a chance to trade---

The Minister for Agriculture (Dr. Godana): That is for populations to come!

Mr. O.K. Mwangi: Mr. Temporary Deputy Chairman, Sir, I do not know how I will put it. I think I will require guidance on this one.

The Temporary Deputy Chairman (Mr. Musila): No, it is your choice.

Mr. O.K. Mwangi: Mr. Temporary Deputy Chairman, Sir, if the Minister is going to give an undertaking that he is not going to give authority to that agent to go and buy coffee and come and trade---

The Minister for Agriculture (Dr. Godana): I give the undertaking, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Chairman (Mr. Musila): I think the Minister has already said that he will consult you when he is doing the--- It is on record.

Mr. O.K. Mwangi: In that case, therefore, I do withdraw the proposed amendment.

(The amendment was withdrawn)

(Applause)

(Clause 29 agreed to)

(Clauses 30, 31, 32 and 33 agreed to)

Clause 34

The Minister for Agriculture (Dr. Godana): Mr. Temporary Deputy Chairman, Sir, I beg to move:- THAT, Clause 34 be amended in subclause (2) by deleting the words "of sale of the coffee" in line five and substituting thereof "the coffee sales proceeds are received by the marketing agent from the dealers as specified in the sales catalogue".

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 34 as amended agreed to)

Clause 35

Mr. Sambu: Mr. Temporary Deputy Chairman, Sir, I beg to move:- THAT, the Bill be amended by deleting Clause 35 and replacing it with the following new

clause.

35(1) There is hereby established a Fund to be known as the Coffee Development Fund.

(2) The Fund shall consist of -

(a) the coffee development levy;

(b) any funds provided by bilateral or multi-lateral donors, for the purposes of the Fund;

(c) monies provided by Parliament specifically for the purpose of the fund;

(d) any interest from loans and advances; and

(e) funds from any other source approved by the Trustees.

(3) The Fund shall be managed by a Board of Trustees which shall consist of -

(a) the Permanent Secretary, Treasury;

(b) the Permanent Secretary, Ministry of Agriculture;

(c) five Members elected by Members of Coffee Co-operative Societies;

(d) three Members elected by Plantation Coffee Growers;

(e) the Managing Trustee who shall be the Secretary.

(4) The purposes for which the Fund is established are to provide sustainable affordable credit and advances to coffee farmers for all or any of the following purposes -

(a) farm development;

(b) farm inputs;

(c) farming operations; and

(d) price stabilisation.

(5) The Trustees shall, from time to time, make rules for the better management of the Fund in the best interest of coffee farmers, including prescribing the terms and conditions, the rate of interest, the period of repayment, the form of security or guarantee, on which the loans and advances are to be made, and the manner of recovery thereof from coffee farmers.

(Applause)

Mr. Temporary Deputy Chairman, Sir, this is an Act of Parliament to provide for the development, regulation and promotion of the coffee industry and for other connected purposes. For the development of coffee, we have to have credit and this is why I am moving this amendment as proposed in this Bill. We heard from various stakeholders, and all of them were rooting for this Coffee Development Fund. So, I propose that this Fund be created.

I beg to move.

(Applause)

(Question of the amendment proposed)

The Minister for Agriculture (Dr. Godana): Mr. Temporary Deputy Chairman, Sir, I stand to oppose the proposed amendment. We debated at length in the Departmental Committee with hon. Members, and again I want to set out the reasons for record purposes.

One of the biggest ways in which farmers in this country have suffered, and latest, the complaint is from some of the tea factories in this country, is unfair, yet easily justified deductions from their earnings. In most cases, everybody who is appointed to a position of responsibility where he or she would oversee the resources of others would want to dip in. We know ourselves, that as we are all Kenyans, and the tendency is there. This is going to be a classic example, and I have no doubt in future that farmers will complain again about that. What we have discussed and concluded with the Board is that the majority is not the PS; the PS is just one voice.

Secondly, we are going to set the precedent for justifying that, because we have sent even Government contributions for justifying two dangerous developments. One, a similar claim by every small subsector, and the establishment of such funds and, therefore, increase in taxation. Three, the coffee people should be the last to demand this because, with the STABEX funds now, there are the prior claims; the non-subsectors. With these funds, you would use that prior claim, and make no mistake. Anybody making any decision would know that.

The Temporary Deputy Chairman (Mr. Musila): Order, hon. Members! I believe hon. Members have already talked about it and, therefore, I will proceed and put the Question.

(Question, that the words to be left out be left out,

put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 35 as amended agreed to)

Clause 36

The Minister for Agriculture (Dr. Godana): Mr. Temporary Deputy Chairman, Sir, I beg to move:- THAT, Clause 36 be amended by inserting the words "within seven days of receipt of the coffee sales proceeds from the dealers as specified in the sales catalogue" after the word "deductions." The purpose is to ensure that money is paid to the coffee farmer in the shortest possible time.

(Question of the amendment proposed)

(Question, that the words to be inserted be inserted, put and agreed to)

(Clause 36 as amended agreed to)

(Clauses 37, 38, 39, 40, 41, 42, 43 and 44 agreed to)

Clause 45

The Minister for Agriculture (Dr. Godana): Mr. Temporary Deputy Chairman, Sir, I beg to move:- THAT, Clause 45 be amended in subclause (2) by deleting the word "brokers" appearing in paragraph (c). This is for the obvious reason that we have ruled out brokers in the whole process.

(Question of the amendment proposed)

(Question, that the word to be left out be left out, put and agreed to)

(Clause 45 as amended agreed to)

(Clause 46 agreed to)

Schedule

The Temporary Deputy Chairman (Mr. Musila): Mr. Minister, there is a proposed amendment on page 736.

The Minister for Agriculture (Dr. Godana): Mr. Temporary Deputy Chairman, Sir, I beg to move:- THAT, the Bill be amended in the Schedule paragraph 3 thereof by inserting the words "provided that at least five of the members elected under subsection 4(b) and subsection 4(c) shall be present after the word "presiding" in line two."

Again, here, this is one of those amendments which came in after discussions with Members of the Departmental Committee, some of whom continue still to suffer from the phobia of Government and public institutions hijacking the process. So, we considered that we will require certain minimum presence of those who are elected by farmers themselves.

(Question of the amendment proposed)

(Question, that the words to be inserted

be inserted, put and agreed to)

(Schedule as amended agreed to)

(Title agreed to)

Clause 1

Mr. Sambu: Mr. Temporary Deputy Chairman, Sir, after further consultation with my colleagues, we agreed that I alter the wording of my amendment slightly. So, I wish to amend my amendment by deleting the words "on 1st January" and replace them with the words "not later than 1st April".

Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 1 be amended by adding the following words at the end-
"and shall come into operation not later than 1st April, 2002"

Mr. Murungi: On a point of order, Mr. Temporary Deputy Chairman, Sir. The commencement date being proposed for this Act is Fools' Day. So, the Act should instead come into operation not later than 31st March, 2002.

The Temporary Deputy Chairman (Mr. Musila): Mr. Murungi, I will go by Mr. Sambu's proposal. If you wish to propose a further amendment to this clause, you are at liberty to move a Motion to that effect. I cannot do things your way.

(Question of the amendment proposed)

The Minister for Finance (Mr. Obure): Mr. Temporary Deputy Chairman, Sir, I am aware of the anxiety among hon. Members to see this Bill enacted and come into operation as quickly as possible. But the practice of this House has been to enact laws and leave the Minister with the discretion to decide when the effective date will be. We are now presuming that whatever we enact here will receive Presidential Assent. Suppose this Bill does not receive the President's assent? So, I would like to seek your guidance, on whether we are technically doing the right thing. I would rather place my trust in the Minister to say when the law we are about to approve becomes effective.

The Temporary Deputy Chairman (Mr. Musila): Hon. Members, I will give a chance to Dr. Kituyi, and then I will put the Question.

