

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 28th November, 1995

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

NOTICE OF MOTION

RE-INTRODUCTION OF EXCHANGE BILL

The Vice-President and Minister for Planning and National Development (Prof. Saitoti): Mr. Speaker, Sir, I beg to give notice of the following Motion:-

THAT, in view of the economic measures undertaken by the Government to revitalise the economy, in particular measures already taken in the monetary sector which have started to bear fruit in that the country is recording economic growth in domestic and foreign investments, and further, in view of the urgent need to fully liberalise the exchange and trade system in order to enhance the confidence of both domestic and foreign investors, this House resolves that pursuant to Standing Order 171(1), the Exchange Control (Repeal) Bill, 1995 (No.10 of 1995) which was rejected by this House on the 8th November, 1995 be exempted from the provisions of Standing Order 114 (Re-introduction of Bills) to facilitate the re-introduction of the Bill for consideration during the current Session.

ORAL ANSWERS TO QUESTIONS

Question No. 641

SETTLEMENT OF MZEE NJAGI

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

- (a) why Mzee Njogu Njagi, owner of Plot No. 837 at Gachoka has not been compensated for his 33 acres allocated for development of Gachoka Divisional Headquarters as agreed with the then District Commissioner Mr. J.K. Etemesi in 1973;
- (b) whether he is aware that Mzee Njogu Njagi's request for alternative land was rejected by Embu County Council on 23rd February, 1995; and
- (c) when the Government will fulfil its obligation and settle Mzee Njogu Njagi in an alternative land.

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

(a) Mzee Njogu Njagi was compensated for his 33 acres and was given a 33 acre piece of land at Rwika Trading Centre which he still owns.

(b) The Embu County Council never rejected a request for an alternative piece of land for Mzee Njagi.

(c) Arising from the replies in (a) and (b), (c) does not arise.

Mr. Nyagah: Mr. Speaker, Sir, the answer given by the Assistant Minister, is full of untruths. First of all, I would like to lay straightaway certain documents pertaining to this Question. I would like to read a portion of the first document just before I Table these documents. It is dated 23rd February, 1995 from the Embu County Council to Mzee Njagi.

Ref: Allocation for Plot at Mwea

The Council under Minutes such and such considered and rejected your application for lack of supportive

documents and therefore you were not given---

I would like to read for the benefit of the Assistant Minister a letter that was written to the Embu County Council, just a little clause by the then District Commissioner, J.K. Etemesi. It says:

"Mr. Njagi, however, is interested in getting a piece of land in Mwea instead of Rwika Trading Centre. We agree that he will own the 33 acres at Rwika Trading Centre, temporarily and when plots are issued in Mwea, he will be considered for one and leave the plot at Rwika for Government use, which has been used by Rwika Technical Institute currently and lastly, this suggestion was accepted by us all and I am merely putting it in writing for our records"

I would like to Table this for the Assistant Minister to read.

(Mr. Nyagah laid the documents on the Table)

My Question is: Having read authentic letters, communication from the DC office's to Mzee Njagi, when will Mzee Njagi be given his land?

Mr. Awori: Mr. Speaker, Sir, those letters that have been placed on the Table are being quoted out of context. In the first instance, Mr. Njagi, still owns the 33 acres at Rwika Trading Centre. Secondly, Mr. Njagi, was offered 33 acres in Mwea which he declined because they were not fronting a river. Mr. Njagi wanted 33 acres of land fronting a river, in order to be able to do irrigation. Under the circumstances, he still owns 33 acres and if he still accepts the 33 acres in Mwea, he can have them in exchange of the 33 acres on which he is living.

Mr. Speaker: Mr. Nyagah, the last one!

Mr. Nyagah: Mr. Speaker, Sir, I would like to discredit what the Assistant Minister, has said. I have yet another letter by the said Mr. Njagi and this letter was written on the 30th of September, 1994 and copied to two Councillors of the area. I will just read one paragraph which says:

"However, I indicated my interest in getting a piece of land in Mwea instead of Rwika Trading Centre, because Rwika has now been allocated to Rwika Technical Institute and up to now, I have not been allocated a parcel of land in Mwea".

He goes on to say a lot here. Therefore, having brought that to the attention of the Assistant Minister and having talked to Mr. Njagi, only a few months ago and he lives on his sons parcel of land, when will the Government fulfil its promise to this old man who has not been given a parcel of land and bearing in mind that 24 acres have been irregularly allocated to people in excess of 50 acres in Mwea, why would you not consider this man who gave 33 acres so that the District Officer, could be accommodate there way back in 1973 and we are now in 1995?

(Mr. Nyagah laid the letter on the table)

Mr. Awori: Mr. Speaker, Sir, I will still emphasis the fact that Mr. Njagi is still living on 33 acre plot at Rwika. Secondly, the plot that Mr. Njagi is requesting in Mwea is the one which fronts a river. He has been given an alternative plot in Mwea which he has rejected.

Mr. Nyagah: Which plot number?

Mr. Speaker: Next Question.

Question No.417

FIRING BY THE POLICE

Dr. Otieno-Kopiyo asked the Minister of State, Office of the President why the Police had to fire at a market crowd on Sunday 9th April, 1995 at Ringa Market causing a stampede which resulted into injuries of 18 people.

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

On Sunday 9th April, 1995 the Officer Commanding Oyugis was informed that some political leaders were addressing an unlicensed political meeting at Ringa Market. The police went to the market to find out what was happening and on seeing them a section of the crowd turned rowdy and started throwing stones at the police. The police fired in the air and nobody was reported as having any injuries.

Dr. Otieno-Kopiyo: Mr. Speaker, Sir, this is a very controversial subject. The question of licensing of rallies and meetings is very sensitive. It created quite a furry last week in Parliament but personally I resolve to speak ill of any man whatever their fault. But in the last---

Mr. Speaker: What are you talking about?

Dr. Otieno-Kopiyo: Mr. Speaker, Sir, I spoke in English.

Within the last six months, 27 Opposition leaders' rallies have been dispersed throughout the country. Leaders of the Opposition---

Mr. Speaker: You are making a speech!

Dr. Otieno-Kopiyo: I am building up my position, Mr. Speaker, Sir.

Mr. Speaker: Order! I have said several times that if you are unprepared to ask your question, it is actually your business to build up your questions before you stand there to ask them. Will you go straight and ask the question?

Dr. Otieno-Kopiyo: Mr. Speaker, Sir, it is really important that when somebody is building up a question they speak about it and I am speaking. This is a subject very close to my heart and I believe that the leaders of the Opposition have a right to talk to their constituents. Sunday is a designated market day for Riaga Market. We were simply passing through and it happened to be beside the road, the police fired in the air as soon as we arrived. They were not called in; they were packed there. Could the Assistant Minister now, in view of the fact that KANU will soon be in the Opposition, bring a Bill to repeal these draconian laws for their own comfort so that in future, they will not have to be dispersed?

Mr. Awori: Mr. Speaker, Sir, if that is the hon. Member; hope then he will have to wait a hell of a long time. Ringa Market takes place on a Sunday.

Mr. Shikuku: On a point of Order, Sir.

Mr. Speaker: What is it?

Mr. Shikuku: Mr. Speaker, Sir, did you hear the hon. Member say "hell of a time." Is he in order to curse in this House?

Mr. Speaker: Order! I thought I heard him say "he has a long time to wait! Well, I did not hear. Anyway, proceed.

Mr. Awori: Mr. Speaker, Sir, Ringa Market takes place on Sunday. That is absolutely correct. The leader of the Opposition had a licensed meeting further along but instead of going straight to that meeting, when he saw people at the market, he decided to address those people without a licence. A report was sent to the Police Officer commanding Oyugis who came to see what was happening. On seeing the police, a section of the crowd threw stones at the police. The police had to fire in the air to disperse them.

Mr. Wamalwa: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister really in order to classify a short stop-over to say "Jambo" to people as a meeting when we know a meeting properly so-called is an organised meeting where there is an agenda, a list of speakers and so forth? If one just stopped to say "Jambo" that cannot even by the furthest stretch of the imagination be called a meeting. Is he in order to refer to a stop-over to say "Jambo" as a meeting?

Mr. Awori: Mr. Speaker, Sir, yes. I am in order!

Mr. Speaker: Final question, Dr. Kituyi.

Dr. Kituyi: Mr. Speaker, Sir, can the Assistant Minister assure this House that any leader, including those from the Government side, who stops on the way even to distribute vegetables will be stopped because he does not have a permit?

Mr. Awori: Mr. Speaker, Sir, that is completely different from a meeting which is being addressed without a licence.

Mr. Speaker: Next Question.

Question No.859

ACQUISITION OF VACCINE INSTITUTE

Mr. Gatabaki asked the Minister for Agriculture, Livestock Development and Marketing what reasons led the Government to acquire Kenya Veterinary Vaccine Production Institute (KEVEVAPI), formerly Welcome Foot and Mouth Vaccine Product Unit.

The Assistant Minister for Agriculture, Livestock Development (Dr. Misoi): Mr. Speaker, Sir, I beg to reply.

Let me point out from the on-set that there was nothing like Welcome Foot and Mouth Vaccine Production Unit. The Kenya Government, in conjunction with Welcome Foundation of London, had a joint venture known as Vaccine Production Laboratory which was solely responsible for the production of Foot and

Mouth disease vaccine. When the Welcome Foundation diversified its animal health interest which included the production of Foot and Mouth disease vaccine in Kenya, it became necessary for the Government to step in and take over the responsibility of Foot and Mouth disease vaccine production. It was then that the Kenya Veterinary Vaccine Production Institute (KEVEVAPI) was created to replace the joint venture.

Mr. Gatabaki: Mr. Speaker, Sir, I am very disappointed. Similarly, millions of farmers are disappointed by the answer to that Question. As I stand here, 50,000 tea farmers are not picking their tea because of the attitude and arrogance of this Ministry. This country is losing an average of Shs.1 billion every month because of your arrogance to pay the farmers. My question is: Having known how inefficient this Government is, having known the capacity of this Government, why would the Government want to go to specialised areas of producing vaccine? This is arrogance, Mr. Speaker, Sir!

Mr. Speaker: Too many now! Let him answer that one now.

Dr. Misoi: Mr. Speaker, Sir, hon. Gatabaki is very arrogant and I did not follow his Question. Could he repeat it?

Mr. Gatabaki: Mr. Speaker, Sir, my Question is: Why would the Kenya Government, which is not known for expertise in production of vaccines venture into the production of the same when we know a firm like Welcome is globally known for the production?

Dr. Misoi: Mr. Speaker, Sir, Kenya Veterinary Vaccines Production Institute (KEVEVAPI) is manned by very highly trained professional people. Today, the institute is producing good quality vaccines.

Mr. Icharia: Mr. Speaker, Sir, is the Assistant Minister aware that since Government took over the production of vaccines, the quality has gone down so much that the foot and mouth vaccine cannot prevent the foot and mouth disease?

Dr. Misoi: Mr. Speaker, Sir, I am aware that about five years ago, there were problems with some vaccines, but that situation has been rectified and now the institute produces high quality vaccine products, not only for foot and mouth diseases, but also for other diseases that attack livestock.

Prof. Mzee: On a point of order, Mr. Speaker, Sir. The taking over of the Welcome Foot and Mouth Vaccine Production Unit by the Government is the biggest joke because the Government itself cannot produce any vaccine efficiently. The Veterinary Laboratory at Kabete is totally run down, there is absolutely nothing which works. Is it in order for the Assistant Minister, who is a qualified doctor, to stand here and tell us that KEVEVAPI can produce vaccines better than Welcome which was doing it at the time when the Government decided to sell its interest to other people? Can the Assistant Minister tell us the truth? Why was it found necessary to do this? Were they jealous because Welcome was doing a better job than them? Why?

Dr. Misoi: Mr. Speaker, Sir, if hon. Prof. Mzee had listened to my answer, he would not have asked that question. First of all, Welcome Foundation of London simply divested itself from production of animal health products and at the time, it was necessary for the Government to step in to ensure that there was continuity in production of the necessary vaccines. Todate, the production of vaccines has---

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

(Mr. Boy Juma stood up in his play)

Mr. Speaker: Order! Order! Hon. Boy, I only allow one hon. Member to on his feet at a time. What is it Mr. Gatabaki?

Mr. Gatabaki: On a point of order, Mr. Speaker, Sir. There is a continuous misleading of this House by the Assistant Minister knowing very well that the real purpose of converting this Institute which has about 1,000 acres in Industrial Area here in Nairobi was to give them the opportunity of dishing out that land to individuals. Can the Assistant Minister assure this House that not a single acre of that land belonging to the Institute will go to the land grabbing fraternity?

Dr. Misoi: Mr. Speaker, Sir, that is a separate question.

Question No. 740

CONSTRUCTION OF PRIMARY SCHOOL

Dr. Oburu asked the Minister for Education:-

(a) whether he is aware that a primary school was supposed to be built alongside Bondo Teachers College; and,

(b) if the answer to "a" above is in the affirmative, if he can state when the construction of the school will commence.

Mr. Speaker: Is there anybody from the Ministry of Education? We will come back to that Question later.

Question No. 996

INTERDICTION OF MRS. WAMUKUYU

Mr. R.K. Mungai asked the Minister for Education:-

(a) whether he is aware that a Mrs. Joyce Nyambura Wamukuyu, a former Cateress of Makuyu Secondary School was interdicted by the Headmaster under dubious circumstances and without the Board of Governors' approval on 15th December, 1994;

(b) whether he is further aware that the said Mrs. Wamukuyu has not been paid her terminal dues to date; and,

(c) if the answers to "a" and "b" above are in the affirmative, what steps he is taking to pay her dues and/or reinstate her in employment.

Mr. Speaker: Again, there is nobody from the Ministry of Education. We will skip it for the time being.

(Loud consultations)

(Mr. Orengo greeted another hon. Member while standing up)

Mr. Speaker: Order! Order, Mr. Orengo! Order means "sit down".

Hon. Members, it is not possible for hon. Members even to hear me calling them to ask Questions. Can we consult quietly?

Next Question!

Question No. 760

LAND FOR MAUA TOWNSHIP

Mr. Maore asked the Minister for Local Government how much land has been set aside for industrial, residential and business purposes in Maua Township.

The Assistant Minister for Local Government (Dr. Wameyo): Mr. Speaker, Sir, I beg to reply. The following land has been set aside for specific purposes:-

- | | | |
|-------|-------------|----------|
| (i) | Business- | 26 acres |
| (ii) | Residential | - 5 " |
| (iii) | Industrial | - Nil. |

Mr. Maore: Thank you, Mr. Speaker, Sir. I believe the Assistant Minister is not serious with his answer. I do not think that even a genuine poultry farmer would set aside five acres for a chicken farm. Can the Assistant Minister undertake to table the physical plan for this Township because there is a feeling that he knows nothing about what he is talking about?

Dr. Wameyo: Mr. Speaker Sir, I plead with the hon. Member to repeat the Question.

Mr. Speaker: Dr. Wameyo, he says you know nothing about what you are talking about.

(Laughter)

An. hon. Member: No, Mr. Speaker, Sir, that is not the Question.

