

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 9th August, 2001

The House met at 2.30 p.m.

*[The Temporary Deputy Speaker
(Mr. Musila) in the Chair]*

PRAYERS

ORAL ANSWERS TO QUESTIONS

Question No.198

SETTLEMENT OF WIYUMIRIRIE SQUATTERS

Mr. Kiunjuri asked the Minister of State, Office of the President:-

- (a) whether he is aware that the residents of Wiyumiririe (Laikipia Farmers) of Laikipia East are living as squatters despite having bought land; and,
- (b) what he is doing to ensure that peace prevails in the area.

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

- (a) I am not aware.
- (b) There is relative peace in the area in question.

Mr. Kiunjuri: Mr. Temporary Deputy Speaker, Sir, the Minister is misleading the House. If you have been reading the newspapers, in the last six months, you would know that there is no peace in Laikipia District. I would like to say that people are still being killed. On Thursday and Saturday last week a police officer and a teacher were killed respectively. The Minister has also contradicted an answer which was given by his fellow Minister, who told this House last week that it is true that people are being killed in Laikipia District. I was in the district on Sunday this week, and these people still live as squatters. These people cannot settle on their own farms because of insecurity.

Mr. Temporary Deputy Speaker, Sir, could I seek your guidance---

The Temporary Deputy Speaker (Mr. Musila): Ask your question, Mr. Kiunjuri!

Mr. Kiunjuri: Mr. Temporary Deputy Speaker, Sir, before I ask my question, I need the Chair's guidance. I am the person on the ground and it is true that the squatters are there. Now, the Minister has told us that there are no squatters in that place. What is the correct position?

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Kiunjuri!

Mr. Kiunjuri: Mr. Temporary Deputy Speaker, Sir, which other question will I ask?

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Kiunjuri! The Chair cannot do anything about that. You have to ask the Minister a question and he will try his level best to answer it. If the answer is not available, the Chair can direct otherwise. Please, ask your question!

Mr. Kiunjuri: Mr. Temporary Deputy Speaker, Sir, I am on the ground and I know that my people get killed everyday despite the hon. Members on the Government side looking at us desperately. I would like to inform this House that squatters still live in the area, and there is no question about it.

The Temporary Deputy Speaker (Mr. Musila): Order! Mr. Minister, do you have anything you would like to say in connection with what Mr. Kiunjuri has said?

Maj. Madoka: Mr. Temporary Deputy Speaker, Sir, the residents of Wiyumiririe bought shares from that society, and they have the necessary purchasing documents. I would like to inform this House that about 200 families are settled on that farm and the Laikipia District administration is making some efforts to ensure that the directors of the company speed up the processing of the title deeds. That is why I have said that we do not believe that these are squatters because they have bought the land and have got the necessary documents. It is only that the title deeds have not yet been issued to them, and the society has been asked to speed up the process.

Mr. Muchiri: Thank you, Mr. Temporary Deputy Speaker, Sir. A crime is punishable by the State regardless

of whether it is committed by a squatter or somebody else. What action will the Minister take to ensure that there is security in this country?

Maj. Madoka: Mr. Temporary Deputy Speaker, Sir, if I may talk about the specific area, we have done a lot to ensure that we have the necessary measures in place. In fact, we have established police posts and patrol bases within a radius of two to three kilometres in the following areas of Laikipia District. In Mururumati, we have both the Administration Police and the regular police. We also have both the Administration Police and the regular police in Mugumo. We have the same officers in Umande, while in Munyu, we have the regular police. I would also like to point out that in Ethi, we have the regular police; in Grantom we have the Anti-Stock Theft Unit, while at Kalalu we have Administration Police. So, we have tried as much as possible to ensure that there is security in that area.

Dr. Murungaru: Thank you, Mr. Temporary Deputy Speaker, Sir. In spite of the assurance being given by the Minister, the fact of the matter is that there is rampant insecurity in Laikipia District. Indeed, this insecurity has spilled over to some parts of Nyeri District, particularly in my constituency - Kieni. As late as last week, there was an invasion by armed bandits in parts of Kieni West and East, where a stock theft incident was reported. Could I ask the Minister to go to the ground again and check his facts? These people that Mr. Kiunjuri has talked about live as squatters in Wiyumiririe, because they cannot live on their farms due to insecurity. These people are just like tribal clashes refugees. Could the Minister go back to the ground, check his facts again and take the necessary action to arrest insecurity in Laikipia District and the bordering districts?

Maj. Madoka: Mr. Temporary Deputy Speaker, Sir, I have said that the 200 families have the necessary documents and, therefore, they are not squatters. But if there are any additional members, I will certainly look into the issue and, maybe, report back.

Mr. Kiunjuri: Mr. Temporary Deputy Speaker, Sir, the first answer the Minister gave us is that he is not aware. Now he is aware and is still contradicting himself. He has said that these people do not have their title deeds and that is why they are not settled there. All over the country, title deeds are not a must for people to settle in an area. Now that the Minister is aware that the squatters still live there, could I accompany him and his officers so that we can go to the ground and establish the truth? Could he do that?

Maj. Madoka: Mr. Temporary Deputy Speaker, Sir, I have not contradicted myself. I have said that the 200 families have the necessary documents and, therefore, they are not squatters. But going to the area is not a problem; we can liaise with the hon. Member and visit the area.

Question No.468

DISAPPEARANCE OF MR. KIMANI'S BODY

Mr. P.K. Mwangi asked the Minister of State, Office of the President:-

- (a) whether he is aware that the body of Peter Kimani of Nginda Location was retrieved from Maragwa River by the police on 8th May, 1996,
- (b) whether he is further aware that the body was taken to Murang'a District Mortuary on the same day to await postmortem and burial; and,
- (c) how the body disappeared from the morgue.

The Minister of State, Office of the President (Maj. Madoka): Mr. Temporary Deputy Speaker, Sir, I thought the Question was No.504. There is that correction. Is that the one we are talking about?

The Temporary Deputy Speaker (Mr. Musila): Yes, Mr. P.K. Mwangi!

Mr. P.K. Mwangi: Mr. Temporary Deputy Speaker, Sir, my Question is No.468.

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

(a) Yes, I am aware.

(b) I am also aware.

(c) It is suspected that the body of the late Peter Kimani was handed over to an unknown person by the mortuary attendant. The Maragwa Inquiry File No.3/96 was opened and closed later on due to lack any further evidence.

Mr. P.K. Mwangi: Mr. Temporary Deputy Speaker, Sir, Kenya is really a funny "character"! It steals property and resources.

The Temporary Deputy Speaker (Mr. Musila): Order! Order, Mr. P.K. Mwangi! Who is the funny character?

Mr. P.K. Mwangi: This is a funny country, Mr. Temporary Deputy Speaker, Sir. Property is stolen, resources are stolen, lives are taken away and then even bodies disappear from the morgue! This is an incident which

happened six years ago, when Mr. Peter Kimani was murdered and his body was thrown into a river and the body was retrieved by officers from Maragwa Police Station. How did the body disappear from the mortuary after it was entered in the mortuary register and it became a police issue?

The Temporary Deputy Speaker (Mr. Musila): Very well, Mr. P.K. Mwangi, you have asked a question.

M. P.K. Mwangi: Yes, that is what we want to know.

The Temporary Deputy Speaker (Mr. Musila): Sit down so that you can get the answer.

Maj. Madoka: It is true that the incident happened on 8th May, 1996. The body of late Peter Kimani was found floating on a river and it was removed by the police and taken to Murang'a District Mortuary on the same day for preservation. On the 14th May, 1996, the police officers and the relatives of the deceased, went to the mortuary to witness the postmortem exercise, but the body could not be traced. An inquiry file No.30 was opened, but up to now, we have not established how the body left the mortuary.

Mr. Maitha: Mr. Temporary Deputy Speaker, Sir, the problem of bodies getting lost in morgues is worsening. Could the Minister table the register of that mortuary, to prove whether that body was actually received in that mortuary?

Maj. Madoka: Mr. Temporary Deputy Speaker, Sir, if that is required, I would certainly get the register to show that the body was received in that mortuary.

Dr. Kulundu: Mr. Temporary Deputy Speaker, Sir, the only body that ever resurrected to life was that of Jesus Christ. Bodies are not known to walk out of mortuaries in this country. Could the Minister rule out police complicity in the disappearance of that body, given the suspicious circumstances under which the body was found floating in the river?

Maj. Madoka: Mr. Temporary Deputy Speaker, Sir, I can only talk on the basis of evidence available. I am saying that the body was taken to the mortuary by the police and it appears that it was given out, maybe, by the mortuary attendant to somebody else. So, I really cannot say that there is any police complicity in the case.

(Several hon. Members stood up in their places)

The Temporary Deputy Speaker (Mr. Musila): Order! Order, hon. Members! You know it is out of order to be on your feet when another hon. Member is on his feet communicating. So, would you let him finish, then you can stand up?

Mr. Mwenje: On a point of order, Mr. Temporary Deputy Speaker, Sir. It is now very clear that the Minister does not have a proper answer to this Question. Will I be in order to suggest that this Question be deferred to a later date so that the Minister can get time to look at the records properly and bring us a proper answer?

The Temporary Deputy Speaker (Mr. Musila): Order! But the Minister did explain to the House that an inquiry file was opened and inquiries have been going on and he has admitted that so far, there is no conclusion to that inquiry. Now, if we defer the Question to a later date, will the inquiry have been concluded?

Mr. Muiruri: The Minister has not answered this Question properly because the body was taken to the morgue by the police officers and when the relative went back for the postmortem the body was missing. The Minister is saying that the body disappeared. There is no way that the body could not have walked out of the mortuary! So, the Question has not been answered and it is for that reason the Minister must go back and find out how the body disappeared and come back here to tell the House how the body disappeared and who were responsible and what action he took against those involved? What action did he take against the mortuary attendants?

Maj. Madoka: Mr. Temporary Deputy Speaker, Sir, we certainly know that the body did not walk out of the mortuary. What we suspect is that somebody might have taken a wrong body. This Question was asked in July last year, and I gave the same reply. But I can still go back and get the answer.

Mr. Shill: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for this Minister to mislead this House by saying that the body might have been collected by somebody else? It means, therefore, that somebody must have signed before collecting that body and indicated his identity card number in the mortuary register. Is the Minister not misleading this House by saying that somebody had collected the body and yet he does not to tell the House who collected that body?

Maj. Madoka: Mr. Temporary Deputy Speaker, Sir, I am not misleading the House. I said that maybe somebody collected the body, because we have no evidence that the body was not properly signed for before collection. It is the Ministry of Health which is in charge of the mortuary and, maybe, it is in a better position to answer that Question. But I can certainly bring the book to this House to show where this body was registered.

Mr. P.K. Mwangi: Mr. Temporary Deputy Speaker, Sir, this is another story of corruption within our police force. The police officers know very clearly who shot and killed Mr. Peter Kimani and they have never taken anybody

to court. Now that the body disappeared while in the hands of the Government, could the Minister assure this House that the family of the late Peter Kimani will be compensated for the lost body?

Maj. Madoka: First of all, the hon. Member is making a very definite statement that the police shot the late Peter Kimani. If he has any evidence to that effect, he will do this country a lot of good, if he can produce proof of that statement.

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

The Temporary Deputy Speaker (Mr. Musila): Mr. Wambua, what is your point order? You should not ask a question, but raise a point of order!

Mr. Wambua: Mr. Temporary Speaker, Sir, is it in order for the Minister to mislead this House by saying that, it could be somebody else who had taken the body. If somebody else took the body by mistake, probably he could have left another body there, and it could have been easier to know the body which could have been left at the mortuary. Is he in order to tell us that somebody must have taken the wrong body when there was no proof of another body having been left in the mortuary unclaimed?

The Temporary Deputy Speaker (Mr. Musila): Mr. Wambua, that is not a point of order, but a reasonable question. So, I will ask the Minister to respond to it.

Maj. Madoka: Mr. Temporary Deputy Speaker, Sir, indeed, I agree that it is a reasonable question, but we have not been able to establish that fact. As I said, we have done a lot of investigations and I can still bring the book to show where the body was registered. This incident took place many years ago.

Question No.528

SHORTAGE OF EDUCATION INSPECTORS

Mr. Shitanda asked the Minister for Education:-

(a) whether he is aware that there is an acute shortage of education inspectors in Kabras Division of Kakamega District;

(b) whether he is further aware that the division has 102 primary schools with only one Assistant Education Officer who is unable to effectively serve it; and,

(c) what arrangements the Minister is making to address this problem.

The Assistant Minister for Education, Science and Technology (Mr. Karauri): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) I am not aware that there is an acute shortage of education inspectors in Kabras Division of Kakamega District.

(b) I am aware that Kabras Division is headed by an area education officer who is in charge of zonal inspection of schools for effective management. Kabras Division has five zones with three zonal inspectors.

(c) My Ministry is looking at the issue of staff balancing and deployment during this second phase of Ministerial rationalization and staff shortfalls. In the course of this exercise, problems of Kabras Division will be addressed.

Mr. Shitanda: Mr. Temporary Deputy Speaker, Sir, we are having a lot of problems with the Ministry of Education Science and Technology with regard to staffing matters in Kabras Division and Kakamega District in general. During the recent retrenchment exercise, despite the fact that Kakamega District and Kabras Division, in particular, are having a shortfall in the area of zonal inspectors, the Ministry went ahead and retrenched most of the zonal inspectors who were serving the division. Could the Assistant Minister tell this House why it has neglected the issue of balancing both educational staff and teachers in Kabras Division?

Mr. Karauri: Mr. Temporary Deputy Speaker, Sir, a divisional education zone is headed by an Assistant Education Officer and there is one officer in Kabras Division. Kabras Division has five education zones. I accept that there are only three zonal inspectors against a shortage of two in those two divisions. I have said that we are addressing that issue.

Dr. Omamo: Mr. Temporary Deputy Speaker, Sir, it is true that if the school is not doing well, some of the reasons may be due to the conduct of teachers, particularly if they report late or do not report at all. This is always collected through inspectorate. Teachers often want to bank on the eleventh commandment and the eleventh commandment is: "Never, never, be found out." It is only inspectors who come and find them out. Once found out, they are punished. Could the Assistant Minister undertake, as a matter of urgency, to rectify this situation because if he does not rectify the inspectorate, the standard of education is likely to go down in that division?

Mr. Karauri: Mr. Temporary Deputy Speaker, Sir, I have said that we recognise the urgency of the matter

and we will address it very urgently.

Dr. Kulundu: Mr. Temporary Deputy Speaker, Sir, I know this Assistant Minister is fairly honest, but he is being misled by his officers on the ground. The situation in Kakamega, with regard to education officers and teachers, is so bad that I would like to invite him to visit Kakamega District to see the situation for himself. There is a great shortage of teachers in Kakamega District to such an extent that, some schools especially secondary schools in Lurambi and Malava Constituencies, may only be having as few as three teachers.

The Temporary Deputy Speaker (Mr. Musila): Ask your question, Dr. Kulundu!

Dr. Kulundu: Is the Assistant Minister aware that the staffing pattern in Western Province is heavily tilted in favour of Vihiga District, at the expense of other districts in Western Province?

Mr. Karauri: Mr. Temporary Deputy Speaker, Sir, the Question before me is about inspectors. If the Member wants to ask a Question about teachers, I will answer it.

Mr. Shitanda: Mr. Temporary Deputy Speaker, Sir, inspectors inspect teachers. It is very difficult to talk about inspectors without talking about teachers. Is the Assistant Minister aware that previous attempts to balance inspectors and teachers in this district were frustrated by officers from his Ministry, whereby most teachers and inspectors opted to work in the municipality at the expense of schools in the rural areas?

Mr. Karauri: Mr. Temporary Deputy Speaker, Sir, the Question which is on the Order Paper is about inspectors. But if the hon. Member requires me to update him on the staffing position for the whole of Kakamega District, I can do so next week.

The Temporary Deputy Speaker (Mr. Musila): Very well! Do that.
Next Question, Mr. Wanjala!

Question No.549

NON-REMITTANCE OF FUNDS TO RELI SACCO

Mr. Wanjala asked the Minister for Transport and Communications:-

(a) whether he could inform the House how much Kenya Railways Corporation owes Reli Sacco Society Limited;

(b) whether he is aware that non-remittance of money by the Corporation to the Society has paralysed the latter's services to the members; and,

(c) what measures he has put in place to hasten the said remittance.

The Assistant Minister for Transport and Communications (Mr. Lengees): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) Kenya Railways Corporation owes Reli Sacco Society Limited Kshs214 million, not on current remittances but in arrears.

(b) I am aware that due to non-remittance of arrears by Kenya Railways Corporation, the Society's services to its members have been impaired but not paralysed.

(c) In order to clear these arrears, the following measures have been put in place:-

(i) The Government has approved the sale of some of the Corporation's land in order to pay the arrears owed to Reli Sacco Society besides debts that the Corporation owes other creditors.

(ii) Kenya Railways Corporation's current improvement on business performance will enable it to meet part of these arrears through its surplus operation revenue.

(iii) Kenya Railways Corporation expects under the foregoing arrangements to clear the arrears that it owes Reli Sacco Society Limited by June, 2002. The Corporation will do so through payment of equal monthly instalments effective from October this year.

Mr. Wanjala: Mr. Temporary Deputy Speaker, Sir, first of all, I would like to dispute the total amount Kenya Railways Corporation owes the Reli Sacco Society Limited. As at 31st October, 2000, Kenya Railways Corporation owed Reli Sacco Society Limited Kshs401,638,043.31. This is from a ruling that was made by D. Hewett, a judge of the High Court on 6th February, 2001. I will table this document. I wonder why the Assistant Minister is disputing the ruling of the High Court. Could he correct his figures?

