

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 16th November, 1995

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

COMMUNICATION FROM THE CHAIR

DEATH OF HON. CHEPKOK

Mr. Speaker: Hon. Members, once again, it is with a heavy heart that I regret to announce the death of another dear friend and colleague, the Member for Kerio Central, Mr. Paul Ruto Chepkok, who passed away yesterday evening, 15th November, 1995, after a short illness.

The late Chepkok was born on the 4th of March 1938 and was educated in various schools in Rift-Valley Province before venturing into business and politics. Mr. Chepkok served as a Nominated Councillor for the Nairobi City Council for several years. He made a debut to Parliament in 1983 when he was elected to represent Kerio Central Constituency.

A staunch and forceful politician, Mr. Paul Chepkok has since been re-elected in all subsequent General Elections to represent the same Constituency. He was first appointed an Assistant Minister in the Ministry of Industry in December, 1991. In January, 1993, he was re-appointed to serve in the Ministry of Land Reclamation, Regional and Water Development, a portfolio he has held until the time of his death.

Those who knew the late Paul Chepkok will always remember him for his devotion to duty and as a leader whose record of development and dedication in serving his people speak for themselves. Here in Parliament, we will miss his sense of humour which in many occasions made the atmosphere in the Chamber lively.

On behalf of all of us, and on my own behalf, I convey our most heartfelt condolences to the bereaved family, constituents and friends of the late Paul Chepkok.

May the almighty God rest his soul in eternal peace.

Hon. Members, let us now, in our usual tradition rise and observe a few minutes of silence, in honour of our departed colleague.

(Hon. Members stood for one minute in silence)

ORAL ANSWERS TO QUESTIONS

Question No. 843

REINSTATEMENT OF MR. ANGUKA

Mr. Sifuna asked a Minister of State, Office of the President, since Mr. John Anguka, the former Nakuru District Commissioner, was acquitted in the murder case of the late Dr. Robert Ouko, if he could consider reinstating him to his old job.

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

(a) Yes, I am aware;

(b) Mr. Anguka opted to retire voluntarily under the 40-year rule, as stipulated in the personnel circular No. 5 of 11th November 1992, and the Government has accepted his request.

Mr. Sifuna: Mr. Speaker, Sir, arising from that reply, it is not true that Mr. Anguka accepted to retire under the 40-year rule. Could the Minister produce documentary evidence to this House, to the effect that

actually Mr. Anguka applied to retire under the 40-year rule or he was just forced to resign?

Mr. Manga: Mr. Speaker, Sir, I will not produce evidence here, but I will read the communication between Mr. Anguka and the Government where he had himself written to my Office requesting for retirement. In his letter dated 18th October, 1994, Mr. Anguka opted to retire under the 40-year rule and my Office wrote to the Public Service Commission to convey Mr. Anguka's request to retire, and the Public Service Commission through a letter Ref: 3/60/33/35 Volume 8 of 31st November, the same year, approved the request.

Mr. Sifuna: Mr. Speaker, Sir, the Minister is giving a misleading reply to this House. I met Mr. Anguka last year in September, and he did confirm to me and that is why I submitted this Question to this House that the Government is adamant as regards reinstating him. He had requested several times whether he could go back to his old job, but the Government adamantly refused to implement his reinstatement. Could the Minister, therefore, tell the House whether that is true or not? We know, as far as Mr. Anguka is concerned, it is the Government that refused to accept him back in his old job, because he refused to protect some people.

Mr. Manga: Mr. Speaker, Sir, if the Member wants, I will table the letters that I have read through, here, next week.

Question No. 776

REHABILITATION OF POLICE POST

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

- (a) Whether he is aware that the buildings at Kaheho Police Post are in deplorable condition; and
- (b) Whether the Ministry could provide funds to rehabilitate these buildings.

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

(a) What I am aware of is that the housing in Kaheho Police Post is not satisfactory in that police officers are sharing accommodation.

(b) Since the Police Post was recently established, the accommodation is not sufficient for all the officers. However, extra accommodation will be put up when funds are available.

Mr. Gichuki: Mr Speaker, Sir, arising from that unsatisfactory answer from the hon. Assistant Minister, the area in question is about 25 kilometres away from Ndaragwa Police Station, and it serves an hinterland of about of 20,000 persons. As to the answer to (a), much as the accommodation is not satisfactory, there is a room within the Police Post, which is used as an armoury. It is used to detain petty offenders and it has no ventilation. Since in (b) the hon. Assistant Minister says that he will expand the buildings when funds are available and recently we passed a colossal sum of money to the Office of the President, can he be specific and tell this House if he is going to apportion any funds to put up better buildings? This is causing a lot of inconveniences, especially putting petty offenders in that room. It is only by the Grace of God that nobody has died.

Mr. Awori: Mr Speaker, Sir, I am more anxious to see that the officers are comfortable and well housed, so that they can render good service. At present, we have acquired a plot in the area where designs for extra accommodation have been made and we are only waiting to have sufficient funds to put up the houses. So far, the room the hon. Member is mentioning, the armoury, is extremely important and we must make sure that it is secured.

Mr. Maore: Thank you, Mr Speaker, Sir. Given the vital role the police do play in our society, what plans does the Government have to improve their housing, especially in the situation where there is congestion. Our policemen live with their families in houses that were constructed in the colonial times? What steps is the Ministry taking to ensure that our policemen live decently with their families rather than staying too many people in a small cube?

Mr. Awori: Mr Speaker, Sir, every year we increase the allocation for the housing for the police, and there are quite a number of areas where modern houses have been built to accommodate our officers.

Mr. Gichuki: The hon. Assistant Minister has said that he is very eager to get funds to improve the buildings of the entire police force. I would like him to be specific because we do not want him to make an "amorphous commitment". He should give an assurance of when he is going to avail the funds, so that we are able to get better buildings and house the police force who work in that Police Post. Can he be specific and maybe give us the accounts he expects to get this money from?

Mr. Awori: Mr Speaker, Sir, it is not possible for me to be specific in only one area as the conditions

are found in different parts of the country. As I mentioned earlier, we will continue to requisition for more funds every time and there are certain areas where once we have provided modern houses, then, we move to another one, and, therefore, I cannot be specific for one area.

Mr. Speaker: Next Question, Mrs Ndetei.

Question No.966

CURBING OF ARMED ROBBERIES

Mr. Speaker: Mrs Ndetei is not here? Next Question, Bishop Kimani.

Question No.507

VEHICLE FOR VETERINARY OFFICER

Bishop Kimani asked the Minister for Agriculture, Livestock Development and Marketing:-

(a) whether he is aware that Nakuru North Divisional

Veterinary Officer does not have an official vehicle;

(b) whether he is further aware that due to lack of transport, the officer's services have not been effective and this has resulted into reduction of livestock population in both Bogoini and Bahati divisions of Nakuru North; and

(c) whether he could ensure that this officer is provided with transport and that livestock farmers in the area are offered proper services to promote livestock production.

The Minister for Agriculture, Livestock Development and Marketing (Mr. Nyachae): Mr Speaker, Sir, I beg to reply:-

(a) The Nakuru North Divisional Veterinary Officer has two vehicles in good working condition, registration numbers GK Q819 and GK U017. In addition, the Division has four other vehicles awaiting repairs (GK 946M, GK T718, GK 739S and GK 548R). The Division further has a motorcycle registration number GK K627 based at Bahati, which is in good working condition.

(b) As indicated above, there is adequate transport in Nakuru North and the allegations that services have been retarded due to lack of transport are baseless and untrue. Moreover, the Division has a total of 31 technical officers to man the veterinary services.

(c) Both the transport and extension services are adequately catered for in the Division. My Ministry's extension staff will continue to improve these services in a bid to help promote livestock production in the Division.

Bishop Kimani: Mr Speaker, Sir, the answer given by the Minister is very misleading. Early this year, I asked the same Question in this House and the Minister told me, as I was coming from Nakuru to this House, the vehicles being driven to the station---

Mr. Speaker: Order! If indeed, it is true that you asked this same Question early this year, which means in this Session, this Question is, therefore, wrongly before the House. Next Question, Mr. Icharia.

Question No.983

COLLECTION OF DROUGHT LEVY

Mr Icharia asked the Minister of Finance:-

(a) how much drought levy per year has been collected since this tax was introduced;

(b) since there is no drought in the country currently, when will the tax be discontinued; and

(c) whether he can give a complete breakdown showing how the money was used.

The Assistant Minister for Finance (Mr. Koech): Mr Speaker, Sir, I beg to reply:-

(a) By October 31, 1995, a total of Kshs.823 million was collected since the drought levy was introduced.

(b) The drought levy imposed in the 1994/95 Financial Year was to last for one year. In this regard, for companies with accounting periods ending after the 1st July, 1995, the drought levy has already been discontinued. For individuals, the additional two-and a-half per cent point of tax on incomes above K£19,500 will also fall

away at the end of this year.

(c) The Government has financed and is still financing various short-term and long-term projects around the country, aimed at providing drought relief. This includes the maize safety net under the Office of the President and relief programmes. These have been financed from the same Consolidated Fund. The Drought Levy was not intended to be separated from the normal income tax payment, but was consolidated on the top marginal tax rate of 35 per cent plus 2.5 per cent. It is, therefore, not reasonable to show specifically how the Drought Levy money was used as it was not a separate Fund, but part of the total Government revenue.

Mr. Icharia: Mr. Speaker, Sir, can the Assistant Minister assure this House that the food distributed to the various drought-stricken areas is fairly distributed, and that it is not used as a political weapon to gain votes for KANU?

Mr. Koech: Mr. Speaker, Sir, we should not mislead the country that food is distributed for vote seeking purposes. If people have problems of food, the Government assists them with relief food. This cannot be said to be used as a means of soliciting for votes. I think we should desist from giving that wrong impression.

Mr. Speaker: Is that, Dr. Otieno-Kopiyo?

Dr. Otieno-Kopiyo: Yes, Mr. Speaker, Sir. I have found out that sitting here is easier to catch your eyes.

(Laughter)

Mr. Speaker: Order! Order! Order, Dr. Otieno-Kopiyo! This House is designed in such a way, that, unless you are behind me, you are capable of catching my eye. Proceed!

Dr. Otieno-Kopiyo: Mr. Speaker, Sir, I appreciate that. Could the Assistant Minister now confirm to this House that the Drought Levy, together with the Disaster Relief Fund, is actually a clandestine fund utilised by the Government to support the SPLA rebel movement in Southern Sudan, and previously the Renamo Movement in Mozambique, and currently the Hutus in Kenya? Can he confirm to this House if the money is actually used for what it was intended for?

Mr. Koech: Mr. Speaker, Sir, there was a little bit of a loud consultation, and I was not able to follow the hon. Member's Question.

Mr. Speaker: Order! Order! Hon. Members, let us take the business of the House very seriously. The hon. Member is asking a Question, and the hon. Assistant Minister cannot follow because we are consulting loudly. Can you please repeat your Question for the benefit of the Assistant Minister?

Dr. Otieno-Kopiyo: I will do so, Mr. Speaker, Sir, because this is a very serious issue. The previous Public Accounts Committee of 1993/94 heard evidence that the Disaster Relief Fund together with Drought Levy were actually used by the Ministry of Foreign Affairs of this Government to finance the operations of the SPLA rebel movement in Southern Sudan, together with the Mozambican rebel group, Renamo. Now, we understand and I would like for him to confirm that this Government is supporting the Hutu Militia who are operating in Rwanda now and are based here in Nairobi with this Fund.

Mr. Koech: Mr. Speaker, Sir, that is a very mischievous Question.

Mr. Icharia: Mr. Speaker, Sir, can the Assistant Minister assure this House that these funds will be audited in the normal ways, in spite of the fact that the money is handled in the Office of the President? Can he assure this House that the money will be audited in the normal way because part 3 of my Question asks for the breakdown of the expenditure of the two Funds, but the Assistant Minister was unable to give the details. Can he assure us that the money will be properly audited?

Mr. Koech: Mr. Speaker, Sir, this is part of Government revenue, and any funds which gets into the Consolidated Fund must be audited in the normal way.

Question No. 807

INSTALLATION OF STD

Mr. Moiben asked the Minister for Transport and Communications when the Kenya Posts and Telecommunications (KPTC) would install Subscriber Trunk Dialling (STD) facilities in Saboti, Endebes and Kwanza centres.

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

The KPTC will provide STD facilities as follows:-

- (i) Saboti will be provided with STD in the 1996/97 Financial Year.
- (ii) Endebes will be provided with STD in 1996/97 Financial Year.
- (iii) Kwanza will be provided with STD this Financial Year, 1995/96.

However, this is subject to the following requirements:-

- (i) Availability of Power.
- (ii) Allocation of surveyed plots by the local authorities.

Mr. Moiben: Mr. Speaker, Sir, I wonder whether the Assistant Minister is aware that these telephones were installed in 1945 after the Second World War. Since then, up-to-date telephones have been installed in Cherangani Division, leaving out the two Divisions. Can the Assistant Minister be serious, even for once, and give us this telephone?

Mr. Ndicho: On a point of order, Mr. Speaker, Sir, I think the House has been taken for a ride by the hon. Member who posed this Question. The Question he has asked is when will STD be installed, and now he is telling us that it was installed in 1945.

Mr. Speaker: Mr. Ndicho, you are the one who is misleading the House. What the hon. Member is seeking to be installed is the STD. Proceed, Mr. Moiben!

Mr. Moiben: Mr. Speaker, Sir, sorry for the interference from my colleague. I was saying that the manual telephones were installed way back in 1945, after the Second World War, because those military men from Britain were rewarded with farms while our grandfathers were rewarded with pairs of tyres as gifts. Can the Assistant Minister be serious and give us STD facilities immediately because in Cherangani Division telephone facilities which were installed some years ago have STD facilities.

Mr. Morogo: Mr. Speaker, Sir, the hon. Member will appreciate that technology is changing. We gave them that facility in 1945 and that was the best available at that time. We are now moving into other advanced technologies, and I have just told the hon. Member that we will do that in the next Financial Year and we are serious about it.

Mr. Shidiye: On a point of order, Mr. Speaker, Sir. If I heard correctly, the Assistant Minister has said that installation of the exchange will be subject to availability of funds. When will these funds be available?

Mr. Morogo: Mr. Speaker, Sir, I did not talk of funds; but I talked about availability of a surveyed plot.

Mr. Speaker: Availability of what? We cannot hear you.

Mr. Morogo: Availability of a surveyed plot; Mr. Speaker, Sir.

Mr. Omino: Mr. Speaker, Sir, these telephones are now supposed to be commercially viable. Why does the Assistant Minister talk about availability of funds? You should go ahead and install them because subscribers will pay for the service.

Mr. Morogo: Mr. Speaker, Sir, in this particular case, I have not talked of availability of funds. I have said that the installation will be subject to the availability of power and a surveyed plot, where we can install the exchange. However, any viable project, requires funds to start. We cannot just start it out of the blues.