Mr. Maore: Mr. Speaker, Sir, I am asking him to table the physical plan of Maua Township.

Dr. Wameyo: Mr. Speaker, Sir, the most important thing in answering the Questions is to go by facts and not feelings. I believe I saw the sun before the hon. Member.

Mr. Wamae: Thank you, Mr. Speaker, Sir. Would the hon. Assistant Minister tell this House what he

intends to do to ensure there is industrial land at Maua which is now part of Nyambene district? We must have land set aside for industrial development.

Dr. Wameyo: Mr. Speaker, Sir, we know that. I wish to inform the hon. Member that all the land surrounding the main urban centre is privately owned. Since land adjudication process is in progress in the area right now and the local community has contributed approximately 85 acres of land for development, the Council, through the DDC, is looking at the possibility of setting aside part of that land within the 85 acres for industrial purposes.

(Mr. Gitau stood up to ask his Question)

Mr. Speaker: I beg your pardon, Mr Gitau. You are following Mr. Ndzai. Next Question!

Question No. 1009

RURAL POWER FOR MAGARINI

Mr. Ndzai asked the Minister for Energy what plans there are to introduce rural electrification programme in Magarini Division.

The Assistant Minister for Energy (Mr. Nang'ole): Mr. Speaker, Sir, I beg to reply.

The rural electrification programme is already operational in Magarini Division and todate the programme has covered work worth KShs.12.02 million.

Mr. Ndzai: Mr. Speaker, Sir, can the Assistant Minister tell this House the specific areas covered?

Mr. Nang'ole: Mr. Speaker, Sir, the areas which were covered were Kasumwuoni, Kibaoni, Kikwatani and Mrereni trading centres and their environs and this will serve a total of 328 consumers.

Mr. Obure: Mr. Speaker, Sir, since the donor countries refused to give money to this Government a lot of rural electrification projects have stalled for a long time. What specific programmes does the Government have to revive these projects countrywide?

Mr. Nang'ole: Mr. Speaker, Sir, I really do not know about the question of money being refused. We as a Ministry have our own rural electrification programmes.

Mr. Badawy: Mr. Speaker, Sir, is the Assistant Minister not misleading the House when he gives these areas as having been supplied with electricity under the rural electrification programme when, in fact, it is private entrepreneurs, mainly salt manufacturers, who have actually installed the electricity?

Mr. Nang'ole: Mr. Speaker, Sir, I beg the hon. Member to repeat his question.

Mr. Badawy: Mr. Speaker, Sir, I have asked the hon. Assistant Minister whether he is not misleading the House by saying that the areas he has mentioned were supplied with electricity under the rural electrification programme when, in fact, they got electricity from private entrepreneurs, namely salt manufacturers.

Mr. Nang'ole: Mr. Speaker, Sir, I am not at all misleading the House. The fact remains that the areas I have mentioned got electricity through the rural electrification programme.

Mr. Ndzai: Mr. Speaker, Sir, I do not think the hon. Assistant Minister understood what the hon. Member asked. The money was spent to give electricity to salt industries and not to the local people. So, when will the local people benefit?

Mr. Nang'ole: Mr. Speaker, Sir, the hon. Member asked what plans my Ministry has to introduce rural electrification in magharini Division, and I am saying that we have done this.

Question No. 674

GRADING OF NDARUGU ROAD

Mr. Gitau asked the Minister for Public Works and Housing when Ndarugu Road will be graded and tarmacked.

The Assistant Minister for Public Works (Mr. Mwamzandi): Mr. Speaker, Sir, I beg to reply.

Ndarugu Road was graded last in March, 1995 and is scheduled for the next grading early next year. This road has not been prioritised by Thika District Development Committee (DDC). However, the Ministry will look into its tarmacking once the DDC takes action and ranks it among the district's priority.

Mr. Gitau: Mr. Speaker, Sir, arising from this most unsatisfactory answer from the Assistant Minister,

this road has never been graded for the last five years and is impassable. This is the third time I have asked a Question on roads in Gatundu and I would like to dispel the belief that Gatundu, having been the home of the first President of this Republic, is like Central Baringo. There are concerted efforts by KANU to water down the efforts of the first President of this Republic by neglecting Gatundu roads, particularly those leading to farmers' farms. There is a road which branches off from the Thika/Nairobi Road to the late President's home. We were promised by the Minister himself that road would be resurfaced, but nothing has been done. This is another road which we have been told would be graded, but since the late President died nothing has been done on this road. When will action be taken so that at least we can see that Nyayo actually took over from the late Kenyatta and not from God. My question is, can this House be told---

Mr. Speaker: Order! I would invite hon. Members to peruse, study and understand the provisions of Standing 35 as to what is a speech. If any hon. Member persists in making a speech, I am quite prepared to proceed to the next Question. Mr. Mwamzandi, would you like to answer?

(Mr. Mwamzandi remained seated)

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

Mr. Speaker: Order, Mr. Gitau! If you made a speech that is not capable of being replied to that is your problem. Yes, Mr. Ndicho.

Mr. Gitau: On a point of order, Mr. Speaker, Sir. My question has not been responded to!

Mr. Speaker: Order, Mr. Gitau! There was no question! You made a speech!

Mr. Ndicho: Mr. Speaker, Sir, I understand why hon. Gitau is very bitter. Fifty per cent of this road is in Juja Constituency and it connects us to Gatundu. The Assistant Minister misleads the House by saying it was tarmacked---

Mr. Speaker: You are also making a speech!

Mr. Ndicho: Mr. Speaker, Sir, I am prefacing my question. This road was last done five years ago and since the late Kenyatta died it has never been done. The cess money levied on coffee estates through which this road passes goes to the District Commissioner's (DC) kitty. Can the Assistant Minister now tell the House why this money cannot be used to grade this road?

Mr. Mwamzandi: Mr. Speaker, Sir, I am not at all aware that any cess money went to the DC's pocket. In any case this road was done in March, 1995 and we expect to do it again early next year.

Mr. Gitau: Mr. Speaker, Sir, the assistant Minister has repeated the answer. But my question is, is he going to resurface Kenyatta Road and regrade Ndarugu Road? I have been promised in this House that these two roads would be done.

Mr. Mwamzandi: Mr. Speaker, Sir, right now, I am dealing with Ndarugu Road and not Kenyatta Road. I have given the reply for that road.

Mr. Mulusya: Mr. Speaker, Sir, the Assistant Minister is continuously misleading this House. What the Ministry has been doing is not resurfacing or re-carpeting because, I have passed through those roads on my way to the home of a neighbour of the late Kenyatta. What I have found is that they have filled the potholes in a tarmacked road with murrum and red soil. Is that what the Assistant Minister calls re-carpeting? The red soil that they are putting in those potholes will not merge with the tarmac. Is that what the Ministry is doing and, is this just because the late Kenyatta used to pass through that road?

Mr. Mwamzandi: Mr. Speaker, Sir, I have been replying to the Question on Ndarugu Road and I stated what we are going to do about this road. With respect to the sentiments expressed by my hon. colleague, that this is because the late Kenyatta used to pass through this road, we are sorry. Although he is not there, the Ministry is still going to maintain the road as usual.

Mr. Speaker: Next Question, Mr. Moiben.

Question No.810

TARMACKING OF KITALE - SUAM ROAD

Mr. Moiben asked the Minister for Public Works and Housing when the Kitale-Endebes-Suam Road will be tarmacked.

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

The Government acknowledges the importance of the Kitale-Endebes-Suam Road to the local economy but, for the time being, there are no immediate plans to tarmac this road due to unavailability of funds, and it is not the top priority of the DDC.

Mr. Moiben: Mr. Speaker, Sir, this Kitale-Endebes Road had been tarmacked by the colonialists in 1950 ---

(Consultations)

Mr. Speaker: Order! Order! It is not possible to transact business in the prevailing situation. Can we, please, transact business? Mr. Moiben, can you, please, repeat your question?

Mr. Moiben: Mr. Speaker, Sir, can the Assistant Minister confirm that if the Trans-Nzoia DDC can prioritize this road, there will be enough funds to tarmac it?

Mr. Mwamzandi: Mr. Speaker, Sir, immediately it is prioritized as priority number, or when the number one priority is finished, we are going to look for funds.

Mr. Kapten: Mr. Speaker, Sir, I remember, in 1983, the Development plan of this country had this road as a priority. There was some money set aside for re-carpeting this road, but somehow, the money which was meant for this area was taken to another place which we all know. As far as the Trans-Nzoia DDC is concerned, the Kitale-Endebes-Suam Road is a priority. Why should other roads in other areas be given priority when the traffic in those areas does not necessitate having tarmac roads there?

(Hon. Biwott walked into the Chamber amidst prolonged applause)

Mr. Speaker: Order! Order! This is Parliament, not a kindergarten! Proceed.

Mr. Mwamzandi: Mr. Speaker, Sir, I do not know if funds for this road were diverted to anywhere else. What I know is that this road is priority number four.

Mr. Manoti: Thank you, Mr. Speaker, Sir. In view of the fact that there has been a lot of rain, especially, in Western Kenya which has resulted in most of the roads being impassable, particularly in my constituency where one of the bridges has collapsed, can the Assistant Minister tell us how much money his Ministry has set aside to maintain and repair the roads which have been spoilt by the rains?

Mr. Mwamzandi: Mr. Speaker, Sir, we had planned to carry out work on this road if there was not so much rain. However, we had to postpone the work since the rains were heavy. In any case, with regard to the Kitale-Endebes road, we have allocated Kshs200,000. For the Endebes-Suam road, we have also allocated Kshs200,000. It will be done immediately the weather improves.

Mr. Moiben: Mr. Speaker, Sir, this Kitale-Endebes-Suam Road is very important, nationally. All the maize seed and the seed processing plant is along this road. Can the Assistant Minister make it a priority and assist us to tarmac this road?

Mr. Mwamzandi: Mr. Speaker, Sir, I would like to repeat that work should have started but since the rains were too much, we have delayed the work for some time. However, the money is there. Immediately the weather changes for the better, this work will be done.

Mr. Speaker: Next Question, Mr. Mwangi Githiomi.

Question No.1055

SETTLEMENT FOR SQUATTERS

Mr. Githiomi asked the Minister for Lands and Settlement:-

- (a) if he is aware that there are squatters who have been kept in villages in Kipipiri Constituency and have lived in these villages since 1963; and,
- (b) if the answer to "a" above is in the affirmative, whether he could specify the date these squatters will be settled.

The Minister for Lands and Settlement (Gen. Mulinge): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that there are people who have been living in villages in Kipipiri Constituency since 1963.

(b) The settlement of landless Kenyans is an on-going exercise, as and when land is available. In Nyandarua District, settlement has been going on since the early sixties and to date, over 98 per cent of the residents in Kipipiri Constituency have benefited from the 23 settlement schemes in the area. The hon. Member should, however, accept the fact that not every landless Kenyan, including those in Kipipiri, can get land due to scarcity and the escalating prices of land for settlement. The Ministry is trying its best to address the problem.

Mr. Githiomi: Mr. Speaker, Sir, I am surprised that---

(Hon. Sifuna walked into the Chamber amid applause)

Mr. Speaker: Order! Order! Order! I do not know what is exciting hon. Members!

An hon. Members: It is the bull!

Mr. Speaker: Order! Mr. Githiomi, proceed.

Mr. Githiomi: Mr. Speaker, Sir, I am surprised that---

Mr. Achieng'-Oneko: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Order! Order! I will expect serious business from this House from now henceforth. Any hon. Member standing on a frivolous point of order or otherwise misbehaves, does so at his or her own risk. Proceed!

Mr. Githiomi: Mr. Speaker, Sir, I am surprised that the Minister can have the courage of misleading this House by saying that 98 per cent of Kipipiri residents have been allocated land. I want to inform the Minister that only 15 per cent of Kipipiri residents have benefited from the allocation of land since 1963. Those people were dumped in villages in 1963. There are ten villages in Kipipiri and each village has more than 200 people. Could the Minister tell this House whether he has specific plans of settling the people of Kipipiri?

Gen. Mulinge: Mr. Speaker, Sir, the plan is there. The hon. Member is also misleading the House. In 1963, there were 10,816 landless people in Kipipiri. Squatters totalling 10,500 have already been settled and that is 98 per cent. The few who are left out are going to be settled when land is available.

Gichuki: Thank you, Mr. Speaker, Sir. Since there is an exercise going on to settle some of the squatters within the various centres within the district, can the Minister tell this House how many have been settled from Kipipiri?

(Hon. Members consulted loudly)

Gen. Mulinge: Mr. Speaker, Sir, can the Questioner repeat his question?

Mr. Speaker: For the second time---

Mr. Gichuki: Mr. Speaker, Sir, the Minister requested me to repeat my question.

Mr. Speaker: Order, hon. Members! Order! It is not my fault if I cannot follow the proceedings of this House in spite of the fact that I have warned this House to be business-minded half of this afternoon. Will you ask your question again and I hope hon. Members will take it seriously.

Mr. Gichuki: Thank you, Mr. Speaker, Sir. Since there is an exercise going on within the district to settle some of the squatters in the various centres within Nyandarua District, could the Minister tell this House how many squatters within Kipipiri have been settled in the current exercise?

Gen. Mulinge: Mr. Speaker, Sir, that is a different question. The figure I have just given is the total figure of the number of people who have been settled in Kipipiri since 1963 to- date.

Mr. Speaker: For the second time Mr. Robert Mungai's Question.

Question No. 996

INTERDICTION OF MRS. WAMUKUYU

Mr. R.K. Mungai asked the Minister for Education:-

(a) whether he is aware that a Mrs. Joyce Nyambura Wamukuyu, a former Cateress of Makuyu Secondary School was interdicted by the Headmaster under dubious circumstances and without the Board of Governors' approval on 15th December, 1994

(b) whether he is further aware that the said Mrs. Wamukuyu has not been paid her terminal dues to date; and,

(c) if the answers to "a" and "b" above are in the affirmative what steps the Ministry is taking

to pay her dues and/or reinstate her in employment.

The Assistant Minister for Education (Mr. Lengees): Mr. Speaker, Sir, I beg to apologise on behalf of my Ministry for coming in late. I beg to reply.

(a) Yes, I am aware that Mrs. Joyce Nyambura Wamukuyu who was performing the duties of school cateress on temporary terms was interdicted and her services terminated.

(b) Two cheques were drawn in her favour to cover her dues amounting to Ksh 15,515.00 and she has not so far collected them. I advise the hon. Member to ask her to collect them from the headmaster.

(c) In the light of my reply in "a" and "b", I would like to further inform the hon. Member that the question of reinstatement does not arise.

Mr. R.K. Mungai: Mr. Speaker, Sir, I would like to thank the hon. Assistant Minister for that answer but is he aware that this same headmaster who sacked this lady has badly mismanaged the school and run it down to such an extent that its academic performance has deteriorated to zero and that students, parents and teachers are all very unhappy with this headmaster because he even abuses the teachers calling them names such as "stupid"? They have even gone to see the District Officer to complain about his behaviour. He even says that nothing can be done to him even if they went to see their local Member of Parliament or anybody else who could assist them. Is the Assistant Minister aware that the school has been mismanaged so badly and if so, what does he intend to do?