(Mr. Wanjala laid the document on the Table)

The Temporary Deputy Speaker (Mr. Musila): Order! Mr. Wanjala, you have given the House information on what the actual figure is. The House has noted that because you have already laid the document on the Table. So, could you proceed and ask a question? You cannot stand there and ask the Assistant Minister to correct his figures.

Could you ask a question?

Mr. Wanjala: The Assistant Minister has accepted that the members of the Sacco are suffering. To date, after that ruling, what is owed is Kshs501,200,761.98. Now that the Assistant Minister has said that he has land which he will sell to offset this debt, could he table the valuation report of the said land? Could he also give us the number of the land he is talking about, because as far as we are concerned, there is no land?

The Temporary Deputy Speaker (Mr. Musila): Mr. Wanjala, this is Question Time!

Mr. Wanjala: Mr. Temporary Deputy Speaker, Sir, I am asking a question. Could he table the valuation report of the said land that they are selling and identify it?

The Temporary Deputy Speaker (Mr. Musila): Very well! Could you let the Assistant Minister respond?

Mr. Lengees: Mr. Temporary Deputy Speaker, Sir, the Member gave the arrears as at October, 2000, which were over Kshs400 million. The current outstanding arrears amount to Kshs214 million. This means that from that time up to now, they have been clearing this amount in arrears. Secondly, if the valuation documents are required, I am not able to table them now. But he should know that the Kenya Railways Corporation has many pieces of land all over the country which they are trying to sell. Yesterday, I said that the land will be sold before December this year.

Mr. Omingo: Thank you, Mr. Temporary Deputy Speaker, Sir. Yesterday, this House was told that the Kenya Railways Corporation is selling its properties to pay pensioners. Today, we have been told that they are selling the same land to pay Reli Sacco Society when the funds have already been collected from the Corporation. Could the Assistant Minister tell this House whether there is sane management in that Corporation and if they cannot change all together? People are suffering because of poor management.

Mr. Lengees: Mr. Temporary Deputy Speaker, Sir, as I said, we are not waiting for the land to be sold so that we can clear the arrears. There are other sources of revenue within the Corporation, for example, the current tonnage has improved a lot this year. That means that we are getting revenue from transportation and it will be used to offset the arrears. That is why the arrears are being reduced now and then. At the same time, the Sacco is still giving loans to its members even up to now.

Dr. Ochuodho: Mr. Temporary Deputy Speaker, Sir, why is it that the money that was contributed by the members is not being used to repay them? Why is the Corporation finding it necessary to sell property? When they finish selling all the land, what will they use to pay pensioners and Sacco members? Why do they not use their contribution?

Mr. Lengees: Mr. Temporary Deputy Speaker, Sir, as you reckon, from 1990 to 1998, the Corporation has been facing a serious financial problem. It has also retrenched staff. So, they are able to pay the staff they have at the moment. Secondly, there is now constant flow of cash going to the Sacco and there will be no problem paying them, particularly with the sale of land. The Corporation has already valued the land it has and it will be enough to pay external debts they owe to the creditors and also to the Sacco.

Mr. Wanjala: Mr. Temporary Deputy Speaker, Sir, I asked the Assistant Minister to identify the land he is talking about, because as far as we are concerned, all the land in this country belonging to the Kenya Railways has been distributed, and even the National Development Party (NDP) Headquarters is situated on Kenya Railways land. It was given to NDP because of co-operation. How much money will the Assistant Minister pay by instalments?

Mr. Ngure: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member in order to insinuate that NDP's headquarters is on railway land when he knows very well that NDP's registered office is in Philadelphia House, Tom Street? That was formerly my office of practice as a Quantity Surveyor.

The Temporary Deputy Speaker (Mr. Musila): Mr. Wanjala, had you finished asking your question?

Mr. Anyona: On a point of order, Mr. Temporary Deputy Speaker, Sir. I understood the Chair yesterday to be saying that the House must not allow hon. Members to make statements which they cannot substantiate. The hon. Member says NDP's registered office is on railway land. That is a very serious matter and the Chair should direct that he substantiates.

Mr. Temporary Deputy Speaker (Mr. Musila): Mr. Wanjala, do you have substantiation for that remark?

Mr. Wanjala: Mr. Temporary Deputy Speaker, Sir, the NDP registered office is on Mara Road which is railway land. I am ready to take the House there!

The Temporary Deputy Speaker (Mr. Musila): Order! Mr. Wanjala, you have to be serious about this matter. If you substantiate, there will be no question of taking the House to the area. Do you have evidence that NDP offices are on railway land? If you do not, you had better withdraw that remark and apologise to the House!

Mr. Wanjala: Mr. Deputy Speaker, Sir, I said it is on the railway land and not on the railway line!

The Minister for Energy (Mr. Raila): On a point of order, Mr. Temporary Deputy Speaker, Sir. We do not want the hon. Member to take the House on a flight of fancy. The NDP's registered office is in Philadelphia House. There is no NDP office on railway land. If Mr. Wanjala has evidence, let him lay it on the Table of this House.

Otherwise, let him withdraw and apologise to the House.

The Temporary Deputy Speaker (Mr. Musila): Order! Mr. Wanjala, the information given by the hon. Member who, in fact, happens to be the chairman of the party you are referring to---

Mr. Wanjala: Mr. Temporary Deputy Speaker, Sir, I withdraw and apologise to the House.

The Temporary Deputy Speaker (Mr. Musila): Very well.

Mr. Wanjala: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister admits that those people have suffered irreparable damages. Could he tell this House how much money he will pay those people every month?

Mr. Lengees: Mr. Temporary Deputy Speaker, Sir, at the moment I cannot say how much these people will be paid. But as from October this year, the corporation will be remitting certain amounts of money depending on the member's contribution to the SACCO.

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

The Temporary Deputy Speaker (Mr. Musila): Order! Mr. Omingo, that Question has sufficiently been dealt with.

Next Question, Mr. Obwocha!

Question No.551

PAYMENT OF LOW SALARIES TO ADULT
EDUCATION TEACHERS

Mr. Obwocha asked the Minister for Labour:-

- (a) why part-time Adult Education Teachers are being paid a paltry salary of Kshs500 per month;
- (b) why there are delays, sometimes up to five months, in paying the above; and,
- (c) whether he is satisfied that Kshs500 is sufficient for the work they do.

The Assistant Minister for Labour and Human Resource Development (Mr. Chanzu): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) Part-time Adult Education Teachers are not paid a salary; rather, they receive honoraria of Kshs500. This is a token payment in appreciation of the services they render to the community for 24 working hours in a month.

(b) The delays in effecting payment are occasioned by liquidity problems at district treasuries.

Mr. Michuki: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Assistant Minister in order to mislead the House that district treasuries are responsible for the payment when, in fact, the instruction from the Government is that each Ministry is responsible for the payment of its own employees?

The Assistant Minister for Labour and Human Resource Development (Mr. Chanzu): Mr. Temporary Deputy Speaker, Sir, I had not finished replying to this Question.

(c) Arrangements are being finalised to raise honoraria to Kshs650 with effect from July, 2001. This rate will be reviewed from time to time depending on the economic situation.

Mr. Obwocha: Mr. Temporary Deputy Speaker, Sir, lunch at Ambwere's Alliance Hotel in Vihiga does not even cost Kshs650 which the Assistant Minister is talking about. It is a shame to tell Kenyans that they will increase the rate from Kshs500 to Kshs650. What will that do? Let this Ministry be serious because these teachers are rendering valuable services to illiterate people in our country. Could the Ministry consider paying these teachers a minimum salary of Kshs2,000 per month?

Mr. Chanzu: Mr. Temporary Deputy Speaker, Sir, the Department of Adult Education has two distinct categories of teachers; those who work on a full-time basis and those who work on part-time basis. Part-time teachers are volunteers. The full-time teachers are paid like civil servants. They earn---

Mr. Achilo-Ayacko: On a point of order, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Musila): Order! Mr. Achilo-Ayacko, the Chair would prefer that you let the Assistant Minister finish. Anyway, what is your point of order.

Mr. Achilo-Ayacko: Mr. Temporary Deputy Speaker, Sir, the Regulation of Wages Act, Cap.226 and the Employment Act, Cap.229, do not envisage the words "part-time employment." In fact, the minimum wage for casual workers is about Kshs3,000. Is it in order for the Assistant Minister to continue misleading this House that there are such labour terminologies as "part-time workers" or the kind of minimum wage he is talking about?

Mr. Chanzu: Mr. Temporary Deputy Speaker, Sir, I was in the process of explaining that those teachers who are in full-time employment earn from K£6,000 to K£6,357 per annum. The payment we were talking about is for part-time teachers who work for a period of two hours in a day. They work for a maximum of three days in a week. If this was on a daily basis and on an hourly basis in a month, then they would earn about Kshs4,000 which is more than the minimum wage. But I agree this money is not enough. There are consultations going on, with a view to reviewing

this amount.

Mr. Munyasia: On a point of order, Mr. Temporary Deputy Speaker, Sir. The Assistant Minister is misleading the House. The part-time teachers put in three days' work in a week at the centre. During the other two days of the week, they visit their students in their homes. Therefore, they are engaged fully for five days in a week. Since these teachers visit their students in the morning, before they go for evening class in the centre, could the Assistant Minister tell us how much the Ministry pays them per day?

Mr. Chanzu: Mr. Temporary Deputy Speaker, Sir, I am not aware that they go to visit the students. But I am aware that they work for two hours in a day for a minimum of three days a week.

Mr. Obwocha: Mr. Temporary Deputy Speaker, Sir, this Government should be serious! We have labour laws in this country. Could this Assistant Minister confirm to this House that they are going to follow the law and pay these teachers the minimum wage required?

Mr. Chanzu: Mr. Temporary Deputy Speaker, Sir, we are dealing with about 5,000 part-time teachers.

The Temporary Deputy Speaker (Mr. Musila): Mr. Assistant Minister, the question is: Will you obey the law and pay them in accordance with the provisions of the law?

Mr. Chanzu: Mr. Temporary Deputy Speaker, Sir, I am just trying to explain that we are dealing with about 5,000 cases. The Government is willing to pay but I can assure you that the figures are going to be colossal. That is where the problem comes in. Otherwise the Government is willing to pay depending on the availability of funds.

Mr. Shill: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Assistant Minister in order to evade the question he was asked, as to whether he is keeping in order with the labour laws in this country or not?

Mr. Chanzu: Yes, we are going to obey the labour laws.

Question No.535

DISAPPEARANCE OF KIWANZA WATER PUMP

Mr. Wambua asked the Minister for Water Development:-

(a) whether he is aware that a water pump machine meant for Kiwanza Water Project in Mavoloni, disappeared from Kithimani Divisional Headquarters; and,

(b) whether he could consider providing another machine since wananchi have already built a storage tank and have laid down the required pipes.

The Assistant Minister for Environment and Natural Resources (Mr. Kofa): Mr. Speaker, Sir, I beg to reply.

(a) No, I am not aware.

(b) Due to budgetary constraints, my Ministry is unable to provide a pumpset to Kiwanza. However, the hon. Member is advised to organise and raise funds or seek donor support to make the project operational. My Ministry appreciates the good work done by the Kiwanza community which is in line with the National Water Policy of encouraging active participation of project beneficiaries in the development and operation of water supplies and is ready to provide technical advice and support to the community.

Dr. Kituyi: Jambo la nidhamu, Bw. Naibu Spika wa Muda. Angalau ingekuwa ni jambo nadra sana kuwa kwa shida ya huyu Waziri Mdogo kwa yale majibu ambayo anapewa na wenzake. Ni haki kwa mhe. Naibu wa Waziri was Serikali kusimama hapa na kumjibu Mbunge kwa kumueleza ati aende afanye Harambee kwa mradi wa umma? Serikali iko wapi?

Mr. Kofa: Bw. Naibu Spika wa Muda, kwanza, ningependa kusema mimi si Waziri Mdogo. Unanionavyo, mimi ni mnene na nina umri wa kutosha. Mimi ni Waziri Msaidizi. Sababu ya kusema hivi---

Mr. Munyasia: On a point of order, Mr. Temporary Deputy Speaker, Sir! He should continue to answer in English! He began his reply in English and he must continue along that line!

Mr. Kofa: Bw. Naibu Spika wa Muda, nimeulizwa jambo la nidhamu kwa Kiswahili! Kwa hivyo, najibu kwa Kiswahili!

Mr. Anyona: On a point of order, Mr. Temporary Deputy Speaker, Sir. The rules are that once you start speaking in English, you speak in English throughout. He started speaking in English and he cannot change. Those are the rules!

Mr. Kofa: Mr. Temporary Deputy Speaker, Sir, this is not a Ministry of Water Development project. This is why we are encouraging the beneficiaries to look for funds!

Mr. Wambua: Mr. Speaker, Sir, I am very surprised because Assistant Ministers are answering Questions as if---

The Temporary Deputy Speaker (Mr. Musila): Order Mr. Wambua! We are dealing with your Question

and not Assistant Minister!

Mr. Wambua: Is the Assistant Minister aware that he is dealing with educated Members of Parliament who keep records? I asked this Question last year and I have an answer where the Ministry agrees that the water pump was sold by one of their officers! Could this Question be deferred so that I can prove the Assistant Minister wrong? I was given this reply five minutes ago. If I had been here earlier, I would have brought that answer here because I have it in my pigeon hole.

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Wambua! Stop being emotional about the matter. You have raised an important matter here, that you asked the same Question last year and you got a different answer. That is a valid point. Let the Assistant Minister address that!

Mr. Kofa: Mr. Temporary Deputy Speaker, Sir, Kiwanza Water Project was started---

Mr. Wambua: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is this Assistant Minister in order to mislead the House by evading to answer the Question? I do not want to know that story. I am the area Member of Parliament. Could he tell us whether he is aware that the pump was stolen? If not so, I request the Chair to defer the Question and I will come and table the answer which I was given last time by the same Ministry!

The Temporary Deputy Speaker (Mr. Musila): Mr. Assistant Minister, last year you gave a different answer to the Question; that you were aware that the pump had been stolen. But today you have said you are not aware that the pump was stolen. Would you like to go and clarify this matter further?

Mr. Kofa: Mr. Speaker, Sir, this project was started by a white man in 1980s. Up to now, the Ministry has no role in this water project. What am I going to check?

The Temporary Deputy Speaker (Mr. Musila): Order, hon. Members! If what hon. Wambua is saying is true, then there must be something wrong. Therefore, the Chair will give the Minister another chance to go and investigate the answers given last year and see how he would relate the two. So, the Question is deferred to Tuesday, next week.

Mr. Shill: On a point of order, Mr. Temporary Deputy Speaker, Sir. Members of Parliament are always frustrated by these Ministers. They give different answers to the same Question! They do not take their work seriously! They only rely on civil servants! Could the Chair give us guidance on this matter? This House cannot be a chatter box!

The Temporary Deputy Speaker (Mr. Musila): Order, hon. Members! The Chair has always appealed to Ministers to take hon. Members' Questions seriously. Indeed, when a case comes up, it should be dealt with on individual basis. I do not think we should generalise. Therefore, this particular Question has been deferred to Tuesday, next week.

Dr. Oburu: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the Ministry to keep coming to this House every week and telling us that there are water projects in this country where they are not responsible? When the Assistant Minister comes back to answer this Question, I appeal to him to recognise that it is the responsibility of the Government of Kenya to provide the Kenyan people with water! The question of saying it is a donor project should not arise!

(Question deferred)

Dr. Ochuodho: On a point of order, Mr. Temporary Deputy Speaker, Sir. There is a point which hon. Shill raised. Last week I had an answer from the Ministry of Energy with regard to the Eldoret-Kamapala Pipeline. Last year, I had an answer from hon. Masakhalia saying they had done an estimation and found that it will cost Kshs6 billion. But this week, a Minister came to this House and told us they are spending money to study how much it was going to cost, meaning one of the two Ministers was misleading this House. Could the Chair direct the Ministers that whenever they bring answers to this House, they should be authentic?

The Temporary Deputy Speaker (Mr. Musila): Order, Dr. Ochuodho! I have already made a ruling on that matter! Please, do not expect me to repeat it!

Next Question, Mr Onyango!

Question No.332

ALLOCATION OF PUBLIC TOILETS IN NAIROBI

Mr. Mwenje, on behalf of **Mr. Onyango,** asked the Minister for Local Government:-

- (a) whether he is aware that as the population of Nairobi is increasing, the number of public toilets is decreasing; and,
- (b) who the allottees of all public toilets are and what criteria was used in the allocations.

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Mwenje! Has Mr. Onyango mandated you to ask this Question?

Mr. Mwenje: That is correct, Mr. Temporary Deputy Speaker, Sir. This Question is about Nairobi!

The Assistant Minister for Local Government (Mr. Kiangoi): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) Yes, I am aware that the provision of toilet facilities in the City has not kept pace with the growth of population.

(b) I am not aware of any allocation of public toilets.

Mr. Mwenje: Mr. Temporary Deputy Speaker, Sir, it is very sad for an Assistant Minister to be ignorant of what is known literally by everybody---

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Mwenje! Mind your language!

Mr. Mwenje: Mr. Temporary Deputy Speaker, Sir, I just said the Assistant Minister is "pretending" not to know that these toilets have been allocated to private individuals. Next to Parliament here, there is a petrol station which literally in this City everyone, including Members of Parliament, know that it was a toilet. The owner of that plot is also known.