Dr. Kituyi: Mr. Temporary Deputy Chairman, Sir, the House's tradition of forwarding the Bills we pass here to the President for his assent has been based on good faith. When you have a recent history of breach of trust, you must think twice. We have been promised that the Constitution of Kenya Review Commission Act would be entrenched into the Constitution. This has not happened because we have not given it a timeframe. We have passed the Intellectual Property Bill in order to make anti-retroviral drugs accessible to HIV/AIDS patients, but this has not happened because we did not put a commencement date in the Act. Since the Government does not show goodwill, this House must bind its hands. If the Government does not do what we direct it to do, we shall do what is necessary.

The Minister for Agriculture (Dr. Godana): Mr. Temporary Deputy Chairman, Sir, I do not think that this is an area where you can really talk of breach of trust and good faith. We have dragged ourselves and other people; we have come this far. We are eager to unleash the Act into full operation. But it is not even the tradition of this House to pinpoint a date on which an Act should become operational. In fact, I believe that the Act will come into force before 31st March, 2002. Let us not set precedents.

The Temporary Deputy Chairman (Mr. Musila): Hon. Members, I have to dispose of this issue. So, I will now put the Question.

*(Question, that the words to be added be added,
put and agreed to)*

(Clause 1 as amended agreed to)

The Temporary Deputy Chairman (Mr. Musila): Hon. Members, we will not scrutinise the Sugar Bill

this evening in view of the Motion of Adjournment that has been earmarked for debate as from 7.00 p.m. So, this Committee will stop here for now.

The Minister for Agriculture (Dr. Godana): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of the Coffee the Bill (Bill No.16), and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

[Mr. Deputy Speaker in the Chair]

REPORT, CONSIDERATION OF REPORT AND THIRD READING

THE COFFEE BILL

Mr. Musila: Mr. Deputy Speaker, Sir, I beg to report that a Committee of the whole House has considered the Coffee Bill (Bill No.16) and approved the same with amendments.

The Minister for Agriculture (Dr. Godana): Mr. Deputy Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

The Minister for Finance (Mr. Obure) seconded.

(Question proposed)

(Question put and agreed to)

The Minister for Agriculture (Dr. Godana): Mr. Deputy Speaker, Sir, I beg to move that the Coffee Bill (Bill No.16) be now read the Third Time.

The Minister for Finance (Mr. Obure) seconded.

(Question proposed)

Mr. Murungi: Mr. Deputy Speaker, Sir, I would like to thank hon. Members from both sides of the House for supporting this Bill. Also, I would like to thank the Minister for the positive spirit with which he moved his amendments and supported those moved by hon. Members on this side of the House. I know that farmers everywhere in Kenya are going to have very deep sleep tonight. There will be celebrations all over Kenya because this is the Christmas present the Minister had promised the farmers. However, I have just one caution. We know that the devil is on the loose. So, I would urge the Minister to consult as widely as he has done during the preparation of this Bill when he drafts the rules.

With those few words, I beg to support.

(Question put and agreed to)

*(The Bill was accordingly read the
Third Time and passed)*

MOTION FOR THE ADJOURNMENT UNDER STANDING ORDER NO.20

CLASHES IN KIBERA

The Vice-President and Minister for Home Affairs (Prof. Saitoti): Mr. Deputy Speaker, Sir, I beg to

move:-

THAT, the House doth now adjourn.

The Minister for Finance (Mr. Obure) seconded.

Dr. Kituyi: On a point of order, Mr. Deputy Speaker, Sir. In consistence with the tradition of this House, considering the immensity of the matter just about to be debated, I wish to take the earliest opportunity to request the Chair to consider reducing the amount of time each hon. Member may have to contribute to this debate to five minutes.

Mr. Deputy Speaker: Well, I will allow Mrs. Mugo to speak for 10 minutes, the responder on the Government side 10 minutes, and other hon. Members five minutes each. Is that fair?

Hon. Members: Yes.

Mr. Deputy Speaker: Then that is the ruling of the House.

Mrs. Mugo: Mr. Deputy Speaker, Sir, I beg to move a Motion of Adjournment. We are all aware of the grave situation which has occurred in this City, and in particular in the slums of Kibera, which has involved terrible killings, rape against women and girls, property destruction and things that we never thought would happen in this country.

Indeed, we have seen people trekking from Kibera. We have seen long queues along the road, of women carrying their children on their backs and luggage on their heads. We have seen men and everybody moving out of that place. There is terrible suffering in the area. This reminds us of the Rwanda genocide, a situation we did not expect to see in this country when we consider that our own President has been very busy preaching peace in this region and in Rwanda. For this to happen in his own country, and the Government to become incapable of putting off the crisis is despicable and shameful. There has been loss of lives

This morning, more than 100 women came to the City carrying babies on their backs; they were from Kibera slums. Parts of Dagoretti, Toi Market and the surrounding areas have also been affected; they had horrible stories to tell. They spoke of how their daughters have been raped in front of their fathers and brothers, and how wives have been raped in front of their husbands. They narrated how they watched their loved ones being slashed, killed and whipped by the security forces. What is much more hurting is the fact that most of those atrocities, even if people are killing one another, have been carried out by the so-called security forces. This is disheartening and terrible. One of the mothers narrated how her 9 and 13 years old girls were raped. Social workers have been trying to talk to these victims and to help them.

Mr. Deputy Speaker, Sir, these stories are frightening. The victims went up to the President's Office and they were addressed by Mr. Nassir, the Minister of State, in charge of relief. When the Minister assured them that they would sleep tonight without being raped, they said: "We do not want to be raped again. We do not want our young ones to be killed again, and we do not want to sleep outside again". He told them that, that would be ensured. These women told the Minister that he could not help them and they wanted the President to address them. They said that they wanted the President to either go to Kibera and stop the killings and rape, or issue a statement from wherever he is. That is what the women said.

We have also seen in the Press, men saying that it will take the President to stop all this suffering. We all have seen it on television. Why have they all said that it will take the President to stop these killings? We are amazed. Where is this President? How can his people keep on crying for him when they are being killed, and he does not say a word? We were shocked to read this morning in the Press that the biggest thing on the President's mind today is the KANU elections. He said that KANU delegates will not be queuing any more.

The Minister of State, Office of the President (Mr. Sunkuli): On a point of order, Mr. Deputy Speaker, Sir. Could you ask the hon. Member to be relevant and discuss the situation in Kibera slums? She should stop discussing KANU politics and the President.

Mrs. Mugo: Mr. Deputy Speaker, Sir, I am building this case to what has caused this problem. People themselves have said again and again that it started with the President when he uttered the words: "Rents must be lowered".

We have no problem with lowering rents. Indeed, people are very poor. Some of them cannot even afford to pay rent, and our feelings to go them. But there are ways of carrying out such an exercise without triggering animosity among Kenyans. That is incitement. Since the President himself said it, then people have taken it to mean that they do not have to pay rent.

The Vice-President and Minister for Home Affairs (Prof. Saitoti): On a point of order, Mr. Deputy Speaker, Sir. I am sorry I will take the hon. Member's time, but could she really respect the Standing Orders and stop discussing the President? She is really discussing the President.

Mrs. Mugo: Mr. Deputy Speaker, Sir, how can I present this Motion if we do not look at where the

problem is, so that we can solve it? That is what we are asking this House to do. If the President never uttered those words, we would never mention him.

The Minister for Finance (Mr. Obure): On a point of order, Mr. Deputy Speaker, Sir. Are you satisfied that the hon. Member is not contravening Standing Orders of this House by discussing the conduct of the President?

Mr. Deputy Speaker: Order!

Mrs. Mugo: They are wasting my time!

Mr. Deputy Speaker: Yes, they are. I want to say that, this is a very serious matter and, really, we should attack the substance of it, with a view to finding a solution to it, not only in Kibera, but in all affected slum areas.

Mrs. Mugo, be relevant to the Motion.

Mrs. Mugo: Thank you, Mr. Deputy Speaker, Sir. Indeed, I respect the President very much. I am setting up events that have got us where are.