Mr. Lengees: Mr. Speaker, Sir, the Questioner might be right but currently the Ministry does not have such information. So, I am not aware and we are not intending to do anything.

Mr. Ndicho: Mr. Speaker, Sir, I happen to know this area and this particular headmaster. This particular lady was a victim of this headmaster because she refused the headmaster's advances and then he sacked her.

Mr. Speaker: Order! Order, Mr. Ndicho. I would like to read to the Members for the umpteenth time on what a question is. Standing Order No. 35 (2) states as follows:-

"A Question shall be of a genuinely interrogative character and its purpose shall be limited to seeking information or pressing for action."

Mr. Ndicho, it does not mean that you will become a witness of a non-existent trial here of a person who cannot defend himself. So will you stick to asking questions and not giving evidence.

Mr. Ndicho: Mr. Speaker, Sir, what is the Ministry going to do about this particular headmaster because of, mismanaging the school and making the performance poor and also frustrating the teachers?

Mr. Speaker: Order, hon. Ndicho! If you knew all that, there is no point of asking the Assistant Minister the question.

Mr. Ndicho: Mr. Speaker, Sir, I am asking what the Ministry is going to do about this particular headmaster who is destroying this school. He is becoming the bull of Makuyu!

(Laughter)

Mr. Lengees: The Question was about Mrs. Joyce Nyambura Wamukuyu and the Ministry of Education has answered it. The question about the headmaster does not arise. You can put it next time but we cannot answer it today.

Mr. R.K. Mungai: Mr. Speaker, Sir, since he has given us the amount of money that is due to this lady, can he give us the cheque numbers and the dates when they were drawn?

Mr. Lengees: Mr. Speaker, Sir, the cheque is No. 464823 dated 17th January, 1995 and it has not yet been collected. That was the cheque for the Kshs 7,085.00. The other cheque No. 474572 dated 21st February 1995 was paid to her.

Mr. R.K. Mungai: On a point of order, Mr Speaker, Sir. The Assistant Minister is telling us about cheques drawn up in January and the Minister should be aware they should be stale now.

Mr. Speaker Sir, can the Assistant Minister tell us about new cheques that are current cheques?

Mr. Shikuku: On a point of order, Mr Speaker, Sir. I thought the hon. Member was still asking and I saw the Assistant Minister also standing. We had two Members standing. Is that in order?

Mr. Speaker: Order! Order! Mr. Shikuku, you are right. The problem I have is to get these hon. Members to understand the rules of this House and respect them, that is a problem I have had for the last three years, I hope the House does help me.

Mr. Lengees: Mr Speaker, Sir, if there are any anomalies, I apologise for that, but, the Kshs.15,000.00 is broken into two cheques. The first cheque is No.464823 dated January, 1995, and was not collected.

Mr. Speaker Sir, the second cheque is No.474572 dated 21st February, 1995 and was not collected.

Mr. Obwocha: On a point of order, Mr Speaker, Sir. Is the Assistant Minister in order to continue misleading the House? The Question was these cheques were dated January, are they not stale? When is he going to replace them?

Mr. Speaker: I think that is common knowledge by law, after six months, they are stale. So, you do not have to ask the obvious.

Mr. Lengees: That is possible. The hon. Member can tell Mrs. Joyce Nyambura to go to the Ministry and to the headmaster, so that the new cheques can be given out.

Mr. Speaker: Order! Order! For the second time, Dr. Oburu.

Question No. 740

CONSTRUCTION OF PRIMARY SCHOOL

Dr. Oburu asked the Minister for Education whether he is aware that a primary school was supposed to be built alongside Bondo Teacher's College.

The Assistant Minister for Education (Mr.Lengees): Mr Speaker, Sir, I still have to apologise for coming late, and I beg to reply.

Bondo Teacher's College was put up through joint funding by the Government of Kenya which paid 35 per cent of the total cost and the World Bank, through the Sixth World Bank Education Project-Credit 1673 KE, which covered 65 per cent of the cost.

Mr. Speaker, Sir, under the terms of the Sixth World Bank Credit, a total of seven primary teachers colleges, Bondo being one of them, were to be put up, as well as three boarding primary schools, namely, Mokowe in Lamu, Barsaloi in Samburu and Konayao in West Pokot.

Mr Speaker, Sir, the question of the Government starting to construct a primary school for Bondo Teachers College cannot, therefore, arise as there was no provision for one in terms of the credit cited above.

Dr. Oburu: Mr Speaker, Sir, the answer is misleading actually because all teachers training colleges in the country have primary schools. We are not talking about boarding primary school, but we are talking about pupil primary schools and part of the Government contribution of 35 per cent was to upgrade a nearby primary school called Nyabakatumu(?) Primary School. Can the Minister confirm or deny that part of the Government contribution of 35 per cent for that College, which included this particular primary school, was diverted and was not used for that school?

Mr. Lengees: Mr Speaker, Sir, on the above cited credit funding, there was no provision to provide a Bondo Primary School next to the College. But I just want to clarify here that the era of expecting the Government to put up primary schools in any part of the country is now over. Indeed, the hon. Member should thank the Government for deciding to put up a primary teachers college in his constituency instead of demanding a primary school.

QUESTIONS BY PRIVATE NOTICE

ANT-STOCK THEFT UNIT IN DAGORETTI

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

(a) Is the Minister aware that three cows belonging to a Mr. Kamau Reuben Gitahi were stolen from Kangemi village in Dagoretti on 6th November, 1995, and have not been recovered yet, despite a report to the police and to the local chief?

(b) Is he further aware that such incidents have become common every week in Dagoretti Constituency and that human life is threatened by these armed cattle thieves?

(c) Can the Minister urgently consider setting up an anti-stock-theft-unit near the Dagoretti District Officer's office in Dagoretti to avert such increasing attacks and track down the thieves?

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

(a) Yes, I am indeed aware.

(b) Stock theft cases are not prevalent in Dagoretti Constituency, as alleged by my hon. friend.

(c) Under the circumstances, there is no need to have anti-stock-theft unit stationed in the area because

the situation does not warrant it.

Mr. Kamuyu: Mr Speaker, Sir, this matter must be taken very seriously. 26 families in the last one year have been attacked at night and over 300 herds of cattle stolen leaving four people seriously injured and two are still in Kenyatta Hospital over this matter. Basically the thieves are armed, I wonder why the Minister is taking this matter lightly. Can he tell us whether we are now completely neglected by the Government and we have no protection, and whether we can form vigilant groups, arm ourselves and defend ourselves against these thieves who come dressed like Masai warriors at night?

Mr. Awori: Mr Speaker, Sir, we are talking about cattle rustlers. I answered that there are no cattle rustlers in the area and, therefore, there is no need to have anti-stock theft-unit. On the other hand, ---

Prof. Mzee: On a point of order, Mr Speaker, Sir. Is the Minister in order to say there is no cattle rustling in Dagoretti while we know and it is common knowledge that dairy cattle have been stolen, and they have been slaughtered and sold to unsuspecting customers in Nairobi, and this has been in the news for the last six months? Is he in order to mislead this House and say there are no cases of cattle rustling?

Mr. Awori: Mr Speaker, Sir, I said there were no prevalent cases of cattle rustling in Dagoretti to warrant anti-stock theft-unit. I will give the statistics to corroborate what I have said. The total stock theft cases between January, 1994 and 22nd November, 1994, were two. The number of stolen animals, they were two cows and two goats.

(Loud Consultations)

The Speaker: Order! Order, Mr. Mulusya! I have said just now that Members must get used to the Standing Orders. The Minister is responding to a point of order, he should not be interrupted, and if you do that again, Mr. Mulusya, we will see the back of you!

Mr. Awori: Having corroborated what I mentioned about stock theft, I want now to answer the question of my friend, hon. Kamuyu. Dagoretti Constituency has not been neglected by this Government. The thugs that have been terrorising residents of Dagoretti are meeting very strong resistance from our police officers. Those police officers are not from the Anti-Stock Theft Unit.

Mr. Mulusya: On a point of order, Mr. Speaker, Sir. My point of order is that I am an interested party because I am a resident of Dagoretti.

Mr. Speaker: Is that a point of order?

Mr. Mulusya: Mr. Speaker, Sir, he has misled the House, and he has to give us the proper information. He has said only two cases have been reported since 1994. My house and my neighbour's house were broken into in February, 1995.

Mr. Speaker Sir, can he tell us who the burglars were because these cases were reported to the police?. He is misleading this House.

Mr. Speaker: Order! Order, Mr. Mulusya now you must go. That is very frivolous since I had warned you. You must now go out of the Chamber.

Mr. Mulusya: Mr. Speaker, Sir, he has to answer my question.

Mr. Speaker: Order! Order, Mr. Mulusya. The Question is about stock theft but not about those who attacked Mr. Mulusya.

(Laughter)

Okay, I will give you the last chance.

Mr. Farah: Mr. Speaker----

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

Mr. Speaker: Order! Order, Mr. Kamuyu. With all these unnecessary points of order, the Question is not being attended to. Proceed, Mr. Farah!

Mr. Farah: Mr. Speaker, Sir, do we still have the Anti-Stock Theft Unit in the country, and if we do, since the prevalence is the criteria why do we not have it stationed in Northern Kenya because that area has the highest prevalence of cases of stock theft in the country?

Mr. Awori: Mr. Speaker, Sir, there is, indeed, Anti-Stock Theft Unit in North-Eastern Province of Kenya.

Mr. Speaker: Can you ask your final Question, Mr. Kamuyu?

Mr. Kamuyu: Thank you, Mr. Speaker, Sir. The Assistant Minister has told us that he is only aware

of two cases, of two cows and two goats. I have got proof that 46 families have been attacked in the last one year and 300 cows have been stolen, and four people have been badly hurt. Now, the Assistant Minister has clearly been completely misled. How does a district or location merit the establishment of the unit if 300 herds of cattle have stolen and people have been hurt, in 600 attacks? Do we not merit some kind of better protection than just having ordinary policemen? Can we rely on that? Give us something.

Mr. Awori: Mr. Speaker, Sir, the figures quoted by hon. Kamuyu are definitely misleading and wrong. The number of cows stolen from January, 1995 to 22nd November, 1995 were two.

EXPULSION OF KENYAN DELEGATE

Mr. Sifuna: Mr. Speaker, Sir, I beg to ask the Minister for Foreign Affairs and International Co-operation the following Question by Private Notice.

(a) Could the Minister confirm whether or not a Kenyan official/delegate attending the recent Commonwealth Heads of Government meeting in Auckland, New Zealand, was sent home from the *Club Talks*?

(b) If the answer to "a" above is in the affirmative, why was this official sent back home?

The Minister for Foreign Affairs and International Co-operation (Mr. Musyoka): Mr. Speaker, Sir, I beg to reply.

(a) No official or delegate attending the recent Commonwealth Heads of Government meeting was ever sent home.

(b) Mr. Speaker, Sir, in view of my answer above, part (b) of the Question certainly does not arise.

(Loud consultations)

Mr. Sifuna: Mr. Speaker, Sir, this is the saddest day of this Parliament. We would rather accept where we have gone wrong. This Question would have come last week, but fortunately on Friday, I received a telephone call from the husband of that woman who was raped. Mr. Speaker, Sir, the husband---

Mr. Speaker: Order! Order! Order! It does not matter how much hon. Members scream in the House. Mr. Sifuna, you have the chance to ask

a Question and not to make a speech. I have already even ruled this same afternoon, in respect to Mr. Kamuyu and also to Mr. Ndicho, and I have read to you the relevant Standing Order No. 35. Ask your Question and the Minister will answer.

Mr. Sifuna: Mr. Speaker, Sir, I do not want to challenge your ruling. Now, Mr. Speaker, Sir, I do not want to mention the name of the husband. However, since it is internationally known everywhere, could the Minister deny or confirm that hon. Biwott was the one who mis-behaved and that is why he was sent away and he met the rest of the delegation at Singapore, and the name of the husband is Captain Gordon Chubb working with International Airlines?. Why is he trying to protect the official instead---

Hon. Members: Shame! Shame!

Mr. Musyoka: Mr. Speaker, Sir, apart from that very wild allegation, I would want to refer the hon. Member for Kandunyi, hon. Sifuna, to the provisions of Standing Order No. 73 (12). Mr. Speaker, Sir, I will demand that hon. Sifuna brings a substantive Motion for discussion. Otherwise, the reason I say this is wild, is because, and I will read verbatim what is contained in a statement from the Minister for Foreign Affairs and Trade, the hon. Dr. Mackinon. There is nobody who is denying that there was a complaint laid. It was laid, quoting from his letter dated 10th November, 1995, and Mr. Speaker Sir, I have a certified true copy of the same which reads as follows:

A complaint was laid yesterday relating to an incident involving a member of the Kenya delegation. The matter---

Mrs. Ngilu: That is not true!

Mr. Speaker: Order! Order, Mrs Ngilu. One thing this House has to learn is that whether you disagree or not you have the duty to listen to the bitter truth, however, much you disagree with it. Proceed!

Mr. Speaker: Order! Mr. Sifuna has a right to be replied to.

Mr. Musyoka: Thank you Mr. Speaker, Sir. I hope I do not have to resort to you to seek protection from Members who want to cause clashes in this House. They are very well known for this kind of behaviour and I want to say, I was just in the middle of reading the letter, and I will continue:-

"--- The matter was investigated by the police in accordance with normal procedures and the parties

involved were interviewed. The matter was dealt with by the Ministry of Foreign Affairs and the Kenyan delegation and no charge was laid. The Kenyan concerned left the country earlier today."

(Loud consultations)

Now that does clearly --- Mr. Speaker, Sir, I seek protection from the Chair.

Mr. Speaker: If hon. Members do not want to hear the answer, then there is no point of asking questions.

An. Hon. Member: On a point of order Mr. Speaker, Sir.

Mr. Speaker: Order! It is simple logic. If Members are not interested in answers, there is no point of asking questions. Can you listen to him?

Mr. Musyoka: Thank you Mr. Speaker, Sir. I think what we are all suffering from here is trial by the media, hearsay, character assassination, disinformation and everything else.

Mr. Speaker, Sir, the letter concludes as follows: "The complainant wants her privacy absolutely protected."

This is why I think the hon. Sifuna had made a wild allegation that somebody telephoned him from New Zealand. I think I would want to put him to strict proof of the fact thereof.

Mr. Mwaura: Mr. Speaker, Sir, the Minister for Foreign Affairs and International Co-operation has differentiated between an official and a delegate. He has said that there was a complaint against a member of the Kenyan delegation. Could the Minister honour this nation by mentioning that member against whom this complaint was made?

Mr. Musyoka: Mr. Speaker, Sir, I think I am entitled to demand that the hon. Member for Kanduyi withdraws and apologises for mentioning the name of an hon. Member of this House adversely.