Next to Kariokor Market, there was another toilet which was allocated to a former Provincial Commissioner in this City. In fact, we can tell him many more if he does not know. Another one is near Ronald Ngala Road which was allocated to somebody else. Now, that the Assistant Minister is aware that several toilets have been allocated to people who have put up buildings on the former toilets, could these allocations be revoked or other toilets should be put up in the different corners of this City?

Mr. Kiangoi: Mr. Temporary Deputy Speaker, Sir, the number of toilets in Nairobi City Council has been 136 and they remain 136. The allegation that other toilets have been allocated to other people is not true. In fact, I do not know about that.

Mr. Wamae: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the hon. Minister to insist that there are 136 toilets, when the hon. Member for Embakasi has mentioned the toilets that have been grabbed? We know that a Kenol Service Station has been built here! Is he in order?

Mr. Kiangoi: Mr. Temporary Deputy Speaker, Sir, those remain allegations. If there is any document purporting to relate to any land which was a public toilet, let it be tabled!

Mr. Munyao: On a point of order, Mr. Temporary Deputy Speaker, Sir. My point of order is directed to the Chair. If the Chair does not take any action now, Kenyans in this House will be seen to be toothless! The issue of these toilets is known! Could the Chair do something about this? How are we going to believe that this House can conduct serious business?

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Munyao! The Chair has no inventory of toilets in this City. Therefore, there is no action I can take!

Dr. Kituyi: Bw. Naibu Spika wa Muda, angalau, tunajua wewe si inspekta wa vyoo katika Jiji la Nairobi. Lakini wewe ni mmoja wetu! Unajua kwamba kutoka hapa Bunge, unaona pale kulikuwa na choo lakini mhe. Biwott akajenga petrol station na pia Bw. Lekoolool akajenga petrol station kwenye choo kingine. Pia, aliyekuwa Meya wa Jiji la Nairobi akajenga hoteli kwenye choo cha City Council. Kwa hivyo, Waziri Msaidizi anajifanya aidha ana ufukara wa macho kuhusu historia au anasema eti hafahamu kwamba kumekuwa na vyoo ambavyo vimebadilishwa. Tutaamini namna gani kwamba anajua chochote kuhusu Wizara yake?

Mr. Kiangoi: Mr. Temporary Deputy Speaker, Sir, hon. Members have no reason to doubt that I know what is going on in the Ministry. If an hon. Member alleges that there exists a certain plot, and I am saying I am not aware, it is important that, that hon. Member tables the documents here to show that, that has been done.

Mr. Mwenje: First of all, I am surprised! It appears as if there is no need to ask Questions in this House because we do not get any answers! May I call upon the Assistant Minister to resign since he has been unable to answer the Question or we will go and demolish those petrol stations! Now that he is aware that all these toilets were demolished and the plots allocated, could the Assistant Minister for Local Government make sure that he revokes those allocations or I mobilise the residents of Nairobi and demolish all those structures built on former toilets? Otherwise the Assistant Minister should resign now!

Mr. Kiangoi: Mr. Temporary Deputy Speaker, Sir, I am not the Minister for Lands and Settlement.

Mr. Anyona: On a point of order, Mr. Temporary Deputy Speaker, Sir. There is something called "the integrity of Parliament." Once we undermine the integrity of Parliament, it becomes a breach of privilege of Parliament. If this Parliament accepts that as an answer and it becomes part of the record of this House, then the integrity of this Parliament is destroyed. To be fair to the Assistant Minister and the House, I want to request the Chair to direct as follows: One, that the Assistant Minister gives us a list of the 136 toilets, their sites and their conditions.

Secondly, he should tell us whether there was a replacement for the numbers to remain the same. Thirdly, for the sake of the integrity of this House, the Chair should require that a delegation of Members of Parliament plus the Questioner and the Assistant Minister, go around the City to verify that. Otherwise, this Parliament is "finished!"

The Temporary Deputy Speaker (Mr. Musila): Order! Mr. Kiangoi, are you in a position to provide the LR numbers of the 136 toilets in the city?

An hon. Member: And where they are!

The Temporary Deputy Speaker (Mr. Musila): Order!

Mr. Kiangoi: Mr. Temporary Deputy Speaker, Sir, let me say that I hope Mr. Anyona is not suggesting that I am not maintaining the integrity of Parliament. I take this Parliament seriously and that is a very serious allegation! But let me answer your question, Mr. Temporary Deputy Speaker, Sir.

There are 63 public toilets in Eastleigh Division. In the Central Business District (CBD) there are 20 public toilets. There are 19 public toilets on Kampala Road. In Kariobangi Division, there are 25 public toilets. In Nairobi Dam and Karen, there are five public toilets.

Coming to your question, Mr. Temporary Deputy Speaker, Sir, I would like to say that it is not possible to provide LR numbers of all the toilets that exist in the City of Nairobi here now!

(Several hon. Members stood up in their places)

The Temporary Deputy Speaker (Mr. Musila): Order, hon. Members!

Mr. Shill: It is a serious Question!

The Temporary Deputy Speaker (Mr. Musila): I do know it is a serious Question but, certainly, we cannot go on throughout the sitting. Therefore, Mr. Assistant Minister, since you have indicated that there are 136 toilets in the City, the Chair directs that you try to provide a table of all the allocated toilets to this House next week.

Let us move on to the next Question by Mr. Kombe!

Question No.326

LAND REGISTRATION IN COAST PROVINCE

Mr. Kombe asked the Minister for Lands and Settlement what plans he has to facilitate land registration in Coast Province.

The Temporary Deputy Speaker (Mr. Musila): Is anyone here from the Ministry of Lands and Settlement?

Mr. Wambua: On a point of order, Mr. Temporary Deputy Speaker, Sir. It is on a different issue!

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Wambua! The Minister for Lands and Settlement is not here and, therefore, the Question is deferred until Wednesday, next week. Mr. Kombe, is that alright with you?

Mr. Kombe: No, it is not okay!

The Temporary Deputy Speaker (Mr. Musila): What is the position?

Mr. Kombe: Mr. Temporary Deputy Speaker, Sir, this is the third time this Question is being deferred. May I request the Chair to inform the employer of the Minister and his Assistant that they are not taking parliamentary work seriously?

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Kombe! Indeed, if this is the third time the Question has come before this House, it is very serious! Could we ask any of the Ministers, under collective responsibility, to inform the Minister concerned that this Question is now listed for Wednesday, next week, and to come with an answer?

The Minister of State, Office of the President (Maj. Madoka): Mr. Temporary Deputy Speaker, Sir, I will undertake to ensure that the Minister comes.

(Question deferred)

Mr. Shill: On a point of order, Mr. Temporary Deputy Speaker, Sir. You have heard Mr. Kombe say that the Question has been deferred three times!

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Shill! Hon. Members, once the Chair has ruled on a matter and disposed of it, we proceed to another one! We have already agreed on that Question and the Minister has undertaken to inform his colleague. How do we go back to it?

Let us move on to the next Question by Dr. Ochuodho!

Question No.209

REGISTRATION OF MATATU OWNERS ASSOCIATION

Dr. Ochuodho asked the Attorney-General why the Matatu Owners Welfare Association (MOWA) has not been registered.

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

The MOWA applied for registration as a society, and was refused registration by the Registrar of Societies on the ground that: "It appears to the Registrar that the interest of peace, welfare and good order in Kenya would be likely to suffer prejudice by reasons of your registration as a society."

In accordance with Section 15 of the Societies Act, the MOWA appealed to the Attorney-General who has power under that Section, to listen to them. After further investigations and perusal of the grounds of appeal, the Attorney-General has decided that the appeal has merit and has allowed it. Consequently, the Attorney-General has directed the Registrar of Societies to register the MOWA.

(Applause)

Dr. Ochuodho: Mr. Temporary Deputy Speaker, Sir, I have to confess that since I came to this House, this is the best answer I have ever received! It confirms that the Attorney-General has real power! But now that he has the power, could he explain to this House how registering the MOWA could jeopardise peace in this country? When is he going to lay on the Table the registration certificate of the MOWA?

The Temporary Deputy Speaker (Mr. Musila): Order! But I thought that you should have been satisfied and that would have been the end of it!

Mr. Wako: Mr. Temporary Deputy

[Mr. Wako]

Speaker, Sir, the certificate may have been collected by the MOWA from our offices. But I am not very sure.

Question No.264

LIQUIDATION OF LAND BUYING COMPANIES

The Temporary Deputy Speaker (Mr. Musila): Hon. Members, this Question by Mr. Kihara has been referred to the Attorney-General. Originally, it had been referred to the Minister for Lands and Settlement. I understand that it was only sent to the Office of the Attorney-General yesterday. Therefore, the answer is not available today! Is that so, Mr. Attorney-General?

The Attorney-General (Mr. Wako): That is so but also, I would really appreciate to receive further and better particulars and the names of the land buying companies that operate in Naivasha, and which are the subject matter of this Question. Without those names, it would be very difficult for my Office to answer the Question. So, I hope you can give them to me, so that I can give a reply.

The Temporary Deputy Speaker (Mr. Musila): The Question is deferred to a later date.

An hon. Member: When?

The Temporary Deputy Speaker (Mr. Musila): We cannot agree on a date now, but it will come under normal procedure.

(Question deferred)

QUESTIONS BY PRIVATE NOTICE

SHOOTING OF MR. OUMA O'DIE

Mr. Ngure: Mr. Temporary 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 10th February, 2001, at 8.30 p.m. along Desai Road, Parklands, Mr. Wycliffe Ouma O'die was shot and injured by plainclothes policemen?

(b) Who informed the regular police officers who visited Mr. Ouma's residence and later Guru Nanak Hospital of the shooting incident?

(c) What is the conclusion of the police investigations into that incident?

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

(a) I am aware that Mr. Wycliffe Ouma O'die was shot by an unidentified gunman who accosted him along Desai Road, Parklands. The gunman arrived at the scene in the company of another man in a vehicle. The registration number was just KAK - they did not get the other details. It is alleged that the two assailants had something resembling a police pocket phone, but there is no conclusive evidence to indicate that they were policemen.

(b) A good Samaritan noticed the incident and informed the Control Room, Nairobi who, in turn informed the Parklands Police Station.

(c) Parklands Police Station investigation file has been opened and the investigations are still continuing. So far, no arrests have been made.

Mr. Ngure: Mr. Temporary Deputy Speaker, Sir, the Minister is misleading the House. Mr. O'die was shot by people who were identified as policemen. The fact is that 20 minutes after he was shot, policemen from the Parklands Police Station went to the house where he lived looking for the "thief" that was shot. They were informed that Mr. O'die had been taken to Guru Nanak Hospital. The OCPD, Parklands and the policemen went to Guru Nanak Hospital and demanded that the hospital hands over Mr. O'die to them saying that he was a thief who had been shot by the police, but escaped. The Guru Nanak Hospital management refused to hand Mr. O'die over and transferred him to Kenyatta National Hospital where the policemen followed him and still demanded that the hospital release him to them. On discovering that the bullet that went through Mr. O'die's chest did not lodge in the body, the policemen took off. How come that the policemen who were demanding for the "thief" to be handed over to them are now saying that Mr. O'die was shot by unknown people?

Maj. Madoka: Mr. Temporary Deputy Speaker, Sir, that is new information to me and I think I would like time to check on it because that is not what I had been informed.

The Temporary Deputy Speaker (Mr. Musila): I think this is an important matter. The Minister has requested for more time to investigate, in view of the information given by Mr. Ngure. Therefore, the Question is deferred to next week because it is under Private Notice.

(Question deferred)

Mr. Ndicho: On a point of order, Mr. Temporary Deputy Speaker, Sir. This is not the first time that the Minister is pleading that he be given time to go and verify further information received from a Member. If he finds that what Mr. Ngure has told him is the truth of the matter, what disciplinary action will he take against the officer who misled him to come and mislead the House?

The Temporary Deputy Speaker (Mr. Musila): Mr. Ndicho, hold on to that question, on the disciplinary action to be taken, until the time when the Question comes to the House again. It has been deferred to Wednesday, next week. Is that okay Mr. Ngure?

Mr. Ngure: It is okay, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Musila): Next Question!

MURDER OF MR. MBUBA

Mr. Kihoro: Mr. Temporary 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 Mr. Alfred Muriithi Mbuba, ID No.13247731, was found murdered in his place of work at Temple Road Total Petrol Station, Nyeri Town, on 5th June, 2001?

(b) Under what circumstances did the deceased lose his life and what action has the police taken to bring his killers to justice?

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

(a) Mr. Alfred Muriithi Mbuba was shot dead by a police officer who mistook him to be one of the thugs who had attacked the petrol station on the 6th of June.

(b) The Nyeri Inquest File has been opened and is still pending in court. Appropriate action will certainly be taken once the investigations are complete.

Mr. Kihoro: Thank you, Mr. Temporary Deputy Speaker, Sir, for the answer given. The Minister has told this House that Mr. Muriithi was a petrol attendant at this petrol station and he was shot by a police officer. I hope the

Minister will not mind giving us the name of the police officer who shot him and also why it is necessary to hold an inquest when the person who shot Mr. Muriithi is known. He should also tell us why this officer has not been prosecuted, two months after the crime was committed.

The Temporary Deputy Speaker (Mr. Musila): Who was he, Mr. Minister?

Maj. Madoka: Mr. Temporary Deputy Speaker, Sir, I do not have the name of the police officer, but he is definitely known. In fact, I am trying to establish why the inquest is taking so long. We will push it to ensure that it is completed so that we can take appropriate action.

Mr. Thirikwa: Mr. Temporary Deputy Speaker, Sir, about three weeks ago a very ghastly incident happened in Nairobi where police officers deliberately shot seven people dead. I happen to live in that particular area and on that day I was travelling from my house to Parliament. I was there when this happened. We have laws in this country and thieves, just like anybody else, have their rights under the law. The law is very clear that a police officer should only use his firearm when his life or that of any other person is in danger. Even if the police had suspected the petrol attendant of being a thief, why did they shoot an innocent Kenyan who was not armed? If the policeman's life was not in danger, why did he have to shoot that attendant?

Maj. Madoka: Mr. Temporary Deputy Speaker, Sir, I agree with what the hon. Member has said and I also think they should not have shot this individual. Once we have established the exact truth, we will take appropriate action as we have done in the past.

Mr. Sungu: Mr. Temporary Deputy Speaker, Sir, this is a very serious issue and I think the Minister should take it very seriously. According to the Police Standing Orders, whenever the police use a firearm, either in self-defence or for whatever purpose, an inquiry is held at the police station. What were the results of the inquiry? Was any inquiry held at all? If so, why has this case not proceeded to prosecution rather than inquest?

Maj. Madoka: I did say a little earlier that I was not satisfied with why it is taking so long. Since I just got the results yesterday I am still following up the matter. That is my answer.

Mr. Kihoro: Mr. Temporary Deputy Speaker, Sir, the Minister has not provided the name of the officer who shot Mr. Muriithi. I think that information is very important. He has also not explained why it was necessary to hold an inquest when the person who actually killed Mr. Muriithi is known. He has not explained why a prosecution has not been taken two months after the event. It is important that the Minister does explain why there has been a delay of two months and why the inquest is being held. Will that amount to another cover-up again, where no action will be taken two months after the event?

The Temporary Deputy Speaker (Mr. Musila): Let the Minister answer that now.

Mr. Kihoro: But that is the same question I asked as a supplementary question.

Maj. Madoka: Mr. Temporary Deputy Speaker, Sir, I have said that I got this information yesterday. I am certainly not satisfied with why it has taken so long. I will pursue the issue.

Mr. N. Nyagah: On a point of order, Mr. Temporary Deputy Speaker, Sir. The time has come when policemen should be very careful so as not to shoot people to kill, but to maim. Could the Minister explain whether this particular attendant was heavily armed and how many guns he had for the policeman to shoot him? Is this particular policeman still in service? If he is, could he be stopped from serving?

Maj. Madoka: Mr. Temporary Deputy Speaker, Sir, to the best of my knowledge this attendant who was shot, was not armed in any way at all and the police officer who shot him is not in service now.

DISAPPEARANCE OF MR. KIMANI

Mr. Michuki: Mr. Temporary 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 Mr. Julius Njuguna Kimani, an Administration Police Constable, Personal Number 90083747, and ID/No.90186996, disappeared from his station in Meru North on 8th June, 2001?

(b) Is he further aware that Mr. Kimani has not been traced ever since?

(c) Why has he not informed Mr. Kimani's parents or the next of kin that for over two months, Mr. Kimani has not been at his place of work?

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

(a) The Administration Police Officer, Julius Njuguna, was granted 45 days annual leave with effect from 2nd May, 2001 and was expected to report back on duty on 5th July, 2001.

(b) I am aware that the officer has never reported back from leave and efforts to track him have been unsuccessful.

(c) Efforts to trace the officer are still in progress.

(d) Messrs. Daniel Githinji and Kamau Kimani, the officer's brothers were informed on the 10th of July.

Mr. Michuki: Mr. Temporary Deputy Speaker, Sir, it is true that Mr. Kimani proceeded on 45 days leave, but he stayed at his place of work, in which case, his bosses, the DC and the officer in charge of the station were aware that he was around because he stayed in their house. But he disappeared on the 8th of June. In so far as the parents are concerned, nobody at home has been informed. Why is it that even though they have not traced the person, it has taken so long to report to the next of kin, who have been very much disturbed since the 8th of June?