Mr. Leshore: Mr. Speaker, Sir, the Assistant Minister is very good at giving answers in this House, but please tell him when he goes back to the office to implement what he says in this House because I remember in 1993 he promised me the same thing and up to this moment my Constituency has not received the telecommunication equipment.

An hon. Member: Hon. Morogo will go by what you said!

(Laughter)

Mr. Morogo: Mr. Speaker, Sir, Kenya is very wide and by the time I finish one part of the country two years will have lapsed. However, if Mr. Leshore's telephone has not been installed, I will visit his area, assess the situation and make sure it is done.

Mr. Speaker: Order! By the way, he is not talking about the width of Kenya; he is asking you about your own word, whether you kept it.

Next Question, Mr. Kavisi!

Question No.992

STATUS OF UKAI

Mr. Kavisi asked the Minister for Research, Technical Training and Technology:-

(a) whether he is aware that Ukamba Agricultural Institute (UKAI) is no longer a public institution but a private company;

(b) if the answer to "a" above is in the affirmative, why he did appoint a Board of Governors to run a private company; and

(c) what steps he is taking to make the Institute public.

The Assistant Minister for Research, Technical Training and Technology (Mr. Kagwima): Mr. Speaker, Sir, I beg to reply:-

(a) I wish to inform the hon. Member that Ukamba Agricultural Institute (UKAI) is actually a public institution and not a private company.

(b) This being the case, the Ministry has duly appointed a Board of Governors to manage the Institution.

Mr. Kavisi: Mr. Speaker, Sir, is the Assistant Minister not misleading this House, when I have, before me, Minutes of the Meeting of 28th June, 1995, where the same Minister is directing his Permanent Secretary, Prof. Karega Mutahi, to go and chair a joint meeting between the Governing Council of UKAI and the Ministry officials and in the same Minutes the PS, is admitting under Min.1/95, (a) that UKAI has been operating and is registered as a private company? So, what is he trying to deny? Can he now explain?

Mr. Kagwima: Mr. Speaker, Sir, I have not looked at that copy of the Minutes and in any case, institutes of technology were started in the early 1970s by the local communities, UKAI, being one of them. The communities have vested the property of those institutions into Boards of Trustees and UKAI has one. Unfortunately, that Board of Trustees tried and got the institution registered as a company. But to stop the Board of Trustees from converting and using that institution as a private enterprise, the Ministry has appointed a Board of Management to look into the affairs of institutions and to ensure that the Board of Trustees does not trade with institutions. So, as we are speaking now, the Board of Management is in charge of UKAI.

Mr. Fallana: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Why are you warlike? What is it?

(Laughter)

Mr. Fallana: Mr. Speaker, Sir, is the hon. Assistant Minister, in order to take up so much time explaining irrelevancies about what the hon. Questioner asked? I have just taken a copy of the Minutes of the Meeting from him and it is too bad when the right hand does not know what the left hand is doing. He is confirming that UKAI, is a public institution, while in the Minutes of the Meeting which was chaired by his PS, it is clearly written that, this is a private institution. The people from that area have spent so much money from their pockets in order to build this public institution and then it is turned into a private institution. Could he confirm to this House, without taking up more time, that UKAI is a public body and it will remain a public body? As simple as that!

(Laughter)

Mr. Kagwima: Mr. Speaker, Sir, the Ministry has no intention of allowing anybody to convert UKAI institution, into a private entity. What is happening now is that all the teaching staff are posted by the Teachers Service Commission and the other members of staff are also paid by my Ministry. There is no way the Ministry will continue paying salaries to people in a private institution. I would like to assure the hon. Member that very soon, this institution will be running like any other public institution and not as a private company.

Mr. Muluya: Mr. Speaker, Sir, the Assistant Minister, is misleading this House. I hope he is not doing so deliberately to help facilitate the grabbing of thousands of land which is owned by UKAI, as the intention of making it private is not to run the institution but to acquire that land, because UKAI, is now owned by a limited liability company. Can he tell us what action he is taking to make sure that the limited liability company is immediately deregistered and the institute reverts back to the public? There is no way the directors of the company will accept, without a Government directive, to dislodge themselves from the interest of the land.

Mr. Kagwima: Mr. Speaker, Sir, in consultation with the other relevant Ministries, my Ministry will undertake to do what hon. Muluya has requested.

Mr. Speaker: Very well! Next Question, Mr. Joshua Ojode!

Question No. 930

GRADING OF OMBO ROAD

Mr. Ojode asked the Minister for Public Works and Housing:-

- (a) whether he is aware that Onge'g-Sikwadhi-Ombo Road is presently impassable;
- (b) when this road was last graded; and
- (c) what plans the Ministry has to put this road in a motorable condition.

The Assistant Minister for Public Works and Housing (Col. Kiluta): Mr. Speaker, Sir, I beg to reply:-

(a) Yes, I am aware that the section between Onge'g and Sikwadhi, which is approximately nine kilometres long, is at the moment impassable but the section between Sikwadhi and Ombo, which is three kilometres long, is passable.

(b) A five-kilometres stretch from Onge'g towards Sikwadhi was last graded in 1993, while the three kilometres section between Sikwadhi and Ombo was last graded in September, 1995.

(c) The Onge'g-Sikwadhi-Ombo Road is unclassified and therefore, it is not the responsibility of this Ministry to maintain the road.

Mr. Ojode: Mr. Speaker, Sir, this road which passes through Onge'g, Sikwadhi and Ombo, passes through big farms in Ndhiwa Constituency as a whole as well as Homa Bay District. If you heard the Assistant Minister, he was contradicting himself. Part (b) of his answer is saying that about three kilometres were graded from Onge'g towards Sikwadhi and part (c) of his answer, says that the road is not classified and, therefore, it is not the responsibility of the Ministry to maintain it. Could the Assistant Minister tell us who did the grading from Onge'g towards Sikwadhi, if the Ministry was not supposed to maintain it?

Col. Kiluta: Mr. Speaker, Sir, that bit was done this year. It was done between the understanding of the Administration and the Ministry because at that time there was a chief's office which had been constructed and had to be opened by the D.C. and they requested the Ministry to give a hand and it did that. If the hon. Member feels that we erred in murraming the road, then we can still go back and undo it. However, the sub DDC sitting last year, recommended this road to be classified but up to date no action has been taken by the DCC for the road to be taken over by this Ministry.

Mr. Karan: Mr. Speaker, Sir, you have heard the Assistant Minister. Is it the Government policy that if a D.C. is visiting an impassable area then the road has to be maintained or these roads should be maintained and made passable for public use? Can he tell this House whether this is Government policy because it is ridiculous to hear from the Assistant Minister that when a D.C. is visiting an area then the roads become passable and when the D.C. does not visit then roads in that area become impassable? What is the Government policy?

Col. Kiluta: Mr. Speaker, Sir, as I said this is a private road maintained by the local people and it has got nothing to do with the Ministry. If the hon. Member wants the Ministry to take it over then let him sit in the DDC and make that suggestion and let the Ministry have the minutes and we will consider it. At the moment, we only did you a favour.

Mr. Speaker: Last question, Mr. Polo.

Mr. Aluoch: Mr. Speaker, the Assistant Minister is just trying to avoid answering the questions. What we want to know is why the Ministry has not taken over the responsibility of maintaining this road since the DDC, by your own words, recommended its classification. Why has the Ministry not taken over the responsibility of maintaining that road?

Col. Kiluta: Mr. Speaker, Sir, I will repeat what I said for the benefit of the hon. Member. I said that the sub DDC meeting recommended the road to be classified and this should have been taken down by the DDC, who should have deliberated on this issue after the sub DDC did it, but this has never been done.

Mr. Ojode: Mr. Speaker, Sir---

Mr. Speaker: Mr. Ojode, who has given you the chance? Okay, very well! I hope you are not worried that you may not get home over the week-end!

Mr. Ojode: Mr. Speaker, Sir, the grading of this road was recommended by the DDC long time ago and the Assistant Minister is misleading this House. Given the respect that I have shown to the Assistant Minister who is new in the Ministry, I would plead, through your Chair, to direct the Assistant Minister to ask the D.C. to visit this area again so that the road can be taken care of. This road goes up to Ombo. The Sikwadhi-Ombo part had already been murramed twice without the DC's knowledge and if at all we have to involve the DC, I would request the Assistant Minister to direct the DC to visit this place so that this road can be maintained.

Can he direct or give an AIE just to do the portion which is still left?

Col. Kiluta: Mr. Speaker, Sir, the easiest thing to do here is for the hon. Member to go back to the DDC. He alleges that the tarmacking of this road has already been recommended by the DDC, let him give us evidence and we shall classify the road. But, we do not send D.Cs to go and inspect roads!

Mr. Speaker: Next Question, Mr. Magwaga.

Question No.656

MAINTENANCE OF RURAL ROADS

Mr. Magwaga asked the Minister for Public Works and Housing how would the rural access roads, initially constructed/maintained by financial assistance from the Governments of Denmark and Norway, will be maintained, since the donors have withdrawn their funding.

The Assistant Minister for Public Works and Housing (Col. Kiluta): Mr. Speaker, Sir, I beg to reply.

The rural access roads previously constructed and maintained with the Norwegian financial assistance were taken over by the Government and it will continue maintaining these roads. The Government of Denmark has not withdrawn its assistance to the road sector.

Mr. Magwaga: Mr. Speaker, Sir, this answer is misleading. It is misleading in the sense that the Question does not indicate that the Government is not taking over the maintenance of the roads. The Question is: When will the Government maintain these roads because they are not being maintained at the moment.

Secondly, they have discriminated against this particular road. The graders are not expected because the roads were supposed to be socio-economical.

The graders are not used on the roads because the roads are supposed to be maintained by wananchi so that they can earn some little money. They have not done the roads in Ikolomani and there are bushes along the road side. When will the Government maintain them? The Assistant Minister has not answered the Question!

Col. Kiluta: Mr. Speaker, Sir, the question here was: Now that the Norwegian financial assistance has been withdrawn who will maintain the roads and I said that the Government will do that. To give the hon. Member some example, last year and this year, we have set aside Kshs.16,847,200 for the maintenance of these roads in Kakamega. So the Government will be grading these roads.

Mr. Speaker: Hon. Magwaga, are you satisfied?

Mr. Magwaga: Mr. Speaker, Sir, I not satisfied. Could you allow me to ask a supplementary question? My question is: Is he implying that the roads could be maintained by use of graders or through manual labour?

Col. Kiluta: Mr. Speaker, Sir, under normal circumstances, rural access roads are maintained by manual labour. We do not recommend graders on those roads, and that is exactly what we are doing in all other parts of the country, including his area.

Mr. Speaker: Next Question, Mr. Ruhii.

Question No.472

CONSTRUCTION OF DUAL CARRIAGE ROAD

Mr. Ruhii asked the Minister for Public Works and Housing whether the Outer Ring Road would be converted into a dual carriage way to ease traffic congestion.

The Assistant Minister for Public Works and Housing (Col. Kiluta): Mr. Speaker, Sir, I beg to reply. The Ministry has no immediate plan to up-grade the road in Question to a dual carriage way.

Mr. Ruhii: Mr. Speaker, Sir, although the new Assistant Minister seems to be on trial on this Floor today, I would like to find out from him when this road will be converted to a dual carriage way. His answer is that the Government has no immediate plans to do that. If the Government does not have immediate plans, when do you think you can convert this road into a dual carriage-way so that we can ease congestion in Eastlands?

Col. Kiluta: Mr. Speaker, Sir, as I said before, there are no immediate plans for this road. The priority at the moment is on Nairobi-Langata Road which we consider to be more worse than Outer Ring Road. The second priority is the South North by-pass which we reckon will ease the traffic congestion in that area.

Dr. Lwali-Oyondi: Mr. Speaker, Sir, these two roads, Langata and Outer Ring roads, are very important to this town. Both of them are a bottle neck to traffic. The Outer Ring Road was constructed to ease the traffic congestion in the Town so that those who want to go to Thika would follow it but today the traffic on that is too heavy. Could the Assistant Minister consider very seriously making this road a dual carriage-way

before people grab the land adjacent to it? Already on Langata Road, there is no way he will do it because people have already grabbed the land and put up petrol stations in such way that there can never be a dual carriage-way. Could he consider giving that priority on Langata first to Outer Ring road before they grab the road reserves like they have done along Langata Road and then deal with the people who have grabbed the road reserve along Langata Road before making it a dual carriage-way?

Col. Kiluta: Mr. Speaker, Sir, the Ministry has already prioritised this road and has already advertised the Langata road as priority number one. We think the feasibility studies carried out indicate that with the construction of the South-North road, this traffic congestion will ease off. If that does not work then, the Outer Ring road is ranked---not even number three, but number four.

Mr. Speaker: Final question to Mr. Nyagah!

Mr. Nyagah: On a point of order, Mr. Speaker, Sir. This Government does not seem to be responsible to its citizens. Is the Assistant Minister aware that, that area we are talking about is very densely populated? When was the prioritisation of the roads within Nairobi done if not in the last few years?

Col. Kiluta: Mr. Speaker, Sir, I did not know that the citizens of this country stay Outer Ring area only and not in Langata. However, the Government is mindful of all its citizens whether they stay at Langata or Outer Ring. As I said, if we had funds, we would do the roads simultaneously, but at the moment, we do not have funds to do the three roads together. As soon as funds become available, we will do the roads.

Question No. 839

PAYMENT OF HARDSHIP ALLOWANCES

Mr. Farah asked the Minister for Tourism and Wildlife:-

- (a) whether he is aware that employees of Kenya Wildlife Service in hardship areas like Garissa and Turkana are not paid their hardship allowance; and,
- (b) if the answer to "a" above is in the affirmative, why they are not paid.

The Assistant Minister for Tourism and Wildlife (Mr. Singaru): Mr. Speaker, I beg to reply.

(a) Kenya Wildlife Service is paying hardship allowance to all its employees stationed in most of the hardship areas in all the national parks and in Turkana District. It also pays the same allowance to all its employees stationed at Boni Arawale, Rohale and Ijara areas in Garissa District. The case of the employees stationed in Garissa town is being considered for payment by the Management.

(b) The question does not arise in view of the answer given in "a" above.

Mr. Farah: Mr. Speaker, Sir, the hardship allowance is basically designed to cushion the employees against the escalation of prices of essential commodities in hardship areas where those things are not grown and have to be imported from Central Kenya. Can the Assistant Minister tell us now when he is going to pay hardship allowances to the employees of KWS in Garissa and whether he is also going to pay them in arrears for the duration they have not been paid?

Mr. Singaru: Mr. Speaker, Sir, the case of the employees stationed in Garissa town has already been reviewed by the Management and they will be paid soon.

Mr. Farah: Mr. Speaker, Sir, can the Assistant Minister in addition also note that the 25 per cent hardship allowances on the basic salary of employees in the hardship areas is not adequate and they need a minimum of a 100 per cent on top of their salaries to be able to live as comfortably as other people in other parts of the country so that they can also be motivated? Is he aware of that?