(Several Hon. Members stood in their places)

Mr. Speaker: Order! Order hon. Members. Emotions notwithstanding, it is our duty to follow the rules. I would like to guide the House in relation to what Members may or may not do about other Members. For those Members who have their Standing Order booklets, you can open page 26 and look at Standing Order No.73 (4). It reads:

"No Member shall impute improper motive to any other Member except upon a specific substantive Motion, calling in question the conduct of that Member."

So, if any Member would like to follow that question, do so with dignity and with absolute regard to Standing Order No.73. If any Member is aggrieved that any particular Standing Order is there wrongly, he is at liberty either to move in this House that Standing Order is suspended or it should be amended. But until that step is taken, it is my duty to ensure compliance with the Standing Orders.

Mr. Shikuku: Arising from the previous supplementary question asked by hon. Mwaura, and since the Minister himself stated that there was a member of the delegation, and this came from his mouth, could he tell the House who this member was?. This delegation was paid for from the tax payer money and this House is entitled to know who this Member of the delegation was.

Mr. Musyoka: In refusing to give the name of any Member of the delegation, again I will be guided by my own privilege, because I am entitled to refuse to answer questions if I so deem; and similarly, because the name of an hon. Member has been mentioned on the Floor of this House, I insist on seeking a ruling from the Chair that the hon. Member of Kanduyi either withdraws or brings a substantive Motion.

Mr. Wamalwa: On a point of order Mr. Speaker, Sir, I agree entirely with the ruling you have just made and I hope that we can observe that. Notwithstanding that ruling, is the Minister for Foreign Affairs and International Co-operation not duty bound to answer the question raised by the hon. Mwaura because what he is seeking here is something similar to plea-bargaining. He wants the hon. Sifuna to withdraw before he can name. I do not think this is quite right. I think he ought to answer the hon. Mwaura's question.

The Assistant Minister, Office of the President (Mr. Sunkuli): Taking into account that there is a certain interest in this matter and that the hon. Member for Kanduyi has caused it now to be published in the Press, thus defaming the name of an hon. Member, is it not in order that you order that particular withdrawal because the whole intention is to mudsling an hon. Member of this House! He should withdraw.

(Several hon. Members stood up in their places)

Mr. Speaker: Order! Order hon. Members. I have already brought to the attention of hon. Members Standing Order No. 73 (4) as relates to any Member who imputes improper motive to another. That does not mean therefore that we cannot now ask any question that does not infringe on Standing Order No. 73. Can we all be mindful of Standing Order No. 73. (4), and ask other legitimate questions that do not offend, mark my word, Standing Order No. 73 (4).

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

Mr. Speaker: What is it Mr. Shikuku? If you people are going to take all the time--- First of all we have been on this Question for the last 10 minutes. It should not have taken that time. If Members insist on raising points of order, then after one or two, we can proceed. Mr. Shikuku, what is it?

Mr. Shikuku: With all due respect to the Chair and the House, I am rising on a point of order which I consider to be very important. It affects the Standing Orders of this House. The Minister has been asked a genuine question and then he admitted that a delegate was sent back home. We wanted the name but he is refusing to give us the name. Could he tell us the Standing Order which gives him that power to refuse to give information to this House because Standing Order No.88 states very clearly and I quote, four lines from the bottom:

"---Deliberately gives false information, to the House or refuses to answer a legitimate question or acts in other ways to the serious detriment to the dignity or orderly procedure of the House." Is he in order to refuse to give information to this House?

Mr. Speaker: Let me give you a very simple ruling on this. If by giving the name of the party involved, the Minister is likely to infringe Standing Order 73 (4) he can plead that. But if the member of the delegation was not a Member of Parliament he is bound to give an answer. But if he pleads that by disclosing the name he is infringing on Standing Order 73 (4), then he cannot do it.

(Applause)

Mr. Musyoka: Thank you, Mr. Speaker, for that ruling. But, before I make my plea, allow me, Sir, to lay on the Table of the House two documents which allude to nothing, Sir, but the truth. So, the provisions of the Standing Order No. 88, as enunciated by my good friend, the hon. Member for Butere, do not really apply.

Now, one of these documents, relates to the Press Statement that I gave in New Zealand which was widely circulated referring to a case of indecent exposure, and not what the hon. Member for Kanduyi calls "rape".

This is why I want to place that document on the Table. I had given a copy of this document, to members of the International Press and the local Press. But, for reasons best known to themselves, Sir, they refused to print a line, because it contains nothing but the truth. The truth is that, the privacy of a Kenyan delegation member was interfered with, and that is the whole truth.

Mr. Speaker, Sir, having said that, the second document is what relates to the fact that the complainant herself wanted her privacy absolutely protected. If the Foreign Minister of New Zealand would wish to see protection of privacy given to a citizen of New Zealand, I certainly do so. I have the right to protect the privacy of a Kenyan delegation. Thank you.

(Loud Consultations)

Mr. Speaker: Order! Order! I have a mind to call the next business, if we are disorganized.

Mr. Biwott: Mr. Speaker, Sir, because these people love Biwott so much, and because they cannot keep quiet because they are bankrupt, and since they use my name to get anything, I would like to protest in the strongest possible terms the malignment of my name by hon. Sifuna and demand---

Hon. Members: Shame! Shame! "Bull of Auckland"!

Mr. Speaker: Order! Order! Order! It does not look to me that the House is no longer interested in this issue. Next Order! We are 35 minutes out of time. Mrs. Asiyo, I am afraid, I will put your Question for tomorrow; and also Mr. Muhika Mutahi, I will put your Question for tomorrow. From now on, we shall proceed on with the business appearing on the Supplementary Order Paper. Next Order!

(Mrs. Asiyo) to ask the Minister for Health:- Could the Minister clarify the statement made by the Provincial Commissioner, Nyanza, last week, that up to 60 per cent of the secondary and primary school girls in Nyanza Province are dropping out of school due to the deadly disease AIDS?

(Question deferred)

POWER FAILURES IN MUKURWEINI

(Mr. Mutahi) to ask the Minister for Energy:-

- (a) What has been causing the daily power failure in Mukurweini Constituency?
- (b) Is the Minister aware that due to this power failure, coffee factories have not been operating and a lot of coffee, which is currently in season, has gone to waste?
- (c) Could the Minister as a matter of urgency, rectify the situation, in order to save the coffee farmers from the enormous loss being incurred as a result of this coffee waste?

(Question deferred)

The Minister for Education (Mr. Kamotho): Point of order, Mr. Speaker, Sir.

Mr. Speaker: I hope it is not on what I have already left?

The Minister for Education (Mr. Kamotho): Mr. Speaker, Sir, my point of order is on the point you had made earlier. The statement made by hon. Sifuna. Why should it go unchallenged?

Mr. Speaker: Order! Order! I do not expect hon. Members to behave that way. I have already ruled on that. Have I not? I have already ruled that it is out of order for any Member to contravene Standing Order 74. I ruled that, as a matter of fact, that Mr. Sifuna was, in fact, wrong, and I proceeded. Now, next Order.

(Loud Consultations)

Mr. Speaker: Order! Order! It does appear that Members are not interested in other business of the House. For those who are not interested in following the Business of the House, please, quietly, and I mean quietly, withdraw with honour and dignity so that we can proceed. Your Excellency the Vice-President.

MOTION

RE-INTRODUCTION OF EXCHANGE BILL

The Vice-President and Minister for Planning and National Development (Prof. Saitoti): Mr. Speaker, Sir, I beg to move the following Motion:-

THAT, in view of the economic measures undertaken by the Government to revitalise the economy, in particular measures already taken in the monetary sector which have started to bear fruit in that, the country is recording economic growth in the domestic and foreign investments, and further, in view of the urgent need to fully liberalise the exchange and trade system in order to enhance the confidence of both domestic and foreign investors, this House resolves that pursuant to Standing Order 171(1), the Exchange Control (Repeal) Bill, 1995 (No. 10 of 1995) which was rejected by this House on 8th November, 1995 be exempted from the provisions of Standing Order 114 (Re-introduction of Bills) to facilitate the re-introduction of the Bill for consideration during the current Session.

Mr. Speaker, Sir, the purpose of this Motion, is as clearly spelt down in the Order Paper.

Mr. Speaker: What is it, hon. Anyona?

Mr. Anyona: On a point of order, Mr. Speaker. I rise to seek the guidance of the Chair on the business just before the House. Personally, I am sympathetic to this Motion for three reasons. One, it is necessary, because, we want to liberalise the exchange control provision. I also believe that the resolution of the House against it was what I call "the politics of ambush". Because, all the Members here supported the debate, when it came to voting, they voted against. That does not tell or speak of men and women of truth.

Mr. Speaker, Sir, I think, we in the Opposition have got to be extremely careful because the Opposition

is always vulnerable anywhere in the World. We make a small slip, we suffer the consequences. We must not be seen to be unprincipled.

Mr. Speaker, Sir, nevertheless, we must follow the correct procedure in this House in re-introducing the matter, and this is why I am seeking the guidance of the Chair.

(Loud Consultations)

Mr. Speaker: Order! Order! Can the Members give me a chance to hear what the Member is complaining about.

Mr. Anyona: Mr. Speaker, there are three Standing Orders, which relate to this matter. Other than Standing Order 171, and I would like for the peaceful and smooth transactions of our business to go through those with indulgence of the Chair.

Mr. Speaker, Sir, the first one is Standing Order No. 114 which says as follows:-

"A Bill the Second Reading or Third Reading of which has been rejected may be introduced again in the next Session, or after the lapse of six months in the same Session, subject to fresh publication as provided by Standing Order 98."

In other words, when it comes up either in the new Session or after six months, it must be published afresh. That is all Standing Order 114 says. Standing Order 73 (2) says --

The Speaker: Which one? First of all, what is your objection?

Mr. Anyona: My objection, Mr. Speaker, Sir,--

The Speaker: Order! Order! Mr. Anyona, if I give you the Floor, I must know why you are on the Floor. Are saying for example, that it is out of order for this House to deliberate on this Motion? If that is the position, you must make it clear so that we follow the reasons why you are on the Floor.

Mr. Anyona: Thank you, Mr. Speaker, Sir. That is a fact. I stood up to seek the guidance of the Chair and I am laying the basis on which I want to seek your guidance. It is true indeed that my point is that it would be unprocedural for this House to proceed with this Motion in this manner and that is the basis of which I am trying to lay.

As I said Standing Order No. 73(2) says as follows:-

"It shall be out of order to introduce argument on any specific question upon which the House has taken a decision during the current Session except upon a Motion to rescind that decision made with the permission of Mr. Speaker."

Mr. Speaker, Sir, therefore, what I am saying is that again under Standing Order 73, you cannot do it except upon a Motion to rescind the earlier resolution; not to bring a totally different Motion. That is a second argument. The third argument is under Standing Order 42 which says:-

"No Motion may be moved which is the same in substance as any question which has been resolved (in the affirmative or in the negative) during the preceding six months in the same Session: Provided that a Motion to rescind the decision of such a question may be moved with the permission of Mr. Speaker."

Again that says you can only do it to "rescind" and with the permission of Mr. Speaker. I would like to refer back to Standing Order 171 which is the basis on which we are seeking to debate this Motion. Standing Order 171, first of all is a blanket provision which I think, really nullifies all the procedures of this House because you can more or less exempt any business of this House from the Standing Orders, which makes nonsense of the Standing Orders.

Nevertheless, that is how it stands right now. But my objection is this; Standing Order 171---

(Loud consultations)

The Speaker: Order! Order! I detest this! A Member is making serious objection and also seeking the Speaker's ruling. There is a Motion pending before the House and, I have to rule whether it should proceed or should not proceed, and the hon. Members in this House cannot keep quite and listen!

Mr. Anyona: Thank you, Mr. Speaker. I could not agree with you more because what is all the noise about if we are going to transact business here contrary to the procedures. I want to read Standing Order 171, paragraph one:-

"A motion may be made either with or without notice that the proceedings of any specified

business be exempted from the provisions of the various parts."

Mr. Speaker, Sir, now in this case we can say the business is specified as a Bill that was rejected. My understanding is that this Standing Order applies to matters that are before and within the four walls of this House or Chamber. Anything outside does not fall under the procedures of this House. As far as I am concerned, this Bill was defeated and it is not a matter before this House. In addition, the new Bill that would come to the House, has not even been published and, therefore, we cannot in my view exempt business from the Standing Orders of the House when that business is not before this House.

The Speaker: Very well. I think I have got the gist of your argument. I will give a ruling on my feet now which will be followed subsequently for record by a detailed considered ruling. I will begin on all matters you have raised. First of all, straightaway, I will urge you to look at Standing Order 42, which you have quoted. On its own plain meaning without extraneous interpretation, the plain English meaning is that; It talks about a Motion not a Bill, and hon. Members must know there is a world of difference between a Motion and a Bill. Both of them are catered for in two separate and distinct parts of our Standing Orders; one headed under Standing Order 40 - "Motions and Amendments" and the other one headed - "Public Bills" under Standing Order 94, henceforth. Standing Order 42 only covers Motions. It does not cover Bills. Now, the equivalent of Standing Order 42 as far as it relates to Public Bills is Standing Order 114. Now, 114 says, you cannot re-introduce a matter, a Public Bill that has been defeated in either stages of the House in the same Session, unless six months have lapsed in the same Session. Now, if indeed you do wish to re-introduce a Public Bill in the same fashion in which you want to re-introduce a Motion defeated, how do you do it? You do it, in my view, under Standing Order 171 by making a Motion before this House asking this House to agree that the provisions of the Standing Order 114 will not apply to a Bill that has already been rejected. That brings me, Mr. Anyona, to the question of your asking "where is the Bill?" The Bill cannot be here because Standing Order 114 prohibits its publication. Once this House gives the Government authority to waive Standing Order 114, the Government will publish that Bill and bring it here and then it will have to follow the provisions of Standing Order 98 in relation to publication and other stages of debating Bills. So, my ruling is simple: This is the right procedure for bringing a matter such as this before the House. In fact, the only reason why Standing Order 171 finds its place in our Standing Orders is to meet a situation like this. So, I rule that the business before the House is properly before the House and His Excellency the Vice President and Minister for Planning and National Development must proceed to move it.

The Vice-President and Minister for Planning and National Development (Prof. Saitoti): Mr. Speaker, Sir, I want to thank you very much for that ruling which has shed light---

An Hon. Member: On a point of order, Mr. Speaker, Sir.

The Speaker: No more points of order!

The Vice-President and Minister for Planning and National Development (Prof. Saitoti): Mr. Speaker, Sir, as I said I am very glad that you have shed some light as far as the Standing Order in question is concurred. The purpose of this Motion is to seek the approval of this House for the Bill which was defeated here to be published and then be re-introduced.