I hope hon. Members do not waste any more of my time. My biggest interest here is that this House finds a solution to what is going on. Since Ministers are here, I am sure they will deliver the message to the President as to what people are saying. That is important. I think matters also were not helped by a lot of other inflammatory statements. The President might never have meant it, but people interpreted it to mean what they are doing. That is why we are asking our President to come out and put off this fire before it spreads to the whole of Nairobi and the whole country. Nairobi is the nerve centre of this country. We are all here.

I was further surprised that - and I am saying this as a Member of Parliament for a neighbouring constituency where I have experienced similar problems - the area Member of Parliament, Mr. Raila, again went there and told the people that they should pay only 50 per cent of house rent. Surely, a Minister or an MP cannot decide how much the landlord will ask for his investment. There must be another way of sorting out the problem by calling the tenants, the landlords and the stakeholders to form a committee so that they can discuss that problem and come out with the solution without inflaming everything. I think that is what has led to the misunderstandings in Kibera.

Mr. Deputy Speaker, Sir, how will we stop this suffering? First, we would like to know about the women who have been raped. Unfortunately, the police are busy denying having participated in this heinous act of rape. In the past, we have seen policemen raping school girls at Uhuru Park, when they were coming from the show. How about now when these people are victims of clashes and are under the control of these policemen, a warlike situation? We are sure they have been raped and it is very difficult for them to prove. What will the Government do to stop these sufferings of the people of Kibera, especially women and young girls who have become victims of rape? What about all what we have heard about HIV/AIDS, especially in the Armed Forces? There are prevalent cases of HIV/AIDS in the Armed Forces. Unfortunately, women and girls who have become victims of rape are likely to be infected by the deadly disease! Why? This is because of one statement that has inflamed the whole area. We are calling for an explanation on the background of that statement, so that the people of Kibera can stop killing one another. Maybe, even those people who were meant to be killed are not the ones who have been killed. Those people who have been killed come from all the tribes residing in Kibera. We cannot place this on any tribe. We have a duty to protect the citizens of this country. We should not look at it as if it is a problem of the Government side or the Opposition side; it is for all of us as leaders to look for the solution and to tell the people of Kibera: "This is over now; it will not happen again in Nairobi, Tana River or anywhere else."

Mr. Deputy Speaker, Sir, I was amazed, when I heard the hon. Member on television---

Mr. Deputy Speaker: Order! Order! Your time is over!

Mrs. Mugo: Mr. Deputy Speaker, Sir, I beg to move.

Mr. Koskei: Thank you, Mr. Deputy Speaker, Sir, for giving this opportunity to contribute to this Motion.

Mr. Deputy Speaker, Sir, as a Member of Parliament who represents an area that has experienced clashes, I do appreciate and understand that if leaders make some of these unfortunate statements, they fuel the situation instead of cooling it.

Mr. Deputy Speaker, Sir, I beg to differ with the hon. Member who has moved this Motion. When you ask landlords simply to be kind enough and charge reasonable rents, that does not amount to incitement. When the President told landlords to be kind enough and reduce rents, that did not amount to incitement as the hon. Member has alleged. I want to appeal to all leaders across the political divide to look into the problems facing people in Kibera, and find solutions to them. We are really not going to get a solution to this problem if we politicise the situation at the expense of peace of Kibera people. It is very unfortunate that, any time we encounter a problem

like this in this country, or a similar matter arises, each side across the political divide only wants to make political capital out of it.

Mr. Deputy Speaker, Sir, we should not really be making political capital out of this situation when people are dying in Kibera. The situation in Kibera is unfortunate and the best solution is for all of us to understand the conditions under which these people live. The land in Kibera does not belong to those landlords. Those people are occupying unsurveyed Government land. The Government was genuinely stepping in to try and help these people because it cares for their needs. Those people who are trying to push across their own political agenda should not push it at the expense of the lives of the people of Kibera.

An hon. Member: You should address the issue of security of those people!

Mr. Koskei: Mr. Deputy Speaker, Sir, every Kenyan is entitled to air his opinion. The residents of Kibera are among the most underprivileged people in our society. I think they deserve to pay what they can afford. If the Government steps in and tries to assist these people, we should not try to make political capital out of it. All leaders in this House should come out and try to cool the tempers. As I have said, there is no point of politicking at the expense of the lives of the people of Kibera.

We should look for solutions to the problems the people of Kibera are facing. The infrastructure in those slums should be improved. Those people do not have proper sanitation facilities and water supply services. When we raise the issue about the lives of the people of Kibera, we are trying to shift the blame, and yet nobody is addressing the issues of the poor infrastructure; the sanitary conditions in which these people live. The best we can do here is actually to say that So-and-so must have caused this problem and yet we do not have the plight of those people at heart. We should be asking the Government to provide clean water and better [Mr. Koskei] toilet facilities, instead of coming here to blame the Government.

Hon. Members: You should talk about provision of security!

Mr. Koskei: Mr. Deputy Speaker, Sir, there is no way you can solve the problem, if you cannot address the poor conditions under which these people live. The conditions under which these people live should be addressed first, before we come to the issue of security. Security could be provided, but after the living conditions of these people have been improved. Unless, we do that, it is not easy to sort out their problems.

(Several hon. Members stood up in their places)

Mr. Deputy Speaker: Order! Hon. Members, you should not stand up when the hon. Member has not concluded!

An hon. Member: But his time is over!

Mr. Deputy Speaker: Order! If you do that, I will be inclined to ignore you. Mr. Murungi, the Floor is yours!

Mr. Murungi: Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to contribute to this Motion. I think this is a very serious situation, and hon. Members should take it seriously.

Mr. Deputy Speaker, Sir, we need a deeper scrutiny of the analysis than we are getting. What has brought leaders to address the situation in Kibera? The landlords and the tenants in Kibera have lived there for over 40 years, and tenants have been paying rents for all these years. These people have lived peacefully together with each other. Why is it that in December, 2001, all of a sudden, somebody has decided that the tenants in Kibera are paying too much rents and, therefore, the rents should be lowered? I think this is where the problem is. We need to get it very clear that the problem in Kibera is not about rents but, about politics.

The situation in Kibera is not a clash between landlords and tenants. What we are seeing in Kibera is a clash between two political groups. Somebody would start saying that the landlords are Kikuyus and the tenants are Luos. That is an attempt to make clashes in Kibera look ethnic. What is in Kibera is political violence and let nobody cheat us that it is ethnic violence. What has happened in Kibera is not an accident, nor is it something that has just happened. What we are seeing in Kibera is a product of long-term planning by some politicians. We always know that when the elections are around the corner, there has to be violence somewhere, especially in multi-ethnic constituencies. Why are there no clashes in Bondo Constituency which is a homogeneous Luo constituency? Clashes have a pattern. They happen where there is a mix of ethnic groups. Somebody somewhere brings in violence to try and change the demographic equation so as to favour certain political ends.

(Applause)

That is the reason why you saw the up-country people being flashed out of Likoni since they were thought to be

sympathetic to the Opposition. In the past, Kikuyus, Luos and Luhyas had to suffer in Rift Valley Province so that we could change the voting pattern in that area. I think this is an analysis that we could use for Kibera. Let us find out who will benefit politically from this violence. This is because, this is where the solution will be found.

Mr. Deputy Speaker, Sir, we think that the violence being experienced in Kibera is in preparation for the 2002 General Elections. The question one would ask himself or herself is: "Twenty people have died; why has the Minister of State, Office of the President in charge of Internal Security, my friend, Mr. Sunkuli, not visited the place?"

Hon. Members: Why has he not done that?

Mr. Murungi: Mr. Deputy Speaker, Sir, why is he taking the violence so casually and trivialising the loss of lives in this country?

The Minister of State, Office of the President (Mr. Sunkuli): On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the hon. Member to mislead this House when, in fact, I spent the whole morning of yesterday in Kibera?