Mr. Singaru: Mr. Speaker, Sir, that is the work of the Management.

Question No. 665

HEARING OF COURT CASES

Dr. Lwali-Oyondi asked the Attorney-General:-

- (a) whether he is aware that the following persons have been in remand cells at Nakuru for twelve months or more: Messrs George Mwaura, Case File No. 228/93 of the High Court; Geoffrey Kiplang'at Koskei, Case File No. 226/94; Samuel Thuo Kuria, arrested on 27th July, 1993; Danson Njenga, Case File No. 1207/94; Jackson Maina, Case File No. 188/92 and John Muthama, Case File No. 871/91;

- (b) whether he is further aware that the files for Messrs Simeon Mwangi Kamau, Case File No.

882/93 and Joseph Kamau Njoroge, Case No. 1322/92, both of Court No.1 of Nakuru, have not been acted upon; and,

(c) what urgent action he is taking to expedite these court cases.

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

(a) I am aware of the following:

(1) There is no such High Court Case No. 228/93 of the High Court at Nakuru.

(2) The record shows that the case against Geoffrey Kiplang'at Koskei, was heard by L.L. Owino, Senior Resident Magistrate, who acquitted him under Section 210 of the Criminal Procedure Code on 13th July, 1995.

(3) The case against Samuel Thuo Kuria was withdrawn under Section 87(a) of the Criminal Procedure Code on 14th March, 1993.

(4) Criminal Case No. 1207/94 of 1994 shows that the accused person is Samuel Kariuki Macharia and not Danson Njenga. He was found guilty as charged and put on probation for two years on 1st August, 1995.

(5) Criminal Case No. 188 of 1992 shows that the accused is Charles Karuko Karanja and not Jackson Maina as alleged in the Question.

(6) Criminal Case No. 871/91 shows that the accused person is Daniel Njoroge Ngugi and not John Muthama as alleged in the Question.

(b) (1) Mr. Simon Kamau Mwangi was discharged by the court on 9th February, 1995.

(2) Criminal Case No. 1322/93 shows that the accused persons are Shadrack Kariuki Nzoki, Paul Macharia Njogu and Charles Nganga Karanja and not Joseph Kamau Njoroge as alleged in the Question. The three persons were given bail and as they failed to attend court, the warrant of arrest has been issued.

(c) As most of the cases have been finalised and the remaining ones are in court, no urgent action is required on the part of the Attorney-General.

Dr. Lwali-Oyondi: Mr. Speaker, Sir, apart from the one question which had a printing error, all these people were accused of robbery with violence and they have stayed in jail for a considerable amount of time. My question to the Attorney-General is this: Why is it that they were not attending court? Or is he aware that these people actually never saw the Judge until after I made a statement in the press? Is he aware of this?

Mr. Wako: Mr. Speaker, Sir, I am not aware, but as you can see, a number of these cases related to 1994 and they have already been dealt with. As to the 1992 case, first of all, the 1992 case, the name of the person is wrong as I said in my reply. It is Charles Karuko Karanja and not Jackson Maina. As far as Charles Karuko Karanja is concerned, who is the relevant person, and not Jackson Maina as you alleged, he was discharged under Section 35(1) of the Criminal Procedure Code on 27th January, 1992.

Mr. J.N. Mungai: Mr. Speaker, Sir, although the Attorney-General has answered this Question as if there is nothing happening, we have very many other cases in Nakuru Prison which are still pending in court. Can the Attorney-General promise this House that if there are such cases he will either order that they be withdrawn or be heard expeditiously? We know that there are some people whose cases have been pending in court since 1992.

Mr. Wako: Mr. Speaker, Sir, if there is any case pending in court since 1991/92 let it be brought to our attention and then we shall see what has caused the delay.

Mr. Kamuyu: Mr. Speaker, Sir, can the Attorney-General tell this House how many prisoners are in remand prison in Nakuru today and what the annual budget for maintaining them is?

Mr. Wako: Mr. Speaker, Sir, I do not have the figures available because this is a different question.

Mr. Speaker: Mrs. Ndetei's Question for the second time.

Question No. 966

CURBING OF ARMED ROBBERIES

Mr. Obwocha, on behalf of **Mrs. Ndetei**, asked the Minister of State, Office of the President:-

[**Mr. Obwocha**]

(a) how many motor vehicles have been stolen through armed robberies between January and 30th September, 1995; and

(b) what urgent measures he is taking to curb armed robberies, thereby assuring all residents in Kenya of their safety.

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

(a) A total of 1,635 motor vehicles were stolen from their owners by armed robbers from January to 30th

September, 1995. About 850 of the stolen vehicles were recovered.

(b) In addition to the normal security measures taken by the Government, an anti-robbery squad has been formed within the Criminal Investigations Department (CID) to curb the menace.

Mr. Obwocha: Mr. Speaker, Sir, from the answer the Assistant Minister has given, an average of 181 vehicles were being stolen per month. This is a very serious problem in this country. The Insurance premiums have gone up because of these robberies and hon. Members of this House have been robbed of their cars at gun point.

Diplomats have also been victims. Can the Assistant Minister tell this House why this squad is being formed within the CID unit instead of being formed as a separate unit to deal with this very serious problem in this country?

Mr. Awori: Mr. Speaker, Sir, we considered many options and found that the best one was to form this squad within the CID unit.

Mr. Obure: Mr. Speaker, Sir, robbery with violence in this country has become a thorn in the flesh of Kenyans. We have lost many valuable lives because of insecurity. Can the Assistant Minister agree or disagree with me that some of the CID officers conspire with robbers so that they line up where the robbers are going to pass in the stolen vehicles? That is why we are losing so many vehicles without them being detected!

The Minister for Home Affairs and National Heritage (Mr. F.L. Lotodo): On a point of order, Mr. Speaker, Sir. Could the hon. Member who has just asked that question tell the House how he knows that the same policemen who are supposed to guard wananchi, including himself, are the ones colluding with robbers?

Mr. Speaker: He is asking the Assistant Minister whether that is true. Mr. Awori, do you agree?

Mr. Awori: Mr. Speaker, Sir, I disagree.

Mr. Nyagah: Mr. Speaker, Sir, going by Mr. Obwocha's arithmetic of 181 vehicles stolen in a month it, follows that 50 cars were being stolen in a day. I was among the first victims in this House who lost their vehicles upon being elected as a Member of Parliament. Would the Assistant Minister consider arming all the hon. Members with revolvers and giving them bodyguards like the Front Bench Ministers because we all represent people? We have an alarming rate of unemployment in this country, which means that robberies will continue. The measures the Government is taking will not be effective. How soon will he arm all Members of Parliament?

Mr. Awori: Mr. Speaker, Sir, first of all, there are no Back Bench Ministers! Secondly I, for instance, do not need a gun because I have got one. There is no reason why we should arm all hon. Members.

Mr. Wamae: Mr. Speaker, Sir, this is a very serious matter and the Assistant Minister should take it seriously. Is he aware that many of these vehicles are going across to Tanzania and Uganda and that Kenya is losing a lot of foreign exchange earnings which has been used in buying these vehicles? What is he going to do to ensure that vehicles stolen in Kenya do not cross to neighbouring countries?

Mr. Awori: Mr. Speaker, Sir, while I accept that, indeed, when we lose vehicles to across the border, we lose foreign exchange earnings, if we can have evidence that our vehicles are in any of the neighbouring countries, negotiations will take place to see that the culprits are apprehended and action taken against them.

QUESTIONS BY PRIVATE NOTICE

SHOOTING OF GALOLE RESIDENTS

Mr. Kofa: Mr. 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 Messrs Kenyatta Abaloni Kunyo, Omar Abaloni Kunyo and Omar Dowa were shot dead at Kotile, Tana River District, on 3.11.95, where they had gone to buy cattle?

(b) How many people have been apprehended in connection with this case, and what is their ethnic background?

(c) What steps has the Government taken to return the cattle, which had already been paid for, to the families of the deceased people?

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

(a) Yes, I am aware.

(b) No arrest has been made, but investigations are pending in Mathalani Police Station.

(c) Eighteen head of cattle which had been paid for by the deceased have been recovered and are in the process of being handed over to the families of the deceased. The deceased had paid Kshs41,000/- for those animals and the District Commissioners for Garissa and Tana River Districts are making plans to hand over the

animals to the families of the deceased.

Mr. Kofa: Mr. Speaker, Sir, Pokomo villagers from Kitere Village heard gunshots at night. In the morning they went to Kotile village but on the way they found two dead bodies of Kenyatta Abaloni Kunyo and Omar Abaloni Kunyo, who were brothers. The third body was found in a dispensary at Kotile Village. Probably, the deceased had gone there to seek help. They had to break into the dispensary in order to remove the dead bodies. The intestines which had come out were stitched in and the patient was probably being transfused with fluids before he died. The question is: If the killers were random bandits, why was Kotile village abandoned when the relatives of the deceased followed their dead? The school children, teachers, villagers, nurses, chiefs and even sub-chiefs were not there. Why did this happen?

Mr. Kalweo: Mr. Speaker, Sir, I do not know how it happened because it was an incident. I have answered his Question as he asked it. If he has some other suspicions, he could ask me or explain them to me so that I can follow the incidence.

Mr. Ndilinge: Mr. Speaker, Sir, if the Minister is not aware of what might have happened, could he organize for a quick investigation so that his Ministry can know what happened and, thus, make arrangements for the 18 cattle to be returned to the deceased's next of kin? In similar cases, the next of kin end up losing those cattle which have been stolen. The cattle were stolen on 3rd. Can the Minister tell the House why it has taken all that long for the cattle to be returned to the next of kin of the dead people?

Mr. Kalweo: Mr. Speaker, Sir, it has not taken long because this incident occurred on the 3rd of this month, and by now, we have gone that far. Investigations are still going on.

Mr. Farah: Mr. Speaker, Sir, I do sympathise very much with the deceased because, for about a year and a half now, we have had a lull in banditry activities in that area. Banditry had been, more or less, eradicated. Can the Minister take the suggestions which we have been giving him, day in, day out, very seriously? We gave him the suggestion of creating a small force drawn from the existing armed services, including the Administration Police, the regular police and the General Service Unit, made up of people from those backgrounds. As it is now, Kotile is mourning, so is Garissa and all the people in the other bandit ridden areas. A bandit has no tribe. He is an enemy of his own tribe and also of that tribe that he attacks. Can the Minister now give us the undertaking that this small model force will be formed, which will serve as an information and intelligence gathering net-work? This will help them nab the bandits even before they strike.

Mr. Kalweo: Mr. Speaker, Sir, in those affected areas, we have all sorts of operations. We are continuing to put up police posts, where possible. However, the best way possible, which I would suggest to the Questioner, is that he should involve his people in amicable---

Mr. Leshore: On a point of order, Mr. Speaker, Sir. Hon. Farah has just made a very good suggestion to the Minister, but the Minister is saying that they are putting up police posts there. Those police posts are doing nothing. We want a mobile unit which can track down the bandits, wherever they are, whether on foot, on camel-back or on horses. That is what we want.

Mr. Kalweo: Mr. Speaker, Sir, we even operate in aeroplanes. This is why I am saying that we have all sorts of operations going on. However, I would like to request the hon. Members from the affected areas to try to educate their people and discourage them from engaging in cattle rustling. This is more or less a traditional practice.

Mr. Farah: On a point of order, Mr. Speaker, Sir. The implications of the statement by the Minister here is as good as saying that; if there is a Kikuyu or a Luo bank robber here, then he will tell the Kikuyu Members of Parliament to go and educate their bank robbers. How can I go back to a bandit and try to educate him? He is a criminal; the same criminal who killed your relative here on Outer Ring Road. You follow our advice and the problem will be solved.

Mr. Kalweo: Mr. Speaker, Sir, the hon. Members should also follow my advice.

Mr. Kofa: Mr. Speaker, Sir, all I am saying is that these killers are not bandits. These people had Kshs400,000 with which they bought 78 heads of cattle. In the morning, when the people went to collect the dead bodies, the village was abandoned. So, I am telling the Minister that these are not random bandits. This is an organised group, and that is why the villagers left the village. These buyers came and stayed in the village for two days and when the people killed these buyers, they abandoned the village. The cows are not 18, they are 78 heads of cattle.

Mr. Kalweo: Mr. Speaker, Sir, this is why I said that investigations are still going on in that area. The deceased had gone to see their friends, they left them with money to buy cattle, which they [Mr. Kalweo] were to come back and collect. Investigations are being carried out and I cannot reveal more than that.

Mr. Speaker: Mr. Kinyua Mbui's Question!

OUT-BREAK OF DIARRHOEA

Mr. Mbui: Mr. Speaker, Sir, I beg to ask the Minister for Health the following Question by Private Notice:-

(a) Is the Minister aware that there is an out-break of diarrhoea in Ndia Constituency, whereby, many people have been hospitalized?

(b) Could the Minister deploy personnel to investigate the cause and prevent the disease from spreading?

The Assistant Minister for Health (Mr. Criticos): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that an upsurge of diarrhoea cases has been noted in Ndia Constituency as from the 27th of October, 1995. A total of 220 cases have been detected, of which, 48 cases were admitted in Kerugoya District Hospital.

(b) The health team is out in the field and has come up with the following laboratory findings:

(i) Ninety per cent of the cases is bacillary dysentery.

(ii) Five per cent of the cases is typhoid.

(iii) The cause of another 5 per cent of the cases has not been confirmed by the laboratory tests yet.

Contaminated water is suspected to be the cause. The following remedial measures have been taken by my Ministry:

1. Health education through barazas.
2. Enforcing the Public Health Act.
3. Treating patients.
4. Adequate drugs and laboratory reagents have also been made available.

As for long term measures, we have done the following:

1. We have increased public awareness through continuous health education.
2. Continuous surveillance.
3. Provision of safe piped water.
4. Improved sanitation through the modern sewerage system in all urban centres. We also recommend improved pit latrines in every homestead, if it is possible.

Mr. Mbui: Mr. Speaker, Sir, the answer, as it appears, is very sweet and very encouraging. However, I would like to tell the hon. Assistant Minister that his suggestions are very good, but this is not what is exactly happening there. The affected cases are more than 220, as at early this week. Barazas are not being held, and all the other measures that he has indicated are not being taken. Could the Assistant Minister instruct his personnel to take the under-listed measures immediately because, they are not being taken in the field?

Mr. Criticos: Mr. Speaker, Sir, I would like to thank the hon. Member for his suggestions which will be taken up immediately.

Mr. Wamae: Mr. Speaker, Sir, could the Assistant Minister ensure that since Ndia borders Mathira Constituency, this outbreak does not cross over? What measures is he going to take now?

Mr. Criticos: I did not catch the question. What I understood was you are neighbouring another constituency and then I did not hear the rest.

Mr. Wamae: Mr. Speaker, Sir, Ndia constituency neighbours---

(Loud consultations)

Mr. Speaker: Order! Order, Members. The Assistant Minister cannot positively follow what is being said. There is too much discussion on the Government's side. Proceed, Mr. Wamae.