Perhaps the hon. Member should us why it has become necessary to resort to this course of action. I would like to say that this particular Bill is important in the sense that today, we live in an extremely competitive world. A world in which only the countries that are able to compete effectively are going to succeed. There is no way our own economy is going to be able to pick up if indeed we do restrict our own traders from being able to move business from Kenya to other countries. But even much more important is the fact that until this particular Act is repealed, it will become extremely difficult for Kenyans to get themselves involved in international trade. For us to get involved in international trade, it will be necessary for our traders to be able to raise credit from outside. No credits will be given if it is known that there is no way that money can actually be paid by the countries in question. Therefore, since all our neighbours and many other countries in the world have already repealed this particular law, this House should look at this resolution in the spirit of building the economy but I think much more important, giving access to our own traders to participate in international trade. But I think the most important thing is the investment which is in question. Even though the Exchange Control Bill is suspended, the investors are likely to come if they still believe that this particular House is still reluctant to repeal the Exchange Control Bill. Investment is a delicate matter. It takes place every single given time. If we are going to shelve this Bill for another six months, this country is going to forego valuable opportunities during which time many investors will have moved out with their money. Decisions on investment are being made by the investors continuously. And if we were to say "Let us shelve this Bill for another six months", this country is going to deny itself substantial infusion of capital which we require for capital formation. We require this capital to create

employment opportunities in this country. I would like to say that in this House we will be judged as to whether we are serious about creating employment opportunities and whether we want to encourage our own businessmen in international trade.

So, Mr. Speaker Sir, I do not want to speak at great length for issues will be discussed in this Bill later on but I want to urge the hon. Members and especially the Members from the Opposition that let us be here for a moment today and be united in the spirit of tackling the problems of this country; in tackling the issues that are going to bring about employment creation; that are going to assist our traders to be on equal terms with other traders internationally and to be able to earn foreign exchange for this country so that we can solve our problems.

Mr. Speaker Sir, this Bill that is being anticipated is an important Bill and indeed it is the time for us to consider repealing a Bill that has become archaic and let us not be backward in thinking.

Mr. Speaker Sir, I beg to move.

The Assistant Minister for Finance (Mr. Keah): Thank you Mr. Speaker Sir for giving me this opportunity to second this Motion primarily for the reasons that have been stated in the Motion itself. In seconding this Motion, allow me to elaborate and emphasise on a few points that I believe need to be emphasised and elaborated on. It is most unfortunate that this House did vote the way it did.

The Speaker: Order! Order! You will not delve into the merits or demerits of what transpired. You tell us the reasons why you think we should bring back the Bill.

The Assistant Minister for Finance (Mr. Keah): I appreciate and thank you for the guidance. The reasons why this Motion should be approved by this House are as follows.

Firstly the Exchange Control Repeal Bill is so fundamental and so important to the liberalisation process of the Government and for this economy that any further delay will indeed hurt and injure the economic growth of this country.

Secondly the repeal of this Bill is so important as indeed it is a vital cog in the liberalisation process that the Government is currently undertaking.

Thirdly this House spoke very favourably for the Bill and in that regard the Government feels it has got to be brought back here so that we can approve it.

Fourthly, the rejection as we all know now, and as the entire country is aware was indeed a most unfortunate happenstance; indeed an ambush of this House. This House must be prepared to correct itself where we believe that we have gone wrong.

Fifthly, the repeal of this Bill is indeed good for all Kenyans.

For those five fundamental reasons, we will indeed enhance the investment in this country and enable the efficient allocation of our economic resources. We will enhance creation of employment opportunities and economic growth.

For these very important reasons, I beg to second.

(Question proposed).

Mr. Wamalwa: Mr. Speaker, I rise to support this Motion, and by doing so appear to be making a stand that contradicts a previous stand. but that is only in terms of appearances. I am sure that we in the Opposition are on record as being among the greatest proponents of liberalisation in this country and I dare say that if we had been in Government, we would have brought the Bill to repeal the Exchange Control Act three or four years ago and not at the end of 1995.

(Applause)

Mr. Speaker, we support the Government liberalisation efforts with open hearts that they be intensive and be more far reaching with certain exceptions that we feel any responsible Government must be mindful of. Now, one would ask, if we do support liberalisation so much, how come we opposed the Bill when we did?. There are a number of reasons for this, and they are all a lesson ---

Mr. Speaker: Order, Mr. Wamalwa! I had ruled against Mr. Keah about revisiting the debate on that Bill. I am doing so again, in accordance with the Standing Order 73 (3). So, let us concentrate on this Motion. Should we re-introduce that Bill or should we not? First of all, I think also the hon. Keah was wrong in one particular instance, when he did say that the House corrected itself because it acted wrongly. This House has the right to pass or refuse to pass any legislation and by acting either way, it is not acting wrongly. It is a legitimate business of this House either to pass law or refuse to pass it, and it is totally right to do either way. It is not

wrong. So, I want to advise hon. Members, let us not revisit the reason why it was voted either in or out, and who did or who did not. I think what is at issue today is: Shall we re-introduce that Bill or shall we not re-introduce it? If we must re-introduce it, why should we? If we should not re-introduce, why should we not? I think that is the basis upon which I should ask Members to stick to debate, so that we do not fall foul of what hon. Anyona said; that we should not revisit arguments without, of course, exempting ourselves from it.

Mr. Wamalwa: Mr. Speaker, I thank you for that guidance although it makes my life very hard because we find ourselves in this unenviable position where we are having to agree to something that we opposed before, and I think that our supporters are probably entitled to know why we acted in a certain manner. We should not hold ourselves out as erratic people who today will say this and tomorrow do the opposite.

Mr. Speaker: I think, Mr. Wamalwa, the correct position will be to put that record right, if ever this Motion goes through, as the Bill is re-introduced. You will be able to put all that across when debating the Bill.

Mr. Wamalwa: Mr. Speaker, since we are now talking about the future in anticipation of this Bill. I would also, therefore, like to make a very "futuristic presentation". I believe that what happened on 8th of November, is a good lesson for us for the future, and that it is important that this House considers itself as a united House which is here in the service of the people of this country, the taxpayers and the citizens who are not yet in the taxpaying brackets. Therefore, it behaves all of us, on certain important matters such as this Act was, to have due consultations so that we bring everybody on board and, therefore, get this Bill passed without too much ado. For example, today, the Leader of Government Business in the House, took the liberty to talk to me about this matter earlier, we found no ground for difference, and I gave him the undertaking that our side will support this Motion. In this vein, I would like to urge that in all future dealings, the Opposition and the Government must consult each other and try to reach an agreement in advance.

Mr. Speaker, in future, as we proceed with the liberalisation programme, the Government must be mindful of certain areas where liberalisation may not achieve the desired effects. And, here I am pleading the case for the maize farmers. It is true that when we liberalise trade, we go by willing seller willing buyer, but in terms of food production, I think, it is prudent for the Government to make sure that the farmers will always produce the food that will feed this nation. If there is no food to feed people, then there will be nothing else that people can do. There is a saying by a famous French Philosopher, Misudi Talkfield (?), who said that you should defy a man with a full stomach, if you defy a man with an empty stomach, you are bound to get into a lot of trouble. If Kenyans are not going to be fed, then there will be no work, nobody will go to work, industries will grind to a halt, there will be nothing to export, there will be nothing to sell, there will be no teachers, because there will be no pupils going to school on empty stomachs.

Mr. Speaker, I believe that this Government must look again at the plight of the maize farmer. I just came back from Western Kenya, and a bag of maize is now going at Kshs180 or five shillings a *gorogoro*. Now, the fertilizer to plant the maize alone was Kshs900. How is the farmer going to sell a bag of maize for Kshs180 and be able to recover anything to enable him even grow a little food to feed himself and his family in future? As we liberalise, and we support fully these liberalisation measures, I think we must take a hard look at the plight of the farmer. In Europe, for example, France is a member of the European Union, but it is very careful and adamant when it comes to farm policy. They do not allow the question of cheap imports that will affect the French farmer. That is why there are no "mountains of butter" in France and no "lakes of milk" in France. This country, I think, would do well to take a leaf from the French experience.

Mr. Speaker, I think the Government should not close down the cereals Board all together, I think they should buy this maize from the farmer at a reasonable price, export it at a profit in order for the farmers to be able to grow maize again next year.

Mr. Speaker, with those few words, I beg to support.

The Minister for Labour and Manpower Development (Mr. Masinde): Mr. Speaker, in view of the fact that this Motion is quite straightforward, and seemingly acceptable by either side, may I request that the Mover is called upon to reply?

(Applause)

Mr. Speaker: Order, first of all, Mr. Masinde, you did not rise on a point of order. You rose and I gave you the Floor to contribute, and you cannot take the opportunity to contribute to move a closure!

Mr. Shikuku: Asante sana, Bw. Spika, nakushukuru kwa kumkatisha huyo Mhe. nia zake mbovu.

Jambo la kwanza, Mhe. Saitoti alisema kuwa, angependa na angefurahi ikiwa upande huu wa Bunge hili unaweza kushirikiana na kuunga mkono Hoja hii. Kusema kitu ni rahisi, kufanya ndio huwa shida. Na sisi

Wabunge wa upande huu, ni watu ambao tunafahamu shida za wananchi. Alisema habari ya kazi itapatikana namna gani, habari ya biashara itaendelea namna gani, habari hiyo yote alisema. Lakini, ukweli ni kwamba, tujue tuko katika Hoja hii kwa sababu sisi tuliandikwa na watu kukaa hapa Bunge na kufanya kazi ya Bunge, wananchi wajue Kwamba, hatukuwako wakati wa kupiga kura.

Mshara ulioliwa siku hiyo, ulikuwa mshara wa haramu. Sasa Hoja inaletwa, tushirikiane, tuendeshe kazi.

Ukweli, ni kwamba hata baada ya kupitisha Hoja hii, watu wetu hawatapata kazi; huo ndiyo ukweli. Mambo kama haya ya kujaribu kuwahadaa wananchi haifai. Ukweli, ni kwamba hakuna Mbunge mmoja kutoka upande wa Upinzani ambaye alipinga hiyo Hoja. Sote tuliunga mkono, na huo ndiyo ukweli uliyoko kwa rekodi. Upande wa Serikali, na upande wa Upinzani, tuliunga mkono Mswada huu. Lakini kwa sababu, imekuwa ni mazoea ya Waheshimiwa kutoka upande wa Serikali, hawana jambo wanaojuwa mbali ni kupinga. Liwe nzuri lapingwa, liwe mbaya lapingwa. Sasa juzi, Bw. Spika, walisahau wakaondoka; wakaenda nje, nao wakapewa ile dawa ambayo huwa wanatupatia kila siku. Na walikiona cha mtema kuni. Hili jambo, lazima lieleweke kwamba ndugu zetu hawako tayari kufanya kazi na sisi. Na sisi tuliwapa dawa hiyo.

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

Mr. Speaker: What is it Mr. Munyasia?

Mr. Munyasia: Mr. Speaker, Sir, in view of your ruling regarding hon. Keah's contribution on this particular Motion, is the hon. Member for Butere, in order to begin explaining why the Opposition voted in a particular way on this Motion?

Mr. Speaker: Order! I have already ruled it out of order. There cannot be any hon. Member allowed to get a justification or to condemn those who voted otherwise. That is a matter that was dealt with lawfully by this House and those who voted against it were perfectly within their rights and those who voted for it were perfectly within their rights. What we want to decide now is: Do we bring it back or not? Let us concentrate on that.

Mr. Shikuku: Bw. Spika, mimi nilieleza kwa nini Hoja hii imekuja. Imetoka Mbinguni! Imekuja---

Mr. Speaker: Order! Najua haijatoka Mbinguni. Mhe. Shikuku, najua kwamba unapenda mjadala, lakini ukweli ni huu. Sheria inatukataza kuzungumzia yale tulioyafanya hapo mapema. Sasa tuzungumze kama tutakubali kurudisha mswada huo. Tuzungumze ni kwa nini turudishe mswada huo au tukatae kabisa usirudishwe hapa.

Mr. Shikuku: Bw. Spika, mimi nakubaliana na---

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

Mr. Speaker: Yes, Mr. Juma Boy! What is it?

Mr. Boy: Mr. Speaker, Sir, because there is a resemblance between this Bill and other Bills, would I be in order to request that the Mover be now called upon to reply?

(Laughter)

Mr. Speaker: Order! Order! No. I am not inclined at this moment to accede to your request. Honestly, with the guidance I have given to the hon. Members, it would not be fair to do so. I have already had very few hon. Members from the Government side contributing and I think only one from the Opposition and Mr. Shikuku, is the second. I think it is fair that we get a fair representation of the views across the Floor.

Mr. Shikuku: Asante sana, Bw. Spika. Sasa umoja wa kufanya kazi pamoja unaweza kuja ikiwa nia yetu ndiyo hii. Ikiwa ni hivyo, sisi wengine tutakaa hapa katika Bunge na ule Mswada mwingine ukija tutafanya mambo mengine tena.

(Laughter)

Oh yes! Lazima tutakuwa na Hoja nyingine ya kuuliza kuwa wakati wa kuchapisha huo Mswada upunguswe. Na hapo tukikataa, mtafanya nini? Wengine twajuwa kanuni za Bunge hili. Kwa hivyo hakuna haja kufanya hivyo kwa sababu Wajumbe wa wili tu watatia breki kwa kusimama na Mswada huo hautajadiliwa. What will you do if we apply that during the Second Reading? Kwa hivyo Bw. Spika, Hoja hiyo inaweza kupingwa na watu wawili tu. "No, Second Reading", by two Members only!

Kwa hivyo, tunataka tuzungumze, na tuambiane ukweli. Hoja hii inajaribu kurudisha hali ili tufuate sheria za Mbunge hili. Ili ule Mswada uletwe tena. Hou Mswada utachapishwa tena, halafu utaletwa baada ya siku 14. Tukikubaliana Hoja italetwa tena, baada ya siku mbili au moja, ndiyo tena Mswada ujadiliwe kwa, Second reading, Committee Stage, Third reading, ndiyo upitishwe, Bw. Spika. Hoja hii inataka hayo mambo

yafuatwe. Na sisi wengine ambao tunapenda kanuni za Mbunge hii, tukiona Hoja kama hili hatupingi. Kwa sababu inataka kuleta mambo kufuatana na Kanuni za Mbunge hili. Kwa hivyo hatuwezi kupinga. Lakini, **[Mr. Shikuku)**

wengine wakiwa ati wao kwa wingi wao wanaweza kutukatisha ili tusizungumze nakushukuru, Bw. Spika, kwa kukataa ombi lao. Sisi tunajua mahali pa kupiga breki, tena watapigwa rungu nyingine. Tunajua sana!

An hon. Member: Weka rungu!

Mr. Shikuku: Kwa kufanya hivyo, Bw. Spika, tunaonyesha dunia kwamba sisi tumekomaa. Hatupingi kwa kupinga. Kitu kikiwa kizuri tunakiunga mkono na, kikiwa kipovu tunakataa. Na pia, upande wa Serikali, kama kuna Hoja au Mswada, wakiona Bunge hawapendi na wao waurundishe nyuma, tuunde Kamati ili tufanye kazi pamoja. Kwa sababu nia yetu katika Mbunge hili ni kuwafaidisha wananchi. Makamu wa Rais, alisema kwamba tukipitisha Hoja hii, watu wetu watapata kazi na biashara itaenda vizuri. Lakini mimi mwenyewe, naunga Hoja hii mkono kwa sababu najua imeleta taabu kidogo.