Hon. Members: Where in Kibera? But you were not on television!

The Minister of State, Office of the President (Mr. Sunkuli): Mr. Deputy Speaker, Sir, the mere fact that I did not appear on television does not mean that I did not visit the place. I was there the whole morning.

Mr. Murungi: Mr. Deputy Speaker, Sir, I would like to say that we are very worried about what is immediately ahead of us. The recent Cabinet reshuffle in this country has sent some message. Those people who were in the Youth for KANU (YK) in 1992 are the ones who have been elevated to be Ministers. The people who were involved in massive bribery in 1992 and tribal clashes are the ones who call the shots in this country. So, Kibera is just a beginning---

Mr. Deputy Speaker: Order, Mr. Murungi! Your time is up!

Mr. Murungi: I am sorry, Mr. Deputy Speaker, Sir.

Mr. Kajwang: Thank you, Mr. Deputy Speaker, Sir. The history of what happened in Kibera is that the Member of Parliament of the area invited the President to talk to his people and urged **[Mr. Kajwang]** the so-called landlords to sympathise with the poor so-called tenants and reduce rent where necessary. That is not an incitement statement. That cannot be said to be coming from somebody who wants violence. That statement can only come from somebody who knows that there are some people who cannot afford certain rents and the landlords can do their best to alleviate their suffering. But the people whom we call landlords, in the first place, are not landlords. You cannot be a landlord when you do not own land. A landlord is supposed to be a lord over a certain piece of land.

Hon. Members: No! No!

Mr. Kajwang: Mr. Deputy Speaker, Sir, there is no squatter in Kibera who calls himself a landlord who can be one. All those people are squatters on Government land; the tenants are squatters on Government land.

Mr. Murungi: On a point of order, Mr. Deputy Speaker, Sir. Mr. Kajwang is a lawyer like me, and he knows that there is something called "advance position". Once you have occupied a piece of land without any authority for 12 years, it becomes yours.

(Applause)

An hon. Member: What is he saying?

Mr. Kajwang: Mr. Deputy Speaker, Sir, he has forgotten his law and become a politician!

(Laughter)

There is no advance position against the Government. This land belongs to the Government. Somebody is saying that because you are lucky to know a chief in a certain area; because you happen to have been a police officer in Kibera; because you happen to be a brother of a chief or a DO in Kibera and you were given a piece of land 40 years ago, and built some hovels there, you can charge people Kshs200; next year Kshs300; the following year Kshs400, and now Kshs800, and you can decide to make it Kshs1,200 and nobody should ask you to consider the poor people. If somebody says so, you take a *panga* and start to slash him or her. Who says that if I cannot pay rent, my so-called landlord should cut me with a panga? Who says that if I cannot pay my rent, I should be murdered? That is exactly what has happened in Kibera. The so-called landlords have been knocking doors of the so-called tenants and ordering them to pay the rent. If you tell them that you are still looking for the money, they cut you with a knife and say that Mr. Kajwang should give you land if he owns it somewhere. For your

information, Mr. Kajwang does not own any piece of land anywhere. In fact, I want those hovels to be removed so that I can also have ten doors there. This is because everybody has a right to that land.

Hon. Members: No! No!

Mr. Kajwang: Mr. Deputy Speaker, Sir, let me tell you; nobody should think that he owns Nairobi. This City belongs to all of us. We have come to stay in Nairobi, and I will die here.

(Applause)

So, never should you imagine that there is any foreigner in Nairobi. I would like to inform this House that we will stay in Nairobi; our people will stay in Kibera, and nobody will threaten them to move out of this area. Never make a mistake!

These clashes are not about rent. I heard somebody over the Kiss 100 FM radio station say that they are landlords and the tenants must pay rent, and if they do not, they will kill them. The people who are dying are not landlords. The people who talk over the Kiss 100 FM radio station are the purported landlords. They were saying that they were peaceful until the President visited Kibera. What did the President say when he visited Kibera? He said, "Consider these poor people". In fact, if I was the Member of Parliament representing that area, I would have said the same; that my people do not have water, latrines and roads. You can pass from one end to another in these houses. There is no house in Kibera. You can see stars at night when you are inside those houses. When it rains, it rains on you. Although this is the case, you cannot be allowed to put an iron sheet on the roof, nor can you be allowed to smear the walls. This is because if you do that, you will be interfering with the so-called landlord who was lucky to be a brother of a certain chief, 40 years ago. We cannot allow our people to be sat on by some people who purport to be superior owners of the land. I would like to point out that there is no superior squatter in this country. A squatter is a squatter!

(Applause)

In any event, the squatter who has a right is the resident and not the landlords who stay in Muthaiga and have several houses in Kibera. Who are the landlords in Kibera? The landlords in this area are PCs, DCs, policemen and chiefs. The tenants who live in Kibera are the real owners of those pieces of land, and we will not allow this to happen.

Mr. Deputy Speaker, Sir, I oppose the Motion.

Ms. Karua: Thank you, Mr. Deputy Speaker, Sir. I do agree that what is happening in Kibera is not about rent. I would also like to say that it is not the business of the President to negotiate rent for anyone, but it is the business of the President and the Government to have a comprehensive housing policy. It is laughable for a President of a country to purport to negotiate rent. That is what has brought mayhem in Kibera. Whatever the intention of the statement, the results are violence and mayhem. A responsible leader would look for a lasting solution and not a populist statement which is misinterpreted.

Today, we are not bothered about who owns land in Kibera. Those people have been squatting there, and some people have been collecting rents on the so-called shacks not only in Kibera, but also in Mathare, Mukuru and all the slums in Nairobi and in the country. In all the major towns in the country, where we have slums, there are landlords who collect rent. This is not about who legally owns the land. What is the Government doing about housing policy? Is the President and the Government telling us that all they can do is make a statement in the market place that the landlords should consider reducing the rent? That is the height of irresponsibility.

When the Germans came to Mathare A4 and decided to upgrade the shanties, the so-called landlords resisted and there was mayhem in Mathare slum, did the Government do anything? To date, is that project going on? We cannot, therefore, pretend that we are pitying the tenants who are overcharged by the landlords. Seriousness would have been demonstrated by ensuring that funds offered for upgrading slums like was done in Mathare A4 are properly utilised and the project is going on. As a country, we ought to have a policy. The right to life is not worth anything if people are forced to live like animals. A desperate person is a person who can very easily cease to be responsible. If an inflammatory statement is made, whatever the intention is, they will hang on to it. I have seen those people on TV sets saying that they will not pay rent until the President says otherwise. That was before the killing started. The President did not say anything. The President could as well have been on leave.

Mr. Deputy Speaker, Sir, this is an issue which needs to be addressed. Why are we clarifying for him? A statement can come from State House through the Presidential Press Unit (PPU), clarifying the statement made by the President. Why do we have to do guesswork of what the President meant? The buck stops with him.

Mr. Deputy Speaker, Sir, the way the Government is tackling this issue of violence is very disappointing.

This is not the first place where we have had flare-ups. Tana River District has had flare-ups resulting in loss of lives for the last year. Again, we know it is about land adjudication. It is about pastoralists and agricultural communities clashing over the intended issuance of title deeds. One group feels that it will be marginalised by the adjudication. This is a small problem which could have been solved by the communities by working out modalities of how each of the community's rights will be guaranteed. What has the Government done about it? Nothing, just like in Kibera. Let the Government and those who support it not shed crocodile tears. The Government is squarely responsible for the loss of lives in Kibera. I think the way the Government is behaving, loss of lives was intended in Kibera and it is intended to continue. Where were the police officers? How come we have so many police officers to break up legitimate Opposition activities, yet we do not have enough police officers to oversee security in Kibera?

An hon. Member talked about the sewerage system and infrastructure in Kibera. It is something good to talk about, but who is responsible? Who should put a policy in place? Who has the resources? To say people cannot pay rent because they cannot afford it, is a good argument. Kenyans are very poor at the moment. We cannot afford rent---

(Mr. Ntimama's cellular phone rang)

Mr. Deputy Speaker: Mr. ole Ntimama, could you withdraw from the Chamber?