Maj. Madoka: Mr. Temporary Deputy Speaker, Sir, when some of the officers are given leave, it is true that they may stay within their working area, but obviously, the police officer in charge does not bother about that individual because he is not supposed to be at work. Mr. Kimani was supposed to be back from leave on the 5th of July. When he did not report back, five days after that, it was when they found out that he had not reported and they could not trace him. That was when they informed the brothers.

Mr. Ndicho: Mr. Temporary Deputy Speaker, Sir, I think Kenya is becoming a bottomless pit, where people just disappear and the Government responsible cannot explain where its citizens vanished to. The principal duty of a Government is to protect the lives of the people and their properties. Ever since the days of the late J.M. Kariuki, Dr. Robert Ouko, Tom Mboya, Enock Magara and now Tony Ndilinge and even Mr. Kimani, the Government of Kenya has never had any time to explain the whereabouts of those people who have died or who have got lost. Could he tell this House whether the Government has abdicated its responsibility to take care of its citizens and their properties because there is not a single person who has got lost that it has accounted for? Have you abdicated your responsibility?

Maj. Madoka: Mr. Temporary Deputy Speaker, Sir, we have not abdicated our responsibility. There are many people who have allegedly got lost and have been found. It is not true to say that we have abdicated our responsibility. Equally, this happens all over the world, and you might get people getting lost and it takes a bit of time to trace them. We are still looking for this individual.

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

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Ndicho! I gave you a chance. Yes, Prof. Anyang'-Nyong'o!

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker, Sir, you will notice that the three Questions by Private Notice today are all to do with the Kenya Police Force, and I have been very concerned that every time Questions come here regarding the Kenya Police Force, the Minister is not in a position to address himself to them immediately. I would like to ask him one question which overrides all these, particularly this one: Is it true that, indeed, authority has broken down in the Kenya Police Force; that, we have so many subsidiary organisations in the Kenya Police Force, like the police and village vigilantes and police reservists, and there is no proper order of authority? That, that is why the Kenya Police Force can shoot and get away with it and no investigations are done? Could the Minister explain to this House what is the present order of authority in the Kenya Police Force? Is that order of authority--

The Temporary Deputy Speaker (Mr. Musila): Order, Professor! You have already asked your question. It is Question Time. Could you now let the Minister answer you?

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker, Sir, please, be patient with me. This is a very important issue that affects the lives of Kenyans, and I would like to explain that question very clearly to the Minister, so that he does not answer the wrong question. This is very important. You have seen the Minister prevaricating on Questions and it is important that hon. Members on this side are given enough time to put the matter very clearly to him. What is the present order of authority in the Kenya Police Force?

Maj. Madoka: Mr. Temporary Deputy Speaker, Sir, the present order is very clear; from the Commissioner of Police to the lowest level. There are all the relevant officers and there is a proper chain of command. It is all there. That authority is there.

Mr. Michuki: Mr. Temporary Deputy Speaker, Sir, on the day that Mr. Kimani disappeared, he left his place of work in a matatu, accompanied by another administration police officer to Meru Town where he alighted from the vehicle and informed his colleague that he was going to town to see someone. That was before, because the original intention was for him to go and inform his parents in Kanyenyaini Location of Kangema, that his wife had died. The wife was buried in the night and Mr. Kimani was not there; neither were any of his kids who did not, even up to that date, know that the wife had died. Could the Minister get into this matter and tell this House when he is coming back to tell us where Mr. Kimani is because Mr. Kimani was his employee?

Maj. Madoka: Mr. Temporary Deputy Speaker, Sir, the hon. Member seems to have some very useful information. I do not know whether he gave all this information to the Kenya Police Force. If he has not, I suggest that he gives this information, which would then help us to be able to investigate it.

Mr. Michuki: Which police are you talking about? Is it you or which police? Which police in this country?

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Michuki!
Mr. Michuki: Which police?
The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Michuki! That is not a point of order! Maj. Madoka, have you finished?
Mr. Michuki: Or the killers?
Maj. Madoka: Mr. Temporary Deputy Speaker, Sir, I did finish my answer.
The Temporary Deputy Speaker: Next Order!

MINISTERIAL STATEMENTS

CLARIFICATION ON TASK FORCE REPORT ON KCC

The Minister for Agriculture (Dr. Godana): Mr. Speaker, Sir, I have taken the Floor on a subject regarding something which transpired in this House and which concerns my Ministry. On 25th July, Mr. Murungi, in response to an order by the Deputy Speaker, a few weeks earlier, was asked to substantiate an allegation he made regarding corruption in Kenya Co-operative Creameries Limited. He laid on the Table of this House, a document which he tendered as a report of the Task Force on the Kenya Co-operative Creameries (KCC). Two or so days later, Mr. Anyona challenged the authenticity of that document and sought clarification from the Minister concerned and guidance from the Chair as to what would happen if that was not the case. I have, therefore, been seized of the matter and I wish to make the following statement.

I have read the purported Task Force Report of 1995 which was tabled by Mr. Murungi, in an attempt to prove corruption at KCC Limited involving one Raymond Moi. I categorically state hereby that no such report exists and none was prepared. The purported report tabled in this House has no title, does not indicate who the authors are, neither does it indicate when it was produced. It has no recommendations as would be expected of a Government-appointed Task Force Report. The Government Task Force of 1995 at KCC Limited was not an inquiry team. It was intended to assist the management of KCC and Government in streamlining the operations and setting up of standards for the proper operation of the KCC. The Task Force was not expected to produce a formal report as such but through the Chairman, it made several progress reports to Government. The document tabled in the House does not contain any such progress reports by the Task Force. I understand that members of the Task Force were assigned to work with various departmental managers in an attempt to improve operations and develop systems. I also understand that each departmental manager---

(Loud consultations)

If Members are serious and interested, my interest is just to put the truth before the House. They should listen! I also understand that each departmental manager and key sectional heads were requested to submit their views on what they considered to have gone wrong in the organisation and propose possible remedial measures. The document tabled before the House does contain some of the department submissions but does not constitute a report prepared by the Government Task Force as it was called.

Records in the Ministry of Agriculture and Rural Development indicate that Confidential File No.MCD/C/AGRI/11/7 Vol. VIII on KCC Limited was taken to the office of the then Permanent Secretary on 22nd February, 1996, but was never returned to the secret registry. The same file Vol. VII was marked to the Commissioner of Co-operatives on the 21st of January, 1996, but it is also missing from the Ministry's secret registry.

I am reliably informed by staff at the Ministry's secret registry that the two files were taken to the then Permanent Secretary's office but were never returned. I further understand that the then Permanent Secretary had opened a secret file on KCC Limited but the file was maintained in his office.

I have, therefore, concluded that the document tabled by hon. Murungi is a compilation principally of submissions intended for internal use many of which were from the above internal Government files stolen from the Ministry's secret registry or sneaked out of KCC Limited internal files.

Now, to illustrate that, in fact, this could not have been a report of Government, it is not in the right form and more so I will quote an excerpt on page 22. I think those who compiled the document to purport it to be a Government report were amateurish. They could have done a more professional job, if they wanted to portray it as that. On page 22 under Chapter 8, it states:-

"In my office, there is no tender document to guide on procurement as to the prices and anything else. (Obviously, a task force will not talk of "in my office"). We purchased tyres and tubes from Ms

Andenai Service Limited on our indent number and so on."

Clearly, it is a collection of documents many of which relate to KCC from the Ministry, KCC itself, but also with certain creations and attempts at linking them up. I want to confirm that it is not a report within the records of the Government. This is a photocopy of what was tabled.

The Temporary Deputy Speaker (Mr. Musila) Order! Minister, will you table it?

(Dr. Godana laid the document on the Table)

The Temporary Deputy Speaker (Mr. Musila): Order! Hon. Members, that is a Ministerial Statement. I will allow two points of clarification only. Dr. Kituyi!

Mr. Anyona: On a point of order, Mr. Temporary Deputy Speaker, Sir. My name was indeed mentioned. It is true because, as I said at that time, I am interested in protecting the integrity of Parliament and Parliament cannot be used to destroy people and say things that do not belong to this domain. That is one interest. So, I did ask and, in fact, I did address the matter to the Chair because it is the one that was handling it. I would like to know, in view of what the Minister has said, what the next course of action. Of course, we were expecting that the Speaker was going to make a ruling and I do not want to preempt that. Now that the matter has come up, what is the position?

The Temporary Deputy Speaker (Mr. Musila): Right! I will address myself to that.

Dr.

Kituyi: Mr. Temporary Deputy Speaker, Sir, I want to thank the hon. Minister for attempting to follow through a matter that was pending before the House and I hope that other Ministers can do a similar thing since it shows some dignity to the House.

Mr. Temporary Deputy Speaker, Sir, having said that, what the Minister attempted to do is the following: One, try to prove that the document could not be called a report of a task force. Two, try to find excuse in casting aspersions on the integrity of a former top servant in his Ministry. What he has done does not in any way exonerate one Raymond Moi, who was the focus of the issues raised. Could the Minister explain to the House, if it is not a task force; if it is a confidential file that has mysteriously gotten into the hands of other people, does that negate what we hold as a cardinal truth that major misappropriation was done and many of the companies involved were associated with one Raymond Moi? Finally, could the Minister explain if, the official report of the inquiry on the Kenya Co-operative Creameries Limited chaired by Stephen Kirugi and handed to the President of Kenya, Daniel arap Moi, does not show pilfering of resources of KCC by companies associated with Raymond Moi?

(Applause)

The Minister for Agriculture (Dr. Godana): Mr. Temporary Deputy Speaker, Sir, I was very clear in my introduction to my statement. My responsibility this afternoon has been to speak in response to the question raised by hon. Anyona challenging the authenticity of a report which was tabled before this House as a Government Task Force Report. It falls within the purview of my Ministry to give an authoritative Statement as to whether it is such a valid report or not. That is what my responsibility was and I said and I confirm that it is not a valid report for that purpose. The rest on this issue is for Mr. Speaker himself to respond to the second request by hon. Anyona. As regards the additional matter which has been raised by hon. Dr. Kituyi, I have not spoken on the veracity of the allegations made. The report which he waived, I presume to be a correct copy, as I have seen one, of the report which was submitted to the President, I have no doubt that the contents of that report are what the committee of investigations found out.

Mr. Temporary Deputy Speaker, Sir, in any case, that is the same report which, when hon. Ruto sought my assistance on, I assured that it will be supplied and as a lawyer, I insisted that if he is going to table anything before the House, it must be a certified copy. I ensured that the Commissioner of Co-operatives himself would certify and I know that is what he sought to lay before the House. I think it would be proper that in future, when we tender documents, we take the integrity of the House seriously whether we have a just case or not, and ensure that we comply with the rules and tender documents which are involved.

The Temporary Deputy Speaker (Mr. Musila): Order, hon. Members! I believe this matter first came up and was dealt with by the Deputy Speaker and the Speaker who also, subsequently after the issue of the authenticity of the document was raised, said that he would make a ruling. Now, this matter will be brought before Mr. Speaker for a ruling.

INVESTIGATIONS INTO THE DEATH OF
HON. ANTONY WAMBUA NDILINGE

The Minister of State, Office of the President (Maj. Madoka): Mr. Temporary Deputy Speaker, Sir, the

hon. Members wanted me to make a Ministerial Statement on the investigations so far on the late hon. Tony Ndilinge. I would like to say that we have been able to trace the movements of the late Tony Ndilinge up to 5.00 a.m. in the morning. We know who was with him as the last person at 5.00 a.m. at Roasters Inn at Ruaraka. What we are now trying to establish is, really, what happened between 5.00 a.m. and 5.22 a.m., when the murder was purported to have taken place. So far, we have recorded statements from 40 witnesses. We are going to record more statements to establish who the killers of the late Mr. Ndilinge are.

Mr. Ndwigwa: On a point of order, Mr. Temporary Deputy Speaker, Sir. Could the Minister clarify what they are looking for in their investigations? Are they trying to find out who was last with Mr. Ndilinge or who killed him? The Minister is required to tell the House the circumstances under which the late Mr. Ndilinge was killed, and not with whom he was. We want to know the person(s) who killed Mr. Ndilinge and the motive of the killing.

The Minister of State, Office of the President (Maj. Madoka): Mr. Temporary Deputy Speaker, Sir, I thought that the hon. Member knows that, in order for us to establish who the killers of Mr. Ndilinge are, we must establish who were with him. Such information could lead us to the person(s) who killed the late Mr. Ndilinge.

Mr. Muchiri: Mr. Temporary Deputy Speaker, Sir, the issue is whether the police have arrested any suspect whom they intend to take to court. If not, the police have not got any clue; they are still in darkness. Could the Minister state whether the police have arrested any suspect whom they intend to take to court?

The Minister of State of State, Office of the President (Maj. Madoka): Mr. Temporary Deputy Speaker, Sir, in order to take somebody to court, we must have sufficient evidence. Currently, we are holding two ladies, who are helping us with the investigations. The last person who was with the late Mr. Ndilinge is one of the ladies; she might provide us with a clue as to what might have happened.

Mr. Kaindi: Mr. Temporary Deputy Speaker, Sir, is the Minister satisfied with the manner in which the so-called "investigations" are being conducted through the Press? Is what has been published police investigations or journalists' investigations? What is being investigated? Is it what we are being given by the Press? What is the authoritative position on the matter? Why are the police only interested in scandalising the late Mr. Ndilinge, whose remains are still in a mortuary?

The Minister of State, Office of the President (Maj. Madoka): Mr. Temporary Deputy Speaker, Sir, I do not think that we are trying to scandalise the late Mr. Ndilinge. We are only giving the information that we have, which may help us to establish who his killer(s) was and what the motive of the killing was. What has happened is that, from the information we have given through the Press, many people, including hon. Members, have come up with their own interpretation. All we are giving are the facts of the matter, as we know them now.

Hon. Members: On a point of order, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Musila): Order! Order! Hon. Members, you are not debating this matter. You are only seeking clarification on the Ministerial Statement. So, I will give the last chance to seek clarification on the matter to Mr. Wambua.

Mr. Wambua: Mr. Temporary Deputy Speaker, Sir, could the Minister clarify why the police are holding only witnesses and not the killers of the late Mr. Ndilinge? Of course, this is a matter the whole country is very worried about. I would like to table a letter---

Hon. Members: No, no, no! Do not table it!

Dr. Kituyi: Why are the police arresting witnesses?

Mr. Wambua: Mr. Temporary Deputy Speaker, Sir, it is strange that the police cannot find the person(s) who killed Mr. Ndilinge only 22 minutes after the time he had last been seen alive!

An hon. Member: Who told them that the late Mr. Ndilinge was killed 20 minutes after he was last seen alive?

The Temporary Deputy Speaker (Mr. Musila): Order! Order!

The Minister of State, Office of the President (Maj. Madoka): Mr. Temporary Deputy Speaker, Sir, I do not think that we can, at this stage, say anything. All I am saying is that the murder is being investigated. We know what happened up to 5.00 a.m., and who was with him at that time. We are now trying to establish who else was involved. I cannot say that we have arrested the culprits. Until that is done, I cannot say so.

Hon. Members: On a point of order, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Musila): Order! Order! Hon. Members, we all know that this is a serious matter. But, certainly, we are not handling the matter well. Major Madoka has issued a Ministerial Statement on the matter; clarification has been sought. So, we shall now proceed to the next matter.

Could you proceed, Mr. Kiangoi!

Hon. Members: On a point of order, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Musila): Order! Order! Hon. Members, we are not going to debate

this matter. I gave you sufficient time to seek clarification on the Ministerial Statement. The Minister gave as much information as he could.

Proceed, Mr. Kiangoi!

The Assistant Minister for Local Government (Mr. Kiangoi): Mr. Temporary Deputy Speaker, Sir, on 1st August, 2001, while answering Question No.532, by Mr. Muchiri, I told the House that as far as I was concerned, no judgement had been delivered in respect of Case No.1348 of 1972. In reaction to that reply---

(Several hon. Members stood up in their places)

The Temporary Deputy Speaker (Mr. Musila): Order! Hon. Members, you are being disorderly by standing up as business continues. Could you sit down?

(The hon. Members resumed their seats)

The Assistant Minister for Local Government (Mr. Kiangoi): Mr. Temporary Deputy Speaker, Sir, in reaction to my reply, Mr. Muchiri tabled a document which he said was a copy of the judgement in respect of the said case. Subsequently, Mr. Speaker gave me time to study the document and come back and inform the House whether it was a genuine copy of the said judgement. I have gone through the document, which is titled "Ruling Application". The document does not constitute a judgement for the following reasons.

The matter that was before court related to High Court Case No.1348 of 1972. On 3rd August, 1983, the late Justice Sakdeva had given a consent order as agreed by the parties.

Mr. Temporary Deputy Speaker, Sir, on 14th March, 1985, a decree was extracted based on that consent. On 13th November, 1985, there was a review and vacation of the decree of 14th March, 1985. Then the matter took time until 6th August, 1993, when the applicants again went to court and made an application for execution of the transfer to Dandora Housing Scheme Limited. The order was granted, but the Registrar did not sign that transfer because, as the ruling states, he was of the opinion, and rightly so, that the documents were forged.

There was a provisional certificate of title deed issued dated 6th August, 1998. However, on 26th October, 1999, an order was made by Justice Amin.

The Temporary Deputy Speaker (Mr. Musila): How long is your document?

The Assistant Minister for Local Government (Mr. Kiangoi): Mr. Temporary Deputy Speaker, Sir, I am just about to finish.

An order was made that the order of transfer and all other consequential orders be set aside. The position, therefore, is that the matter is still pending in court.