(Laughter)

Wewe na mimi na wale waliotoka nje wajua kwamba shilingi yetu inaenda chini. Kwa hivyo tunataka ule Mswada uletwe kwa sababu bei ya Dola, na Pauni ya Uingereza imeenda juu. Sisi tumekubali liberalisation. Kwa hivyo tutaunga Hoja hii mkono, sisi watu wa Upinzani, na Serikali ifahamu kutoka leo kwamba, wakilala tena watapigwa kijembe kingine.

Naunga mkono.

Mr. Wamae: Mr. Speaker, Sir, I rise to support this Motion because it is good that we continue with the liberalisation of our economy and to show Kenyans that we are making life easier for them, by reducing the exchange controls. Consequently, I agree with the Mover of this Motion, the Vice-President and Minister for Planning and National Development, that unless we unite on this to show the world, that Kenya needs to put its economic system in the right order, in accordance with the rest of the world we shall not succeed. But, I will also expect that if we are going to support this Motion the Government side must know that they have got to respect the Opposition both in this House and outside.

There must be mutual respect. If there is no mutual respect, you will get surprises like the one you had the other day. If you do not respect the Opposition, naturally you do not expect respect from us as well.

Mr. Speaker, Sir, we would like the Government to move faster in liberalising this economy. We have said here many times that we want to see faster privatisation of the Government Parastatals. The Government is dragging its feet on this line. We are not going fast enough and the Government will be called upon to subsidise many of these bodies which are being mismanaged; where people who have been given the responsibility of managing them have been put there for political reason not for their ability to manage. That is one reason why we want them privatised as quickly as possible to save the people of this country the problem of inefficiency.

Secondly, we would like to see fair-play in the economic sector particularly from the Ministry of Finance.

We have said that agriculture must be supported and that is why we said tractors and in-puts in agriculture must not be charged Duty and VAT. And it is for the same reason that green houses, fumigation and dam building sheets should be exempted from Duty and VAT. Yet, we have a company manufacturing those things in Nairobi and these taxes are being charged because an officer in the Ministry of Finance has an interest in those who are importing and no interest with the company that is manufacturing here and employing Kenyans. So, they are being disadvantaged because a particular officer in the Treasury has an interest in the importation of those materials from Israel and Holland. This is not the way we are going to build this economy. There must be fair play, which must be seen to be above self-interest. It is an area which, I hope, that the Assistant Minister in the Ministry of Finance should address. I can give you details; it is a very embarrassing situation and I hope it will be corrected before it becomes public knowledge. You cannot give more concession to importers of any product than those you give to your own factory here. The Ministry is levying duty on imported raw materials while waiving duty on imported finished goods. This is very serious. And some of our officers are sabotaging the Government's effort in trying to correct the economic situation.

As I said, we want to proceed faster in liberalisation, let us create the right atmosphere for investment. It does not make sense for us to go to America, Malaysia, India, Germany and Britain and tell them to come and invest in Kenya while at the time, we do not want somebody from Central Province to invest in Narok District; we do not want somebody from Kisumu to invest in Taita or somebody from North-Eastern Province to invest in Nyeri. If you cannot encourage your own local investors, how will people know that you are serious when you go around the world looking for foreign investors? You cannot be taken seriously. Investment is investment whether it is done by a black Kenya or by foreign investors. It employs people, pays taxes and brings

development. We should encourage our own investors, our people to invest in different parts of this country, particularly in agriculture, industries and business before we even go around the world with bowls in our hands pleading for foreigners to come and invest here.

Finally, Mr. Speaker, Sir, if you want foreign investors, let us make sure that we have security. It was only the other day, a diplomatic from the British High Commission was shot by thugs who were stealing a vehicle from him. There are many people here being maimed by hooligans because our security situation is not right. We need better security. The tourists are not coming to this country because of too many accidents---

The Minister for Environment and Natural resources (Mr. Sambu): On a point of order, Mr. Speaker, Sir.

Mr. Speaker: What is it, Mr. Sambu?

The Minister for Environment and Natural Resources (Mr. Sambu): Bw. Spika, ninavyoona mimi, mhe. Mbunge aliyesakafuni anaingilia mambo yasiyohusu Hoja ambayo inajadiliwa. Anaingilia mambo ya usalama na mimi sioni yanahusu Mswada huu vipi?

Mr. Speaker: I think he is quite okay. Proceed.

Mr. Wamae: Mr. Speaker, Sir, I would like to explain why I brought the issue of security---

Mr. Speaker: Do not worry, proceed.

Mr. Wamae: Without security, Mr. Speaker, Sir, you cannot have investment.

Mr. Speaker: Order, Mr. Wamae, I have said that you are within it. Proceed!

Mr. Wamae: Thank you, Mr. Speaker, Sir, for protecting us from this KANU hawks!

We must create an enabling environment, security, fair-play and justice to encourage local and foreign investments. If we can do those things, this country should move forward. We should be ahead of Malaysia. We were together with them in 1963 to 1970 but now we are going there to learn from them. We should put our economic system in order and then we shall grow.

With those few remarks, I beg to support the Motion.

The Minister for Local Government (Mr. ole Ntimama): Thank you, Mr. Speaker, Sir. I rise to support this Motion very strongly because we are liberalising the economy. This is the beginning of liberalisation of the economy of this country which I am sure is being supported by both sides of the House and the country as a whole.

Some of us get a little bit perplexed because we hear of social dimension. Social dimension is a system of up-lifting, protecting the vulnerable groups of this country which include women, the urban poor, the nomads, the pastoralists and so forth. Again we have a system called Structural Adjustments Programmes. This liberalisation, as I am told by the experts, is for the people who are able to spend on their own without being assisted, which means the survival of the fittest. I get very perplexed, maybe, because I am more of a pastoralist, a nomad than any thing else. But, I think both of them are programmes that we could continue to support. Maybe, in this case, we have to strike a delicate balance because social dimensions are very important for this country. This is because the nations and people who have resources should give their resources to support those who are vulnerable and those who do not have and to bring them up because they are citizens of this country.

If liberalisation, means the survival of those who are fitter than the others, then fine. Maybe, that is what the world is all about. I have one important thing which I have been repeating on the Floor of this House and that is our economy which currently is based on agriculture. We cannot run away from that fact. We have to develop our agriculture to the fullest if we really want to export anything at all. We have to start exporting agricultural products in this country or all the products coming from our agro-industries. It is important that most of our efforts and resources should be geared towards the improvement of agriculture in this country. I mean, agriculture, livestock industry and all other things related to agriculture because we have no short-cut. All countries of the world started that way and when they became industrialised, they started exporting industrial goods. Even America and all other countries started by really improving their agricultural base. We are trying to walk before we can crawl. It is not right, Mr. Speaker, Sir. So, I suggest that this question of agriculture be properly supported by all our efforts in this country.

Mr. Speaker, Sir, people in my constituency right now are suffering because the price of wheat has gone down as a result of the dumping of a lot of wheat into this country. It is very unfortunate if we are going to accept wheat coming from the prairies of Canada and of America and thereby allow an American grain farmer to dump his wheat here. We are killing the initiative of our own people.

I am protesting against this move very loudly and clearly because these are the people who brought me to this House and are very dear to me more than anything else and they are very close to my heart. Apart from that, we must also improve our sugar factories so that we do not have to import sugar as well.

If we start getting self sufficient, then we can export our agricultural products and bring in---

Mr. Cheserek: On a point of order, Mr. Speaker, Sir. In view of the fact that both the Opposition and the Government are in agreement that we re-introduce this Bill, shall I be in order to ask the Mover to reply?

An hon. Member: You are out of order!

(Applause)

Mr. Speaker: Order! I will put the Question straightaway.

(Question, that the Mover be now called upon to reply, put and agreed to)

The Vice-President and Minister for Planning and National Development (Prof. Saitoti): Mr. Speaker, Sir, I beg to move.

(Question put and agreed to)

Mr. Speaker: Next Order!

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

[Mr. Speaker left the Chair]

IN THE COMMITTEE

[The Temporary Deputy Chairman, (Mr. Ndotto) took the Chair]

Clause 2

THE COUNCIL OF LEGAL EDUCATION BILL

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Chairman, Sir, I beg to move:- THAT Clause 2 be amended by inserting the following new definitions in the appropriate alphabetical order- "advocate" has the meaning assigned to it in section 2 of the Cap.16 Advocates Act, "Minister" means the Minister for the time being responsible for matters relating to legal education.

(Question of the amendment proposed)

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

(Clause 2 as amended agreed to)

Clause 3

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

THAT, clause 3(1) be amended in paragraph (e) by deleting the word "three" and inserting the word "five".

(Question of the amendment proposed)

*(Question, that the word to be
left out be left out, proposed)*

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

(Clause 3 as amended agreed to)

*(Clauses 4, 5, 6, 7, 8, 9, 10,
11, 12, 13 and 14 agreed to)*

Clause 15

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

THAT clause 15 be amended -

(a) by deleting subclause (1) and (2) and inserting the following-

(1) The Minister may, on the recommendation of the Council and in consultation with the council of the Law Society, by order published in the Gazette, impose a legal education levy on any or all services rendered by advocates deemed under section 30A of the Advocates Act to be practising in their professional capacity which shall be collected by such advocates.

(2) A levy imposed under this section shall be payable at such rate as may be specified in the order.

(b) by deleting subclause (3) and inserting the following-

(3) An order under this section may contain provision as to the time at which any amount payable by way of the levy shall become due and the penalty for non-payment.

(c) by deleting subclause (5).

(Question of the amendment proposed)

*(Question, that the words to be
left out be left out, proposed)*

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

(Clause 15 as amended agreed to)

(Clauses 16, 17, 18, 19, 20, 21 and 22 agreed to)

(First Schedule agreed to)

(Second Schedule agreed to)

(Title agreed to)

(Clause 1 agreed to)

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Chairman, Sir, I beg to move that the Committee doth report to the House its consideration of the Council of Legal Education Bill with its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

[Mr. Speaker in the Chair]

REPORT AND THIRD READING

THE COUNCIL OF LEGAL EDUCATION BILL

Mr. Ndotto: Mr. Speaker, Sir, I beg to report that a Committee of the whole House has considered the Council of Legal Education Bill (Bill No.4) and approved the same with amendments.

The Attorney-General (Mr. Wako): Mr. Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

The Assistant Minister for Finance (Mr. Koech) seconded.

(Question proposed)

(Question put and agreed to)

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

The Minister for Labour and Manpower Development (Mr. Masinde) seconded.

(Question proposed)

(Question put and agreed)

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

BILL

Second Reading

THE CUSTOMS AND EXCISE (AMENDMENT) BILL

The Assistant Minister for Finance (Mr. Keah): Mr. Speaker, Sir, I beg to move that the Customs and Excise (Amendment) Bill be now read a Second Time. In moving this Bill First I will give a brief on the Memorandum of Objects and Reasons and then will go more succinctly into the reasons as to why we would like to have the Bill amend the existing law.

The main object of this Bill is, indeed, to replace the 1st, 2nd, 5th and 11th schedules of the Customs and Excise Act, Cap 472 of the laws of Kenya in order to bring them into line with the new revised and harmonised commodity description and coding system by the World Customs Organisation (WCO), of which Kenya is a member.

[Mr. Speaker left the Chair]

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

The new revised system comes into operation on 1.1.96 in all member countries of the Organisation. As it may be recalled, the harmonised commodity description and coding system was first adopted by Kenya in 1989 and revised in 1992. This system is mainly used for classification of goods for uniform compilation of international trade data in order to provide trade information to potential investors. This Bill, therefore, does, indeed, enhance international trade.

During the 1995/96 Budget Speech the Minister mentioned that Kenya along with other countries participating in the Uruguay Round Table signed the Marakesh Treaty in April, 1994. The implementation of the Marakesh Treaty is of great importance as it ensures that the advance of science and technology and the spread of economic liberalisation across the globe will not be strangled by the protectionist measures of the type to which ours are vulnerable. The World Trade Organisation (WTO) is charged with the responsibility of overseeing the permanent reduction of global protection through resolution of trade disputes between nations and that adequate procedures have, in fact, been in place to enable it to enforce compliance, even among the major industrial powers.

The WTO has to rely on trade data for it to effectively control and implement the Organisation's objective of regulating world trade. The WTO uses the Standard International Trade Classification Codes (SITCC) to collect this data. The WTO works closely with the WCO---

QUORUM

Mr. Salat: On a point of order, Mr. Temporary Deputy Speaker, Sir. there is no quorum in the House.

The Temporary Deputy Speaker: Yes, it is true that there is no quorum. Can you ring the Division Bell?

(The Division Bell was rung)

The Temporary Deputy Speaker (Mr. Ndotto): Order! We now have a quorum. Proceed.

The Assistant Minister for Finance (Mr. Keah): Mr. Temporary Deputy Speaker, Sir, as I was saying, the World Trade Organisation (WTO) works closely with the World Customs Organisation (WCO) in controlling and regulating the world trade through a harmonized commodity description and coding system. The system was first introduced in June, 1989, when Kenya became a contracting party to the Harmonized System Convention. The text was implemented by the Finance Act, of 1989 and, consequently, constituted the first schedule to the Customs and Excise Act. The harmonized system was further extensively amended in 1992 and Kenya implemented the amendments through the Finance Act, of 1992. Since the enactment of the 1992 version of the Harmonized Commodity Description and Coding System, a lot of scientific and technological developments have taken place, calling for the need to reclassify the goods. Indeed, disputes regarding classification of existing goods in certain tariffs have arisen, necessitating interpretation and reclassification by the WCO. The changes in technology and pattern of international trade require constant technical review of the harmonized system by the WCO. Once changes have been agreed upon, each member country is required to amend its tariff structure to congruently agree with the systems of other member countries.

In this respect, Kenya has consulted with the WCO regarding its version and, the Bill before this House is resultant to the changes and the technical consultations. Members of the House will recall my mentioning in the 1995/96 Budget Speech, that the WCO agreed to have the effective dates as 1st of January, 1996 for all the members. We need to be ready to effect the system on this date and, hence, the Bill before the House. The uniform classification of goods will, indeed, enable capturing of standardized trade details for customs and statistical processes for quality decision by the Government and other trade interests. It will facilitate the collection of accurate and comparable data for the purposes of international trade negotiations and will facilitate acceptability and use by users other than customs. As I did promise in the Budget Speech, these technical changes will have no effect on the tariff rates and structures for import duties as well as excise duties. Consequently, I still do give the assurance that this Bill does not affect the duty structure and tax rates. There will be no additional Government expenditure nor additional tax burdens to the tax payers that will be brought about by the passing of this Bill. I do urge the House to debate as they wish, but at the end, I ask that the House does agree to and approve this Bill so that we can be in line with our international trading partners and

organisations.

Mr. Temporary Deputy Speaker, Sir, with those remarks, I beg to move.