(Mr. Ntimama withdrew from the Chamber)

Ms. Karua: Mr. Deputy Speaker, Sir, it is easy to say that because we cannot afford rent, we cannot pay. Perhaps, we should say that we should not pay taxes, firstly, because we cannot afford, and secondly because this Government is not giving us any services out of the taxes we pay.

Mr. Deputy Speaker, Sir, let us make responsible utterances. If we want to help the poor of Nairobi, let us have a comprehensive housing policy. Incitement by the highest office in the land is a disgrace.

The Minister of State, Office of the President (Mr. Sunkuli): Mr. Deputy Speaker, Sir, I want to clarify that under the principle of collective responsibility, I will not be the official responder. The official responder will be the Minister for Energy. I will, therefore, take five minutes like anybody else.

Mr. Deputy Speaker, Sir, since the skirmishes in Kibera started on 3rd December, 2001, the Government took immediate measures. In fact, immediately the violence began, we did send the police to see what was happening. We took many contingents of the regular police, Administration Police and as well as the GSU. Those contingents remain in Kibera. Those contingents of police have managed to calm down the situation, although there continues to exist tension.

Up to now, ten people have lost their lives. Almost 50 people have been treated in Nairobi and Kenyatta National Hospital. Many have been discharged and some have been admitted. The situation is, therefore, being handled by the Government. I went there myself yesterday, the hon. Member for the area, the PC and other leaders have been there. Therefore, this situation is under control. Let us not do what we do whenever there is a clash in every area. I have witnessed a situation where we exercise intellectual laziness and start trivialising the issue and blaming individuals.

If the President asked the landlords to lower the rent, who told the people that, that was an inciting statement? Who made the other statements that people should fight? It is really bad for prominent Members of this House to bring down the President's statement and make it the source of these problems. Some of them even suggested that it is the cause of this clash. The President simply made a statement and he was quite in order. We have all asked the President to intervene on our behalf on several occasions. What was wrong in this particular incident? The truth is there are people who have found a perfect opportunity to do politics. Now they have found an opportunity once again to hit at the Government. This will not do. Kibera slum has over 600,000 tenants and about 22,000 landlords. Those 22,000 landlords are not from one tribe. It is not a question of tribe.

Mr. Wanjala: On a point of order, Mr. Deputy Speaker, Sir. You have clearly heard the Minister say there are 22,000 landlords in Kibera. Is there anybody in that area who owns a title deed to be called "a landlord"?

Mr. Deputy Speaker: That is not a point of order, but a question. Why do you not stand up and catch the Speaker's eye so that you can contribute to this Motion?

The Minister of State, Office of the President (Mr. Sunkuli): Mr. Deputy Speaker, Sir, I totally agree with him. These people are not landlords in the true sense of the word. The landlord is actually the Government. Those people who purport to be landlords are licensees or tenants. Those other ones I referred to as "tenants" are

actually subtenants. That is why the Government has a responsibility to request those who occupy its land to be reasonable on rent.

Mr. Deputy Speaker, Sir, let us not trivialise the matter. Let those who want to hit at the President not to take this opportunity because that was a very serious matter that needed to be solved amicably.

Mr. N. Nyagah: On a point of order, Mr. Deputy Speaker, Sir. I am standing to seek guidance from the Chair. I know there is something called collective responsibility. We have the Minister for internal security who has the data on the situation sitting here. Is it in order for him, on a matter of national importance like this, to relegate this position to the Minister for Energy, who is also the Member of Parliament for the area? I am asking this---

Mr. Deputy Speaker: Order, Mr. Nyagah! You know that the Government does not organise who speaks for the Democratic Party, and neither should the Democratic Party decide for the Government, who should speak on its behalf. If, in fact, the Minister they have chosen to be the spokesperson speaks out of tune, you have the opportunity to stand up on a point of order and raise the issue. But I cannot allow any person to decide who should speak for another party.

Dr. Kituyi: Mr. Deputy Speaker, Sir, thank you for allowing this matter to be debated this evening. What the nation is waiting to hear from its leaders is not accusations and counter-accusations. What Kenya is waiting for, is to see if we can rise above pettiness and the use of bellicose language to commiserate with the victims and find solutions; to stop the bleeding and to console those who are bleeding. I am glad to have listened to all persons speaking, quietly with restraint. Even when they start defining people they call "lower citizens", we just listen. But let us not be tempted by the petty heroism of bellicose language, of saying: Whatever you do, we will do this and that. That is beneath us. That can look like scoring a goal in a certain constituency, but you are not definitely cutting the image of a national leader.

Mr. Deputy Speaker, Sir, I would like to commiserate with the victims of this pogrom; to condole the families who have lost their dear ones. I am a parent with a daughter, and I saw the women who came with their daughters who had been raped. It touched me not just as a parent, but to those people, every Member of Parliament is a leader, and their leaders have failed them. That is why their little ones have been raped.

Mr. Deputy Speaker, Sir, we have false notions about property rights. We are flaunting some concept here called Government land, which is hiding the reality of social injustice. There was a colonial ordinance in 1950, which defined an area of Kibera as the Kibera Nubian Native Reserve. The Government was to hold that area in trust for the Nubians. The Government could never become an owner of what it was holding in trust for the citizens. Just like the Government has been subverting trust to alienate land that belongs to pastoralists, it is abusing the concept of trust, to be custodian of the interest of the Nubians. The fact that they have not sub-divided their land the way the people of Kangemi have sub-divided their land, is a mistake done against the Nubians. It is not a crime by the Nubians. We should not now pretend that we can just wish away the Nubians in Kibera. The initial step is, how have we been dealing with the Nubians the way we have been dealing with the Mijikendas at the Coast? That other communities in other areas, even in their neighbourhood, get title deeds, but these indigenous persons for whom Government was a trustee are never given full citizenship rights. That is a core problem.

Mr. Deputy Speaker, Sir, the other problem is, if we live in a society where Government wanted to deal with the problem of rent, it would not be privatising Government houses. Government would not be giving away to the politically correct, places where it could build lower income housing. Let Government supply decent low-income houses at affordable rents, and this will force landlords to lower their rents or improve the standards of the residences they build. That is the rational way of doing it. It is not a populist disclaimer. It is a rational way of intervening in an open matter. Maybe, some people are wrongfully occupying land in Kibera, just like there could be some people wrongfully occupying land in Kitale, Korogocho or in Mathare. But as Government, can we demonstrate seriousness, that we can sit down and talk about how we can deal with the situation, first and foremost, by protecting the sanctity of the lives and persons of our citizens and, secondly, doing everything that keeps away the temptation to cause strife between our communities; and third, respecting the sanctity of property? We cannot celebrate success when I am seeing Nubians, Kikuyu, Luhya and Luo with handcarts trekking away at midnight and not knowing where they are going. They are not walking away as tribes; they are citizens of this country who do not know who to turn to.

I met some people last night who were injured but are not in the statistics of injured people. They are injured and being pulled on handcarts, but they do not know where they are going. They are just going away from Kibera. They do not enter a tidy statistic about how many have died. Let us rise with one voice as leaders; that whatever the cause of this, first of all, we condemn it; that we must seek to stop it, then we can deal with the matters of a sustainable land use policy in Kibera later on.

The Assistant Minister, Office of the President (Mr. Gumo): Thank you very much, Mr. Deputy Speaker, Sir. This is a very serious matter, and I am sure some of the hon. Members are already blaming the President for it. I was in Kibera when the President talked, and it was in response to a request by the Member of Parliament for Langata who said that the people of Kibera Estate and Langata are suffering. They are living in small mud houses, and they are being charged rent which is exorbitant, even up to Kshs1,500 per unit. One unit is about 8 x 10 feet. When the President rose to speak, he requested the landlords - in fact, they are land grabbers - to consider reducing the rents. They responded by holding a meeting and decided that the rents should be lowered. The only issue they had not agreed on was by how much. Some politicians went and incited them and told them not to reduce the rent by any cent, just because it is the President who requested that. That is why there is a problem in Kibera.