I would like to say that we must distinguish between interlocutory applications, applications that are made in the course of a case, and the final judgement. What was tabled here does not constitute a judgement.

Mr. Muchiri: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister is trying to refute a judicial document and the correspondences which have been sent by his Government to the Ministry, indicating that, that land did not belong to Nairobi City Council. I do not want to go into the details of this issue. This Government allocated land which it did not have. Now that the Government did not have the plots that it allocated to traditional dancers who were performing for the late President Mzee Kenyatta, and have been performing for President Moi, could it, please, honour its pledge and allocate those old women with other plots in other areas where it has land?

The Assistant Minister for Local Government (Mr. Kiangoi): Mr. Temporary Deputy Speaker, Sir, before answering the hon. Member's question, may I ask for your intervention. The issue at hand was whether there was a judgement or not. I had said that if there was no judgement and the matter was pending in court, the issue then was *sub judice* and I would not have proceeded.

The Temporary Deputy Speaker (Mr. Musila): From the information given by the hon. Member, this matter was concluded on Question Time sometime ago. But the issue that was left pending was the confirmation that, that was a judgment. The Assistant Minister has made a statement and Mr. Muchiri has asked his question. I have not seen the document in order to say whether it is a judgement or not. So, perhaps, we will need to look at this document in order to know who is right between the Assistant Minister and the hon. Member. So, can we get this document and then the offices of the Speaker and the Clerk of the National Assembly will look at it and then the Chair will make a further ruling?

Mr. Anyona: Mr. Temporary Deputy Speaker, Sir, indeed, that is what was worrying me. The Assistant Minister is not in a position to make a judgement as to whether this is a judgement or not. It is only the Chair that can do that. I want to pay tribute to the Assistant Minister because he has been very meticulous in responding to the various

issues. The responsibility of making this decision lies with the Chair, as you have said.

Mr. Temporary Deputy Speaker, Sir, now that the Assistant Minister has said that this is not a judgement, could he help us by clarifying as to what is the substantive case before court? What is the case number, the parties and the issues? That might help the Chair to make its decision.

The Temporary Deputy Speaker (Mr. Musila): Mr. Anyona is right. We will look at the document the Assistant Minister has submitted and the Chair will come and rule whether this is the right judgement or not. If there is any other issue, we will go into it at that time. So, this matter is deferred until the Chair has had a look at the document.

The Assistant Minister for Local Government (Mr. Kiangoi): Mr. Temporary Deputy Speaker, Sir, this document was tabled in this House and the ruling then was that I be given time to study it. The ruling is already given and it is with the Speaker. So, I have gone through the document and found that the ultimate decision therein is that all orders that had been given previously have been set aside. So, the original case, which is No.1348/1972, between Mr. Robert Macharia and others, and Mr. Kabiru Karanja and others, is still on in court. Would we be in order to say that we will go and study it again and come up with another answer?

The Temporary Deputy Speaker (Mr. Musila): Mr. Kiangoi, you should not do anything. You have done your work as ordered by the Chair. The rest will be for the Chair to do.

SECURITY SITUATION IN TAVETA CONSTITUENCY

The Minister of State, Office of the President (Maj. Madoka): Mr. Temporary Deputy Speaker, Sir, on Tuesday 7th August, 2001, hon. Munyao rose on a point of order and requested me to issue a Ministerial Statement on the security situation in Taveta Constituency. In this connection, I wish to state as follows.

Taveta Constituency is normally a peaceful and tranquil area. However, in the period leading to the recently concluded by-election, several incidents of lawlessness and insecurity were witnessed in parts of the constituency. I will briefly highlight the most prominent of these incidents.

On 7th July, 2001, at about 11.00 a.m., a group of rowdy youths attacked hon. Mbela along the Mwatate-Taveta Road. Hon. Mbela's vehicle, registration No.KAC 563E, a Range Rover, was slightly damaged during the incident. As a result, the police have opened an investigation file and are still waiting for the hon. Member of Parliament to record a statement to facilitate further police action.

On the 25th July, 2001, at about 10.00 p.m., the FORD(K) Chairman, hon. Wamalwa, was accosted by a group of persons alleged to be KANU supporters. The incident occurred at Timbila in Taveta Constituency. Hon. Wamalwa and his entourage were assisted by police officers managing the Darajani roadblock and the youths were dispersed.

On 26th July, 2001, at about 10.00 a.m., a vehicle, registration No.KAB 727J, driven by hon. Mwakiringo, was pelted with stones by a group of about 20 youths within Kidongo area. One person was hit by a stone and lost three teeth. Following the incident, an investigation file was opened and the matter is under investigation.

On 27th July, 2001, a group of people suspected to be FORD(K) supporters accosted a Mr. Mathew Salino, a KANU activist, and eventually his motorcycle was set ablaze. In retaliation, KANU youths attempted to invade the home of the FORD(K) candidate in the by-election and slightly damaged two vehicles parked in her compound. Police were alerted and six suspects were arrested and charged in court with attempted arson and malicious damage to property.

During the confrontation at Dr. Naomi Shabaan's home, a 17-year old high school student was shot dead. It is alleged that the school boy was among those who had invaded the FORD(K) candidate's home. Moreover, the people who set ablaze a motorcycle are still being sought by the police.

Mr. Temporary Deputy Speaker, Sir, it is apparent that the incidents in Taveta Constituency were related to the by-election. It is regrettable and unfortunate that the election campaigns degenerated into violence as opposed to peaceful vote-seeking. This was a shameful eventuality which should never have happened. I am, however, happy to note that there is peace in Taveta Constituency. Moreover, the police are on the alert to ensure that there is no post-election violence, and that the people of the area continue to enjoy the peace and tranquillity they deserve.

Mr. Munyao: Mr. Temporary Deputy Speaker, Sir, our concern on Wednesday last week, was about the destruction caused at Mr. Kaleli's home where armed youth and other people went and cut all his banana plantation on 30th July. On the same day, a woman was slashed with a panga and taken to hospital, stitched and left to go. The following day near Njoro Polytechnic, pamphlets were flying around with pictures of a head and a panga. We wanted that to be interpreted to us. On 1st August, another person was killed near Darajani area. We are aware that the Chairman of KANU was there on 25th July and made a lot of inciting statements during the public rally. The Minister in charge of internal security was also around there. It has been confirmed that the DO, Mr. Joseph Motari, has been holding public *barazas*, telling the Taveta constituents to either vote for KANU or go through the same experience the

people of Njoro went through. We just want to know the relation of these incidents. The Minister in charge of internal security had several meetings with the DO, Joseph Motari, in the DO's compound. Is this as a result of the instructions of the KANU Chairman in a public rally on 25th July?

The Minister of State, Office of the President (Maj. Madoka): Mr. Temporary Deputy Speaker, Sir, I have said that most of the incidents were pre-election or election incidents, and normally, in that area, there is a lot of peace, and today there is peace in the area. I do not think the Chairman of KANU made any inciting statements. Equally, the DO has had his normal schedule of public *barazas*. He is supposed to hold three public *barazas* in a month, and it so happened that he was holding public *barazas* at that time, and they were not aimed at threatening anybody.

The Temporary Deputy Speaker (Mr. Musila): Next Order!

POINTS OF ORDER

STATUS OF KENYA MEAT COMMISSION

Mr. Keynan: Mr. Temporary Deputy Speaker, I would like to know from the Minister for Agriculture why the Kenya Meat Commission was closed and whether he is aware that millions of shillings in assets are right now going to waste at the defunct Kenya Meat Commission plant. I would also like to know from him about the inordinate delay in the reopening of the KMC, who are the debtors, and whether the holding grounds from Manderu to Athi River are still intact.

Mr. Temporary Deputy Speaker, Sir, this is a matter of life and death for the pastoralists. I felt I should ask these questions because this is the first time this important Ministry, which is very much associated with coffee and tea, is headed by a brilliant lawyer from the northern part of Kenya. We would like him to---

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Keynan!

Mr. Keynan: Just one more minute, Mr. Temporary Deputy Speaker, Sir!

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Keynan! I gave you an opportunity to seek a Ministerial Statement. You have already done so very eloquently. You are fortunate the Minister is present and he has heard you. Could the Minister confirm whether he will issue a Ministerial Statement?

Mr. Keynan: Just two more issues, Mr. Temporary Deputy Speaker, Sir!

Mr. Temporary Deputy Speaker (Mr. Musila): You do not have more issues because you went on and started talking on other issues not related to the Ministerial Statement you were seeking.

Mr. Keynan: Mr. Temporary Deputy Speaker, Sir, I would also like to know from him why the Mitsubishi Corporation of Japan withdrew from the Kenya Meat Commission, why the revival of KMC was not allocated the STABEX funds, and what caused the European Union to withdraw from funding the revival of KMC.

Mr. Temporary Deputy Speaker, Sir, finally, I would like to say that KMC is the lifeline of pastoralists. The Minister should say nothing but the truth, for the truth shall always remain.

The Minister for Agriculture (Dr. Godana): Mr. Temporary Deputy Speaker, Sir, I promise to bring to the House a detailed statement on Thursday next week, and I will tell nothing but the truth.

NON-DELIVERY OF MINISTERIAL STATEMENT

Eng. Toro: Mr. Temporary Deputy Speaker, Sir, in May, I sought a Ministerial Statement from the Minister concerned with internal security, but up to now, I have never heard of the Ministerial Statement. Yesterday, the Minister promised to bring the Ministerial Statement today, but it appears he **[Eng. Toro]** does not have it. How long does the Minister need to bring that Ministerial Statement? I sought the Ministerial Statement in May and we are now in August.

The Minister of State, Office of the President (Maj. Madoka): Mr. Temporary Deputy Speaker, Sir, I would like to apologise to Eng. Toro. I discussed the issue with him; that I had been let down by something I am still following up. I promise to issue it next week on Tuesday.

The Temporary Deputy Speaker (Mr. Musila): Next Order!

MOTION

ADOPTION OF SESSIONAL PAPER NO.2 OF 2001

The Minister for Agriculture (Dr. Godana): Mr. Temporary Deputy Speaker, Sir, I beg to move:-
THAT, this House adopts Sessional Paper No.2 on the liberalization and restructuring of the Coffee

Industry laid on the Table of the House on 25th April, 2001.

Mr. Temporary Deputy Speaker, Sir, all hon. Members have had their copies of the Sessional Paper for the last four months, and I presume all, and certainly those who are passionately interested in the subject of coffee farming; in particular, those who come from coffee growing areas, have read and re-read it. I do not, therefore, need to go through the Sessional Paper word for word, but I think it would be proper that I make highlights of the various chapters which range from one to 13.

*[The Temporary Deputy Speaker
(Mr. Musila) left the Chair]*

*[The Temporary Deputy Speaker
(Mr. Imanyara) took the Chair]*

Mr. Temporary Deputy Speaker, Sir, Chapter One of the Sessional Paper is on the historical background of the coffee industry, indicating when coffee was first introduced; when Africans were first allowed to grow coffee in the 1930s, starting with Kisii and Meru regions, under the Native Coffee Rules. It traces the development of the legal and institutional framework governing the management of the coffee industry. Some of the highlights of this, which are relevant because of the institutional changes that we are proposing to make, are, for instance, the Coffee Industry Ordinance adopted in 1932, and the Coffee Board established the predecessor of the current Coffee Board of Kenya in 1933. The role of the Coffee Board of Kenya was to be regulatory and it was to control the coffee industry up to 1946. The 1934 Kenya Coffee Auctions was established to auction coffee. The present Kenya Coffee Auctions Limited was formed as a private limited company in 1955. In 1944, the Coffee Research Station was established at Ruiru, initially funded through the national budget of the Ministry of Agriculture. It undertook coffee research services until 1964 when it became the Coffee Research Foundation that it is today. The Coffee Marketing Board was established under the Coffee Marketing Ordinance No.6 of 1946, and became operational in 1947 to cater for coffee marketing activities. Ordinance No.26 of 1960 then consolidated the Coffee Industry Ordinance and the Coffee Marketing Ordinance into the Coffee Ordinance, Cap.300.

Mr. Temporary Deputy Speaker, Sir, Act 13 of 1971 abolished the Coffee Marketing Board, and consolidated the functions of the coffee marketing with the regulatory function of the Coffee Board of Kenya (CBK). That is the situation which prevails today. The African coffee farming which had began to develop under strict regulation in the 1930s, starting, as I have said, with Meru and Kisii, began to develop fast in the 1950s. Indeed, by 1952, African coffee farming under co-operative societies had already nearly 12,000 licensed coffee growers. By 1958, higher priority was still being given to expanding coffee planting in Central and Eastern Provinces.

Since 1964, coffee research has been funded through levy charged on coffee proceeds due to growers. Between 1968 and 1970, the Government created the Coffee Development Authority to improve the development of coffee, especially in small-holder areas, and encourage the formation of co-operative societies for small-holder farmers between 1960 and 1970. Some of the spectacular successes of the co-operative movement in this country, for which country has been known across the world, have been due to successful development of primary co-operative societies, particularly in the coffee sector in those first two decades.

The Coffee Marketing Board and the CBK were separate state corporations and controlled the industry up to 1971, but they were then merged, as I have said earlier on, into the CBK, as it is today. The expansion of coffee production and processing facilities within the co-operative sub-sector between 1970 and 1980 made the co-operative societies overtake the plantation sub-sector. In other words, small-holder farmers began to overtake, in volume and value terms, production on the estate. It is also during this period that the coffee industry experienced a boom, consequent upon the devastating Brazilian frost of 1976 and 1977. Somebody's misfortune turned out to be the fortune of others, including Kenya. This led to the Small-holder Coffee Improvement Projects, SCIP I and SCIP II. These were implemented in order to alleviate processing constraints, improve quality and increase production.

The second coffee improvement project - SCIP II - provided credit to farmers to the tune of Kshs2.6 billion. Due to recent downturn in the fortunes of coffee in the world market, and the reduction in production, because many farmers have lost faith in the value of the coffee crop and, therefore, production has declined; farmers have been subjected to high indebtedness. They have been unable to service the loans they got from the Kshs2.6 billion. The initial reform process in the coffee industry started in 1992, and you will recall that in 1996, the coffee authorised marketing rules were formulated, but were not properly implemented by the CBK. Many of the recommendations, which were made in a strategic study by the Coffee Board Task Force, have now been incorporated in the new policy proposals.

Chapter Two of the Sessional Paper deals with the role of coffee in the Kenyan economy. We all know how important coffee is to our economy. At one time, it was, indeed, the single-most important foreign exchange

earner, accounting for as much as 40 per cent of Kenya's export values. After the 1987 and 1988 production peak, the international prices fell sharply in 1989 and by 1992, coffee was contributing no more than 9 per cent of the total export earnings of this country.

Following the policy changes to the industry in 1992, which allowed the sale of coffee in US dollars and some improvement in the world market prices, the distribution of coffee increased in 1995 to 15 per cent of foreign exchange earnings. I would like to say that coffee earned Kshs107 billion, which is about 10 per cent of agriculture's share of GDP between 1988, 1997 and 1998. We have between 500,000 and 700,000 members for coffee co-operative societies and some 2,200 plantation coffee farmers. Coffee is the backbone of the economies in Central Province and the Mount Kenya region.

At this juncture, I would like to digress a bit from the Sessional Paper to highlight something which I think is important for hon. Members and, indeed, the country. We are now witnessing the lowest coffee prices ever in the world market. I think it is important that all of us understand this. The crisis in the coffee sub-sector is not just a Kenyan crisis, but it is a major international crisis facing all coffee producing countries. Over the last one to two decades, unfortunately, because of wrong reaction to the boom consequent upon the Brazilian frost, the World Bank encouraged many new countries to become coffee producers through soft credit and loans. As a result, we have many new countries which have become coffee producers in the last one to two decades. For instance, Vietnam is now rated to be the second or third most important coffee producer in the world, from a position of zero production when the Vietnam war ended. So, there is a major international glut in the coffee market. This is something all of us have to bear in mind.

Indeed, those economies which are mono-cultures - dependant on coffee alone - are beginning to reel under the pressure of the downward turn of the market. Just to give examples of what is happening in some of our neighbourhood; we thank God, over time, this country managed to diversify its export-oriented agriculture into tea, pyrethrum, horticulture and so on. Our neighbouring country, Uganda, for which coffee used to account for 50 per cent of foreign exchange earnings, for example, and which was a beneficiary of HIPIC initiative, is now in the unfortunate situation of seeing that 50 per cent of the value of HIPIC has been eroded by the loss of expected earnings over the last three years from coffee. In countries like Ivory Coast and mono-culture Republics in Latin America which predominately depend on coffee, social and, indeed, political stability is being threatened.

Chapter Three of the Sessional Paper expounds on the objectives of the proposed reforms, which the Paper sets out and are captured in the draft Coffee Bill which has already been tabled before the House. These reforms signify the Government's general intention to divest from business activities in line with the policy of privatisation and liberalisation. The CBK, which currently regulates the coffee industry with regard to production, processing, marketing and export of coffee, as is stipulated in the Coffee Act, Cap. 333, is a principle target of these reforms.

Mr. Temporary Deputy Speaker, Sir, the multiple roles of the CBK have tended to create conflicts of interest and inefficiencies. The policy aims at separating the regulatory role of the Government, which will still be done through the CBK as a parastatal, from the marketing function, will henceforth be conducted by the private sector alone. This is in recognition of the fact that coffee belongs to the grower until he or she is paid for the proceeds. The policy must aim to ensure that the grower gets a fair return for his labour and investment.