The Minister for Labour and Manpower Development (Mr. Masinde): Mr. Temporary Deputy Speaker, Sir, I stand to second the amendments proposed in this Bill since it is important to harmonize the world coding of commodity description with our own system. Here, we have issues of international comparison, just as in the Ministry of Labour and the International Labour Organisation, we also have the standard classification of jobs. In this case, we are asking for these amendments in order to have standard classification of commodities so that when we have a certain commodity and we give the description of that commodity here, whoever is in East or Central Asia, the Middle East, Western Europe or America can understand what we are talking about. It is a straightforward sort of exercise that we are asking for, but a very important one, so as to make sure that all interested parties are speaking the same language. This is important for us in Kenya because we are members of the WCO and, as such, it is important that we harmonize the descriptions of our commodities. It is also important because the investors will look at the sort of commodities that we have here as described and compare that with the way they are described in their countries. They will, thus, compare whether investing here will be more profitable to them than investing in their own countries, where a commodity produced here has the same description as the commodity being produced in their own countries. It is, therefore, important that we harmonize and bring all our commodity description and coding in line what is going on under the WTO.

Mr. Temporary Deputy Speaker, Sir, with these remarks, I beg to ask the House that we support, very strongly, the amendments that are being asked for since they are very important for the development of this country.

With those few remarks, I beg to second.

(Question proposed)

Mr. Michuki: Thankyou Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute to this Bill.

This Bill is a formal Bill. It is a Bill that although talking about Customs has no tax implications, in that it seeks to legalize what has been internationally agreed as a way of describing goods involved in international trade. In short, it is a Bill that is dealing with customs management and it is aimed at harmonizing and, if you like, commonizing the descriptions throughout the world to make trade easier. It is not, therefore, a Bill that calls for a very lengthy debate. It is a Bill that should be welcomed because it will contribute to the new world order in international transactions in business. It is an order, following the Uruguay round of discussions, that has taken over ten years to negotiate and has at long last come up with a system that should generate more trade throughout the world and hopefully to the benefit of everyone including ourselves in developing countries.

Therefore, I would like to feel that I can support this Bill and hope that after all these clarifications have been made, the Government will take the lead to promote trade because we depend on exports. We are traditionally an export oriented country despite the fact that we continue to have adverse balance of trade. This is an area that the Ministries concerned, and in particular Commerce and Finance should look into. The Ministries of Commerce and Industry and Finance must make sure that some of our own demands are restrained. I do not believe that the Kshs 10 billion owed import bill is really confined to what we might call essential goods. Are we not, for example, over importing cars? Have we become a nation which can afford to have graveyards of all types of cars? Have we become a nation where we cannot even standardize, within the Government, the use of one single car so that those who maintain those cars are more proficient by dealing with the same spare parts and same methods of keeping them going? Is this not a method that we can borrow from elsewhere? Is this not a method we should adopt in order, first of all, to save that foreign exchange of which we cannot get enough? Do we, therefore, have to fill in the gaps by going round in the world with a bowl in the hand begging? After 30 years of Independence we are still begging. Back in the early 70's we were on the same footing in development with Malaysia, South Korea and to, a certain extent, Singapore. I mentioned here the other day that foreign change dealings in a place like Singapore is an average of Kshs80 billion per day. This amount of money exchanges hands every day. That is the average in Singapore, a country smaller than some of our provinces. Because those people concentrated their activities mainly in technical and secondary education, they have a population that can be slotted into modern technology of computer operations and the electronic fields. They succeeded while here we are praising ourselves in our own unachievable dreams that we are the best, as if we cannot see our own faults. If we cannot see our own faults how can we correct them when we continue to praise ourselves in vain? Therefore, we have so many examples to follow from many any other countries which were at the same footing of development

as us. Look at Mauritius with industries and trade to the extent that labour requirement is in deficit. They have to import labour in order to close the gap. Countries which in the 60's were regarded as the poorest countries in the world like Malawi and Mauritius if you go back into the World Bank statistics, are doing well. Because of good policy, they do not want to praise themselves but want their actions to praise them and they have succeeded. We who have continued to praise ourselves in vain have held the tail in the queue and I think we as a nation need to re-look at ourselves in all areas. I do feel that when ideas such as this and others are preferred the Government ought to think about them very seriously.

In my experience, as far as this Seventh Parliament is concerned, I see nothing other than arrogance from the Government, especially in institutions that should give service to the people. For example, the KTDA's and KCC's of this world have to hold farmer's money for four months and they still continue selling milk to them. We do not know where this money is going and that is very discouraging all round in terms of improving our terms of trade under which this Bill will operate. Therefore, it looks as if the petty trader can no longer get the required credit. He cannot even borrow from the banks because the Government has messed up the whole of the monetary and financial area. This Government seems as if it cannot operate without the Treasury Bill, and we are being told that the Government wants to hoard Kshs 65 billion worth of Treasury Bills. This was neither in the Financial Statement that the Minister for Finance brought here for this Financial Year or anywhere else in terms of policy.

Indeed, Mr Temporary Deputy Speaker, Sir, if you may allow me, we notice that the Minister has set up himself a very difficult task. All these monies and foreign exchange that we have to get are as a result of trade and taxation. The ability of the Government to raise taxes is very much depended on the kind of pre-occupation that the people of this country have, whether it is in trade or farming, that trade of export of tea, coffee, magadi soda and all those other things. Those create the base for the Government, I am just sure they very important. I am saying the Central Bank of Kenya, and the Government right now have messed up the economy. This is a financial statement which the Minister issued here during his Budget and he said, "with regard to borrowing from the domestic banking system, he was going to borrow Treasury Bonds and Bills worth K£182 million, equivalent to Kshs.3.6 billion in Treasury Bills". We are now being told by the Governor of CBK that this figure has gone up to Kshs 65 billion, and if you look at the whole of this Budget, there was nothing to pay interest, interest at an average rate of 20 per cent, that is Kshs.13 billion a year which is not provided for in this Budget that the Minister was handling. So, how do we get guided in trade? How can we anticipate what the taxes are going to be without transparency because what is happening now is the most opaque operation that this country has ever witnessed. This borrowing from commercial banks at exorbitantly high rates of interest in turn influences the rate of interest that the banks have to charge to traders and other people.

Mr Temporary Deputy Speaker, Sir, the banks say, for example, that their lending rate now is 24 - 26 per cent. But it is not so. There is another segment of interest which they do not declare publicly. For example, those who are borrowing now at 26 per cent, will probably be paying between 32 and 35 per cent because there are certain points above base. All this has come about because the Government is over-borrowing from the market. It is the Government which is paying these high rates of interest through Treasury Bills, that will, then, make it possible for those who are involved in trade to be unable to move. In fact, they will be immobilised. Right now, there is a lot of uncertainty within the market. I know that yesterday, through the controls that nobody will accept, there was a slight drop in the Treasury Bill rates of interest by about three per cent. I know this, I keep myself informed because it is an area of concern. If we do not have monies with which to oil the business that is being catered for in this Bill, then what are we doing? We are running down our own country, because we do not have the money and, if you do have that money, it is of such high cost that it is not of any benefit. Indeed, if we look through the whole of the Kenyan economy, we will see that the only business which is succeeding is business in money dealing, lending, borrowing, that kind of thing.

Obviously, there are other people who are creating capital formation within the economy, people who have their own money. For example, those who get plots and sell them to Asians, they get millions, they are able to put aside something. But in terms of the actual fair business and trade, we are heading to a very, very serious period and it is in this period that the Government must come to the aid of its own citizens who are in business, to make sure that they can earn their living, and participate in international trade.

Above all, Mr Temporary Deputy Speaker, Sir, we are talking about customs nomenclature here, we are talking about the basis on which, in future, the Minister will select the items from this Bill and get them reflected in trade documents, but have we looked at our ports? Have we? Where are all these cars coming from? Why is it that some people are so privileged that they are importing these goods and cars with impunity without paying taxes? Therefore, I am trying to say that we are cheating ourselves. Why can't we be truthful to ourselves? Who are we cheating, who are we depriving of all these benefits of trade? Just because someone is connected with the Minister or the Head of State, he feels that he has the right to import cars and flood this market with cars for

which no taxes are being paid! Then we go and tantalize professors and other people---

Mr. Kariuki: On a point of order, Mr Temporary Deputy Speaker, Sir. I hate to interrupt my friend hon. Michuki, but when he emphatically says that vehicles are being imported with impunity, that people do not pay duty, could he explain to this House how he knows and whether he can specifically mention a case that we can refer to in this House?

(Applause)

Mr. Michuki: Mr Temporary Deputy Speaker, Sir, with due respect to my friend hon. G. G. Kariuki, surely, he should not demand that I substantiate what is obvious, what is taking place every day, which is witnessed by even the messengers and other people. These things do not happen just like that, there have to be two people. This is a common feature and it is well known, I do not need to substantiate what is obvious. I do not need to substantiate what is quite prevalent in the official Gazettes and all this, I do not need to, it is there, it is known. Therefore, if hon. G.G. Kariuki would allow me to continue to develop my thought on this subject ---

Mr. Kariuki: On a point of order, Mr Temporary Deputy Speaker, Sir. If the hon. Member is referring to vehicles which have been legitimately allowed and published in the official Gazette, could he call that importing with impunity without paying duty? It is authority given by this Government. Is it illegal?

Mr. Michuki: Mr. Speaker, Sir, of course, the Bible does say that those who have more will be given more, and if you do not have you will be deprived. We are talking about those people who do not have, and the people to whom these concessions are made are people who are capable of paying duties. Therefore, let me continue with my trend of thought which has been interrupted.

The Temporary Deputy Speaker (Mr. Ndotto): Order! Order! Order! Are you through with that point of order, hon. Michuki? Do you think you are free? Order! Order!

Mr. Michuki: Mr. Temporary Deputy Speaker, Sir, I did quote the Bible and I said, and I think hon. G.G. Kariuki agrees, that all these concessions are being given to people who, can afford to pay duty. Like the Bible says, those who have will be given more. I think that is the policy of this Government. I am saying that these things have happened, and it is being conceded that it has happened. We read in the official gazette of people being granted concessions when it is not necessary. It is not necessary that a professor of a university should be allowed to import a car duty-free, when a trader who is taking his vegetables from Karatina to feed people in that town has to pay duty. That is what I am saying and what the Government is doing can be termed discriminatory because it continues to give to those who already have. These are the people who are given free houses and free car importations. What about this trader because we are on this Bill, who has to take goods from Mombasa? Who is going to give him duty-free importation? So, there is discrimination in the policies of this Government.

The Assistant Minister, Office of the Vice-President and Ministry of Planning and National Development (Mr. Nooru): On a point of order, Mr. Temporary Deputy Speaker, Sir. The point of order I am trying to raise is that hon. Michuki is trying to deviate from the point of order put to him. The issue we are discussing here is the legality. If a professor has been given the duty free concessions by this House and by the rules and the laws of this country, it is a different matter from people being favoured as he had put it originally. So, whether we are really giving an exemption to those who have it or to those who do not have it, this issue here----

Mr. Michuki: I gave him----

The Temporary Deputy Speaker (Mr. Ndotto): Order! Order! Order, Mr. Michuki!

The Assistant Minister, Office of the Vice-President and Ministry of Planning and National Development (Mr. Nooru): So, the issue here is if there is any legality or any favour that has been done behind the rules of this House, because whatever has been exempted and gazetted is through the authority of this House, whether it is for the professors or for hon. Members of this House. Apart from that, can he really substantiate the statement that he made there is favourism? He even quoted the Head of State as having done so.

Mr. Michuki: Mr. Temporary Deputy Speaker, Sir, if it presses him that hard, I will substantiate this statement a week from today, that is on Tuesday, next week. I will substantiate it if that is what he wants.

The Assistant Minister, Office of the Vice-President and Ministry of Planning and National Development (Mr. Nooru): About the illegality?

Mr. Michuki: Yes. Therefore, I was saying that our tax laws must cover all the known principles if it is in the case of Customs, VAT and Income Tax. This law must not be used as a punitive measure, neither should it be discriminatory. I am just warning about that. Under the various laws, Customs, Income Tax and others, for

this particular year, we expect to raise K£.7.8 billion by way of revenue. I am sure that if all those who qualify to pay taxes do so, we should be able to collect taxes in excess of K£.10 billion from our own sources, even before we embark on overseas trips with a cap in the hand to beg. It should be possible with determination to conserve what we have in order to avoid the Goldenbergs and all this raping of the Consolidated Fund, because this is what we have done. We have even gone into the holy of hollies. The Kshs14.7 billion has come out of the hollies of hollies, and that is the Consolidated Fund. Woe unto those who touch the Consolidated Fund and steal from it. It would have been better if they stole from the Voted Provisions. To go into the Consolidated Funds is to touch the holy of the hollies, and woe unto them, because that is what they have done.

If we were able to conserve all these resources; and if we were able to apply them for the purpose for which this House is led to believe would be the method of expenditure, we should have been able to do far more.

Therefore, the Bill needs to be supported by everyone because it provides the basis within the Government and the international world. It is the basis on which prayers for the future will be conducted.

With those few remarks, Mr. Temporary Deputy Speaker, Sir, I beg to support.

The Assistant Minister for Commerce and Industry (Mr. Osogo): Mr. Temporary Deputy Speaker, Sir, I will be brief in my observations on this Bill, and I would like to begin with first of all congratulating the Kenya Revenue Authority for the work they have started doing despite their newness in the field. I think they have put their best fact forward in the work they are doing, and the Minister should convey our thanks to them. The hon. Member for Kangema happens to have been the keeper of the holy of hollies at one time, and that is why he is able to speak the way he is speaking, but at that time things were not as they are today. Things are developing now with the creation of the Kenya Revenue Authority.

Having said that, I would like to appeal to the Minister, that this book we have here in the form of a Bill, is very well laid out. If he remembers when I contributed to the debate on the budget of this year, I prayed that his Ministry produces a book with duties and hand it over to new Members of the House, of each Parliament as it is elected so that they are able to follow the duties that are increased every Financial Year for five years. When the Minister was moving, he said that the passing of this Bill will not cost him more funds. I plead with him to commit more funds and print this book with a proper cover and give it to each hon. Member of Parliament, so that during the budget time, they can follow the explicit layout that is in this book, particularly the duties, the EST number, code numbers and so on.

It could not be very expensive to produce such a book. For the many years that I have been in this House, I have noted that at Budget time, Members do contribute to the debate without knowing what has been increased and what has not been increased and more particularly when the Finance Bill is printed. It is small in its own way but when Members have a book like this one, they would easily find out information about commodities like the Dog Fish which is described on page 825 of the big book shows the number of tariff, EST, import duty, its SIT number is shown and it is measured in Kgs. This will make them a little bit educated as they debate the Finance Bill. That is my plea to the Minister for Finance.