Hon. Members: Shame!

The Assistant Minister, Office of the President (Mr. Gumo): Mr. Deputy Speaker, Sir, you can even see who and how they are responding.

Mr. Muchiri: On a point of order, Mr. Deputy Speaker, Sir. Could the Assistant Minister name the politicians who went to incite those people?

The Assistant Minister, Office of the President (Mr. Gumo): Mr. Deputy Speaker, Sir, when the President was in the hon. Member's constituency, he raised the same question. The President asked the landlords of Kasarani to reduce rents.

Hon. Members: No!

The Assistant Minister, Office of the President (Mr. Gumo): Mr. Deputy Speaker, Sir, he did! That was last year. The same problem almost came up and the Member of Parliament had to intervene. He talked to the landlords there and they reduced rent. That is happening simply because it is Mr. Raila's constituency. That is why they are inciting the landlords there not to reduce rent.

Mr. Muihia: On a point of order, Mr. Deputy Speaker, Sir. Could the Assistant Minister substantiate---

The Assistant Minister, Office of the President (Mr. Gumo): Shut up! I have substantiated!

Mr. Deputy Speaker: Order! You know, really, we do not want to be asking Members questions over which they can tell us a whole pack of lies! Suppose he told us Mr. Smith is the politician; would that satisfy you?

Proceed!

The Assistant Minister, Office of the President (Mr. Gumo): Mr. Deputy Speaker, Sir, the land in Kibera does not belong to any of those people! It is public land which has been grabbed by people who are able. Those who own the houses should not be paid anything! If anything, they have been paid by more than 1000 times! If they want anything, they should be paid some goodwill rent of less than Kshs400! The people of Kibera---

Mrs. Mugo: On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the hon. Member to mislead this House by saying that those who own those houses are big people? We have seen the owners. They are old women---

Mr. Deputy Speaker: Order! We have a problem where people stand on a point of order when, in fact, they want to make a contribution or ask questions! In order for this Motion to proceed, if you want to stand on a point of order, you must now name the point of order which has been offended.

Proceed!

The Assistant Minister, Office of the President (Mr. Gumo): Mr. Deputy Speaker, Sir, the majority of the owners of those houses are very rich people. They are not poor at all! In fact, the people who are attacking other people there have been hired. We have seen lorries loaded with people to attack the tenants of Kibera. The tenants of Kibera are not organised to go round cutting each other! The landlords are the ones who are hiring people from other areas. In fact, some Members of this House must be ashamed for supporting such landlords when they are killing people! It is a big shame! In fact, if anything, you Members of Parliament, should have supported the tenants. They are the people who are being killed. That is something that is going on and on, and unless we sit down and see how to control it, I am telling you it is going to be worse. That is because there are some people who think that by making some people from certain areas suffer, they are going to move from those areas, so that Members of Parliament who do not come from certain communities can be thrown out! I am telling you such people are telling a lie! You are even making them stronger now! So, without wasting time, it is very bad. Some of us are very bitter because some of our relatives have been hurt and maimed in that area. We are not just talking. We are talking with bitterness. Nobody should just come up and think that we come here to

laugh around and joke the way some of you are doing!

Mr. Mwenje: Mr. Deputy Speaker, Sir, this is a serious matter that we are discussing! I would not like anybody to bring a joke here because we are talking about people's lives! Some people have died and others are dying!

Mr. Kathangu: Mr. Deputy Speaker, Sir, we have different parties! What is the use of having different parties when we have one party getting all the chances?

Mr. Deputy Speaker: Order! Mr. Kathangu, I require you to leave the Chamber now! Out!

(Mr. Kathangu withdrew from the Chamber)

Proceed!

Mr. Mwenje: Mr. Deputy Speaker, Sir, what I am saying is that we, Members of Parliament from Nairobi, are feeling a lot of pain. Many of our people are from every part of this City. We are feeling a lot of pain. Even if your intention was good and you realise that what you have said has harmed somebody else, then you should apologise or rectify what you said. The fact that the President had good intentions and went there and asked that the rent be lowered--- That has caused all that problem! He should be the first person to go back there and tell the people: "I did not mean this! I meant this! Please, comply!" But as of now, it is being misused! Even if he meant well, it was misused and misinterpreted to mean that people should not pay rent, or should pay less rent. The question of rent is one of a "willing-buyer, willing-seller!" Nobody will put you in a house if you do not want to stay in that house. Nobody will ask you to stay in that house if you are not paying for it. The landlords of Kibera are not rich people. Let nobody refer to them as rich people. If they were able to get plots in the middle of the City, that is where they would come. They would not go to Kibera. Those houses are temporary structures. So, the owners are also poor people! So, we do not just consider tenants as poor. The landlords are also poor. Nobody can say that the land does not belong to them as Dr. Kituyi said.

The truth is that the colonial government gave Nubians the land and allowed the Government to hold it in trust. They built houses on the land. When the Nubians were putting up buildings on the land, they allowed other people to build their houses. So, they have their right to be there. The others were given land by the Provincial Administration. They were given by the PCs, DOs and the chiefs. We know that Chief Ali, Chief Kariuki and Councillor Ambar used to settle people there. The Government has never talked about them. Everybody should ask this question: Why now? Kibera has been there for the last 100 years. Why has the problem started now? It is because some people went there and told others not to pay rent to the owners of the structures. The people who have title deeds in this City are less than 5 per cent. I doubt whether even this Parliament has a title deed. The Kenyatta International Conference Centre got its title deed five years ago. So, to us, we do not take the question of title deeds in Nairobi seriously. They are not important, anyway! We do not live on title deeds! We live on land. The land is there for us to build on. So, the question of people not paying others--- You do not pay for the open land which is in Kibera. Nobody is asking somebody to pay rent for that. You only pay rent where somebody has put up a structure. Who are you to **[Mr. Mwenje]** think that you can tell others not to pay rent to other people? Let those who are telling others not to pay rent give them free houses, if they think they have them! But you will have to pay rent for the structure, whether it is a tent, a polythene house or whatever it is! You have to pay rent for the place you are living in. That is the truth! We shall not allow people to tell others---

The Assistant Minister for Local Government (Mr. Sirma): On a point of order, Mr. Deputy Speaker, Sir. The hon. Member on the Floor seems to be pointing a finger at the hon. Member for Langata! Could he confirm whether he is the landlord?

Mr. Deputy Speaker: Order! Mr. Sirma, I require you to leave the Chamber now!

(Mr. Sirma withdrew from the Chamber)

The Minister for Agriculture (Dr. Godana): On a point of order, Mr. Deputy Speaker, Sir. We respect the ruling of the Chair, but I thought that Mr. Sirma wanted Mr. Mwenje to declare his interest!

Mr. Deputy Speaker: Order! Dr. Godana---

An hon. Member: Throw him out!

An hon. Member: He is a first offender!

Mr. Deputy Speaker: Order! Do not tell me what to do! I do not believe that you are ignorant of the Standing Orders, as a former occupant of this Chair! But he has been a fairly good boy this afternoon! So, I will

forgive him!

Proceed!

Mwenje: Let those who told others not to pay rent go back there and tell the tenants that they have to pay their rent, if we want to bring this situation under control. Let nobody think that when people move away, they will take plots belonging to them. If anybody does that, the Members of Parliament from Nairobi will mobilise the people of this City to protect their properties. That kind of thing will not be allowed anywhere.

Thank you.

Mr. Angwenyi: Mr. Deputy Speaker, Sir, what is happening in Kibera makes me feel ashamed of being a Kenyan citizen. When you see people moving out, without knowing where they are going, you feel like you are in Rwanda or Burundi.