The marketing services of the CBK will be privatised to be undertaken by licensed marketing agencies, including the proposed Kenya Coffee Marketing Agency, which will be a farmers' organisation, without Government representation. The current CBK or what will be left of it will be restructured to perform the regulatory role, and will have majority farmer representation.

The election of persons to more than one national body or organisation in the coffee marketing structure will not be accepted. This is because we found out that part of the problem of the mismanagement in the coffee industry has been occasioned by interlocking directorships. This is where the same individuals have filled positions of directorships or decision making in organisations which are supposed to counter-check each other. This has promoted conflict of interest.

(Applause)

The coffee policy has proposals for licensing and registration of marketing agents. These include:-

(i) CBK's divestiture from the Kenya Coffee Auctions Limited and the institutionalisation of district coffee advisory committees.

(ii) The promotion of local coffee roasting and value adding, revision of the Coffee Research Foundation's Memorandum and Articles of Association in respect of elections and composition of board members so that growers, again, have a major say on who sits there.

(ii) The mode of conducting elections for purposes of representation on both the CBK and the Coffee

Research Found (CRF).

(iii) The formation of Kenya Coffee Producers and Traders Association, which will determine coffee volumes for each auction and make trading rules in the Nairobi Coffee Exchange Trading Floor.

(iv) The promotion of the use of improved varieties of coffee such as Ruiru 11 to intensive cultivation methods and enhance coffee production and improve its quality, rationalising the statutory level coffee deductions from coffee proceeds to less than 10 per cent without compromising the quality of the reach of services extended to farmers.

Chapter Four which is on coffee production has such data on the acreage and so on. There are some 162,000 hectares of coffee plantations, small-holder and large-scale plantations, of which 75.5 per cent is accounted for by the co-operative sub-sector, and 24.5 is captured by the estates. Some other data I have already referred to, such as the production peak in the 1987/88 season, which was at 128,000 metric tonnes. That is the highest coffee production we have ever achieved. The cost of coffee production has been rising against declining prices in recent times making it difficult for coffee growers to break even. For instance, the average cost of producing a tonne of clean coffee by small-holder farmers has increased from approximately Kshs32,000 in 1991/92 to Kshs64,000 in 1997/98, while for estates, which are large institutions and, therefore, have greater overheads, it has increased from Kshs72,000 to Kshs120,000.

The Coffee Board of Kenya, commission agents, commercial banks and co-operative societies have provided short-term financing of coffee production and processing. The CBK sources its funds through local and offshore bank overdrafts using coffee stocks as security. Obviously, the overdraft facilities at market rates are no longer tenable as viable sources of credit to farmers in a situation of declining international prices. I am happy to announce that, as all of us are aware, finally, the long-delayed STABEX funds or what is available of it seems to be moving again. As regards the funding for the coffee sub-sector to the tune of Kshs890 million, which is the initial transfer of Kshs650 million plus the accrued interest up to 31st March, 2001, for on-going STABEX funds, credit programmes with the Co-operative Bank of Kenya will be availed through capitalization, plus Kshs1 billion being allocated through the *addendum* to the 1991 Framework for Mutual Obligations. An allocation to the tissue culture project at the CRF to the tune of Kshs135 million is already under implementation. The funds about which the Ministry of Finance, the Co-operative Bank of Kenya and the European Union delegation signed a final agreement only two or three days ago will be lent on to small-holder coffee growers and smaller and medium coffee estates growers; that is, up to 60 hectares, at an interest rate of 5 per cent per annum to finance working capital, cherry advance and farm inputs. I think this is a major improvement on the condition or position of access to the credit by farmers in that the interest will now be no more than 5 per cent. Hitherto, the previous programmes, including the Second Coffee Improvement Project (SCIP), have been at 15 per cent. This is what has led to high indebtedness among coffee farmers. The 5 per cent interest is composed of two parts; 2 per cent charged by the Government, but which will go to the revolving fund for coffee, and 3 per cent only will go to the Co-operative Bank of Kenya. I think we need to congratulate all concerned and particularly the bank for accepting to play its role as the avenue through which the funds may be lent at such a reduced or manageable interest rate.

Not all funds have been utilised and some Kshs6.6 billion in total could be available for projects mutually agreed upon with the European Union (EU) under the new Framework of Mutual Obligations. Most of it are funds which will become available under the post-1999; the new Lome Convention Scheme. The Ministries of Finance, Planning and National Development, Agriculture and Rural Development are working out modalities of utilising the remaining funds, with emphasis on supporting the coffee sub-sector. Other allocations to the coffee sub-sector have been through other Ministries and institutions, and are as follows:-

(i) Kshs375 million was allocated to the Kenya Power and Lighting Company through the Ministry of Energy for coffee factory electrification.

(ii) Road sector - Kshs1.3 billion, of which Roads 2000 Programme in seven coffee-growing districts was allocated some Kshs700 million in Phase I, and Kshs600 million in Phase II. Kshs12 million was allocated for axle-load control unit. I think actual expenditure has been insignificant, which means monies are still unspent. The Road Rehabilitation Fund was allocated Kshs600 million, while allocation for Matrix Framework was approved at Kshs52.5 million.

(iii) Tourism was allocated Kshs1.2 million and disbursement of the balance of Kshs1.1 billion is now under way.

In the co-operative sub-sector, coffee production is influenced adversely by the poor quality of management of co-operative societies and the extent of squabbles within its membership unlike in the estates, which are either individually managed or managed through more professional management committees.

Constraints to production in the co-operative and estate sub-sectors include:-

(i) Limited access to credit and the high cost of borrowing, which I have already dwelt on.

(ii) The limited use of irrigation and farm inputs application.

(ii) Licensing requirements before establishment of coffee farms and so on.
 (iii) The CBK's approval before uprooting coffee.
 (iv) Mismanagement of coffee co-operative societies.
 (v) The splitting of co-operatives societies into small uneconomic units.
 (vi) Inadequate appreciation of the liberalisation process, farm-gate sales of cherry, mbuni and patchment coffee.

(vii) Restriction of coffee growing to specific gazetted areas.
 (viii) Coffee thefts and general insecurity in some of the coffee producing areas.
 (ix) The limited availability of Ruiru 11, which, incidentally, has transformed Vietnam from a non-producer country to a major producer. It happens that it is the Ruiru 11 which was transported there by Kenyan experts which had worked at Ruiru Coffee Research Foundation and who had been contracted by the World Bank, which has brought about that revolution. This has impacted on us negatively, as I said.

An hon. Member: We are proud of that Kenyan!

The Minister for Agriculture (Dr. Godana): As regards the co-operative sub-sector, I want to inform the House that those problems which have bedeviled co-operative societies have received the attention of the Ministry. I think it is clear, both in the coffee and co-operative sub-sectors that our initial move to privatisation and liberalisation was not properly thought out. Some of the problems we are witnessing, both in the coffee and co-operative sub-sectors have been aggravated by the new legislations in the case of coffee in 1992 reforms; in the case of the co-operative societies, the legislation we adopted as part of the IPPG package demands in 1997. We have to sober up. I can assure the House that preparations of requisite amendments to the Co-operative Act are at an advanced stage and should be published any time. It would be my prayer to the House that we strive to ensure that we get through with these reforms of both the coffee and co-operative sub-sectors, indeed, if possible, by even extending the sitting of the House.

Mr. Temporary Deputy Speaker, Sir, I would like to appeal to hon. Members in the House Business Committee to allow us to sit for one or two more weeks, so that we can get through with, at least, the coffee and co-operative sector reforms.

An hon. Member: Appeal to your colleagues in the Government!

The Minister for Agriculture (Dr. Godana): Mr. Temporary Deputy Speaker, Sir, I am appealing to my colleagues, and I hope the Opposition Members too, will co-operate to this end. I think people expect us to get through with these reform processes which have been holding us for too long.

The proposed changes seek to encourage and strengthen coffee production financing through coffee co-operative societies, rural SACCOs, millers, commission agents and marketing agents. Commission agents and millers will guarantee farmers loans and advances, and also guarantee buyers of crop deliveries.

The current requirement for licence for establishment of a coffee farm will be done away with. The restriction of coffee growing to gazetted zones will be removed. A grower who wishes to grow or uproot coffee will now only be required to register with his co-operative society, in case of small-holder growers, or directly with the board, in case of estate growers, for statistical purposes only. This will make it easier for us to know how much acreage or how many coffee trees are in production and so on.

Growing improved varieties such as Ruiru 11, Robusta coffee in Coast, Nyanza and Western provinces, and intensive cultivation methods will be encouraged to enhance coffee production and quality improvement. The Ministry of Agriculture and Rural Development will have the overall responsibility to ensure correct and adequate extension services delivery to coffee growers, commission agents, millers, co-operative societies, the regulatory body, CBK, and marketing agents, among others. The private sector will be encouraged to participate in the multiplication of coffee seedlings under CRF supervision and registration by the CBK. As I said, the Coffee Co-operative Societies Act will be reviewed and harmonised with the policy reforms in the co-operative sector and other sub-sectors in agriculture.

Chapter Five of the Paper dwells on coffee processing which is currently done in two stages; that is, primary and secondary processing. Primary processing is undertaken currently at the coffee factory, whereas secondary processing is carried out by millers and involves parchment, hulling, polishing, sorting and grading. The milling process is already fully liberalised and it is undertaken by two private and three commercial millers. After milling, clean coffee is graded into six grades. After grading, coffee is classified through liquoring into ten classifications. The growers' agent will liquor coffee to countercheck what millers have classified. This is a new requirement. Additional millers have already increased the milling capacity from 140,000 metric tonnes in 1993, to 230,000 metric tonnes by 1996. That is nearly three or four times the actual production of each of the last two years. The increased milling capacity against the background of low coffee production has reduced milling utilisation to 30 per cent in 1997/98.

Constraints in coffee processing have been identified to include the poor state of roads, high coffee processing costs, lowering licence requirement from 10 to five acres of coffee for ownership of pulping factories, without amending the law. This is really what has happened, although the law still insists on ten acres as the minimum acreage.

However, some people with as low as five acres have managed to get through with it. Subsequently, there has been a proliferation of pulping stations including hand pulpers, which has resulted in farm-gate cherry sales and increased incidences of cherry and parchment thefts. Other problems include: withholding of parchment coffee for unnecessarily long periods by millers, leading to quality deterioration; the lack of declaration of quantities and proceeds realised from the sale of sweepings; high milling losses; high transportation cost, and so on.

The chapter spells out the following proposed changes:-

(i) There is a problem of high primary processing and operation costs by co-operative societies of between 11 and 76 per cent of gross proceeds. That is what the co-operative societies deduct from coffee proceeds before they pass on to farmers. As it is now in coffee growing areas, these range between 11 and 76 per cent. This leaves something as low as 26 per cent for onward payment to farmers. This will be reduced to between 11 and 20 per cent. In other words, co-operative societies will not be allowed to deduct more than 20 per cent of what they receive on behalf of farmers as part of their costs. It will be done through a review of the co-operative Act and a requirement of flexible staffing arrangements by adjusting serving numbers to production levels.

(ii) The hiring of children under the age of 18 years for commercial farming will be strictly controlled or prohibited completely, although we will have to allow for the special education programme on family units which are running their own household small coffee plots.

(iii) Given that five acres of mature Ruiru coffee, when well managed, can produce up to 120,000 kilogrammes of cherry which can be processed by one district factory, it is proposed that licensing pulping stations for growers with up to ten acres continues where there are co-operative societies and five acres where there are no co-operative societies. In other words, where you have the opportunity of joining a nearby co-operative society, you will be required to have at least 10 acres to have your own pulping station. But where you will not have the benefit of a convenient co-operative society accessible to you, you will be allowed to run a pulping station with as low as five acres. Therefore, the more than 2,000 growers with less than ten acres of coffee who have been licensed will be required to attain this level of production to be able to run their own pulping stations.

(iv) Growers who pull out of co-operative societies will be required to clear any liabilities with their co-operative societies before being licensed to own coffee factories.

(v) Commercial processing of cherry as well as spreading cherry parchment and mbuni among members of coffee co-operative societies or estate owners will not be allowed. Every licensed miller will be required to mill all parchment coffee in his possession not less than 60 days after receipt from the growers, and thereafter, to forward the milled coffee to the marketing agents within 48 hours or such time as may be agreed with the marketing agent.

(vi) Coffee millers will minimize as well declare milling losses and account for sweepings to farmers. The sweepings belong to farmers and not to the millers. The CBK will monitor and supervise periodic returns, which must be filed by the millers. Currently, the CBK operates a sweepings account from where farmers are paid. Each marketing agent will be required to open such an account.

(vii) The management of coffee produce cess is not uniformly managed in all coffee-growing districts. There was a consensus to adopt the ratio formula. This practice is most commonly used and has been found to be the most effective. About 80 per cent of cess funds should go to the growers committee, and 20 per cent to local authorities. The producers committees will, therefore, be institutionalised and their operational modalities spelt out. Again, I would like to appeal to hon. Members to sensitise the public about this. This is because this formula has proved to be very successful in tea growing zones. But we are beginning to see rearguard battles by local authorities and right now, there is a matter in court where a local authority is seeking to reverse the decision, although in our view, the law is very clear. In other words, local authorities want to control the funds. The risk, of course, from the experience we know is that, once those funds are given to the coffers of the local authorities, they will not be necessarily, or probably even, be used effectively for improving the quality of services; in this case, roads improvement and so on, to coffee growers.

Mr. Mwenje: They will steal!

The Minister for Agriculture (Dr. Godana): They will steal! The hon. Member has experience in the local authorities.

The accountability of the cess money will be achieved through enforcement of transparent and accountable procurement procedures, in addition to annual audits of the cess funds. The Agriculture Act, Cap. 318 and the Local Government Act, Cap. 265, will be amended to provide for provisions for effective management of the cess.

Mr. Temporary Deputy Speaker, Sir, Chapter Six deals with the coffee marketing current practice and the proposed policy changes. Currently, coffee is sold through auctions, with about 45 auctions in a calendar year. The first auction is normally in October when the first coffee crop becomes available. The auction system has the advantage of being transparent and competitive, as it offers the best price discovery mechanism. Coffee is warehoused by the Coffee Board of Kenya (CBK) before sale, which also regulates the sale programme and decides on the quantities to be offered at every auction. The coffee auction is presently operated under the rules of the Mild Coffee

Trade Association of Eastern Africa.

Constraints to coffee marketing in practice have been identified as limited competition at the Central Auction; that is, we could do with much better competition because of few dealers participating in any one auction, and it is the CBK which determines when each lot is to be auctioned. The warehouse of clean coffee before auction is controlled by the CBK and hence, some people say there is no effective competition and the low domestic consumption of coffee due to high retail prices and inadequate penetration of new and emerging markets due to limited promotion. The proposed policy changes in that area are designed to introduce competition by allowing participation by more marketing agents. The industry will retain and strengthen the central auction system conducted at the Nairobi Trading Floor of the Coffee Exchange, but change its administration from the CBK, and be handled by an association called Kenya Coffee Producers and Traders Association (KCPTA). That is a new body which is being created in the new structure that we are proposing. The KCPTA will comprise members from coffee growers' organisations, millers, marketing agents, brokers, auctioneers, dealers and warehousemen. The functions of the proposed KCPTA will include the determination of coffee volumes for each auction, to make it ready and also make trading rules in the Nairobi Coffee Exchange. It will also include the formulation of regulations to govern the auctions and the supervision of auctioneers. The Mild Coffee Trade Association of Eastern Africa, which has exclusively played that role will be advised accordingly. The Board will license and register marketing agents, millers, brokers, dealers, warehousemen, auctioneers, buyers, packers and roasters. That will be the core function of the regulatory role of the CBK.

Any commercial coffee miller who wishes to operate as a marketing agent will now be required to incorporate a separate company for the purpose of marketing coffee. In other words, no miller, as a miller, will be allowed to operate simultaneously, as a marketing agent under the same licence. Coffee growers will now have the option of selling their coffee in any one coffee year, through the proposed Kenya Coffee Marketing Agency or any other marketing agent. In other words, the coffee grower will, henceforth, have an option every coffee season to sell his coffee either through the proposed Kenya Coffee Marketing Agency, which will be owned by coffee farmers who will be the shareholders, or if he wants, while still a shareholder of that agency, he can opt to have a separate independent - if you like - properly licensed coffee marketing agent. The coffee grower will be free to change his contract from year to year. If he is not satisfied with the performance of his agent for the last season, he has freedom of contract to conclude new contracts after every season.

Mr. Temporary Deputy Speaker, Sir, marketing costs will be direct costs and will be negotiated between the grower and the marketing agent. But it must not exceed 0.6 per cent of the gross coffee sales. So, there is an upper ceiling. The whole intention again, is to minimise the exploitation of the farmers and to enhance the farmers' take-home. Out of that 0.6 per cent, the grower will pay 0.4 per cent and the dealers 0.2 per cent to the marketing agent, making a total of 0.6 per cent of gross sales proceeds, excluding auction fee. Charging a marketing fee of up to 0.6 per cent from the gross coffee sales payable to marketing agents by dealers and growers is essentially a reduction in the price of coffee payable to farmers.

Mr. Temporary Deputy Speaker, Sir, to safeguard the coffee growers, the marketing agent will have to provide a substantial bank guarantee of up to US\$12 million on the upper limit, and US\$1 million on the lower limit. The guarantee does not mean you have--- You can negotiate with the bank. I think that is designed to ensure that there are no middlemen who are con men and who hold the peasants to ransom.