My other point, which might be the last is the appeal which I made to the Minister here when we passed the Supplementary Appropriation Bill. I appealed to the Minister that at this time, the customs officers are in Lake Victoria or at the beaches trying to collect duty on fish from the fishermen. Here, fish is under Heading 3.01 and it goes on down. I do not see fish like Tilapia, Nile Perch being described here. I see odd names here for importation and yet these officers are at the lake. I am told that they are now in the new Suba District and yesterday some of them visited Port Victoria in my constituency despite the fact that I did appeal to the Minister that it is a futile exercise for these officers to try to collect duty from the fishermen for fish which they have fished from the Lake. I did say that in Lake Victoria, the fishermen do not know the boundary of Kenya and Uganda and in many cases, they have poached fish from Uganda. Many times, Ugandans have allowed them to go and fish on their Islands. They stay there while fishing and they come back with dried fish which in this Bill, is levied 15 per cent duty per kilogramme be it dried, smoked or fresh fish. What is happening in the new Suba District is that the fishermen who bring fish there have now run away and they are now coming to my constituency with their fish. They are running away from customs people. The customs people learnt of it and yesterday they were in my constituency trying to collect taxes from these people and they went to the DOs office and the DO told them what I think is right, that they do not have scales to weigh that fish because they must tax it in weight and the customs officers do not have the scales to weigh the fish. Secondly, when we buy fish for home consumption we buy one, two, or three and we do not weigh them. This is because both the buyers and the fishermen do not have weighing scales. But these customs people still insist that the law tells them that they must get taxes from the fish. My question is, which custom officer knows which fish has come from Uganda and which fish has been fished from Kenyan waters? You can find people selling fish and you cannot identify which one comes from where. There are no marks to show that this one or that was fished from Uganda and therefore it attracts duty on

it. I also told the Minister that the type of funds and resources that they to use, like vehicles, petrol and salaries in trying to collect the meagre funds from the fishermen is not worth it. I thought the Minister had conveyed this request of mine to his field officers, but yesterday, they were there and indeed, today they are there.

So, I can see some Ministry official in the civil servants Benches and they are listening to what I am saying. I think something should be done by these officers. Unless they have something ulterior so that they can collect *Kitu Kidogo* from the fishermen, I think it is an unworthy exercise for them to do. As I have said, the Commissioner himself is a dedicated person as we know him and I am sure that he is streamlining his section. So, if these people are looking for *kitu kidogo*, I am afraid that they will not get it in my constituency because I am a very transparent man and I have told the fishermen there to be transparent. But they cannot point out that, that fish has been imported because there is no mark to show that it comes from Uganda. There is nothing to show that fish has been caught in Kenyan waters. They cannot do that! This is because these people are out fishing the whole night and bringing their fish on land in the morning. So, I am appealing to the Minister that unless his officers define how best they can collect this little money they are talking about, they should leave the fishermen in peace. Even if they eventually decide to collect this money, they are definitely going to kill the goose that lays the golden egg.

The fish that we buy, which is bought by the commercial fish monger, the processors of fish----

(Loud consultations)

Mr. Temporary Deputy Speaker, Sir, shall I be assisted by the hon. Minister for Home Affairs National Heritage?

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

The Assistant Minister for Commerce and Industry (Mr. Osogo): I was saying that, even if they decide in good faith, to go and collect this little money I am talking about, in form of 15 per cent duty for fish which is not identifiable, from Uganda, they are going to kill the goose that lay the golden egg. The reason why I am saying this is because all this fish comes to the beaches in Kenya because the fellows who are bringing the fish want to buy certain things from Kenya. In Uganda, if they are fishing in Uganda at all--- These are Kenyans and they happen to be fishing in Uganda; they have licensed their canoes in Uganda and in Kenya. They pay even taxes in Uganda because that is where they fish. They will decide to take the fish to Ugandan factories and sell it there. As a result Kenya will lose the foreign currency obtained from processed fish in Kenya. I need to be told how much it is. It is a lot of money. In fact, I would rank it among the highest of the foreign currency earners like tourism, coffee and tea. Fish is among these high foreign currency earners yet it might not be our fish. I do not want to say how we get it, but if we scare the fishermen away, we will lose the foreign currency. So, the Treasury will not be getting anything and we will not be doing a good service to this country by chasing the poor fishermen away. I am appealing most sincerely, and I know that the hon. Keah agrees with me on my appeal here. Maybe, he is just handicapped by the officers in the Treasury but I appeal to him to leave these fishermen alone. First, his officers will have to come with weighing scales to weigh the fish. A boat does not carry much fish; it brings about 500 kgs or 1,000 kgs. So, we will employ somebody to weigh that fish and then you get 15 per cent from it if you do at all, yet you would have wasted a lot of petrol to look for this little money. The Assistant Minister is agreeing with me on this one and this is the reason why I stood up to contribute to this Bill. I want the fishermen in my constituency to be left in peace and I do hope that when I call there on Thursday I will be told that these officers have been withdrawn and they are no longer charging taxes on fish which have been caught from mysterious places like Uganda.

With these few remarks, I beg to support the Bill.

Mr. G. G. Kariuki: Mr. Temporary Deputy Speaker, this is a very important procedural Bill. I call it procedural because, there is not much in it, it is a Bill that we needed to pass without a lot of discussions about it and, therefore, mine will just be very few remarks.

This Bill is merely looking for harmonization in order to be fully involved in international trade. Kenya is a member of an international organization which deals in trade and, therefore, Kenya should appear to be contributing and getting fully involved in description of international commodities.

Mr. Temporary Deputy Speaker, having said that, this Bill is already overtaken by events, because, the last time when this Bill came to Parliament was in 1992. And, I think, that has now been overtaken by technological developments in international trade. Therefore, I think, if Members agree with me, we will have to pass this Bill now after perhaps I spend some few minutes in contribution.

Mr. Temporary Deputy Speaker, when hon. Michuki was speaking, he had a very important point in his contribution, but he painted this Government very badly. Let us be realistic: Why are we not doing well? Is it

because Kenyans are becoming lazy day by day? Or is it because the management of the Government is not proper? Or is it because, the political stability is so bad? The main reason is, and all of us should agree, we were living on hay day during the "Cold War" era, when the foreign nations were supporting this Government and this country because, we were fighting communism which was to their interests at that particular time. Now, that situation is gone and during that time when we used to receive quite a lot of money, we employed very many people in the Civil Service, we employed so many people in our statutory corporations and boards. Now time has come when we are told by international bodies or international donors, that, we have to reduce ourselves to what we can afford to pay.

Now, Mr. Temporary Deputy Speaker, the Government is like any other business. If you employ more people than you can afford to pay, then you have to resort to borrowing. You have also to resort to in seeking foreign aid, and that is practically what this Government is doing. Now, just because somebody is in the Opposition, he wants to tell the whole nation that this Government has failed to do a,b,c,d. Time has come when we will be judged by our moral standing. We should be able to defend whatever we are saying, and not just to stand here and scandalise a few people, then we think we have done very good business.

Mr. Temporary Deputy Speaker, Africa will take quite some time to take off economically because, Asian nations, spent their time of "Cold War" very, very wisely because, they got all the money that they got during that time to fight communism and also they were given free money by the Western nations so that they can contain communism in that part of the world. They were protected by the foreign donors because the foreign donors expected to exploit that market after the Cold War.

Now, this is the time when they feel they should exploit that market but that market is not available because now they have economically taken off. It is becoming a problem again to the international trade especially because America and the Western World have to compete with Asia in terms of trade. Now, that one is becoming a problem but Africa was merely used as a satellite to fight communism and they were given very little money to make sure that they do not survive and wait for the next step and that is the state we are in today. And because foreign nations cannot afford to give us money, they now have to introduce, with impunity, the so called Democratic Ideology of the Western World. Time has come when we have to measure and cut our jackets according to our size. And this is the time when we have to take very serious decisions and those decisions will be politically unpopular if we have to decide what we want to do here. I believe, we can survive without foreign aid. What we cannot survive without is international investment. Foreigners should come and invest in this country. And how do we attract them? No country is willing to give anybody money because they do not have it.

Let us not cheat ourselves. We think that America, the British, and everybody else has money to give. The World Bank and the IMF have no money to give us because they have nothing to support in Africa. Do we have enough markets for them to spend their money here? They are now directing their efforts to the Far East, Asia, China, Japan, Vietnam, Cambodia and Philippines. Now, we are just left without all these considerations. But if there is no money that we are expecting to get, why can we not create a situation where we will attract foreign investors? And how do we attract foreign investors? Not when politicians become so careless in their speeches. We cannot expect people to come and invest in the country if they think there is chaos, according to some politicians in this country. Some politicians do not care about the kind of statements they make and yet they want the Government to be strong and to be fulfilling. It is not possible. Therefore, all we need to do in this country is to stabilise our nation, politically and economically. And we have to be guided by political maturity. Now, like today when you look at the Opposition parties and ourselves in Government, there is no ideological conflict. What we have are just personality differences, but we need to know that in future we will not be judged by our political outbursts, we will be charged by the moral standards that each individual is considered to have. Not just making statements, big speeches which are already overtaken by events. Now, some of the speeches that some of us make in this House ought to have been made several years ago.

Prof. Mzee: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the hon. Member to talk about things which are totally irrelevant to the Bill which is being discussed, characters of the MPs and discussions which are totally irrelevant? Is he in order? Can you ask him to talk about the Bill?

The Temporary Deputy Speaker (Mr. Ndoto): Prof. Mzee is right. I think we are dealing with Customs and Excise (Amendment) Bill here, and prof. Mzee you have made your point. If the Member on the floor could perhaps confine himself to the provisions of what is before the House, I think that will be useful.

Mr. G.G. Kariuki: Thank you Mr. Temporary Deputy Speaker sir, I am sure what I was saying was not palatable especially to those whose speeches can be questioned. Now, I have made my point and because you perhaps want to close this debate now, I think I will not need to explain more on this Bill. Prof. Mzee, my friend, is aware that there is not much in this Bill. It is merely to ask Parliament to harmonise our local situation with the international position so that we become like any other member of this international body.

Therefore with these very few remarks I beg to support.

Prof. Mzee: Asante sana Bwana Naibu Spika wa Muda, kwa kunipa nafasi hii ili nami niseme machache juu ya Mswada huu ambao unajadiliwa hivi leo. Kama wale waliotangulia walivyosema, Mswada huu hauleti jipya lo lote ila kutia katika makundi bidhaa ambazo zinapatana; ambazo ziko karibu karibu. Lengo ni kuzitia kwenye makundi ambayo yako katika Mswada huu. Kitu ambacho nimekiona katika huu Mswada ambacho chanisikitisha sana na ambacho ningependa Waziri wa Fedha kukifikiria ni kwa kuwa utaona kwamba katika huu Mswada mafuta ya nguruwe yanatozwa ushuru kidogo kuliko mafuta ya Ngo'mbe. Mafuta ya ngo'mbe ushuru wake kidogo uko juu zaidi kuliko ule wa mafuta ua nguruwe. Sifahamu ni sababu gani kuwa na tofauti ya ushuru baina ya mafuta ya nguruwe na yale ya ngo'mbe. Hii ni kwa sababu tunajua kwamba Waislamu wanakatazwa kula mafuta ya nguruwe na kitu cho chote ambacho kimetiwa mafuta ya nguruwe. Kwa kuwa mafuta ya nguruwe yanatozwa ushuru kidogo zaidi kuliko yale ya ngo'mbe, tunaona ya kuwa mafuta ya nguruwe ndiyo yanayonunuliwa kwa wingi kutoka nje na bidhaa nyingi sana zinatiwa mafuta ya nguruwe na Waislamu hawawezi kutumia bidhaa hizi. Kuna wasi wasi mwingi ya kuwa baadhi ya sabuni na baadhi ya vyakula vingine vina mafuta ya nguruwe kwa hivyo Waislamu hawawezi kula, wala kutumia bidhaa kama hizo.

Jambo la pili ambalo nataka kugusia ni juu ya hii tofauti baina ya watu wengine ambao wanaweza kutoa ushuru na wengine ambao hawawezi kutoa ushuru. Kwa hivyo kutokana na hii tofauti; nafikiri wananchi wetu ambao wako katika hali ya chini sana ya umaskini, wakiona kwamba wako watu wengine wanaopendwa zaidi na wamepewa fursa ya kuleta vitu bila kutoa ushuru, huona vibaya. Kwa mfano maprofesa; wakuu wa mikoa, wakuu wa wilaya na Wabunge iko chini wanaweza kuagiza kutoksa ng'ambo kulipa ushuru. Hii inaleta tofauti na wananchi wengi hawapendizwi na jambo hili. Tukiona ya kuwa mishahara ya maprofesa; Wabunge; Wakuu wa wilaya na mikoa iko chini na hawawezi kununua magari, ingekuwa Vizuri zaidi Serikali ikasema "Kila Mbunge au Profesa katika kazi yake atapewa kiwango maalum cha pesa taaslim kama nusu milioni". Hivi sasa kama mimi nilivyo, siwezi kununua gari kubwa kama Mhe. Mathias Keah. Pengine Mhe. Keah anaweza kununa Mercedes Benz na mimi naweze kununua Volkswagen. Yeye anaweza kusamehewa ushuru zaidi na mimi nikawa naweza kusamehewa kiasi kidogo tu. Kwa hivyo ingefaa tuiondoe tofauti hii.

The Assistant Minister for Finance (Mr. Keah): Jambo la nidhamu, Bw. Naibu Spika wa Muda. Mhe. Prof. Mzee ana haki gani kupotosha Bunge hili akijigamba kwamba mimi ninaweza kununua Mercedes Benz na yeye ana Volks Wagon, hali kwamba sina Mercedes Benz wala sina Volks Wagon? Ana haki gani kupotosha Bunge hili na wananchi wa Kenya katika Mswada huu? Mimi naona kwamba ananihadhiri, na aondoshe matamshi yake.

Prof. Mzee: Bw. Naibu Spika wa Muda, sikusema nataka---

The Temporary Deputy Speaker (Mr. Ndotto): Order, Prof. Mzee! The Member is answering a point of order and, therefore, you cannot put another point of order. Let him deal with that one first.

Prof Mzee: Bw. Naibu wa Spika wa Muda, sitaki kumkashifu ndugu yangu hon. Mathias Keah. Naona kidogo ninamsifu kwa kuwa anaweza kununua Mercedes Benz, ikiwa hawezi, basi bahati yake ni mbaya. Lakini watu wengi upande ule, ni watu wa "Mabenzi". Kwa hivyo, nikiona yeye yuko upande ule, mimi huona ni mtu wa "Mabenzi", lakini si nia yangu kumkashifu. Huo ni mfano amboa ninawapigia watu wote walioko upande ule, ambao Wakenya waita "Mabenzi", na wao wana pesa nyingi sana na vile vile Serikali husaidia kuwapa wao fursa ya kuleta magari kama hayo kila baada ya miaka mitano bila kutoa ushuru, na masikini kabisa ambao kwamba vile vile wanafanya kazi muhimu hawana fursa kama hiyo.

Mr. Chebylon: On a point of order. I call upon the Mover to reply.

(Applause)

(Question, that the Mover be now called upon to reply, put and agreed to)

The Assitant Minister for Finance (Mr. Keah): Mr. Temporary Deputy Speaker, I thank the hon. Members for their contributions, and since they support, I beg to move.

(Question put and agreed to)

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

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Ndotto): Hon. Members, it is time to interrupt the business of the House. The House is, therefore, adjourned until tomorrow morning, Wednesday, 29th November, 1995 at 9.00 a.m.

The House rose at 6.30 p.m