Mr. Deputy Speaker, Sir, there has been a problem in that place and we do not want to apportion blame. I would like to suggest a few solutions towards that end. Firstly, the Cabinet Ministers who are in this House today, should go and prevail upon the President of the Republic of Kenya and ask him to visit Kibera tomorrow morning. Instead of conducting Harambees for people who are happy elsewhere in the country, he should marshall all Members of Parliament to raise funds for the people of Kibera, so that we can put off the "fire" that has engulfed that area. Secondly, this House should seek from the Treasury, about Kshs1 billion or Kshs2 billion to alleviate the suffering of the people of Kibera. Kibera has a population of about 700,000 people. Those people have not been getting their rightful share of the national Budget. We should give them that money as a token, so that they can reconstruct some of the houses which have been destroyed, and provide services that are necessary in that area. If the Treasury does not give that money, when the Minister for Finance brings his Supplementary Estimates to this House, we will not approve them. Thirdly, let the Nubians be assured of their land. They should be assured that when the clashes will be over, surveyors will be sent to that area to survey the land and give out title deeds, the same way they have done to people in my area or other areas in the country. Fourthly, when the President goes there tomorrow, he should summon representatives of the landlords and those of the tenants to State House and give them a treat and discuss their problems. They should come up with solutions on how to put off those clashes. Fifthly, the Minister of State, Office of the President in charge of internal security, should send healthy security personnel to Kibera. Our security personnel seem to have a high propensity to rape. Let him take healthy officers there, so that when they rape women and girls, they do not transmit HIV/AIDS and other diseases.

Mr. Deputy Speaker, Sir, finally, we should learn from what has happened in Kibera, and try to solve our problems as Kenyan citizens. The Members of the Cabinet should advise our beloved President, so that he does not make utterances that might cause problems. We want *Mzee* to retire well, so that the people of Kibera and elsewhere in the country can pay him visits and wish him long a life.

With those remarks, I beg to support.

Mr. Katuku: Mr. Deputy Speaker, Sir, I want to join my colleagues who have expressed their views on this matter. I would like to send my condolences to those who have lost their loved ones. I also want to condole those who have been hurt in these clashes.

Mr. Deputy Speaker, Sir, the Government has the responsibility to bring this mayhem to an end. We do not need to see people being killed in this country. The Government has a duty to provide security to all Kenyans. Whether it is the President, the Minister or the area Member of Parliament who incited those people to violence, the most important issue now is how we can solve this problem, and bring those killings to an end. We know who incited those people to violence, but that is not the issue right now. I want to appeal to this Government to come up with a clear statement on the way forward. We cannot sit here and start accusing each other, and yet our people are killing each other out there. The Government must come clean on this, and stop it.

Mr. Deputy Speaker, Sir, I know that there are political intentions involved in this saga, and I really sympathise with the area Member of Parliament. The situation will not augur well for his political career. People are killing each other in Kibera and the issue is being politicised! I really sympathise with the area Member of Parliament because of the tragedy afflicting his people. The intention here might be to push the area Member of Parliament to shift to his own home region. I do not see him winning that seat again, unless he stops collaborating with those who are killing our people. Inciting people not to pay rent is tantamount to political suicide. It is unfortunate that we are negotiating rent in Kibera! Who will negotiate rent in the estate where I stay? Is it the President or the Chair? The payment of rent should be regulated by the law of "willing buyer, willing seller!"

Mr. Deputy Speaker, Sir, Kibera slums is an important "dormitory" for our industrial sector. That is where most of the people who work in industrial area live. Destabilising them means that our industrial sector will be affected. Apart from the loss of life, our people will be affected economically. I, therefore, appeal to this Government to take it seriously.

Mr. Deputy Speaker, Sir, the Minister of State, Office of the President in charge of internal security,

should take seriously, the complaints about our security personnel who have been sent there to quell those clashes. They are harassing innocent people. Some are either raping women and young girls, or engaging in looting.

Mr. Deputy Speaker, Sir, clashes in this country seem to be linked to devil worship. Every year, we must have clashes from those who believe in the devil, so that they can shed the blood of innocent Kenyans. The KANU Government should stop this thing once and for all!

The Assistant Minister for Trade and Industry (Mr. Ekirapa): Mr. Deputy Speaker, Sir, listening to the Mover of the Motion, one does not know how to react to it. It is a very sad story that our people should be fleeing their places of residence. They do not know where to go, and that some of them should be maimed or killed - and many of them have been raped - is a very unacceptable situation. While we are debating this issue and we seem to be apportioning blame from one corner to another, maybe more people will die tonight. I would like to appeal to hon. Members that the immediate issue at hand is for us to give some direction on how this mayhem can be stopped immediately. One takes note of the report by the Minister of State, Office of the President in charge of internal security, that the situation has improved. If leaders who are Members of this House and who this nation looks up to for direction, advise on resolution of this problem are themselves apportioning blame to one another; they want to make this matter a party or tribal issue. That is not the way forward. I think that the best thing we could do is, to urge the Minister of State, Office of the President, in charge of internal security, to make sure that the Government takes every possible measure to stop this mayhem immediately. Then, he should make a long-term recommendation as to what next should be done, in order that this situation does not flare up again, not just in Kibera, but in many other places in the country where the land issue has become very critical. We cannot pretend here to blame one party or the other because, I think, as leaders, it is urgent that we stop this matter from happening. We should encourage our people to go back to their homes and live there in peace. But the long-term solution must be to find out the root cause of these issues and the question of land ownership which is not just flaring up here in Kibera, but also in Tana River District and other places. We need to find out how we can get a long-term solution to this problem. This will provide the people with a place to live in comfortably and also the right to own that land. If the land belongs to the Government, let them have the correct documents, so that they know this land is leased from the Government, and that no other people simply assume ownership.

Mr. Deputy Speaker, Sir, in Rwanda, there exists a story we all know. It started like this; leaders blaming one another, legislators taking sides instead of finding a national solution. I think we all know what happened there after. When you go to Rwanda and look at the number of skulls that have been kept in the National Monument of Genocide, when you leave that place, you feel sick. You cannot believe that human beings did that kind of thing to other human beings. It started like this. I want to appeal to my colleagues to ignore the issues of tribal connotations and party interests, and address the issue of the people of Kibera and other places where our people are suffering. It is absurd that we want to score points, and that we want to know who are the landlords of some of this land. Maybe, some of us are landlords, but let that be a secondary issue. The primary issue must be to safeguard the lives of these people and to provide permanent co-existence of our people in Kibera and other areas. Members of this House must live up to what is expected of them by this country. They must become serious and mature. They must get out of tribal and party interests, where we think that by scoring points by blaming the President, or this party or the other, we are going to solve the situation. That will make the situation worse. I would like to appeal to these people be united.

With those few remarks, I beg to support.

Mr. Muite: Mr. Deputy Speaker, Sir, I do not know whether you saw the sickening pictures on the television, of police brutality and police carrying whips. When did whips become part of the ordinary apparel of police officers? The police were whipping defenceless people who were being loaded onto police vehicles. The report we are getting from the ground is that the people of Kibera are more terrified of police brutality and rapes than even this other violence. The people who are supposed to keep law and order, go and visit violence and rape. All we see are people being charged because they threw stones. Nobody has been charged with murder or rape. What is going on? Urban violence is a particularly and potentially dangerous type of violence. This Government has institutionalised violence as an instrument of governance. Human beings in this country are being used as political fodder. That is what happened in Likoni and the Rift Valley. That is what is happening in Kibera. But in urban areas, we can start flare-ups that we may not be able to contain whatsoever. This is very dangerous and the Government must put a complete stop to the violence and charge those people who are involved in this violence, including the police, with murder, rape and violence.