Mr. Wamae: I had asked the Assistant Minister what measures he is going to take to ensure that this outbreak does not cross over to Mathira Constituency which borders Ndia Constituency.

Mr. Criticos: Mr. Speaker, Sir, we cannot put an electric fence to separate the two constituencies. However, since the Member has been advised on what to do, he should also urge his constituents to help our Ministry.

Mr. Gatabaki: Mr. Speaker, Sir, we are talking about a disease which has been eradicated in the world and therefore, this is an indication of the extent of lack of health in the nation. Is the Assistant Minister and his Ministry not ashamed that this country can have an outbreak of diarrhoea as we approach the 21st Century?

Mr. Criticos: I would like to inform Mr. Gatabaki since he is not a doctor, that diarrhoea cannot be

eradicated anywhere in the world. Diarrhoea is not an eradicable disease.

Mr. Speaker: Next Question, Mr. Kiliku.

REGISTRATION OF ISLAMIC COLLEGE

Mr. Kiliku: Mr. Speaker, Sir, I beg to ask the Minister for Education the following Question by Private Notice.

Why has the Ministry refused to register the Islamic Teachers Training Colleges at Mikindani in Mombasa and at Murang'a?

The Minister for Education (Mr. Kamotho): Mr. Speaker, Sir, through the Chair, I would like to request that the House allows me to answer this Question next week because of the interest which has been shown in this particular Question. Several Members on the Government side have come to see me. In addition, Prof. Mzee, the Second Vice-Chairman of FORD-(K) declared "*fatwa*" on me unless I registered this particular college. Therefore, Mr. Speaker, Sir, through you, I would like to ask my colleague who is also my friend, Prof. Mzee to withdraw with decency those remarks because I would not like to answer this Question under duress or any coercion from any quarter.

Mr. Speaker: Order! Order! Prof. Mzee, I am not asking you to respond to that fact. What is "*fatwa*" anyway?

Prof. Mzee: Mr. Speaker, Sir, Mr. Kamotho is a good friend of mine. I could not have a "*fatwa*" on his head.

Mr. Speaker: So, have you suspended it?

Prof. Mzee: Mr. Speaker, Sir, we have talked since we are good friends, I withdraw whatever bad things I have said.

Mr. Speaker: Very well. Mr. Kiliku, what is your reaction?

Mr. Kiliku: I agree with the Minister when he says he will answer the Question next week but next week has seven days. Will he answer the Question on Tuesday or Wednesday next week?

Mr. Speaker: Order! Order, Mr. Kiliku. The Minister does not prepare the agenda for the House. We will prepare a convenient day next week. Therefore, the Question is deferred to next week.

(Question deferred)

Next order!

POINT OF ORDER

IRREGULAR USE OF NYS TRUCKS

Mr. Ndicho: On a point of order, Mr. Speaker, Sir. When I was on the Floor contributing on the Vote on the Office of the President, I did mention that there are NYS GK trucks that are scooping sand in Machakos and Kitui and hawking it at the Githurai roundabout. When I said that, a Minister in the Office of the President challenged me to substantiate and bring evidence. As I said before the trucks had stopped but now they have started again. On Tuesday, as I was coming to Parliament, I found the following four trucks at Githurai roundabout, the first one full of sand and hawking it there; GK 615 X, GK 309 X, GK 469 X, and GK 278 X. When I asked the drivers whether they had work tickets since every GK vehicle should have a work ticket, they said that they did not have any work tickets and they were working under the instructions of the Director of NYS. This is the evidence, the Minister asked me to provide. I have done it now, let us hear what he has to say.

The Minister of State of State, Office of the President (Mr. Kalweo): Mr. Speaker, Sir, I did really accept that sometimes they do rent these vehicles. They are hired by different personalities to ferry sand but now for the hon. Member to collect vehicle registration numbers on the road is not enough evidence. When you see a lorry with sand, how do you differentiate that from somebody who has bought that sand for that purpose? I am following up this matter--

An hon. Member: Point of order, Mr. Speaker, Sir.

Mr. Speaker: Order! Order, all of you. If you want to respond, do it later without turning into a debate. Where is Mrs. Asiyo? Are you still following your issue? Mr. Angatia.

MINISTERIAL STATEMENT

INCREASE IN DIARRHOEA CASES

The Minister for Health (Mr. Angatia): Mr. Speaker, Sir, one Member yesterday asked for a statement on the state of diarrhoea in Nyambene and I would like to reply as follows:-

Since the start of the rains early in October, there has been an increase in the number of diarrhoea cases seen in almost all health facilities in Nyambene and in all health centres in the country. The number of diarrhoea cases seen in Maua Mission Hospital has increased during the period in question. To-date, Maua Mission Hospital has admitted 25 male adult patients, 18 female adult patients and 37 children with bloody diarrhoea. It is suggested that it is dysentery and appropriate specimens have been sent to Meru and Nairobi for culture and sensitivity of the causative organisms. Five deaths have occurred as a result of this outbreak; two male adults and three children. The Government has intensified preventive measures which include health education on sanitation measures to be taken by the local community and to encourage each home to have a pit latrine and use it well. Drugs are available for treatment of the actual cases which have occurred. The Medical Stores have dispatched a consignment of pharmaceuticals and non-pharmaceuticals to address the issue as a matter of urgency.

The Ministry of Health wishes to appeal to wananchi of Nyambene and other parts of the country to observe strict personal hygiene which should include washing "miraa" before chewing it to control this outbreak. The outbreak has been brought under control and many patients admitted have now been discharged. The Ministry takes this opportunity to caution wananchi countrywide that the current rain may be associated with some mild outbreak particularly of water-related diseases due to contamination of water resources especially in those areas where springs, wells, and rivers have not been protected and where people are not observing personal hygiene including using pit latrines. Therefore, if they follow the advice from the Ministry, this menace will be eliminated.

Thank you, very much.

Mr. Maore: On a point of order, Mr. Speaker,

Sir.

Mr. Speaker: Order! Order, Mr. Maore! Time out. Next Order!

BILL*Second Reading*

THE COPYRIGHT (AMENDMENT) BILL

(The Attorney-General on 15.11.95)

(Resumption of Debate interrupted on 15.11.95)

Mr. Speaker: Mr. Mulusya, you were on the Floor.

Mr. Mulusya: Mr. Speaker, Sir, what I want the Attorney-General to tell us is what he intends to do with the mushrooming of video libraries which are not concentrated in gazetted commercial areas. When we talk about the issue of copyright and payment of necessary licenses, you will find that it is going to be very difficult to ensure that there is no form of copyright going on whatsoever. This issue of dubbing of video cassettes and radio cassettes is very rampant. You will find that there are so many video libraries which have been located in residential areas and some of them are even not licensed. You will find that virtually in every residential area in Nairobi, corner shops and extensions have been converted into commercial premises and there is no formal transfer from one owner to the other. The Local Authority and especially the City Council in this country is not able to follow up such cases and make sure that this kind of thing is stopped. The artist will continue to lose a lot of revenue as long as the Government is not able to control the mushrooming of these video libraries.

At the same time, the Ministry of Information and Broadcasting, and especially the Kenya Broadcasting Corporation, has been unable to collect Television and Radio licence fees because the system that has been established to collect the licences fees is only able to do that at the purchase point. When an individual buys their television sets and their radios it is very difficult for the Government to get into each and every house and collect renewal fees for these people's licences. So what is going to happen to those people who are dubbing video

cassettes, music cassettes and hiring them out for use in residential premises and yet they are not licensed to do that? This is something that the Attorney-General should be able to address himself to.

We also find that there is importation of printed materials especially books. When they come into this country they are simply photocopied because the imported materials are very expensive. This is because of the high duty imposed on them and as a result, Kenyans cannot afford them. The Attorney-General should be able to suggest ways and means of curbing this because it is not good to encourage people to import one set of books and then photocopy them and then sell them to those people who want to read them.

The other thing is the issue of musicians and especially the Zairian musicians. We have experienced cases where these people, as I said yesterday, come into the country and stay here for too long. They should be given a time limit on how long they can stay here. Their work permit should have a time limit so that our local artists can get room to expand their work. We should stop giving them a free hand in this to the disadvantage of the local musicians.

[Mr. Speaker left the Chair]

[Mr. Deputy Speaker took the Chair]

Mr. Deputy Speaker, Sir, the other issue is that of the Police Force not giving the Copyright Society the support it is supposed to receive. We find cases where the Copyright Society officials go to inspect certain premises but then it becomes very difficult for them to prosecute the law breakers because the police sometimes conspire with those people and in this way make sure that the officers do not execute their work effectively. The police are colluding these criminals, especially when it comes to the dubbing of music and video cassettes.

There is rampant corruption in the streets of Nairobi especially around Tom Mboya Street, Luthuli Avenue and other areas. There are very many shops which are selling cassettes which have fake labels. You will find that the labels on the cassettes are there are not from the person who composed the songs in those cassettes. We therefore, need to form a special squad from the Police Force which will be involved in rooting out this racket.

This is a business which if not controlled is going to wreck the music industry and those who are straining to produce records and to have them recorded and sold in the proper manner, are not getting their rightful dues because of this collusion. It is very important that the Attorney-General, in conjunction with the Commissioner of Police and the Music Copyright Society, come up with a better way of handling this issue.

With those few remarks, I beg to support.

Dr. Lwali-Oyondi: Thank you Mr. Deputy Speaker, Sir, for giving me a chance to make a few comments on this Bill. First, I would like to turn to clause 2, the definition of "broadcast" in sub-Clause (b) It says:

"Broadcast means transmission by wire and wireless including transmission by satellite images or sounds of a work or of information in such a way as to cause the images or sound to be received by the public."

Mr. Deputy Speaker, Sir, my comment on this is that the radio, television and even the print media in this country is coming more and more under the control of the Government despite the fact that we are in the age of liberalisation. The Members on this side suffer more than anybody else and even those KANU Members who are not in good books suffer the same fate. We are not able to transmit through the existing media our ideas to the wananchi. This is because most of the media, beginning from KBC, KTN, and even the print media are slowly coming under the government control. It is possible even that since the *East African Standard* has now been bought by some of the great people in KANU, they may be slowly get a stranglehold on it. In the end we might have the *Daily Nation* coming under their control. Since it is a public company, we are not sure of the number of shares these people have bought in it. Hence, they might slowly begin controlling it.

Mr. Deputy Speaker, Sir, it is high time that this control of the media in order to control ideas from being disseminated from the opposite side of the House was done away with; because we are not working for anybody else. We are working for this country. Despite the fact that there is a control of the media, things are getting bad. The country is not running well. We shall not improve the country by stopping ideas from flowing. Therefore, the idea of controlling the media will not in the long run hide the fact that there is something wrong. The best thing we can do is to completely liberalise this media. We shall all benefit if the Opposition or KANU does something good for this country. Therefore the question of controlling the media so that you might control people's minds does not help us in any way. We have heard the example which has been repeated here; the virtual liberalisation of the Foreign Exchange in this country has resulted into earning a lot of Foreign Exchange because people have brought it into the country and therefore the Government is not strained at the moment. If

we let people say what they want, they will soon run short of what they want to say and the excitement will be over in addition to the fact the Government and the people will benefit in hearing ideas rather than the news coming only from His Excellency the President, the Ministers, the DCs and DOs. That news is unpalatable to most people because they have had too much of it and hardly pay attention. Some of them switch on their videos or switch to other stations because of the kind of news being aired in the KBC. Controlling broadcasting may be very hard in the long run because with the technology that is being installed in this country, it will become harder and harder for anybody to control. When it comes to dubbing records, I do not know how the Government will do it because people can buy an ordinary radio cassette which has two cassette decks and they can dub the whole night and sell those cassettes to the public. I do not know to what extent the Government will manage to control it. It might cost more than we can actually gain from it. When it comes to our own musicians, many of them have produced quality music. Presently, those past records are now being aired and I was wondering whether the Government can at least try to give royalties to the families of people like John Mwale, Shimbiro and Daudi Kabaka. Some of these musicians have died, mostly of poverty while others are roaming on the streets of Nairobi, earning hardly any money. Many people know who Daudi Kabaka is, with his white hair. He does not seem to be the richest man in the place despite the fact that after every News broadcast, we have his record - *Harambee* closing the news transmission. It is high time the Government had some courtesy and gave this man some money or equipment for him to do some recording so that he will die in peace and not in pieces.

While talking on music, it is high time we encouraged our musicians to play music as a profession in the same manner as the Zaireans do. Our musicians tend to spend most of their time trying to copy music from overseas and this is encouraged by KBC and more particularly in the English service which most of our young people listen to. It airs nothing else other than European and American music, most of which is not music but noise. It is high time our musicians left the Americans to make their own noise and played their own music just as Zaireans do. Despite the fact that the most celebrated Zairean musicians live in Paris where there is French music, they do not copy the French music. They play *Lingala* or if ever they play in French, they do so in their country's rhythms. The result is that they are becoming more and more popular in those countries and whatever they play there earns them a very decent living. Take the example of the late Zairean King of music Mr. Franco, who would come here with 20 tonnes of musical instruments and with a troop of men and women who are not easy to transport even for the Government, but he was doing it by himself, showing that he was earning substantially. So, it is high time that we encouraged our own musicians to make sure that they play their thing until it is accepted and not just to hang around and try to copy foreign music. If they decide to play music, let them do it professionally. Let them play it from morning to evening so that they can be hired by hotels and so on. I am particularly impressed by those outsiders; that is the Zaireans who, despite the fact that they have been in the night club the whole night, during the day they have time to practise, and that is why they have won the hearts of our people.

On the video cassettes, Mr. Deputy Speaker, Sir, we have blue films still arriving, being dubbed somehow and getting into the hands of our children. Blue films are some of these most horrifying films, not that they display horror, but immorality. There is a lot of immorality that is being seen by our children and many of us have never seen that immorality and if you saw it, your blood pressure will rise because what is being done within those films is something that I cannot possibly describe here. But it is something that even the Devil in hell will be ashamed of looking at. So, these films are coming in, in great numbers, and children usually watch them after their parents have gone to bed. In addition to that, there are also other films which are now shown within the estates and in the slums. People have videos which they show to children during the day particularly on weekends. The children who go there range from the age of about three to 16 years. These films are not good for children. If these videos have been licensed, we would properly ask the Government to make sure that the day time films which are to be shown to small children are decent. We do not want to stop them from seeing, but should be vetted to ensure they are good enough for children. Those for adults could be seen much later in the evening so that we do not ruin our children because in these films they show terrible sex, abnormal sex and smoking of marijuana, murders and a lot of violence which the children take as gospel truth and, therefore, try to adopt them. This may explain the reason why most of the children now at the secondary school level and even in certain high class primary schools have started smoking bhang and their language is dirty. They just copy from these films.