Dealers will be required to remit coffee proceeds to the marketing agents, who shall pay the growers within 14 days from the date of sale, less the statutory deductions and other charges such as milling costs, warehousing costs, insurance costs and auctioning expenses.

As I said, the proposed Kenya Coffee Marketing Agency will be a coffee growers organisation, registered as a marketing agency. In order to have smooth transition in privatising the coffee marketing services, sufficient transition time for the CBK to dispose of current coffee stocks and pay growers their dues is considered necessary. That is why I am pleading with the House - and I hope both sides, through the Sessional Committee, to co-operate on that - to allow us to pass both the policy, coffee dealers and as well as the Co-operative Act through before we break for recess.

The functions of the marketing agent will be to ensure that the coffee is properly warehoused, classified, and received from millers at designated warehouses; collect and deliver samples to the Central Trade Sample Room of the Exchange; to prepare sales catalogues; to set the reserve price in consultation with the growers, and to monitor the coffee at the Central Coffee Auctions as well as disclose to the grower the selling price at the auction. The reserve price on any lot must be with the consent of the grower. It cannot be done by the marketing agent alone. Finally, the marketing agent will prepare and release coffee to the dealers who have purchased and paid for it. The marketing agent will receive coffee sales proceeds from dealers and pay growers directly, or through appointed millers/commission agents after statutory deductions, which will be remitted to the designated authorities not later than seven days; that is, the statutory deductions that he will have. So, the whole thrust of the new policies is to ensure that

those who receive funds on behalf, either of the grower or some statutory body which is entitled to statutory deductions, do not keep them unpaid or delay with those funds but, by law, at pain of certain sanctions, but are required to deliver those sums to their rightful claimants in the minimum stipulated time periods. The marketing agency is expected to explore other alternative marketing opportunities including future options, international tendering and private treaties, subject to registration with the Coffee Board of Kenya and so on.

The memorandum and articles of association will guide the election and composition of the Kenya Coffee Marketing Agency, that is the principal marketing agency belonging to all the farmers. It will provide for an electoral process whereby coffee growing zones will be able to elect representatives to its board. The proposed board members will be elected directly from the grassroots levels by the farmers. The electoral areas will be based on coffee production levels and acreage to ensure that coffee growers are equitably represented on coffee production geographical basis. The Kenya Coffee Marketing Agency (KCMA) board will comprise of 11 members with seven members from the co-operative societies and four members from the estates sub-sector, all elected by the growers/shareholders in the marketing agency.

Chapter Seven is a review of the current payment system. Various charges and deductions are effected from the coffee receipts at source, that is through the CBK namely, coffee produce cess at 1 per cent; marketing costs at 3 per cent; milling charges at 59 cents to 110 cents per metric tonne of parchment or 1-3 per cents; an *ad valorem* levy of 3 per cent; commission agency fee of 1.5 per cent, and auctioneers fee of 0.13-2 per cent. Finally, the co-operative societies operating expenses which, as I said earlier, range from 11 per cent to 76 per cent. What are the proposed changes here? How do we deal with these problems? The proposed changes will include rationalising the statutory deductions from coffee proceeds by reducing them to less than 10 per cent without compromising services rendered to growers.

Further proposed changes will be as follows: An *ad valorem* levy to be collected by the Coffee Board of Kenya, not exceeding 1 per cent of gross proceeds. An *ad valorem* levy to be collected by the Coffee Research Foundation (CRF) not exceeding 2 per cent of gross coffee sales proceeds. County council crop cess of 1 per cent of gross sales proceeds to be utilised by county councils and district sales committees in the ratio of 20 per cent and 80 per cent respectively. Depending on the price of coffee, milling costs will be limited to up to 1 per cent of gross sales. Auctioning fees of 0.13 to 0.2 per cent charged now will be reconciled with future marketing charges, which should not exceed the proposed 0.6 per cent proportionately apportioned to producers at 0.4, and 0.2 to dealers. A commission agency fee of 1.5 per cent will be rationalised with milling and marketing charges.

Reduction of the payment chain through direct payment to the growers by the marketing agent will be achieved when the marketing agents make all statutory reductions and remit one cheque directly to farmers' bank accounts opened on the basis of coffee factories. The other cheques in respect of co-operative societies expenses will be sent directly to the societies' bank accounts. This has been designed for the purpose of ensuring that the co-operative societies do not receive the farmers money and mix it up with their rightful claims. There will be two separate accounts. This matter will be publicised to the concerned farmers so that they may demand their payment when the funds have reached their bank accounts. In other words, whenever the money is paid, there will be a system by which proper notices will be put up and farmers notified that the cheque has already gone to their accounts.

On the rationalisation of deductions from coffee proceeds received at the society by the co-operative society, it is recommended that society expenses be based on the principles of 80 and 20 per cent of net proceeds going to farmers and co-operative societies respectively. That is, the farmer should have at least 80 per cent of the net proceeds and the co-operative society no more than 20 per cent. Obviously, a well-run professional co-operative society could end up charging much less than 20 per cent and leaving the farmers with up to 90 per cent. That is possible. The co-operative societies should aim at, in fact, 15 per cent being their maximum deductions. Deductions beyond 20 per cent will be illegal. We are encouraging them to strive to keep their deductions below 15 per cent.

Chapter Eight deals with the restructured Coffee Board of Kenya which will now regulate the industry. It will comprise of 15 members, with eight members elected from co-operative societies, three members elected by the plantation growers and one member elected by the directors of the coffee trade. They are all elected at meetings of members of directors of registered organisations, the PS in the Ministry of Agriculture and Rural Development, the director of agriculture, the Commissioner for Co-operative development, the managing director appointed by the board, who will be an *ex-officio* member of the board and the secretary to the board. There will be a delinking of the Coffee Board of Kenya and the CRF. One will not control the other. They will be completely independent of each other.

The functions of the restructured Coffee Board of Kenya will be the promotion of coffee production, processing, marketing, registration and regulation. It will also provide advisory services related to coffee production and quality enhancement. In that regard, it may collect and analyze data, maintain database on coffee research and carry out investigations on all matters relating to the coffee industry, including training and so on. It will represent the

Government in international coffee conferences such as the International Coffee Organisation and the Inter-African Coffee Organisation. It may make rules and formulate policies for the better management of the industry.

Chapter Nine deals with the role of the CRF whose principal objective will be to promote research and investigate all problems relating to coffee and such other crops and systems of husbandry as associated with coffee throughout Kenya, including productivity, quality and suitability of land in relation to coffee planting, and on matters auxiliary thereto. It will, of course, provide a range of services which are spelt out in the Paper to coffee farmers.

Chapter 10 highlights the various institutions and organisations in the coffee industry as newly restructured, such as the Mild Coffee Traders Association, which is a voluntary association of coffee dealers, hawkers, warehousemen, millers and commission agents in East Africa, the Co-operative Bank of Kenya, which was formed in 1968 to serve as a bank for co-operative societies and so on.

Chapter 11 deals with the training and human resource development in the coffee industry at the universities, the Kenya Coffee College and the Coffee Research Station, Ruiru. Chapters 12 and 13 deal with the management of the transitional period. It is my hope and prayer that the transitional period will not take us beyond December, which is the outer limit for which we have, on an interim basis, renewed the appointment of the current Coffee Board.

I hope the Paper is clear enough. I know this Paper has been long overdue and that many Members would like to speak on a matter of this magnitude and nature, which is so passionate. I have no doubt about the legitimate concerns and desire by many Members to air their views. I would like to hear their views and appeal for positive support. We have strived to provide the best that we can. I hope that once we carry through these reforms we will be able to make the clock turn backwards because we have seen the re-emergence of poverty in coffee-growing areas which, we thought for a few decades, had been banished. Every extra delay, for a month, week and indeed a day is a pain to farmers if it will delay an improvement in their conditions. I want to appeal for support and, in particular, for speedy passage of this Sessional Paper. Thank you in advance.

With those remarks, I beg to move.

The Minister for Trade and Industry (Mr. Biwott): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me an opportunity to second this Motion. In seconding this Motion, I would like to emphasize the fact that the coffee industry is one of the oldest industries in this country. It is an industry with a long history and which the Kenyan economy has depended on for a long time. It is a volatile industry because the prices fluctuate from time to time because they are determined by the world economic forces.

There have been many concerns arising out of the management of the coffee industry, especially in the handling of the produce from the producer, right to the final consumer. There were cases where the final prices to the farmer were affected. There were other pilferages which were normally blamed on the Government, but I think there were days when some people were accusing the Government quite unjustifiably. The actual problem was with those who were concerned, especially those who were raising the false allegations.

I would like to thank the Minister for Agriculture for introducing this reform package because it will, first of all, do one thing. It will simplify the whole process, increase transparency and accountability, and lower costs. The main thrust is the concern to ensure that the farmer gets the most out of his crop. In the document, there is a highlight of the need to address the question of credit because the farmer cannot survive, unless he has affordable credit which is necessary for the production and financing of transit goods as they go to the market. There is also the importance which has been attached to the need to provide security to the farmer, and it is quite obvious that the US\$12 million credit or bank guarantee is quite adequate to cover the producer who, up to now, has been less secured in the guarantee, and eventually, he will get his dues when the product is finally sold.

The setting up of the limits of between US\$1 million and US\$12 million appears to be quite efficient and effective. There is also the other aspect which the Minister has highlighted in his proposed reforms, where he has tried as far as possible to lower the costs which have been occurring as a result of the payment of commissions or levies, which he now says must not exceed 0.6 per cent. I think it is quite considerate of the farmer, taking into account the need for efficiency, because the higher the commissions or levies, the greater the inefficiency and temptation to rob the farmer. I believe that the monitoring system which the Minister has introduced in his reform package is quite good, and I hope the process of monitoring and ensuring that there is no theft or mixing our own crop with the neighbouring crop will be done in a proficient way, so that there will be no chance whatsoever, of confusing our product with other products. This is because Kenyan products are known for quality, and unless such a strict observance and separation of Kenyan crop from any other crop is strictly enforced, Kenyan farmers risk their credibility as producers of the best crop.

I am persuaded to believe that the new marketing agency or the other arrangements, where the producer would have the option of either appointing his own agency or operating through the new marketing agency, will provide the farmer with options which, if the farmer is educated enough, or he or she is empowered through proper education; not the kind of civic education which is being suggested in other areas. This is the proper civic education to

a man or woman who is already knowledgeable as far as his or her coffee is concerned. If that is done properly so that the farmer knows exactly what are his or her rights; where to get the credit or the quality to produce, it would be better. That will ensure that the farmer's crop is monitored right through to Mombasa, when it is finally shipped. But the option is in marketing process. Do they sell it near Gikomba? I have been there myself and so, I know it. I remember that I worked in the former Ministry of Agriculture, and I am quite conversant with this.

I would ask the Minister to consider also expanding the production of new varieties in other areas, such as Keiyo District, because we have ample land where coffee grows very well and we would like that one for purposes of diversification.

Finally, there is need for this industry to look into other aspects of diversification and produce a value added crop, for example, the decaffeinated coffee or any other form of coffee like ice coffee, or any other marketable variety of the coffee which can fetch a better price.

With those few remarks, I beg to second.

(Question proposed)

Mr. Ndwiga: Thank you, Mr. Temporary Deputy Speaker, Sir. At the outset, I would like to thank the Minister and his team for co-operating very closely with the Departmental Committee on Agriculture and we have gone through this Sessional Paper together. However, I would like to say that the Committee is not ready now to discuss the Coffee Bill. We need to sit down with the Ministry first and discuss certain information that is coming through to the Committee.

(Mr. Biwott consulted with Dr. Godana)

Mr. Temporary Deputy Speaker, Sir, I hope hon. Biwott could leave the Minister alone because I want the Minister to listen. Do not disturb the Minister; go to COMESA!

I said from the outset that we are very happy to work very closely with the Minister for Agriculture as it should be, because we are addressing the Kenyan farmer. There is no partisan business in this Committee. In the Committee, there are certain issues which have been raised by stakeholders and people we have consulted which we would like to share with the Ministry before we discuss the Bill itself. So, we are really requesting that we do not rush into passing this Bill.

First, we do know that it is a requirement of the World Bank that we pass the Coffee Act so that the Government can get money. However, because the Government will not get the money anyway, because we are not passing the KACA Bill, let us not rush with the Coffee Act. We, in the Committee, appreciate the need to go through the Bill thoroughly in order to pass it. However, like I said, we do not want to be rushed because there are a few aspects of this Sessional Paper and the Bill itself which we must look at very closely. It is not always that we come to Parliament to change or make a law on coffee.

*[The Temporary Deputy Speaker
(Mr. Imanyara) left the Chair]*

*[The Temporary Deputy Speaker
(Ms. Karua) took the Chair]*

Mr. Temporary Deputy Speaker, Sir, the Sessional Paper has concentrated a lot on marketing. I think the issue that requires to be looked at very closely is the area of production. We can have very well-structured marketing systems and very good marketing structures but if we do not have something to market, those structures will be useless.

A hon. Member: It is not "Mr. Temporary Deputy Speaker" but "Madam Temporary Deputy Speaker!"

The Temporary Deputy Speaker (Ms. Karua): Order, now! The Chair is genderless!

(Laughter)

Mr. Ndwiga: Madam Temporary Deputy Speaker, I am saying that we need to concentrate on the area of production. This is because, right now, as the Minister has said, and which is correct, production has come down from 145,000 metric tonnes to 60,000 metric tonnes last year. This does not create confidence in the market. We require to look at areas of increasing and sustaining production. So, one of the areas that we must look at is a sustainable financing scheme. We must have a sustainable financing scheme for the farmer. The farmer must get access to

affordable credit if we are going to improve the coffee sector.

Madam Temporary Deputy Speaker, the farmer must also have extension services. We must provide extension services and it is not very clear in this Sessional Paper how we are going to do that. Right now, all of us who come from coffee-growing areas know that part of the failure of this industry is lack of extension services. This Parliament has invested a lot in this Sessional Paper and Bill. The Committee has travelled throughout the world in the coffee growing areas and marketing areas so that eventually we can end up with a proper Bill. That is why, as I continue, I am urging the Minister to give us time to come up with a proper and acceptable Sessional Paper and Bill.

Madam Temporary Deputy Speaker, in the areas of financing the farmer, I am happy to note that now, eventually, we have got the first batch share of the STABEX funds. I am appealing to my colleagues to stop the debate on STABEX funds because we, and all other sectors, have been clamouring for these funds. This STABEX money is very little. The coffee sector has the capacity to absorb in excess of Kshs20 billion in any one year. I am appealing to the Minister to curtail the debate on STABEX funds, because funds are there and there are other schemes which will give funding to other commodities.

Madam Temporary Deputy Speaker, I have heard my colleagues from the fish sector say that they need some money for fish. There is money for fish! I am urging the Ministry to go for it. For my friends from the livestock-rearing areas, yes, we want to improve livestock and we want to revive KMC and build other abattoirs, and there is money for that cause. It is not STABEX money that is meant for that cause. There is a lot of money and, indeed, if the Minister wants to know where it is, I will tell him. Under the NIPS system, all we have to do is draw up programmes to attract such funding, and I am urging that the Minister comes out openly and assures the other sectors that the Ministry will go out and seek funds for other commodities, so that whatever money we get under the STABEX funds goes specifically to the coffee sector.

Madam Temporary Deputy Speaker, as I said earlier, we, as a committee, went up to Brussels to the EU Secretariat, and I do not want to repeat what I said in my contribution during the Vote on the Ministry of Agriculture. However, what they said specifically on STABEX funds is that this was money meant to improve coffee. When we complained about lack of support, they told us the money was there, but "your Government wants to take the money to other sectors." That is why the money has been lying there for ten years. So, I am appealing to my colleagues that, if we want to assist the coffee sector, let us stop debate on STABEX funds. Let STABEX funds move the way they are doing because the Government has signed the agreements, really, and the agreement right now is that the bulk of that money will be used in the coffee sector.

However, I am urging the Minister also that we need to improve other sectors and commodities. Let us go ahead and do that. We want to revive not only KMC, but put up other abattoirs in North Eastern Province and the North Rift. We want to take the factories where the raw materials are. That is prudent management, which we need to be doing.

*[The Temporary Deputy Speaker
(Ms. Karua) left the Chair]*

*[The Temporary Deputy Speaker
(Mr. Imanyara) resumed the Chair]*

Mr. Temporary Deputy Speaker, Sir, we need also to protect our auction system and I am happy the Sessional Paper says that, but it is not very explicit. The Sessional Paper does not explicitly say that the auction system is going to be protected. It says we will leave part of the marketing to consider other areas. I think we need to explicitly protect our auction system. It has worked in the past, and I believe it will serve the farmer well even in future.

Mr. Temporary Deputy Speaker, Sir, it was much easier for us to amend the Tea Act because we were interested in changing structure of the former Kenya Tea Development Authority (KTDA). The coffee sector is more complex because it has many bodies, which include factories, societies, district unions, millers and the Coffee Board of Kenya (CBK). If we want to reduce the cost of processing to 8 per cent, as suggested in the Sessional Paper, we must look at some of these bodies critically. We are now creating more bodies such as KCMA. We should, perhaps, look at farmers' bodies which are already in existence and see whether we can adopt some of them to perform some of these functions, so that we can reduce deductions from farmers' proceeds by all these other bodies.

In that regard, I have in mind the KCMA. We are going to create the KCMA when we have the KPCU, which is a farmers' body. It is a miller currently, but it also has some warehouses. Is it not possible for us to transform the KPCU? Can we not create a company under the KPCU to carry out coffee milling, so that the existing structure can remain to carry out the functions of the KCMA, instead of creating a new body? The Sessional Paper is not very clear as to who will initiate the incorporation of the KCMA. Is it the Government or the CBK? That is why we need a little

time to harmonise some of the issues highlighted in the Sessional Paper.