Mr. Deputy Speaker, Sir, on the question of land ownership, with respect to Mr. Raila, the Member for Langata, I saw him on television say that this was Government land. He was sort of suggesting that those who have built houses have got no right to that land. This is a misconception. The position in law is that once you are given a licence, you have got a leasehold interest in that piece of land. The people who have constructed houses

there did so because they were authorised. They are licensees, and because they were given those licences to construct the houses, they invested their meagre resources. They went into their pockets and invested in the construction of these houses. So, they have got proprietary interest in these houses. Rents are high everywhere and we are living in an economic depression. So, we cannot force issues there by suggesting what Mr. Raila was talking about. It is like, because it is Government land, then somehow KANU and NDP have got superior rights to say who is who. The talk we are hearing is that, that land is already earmarked for grabbing by some individuals. The Government should appoint a commission, if it must. It should give title deeds, but priority must go to the people who have been squatting on that land and not to outsiders who are eyeing it. But we must contain this violence as a priority. If the Government wants even to hold a public meeting there, it should involve Members of the Opposition. Let us contain this violence immediately, and then address the land issue in a non-partisan manner. Let us not introduce politics. But it is not the Opposition that has introduced politics in that area. I think, to a very large extent, the President must take responsibility. Even if he was requested by the area Member of Parliament to address the issue, he should have said that the matter would be looked into. He should not have responded immediately and made a statement that resulted in that sort of violence. A statement from the President is always taken very seriously. He should have appointed a commission to look into the issue of title deeds, call the landlords, and the matter would have been approached in a rational and civilised manner. Even two days later, when Mr. Raila went there, he said that those people who had been arrested would be released, and that those tenants would pay 50 per cent of the rent until the issue is sorted out. If it was any hon. Member from the Opposition side saying that people should pay 50 per cent of their rent, he would have been taken to court the following day and charged with incitement. Perhaps Mr. Kajwang will institute a private prosecution against his party leader for incitement.

I beg to support.

The Minister for Energy (Mr. Raila): Mr. Deputy Speaker, Sir, I want to begin by thanking the hon. Member for Dagoretti for bringing this matter---

Mr. Kiunjuri: On a point of order, Mr. Deputy Speaker, Sir. It is a very serious one. Standing Order No.75 reads as follows: "A Member who wishes to speak on any matter in which he has a personal interest shall first declare that interest unless it is obvious." Mr. Raila is on record---

Mr. Deputy Speaker: Order!

Mr. Kiunjuri: Listen to me first, Mr. Deputy Speaker, Sir!

Mr. Deputy Speaker: Order, Mr. Kiunjuri! That is a good try, but is it not obvious that the Member for Langata has an interest in Kibera?

The Minister for Energy (Mr. Raila): Mr. Deputy Speaker, Sir, I want to thank the hon. Member for Dagoretti, who is my neighbour, for raising this matter while I was out of the country. I know that she had only serious interest and concern when she raised this matter, and that she was not shedding crocodile tears.

The land that is called Kibera is a corruption of a Nubian word called "Kibra" which means forest. Those Nubians who fought alongside the British Government were first settled there in 1902 by the colonial government. Several other groups of Nubians were settled there, thereafter. It is true that this land has been under different laws up to now. Currently, Kibera settlement area is covered under the Government Land Act, Cap.280. Part 43 says: "The area of Government land situated in the Nairobi area and described in the Fourth Schedule shall be known as the Kibera settlement area. The Minister may make rules for the management, administration and control of the Kibera Settlement." Schedule Four defines the Kibera Settlement area as follows: "An area of land of approximately 550 acres adjoining Kibera Station Reserve in the City of Nairobi, and lying on both sides of 200 feet wide, Railway Reserve of the new Nairobi-Nakuru line."

The boundaries of the Kibera settlement area are described as follows:

"The Minister has provided for the settlement of this area under the temporary occupation of land, which says that licences to occupy unalienated Government land for temporary purposes will be granted by the Commissioner. Unless it is expressly provided otherwise, a licence under this section shall continue for one year henceforth until the expiry of any three months' notice to quit."

The House will remember that in 1993, I brought a Motion in this House which was urging the Government to institute measures to survey the land in Kibera and issue title deeds. I said that members of the Nubian community who are domicile of there and are really the only indigenous settlers in the area should be given first priority in doing so. That Motion was passed. I am happy to say that, right now, the Government is in the process of surveying and issuing title deeds to the people of that area.

Mr. Deputy Speaker, Sir, the people who live there, therefore, occupy the land temporarily. There are exactly 22,000 land tenants in Kibera. There are over 600,000 sub-tenants in the area. These 22,000 tenants are

from different communities. There are 10,000 Kikuyus, 5,000 Luos and the remaining 7,000 are Luhyas, Nubians, Kambas and Kisiis. All these 22,000 landlords are united on one side. So, the issue of ethnicity does not arise. Rent has been a burning issue in Kibera. I invite hon. Members to listen properly to what I will say. It is acute because the so-called landlords have taken advantage of the shortage of housing in the town to hike up rents every so often as they like. In Nyayo Highrise, the rents have increased from Kshs400 to Kshs1,500 within a space of just 10 months. This is not affordable to the majority of people who live there. These people have no other place to go to.

You cannot address any meeting in Kibera without talking about the issue of rents. That is why, when the President came to Kibera, as the area Member of Parliament, I petitioned him as the head of the Executive to try to address this issue and urge the landlords to lower the rents. I had tried to do so for the last three years in vain. The President, therefore, asked the PC---

Mrs. Ngilu: On a point of order, Mr. Deputy Speaker, Sir. Is it in order for Mr. Raila to say that once he petitioned the President, it was right at that point for the President to actually talk about that issue?

Mr. Deputy Speaker: There is no point of order there!

The Minister for Energy (Mr. Raila): Mr. Deputy Speaker, Sir, I wish the hon. Member would give me time to explain because I have got limited time, and a lot of information that I want to give to hon. Members.

The President did not lower the rents. He asked the PC to look into the issue. In trying to implement the President's directive, the PC held a meeting with all the landlords in Kibera or their representatives, and they made a proposal as to what they were willing to concede to. We then agreed that we also hold a meeting with the tenants or their representatives, which I did. Even today, I had a meeting with the representatives of the tenants in Kibera. The issue of violence that has erupted has nothing to do with what the President said on 31st of October. The President spoke on 31st of October, but this violence erupted on 28th of November, when the PC went to address the people. Thereafter, when the people did not agree with what the PC suggested, there was some kind of violence. Security forces were deployed and there was excessive use of force which I, as the area Member of Parliament, has condemned.

I have said that there was excessive use of force, physical abuse, and, as the Member for Dagoretti said, some women were raped and children molested. As a representative of the people of Kibera - and I am sure I am a very capable representative - I condemned these incidents. This matter could have been solved were it not for outside interference in the affairs of the people of Kibera. There are some hon. Members here who are shedding crocodile tears because they are seeing an opportunity to capitalise politically on a crisis of the people of Kibera.

Mr. Deputy Speaker, Sir, on the 3rd of this month, some youths were sent to Kibera to carry out violence.

Mr. Kihoro: On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Go ahead and tell me the Standing Order under which you are standing?

Mr. Kihoro: Mr. Deputy Speaker, Sir, a Motion was moved last week by the hon. Vice-President and time was extended to 8.30 p.m., and I can see that the time has gone beyond 8.30 p.m.

(Applause)

Mr. Deputy Speaker: Order! You know the Chair also has eyes. I have got a measure for the time. What is your problem? Do you want to continue or go back?

Proceed, Mr. Raila!

The Minister for Energy (Mr. Raila): Mr. Deputy Speaker, Sir, the kind of structures that have been put up by the so-called landlords in Kibera are despicable. There are no toilets. There is no water. I have said, as the representative of the people, that the rents in Kibera must come down. If this is a "political suicide" that I have committed, I am ready to pay the price. I had said that it is not right for the hon. Members here to come and defend unscrupulous businessmen who are exploiting the people of Kibera.

(Applause)

ADJOURNMENT

Mr. Deputy Speaker: Order! Hon. Members, it is now time for the interruption of business. This House is, therefore, adjourned until Tuesday, 11th December, at 2.30 p.m.

The House rose at 8.34 p.m.