Mr. Deputy Speaker, Sir, I would like to turn to the question of copyright of literary works. The person who writes a story in this country is so much dependent on the publisher. He may have a very good story and depending on the mood of the publisher, that story is shelved, and in the end it is not published, and it may be a very good story or novel. I do not think it is fair for us to leave our budding writers at the mercy of the publishers. There should be a Government press, in conjunction with the University of Nairobi and other Universities to

endeavour to lead these artistic works and if possible help the budding writers to publish their books. If we leave them at the hands of these commercial publishers, sometimes we discourage them. The same applies to the works of art. We should have galleries or the Government should help the budding artists so that their works can be displayed much more easily in galleries that are not expensive so that we encourage the artists to do some work. There is a lot of money being earned from the private galleries and probably the actual artists are not getting enough money to sustain themselves. They sell their art works cheaply to the galleries and these galleries send them abroad; how much they earn from them may not be disclosed to the artist. I think, while we would like to liberalise, the Government should help our young artists so that they make sure that they can do marketing of their wares or help them to acquire some kiosks whereby they can display their art works and possibly attract money from tourists.

Mr. Deputy Speaker, Sir, with those few remarks, I would like to support this Bill. Thank you.

Mr. Muite: Thank you Mr. Deputy Speaker Sir. I stand to support the Copyright(Amendment) Bill and to say that on page 776, I see the main object of this Bill is to bring the Copyright Law in line with the Bern Convention which we as a country only acceded to in the year 1993. The amendments are specifically necessary in order to include the concept of computer programmes and satellite to the extent that in this day and age, life is going to continue being increasingly difficult for any person who is computer illiterate. Then it is proper that we should amend our law in order to accommodate computer technology which increasingly play a very important role in our schools now I believe computer technology is one of the science subjects which is being taught.

Mr. Deputy Speaker Sir, I would like to say that important as this Bill is in order to bring our law in line with the international conventions, in particular the Bern Convention. The Attorney-General should also give some thought to priorities in order to bring to this House amendments and Bills that are needed by a majority of the Kenyan people. For example, I doubt that in Kenya today we have got any person or any companies which require protection in terms of copyright law because they have satellites. Satellite is one of the issues that are included here. I know that in the United States of America, there are many companies which now have floating satellites, commercial ones, which do work for commercial companies and they are paid for those satellites. I am not aware that there is any company in Kenya today that has got a satellite in orbit that requires to be protected by hurriedly bringing this Bill here.

Mr. Deputy Speaker Sir, we are in many ways far ahead of our time. It is not necessarily a bad thing but the point I am making here is: Are there no other conventions which have got much more immediate and direct priority that the Attorney-General should prioritise even before bringing this sort of Bill? For example, how is it that we as a nation and country are yet to accede to the United Nations Convention on the Prevention and Punishment of the Crime of Genocide? We have not, and these are the sort of priority conventions that one would expect the Attorney-General to here for legislation. The office of the Attorney-General has time to draft a Bill in respect of the Bern Convention which this country only acceded to in 1993. So two years later, the Attorney-General is very quick and efficient to protect satellites when we have not got any satellites. Can he not spend that time to draft a Bill to get Kenya not only to accede but to bring a Bill here in order for us to legalise the convention on the prevention and punishment of the crime of genocide because whether one wants to call these matters tribal clashes or not, we have immediate need. There are people who have been killed in various parts of the country. We need investigations, we need these people to be punished because these were not tribal clashes nor ethnic cleansing. This was genocide.

Mr. Deputy Speaker Sir, I was only saying that I do support this Bill. I have urged the Attorney-General to get his priorities right so that even as we support---

The Deputy Speaker (Dr. Godana): When a lawyer digresses from the Standing Orders, I become a little swifter.

Mr. Muite: Mr. Deputy Speaker, I have gone back very quickly on to supporting the Bill but I think it is very necessary for us to point out these matters to the Attorney-General and I can see that he is listening very intently. But I stood to support this Bill. Ahead of its time as it is it has my support.

With those few words, I beg to support.

The Deputy Speaker (Dr. Godana): Well it seems that there is no other willing contributor and I therefore give the Floor to the Mover, if he is ready to reply.

The Attorney-General (Mr. Wako): Mr. Speaker Sir, I beg to reply. First of all I wish to thank each and every Member who has contributed to this Motion. I wish to thank Dr. Zachary Onyonka who seconded me. I wish to thank hon. Mulusya, hon. Dr. Lwali-Oyondi, hon. Paul Muite who is also a learned friend in the profession for a long time. A number of useful comments have been made. I do appreciate that every person who spoke on this Bill did support it.

If I may start with hon. Paul Muite, I am glad that he knows that it is necessary that when Kenya accedes to a convention of this nature, that our laws must be amended to conform with the Convention. In fact that is our international obligation. That is what international law requires of any ratifying member State. In so doing, we are as I told the House when I was moving this Bill, in effect actually promoting not only our national interests, but also the interests of our people.

Mr. Deputy Speaker Sir, on the issue of priorities if I may say so, there is no greater urgency which is required particularly in economic and social development issues than the area of copyrights and the area of patents because laws dealing with copyrights and patents are at the heart of technological developments. Unless our laws are in place to give protection and incentive to our creative people, then we cannot ever hope to catch up with the developed world in a world which is increasingly becoming technological and so on.

Mr. Deputy Speaker Sir, let me also say this. That my learned friend appears to have misconstrued a bit about this Bill by saying that this Bill is there to protect satellites. This Bill is not there to protect something called a satellite. This Bill is about copyrights and the use of that satellite in communication in transmitting works of art and so on. And the works of Kenyans, be it in music or other literary field, can be transmitted and are being transmitted on an every day basis through satellites. I am just saying this so that I can illustrate my point. If an event happens in Kenya today, Kenya does not need to have a satellite, or protector satellites. For what has happened in Kenya today will be transmitted throughout the world. What has happened today, will be transmitted via a satellite which does not necessarily have to be a Kenyan satellite. In fact, in most cases, it is not.

We are saying this, Mr. Deputy Speaker, Sir, that, if the works of art - music and so on - are going to be transmitted through a satellite which we do not even have, then the benefits of that should accrue to Kenya. So, this Copyright Bill is not about protecting a satellite, it is about protecting the rights of authors, musicians and so on, so that, they can benefit from their work, even if their work is being transmitted through those satellites owned by the developed world. Take for example, the weather forecast and so on, how do you get that information to be able to focus properly? It is through satellites. Now, we do not own those satellites, so we are talking about transmission by a satellite, not the ownership of a satellite. I thought I should try to make that distinction clear. This Bill is, in fact, more timely now. We should have passed it many years ago, because of the various advances that are being made by way of communications, telecommunications and so on and therefore, we must protect our own people, their rights, their creativity, their everything.

Mr. Deputy Speaker, Sir, I am glad that you over-ruled him on the issue of genocide, tribal clashes and so on. The fact of the matter is that, we have the Penal Code in this country which can deal effectively with this type of offence. Therefore, there is no loophole. There is no loophole here because our Penal Code, our criminal justice system, our Police and so on, are here and they can deal with any situation that may arise which leads to loss of life. Whether that loss of life is a single person or a community, we have the machinery available to deal with that situation.

Mr. Deputy Speaker, Sir, of course, a number of points were made about video cassettes, adult movies and so on. These are really matters that come, not under this Bill, but under the Film and Stage Act, I am quite sure that those comments that were made will be considered by the relevant authorities under those Acts.

Mr. Deputy Speaker, Sir, an appeal has been made that our musicians, particularly the old musicians such as Daudi Kabaka and so on, the Government should consider giving them royalties and what not. What I can say is that, the music society which we have, is being paid money by the Kenya Broadcasting Corporation when they use their music and they are all members of that particular society. Now, I cannot say how much really goes to them, but I will look into that aspect of the matter. But, the fact of the matter really is, that whatever it is, it is clearly not adequate. In fact, the amendments that are proposed here, are to ensure that in future, such artists and musicians, do actually benefit from their royalties and more important that such artists, musicians, authors and so on, are in future, protected by law. As I said when I was moving this Motion yesterday, it was a bit strange, that the first publication of such recording was not protected by the Copyrights Law of Kenya. But, now it is going to happen, that is going to be the law if this House passes this Bill so that in future, such past recording will be properly protected, and they will be protected not just in Kenya, but if you are members of the Berne Convention, they will also be protected internationally. Because, if some of these musicians had been protected internationally, then I think today, they would be the millionaires of Kenya. Today, they would be the substantial contributors to the Harambee spirit throughout the country. That is why it is important that this Bill passes, because if it passes, then in future such people will not only reap the benefits of their sweat, but also the country will stand to benefit.

Mr. Deputy Speaker, Sir, I think it was hon. Mulusya who touched on the issue of penalties and said that the fines are a bit low. In fact, they are so low that the copyright holder cannot really benefit from them. Now, there are two aspects there, one is the criminal aspect and another is the civil aspect. As far as the criminal

aspect is concerned, of course, we shall be reviewing the issue of fines from time to time, under the Statute Law (miscellaneous amendment) Bill. But, the fines as they stand now, are, I agree, a bit low and will have to be reviewed. What is important is not so much the fine, because, a fine does not accrue to the copyright holder, the fine accrues to Government. What is important is the civil action that the copyright holder can take. Under the current law, as we have it now, it does provide for a copyright holder to take a civil action. Because, it is only through civil action that the copyright holder will be able to get adequate damages for the infringement of his copyright. It is only through civil action that a copyright holder can get the authentic publications, copies and so on destroyed by the court. I would, therefore, wish to take this opportunity to appeal to those who feel that they hold a copyright in a particular matter and know that their copyright is being infringed, not to hesitate to go to court, under section 15 (2) for the appropriate remedies.

Section 15 (2) says: "Infringement of copyright shall be actionable at the suit of the owner of the copyright, and in any action for infringement, the following relief shall be available to the plaintiff. That is, relief by way of damages, injunction account or otherwise, that is available in any corresponding proceedings, in the sect of infringement of other proprietary rights to delivery up to the plaintiff of any article in the possession of the defendant which appears to the court to be an infringing copy---" And it even goes further to say: "The damages to be awarded can be exemplary damages, if they think that the infringement has continued persistently and consistently". They even go further and state that, whoever has infringed that copyright, if he has benefitted from it by way of profits and so on, those profits will be payable to the holder of the copyright.

Now, it does appear to me, Mr. Deputy Speaker, Sir, that this section 15 of the Copyright Act, has not been used extensively by the holders of copyrights and I would appeal to them to use it and enforce their rights which are available to them under that particular section.

Mr. Deputy Speaker, Sir, on the issue of the licensing of video shops and so on, this, of course, comes under another Act of Parliament. But if those owners of video shops and so on, have materials which infringe the Copyright, then, as I have said, the owner of the Copyright has a right to take them to court. They will not only account for the profits they have earned as a result of that infringement, but all the authentic cassettes and so on can be destroyed by the court and, in addition, they will pay damages.

Mr. Deputy Speaker, Sir, once again, I thank each and every person who has contributed to this Bill, and for the support they have given to this Bill, and I so move.

(Question put and agreed to)

(The Bill was read a Second Time and Committed to a Committee of the whole House tomorrow)

Second Reading

THE COUNCIL OF LEGAL EDUCATION BILL

The Attorney-General (Mr. Wako): Mr Deputy Speaker, Sir, I beg to move that The Council of Legal Education Bill be read a Second Time.

Mr Deputy Speaker, Sir, I will have to refer extensively to my notes in moving this Bill. At the time Kenya attained her Independence, there were only a few legal practitioners, in this country. By legal practitioners I mean indigenous legal practitioners. In fact, I do not think that at that time there were more than five and all of them had received their legal education outside the country, mainly in Britain and India. Part of the explanation for this shortage of legally qualified professionals was that throughout the colonial period, there were no facilities for training lawyers within the country, and proceeding outside the country to study Law was not only beyond the means of ordinary Kenyans, but was actively discouraged by the colonial authorities.

Mr. Deputy Speaker, Sir, just before Independence, the colonial authorities at that time set up a commission or a committee under the Chairmanship of Lord Denim, who was then the Lord Chancellor of Great Britain, to consider facilities that were necessary for the training of lawyers educated in the United Kingdom, to make them fit to practise in African countries generally and in providing legal education locally to those colonies.

As a result of that Commission, the Kenya School of Law was established in 1963 to provide facilities, initially for Articled Clerks and afterwards for law graduates during the vocational stage of their education. The Kenya School of Law, in its first eight years of existence, did produce lawyers and advocates mainly by the training of Articled Clerks, and I am glad to note that one of the prominent graduates of that training is the hon. Member of Parliament for Kikuyu, hon. Paul Muite. The School also, in addition to training of Articled Clerks to

become advocates, assisted the law graduates mainly from the Faculty of Law, University of Dar-es-Salaam, with the practical training during their pupillage time for the one year before they admitted as advocates. I am glad to say that on this side, I from Dar-es-Salaam, did join the Kenya School of Law and sat together with my learned friends and we qualified more or less at the same time.

The point I am trying to make here is that the Kenya School of Law has made an important contribution to legal education in this country. In fact, it succeeded to my mind in achieving the objectives for which it was founded, that is the training of advocates. In 1970, the Faculty of Law of the University of Nairobi was established and there was a change in the policy in favour of acceptance of the university legal education, followed by a period of post-graduation practical training at the Kenya School of Law, and this has really continued up-to-date.

[Mr Deputy Speaker left the Chair]

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

Mr Temporary Deputy Speaker, Sir, the School operates under various provisions of the Advocates Act, but it does not itself have what in law we call "legal personality." It is answerable to two different authorities. In relation to its academic functions, it is responsible, through the Principal to the Council of Legal Education, which has the statutory mandate to exercise general supervision and control over legal education in Kenya, and to advise the Government on such matters.

In relation to administration and management, however, control is exercised by the Office of the Attorney-General, through which both the School as well as the Council of Legal Education, are funded by the Government. As the only institution with the statutory mandate to train lawyers in the professional stage of legal education, the School plays a crucial role in the production of legal professionals in the country. Indeed, in the 30 years of existence, it has trained over 2,400 lawyers, who are now performing varied but important roles in the national economy. Some of them are in the Judiciary, the Public Service, the Attorney-General's Office, the State Corporations, and so on. While some, of course, are in the private sector and some, quite a number, are Members of Parliament. I think, we have about 15 Members of Parliament, who are advocates of the High Court of this Country.

Of course, when a school develops and progresses, with each development, we do have certain problems and difficulties which crop up, and the Kenya School of Law is not the exception. These problems include inadequate and improperly designed physical facilities. Mr Temporary Deputy Speaker, Sir, you might be interested to know that the Kenya School of Law, where it is currently situated was, in fact, a maternity hospital, and a number of lawyers were, in fact, particularly the white advocates, were born in those buildings when it was a maternity hospital.

Mr. Temporary Deputy Speaker, Sir, initially, it had the capacity to only cater for 78 students.

Currently, the number of students we are getting from our public universities and even from overseas universities particularly from India and the United Kingdom exceed an average of 300 every year. So, you can see that a school which is supposed to cater for 78 cannot properly accommodate over 300 students every year.