Mr. Temporary Deputy Speaker, Sir, we can talk about coffee production but as long as the farmer is not being paid, we cannot move forward. We need to look at the structures in the coffee industry, right from the factory, and see whether we can end up with a one-stop shop. If that is done, the farmer will incur a total processing cost of 6 per cent, and not 8 per cent. Currently, coffee production has been affected by several factors. As I said, one of these factors is lack of cheap credit to farmers. The main factor, which has also been highlighted, is the management of primary coffee societies. It will be totally useless to adopt this Sessional Paper if we do not look at the operations of co-operative societies.

We need to also review the Co-operative Societies Act to streamline the operations of co-operative societies in the coffee sector. I understand that the Minister for Agriculture is doing that. But if we do not approve this Sessional Paper and review the Act simultaneously, we will have done nothing. The problem with coffee co-operative societies these days is that management committee members steal farmers' money. They move around the villages with their ill-gotten wealth. Farmers can see them but nothing happens. As long as these fellows are in good terms with the District Commissioner, nothing will happen to them. So, we must find a way of punishing people who do such things. If we do that, production will increase.

We know that Ruiru 11 is a desirable coffee variety but when we visited the Coffee Association of America, its officials voiced concern over its quality. They complained that we have not done much to improve the quality of this variety of coffee. Even coffee roasters say that they prefer the SL varieties to Ruiru 11 variety. Maybe, as the Minister responds to this debate, he will address this concern. Ruiru 11 reduces the production costs and that is really desirable. However, we also need to check that other factor.

Another factor that contributes to low coffee prices is failure to produce sufficient amounts. Coffee roasters say that we are not producing enough good quality coffee. It is evident in the Sessional Paper that coffee production has been declining. The question here is that of both quantity and quality. That is where the focus must be on. This aspect is glaringly missing in the Sessional

Mr. Temporary Deputy Speaker, Sir, most of our coffee societies are in big debts. Under the SCIP II Programme, the Government has been taking 8 per cent of coffee proceeds. If the Government is serious about reviving the coffee sector, it must forfeit that 8 per cent, so that we can write off some of the debts owed by co-operative societies to the SKIP II Programme.

Farmers can pay their loans under the SCIP Programmes. What is "killing" them and co-operative societies are overdrafts and other commercial loans they had borrowed from the Co-operative Bank of Kenya and other banks. So, I request the Government to forfeit the 8 per cent it has been charging farmers under the SCIP II Programme. We should somehow rationalise the lending rates. If STABEX funds are being lent to farmers at 5 per cent, why should the same be lent at 15 per cent? Really, we cannot do that. We have to harmonise that.

So, if the Government forfeits the 8 per cent, we will have gone a long way in assisting the farmer. I have not done any calculations, but I believe that the 8 per cent will offset a huge portion of the debts already owed by coffee societies to the banking sector. Societies will only be required to repay loans under the SCIP Programmes while farmers pay loans they are going to get from the STABEX funds. If farmers realise that they will not earn anything from their produce, as the proceeds will be used to service debts, they will not produce the crop. That is an issue that has to be addressed very seriously. I believe that this aspect falls under the Minister for Finance. So, I urge the Minister for Agriculture to consult his colleague in the Ministry of Finance, to look into this issue. Because this is a policy of the same Government, I demand that the 8 per cent Government levy be used for that purpose. That will go a long way to assist farmers.

Mr. Temporary Deputy Speaker, Sir, we are going to create new bodies such as the KPCTA. If we want to be a formidable force, why do we not establish a regional coffee exchange instead of the purely Kenyan Nairobi Coffee Exchange (NCE), so as to take advantage of the Common Market for Eastern and Southern Africa (COMESA)? We will take a lot of produce to the market if we have one COMESA factory. These are some of the things that we also want to look at before we pass the Bill. I am saying this because if you go to the world market today, you will find that small countries are doing better than us. For example, last year, Costa Rica took to the market 11 million bags of coffee whereas Kenya, a bigger country, took to the market less than one million bags of coffee the whole year. We need to explore our thinking and see if we cannot have a regional exchange. We are the only people who have this kind of facility right now. I know that Uganda and Tanzania want to go into the auction system. If we have one regional exchange system, we will be a formidable force in the world market.

Mr. Temporary Deputy Speaker, Sir, I heard the Minister say, and it is also in the Sessional Paper, that prices of coffee have been affected by the world market trends. I am not aware of this. When the Departmental Committee for Agriculture, Lands and Natural Resources went to Colombia and Costa Rica, two coffee producing countries, it found out that although Costa Rica produces the same *arabica* coffee, but of a lower quality than our coffee, farmers were

being paid an equivalent of Kshs80 for one kilogramme of cherry. We were told by their Coffee Board members that even after farmers were paid Kshs80, which is equivalent to one US Dollar per kilogramme of cherry, they would be paid some more money after the coffee was sold. What is the Kenyan farmer getting? The Kenyan farmer has never been paid a dollar for one kilogramme of cherry. Perhaps, one area where we need to focus on keenly is our international marketing methods. What do we really do? Do we sell our coffee? Do we just take our coffee to the auction and fellows come to it and decide how much our coffee is worth? I have said before that this method is wrong. We must find a way in which we can sell our coffee profitably.

The Colombian and Costa Rican Boards sit down and decide on their prices. Although they get price indicators from New York, their national boards fix the price and say that their coffee will not be sold for less than a certain amount of money. That is why farmers there continue producing coffee even when the world prices are low. They continue producing coffee because the trick in production is nothing else, but to pay the farmer. If you pay the farmer, he will produce. The magic in production is to pay the farmer enough and on time. There is no other magic. All these other things we are talking about in the Sessional Paper about marketing are not important.

That is one area that has not been addressed here. We are saying that the farmer will be paid once coffee has been sold by the agent. The prime coffee picking period is around November and December. Coffee dries and it is taken to the mills around January. By the time the farmer gets the money, it is around June. It takes about six months before a farmer gets the money. In areas where farmers grow coffee seriously - and I refer to those two South American countries - they are paid for their proceeds within four days of delivery of the crop to the factory. This is what we must try to achieve in whichever way, so that the body that we create will have the capacity to do this.

That is why I said right from the outset that we should stop talking about the STABEX funds. I am hoping that the revolving fund will grow to such proportions that we will be able to pay the farmer upfront, and leave the body to go and do the marketing.

Mr. Murathe: On a point of information, Mr. Temporary Deputy Speaker, Sir. I would like to clarify the point that has been made by Mr. Ndwiga. It is actually possible to set an internal price based on your cost of production. It is also possible to pay the farmer within about four days after delivery of coffee because this country, over time, has developed a revolving fund equivalent to the Coffee Development Fund, which has been proposed in the policy.

In the example of Costa Rica, which Mr. Ndwiga has talked about, there is a vertically integrated system, where the farmer brings in the cherry and it is pulped and milled in the same co-operative society. But Costa Ricans are very advanced technologically; so they blow it. They export the coffee and at the same time, farmers are paid an advance out a pool fund. Then, at the end of the year, farmers are paid a bonus out of the amount fetched from the world market.

Mr. Ndwiga: Mr. Temporary Deputy Speaker, Sir, I want to thank Mr. Murathe for that piece of information. In fact, that is the one-stop shop that I was talking about. We should deliver our coffee to one place; the farmer should be paid, and then the concerned agency should go and sell the coffee. This is what happens to the tea sector. Tea farmers are paid on a monthly basis. Tea is then sold in the auction and the farmers get a bonus on top of what was paid earlier, depending on the prices fetched at the world market. So, we are saying that it is possible to do the same here, but what we need now is a fund to facilitate that process.

One area that we have not looked at in this Sessional Paper, which is really crucial, is value adding. If you go to Germany and other places, you will find that Kenyan coffee is classified as the Colombian mild. We have no identity of our own. It is time - and we have to do that through this Sessional Paper - that we found our own identity. To find our own identity, we must address the issue of production. First and foremost, we must have enough coffee. Secondly, we must go out to the market and thirdly, we must put in place mechanisms for domestic value adding. Why can we not go into partnerships with those roasters out there, so that we can start roasting our coffee here? It is not that, that has not happened. There are very many companies doing roasting locally, but the value-added benefit does not go to the farmer. The value-added benefit is the profit of the local roasters. We need to look for a system, and that is why I am saying both the Departmental Committee on Agriculture, Lands and Natural Resources and the Ministry of Agriculture need to consult and address this area that is not there. Could we not find a system amongst one of all these bodies we are talking about here; one which can handle value adding? Then the value-added benefit would go to the farmer. It is a crucial area because if you went to Europe and the rest of the world, you would find Colombian coffee packed from where it was produced. Even if you went to any hotel in Europe, you would find that what you have there is Colombian coffee. I would not be surprised - I do not sleep in hotels in Nairobi because I live around here - if I went there and found Columbian coffee in the hotels in Nairobi. It is high time we considered this area of value adding. If we did that, we would make sure that our farmers are well paid.

Mr. Temporary Deputy Speaker, Sir, there was the area of deductions. I am happy with all the deductions. We have discussed that in the Departmental Committee on Agriculture, Lands and Natural Resources, but with regard to

the utilization of certain funds like the Cess Fund, there are so many bodies that are claiming the Cess Fund. They include the county councils, district cess committees and others. This Parliament created the District Roads Committees. In the District Roads Committees, the county council chairmen, the mayors, a representative in the coffee sector and the tea sector all sit in the boards. The most efficient way of utilizing the Cess Fund in order to make sure that the Fund is utilized properly, is through the District Roads Committees. In fact, what is in the Sessional Paper is a direct contradiction of what we passed here. The Kenya Roads Board that was created here is very clear and the sources of funds for the Kenya Roads Board and the District Roads Committees would include cess, and LATF is one of them. So, there are certain things which are actually contradicting the very law we passed here.

The LATF funds go directly to the local authorities and cess goes to the local District Cess Boards. But there is another law here which directs where those funds should go. For the benefit of the agricultural sector, we should maintain those funds in those areas. This is because that is where the District Development Committees prioritise the roads to be funded. That is also where those people who are affected are. Although cess would be meant for that society, it should be channelled through the District Roads Committees. This is because we have other funds for the constituencies. I may have planned to gravel, for example, Road A. Then when you send cess direct to that other body and they also want to gravel the same road, eventually, this would be one of the ways this money could be misappropriated by the local communities. If we had one central area where planning is done, that would be, perhaps, the most efficient way of utilising cess funds.

Mr. Temporary Deputy Speaker, Sir, there is also the area of licensing the pulping stations. It is true, in the past, only people with 10 acres were licensed, but through some legislation by the Coffee Board, somehow, people with five acres were licensed. What is now not clear is what is going to happen to those people who already have five acres and who are already licensed. What is going to happen? The Sessional Paper is silent. Are you going to revoke the licences or what will happen? We have to be very clear about what will happen. We support that, for pulping stations in areas where there are coffee societies, 10 acres is acceptable. But in areas where there is low production and no other factories, five acres would still be sufficient. With regard to people who have licences as of now and yet they do not have the 10 acres, what will happen to them?

Mr. Temporary Deputy Speaker, Sir, in conclusion, I wish to urge the Minister not to rush this issue before we sit down with the Ministry. The Departmental Committee on Agriculture, Lands and Natural Resources and the Ministry of Agriculture, should discuss - I know it is for the benefit of all - so that we can get the benefit of what we have gathered from various stakeholders, so that when the Bill eventually comes here, we do not have a case like that of the Tea Bill, which was referred to the relevant Departmental Committee several times. We want to come and support it and pass it. I would like to request that we do not rush to adopt some of these things. There are several key areas which would affect the production and management of the coffee sector if we do not handle them at this juncture. I am pleading - although I support the Sessional Paper - that we need to amend certain areas after consulting with the Ministry. I would also like to urge the Minister that, even as we pass the Bill, the area of indebtedness of the societies should be made a priority. What is the point of passing a good law and eventually we do not see the fruits of that law? We will not get production for as long as those societies are highly indebted.

Ms. Karua: On a point of Information, Mr. Temporary Deputy Speaker, Sir. I would like to inform the hon. Member that on the indebtedness of societies, the Government, having successfully blocked the application of the "Donde Bill" to existing loans, which would have saved co-operative societies that are collapsing due to heavy interest rates; this Minister ought to undertake to negotiate especially with the Co-operative Bank of Kenya, which is now being given the role of lending the STABEX Funds, to reduce interest rates on outstanding loans, or to waive interest rates on outstanding loans to enable the co-operative societies to continue operating, in addition to waiving the 8 per cent under Second Coffee Improvement Programme (SCIP), as suggested by the Shadow Minister for Agriculture. The key is to undertake to negotiate waiver of interest for co-operative societies with the Co-operative Bank of Kenya.

Mr. Ndwiga: Mr. Temporary Deputy Speaker, Sir, those are sentiments that the Minister should take note of. Given the good working relationship that, we, in this Committee, have had with the Ministry, I believe that the Minister will take these sentiments seriously so that we can eventually have a Bill that belongs to all of us.

With those few remarks, I support the Motion.

Mr. Munyao: Thank you very much, Mr. Temporary Deputy Speaker, Sir, for giving me a chance to point out some few things on behalf of the Departmental Committee on Agriculture, Lands and Natural Resources. Before I continue, I would like to congratulate the Minister. Before he started to contribute here, I thought he was only conversant with foreign issues. This is because for many years, he has been the Minister for Foreign Affairs and International Co-operation. Little did I know that he is also an expert on issues concerning agriculture. Bravo, Mr. Minister! I am impressed.

I would also like to commend his members of staff who have worked hard. This is because, as the Departmental Committee on Agriculture, Lands and Natural Resources, we like to work with the Minister and his

officials. We worked with them for long hours and they did not get tired. In fact, in the past, we have gone out. We organised provincial meetings, particularly when the Tea Bill was brought to this House. We visited all the provinces to meet the stakeholders. We have also done the same on coffee. We have held meetings in all the provinces, and sometimes we meet until very late. It is encouraging to see that the Minister and the Ministry officials have been ready to work all the time.

We have always said in the past that the Ministry of Agriculture and Rural Development is the surest way of eradicating poverty. We can talk a lot about other Ministries, but if we support the Sessional Papers from this Ministry, the economy of Kenya will improve. We passed the Tea Bill and tea farmers are very happy today. I am sure that when we will be through with this Sessional Paper, coffee farmers will also be very happy.

I remember that when we summoned the former Minister for Agriculture, Mr. Obure, to our Committee to discuss issues to do with coffee, one bag of coffee was fetching US\$1. And do you know where that coffee had come from? It had come from Kisii, and perhaps from the Minister's home. We asked the Minister what was happening since he was heading the Ministry and he was embarrassed. Since that time, this Committee has worked very well with the Minister.

Although we have not submitted our recommendations to this House as required, our Report is ready and it will be tabled during debating time. This is because this Sessional Paper was sent to us early last year. We, the Members, plus the Minister and his Ministry officials, have scrutinised this Sessional Paper page by page, and section by section, and concurred with many issues contained in it. Our recommendations have been included in this Report. I would like to inform this House that there are only a few issues which we will point out later, on which we do not concur with the Minister. But those are issues which we can settle.

I would like to inform the Minister that matters to do with this Sessional Paper---

The Temporary Deputy Speaker (Mr. Imanyara): Order! Order! Mr. Munyao, you will have the balance of your time on Tuesday. Right now, it is Zero Hour and we have one application by Mr. Maore directed to the Office of the President on cross-border trade.

MEMBERS' HALF-HOUR STATEMENT BAN ON TRADE BETWEEN KENYA AND SOMALIA

Mr. Maore: Mr. Temporary Deputy Speaker, Sir, I wish to seek a Ministerial Statement from the Minister of State, Office of the President, in charge of Internal Security. On 28th July in a public baraza in Lamu, the President did ban cross-border trade between Kenya and Somalia. I wish to seek clarification about the implementation of that decree. First, we would like to know whether these are economic sanctions or severance of trade between us and Somalia, and whatever details that we need to make it clear. Secondly, we would like to know whether this decree affected airports like Wilson and the Jomo Kenyatta International Airport (JKIA). We have been affected as the major producers of miraa. Thirdly, does the Government have confidence in its own equipment and security at the airports to make sure they are able to intercept guns and drugs that happen to be the main cause of the suspension? We do not want the miraa industry to be affected negatively like it happened to the NCPB, KMC, KCC, the cotton industry as well as the banking and sugar industries.

The Temporary Deputy Speaker (Mr. Imanyara): Your time is up, Mr. Maore!

The Assistant Minister, Office of the President (Mr. Gumo): Mr. Temporary Deputy Speaker, Sir, I will issue a Statement next week on Thursday.

Mr. Maore: But Thursday is too far away and nobody would maintain his consignments up to that time!

The Temporary Deputy Speaker (Mr. Imanyara): Order! Order, Mr. Maore! Zero Hour is not Question Time and as we have stated before, anyone who takes the risk of seeking a Ministerial Statement at Zero Hour runs the risk of not getting an answer if the Minister does not want to answer it. It is time for discussion and it is not open debate. The order is clear and you have 120 seconds to discuss a statement. That is all we can do. We cannot allow questions.

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Imanyara): It is now time for the interruption of business. The House is, therefore, adjourned until Tuesday, 14th August at 2.30 p.m.

The House rose at 6.35 p.m.