The law curriculum at the school has not be reviewed for the last 30 years even though the kind of law jobs that the lawyers are supposed to perform have changed tremendously with the economic and social development. So, you may recall when I was moving the Copyright Bill, I did mention the fact that when we were at the university studying law, very important subjects such as the Copyright Law, Patent Law and so on, were never taught at the college and yet they are very, very important subjects which any lawyer who really wants to be relevant in the modern society must learn.

Added to that, the Kenya School of Law does not even have lecturers and other reasons. Currently it has an establishment of 11 lecturers, but only one post is filled, and that one post is filled by the Principle. So, you can see the type of problems that the Kenya School of Law is facing. So, because of all these problems, the Attorney-General appointed a Task Force on the status and the management of the Kenya School of Law, composed of hon. Justice A.M Akiwumi, Chairman. He is a Judge of the Court of Appeal, Mr. D.M. Kubo, the Solicitor-General, Prof. Kibutha Kibwana, the then Dean of the Faculty of Law, University of Nairobi, Dr. Willy Mutunga, the then Chairman of the Law Society of Kenya, Mr. Lee Muthoga, former Chairman, Mr. Joe Okwach, former Chairman, Mr. Mutula Kilonzo, former Chairman, Mr. D.M. Nderitu, Senior Lecturer at the Faculty of Law, University of Nairobi, Mr. Njagi, the Principle of the Kenya School of Law, with Mrs Margaret Nzioka,

Senior Parliamentary Counsel and Secretary of the Council of Legal Education, as the Secretary to the Task Force.

Mr. Temporary Speaker, Sir, the task force was mandated to review and make recommendations on the legal status and management of the Kenya School of Law, taking into account its urgent development needs and with a view of enhancing its contribution in the field of legal education, and to make recommendation on other legal matters which are related to or incidental to the foregoing.

The Task Force did consider its terms of reference and went into the following issues: What should be the legal status of the Kenya School of Law, in the light of its basic objective and curriculum? What should be the role of the school in the training of personnel involved in the delivery of legal services? What should its administrative structure be, and what should be the resource base of the school, generally in considering the school's curriculum? Soon after it had been appointed, the task force then decided to collect primary data by means of a questionnaire which was addressed to lawyers, advocates in the private sector, lecturers at the Kenya School of Law and any other person they thought could provide it with views. The Task Force then went about doing the work for which it was appointed. In the process of its work, members of the Task Force did visit various countries. Some members visited the Law Development Centre in Kampala, Uganda. Others visited the Nigerian Law School in Lagos, Nigeria and others visited the Inns of the Court of Law in London, England and also the College of Law in Gilford, England, the Institute of Legal Executives based in Bedford, England and the Legal Practice Institute based in Lusaka, Zambia.

As a result of all this, they then made recommendations and in fact, made my task even easier by making a preliminary draft of the Bill. The Bill is structurally the same, but I will report where the differences are, as per the recommendations of the Task Force.

The Bill does establish a council known as the Council of Legal Education, which shall consist of the Chief Justice as Chairman, a judge to be appointed by the Chief Justice, the Attorney-General or his representative, five advocates nominated by the Council of the Law Society of Kenya, the Head of the Faculty of Law of any recognised university in Kenya whose law degree is approved by the Council for the purposes of Section 13 of the Advocates Act.

This particular Clause is placed that way because there could be a number of faculties of law at our public institutions---

Mr. Muite: On a point of order, Mr. Temporary Deputy Speaker, Sir. The copy of the Bill I have says that three advocates to be nominated by the Council of the Law Society.

Mr. Temporary Deputy Speaker (Mr. Ndotto): You are right, Mr. Muite. My copy also says that three should be nominated.

Mr. Muite: Did I hear the Attorney-General say they are five? I would certainly like it to be five. Can we have five?

The Attorney-General (Mr. Wako): Mr. Temporary Speaker, Sir, it is actually three, but I was going to inform the House that after further consideration, I will making an amendment during the Committee stage to make it five.

Mr. Muite: Can you make it seven?

The Attorney-General (Mr. Wako): No, no, no. Mr. Temporary Deputy Speaker, Sir, the Head of the Faculty of Law of any recognised university in Kenya whose law degree is approved by the council for the purposes of Section 13 of the Advocates Act will also be a member. It is deliberately drafted that way because it is recognised that we could be having a number of faculties of law at the various universities in Kenya, and we want one of them at least to be represented on the Council of Legal Education. The following persons will also be members: A senior Counsel appointed by the Attorney-General, one person associated in teaching law, appointed by the Attorney-General be for the time being responsible for higher education and so on. The most important recommendation that came was that this Council of Legal Education should be a body corporate able to sue and be sued, able to operate on its own as a legal personality. This is a very important recommendation, because as I said earlier, currently in matters related to legal education, the Kenya School of Law looks to the Council of Legal Education. In matters related to administration, it looks to the Attorney-General's office and so on. It is important that it becomes a legal personality on its own and able to function, raise funds and sue or be sued.

This is consistent with the universities. The universities are legal personalities in their own right. We want the Kenya School of Law to be regarded and project itself as a reputable post-graduate institution, and therefore, be able to raise funds, determine the curriculum and conduct any matters related to legal education as directed by the Council of Legal Education. Apart from the membership, we have the objectives and functions of the Council which are, if I may just mention again, to organise and process the instructions for acquisition of legal

knowledge. That is what the current School of Law is doing; to organise and conduct courses in Legislative drafting. Particularly for my Chambers, this is a very important objective because I do lack people trained in Legislative drafting. Out of an establishment of about 15 officers, I have only 6 officers doing the work. I would like to take this opportunity to pay tribute, particularly, to the Commonwealth Secretariat for having seconded some officers to come and assist me in Legislative drafting.

Mr. Temporary Deputy Speaker, Sir, in fact, if the hon. Members just look at the left hand corner of the House, we have an officer from Ghana, who is soon going away and who has been with us for three years. We have now got another officer from India, who has just arrived to takeover from the officer who is going away. This is because we feel Legislative Drafting is a fairly technical complex field which requires proper training and so on. We have over the years trained our own people. We have been sending them to overseas for training, either in UK or in Caribbean Universities, to be trained as legal draftsmen. But as soon as they come back they are attracted to the greener pastures of the private sector. So, we have not been able to keep them, but we are trying to deal with that particular issue. So, until such a time that we can have a full complement in the Legislative Drafting Department, we shall continue to rely on key officers from other Commonwealth Countries. I am quite sure that hon. Members would want laws to come to this House which are properly drafted and have gone through the experts' hands.

Mr. Temporary Deputy Speaker, Sir, the other objective for the Council is to organise and conduct courses for Magistrates and for persons provisionally selected for appointment as such. Again, to me this is a very important objective because what is happening today is literally, somebody leaves the university, he qualifies as an advocate and he is immediately appointed as a magistrate. I think we need to have a scheme for re-training of people who become magistrates or who join the Judiciary Department and the Kenya School Law if properly constituted when this Bill is passed, will be able to undertake such courses.

Mr. Temporary Deputy Speaker, Sir, the other objective is to organise and conduct courses for officers of Government with a view to promoting a better understanding of the law. I think it is good for any Government officer, in fact for any citizen of this country, to have some basic understanding of the law and more so of course for the public officers.

Kenya School of Law will now have as its objective, the training of Government officers with a view of promoting a better understanding of the law. Again, to me, this is very important. The School will have as its objectives, the conducting of courses for para-legal personnel as the Council may prescribe.

Mr. Temporary Deputy Speaker, Sir, for any Chambers or Firm of Advocates to be successful, they cannot just rely on advocates alone. In fact, they will rely, to a great extent, on the para-legal personnel, be they Court Clerks, Conveyancing Clerks and so on. Now, that cadre of professionals if I may call it so, needs to be recognised and given training opportunities so that they can perform their duties properly and hence improve the working of any Chambers, be it firms of advocates in the private sector or the Attorney-General's Office. So, that is one of the objectives now which the Kenya School of Law will have. Currently, the training is only confined to lawyers who wish to become advocates and so on but hopefully, when this Bill is passed, they should be able to put together some curriculum for the proper training of the para-legal staff.

Mr. Temporary Deputy Speaker, Sir, the other objective would be to organise and conduct continuing legal education courses. Any profession really depends for its success on ensuring that the members of that profession are kept up to date with the latest development in their areas of specialization. That applies to doctors, dentists and so on. It even more so, applies to lawyers. Some of the Acts of Parliament that were there at the time I became an Advocate of the High Court of Kenya, are not there today. We have new legislation and new ways of doing things. Therefore, it becomes very important that even the practising advocates should be kept constantly up to date with development. So, the Kenya School of Law will have that function to organise and conduct legal education courses. In that regard, to hold seminars and conferences on legal matters and problems and so on.

Mr. Temporary Deputy Speaker, Sir, you can see the Kenya School of Law will now have an expanded work to be done and more objectives which they will have to really ensure that they can achieve through a properly planned programme of work. If they can achieve all these objectives, they would have made an immense contribution not only to the legal profession but an immense contribution to the rule of law and the administration of justice in this country.

Mr. Temporary Deputy Speaker, Sir, Clause 7 touches on the powers of the Council. This, of course, deals with how to control and administer funds, to receive grants, to give donations, endowments and make legitimate disbursement from it, enter into association with other bodies or organisations within or outside Kenya as the Council may consider desirable or appropriate in the furtherance of the purpose for which the Council is established, open a bank account, invest funds and so on.

Mr. Temporary Deputy Speaker, Sir, I think other Clauses are more or less routine Clauses which go with any body which is established as a body corporate. They also deal with the transfer of Government property to the Council. The Government has allocated some land to the Kenya School of Law and it is its intention that once this Bill is passed, that land will now be transferred to the Council of Legal Education. Mr. Temporary Deputy Speaker, Sir, one of the contemplated ways of raising money is by way of Legal Education Levy. The Legal Education Levy has been the subject of some misunderstanding and controversy, but I am pleased to inform the House that I have had discussions with the Council of Legal Education and we have reached some understanding on the issue of Legal Education Levy and during the Committee stage, I will be Tabling an appropriate amendment to Clause 16(1) after consulting the Council of the Law Society.

Mr. Temporary Deputy Speaker, Sir, other process are basically routine.

To conclude, I would like to say that we are debating a very important Bill. We want to put the Kenya School of Law on the proper footing as a well respected post-graduate institution which will not exit in an ivory tower, but will exist to organise courses for people to be enroled as advocates, organizing courses in specialised area of legal drafting, train the para-legal staff and formulate courses for advocates already enroled and to keep them up to date with what is going on.

With those few remarks, I beg to move.

The Vice-President and Minister for Planning and National Development (Prof. Saitoti): Mr. Temporary Deputy Speaker, Sir, I rise to support the Council of Legal Education Bill, 1995, which has just been moved by the Attorney-General.

I want first of all to thank the Attorney-General for the explanatory manner in which he has introduced this Bill, clearly guiding us through the report of the Task Force which recommended the setting up of the Council for Legal Education.

Therefore, this Bill is not a surprise Bill at all but rather it is a Bill to be seen from the point of view of being advisorial. The Task Force was set up by the Government to look into the general areas of the trend in the legal education and after thoroughly looking into that area and visiting several institutions dealing with this legal education, the task force submitted a report which has been accepted by the Government.

Mr. Temporary Deputy Speaker, Sir, I am sure that when those who are lawyers come to make their contributions, they will be able to shed a lot of light on the whole history of legal education in this country.

Suffice it to say, as the Attorney-General has said that at the time when our country became independent in 1963 there were only a handful of trained lawyers in this country. Majority of the lawyers who were practising were basically foreigners. The history of that is traceable from the fact that the colonial powers essentially discouraged Africans from taking up legal training in this country. But even what is more important is that there were no institutions in this country or even for that matter within the region of East Africa, where people could be trained as lawyers. Perhaps, that explains why Kenya, in comparison to a number of other African countries especially in West Africa and even in Uganda, is short of lawyers. Indeed, there are a number of cases where, in places like Ghana and Nigeria, there were people who, even as early as 1920s, had actually gone to obtain law degrees in places like Cambridge and Oxford. For us in this country, we did not have one. That is, perhaps, because the Africans in those countries in Western Africa and other British colonies such as West Indies did not face such problems. Indeed, those countries do have fairly well trained lawyers who are doing great jobs all over the world. It also explains the reason why for a very long period of time, this country has had to depend on expatriate lawyers from Commonwealth countries. We still do have them and they are still doing a good job.

Mr. Temporary Deputy Speaker, Sir, one perhaps, would wonder how come in 1963, the Government decided to set up the Kenya School of Law rather than a fully fledged Faculty of Law. Again, this is explainable by the fact that by that time, we did not even have a University in this country. All what we had was a University College which later on become a constituent College of the University of East Africa.

It will be recalled that the University of East African had three campuses or constituent colleges; the University of East Africa College at Makerere which specialised in medicine; the University College of Dar-es-Salaam whose speciality was law and Nairobi University College was given the mandate to specialise in the areas of literary sciences and engineering.

Mr. Temporary Deputy Speaker, Sir, the scenario then was that a number of people who wanted to go into law, since there was no university resorted to the Kenya School of Law much earlier before the University College of Dar es Salaam was established. I think we have to pay tribute to the founders of the Kenya School of Law because the Kenya School of Law has filled a very important gap in terms of training legal personnel for this country.

There is no doubt that the Kenya School of Law has been able to produce some very distinguished lawyers in this country. A number of them have achieved the highest levels as far as their professions are concerned.

But I suppose that one can easily say with some justification that the actual training at the Kenya School of Law was a fairly practical one, and perhaps not too much academic. Indeed, one must always appreciate the fact that at any given time in the training, a balance should be struck between the academic niceties and practicality. Sometimes a very big emphasis can be made on the academic niceties because that appears to be very interesting, but finally one could easily produce a product that is not practical. At the same time, one could emphasize so much on practicality and you probably end up with a product that does not seem to understand the basis and principles of the whole profession.

Mr. Temporary Deputy Speaker, Sir, I think on the basis of what we have seen in our country within these last 30 years or 32 years since the Kenya School of Law has been in existence a great deal of emphasis or attention was meant to strike the balance between the two; the practical and academic part of it. That is why we do have some fairly distinguished members of the legal profession.

In the case of the University of Dar-es-Salaam which was supposed to train the lawyers of the three East African countries, again we consider that a great deal was done in terms of training some of our lawyers, indeed, including the Attorney-General who I believe was one among the very first or maybe the second bunch of the lawyers who went through the University of Dar es Salaam with several many others including dons at our universities. We have travelled a long way in terms of training of lawyers to the extent that not only do we have now a Faculty of Law at the University of Nairobi, but indeed, another Faculty of Law has been established at Moi University.

Mr. Temporary Deputy Speaker, Sir, this Bill, which will set up the Council for Legal Education with the aim of taking over and guiding the Kenya School of Law will no doubt go a long way to compliment the work that is being carried out in other institutes of higher education. I am pleased to note that in this Council, provision has been made by the Attorney-General to ensure that important bodies are fully represented. For example, in Clause 6, it is clearly stated that there shall be established a Council to be known as the Council of Legal Education which shall consist of the Chief Justice, who shall be the Chairman. That is what it should be because the most distinguished lawyer in this country will sit there to ensure that the highest standards are adhered to and to ensure that, indeed, the Council does stick to the clerical aspect of the legal training. There is also a provision for the fact that there will be a Judge of the Court of Appeal, another Judge of the High Court and the Attorney-General too will be there. Of course, some advocates will represent the Law Society of Kenya. That part of it, as far as I can see, is to ensure that the practising lawyers will be there to ensure that what is taught is really practical and that the end product that comes out of this school will be very much on track as far as the practice of law in this country is concerned. But at the same time in order to strike the balance as I said, it continues to state that:

"The head of the faculty of law of any recognised university in Kenya, whose law degree is approved by the Council for the purpose of Section 13 of the Act will also sit there".

That too is to ensure that there will be no compromise on the academic aspect of training. Therefore, whatever certificate, degrees or diplomas that are going to be offered to the graduates will reflect thoroughness in the training, both academically and in practical terms. Therefore, there is no doubt for us to believe that the advocates who will be coming out of this school will have had a much wider exposure on the legal training than perhaps those who have passed there before.

I think the most important thing that the Bill does touch on in matters of training is indeed to recognise the fact that for a very long time, there has been very little expansion of the facilities of the school. It is a pity that we have not been able to expand the facilities that were inherited from being a maternity ward to the various hostels and the lecture halls so that very little expansion has taken place. We do want to have fairly trained personnel in this area, which is utterly important in as much as it does permeate throughout the life of all of us and it does affect the well being of any nation, because the laws and Acts are the ones that guide almost every aspect of the various transactions that take place on a day to day basis. It is important that such an institution should have adequate facilities to ensure that the students are able to have access to the necessary material because there is no way you are going to train good lawyers, good people who are going to be able to draft various Bills and laws unless they do have access to literature. They have got to have the best literature available anywhere. They must be able to have the most up to date journals because that is the only way they can be able to expand their knowledge. As I said, I am happy the recognition has been made in this Bill of the need expansion of the facilities and I am saying here that it should not just be merely physical facilities in terms of residence halls or lecture halls, but I think much more importantly the literature. For the literature is, indeed, the one that helps somebody to become learned. Without the material, the literature, the books and the journals, there is no way that one can come out properly erudite.

Mr. Temporary Deputy Speaker, Sir, there is something that I think is important, namely, that the Office of the Attorney-General still is short of personnel in some very important areas, for example, the area of having

people who can draft the Acts or the Bills or indeed, the laws. I know that there are major problems here and the Office of the Attorney-General has had to depend on expatriates in order to be able to draft the Bills or other legal documents. I am happy that recognition of that has been made in this Bill for ensuring that there will be a great deal of training. I do really hope that a deliberate attempt will be made by the Council, once it is established, to look into those areas where we are experiencing acute shortage of experts because the manner in which a law is drafted reflects a great deal in terms of its own outcome and implementation. The law should be drafted properly in a simple, but legal language, that makes sense and with no contradictions. I hope that this area will receive the first priority to make sure that we do have properly trained people in matters of drafting the law.

Some few weeks ago, I was very much interested in following the trial of O.J. Simpson. It is not so much that I went to find out what the outcome was, but what struck me as being very interesting is the extent to which legal education or profession has advanced. It has advanced to the extent that, perhaps, it borders now on being a science. For those of us who were able to follow that particular case, we were very much astounded by the kind of evidence which was adduced in court. We saw experts being called to the court to come and talk about DNA analysis and there were all kinds of experts who were carrying out measurements. The whole approach was very sophisticated and complicated. It is, therefore, my belief that this Council which is going to be set up by this Bill is going to take cognisance of the fact that the whole field of law has changed a great deal all over the world and has become complicated. Therefore, whoever is being trained in law should not just be merely trained in the narrow sense of only the law matter, but should also be exposed in a wider sense to the various aspects of other disciplines which the lawyer may rely on whenever he or she is defending or arguing for a case. I do hope that our country will ensure that we are not left behind in the various advances that are taking place in this very important area.

Mr. Temporary Deputy Speaker, Sir, having said that I want to sum up by saying that the law is, indeed, an instrument that every citizen of every country looks upon to defend him or her. The lawyers, irrespective of their ranks, are in every country held in very high esteem by their fellow citizens. I want, therefore, to make an appeal here, in summary, that given the esteem and the confidence of the people in lawyers, judges and other legal people, it does make sense to ask lawyers and other people who practise law to also show that they do deserve that confidence and respect. That will only be done if fairness is, at least, demonstrated by their conduct and judgements. I am not making any criticism at all but I am making a very important appeal. Given the confidence and esteem in which lawyers are held, they ought to conduct themselves with the greatest care. They can do this in their conduct and the way they approach issues. It is fundamental to do this.

With those few remarks, I beg to second the Bill.

(Question proposed)

Mr. Muite: Thank you, Mr. Temporary Deputy Speaker, Sir. The trouble with the hon. Attorney-General is that he comes up with a Bill that we would like to support. But he more often than not succeeds in putting in some exceptionally oppressive and draconian sections that make it impossible for us to support a Bill that we would otherwise have wanted to support. Some of the provisions in this Bill would really make the hon. Attorney-General, who is the titular head of the Bar, a real pariah in the profession. We do not want to see this happening. Some of the provisions represent a very painful betrayal of the profession by the hon. Attorney-General. I am pleased to have heard him saying that he is likely to introduce some amendments during the Committee Stage but, since at this point in time we have not seen those amendments, one can only make one's contribution on the basis of the provisions in the present Bill in the hope that the hon. Attorney-General, perhaps, will be guided, or will listen to the contributions, so that when he comes to proposing those amendments he might take the views of hon. Members into account.

The first observation that I would like to make is purely a matter of drafting. In clause 15, I think there is ambiguity and lack of clarity in the manner in which the drafting is done. Under clause 15, at page 126, the requirement to pay a levy is imposed on advocates. The term used in subsection (1) is "advocates". Yet when one comes to subsections (3) and (5) instead of the Attorney-General being consistent and talking about advocates the term "person" is introduced. Subsection (3) is not talking about the "advocate", who is required by subsection (1) to pay the levy. Instead it is talking about "a person's liability to pay the levy". Subsection (5) states, "If a person fails to pay the amount..." So, purely, as a matter of drafting the question which arises is whether the term "person" refers to the term "advocate" in subsection (1). There would be room for arguing that, obviously, they mean two different things. So, there would be difficulty in the enforcement of subsections (3) and (5) if the term "person" is not replaced by the term "advocate".

The second point, Mr. Temporary Deputy Speaker, Sir, is this: Is it not extremely punitive to provide in

subsection (5) that if a person fails to pay any amount it will carry interest at five per cent per month, which works out to 60 per cent per annum? This is extremely punitive! Can the Attorney-General really wish to impose this sort of punitive measure on his professional colleagues while tomorrow, when he loses his job, he will go back to private practice?

An Hon. Member: He has security of tenure!

Mr. Muite: We have had many others who had security of tenure but they are no longer the Attorney-General!

I would urge the hon. Attorney-General to delete this provision all together or, alternatively, to reduce the interest rate payable. I do not think that even Shylock, the Jew, was charging an interest of 60 per cent. It is extortionate and unfair! These are some of the provisions that I am saying really make the Bill something that we cannot support.

The other point that I would like to make is that there is no definition of the term "advocate" in this Bill. Therefore, one has to fall back on the definition of "advocate" in the Advocates Act. The definition in this Act includes every person whose name is on the Roll of Advocates. The point I am making here is that there are many magistrates and judges whose names are on the Roll of Advocates and, therefore, they are advocates for the purposes of the Advocates Act. Is it truly the intention of the Attorney-General to require those judges and magistrates, whose names are on the Roll of Advocates, to also pay the levy that he is imposing on advocates in clause 15? Is that the intention, since at the moment they are included by the definition of "advocate" which is in the Advocates Act". Even the name of the Attorney-General is on the Roll of Advocates and so he has to pay this levy! If the judges are required to pay this levy, are we not breaching the Constitution which states that you cannot affect judges' emoluments during the judges' term of office to their detriment? If you make them pay this levy, you are actually adversely affecting their emoluments, which would be unconstitutional. There are many other advocates who are not practising law. They are employed by insurance companies, banks, the United Nations, the Ministry of Local Government and in all other sorts of jobs, as opposed to practising law. Is it the intention of the Attorney-General that they should also pay the levy that he is seeking to impose on advocates here? Some of them, like the ones who work in the Ministry of Co-operative Development, earn very low salaries. This is a matter that does not appear to have been adequately addressed by the Attorney-General; the extent to which the target groups that are intended will be taxed. I suspect that the intention here was to target practising lawyers rather than people whose names are on the roll of advocates. If that is the intention, then, obviously, that intention has not been realised in the manner in which this Bill is, currently, drafted.

However, the real objection to this Bill is section 15 and 16. The hon. Attorney-General said that he has had discussions with the Bar, the Council of the Law Society of Kenya and that he might be bringing amendments during the Committee stage to sections 16. In fact, it is not section 16 that requires---

The Attorney-General (Mr. Wako): On a point of order, Mr. Temporary Deputy Speaker, Sir. I think the HANSARD will bear me out that I did not refer to section 16. It is really the section that the hon. Member has been dealing with; section 15. Of course, all those points have been taken care of.

Mr. Muite: Well, I am pleased to hear that. I was listening to the Attorney-General very carefully. I think he had said 16, but it is quite in order. In fact, I am not sure that it is amendments that this section needs. It should go out all together! This is the section that is seeking to discriminate against advocates. The lawyers constitute the only profession in this country which is being asked, by law, to undertake the cost of training other lawyers. It is as if we were to impose a tax on doctors for the training of doctors in the Medical School. We are not doing that. This is a tax but it has been nick-named a "levy". This is taxation. What the Attorney-General is seeking to do in section 15 is to impose taxation on the legal profession in order to raise money from the legal profession. In fact, he wants the legal profession to meet the cost of training lawyers at the Kenya School of Law. That is highly discriminatory. It is like ---

The Assistant Minister for Land Reclamation, Regional and Water Development (Mr. Ligale): On a point of information, Mr. Temporary Deputy Speaker, Sir. I would like to bring to the attention of the speaker on the Floor that the legal profession is not the only one that is being taxed to train advocates. Indeed, in the hotel industry, hoteliers do pay the Hotels Training Levy which is used to train people who work in that industry.

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, I was talking about professions. I was not talking about businesses. Indeed, it is not the hotels which pay this training levy. It is you and I. When we go for a drink or food in any hotel, there is a price for this. So, it is not the owner of the hotel who is actually paying. He is only a collecting agent. It is the patrons of these restaurants or bars who pay that Training Levy. It is the public, including all of us, who pay. Here, we are singling out a profession and imposing a tax on that profession for the training of the advocates. It is like asking the engineers to pay a special task to enable the Government to

train other engineers, or, like imposing a tax on doctors in order to train other doctors at the Medical School. This is highly discriminatory because, when these lawyers qualify, they do not actually serve other lawyers; they serve the public. So, if we are going to need money, and we do need money, we should not discriminate and confine this tax to lawyers alone, who are already over-taxed, as a body. The Law Society of Kenya (LSK) which is set up by an Act of Parliament pays a tax every year which runs into millions of shillings, as the hon. Attorney-General knows. This is over and above the taxes that are paid by the individual lawyers. The lawyers form one of the professions that were included in the VAT payment. Legal services are taxed. The lawyers now have to negotiate their fees to include VAT. It is one of the few professions which has to do this. In fact, I am not aware that there is any other profession which is paying VAT.

Mr. Gitau: On a point of information, Mr. Temporary Deputy Speaker, Sir. I would like to inform the speaker on the Floor that we, Quantity Surveyors, Architects and Engineers are also paying VAT. Also, the levy could be passed over to the consumer of your services, so you do not have to pay.

Mr. Muite: I accept that, Mr. Temporary Deputy Speaker, Sir. I am enumerating all these. At least, the architects and the engineers, as an institution, do not pay tax. It is only the Law Society of Kenya which, first and foremost, pays Income Tax on all the income it collects from its members. Each member of the LSK has to pay an annual subscription fee to the council of the LSK. This is imposed by the Advocates Act. That annual fee that each lawyer pays in order to get his practising certificate renewed is intended to assist the council of the LSK in running its affairs. These include; paying the rent for its offices, paying the salaries of its employees, for example, the secretary to the council and others. The Income Tax Department had actually misconstrued that to be income, so we paid tax on the annual fees that the lawyers pay, and that is quite separate and distinct from the tax that a lawyer pays at the end of the year once he has made his income tax returns.

So, Mr. Temporary Deputy Speaker, Sir, what I am saying is that it is wholly unfair and very discriminatory for one of us, the hon. Attorney-General, to impose a tax like this one, whereas, when these lawyers qualify, they will serve in his department. They will not serve the lawyers generally. They will seek employment to fill the vacancies that we hear are there in the Attorney-General's Chambers and which are now attracting very good salaries. So, the tax LSK is paying the VAT that lawyers pay on services and the fee notes they raise. The income tax which the lawyers pay is adequate. This burden of training lawyers should be spread out amongst all of us as Kenyans. Certainly, we do need lawyers. If we did not need more lawyers, this Bill would not have been before this august House today and it would be appropriate if the Attorney-General could clarify and reiterate and indeed, state that he is bringing this Bill because this country needs more lawyers and we will continue to train lawyers and we will continue to admit them, in the faculties of law and to the Law School contrary to other statements that may have been made elsewhere and which you may have read about in the papers; that this country does not need any more lawyers. It is the market that determines. When the economy is growing, there is always more reason for more lawyers to be trained and this is why we have this Bill. The lawyers are already, free-of-charge, providing a very essential service in the training of lawyers by accepting pupils into their chambers so that these law students at the Law School, can gain practical experience of the law. The lawyers are not charging for that service, on the contrary, most of the lawyers provide emolument or simple honorarium to these pupils when they are serving in their chambers. To impose a further burden of a tax that is discriminatory, is really grossly unfair to these lawyers. What we are asking the Attorney-General to do is to appreciate the contribution that the bar is making in accepting these pupils in their chambers, going with them to court, training them, teaching them the tricks of the trade, how it is done, the art of advocacy, giving them work, showing them how to draft and how to really do the practical work. All that is done free of charge. This is killing the goose that is laying the golden egg; to now come again and give the Attorney-General a blank cheque. He is not even telling us what amount he is going to impose as a levy. He is telling this House, "you trust my judgement, if I want to say Kshs50,000 per month depending on the financial needs of the law school." Nothing is more dangerous than to ask for unlimited powers. He has not even stated here such an amount not exceeding X or Y shillings. He wants absolute, unlimited powers which he can exercise from time to time. We are not even told how frequently he can impose a levy this month and raise it the following month. In this age of transparency, accountability and democratisation, this is taking us back to autocracy. We do not want to trust any individual with such unlimited power; such levies as the Minister may, from time to time, decide in his absolute discretion. When I say that the bar has been providing this critical service in training people in their chambers, I would like to take this opportunity also to appeal to the Attorney-General to attend to the delay which is being experienced by newly qualified lawyers before their admission. These young men and women are at a stage where they have spent half of their lives in school; high school, university and the law school and justifiably, they are very anxious having completed all their exams to be admitted as advocates so that they can start working and practising their profession. There is undue delay between the time that these young men and women finish their exams at the law

school and the time of the admission. There is a very long delay. They are being told that the Chief Justice is not available. Some of them are waiting for a year before being admitted. It is grossly unjust and unfair to these young men and women to delay them for that long after they have qualified. Even if the Chief Justice is to take a day or two or even a whole week, let him do so but admit them without any delay.

The other argument against this levy is that if one takes the total number of lawyers in this country, they are not more than 2,000. I pointed out that the Attorney-General does not appear to have clarified in this Bill whether the intention is to impose this levy if we are unable to persuade him to drop the levy altogether, which is what we are begging him to do. We would like him to drop Section 15 and 16 altogether and we will support this Bill very vigorously. We want to support a Bill that is aimed at streamlining the training of lawyers in this country, what we are objecting to are these onerous and very draconian provisions through which the Attorney-General is seeking to penalise the lawyers and to put on their shoulders the cost of training lawyers in the law school. If these two Clauses go out of the way, there is no other quarrel with this Bill; we would like to support it. But we have got hardly 2,000 lawyers in this country. If the intention is to impose this tax on all the lawyers, including the Judges and Magistrates and those who are employed in parastatals, Attorney-Generals' chambers, we are talking about a very small number of 2,000. So, if the total amount to be collected is going to be meaningful, it means that the levy that the Attorney-General will have to impose has to be very high in order to realise a worthwhile amount. If having pointed out the lack of clarity in the manner in which this Bill is drafted, the real intention of the Attorney-General is to impose the levy only on the practising lawyers, we are then talking about a number which is less than 1,000. It means that the levy will have to be much higher in order for the Attorney-General to realise sums that are worthwhile.

The Attorney-General (Mr. Wako): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the hon. Member to think or to give the impression that the funds of the Council for Legal Education will only come from the levy paid by the lawyers while it is quite clear from Clause 16 that it is just one of the many methods that will be used?

Mr. Muite: I do not know whether that is really a point of order or a point of information, but the Attorney-General was very eloquent in saying that the levy is one of the ways in which the money is going to be raised. What he is not articulate about is that he is not telling us what percentage will be raised from other quarters. As it is, the powers he is now asking this House to give to him would allow him to raise the total 100 per cent cost of running the law school from the lawyers. He is not even saying for example, an amount not exceeding Kshs100,000 from each lawyer. It is just blank.

Mr. Temporary Deputy Speaker, Sir, what one is apprehensive about is the practice and not what is written here which says, "one of the ways, one of the sources". That does prevent him from imposing any figures that he wants to impose and we know that in a situation like this one, in fact areas in which the Government can raise revenue are shrinking on a daily basis, this is the loophole that is going to be exploited. But in any case even if it is only one of the ways that the Attorney-General is also going to ask the engineers, doctors, nurses, farmers and everybody else to contribute, why does he not spell it out here so that we know that it is a tax which is spread amongst all Kenyans? This does not prevent the Attorney-General from raising any amount that he wishes. The point I was making here is that if, as I suspect, during the Committee stage, the Attorney-General will come up with appropriate amendment in order to clarify that, indeed, he does not intend to impose these levies on magistrates and judges whose names are on the roll of advocates and that in fact, he just intends to raise this levy from practising members of the bar, then we are talking about a number which is less than 1,000. Therefore, in order for that amount to be meaningful, to realise some sizeable amount, the levy will have to be very high. Let us not forget that although there is a popular misconception that the lawyers in private practice are earning a lot of money, and although indeed there are some who, as hon. the Attorney-General well knows, are generally known as KANU lawyers who are floating in money and charge whatever they want to charge but the majority of lawyers in this country in these days of economic hardships are not earning---

The Assistant Minister for Agriculture, Livestock Development and Marketing (Dr. Misoi): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member in order to mislead this House and the nation that there are lawyers, if I understood him, called KANU lawyers? Is it not out of order for him to say that?

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, even other parties have lawyers. Is the hon. Dr. Misoi now suggesting that KANU does not have lawyers? Democratic Party of Kenya has lawyers. Ford-Asili has lawyers. I mean every party has got lawyers.

The Assistant Minister for Agriculture, Livestock Development and Marketing (Dr. Misoi): Mr. Temporary Deputy Speaker, Sir, if that is the case that all parties have got lawyers, then is hon. Muite in order to specifically mention KANU?

Mr. Obwocha: Yes, they are floating in money.

The Temporary Deputy Speaker (Mr. Ndotto): Order! Hon. Obwocha, you are getting into the habit of debating when you are seated and this is becoming very notorious of you.

Mr. Obwocha: Well, Mr. Temporary Deputy Speaker, Sir, I wish to apologise but hon. Misoi should be cautioned not to provoke hon. Obwocha.

The Temporary Deputy Speaker (Mr. Ndotto): You do not have to tell me who to caution but I am telling you that you should stop debating when you are seated.

Hon. Musyoka, what is your point of Order?

An hon. Member: He is one of the KANU lawyers.

The Minister for Foreign Affairs and International Co-operation (Mr. Musyoka): On a point of order, Mr. Temporary Deputy Speaker, Sir. I was very keenly listening to my learned friend's contribution which was really sound until he started talking about KANU lawyers. Would he deny or confirm that he used to be a KANU lawyer during the first Republic?

(Laughter)

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, let me make it quite clear, first and foremost, that since KANU was founded wherever it was founded, I have never been a KANU member.

I have never even bought the 10 shillings ticket either during the last regime or during this regime. I have never been a member.

Secondly, I have never been a KANU lawyer but in any case, what we have today is KADU wearing KANU clothes. We do not have KANU.

Now, these are matters that the hon. Attorney-General knows, that there is nothing wrong with KANU having lawyers. All I am saying is that lawyers who were driving little Toyota vehicles before they started acting for KANU now have huge Mercedes Benz cars. They have swimming pools---

The Temporary Deputy Speaker (Mr. Ndotto): Order! I think hon. Muite you are getting yourself into trouble.

The Minister for Labour and Manpower Development (Mr. Masinde): On a point of order, Mr. Temporary Deputy Speaker, Sir. I am not sure whether the hon. Member said that we are a KADU regime. Is the hon. Member in order to say that we are a KADU regime when KADU "died" in 1963?

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, all I was saying was that KANU was infiltrated by KADU without it knowing and now what we have is not KANU. It is KADU wearing KANU's clothing. That is what I said and it is a fact and everybody knows it.

What I was saying is that there are many lawyers who are ---

The Assistant Minister for Agriculture, Livestock Development and Marketing (Dr. Misoi): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is hon. Muite in order to impute improper motive on political parties which are known historically that they can merge and split? It is an orderly process of political development. Is that an offence?

The Temporary Deputy Speaker (Mr. Ndotto): Order! Hon. Muite, that is your opinion and I want you to avoid going out of what we are debating in the House.

Mr. Ndwiga: (inaudible)

The Temporary Deputy Speaker (Mr. Ndotto): Hon. Ndwiga, there is only one Speaker at any given time in this House and I do not think I am going to allow you to perform the duties of the Speaker when I am in the Chair. Hon. Muite, can you continue with your debate.

Mr. Muite: I thank you, Mr. Temporary Deputy Speaker, Sir. The point I was making here is a serious issue that I would like the hon. Attorney-General to take note of which is that 75 per cent of these practising lawyers that the Attorney-General is now seeking to impose a special discriminatory tax on, are earning very humble incomes. Times are not good at all and we are going to push these nascent lawyers, the majority of whom are Kenyans, in fact all of them are Kenyans, out of practice. We are going to make it impossible for them to continue practising law by imposing this tax on them and the result is going to be that because they cannot pay this tax, we are now talking about a number of lawyers who are less than 1,000, 75 per cent of whom are not going to pay this tax because their income will simply not permit them to pay this tax. The result is going to be that this tax is not going to be paid and if it is not going to be paid, the Attorney-General will have to employ recovery proceedings if he wants to have that money.

The cost of the recovery proceedings is going to exceed the total amount that the Attorney-General will be trying to raise and this is a powerful argument against imposition of a tax like this one. It is not right that this tax should be imposed at all.

I believe that the Attorney-General must have had consultations with the Bar. Being the titular head of the Bar, he must have had consultations, not just with the elected council of the Law Society of Kenya but even with individual lawyers. I know the Attorney-General speaks to many lawyers so he is absolutely aware of just the strength of resentment about Sections 15 and 16.

The Attorney-General (Mr. Wako): On a point of information, Mr. Temporary Deputy Speaker, Sir.

It is true that I speak to many lawyers but it is not true that those lawyers have expressed their resentment to this provision. Indeed, as I said, I have had discussions with the Chairman of the Law Society of Kenya and members of the Council on the intention of this particular section and I will be tabling something that is in accordance with the wishes of the profession.

Mr. Muite: Mr. Temporary Deputy Speaker, I trust that those consultations with the Attorney-General are subsequent to July of this year.

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Speaker, they are definitely subsequent to July this year, about a month ago. But let me also add this, that the task force which considered this matter was composed of the then current Chairman of the Law Society of Kenya and the former Chairman of the Law Society of Kenya.

Mr. Muite: Mr. Temporary Deputy Speaker, I was addressing the hon. Attorney-General through you, and I would like to lay on the table here, a letter from the chairman of the Law Society that does not appear to bear with what the Attorney-General is saying, because here, the Chairman of the Law Society of Kenya is saying that they had not accepted the levy that the Attorney-General was trying to impose on them, that he would do something for them, provided they agree to this---

The Temporary Deputy Speaker (Mr. Ndotto): Order! Hon. Muite, you are on the Floor, and unless you accept information from the Attorney-General, you cannot be exchanging a debate between the two of you.

Mr. Gitau: On a point of order. Mr. Temporary Deputy Speaker, Sir, is it in order, for the hon. Attorney-General to treat the House as a court of law, where they stand without seeking permission from the Chair?

The Temporary Deputy Speaker (Mr. Ndotto): It is not in order. It is hon. Muite, who is on the Floor. What is the problem, Attorney-General? Do you want to give him information, and does he want it? Do you want the information from the Attorney-General?

Mr. Muite: I do not understand the Attorney-General to be saying that he has got any further information, if he has, Mr. Temporary Deputy Speaker, I would like to accept it, I want to be very fair.

The Temporary Deputy Speaker (Mr. Ndotto): Order! Attorney-General, give the information you want to give.

The Attorney-General(Mr. Wako): Thank you, very much, Mr. Temporary Deputy Speaker. I have always understood and thought I had your permission because I stared and you nodded. That is why I stood, maybe the hon. Member did not see the nod that showed that you gave me permission to stand.

It is true that the Chairman of the Law Society, together with the Council, have written letters to me, opposed to the section. It was after I had received those letters, that we entered into some dialogue with them.

Mr. Muite: Mr. Temporary Deputy Speaker, just like the Attorney-General, of course, speaks to various lawyers being also a member of the same profession, I being also a member of the same profession, I and other lawyers talked to these lawyers. The point I am making is that the Attorney-General could not have failed to realise the deep resentment by the entire profession on the attempt by the Attorney-General to impose a special tax on them, as lawyers, in order to be able to train lawyers. This is a matter that the Attorney-General has to take into account. And when the entire profession is united in opposing this levy, they are not going to pay this levy, and we should always work towards a compromise, rather than confrontations. We should remove this levy, and spread this tax. No one is disputing that the training of lawyers is very critical.

At the moment, Mr. Temporary Deputy Speaker, one is embarrassed even to visit these lawyers at the Law School. That place was constructed to accommodate, I believe about 40 lawyers. So, today, our young men and women are leaving the University, to go to the Law School, for what is an essential part of their training, because they cannot be admitted as lawyers, until they have completed a course of training at the Kenya School of Law. And yet, there are no physical facilities, they are told to go and live with relatives. They are told to go and find their own accommodation, and they are not even given the allowances, the pocket money, that they used to be given. Nobody knows what happens to it now.

During the tenure of the Attorney-General's predecessors, at least, the Department of the Attorney-General regularly provided funds for payment of pocket money to men and women at the Law School. That has been curtailed, I think the curtailment of that coincided with the assumption of the present Attorney-General to the office, and may have been purely coincidental. It is possible that we, as a country, were short of funds, but the fact of the matter - is that, as soon as the current Attorney-General became Attorney-General, the money got lost. This money used to be given to these young men and women, who do not have any other source of income, apart from the little money that occasionally they might be given by their masters where they are serving pupillage. They have no other means of income. So, they are truly suffering. This young men or women who have spent half of their lives in school cannot even have money. They are told to come to the City Centre, in order to attend their master's chambers. At least, in the old days and in our days there used to be a bus, there is no longer a bus. These young men and women have to walk from the Law School to the various lawyers' offices in the City Centre, and they have to walk back in the evening, sometimes late at night, with the security being what it is, the food is abominable, they have no adequate library, they have no adequate lecture rooms and so on.

I am very pleased to hear the Attorney-General confirming to this august House that some land has been allocated to the Law School. But in his usual manner, the Attorney-General did not enlighten us on where this land is, how many acres it is, because it is a matter of public interest. I am sure that the legal profession and, in particular, the young men and women at the Law School, would have been delighted to read in the papers tomorrow how many acres have been allocated to the Law School and where, and when this Government expects to construct buildings commensurate with the status of training people who were going into the "noble legal profession", so that they can be housed in dignity, so that they can have adequate lecture rooms, so that they can have adequate library facilities, all of which are lacking at the moment. We are actually doing a disservice to this country in terms of the inadequacy of the facilities that are obtaining at the Law School, and it is not the fault of these students. And when one does not have adequate physical facilities, it means that one is not well equipped, and that has to impact; it has to have a bearing on the quality of the lawyers that we are training. So, the point I am making here, is that we understand, in fact, there is a great craving for adequate funds to run the Law School, that is not the issue, Mr. Temporary Deputy Speaker. We support fully the intention behind this Bill. We would like to join the Government in looking for ways and means of raising funding, in order to run a functioning Law School, with all the facilities. But we are not going to be able to do that, if we are going to play a hide and seek game in this Bill by giving the Attorney-General a blank cheque, to raise such amounts, as he thinks fit from the legal profession, for the running of the Law School. He does not even tell us the duration. How often is he going to be effecting this levy? These are pertinent questions. Is the money going to be taken to NSSF? Is he going to fix this amount?

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Ndotto): Order. Members, the House is adjourned until Tuesday, 21st November, 1995, at 2.30 p.m.

The House rose at 6.30 p.m